

SENATE FILE NO. SF0057

Public records.

Sponsored by: Joint Corporations, Elections & Political
Subdivisions Interim Committee

A BILL

for

1 AN ACT relating to public records; requiring the release of
2 public records within a specified time; requiring the
3 designation of a public records person for each agency,
4 institution and political subdivision of the state; requiring
5 applications for public records to be made to the designated
6 public records person; requiring the department of
7 administration and information to post contact information of
8 designated public records persons; requiring the governor to
9 designate an ombudsman to receive complaints for violations
10 of the public records act as specified; modifying penalties
11 and providing remedies for violations of the public records
12 act; authorizing a position; providing an appropriation; and
13 providing for an effective date.

14

15 *Be It Enacted by the Legislature of the State of Wyoming:*

1

2 **Section 1.** W.S. 16-4-201(a)(ix), by creating a new
3 paragraph (xii) and by creating a new subsection (b),
4 16-4-202(a) through (c) and by creating a new subsection (e),
5 16-4-203(f) and 16-4-205 are amended to read:

6

7 **16-4-201. Definitions; short title.**

8

9 (a) As used in this act:

10

11 (ix) "Application" means a written request for a
12 public record. However, a ~~custodian~~designated public records
13 person may in his discretion deem a verbal request to be an
14 application;

15

16 (xii) "Designated public records person" means the
17 person designated as required by W.S. 16-4-202(e) or that
18 person's designee.

19

20 (b) This act shall be known and may be cited as the
21 "Public Records Act."

22

1 **16-4-202. Right of inspection; rules and regulations;**
2 **unavailability; designation of public records person.**

3
4 (a) All public records shall be open for inspection by
5 any person at reasonable times, during business hours of the
6 state entity or political subdivision, except as provided in
7 this act or as otherwise provided by law, but the official
8 custodian of any public records may make rules and regulations
9 with reference to the inspection of the records as is
10 reasonably necessary for the protection of the records and
11 the prevention of unnecessary interference with the regular
12 discharge of the duties of the custodian or his office. All
13 applications for public records shall be made to the
14 designated public records person.

15
16 (b) If the public records requested are not in the
17 custody or control of the ~~person~~ state agency, institution or
18 political subdivision to whom application is made, the
19 ~~eustodian or authorized person having personal custody and~~
20 ~~control of the public records~~ designated public records
21 person shall notify the applicant within seven (7) business
22 days from the date of acknowledged receipt of the request of
23 the unavailability of the records sought, ~~unless good cause~~

1 ~~exists preventing a response within such time period. In the~~
2 ~~event the applicant is not satisfied that good cause exists,~~
3 ~~the applicant may petition the district court for a~~
4 ~~determination as to whether the custodian has demonstrated~~
5 ~~good cause existed~~ and provide the name and contact
6 information of the appropriate designated public records
7 person if known.

8
9 (c) If the public records requested are in the custody
10 and control of the ~~person~~ state agency, institution or
11 political subdivision to whom application is made, ~~but the~~
12 following shall apply:

13
14 (i) If the records are in active use or in storage,
15 and therefore not available at the time an applicant asks to
16 examine them, the designated public records person shall
17 immediately forward the request to the custodian or
18 authorized person having personal custody and control of the
19 public records and shall notify the applicant of this
20 situation within seven (7) business days from the date of
21 acknowledged receipt of the request; ~~unless good cause~~
22 ~~exists preventing a response within such time period. In the~~
23 ~~event the applicant is not satisfied that good cause exists,~~

1 ~~the applicant may petition the district court for a~~
2 ~~determination as to whether the custodian has demonstrated~~
3 ~~good cause existed.~~

4
5 (ii) If a public record is readily available, it
6 shall be released immediately to the applicant so long as the
7 release does not impair or impede the agency's, institution's
8 or political subdivision's ability to discharge its other
9 duties;—

10
11 (iii) All public records shall be released not
12 later than thirty (30) calendar days from the date of
13 acknowledged receipt of the request unless good cause exists
14 preventing release as authorized by paragraph (iv) of this
15 subsection;

16
17 (iv) If good cause exists preventing release
18 within the time period specified in paragraph (iii) of this
19 subsection, the public records shall be released on a
20 specified date mutually agreed to by the applicant and the
21 state agency, institution or political subdivision. If a
22 release date cannot be agreed upon, the applicant may file a

1 complaint with the ombudsman as provided by paragraph (v) of
2 this subsection;

3
4 (v) The applicant may at any time file a complaint
5 with an ombudsman designated by the governor or may petition
6 the district court for a determination as to whether the
7 custodian has demonstrated good cause. In determining
8 whether good cause existed, the ombudsman or district court
9 may consider whether the records are privileged or
10 confidential by law or whether release of the records impairs
11 or impedes the agency's, institution's or political
12 subdivision's ability to discharge its other duties. The
13 ombudsman or the district court shall review the records in
14 camera and determine whether redaction of privileged or
15 confidential information would permit release of the records.

16
17 (e) Each state agency, institution and political
18 subdivision shall designate a person to receive all
19 applications for public records. The agency, institution or
20 political subdivision shall submit the name, business email
21 address and business mailing address of the designated public
22 records person to the department of administration and
23 information for publication on the department of

1 administration and information official website. The
2 designated public records person shall serve as a point of
3 contact between the agency, institution or political
4 subdivision and applicants seeking public records.

5

6 **16-4-203. Right of inspection; grounds for denial;**
7 **access of news media; order permitting or restricting**
8 **disclosure; exceptions.**

9

10 (f) Any person ~~denied the right to inspect any record~~
11 ~~covered by this act~~ aggrieved by the failure of a state
12 agency, institution or political subdivision to release
13 records on the specified date mutually agreed upon pursuant
14 to W.S. 16-4-202(c)(iv) or by the failure of a state agency,
15 institution or political subdivision to comply with an order
16 of the ombudsman pursuant to W.S. 16-4-202(c)(v) may:

17

18 (i) Apply to the district court of the district
19 wherein the record is found for an order ~~directing to direct~~
20 the custodian of the record to show cause why he should not
21 permit the inspection of the record and to compel production
22 of the record if applicable. An order issued by the district

1 court under this paragraph may waive any fees charged by the
2 state agency, institution or political subdivision;

3
4 (ii) File a complaint with the ombudsman who may:

5
6 (A) Mediate disputes between the state
7 agency, institution or political subdivision and the person;

8
9 (B) Prescribe timelines for release of the
10 records;

11
12 (C) Waive any fees charged by the state
13 agency, institution or political subdivision.

14
15 **16-4-205. Penalties; remedies.**

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17 Any person who knowingly or intentionally violates the
18 provisions of this act is liable for a penalty not to exceed
19 seven hundred fifty dollars (\$750.00). The penalty may be
20 recovered in a civil action and damages ~~shall~~may be assessed
21 by the court. ~~Any action pursuant to this section shall be~~
22 ~~initiated by the attorney general or the appropriate county~~
23 ~~attorney.~~

1

2 **Section 2.** The office of the governor is authorized one
3 (1) additional full-time permanent position for designation
4 of an ombudsman as required by this act. There is
5 appropriated one hundred twenty-five thousand dollars
6 (\$125,000.00) from the general fund to the office of the
7 governor. This appropriation shall be for the period
8 beginning with the effective date of this act and ending June
9 30, 2020. This appropriation shall only be expended to fund
10 the position authorized in this section. Notwithstanding any
11 other provision of law, this appropriation shall not be
12 transferred or expended for any other purpose and any
13 unexpended, unobligated funds remaining from this
14 appropriation shall revert as provided by law on June 30,
15 2020. The office of the governor may include an exception
16 budget request for the 2021-2022 biennium to implement the
17 purposes of this act.

18

19 **Section 3.** This act is effective July 1, 2019.

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21

(END)

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