

REFERENCE TITLE: communication with public officer; identity

State of Arizona
House of Representatives
Fiftieth Legislature
First Regular Session
2011

HB 2366

Introduced by
Representatives Smith D, Ash: Barton, Harper, Seal

AN ACT

AMENDING SECTION 39-121.01, ARIZONA REVISED STATUTES; RELATING TO PUBLIC RECORDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 39-121.01, Arizona Revised Statutes, is amended to
3 read:

4 39-121.01. Definitions: maintenance of records; copies,
5 printouts or photographs of public records;
6 examination by mail; index

7 A. In this article, unless the context otherwise requires:

8 1. "Officer" means any person elected or appointed to hold any
9 elective or appointive office of any public body and any chief administrative
10 officer, head, director, superintendent or chairman of any public body.

11 2. "Public body" means ~~the~~ THIS state, any county, city, town, school
12 district, political subdivision or tax-supported district in ~~the~~ THIS state,
13 any branch, department, board, bureau, commission, council or committee of
14 the foregoing, and any public organization or agency, supported in whole or
15 in part by monies from ~~the~~ THIS state or any political subdivision of ~~the~~
16 THIS state, or expending monies provided by ~~the~~ THIS state or any political
17 subdivision of ~~the~~ THIS state.

18 B. All officers and public bodies shall maintain all records,
19 including records as defined in section 41-1350, reasonably necessary or
20 appropriate to maintain an accurate knowledge of their official activities
21 and of any of their activities which are supported by monies from the state
22 or any political subdivision of the state.

23 C. Each public body shall be responsible for the preservation,
24 maintenance and care of that body's public records, and each officer shall be
25 responsible for the preservation, maintenance and care of that officer's
26 public records. It shall be the duty of each such body to carefully secure,
27 protect and preserve public records from deterioration, mutilation, loss or
28 destruction, unless disposed of pursuant to sections 41-1347 and 41-1351.

29 D. Subject to section 39-121.03:

30 1. Any person may request to examine or be furnished copies, printouts
31 or photographs of any public record during regular office hours or may
32 request that the custodian mail a copy of any public record not otherwise
33 available on the public body's ~~web-site~~ WEBSITE to the requesting person.
34 The custodian may require any person requesting that the custodian mail a
35 copy of any public record to pay in advance for any copying and postage
36 charges. The custodian of such records shall promptly furnish such copies,
37 printouts or photographs and may charge a fee if the facilities are
38 available, except that public records for purposes listed in section 39-122
39 or 39-127 shall be furnished without charge.

40 2. If requested, the custodian of the records of an agency shall also
41 furnish an index of records or categories of records that have been withheld
42 and the reasons the records or categories of records have been withheld from
43 the requesting person. The custodian shall not include in the index
44 information that is expressly made privileged or confidential in statute or a
45 court order. This paragraph shall not be construed by an administrative

1 tribunal or a court of competent jurisdiction to prevent or require an order
2 compelling a public body other than an agency to furnish an index. For the
3 purposes of this paragraph, "agency" has the same meaning prescribed in
4 section 41-1001, but does not include the department of public safety, the
5 department of transportation motor vehicle division, the department of
6 juvenile corrections and the state department of corrections.

7 3. If the custodian of a public record does not have facilities for
8 making copies, printouts or photographs of a public record which a person has
9 a right to inspect, such person shall be granted access to the public record
10 for the purpose of making copies, printouts or photographs. The copies,
11 printouts or photographs shall be made while the public record is in the
12 possession, custody and control of the custodian of the public record and
13 shall be subject to the supervision of such custodian.

14 E. Access to a public record is deemed denied if a custodian fails to
15 promptly respond to a request for production of a public record or fails to
16 provide to the requesting person an index of any record or categories of
17 records that are withheld from production pursuant to subsection D, paragraph
18 2 of this section.

19 F. IF A RESIDENT OF THIS STATE COMMUNICATES WITH AN OFFICER IN SUCH A
20 WAY AS TO CREATE A PUBLIC RECORD AND THE COMMUNICATION IS THROUGH THAT
21 OFFICER'S PERSONAL MAILING ADDRESS, PERSONAL COMPUTER OR PERSONAL TELEPHONE
22 OR ANY OTHER TYPE OF PERSONAL ELECTRONIC OR INTERNET MECHANISM, THE OFFICER
23 MAY DELETE FROM THE RECORD THE NAME, THE ADDRESS AND ANY OTHER IDENTIFYING
24 INFORMATION OF THE COMMUNICATING RESIDENT BEFORE THE RECORD IS PROVIDED TO
25 THE PUBLIC BODY FOR WHOM THE OFFICER WORKS OR BEFORE THE RECORD IS MADE
26 AVAILABLE TO THE PUBLIC PURSUANT TO THIS SECTION.