

REFERENCE TITLE: public records; responses

State of Arizona
Senate
Fifty-fourth Legislature
First Regular Session
2019

SB 1135

Introduced by
Senator Bowie: Representatives Jermaine, Lieberman

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
3 to 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 WHO IS elected or appointed to hold
9 any elective or appointive office of any public body and any chief
10 administrative officer, head, director, superintendent or ~~chairman~~
11 CHAIRPERSON of any public body.

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

19 B. All officers and public bodies shall maintain all records,
20 including records as defined in section 41-151.18, THAT ARE reasonably
21 necessary or appropriate to maintain an accurate knowledge of their
22 official activities and of any of their activities ~~which~~ THAT are
23 supported by monies from this state or any political subdivision of this
24 state.

25 C. Each public body ~~shall be~~ IS responsible for ~~the preservation~~
26 ~~PRESERVING, maintenance~~ MAINTAINING and ~~care of~~ CARING FOR that body's
27 public records, and each officer ~~shall be~~ IS responsible for the
28 ~~preservation~~ PRESERVING, ~~maintenance~~ MAINTAINING and ~~care of~~ CARING FOR
29 that officer's public records. ~~It shall be the duty of~~ Each such PUBLIC
30 body ~~to~~ SHALL carefully secure, protect and preserve public records from
31 deterioration, mutilation, loss or destruction, unless disposed of
32 pursuant to sections 41-151.15 and 41-151.19.

33 D. Subject to section 39-121.03:

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

1 2. If requested, the custodian of the records of an agency shall
2 also furnish an index of records or categories of records that have been
3 withheld and the reasons the records or categories of records have been
4 withheld from the requesting person. The custodian shall not include in
5 the index information that is expressly made privileged or confidential in
6 statute or a court order. This paragraph shall not be construed by an
7 administrative tribunal or a court of competent jurisdiction to prevent or
8 require an order compelling a public body other than an agency to furnish
9 an index. For the purposes of this paragraph, "agency" has the same
10 meaning prescribed in section 41-1001, but does not include the department
11 of public safety, the department of transportation motor vehicle division,
12 the department of juvenile corrections and the state department of
13 corrections.

14 3. If the custodian of a public record does not have facilities for
15 making copies, printouts or photographs of a public record ~~which THAT~~ a
16 person has a right to inspect, ~~sueh~~ THE person shall be granted access to
17 the public record for the purpose of making copies, printouts or
18 photographs. The copies, printouts or photographs shall be made while the
19 public record is in the possession, custody and control of the custodian
20 of the public record and ~~shall be~~ IS subject to the supervision of ~~sueh~~
21 THE custodian.

22 E. Access to a public record is deemed denied if a custodian fails
23 to promptly, BUT NOT LATER THAN TEN BUSINESS DAYS AFTER RECEIVING A
24 REQUEST FOR ACCESS TO PUBLIC RECORDS, EITHER:

25 1. Respond to a request for production of a public record ~~or fails~~
26 ~~to provide to the requesting person an index of any record or categories~~
27 ~~of records that are withheld from production pursuant to subsection D,~~
28 ~~paragraph 2 of this section.~~ IN AT LEAST ONE OF THE FOLLOWING WAYS:

29 (a) PROVIDING THE RECORD REQUESTED TO THE REQUESTING PERSON,
30 INCLUDING IN THE FORM REQUESTED, IF FEASIBLE.

31 (b) NOTIFYING THE REQUESTING PERSON THAT THE REQUEST IS UNDER
32 REVIEW, THAT A FINAL RESPONSE TO THE REQUEST IS EXPECTED AND OF THE
33 ESTIMATED DATE OF THE FINAL RESPONSE.

34 (c) NOTIFYING THE REQUESTING PERSON THAT THE REQUEST IS DENIED,
35 WITH A DETAILED EXPLANATION FOR THE DENIAL.

36 (d) NOTIFYING THE REQUESTING PERSON THAT THE PUBLIC BODY DOES NOT
37 MAINTAIN THE RECORD AND, IF THE CUSTODIAN KNOWS THE IDENTITY OF THE PUBLIC
38 BODY THAT MAINTAINS THE RECORD, DIRECTING THE REQUESTING PERSON TO THAT
39 PUBLIC BODY.

40 2. PROVIDE TO THE REQUESTING PERSON ANY INDEX OF RECORDS OR
41 CATEGORIES OF RECORDS THAT ARE WITHHELD FROM PRODUCTION PURSUANT TO
42 SUBSECTION D, PARAGRAPH 2 OF THIS SECTION.