

SENATE BILL NO. 228

BY SENATOR MORRIS

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AN ACT

To enact R.S. 44:42, relative to public records custodians; to provide for immunity from suit in certain circumstances; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 44:42 is hereby enacted to read as follows:

§42. Immunity from suit for invasion of privacy

A. Any custodian who releases records in response to a public records request made pursuant to this Chapter shall be immune from any lawsuit for invasion of privacy alleged to be caused by the release of public records, provided the custodian acts on advice of counsel.

B. This Section shall not apply if the release of the records is proven to be arbitrary and capricious.

C. A custodian who claims the immunity provided by this Section shall be entitled to a presumption that his conduct was not arbitrary and capricious upon presenting a prima facie case of his reliance on advice of counsel.

D. For purposes of this Section "advice of counsel" means a determination by the custodian's selected attorney, or if the custodian is an attorney, upon the custodian's own diligent determination in his capacity as attorney.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____