

SENATE FILE NO. SF0025

Public records.

Sponsored by: Joint Judiciary Interim Committee

A BILL

for

1 AN ACT relating to public records; amending and repealing
2 definitions; amending provisions relating to inspection of
3 documents and exemptions from disclosure; amending penalty
4 provision to provide a civil penalty; and providing for an
5 effective date.

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

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9 **Section 1.** W.S. 16-4-201(a)(v) and by creating new
10 paragraphs (ix) and (x), 16-4-202(a) through (c),
11 16-4-203(d)(xii), (xiii) and by creating new paragraphs
12 (xiv), (xv) and (xvi) and 16-4-205 are amended to read:

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14 **16-4-201. Definitions.**

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16 (a) As used in this act:

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1 (v) "Public records" when not otherwise
2 specified includes ~~the original and copies of any paper,~~
3 ~~correspondence, form, book, photograph, photostat, film,~~
4 ~~microfilm, sound recording, map drawing or other document,~~
5 ~~regardless of physical form or characteristics that have~~
6 ~~been made by the state of Wyoming and any counties,~~
7 ~~municipalities and political subdivisions thereof and by~~
8 ~~any agencies of the state, counties, municipalities and~~
9 ~~political subdivisions thereof, or received by them in~~
10 ~~connection with the transaction of public business, except~~
11 ~~those privileged or confidential by law~~ any information in
12 a physical form created, accepted, or obtained by the state
13 or any agency, institution or political subdivision of the
14 state in furtherance of its official function and
15 transaction of public business which is not privileged or
16 confidential by law. Without limiting the foregoing, the
17 term "public records" includes any written communication or
18 other information, whether in paper, electronic, or other
19 physical form, received by the state or any agency,
20 institution or political subdivision of the state in
21 furtherance of the transaction of public business of the
22 state or agency, institution or political subdivision of
23 the state, whether at a meeting or outside a meeting of the
24 body;

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(ix) "Application" means a written request for a public record. However, a custodian may in his discretion deem a verbal request to be an application;

(x) "Information" means opinions, facts, or data of any kind and in whatever physical form kept or maintained, including, but not limited to, written, aural, visual, electronic or other physical form.

16-4-202. Right of inspection; rules and regulations; unavailability.

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

1 (b) If the public records requested are not in the
2 custody or control of the person to whom application is
3 made, ~~the person shall forthwith notify the applicant of~~
4 ~~this fact~~ the custodian or authorized person having
5 personal custody and control of the public records shall
6 notify the applicant within seven (7) business days from
7 the date of acknowledged receipt of the request of the
8 unavailability of the records sought, unless good cause
9 exists preventing a response within such time period. In
10 the event the applicant is not satisfied that good cause
11 exists, the applicant may petition the district court for a
12 determination as to whether the custodian has demonstrated
13 good cause existed.

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

1 that good cause exists, the applicant may petition the
2 district court for a determination as to whether the
3 custodian has demonstrated good cause existed. If a public
4 record is readily available, it shall be released
5 immediately to the applicant so long as the release does
6 not impair or impede the agency's ability to discharge its
7 other duties.

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9 **16-4-203. Right of inspection; grounds for denial;**
10 **access of news media; order permitting or restricting**
11 **disclosure; exceptions.**

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13 (d) The custodian shall deny the right of inspection
14 of the following records, unless otherwise provided by law:

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16 (xii) Information regarding the design, elements
17 and components, and location of state information
18 technology security systems and physical security systems;
19 ~~and~~

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21 (xiii) Records or information relating to
22 individual diagnoses of contagious, infectious,
23 communicable, toxic and genetic diseases maintained or

1 collected by the Wyoming state veterinary laboratory as
2 provided in W.S. 21-17-308(e);

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4 (xiv) Information concerning an agricultural
5 operation, farming or conservation practice, or the land
6 itself, if the information was provided by an agricultural
7 producer or owner of agricultural land in order to
8 participate in a program of the state or any agency,
9 institution or political subdivision of the state. The
10 custodian shall also deny the right of inspection to
11 geospatial information maintained about the agricultural
12 land or operations. Provided, however, that if otherwise
13 permitted by law, the inspection of the information
14 described in this paragraph shall be allowed in accordance
15 with the following:

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17 (A) The custodian may allow the right of
18 inspection when responding to a disease or pest threat to
19 agricultural operations, if the custodian determines that a
20 threat to agricultural operations exists and the disclosure
21 of information is necessary to assist in responding to the
22 disease or pest threat as authorized by law;

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1 (B) The custodian shall allow the right of
2 inspection of payment information under a program of the
3 state or of any agency, institution or political
4 subdivision of the state, including the names and addresses
5 of recipients of payments;

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7 (C) The custodian shall allow the right of
8 inspection if the information has been transformed into a
9 statistical or aggregate form without naming:

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11 (I) Any individual owner, operator or
12 producer; or

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14 (II) A specific data gathering site.

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16 (D) The custodian shall allow the right of
17 inspection if the disclosure of information is pursuant to
18 the consent of the agricultural producer or owner of the
19 agricultural land;

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21 (E) As used in this paragraph:

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1 (I) "Agricultural operation" means the
2 production and marketing of agricultural products or
3 livestock;

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5 (II) "Agricultural producer" means any
6 producer of livestock, crops or dairy products from an
7 agricultural operation.

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9 (xv) Within any record held by an agency, any
10 income tax return or any individual information derived by
11 the agency from an income tax return, however information
12 derived from these documents may be released if
13 sufficiently aggregated or redacted so that the persons or
14 entities involved cannot be identified individually;

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16 (xvi) Except as required in a contested case
17 hearing, any individual records involved in any workers'
18 compensation claim, however information derived from these
19 documents may be released if sufficiently aggregated or
20 redacted so that the persons or entities involved cannot be
21 identified individually.

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23 **16-4-205. Civil penalty.**

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1 Any person who ~~willfully and~~ knowingly or intentionally
2 violates the provisions of this act is ~~guilty of a~~
3 ~~misdemeanor and upon conviction thereof, shall be punished~~
4 ~~by a fine~~ liable for a penalty not to exceed seven hundred
5 fifty dollars (\$750.00). The penalty may be recovered in a
6 civil action and damages shall be assessed by the court.
7 Any action pursuant to this section shall be initiated by
8 the attorney general or the appropriate county attorney.

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10 **Section 2.** W.S. 16-4-201(a)(vii) is repealed.

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12 **Section 3.** This act is effective July 1, 2012.

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(END)