

State of Arizona
Senate
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 158

SENATE BILL 1269

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 state, any county, city, town, school
12 district, political subdivision or tax-supported district in the state, any
13 branch, department, board, bureau, commission, council or committee of the
14 foregoing, and any public organization or agency, supported in whole or in
15 part by monies from the state or any political subdivision of the state, or
16 expending monies provided by the state or any political subdivision of the
17 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 to the requesting person. The
34 custodian may require any person requesting that the custodian mail a copy
35 of any public record to pay in advance for any copying and postage charges.
36 The custodian of such records shall promptly furnish such copies, printouts
37 or photographs and may charge a fee if the facilities are available, except
38 that public records for purposes listed in section 39-122 shall be furnished
39 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
45 A 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 SECTION
4 41-1001, BUT DOES NOT INCLUDE THE DEPARTMENT OF PUBLIC SAFETY, THE DEPARTMENT
5 OF TRANSPORTATION MOTOR VEHICLE DIVISION, THE DEPARTMENT OF JUVENILE
6 CORRECTIONS AND THE DEPARTMENT OF CORRECTIONS.

7 ~~2.~~ 3. If the custodian of a public record does not have facilities
8 for making copies, printouts or photographs of a public record which a person
9 has a right to inspect, such person shall be granted access to the public
10 record for the purpose of making copies, printouts or photographs. The
11 copies, printouts or photographs shall be made while the public record is in
12 the 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.

APPROVED BY THE GOVERNOR APRIL 23, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 23, 2004.

Passed the House April 12, 2004,

by the following vote: 55 Ayes,

0 Nays, 5 Not Voting

Jake Flake
Speaker of the House

Norman L. Moore
Chief Clerk of the House

Passed the Senate March 8, 2004,

by the following vote: 29 Ayes,

1 Nays, 0 Not Voting

Klu Bennett
President of the Senate

Channing Bellinger
Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR**

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

S.B. 1269

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE**

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

SENATE CONCURS IN HOUSE AMENDMENTS
AND FINAL PASSAGE

Passed the Senate April 19, 2004,

by the following vote: 28 Ayes,

0 Nays, 3 Not Voting

[Signature]
President of the Senate
[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

19th day of April, 2004,

at 3:00 o'clock P. M.

[Signature]
Secretary to the Governor

Approved this 23 day of

April, 2004,

at 2¹⁰ o'clock P. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 23 day of April, 2004,

at 3:05 o'clock P. M.

[Signature]
Secretary of State

S.B. 1269