

House File 2490

S-5193

1 Amend the amendment, S-5116, to House File 2490, as passed by
2 the House, as follows:

3 1. By striking page 1, line 9, through page 3, line 15, and
4 inserting:

5 <1. a. The examination and copying of public records shall
6 be done under the supervision of the lawful custodian of the
7 records or the lawful custodian's authorized designee.

8 b. The lawful custodian shall not require the physical
9 presence of a person requesting or receiving a copy of a public
10 record and shall fulfill requests for a copy of a public record
11 received in writing, by telephone, or by electronic means.

12 ~~Although fulfillment~~

13 2. a. Fulfillment of a request for a copy of a public
14 record may be contingent upon receipt of payment of reasonable
15 expenses, ~~the.~~ The lawful custodian shall make every
16 reasonable effort to provide the public record requested at no
17 cost other than copying costs for a record which takes less
18 than thirty minutes to produce.

19 b. In the event expenses are necessary, such expenses shall
20 must be reasonable and shall be communicated to the requester
21 upon receipt of the request.

22 c. A person may contest the reasonableness of the lawful
23 custodian's expenses as provided for in this chapter.

24 3. The lawful custodian may adopt and enforce reasonable
25 rules regarding the examination and copying of the public
26 records and the protection of the records against damage or
27 disorganization.

28 4. The lawful custodian shall provide a suitable place
29 location for the examination and copying of the public records,
30 but if it is impracticable to do the examination and copying of
31 the records in the office of the lawful custodian, the person
32 desiring to examine or copy shall pay any necessary expenses of
33 providing a place for the examination and copying.

34 ~~2. All reasonable expenses of the examination and copying~~
35 ~~shall be paid by the person desiring to examine or copy.~~

1 5. a. The lawful custodian may charge a reasonable fee
2 for the services of the lawful custodian or the custodian's
3 authorized designee in supervising the examination and
4 copying of the public records. All reasonable expenses of the
5 examination and copying shall be paid by the person desiring to
6 examine or copy the public record.

7 b. If copy equipment is available at the office of the
8 lawful custodian of any public records, the lawful custodian
9 shall provide any person a reasonable number of copies of any
10 public record in the custody of the office upon the payment of
11 a fee. The fee for the copying service as determined by the
12 lawful custodian shall not exceed the actual cost of providing
13 the service. Actual costs shall include only those reasonable
14 expenses directly attributable to supervising the examination
15 of and making and providing copies of public records. Actual
16 costs shall not include charges for ordinary expenses or
17 costs such as employment benefits, depreciation, maintenance,
18 electricity, or insurance associated with the administration of
19 the office of the lawful custodian.

20 c. Costs for legal services should only be utilized for
21 the redaction or review of legally protected confidential
22 information. ~~However, a~~

23 d. A county recorder shall not charge a fee for the
24 examination and copying of public records necessary to complete
25 and file claims for benefits with the Iowa department of
26 veterans affairs or the United States department of veterans
27 affairs.>

28 2. Page 3, after line 31 by inserting:

29 <Sec. ____ . NEW SECTION. 22.8A Injunction to restrain
30 vexatious requester.

31 1. The district court may grant an injunction restraining
32 the right of a person found to be a vexatious requester to
33 examine public records under section 22.2 from a specific
34 government body, or may impose reasonable limitations on the
35 manner, frequency, or scope of such requests. A hearing shall

1 be held on a request for injunction after reasonable notice, as
2 determined by the court, is given to the person alleged to be a
3 vexatious requester. The government body seeking an injunction
4 shall ensure compliance with the notice requirement. Such an
5 injunction may be issued only if the petition supported by
6 affidavit shows, and if the court finds, all of the following:

7 *a.* The requests, considered in totality, would clearly not
8 be in the public interest.

9 *b.* The requests, considered in totality, constitute a
10 pattern of vexatious conduct.

11 *c.* The continuation of such requests would substantially and
12 irreparably injure the government body's ability to perform the
13 government body's duties or functions.

14 *d.* Less restrictive measures under this chapter are
15 inadequate to provide sufficient relief.

16 2. In an action brought under this section, the court shall
17 take into account the policy of this chapter that free and
18 open examination of public records is generally in the public
19 interest even though such requests may cause inconvenience or
20 embarrassment to public officials or others. A court may issue
21 an injunction under this section only if the government body
22 seeking the injunction demonstrates by clear and convincing
23 evidence that this section authorizes the issuance of the
24 injunction.

25 3. In determining whether conduct constitutes vexatious
26 conduct under this section, the court may consider any of the
27 following:

28 *a.* The number, frequency, timing, scope, and content of
29 public requests.

30 *b.* The nature of oral and written communications related to
31 the public requests.

32 *c.* Any prior administrative or judicial findings regarding
33 the conduct of the requester.

34 *d.* All other relevant circumstances.

35 4. For purposes of this section:

1 *a.* "News media" includes any person who regularly gathers,
2 prepares, photographs, records, writes, edits, reports, or
3 publishes news for monetary consideration.

4 *b.* (1) "Vexatious conduct" means a pattern of public
5 records requests that satisfies one or more of the following:

6 (i) The requests are designed primarily to harass the
7 government body, its officers, or its employees.

8 (ii) The government body shows by clear and convincing
9 evidence that the requests impose an unreasonable burden on the
10 government body and compliance would substantially interfere
11 with essential governmental operations.

12 (iii) The requests are submitted in a manner or accompanied by
13 communication that constitute harassment of public officers or
14 employees as provided in section 718.4.

15 (2) "Vexatious conduct" does not include solely a large
16 volume of requests made by a person or a representative of the
17 news media.

18 5. Upon finding by a preponderance of the evidence that the
19 requester has not engaged in a pattern of vexatious conduct,
20 a court shall order the payment of all costs and reasonable
21 attorney fees, including appellate attorney fees, to the
22 requester by the government body in the action brought under
23 this section.>>

24 3. Page 3, line 35, by striking <costs> and inserting
25 <supervision and fees>

26 4. Page 4, line 1, by striking <and>

27 5. Page 4, line 2, by striking <appointees> and inserting
28 <appointees, and injunctions to restrain vexatious requesters>

29 6. By renumbering as necessary.

SANDY SALMON