

Senate File 2238 - Introduced

SENATE FILE 2238

BY McCLINTOCK

A BILL FOR

- 1 An Act relating to public records, including the duties of lawful
- 2 custodians.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

unofficial

1 Section 1. Section 22.1, Code 2026, is amended by adding the
2 following new subsections:

3 NEW SUBSECTION. 2A. "*Original government body*" means the
4 government body that created or originated a public record,
5 or that has primary responsibility for the maintenance,
6 classification, or confidentiality of the public record.

7 NEW SUBSECTION. 4. "*Secondary lawful custodian*" means a
8 lawful custodian in physical possession of a public record
9 provided by an original government body.

10 Sec. 2. Section 22.3, Code 2026, is amended by adding the
11 following new subsection:

12 NEW SUBSECTION. 3. If a request to examine or copy a
13 public record is made to a secondary lawful custodian, the
14 secondary lawful custodian may defer the determination of whether
15 the public record is subject to examination and copying to
16 the original government body. Upon deferral, the secondary
17 lawful custodian shall promptly notify the requester of the
18 deferral and the identity of the original government body. The
19 secondary lawful custodian shall not be required to independently
20 determine whether the public record is confidential or subject to
21 disclosure.

22 Sec. 3. Section 22.8, subsection 4, Code 2026, is amended by
23 adding the following new paragraph:

24 NEW PARAGRAPH. 0e. To allow a secondary lawful custodian
25 to defer to the original government body under section 22.3,
26 subsection 3, for a determination under paragraph "c" or "d".
27 A secondary lawful custodian acting in reasonable reliance on
28 the position or determination of the original government body
29 shall be deemed to be acting in good faith for purposes of this
30 chapter.

31 Sec. 4. Section 22.10, Code 2026, is amended by adding the
32 following new subsection:

33 NEW SUBSECTION. 5. A secondary lawful custodian shall not
34 be subject to injunctive relief, damages, attorney fees, or
35 costs ordered under this section for failing to disclose or for

1 disclosing a public record when the secondary lawful custodian
2 acted in reasonable reliance on a determination, instruction, or
3 position taken by the original government body to comply with or
4 refuse the request made under this chapter.

5 EXPLANATION

6 The inclusion of this explanation does not constitute agreement with
7 the explanation's substance by the members of the general assembly.

8 This bill relates to public records, including the duties of
9 lawful custodians.

10 Under current law, a person may request to examine, copy,
11 publish, or otherwise disseminate a public record from the
12 government body currently in physical possession of the public
13 record (lawful custodian).

14 The bill defines "original government body" as the government
15 body that created or originated a public record, or that has
16 primary responsibility for the maintenance, classification, or
17 confidentiality of the public record. The bill also defines
18 "secondary lawful custodian" as a lawful custodian in physical
19 possession of a public record provided by an original government
20 body.

21 Under the bill, if a public records request is made to a
22 secondary lawful custodian, the secondary lawful custodian may
23 defer the determination of whether the public record is subject
24 to examination and copying to the original government body. The
25 bill requires the secondary lawful custodian to promptly notify
26 the requester of the deferral and the identity of the original
27 government body. The secondary lawful custodian is not required
28 to independently determine whether a record is confidential or
29 subject to disclosure.

30 The bill provides that a good-faith, reasonable delay in
31 responding to a public records request does not constitute a
32 violation when the delay is for the purpose of allowing a
33 secondary lawful custodian to defer to the original government
34 body for a determination. A secondary lawful custodian acting
35 in reasonable reliance on the determination of the original

1 government body is deemed to be acting in good faith.

2 The bill further provides that a secondary lawful custodian
3 is not subject to injunctive relief, damages, attorney fees, or
4 costs for failing to disclose or for disclosing a public record
5 when the secondary lawful custodian acted in reasonable reliance
6 on the determination of the original government body to comply
7 with or refuse the public records request.

unofficial