



Legislation Text

File #: 2011-0277, **Version:** 2

Clerk 06/16/2011

AN ORDINANCE relating to public records; providing guidance to public records officers regarding notice of agencies believed to have records responsive to public disclosure requests; revising the requirements for county agency reports about agency responses to public disclosure requests; and amending Ordinance 16679, Section 22, and K.C.C. 2.12.250 and Ordinance 16679, Section 27, and K.C.C. 2.12.300.

PREAMBLE:

To promote openness in county government, public records officers responding to public disclosure requests should inform the requestor about other agencies believed to have additional responsive records.

To facilitate the county council's oversight of county agency responses to public disclosure requests, without unduly burdening the county's public records officers, the information to be included in the annual reports submitted by each agency to the county council is to be revised and supplemented as set forth in this ordinance.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 16679, Section 22, and K.C.C. 2.12.250 are each hereby amended as follows:

A. Each agency shall provide full access to public records that are not exempt from disclosure under applicable law, protect records from damage or disorganization, prevent excessive interference with other essential functions of the agency, provide fullest assistance to requestors and provide the most-timely possible

action on public records requests.

B. The public records officer or designee shall process requests in the order allowing the most requests to be processed in the most efficient manner; in order to process requests as efficiently as possible, smaller requests may be processed before substantially larger requests that were received earlier.

C.1. Within five business days of receipt of the request, the public records officer shall do one or more of the following:

- a. make the records available to the requestor for inspection or copying;
- b. if copies are requested and payment of a deposit for the copies, if any, is made or terms of payment are agreed upon, send the copies to the requestor;
- c. provide to the requestor a reasonable estimate of when records will be available;
- d. if the request is unclear or does not sufficiently identify the requested records, request clarification from the requestor. The clarification may be requested and provided by telephone, in which case the public records officer shall make a written record of the clarification. The public records officer or designee may revise the estimate of when records will be available. If the requestor fails to clarify the request, the agency need not respond to it; or
- e. deny the request and notify the requestor of the denial. Denials of requests shall be accompanied by a written statement of the specific reasons therefor.

2. Additional time required to respond to a request may be based upon the need to clarify the intent of the request, to locate and assemble the information requested, to notify third persons or agencies affected by the request or to determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request.

D. In the event that the requested records contain information that affects other agencies or third persons, the public records officer may, before providing the records, give notice to those persons in accordance with RCW 42.56.540. The notice shall include a copy of the request.

E. Some records are exempt from disclosure, in whole or in part. If the agency believes that a record or any part of a record is exempt from disclosure and should be withheld, the public records officer shall provide to the requestor a writing identifying the record or portion withheld, the specific exemption relied upon and the authority for the exemption, and briefly explaining how the exemption applies to the record or portion withheld, including enough information for a requestor to make a threshold determination of whether the claimed exemption is proper. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records officer shall redact the exempt portions and provide the nonexempt portions.

F.1. The agency shall promptly provide space to inspect public records except when and to the extent that it would cause excessive interference with other essential functions of the agency or unreasonably disrupt agency operations. No member of the public may remove a document from the viewing area or disassemble or alter any document. The requestor shall indicate which documents the requestor wishes the agency to copy.

2. The requestor must claim or review the assembled records within thirty days of the agency's notification to the requestor that the records are available for inspection or copying. The agency shall notify the requestor in writing of this requirement and inform the requestor that the requestor should contact the agency to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the time prescribed in this subsection F.2. or make other arrangements, the agency may close the request. Other public records requests may be processed ahead of a subsequent request by the same person for the same or almost identical records, which may be processed as a new request.

G. After inspection is complete, the public records officer or designee shall make the requested copies or arrange for copying.

H. When the request is for a large number of records, the public records officer or designee shall provide access for inspection and copying in installments, if the public records officer or designee reasonably determines that it would be practical to provide the records in that way. If, within thirty days after notification that the records are available for inspection or copying under subsection C., D. or E. of this section, the

requestor fails to inspect the entire set of records or one or more of the installments, as applicable, the public records officer or designee may stop searching for the remaining records and close the request. The requestor shall be notified in writing of this action.

I. When the requestor either withdraws the request or fails to fulfill his or her obligations to inspect the records or pay the deposit or final payment for the requested copies, the public records officer shall close the request and indicate to the requestor that the agency has closed the request.

J. If, after the agency has informed the requestor that the agency has provided all available records, the agency becomes aware of additional responsive documents existing at the time of the request, the agency shall promptly inform the requestor of the additional documents and provide the documents on an expedited basis.

K. If a public records officer or designee responding to a public records request believes that one or more other agencies are likely to have records that are responsive to the request, he or she should, in writing, so inform the requestor and provide the requestor with the name and contact information of the public records officer of each such agency, including the officer's title, office phone number, office address, and email address. The public records officer is not required to review records or otherwise investigate for the purpose of determining whether other agencies are likely to have additional records that are responsive to the request. This subsection is intended to enhance the public's access to public records, not to impose any legal obligation on agencies beyond those imposed by chapter 42.56 RCW.

SECTION 2. Ordinance 16679, Section 27, and K.C.C. 2.12.300 are each hereby amended to read as follows:

A.1.a. No later than April 1 of each year, the public records officer of each county agency shall submit to the county council a report on the agency's performance in responding to public records requests during the preceding calendar year. The report shall include, at a minimum, a listing of all requests that either were closed during the preceding calendar or remained open at the end of the preceding calendar year, including, for each such request:

~~((a-))~~ (1) the name of the requestor;

~~((b-))~~ (2) a summary of the request;

~~((c-))~~ (3) the date the request was received; ~~((and))~~

~~((d-))~~ (4) whether the five-day response requirement in K.C.C. section 2.12.250.C.1 was met;

(5) the date the request was closed, if it has been closed; and

(6) for each closed request for which more than six months elapsed from the date the request was received until the date the request was closed, and for each open request that had been open for more than six months at the end of the preceding calendar year, an explanation of why the request was not closed more promptly.

2. For the purpose of this section, a request is closed if the agency has provided all responsive records, has indicated that there are no responsive records or that all of the responsive records are exempt from disclosure or has provided records and indicated that no additional records will be produced because the remaining records are exempt from disclosure, or if the request is closed pursuant to K.C.C. 2.12.250.F., H., or I.

2. A paper original and an electronic copy of the report shall be filed with the clerk of the council, who shall email the electronic copy to all councilmembers. In the electronic copy of the report, the listing of public records requests shall be in the form of an electronic spreadsheet.

B. On January 15 and July 15 of each year, the county prosecuting attorney shall submit to the county council a report listing all pending lawsuits alleging that the county has violated chapter 42.56 RCW, including the name of the case, the court in which it was filed, the date on which it was filed, the case number, a brief summary of the claims made against the county and the current case status. A paper original and an electronic copy of the report shall be filed with the clerk of the council, who shall email the electronic copy to all councilmembers.