



## Legislation Details (With Text)

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**Type:** Ordinance      **Status:** Passed

**File created:** 3/27/2019      **In control:** Budget and Fiscal Management Committee

**On agenda:**      **Final action:** 7/10/2019

**Enactment date:** 7/17/2019      **Enactment #:** 18949

**Title:** AN ORDINANCE relating to fees and reporting requirements for public records act requests; and amending Ordinance 16679, Section 23, and K.C.C. 2.12.260, Ordinance 16679, Section 25, and K.C.C. 2.12.280, Ordinance 16679, Section 27, as amended, and K.C.C.2.12.300 and Ordinance 18635, Section 4 and KCC 2.14.020.

**Sponsors:** Claudia Balducci

**Indexes:** Public Records

**Code sections:** 2.12.260 - ., 2.12.280 - ., 2.12.300 - ., 2.14.020 -

**Attachments:** 1. Ordinance18949, 2. 2019-0137 legislative review form, 3. 2019-0137 fiscal note, 4. 2019-0137 transmittal letter, 5. 2019-0137\_SR\_Public\_Records, 6. 2019-0137\_ATT4\_ReportingRequirements, 7. 2019-0137\_Amend1\_PublicRecordsReporting+Tech w MCH Edits bar, 8. 2019-0137\_Revised\_SR\_Public\_Records, 9. 2019-0137 Affidavit of Publication

Date	Ver.	Action By	Action	Result
7/10/2019	2	Metropolitan King County Council	Passed	Pass
6/25/2019	1	Budget and Fiscal Management Committee	Passed Out of Committee Without a Recommendation	Pass
3/27/2019	1	Metropolitan King County Council	Introduced and Referred	

AN ORDINANCE relating to fees and reporting requirements for public records act requests; and amending Ordinance 16679, Section 23, and K.C.C. 2.12.260, Ordinance 16679, Section 25, and K.C.C. 2.12.280, Ordinance 16679, Section 27, as amended, and K.C.C.2.12.300 and Ordinance 18635, Section 4 and KCC 2.14.020.

### STATEMENT OF FACTS:

1. K.C.C. 2.12.280 and 2.12.300, adopted in 2009 by Ordinance 16679, authorized reasonable charges for providing copies of public records in accordance with applicable state law and required a report to be filed by each county agency with the council detailing each agency's performance in responding to Public Records Act requests in the preceding calendar year.

2. In 2017, the Washington state Legislature amended chapter 42.56 RCW, adding new requirements for agencies using the statutory default copy fee schedule and for agencies to determine the actual cost for providing copies of public records. An agency need not calculate the actual costs it charges for providing public records if the agency promulgates a regulation declaring that doing so would be unduly burdensome. In such a case, an agency may use the statutory default copy fee schedule set forth in RCW 42.56.120.

3. In 2017, the Washington state Legislature amended chapter 40.14 RCW adding a requirement that each agency maintain a log of Public Records Act requests received during the preceding calendar year. To standardize reporting requirements and improve efficiencies, the information requirements found in the King County Code should mirror the information required by state law.

4. K.C.C. 2.14.020.B.4. adopted in 2017 by Ordinance 18635, added a new requirement that the public records report required in K.C.C. 2.12.300 would be transmitted to council through the public records committee rather than directly from each agency.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

**SECTION 1. Findings:** The council finds as facts that calculating the actual costs of providing public records would be unduly burdensome, and to conduct such a study would interfere with the county's other essential agency functions.

**SECTION 2.** Ordinance 16679, Section 23, and K.C.C. 2.12.260 are each hereby amended to read as follows:

A. The process for requesting electronic public records is the same as for requesting paper public records.

B. When a requestor requests records in an electronic format, the agency's public records officer shall provide the nonexempt records or portions of those records that are reasonably locatable in an electronic format

that is used by the agency and is generally commercially available, or in a format that is reasonably translatable from the format in which the agency keeps the record. (~~Costs for providing electronic records are governed by K.C.C. 2.12.280.B.~~)

C. The agency may provide customized access under RCW (~~(43.105.280)~~) 42.56.120 if the record is not reasonably locatable or not reasonably translatable into the format requested. The agency may charge a fee consistent with RCW (~~(43.105.280)~~) 42.56.120 for the customized access.

SECTION 3. Ordinance 16679, Section 25, and K.C.C. 2.12.280 are each amended to read as follows:

A.1. There is no fee for inspecting public records. (~~A requestor may obtain copies, for which charges shall be made in accordance with RCW 42.56.070 or other applicable law. For certified copies, eight and one-half inches by fourteen inches or smaller, for the first page the fee shall be two dollars, and for each additional page the fee shall be one dollar.~~)

2. (~~Before beginning to make the copies, the public records officer or designee may require a deposit of up to ten percent of the estimated costs of copying all the records selected by the requestor. The public records officer or designee may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment. The agency shall not charge sales tax when it makes copies of public records.~~)

B.1. The cost of electronic copies of records shall be the actual cost of the medium used.

2. If the agency incurs a cost of transferring a paper record to electronic form, that cost may be charged.

3. If the agency uses an outside vendor, the vendor's charge to the agency, including applicable sales tax, shall be passed on to the requestor.

C.) The county may charge fees for copies of records in accordance with the fees in RCW 42.56.120 (2)(b) and (c).

3. The county may charge fees for customized services in accordance with RCW 42.56.120(3).

4. Before beginning to make the copies, the public records officer or designee may require a deposit of up to ten percent of the estimated costs of copying all the records selected by the requestor. The public records officer or designee may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment. The agency shall not charge sales tax when it makes copies of public records.

B. An agency may also charge actual costs of mailing, including the cost of the shipping container.

~~((D.))~~ C. Payment for the costs under this section may be made to the agency or the agency's designee by cash, check or money order to the agency or its designee.

~~((E.))~~ D. Charges for ~~((paper))~~ copies of official records shall be in accordance with fees set forth in applicable chapters of the RCW.

~~((F.))~~ E. Charges for copies of material in the archival collection shall follow the guidelines of the Washington state Archives and WAC 434-690-080.

SECTION 4. Ordinance 16679, Section 27, as amended, and K.C.C. 2.12.300 are each amended to read as follows:

~~((A.1.a.))~~ No later than ~~((March 20))~~ July 1 of each year, the public records officer of each county agency meeting the threshold described in RCW 40.14.026(5) shall submit to the chair of the public records committee ~~((a))~~ the 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:~~

- ~~(1) the name of the requestor;~~
- ~~(2) a summary of the request;~~
- ~~(3) the date the request was received;~~
- ~~(4) whether the five-day response requirement in K.C.C. 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)) described in RCW 40.14.026(5).~~

SECTION 5. Ordinance 18635 Section 4, as amended, and K.C.C. 2.14.020 are each amended to read as follows:

A. King County is committed to managing its public records as a countywide resource and in a manner that:

1. Is efficient and economical;
2. Promotes open government and an informed citizenry;
3. Protects individual privacy; and
4. Meets county record retention and disposition standards.

B. A public records committee is hereby established. The public records committee shall:

1. Advise the council and the executive on county public records policies, including both paper and electronic records; these policies must include policies for posting records on county web sites;
2. Provide guidance on the planning and implementation of a countywide records storage management plan and a countywide electronic records management system;
3. Advise county agencies on their use of digital communication technology and serve as a forum for

sharing and discussing information about the county's use of such technology; and

4. Submit a report containing the following information by ((April 1)) August 15 of each year in the form of a paper original and an electronic copy to the clerk of the council, who shall retain the original and provide an electronic copy of the report to all councilmembers, the council chief of staff, and the lead staff for the council's government accountability and oversight committee or its successor. The report shall include:

a. a description of the forms of digital communication that are in use by each county agency;

b. for each form of digital communication that is in use by an agency, a description of the methods used by the agency to retain records of digital communication to meet applicable record retention requirements; and

c. for each form of digital communication that is in use by an agency, a description of the methods used by the agency to search records of digital communication to meet applicable public record disclosure requirements;

d. the report required by the public records committee charter adopted by Motion 12511, which provides a summary of the activities of the public records committee in relation to the charter goals, and programmatic and policy recommendations as to how King County can best manage, preserve and provide access to its public records; and

e. all agency reports submitted to the chair of the public records committee required by K.C.C. 2.12.300 that describe each agency's performance in responding to public records requests during the preceding calendar year.

C. The director of the records and licensing services division or the director's designee shall be the chair of the public records committee. The public records committee shall include representatives of a broad range of county departments and elected agencies, including at a minimum the following:

1. The council;
2. The prosecuting attorney's office;

3. The sheriff's office;
4. The assessor's office;
5. The department of elections;
6. Office of performance, strategy and budget;
7. The executive branch's senior public records officer;
8. The department of information technology's director of web-based services

technology; and

9. Each executive department.