

An Act to Improve Access to Public Records

Rep. Peter Kocot (H.2772) & Sen. Jason Lewis (S.1676)

Our public records law is broken. Too often, journalists, concerned citizens, and others with a need – and right – to know how executive agencies and municipal government are working can't get information because of excessive fees, delay or obstruction, and lack of accountability. The public records law hasn't been substantially updated since 1973; it's time to bring it into the 21st century.



Rights with no remedy

In 47 other states and under the federal FOIA law, when an agency unlawfully blocks access to public records, courts can – or must – award attorneys' fees. In Massachusetts, by contrast, agencies can deny access to public records without consequences or accountability. Attorneys' fees create an incentive for an entity to abide by the law or pay the penalty when they violate people's rights.

→ Courts must be able to award attorneys' fees to ensure accountability.



Excessive costs

Agencies sometimes charge large amounts of money for records in order to keep information out of the public view.

- EOHHS requested payment of nearly \$70,000 for records of “sunshine disclosures” made by job applicants regarding relatives on the state payroll.
- The Boston Redevelopment Authority wanted \$47,000 for information about city employees and their relatives who won an affordable housing lottery.

→ Records must be affordable, with fees that reflect actual costs and don't inhibit access.



The runaround

Agencies usually don't have anyone tasked with managing requests, so requesters get the runaround. James Edwards, a WGBH reporter who came to Boston from Chicago, has been stunned by how difficult it is to seek public records in the Bay State. “One of the biggest issues is just finding out . . . where to send my request. Even at the state level in Illinois, each agency will have a page on its website dedicated to FOIA and contact information.”

→ Each agency should have a “records access officer” – a point person to streamline requests.



Paper problems

Agencies often provide records in paper form or non-searchable form, even when cheaper, more useful digital records already exist. They even print out records such as spreadsheets or emails, and charge for the printing costs.

- In 2014, the Springfield Police Department demanded nearly \$18,000 for computer printouts of emails regarding a specific police program.
- In 2013, the Boston Police refused to give a reporter a spreadsheet in its original format. Instead, they insisted on converting it to PDF, which cannot be searched and readily analyzed.

→ Electronic records should be provided electronically, in a searchable format.