

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017**

S

1

**SENATE BILL 649**

Short Title: Public Records Access - NC Residents Only. (Public)

Sponsors: Senators Daniel, Brock, Hise (Primary Sponsors); and Rabin.

Referred to: Rules and Operations of the Senate

April 5, 2017

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE THAT ACCESS TO NORTH CAROLINA PUBLIC RECORDS  
3 ARE FOR NORTH CAROLINA RESIDENTS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 132-1(b) reads as rewritten:

6 "(b) The public records and public information compiled by the agencies of North  
7 Carolina government or its subdivisions are the property of the ~~people-residents of this State~~.  
8 Therefore, it is the policy of this State that the ~~people-residents of this State~~ may obtain copies  
9 of their public records and public information free or at minimal cost unless otherwise  
10 specifically provided by law. As used herein, "minimal cost" shall mean the actual cost of  
11 reproducing the public record or public information."

12 **SECTION 2.** G.S. 132-1.4(d) reads as rewritten:

13 "(d) A public law enforcement agency shall temporarily withhold the name or address of  
14 a complaining witness if release of the information is reasonably likely to pose a threat to the  
15 mental health, physical health, or personal safety of the complaining witness or materially  
16 compromise a continuing or future criminal investigation or criminal intelligence operation.  
17 Information temporarily withheld under this subsection shall be made available for release to  
18 the public in accordance with G.S. 132-6 as soon as the circumstances that justify withholding  
19 it cease to exist. Any ~~person-resident of this State~~ denied access to information withheld under  
20 this subsection may apply to a court of competent jurisdiction for an order compelling  
21 disclosure of the information. In such action, the court shall balance the interests of the public  
22 in disclosure against the interests of the law enforcement agency and the alleged victim in  
23 withholding the information. Actions brought pursuant to this subsection shall be set down for  
24 immediate hearing, and subsequent proceedings in such actions shall be accorded priority by  
25 the trial and appellate courts."

26 **SECTION 3.** G.S. 132-1.9(c) and (d) read as rewritten:

27 "(c) Trial Preparation Material Prepared in Anticipation of a Legal Proceeding. – Any  
28 ~~person-resident of this State~~ who is denied access to a public record that is also claimed to be  
29 trial preparation material that was prepared in anticipation of a legal proceeding that has not yet  
30 been commenced may petition the court pursuant to G.S. 132-9 for determination as to whether  
31 the public record is trial preparation material that was prepared in anticipation of a legal  
32 proceeding.

33 (d) During a Legal Proceeding. –

34 ...

35 (3) Any ~~person-resident of this State~~ who is denied access to a public record that  
36 is also claimed to be trial preparation material and who is not a party to the



1 pending legal proceeding to which such record pertains, and who is not  
2 acting in concert with or as an agent for any party to the pending legal  
3 proceeding, may petition the court pursuant to G.S. 132-9 for a  
4 determination as to whether the public record is trial preparation material."

5 **SECTION 4.** G.S. 132-6 reads as rewritten:

6 **"§ 132-6. Inspection and examination of records.**

7 (a) Every custodian of public records shall permit any record in the custodian's custody  
8 to be inspected and examined at reasonable times and under reasonable supervision by any  
9 ~~person, resident of this State~~ and shall, as promptly as possible, furnish copies thereof upon  
10 payment of any fees as may be prescribed by law. As used herein, "custodian" does not mean  
11 an agency that holds the public records of other agencies solely for purposes of storage or  
12 safekeeping or solely to provide data processing.

13 (a1) Notwithstanding subsection (a) of this section, the public records maintained by the  
14 clerk of court and register of deeds of every county shall be open to inspection and copying by  
15 any person. The access granted under this subsection is subject to the requirements and  
16 conditions of this Chapter.

17 (b) No ~~person resident of this State~~ requesting to inspect and examine public records, or  
18 to obtain copies thereof, shall be required to disclose the purpose or motive for the request.

19 ...."

20 **SECTION 5.** G.S. 132-6.2 reads as rewritten:

21 **"§ 132-6.2. Provisions for copies of public records; fees.**

22 (a) ~~Persons-Residents of this State~~ requesting copies of public records may elect to  
23 obtain them in any and all media in which the public agency is capable of providing them. No  
24 request for copies of public records in a particular medium shall be denied on the grounds that  
25 the custodian has made or prefers to make the public records available in another medium. The  
26 public agency may assess different fees for different media as prescribed by law.

27 (b) ~~Persons-Residents of this State~~ requesting copies of public records may request that  
28 the copies be certified or uncertified. The fees for certifying copies of public records shall be as  
29 provided by law. Except as otherwise provided by law, no public agency shall charge a fee for  
30 an uncertified copy of a public record that exceeds the actual cost to the public agency of  
31 making the copy. For purposes of this subsection, "actual cost" is limited to direct, chargeable  
32 costs related to the reproduction of a public record as determined by generally accepted  
33 accounting principles and does not include costs that would have been incurred by the public  
34 agency if a request to reproduce a public record had not been made. Notwithstanding the  
35 provisions of this subsection, if the request is such as to require extensive use of information  
36 technology resources or extensive clerical or supervisory assistance by personnel of the agency  
37 involved, or if producing the record in the medium requested results in a greater use of  
38 information technology resources than that established by the agency for reproduction of the  
39 volume of information requested, then the agency may charge, in addition to the actual cost of  
40 duplication, a special service charge, which shall be reasonable and shall be based on the actual  
41 cost incurred for such extensive use of information technology resources or the labor costs of  
42 the personnel providing the services, or for a greater use of information technology resources  
43 that is actually incurred by the agency or attributable to the agency. If anyone requesting public  
44 information from any public agency is charged a fee that the requester believes to be unfair or  
45 unreasonable, the requester may ask the State Chief Information Officer or his designee to  
46 mediate the dispute.

47 (c) ~~Persons-Residents of this State~~ requesting copies of computer databases may be  
48 required to make or submit such requests in writing. Custodians of public records shall respond  
49 to all such requests as promptly as possible. If the request is granted, the copies shall be  
50 provided as soon as reasonably possible. If the request is denied, the denial shall be

1 accompanied by an explanation of the basis for the denial. If asked to do so, the person denying  
2 the request shall, as promptly as possible, reduce the explanation for the denial to writing.

3 (d) Nothing in this section shall be construed to require a public agency to respond to  
4 requests for copies of public records outside of its usual business hours.

5 (e) Nothing in this section shall be construed to require a public agency to respond to a  
6 request for a copy of a public record by creating or compiling a record that does not exist. If a  
7 public agency, as a service to the requester, voluntarily elects to create or compile a record, it  
8 may negotiate a reasonable charge for the service with the requester. Nothing in this section  
9 shall be construed to require a public agency to put into electronic medium a record that is not  
10 kept in electronic medium."

11 **SECTION 6.** G.S. 132-9(a) reads as rewritten:

12 "**§ 132-9. Access to records.**

13 (a) ~~Any person~~ Any resident of this State who is denied access to public records for  
14 purposes of inspection and examination, or who is denied copies of public records, may apply  
15 to the appropriate division of the General Court of Justice for an order compelling disclosure or  
16 copying, and the court shall have jurisdiction to issue such orders if the person has complied  
17 with G.S. 7A-38.3E. Actions brought pursuant to this section shall be set down for immediate  
18 hearing, and subsequent proceedings in such actions shall be accorded priority by the trial and  
19 appellate courts."

20 **SECTION 7.** This act becomes effective October 1, 2017, and applies to requests  
21 to inspect and requests to copy made on or after that date.