

1 AN ACT relating to open records.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 61.882 is amended to read as follows:

- 4 (1) The Circuit Court of the county where the public agency has its principal place of
5 business or the Circuit Court of the county where the public record is maintained
6 shall have jurisdiction to enforce the provisions of KRS 61.870 to 61.884, by
7 injunction or other appropriate order on application of any person.
- 8 (2) A person alleging a violation of the provisions of KRS 61.870 to 61.884 shall not
9 have to exhaust his remedies under KRS 61.880 before filing suit in a Circuit Court.
- 10 (3) In an appeal of an Attorney General's decision, where the appeal is properly filed
11 pursuant to KRS 61.880(5)(a), the court shall determine the matter de novo. In an
12 original action or an appeal of an Attorney General's decision, where the appeal is
13 properly filed pursuant to KRS 61.880(5)(a), the burden of proof shall be on the
14 public agency. The court on its own motion, or on motion of either of the parties,
15 may view the records in controversy in camera before reaching a decision. Any
16 noncompliance with the order of the court may be punished as contempt of court.
- 17 (4) Except as otherwise provided by law or rule of court, proceedings arising under this
18 section take precedence on the docket over all other causes and shall be assigned for
19 hearing and trial at the earliest practicable date.
- 20 (5) Any person who prevails against any agency in any action in the courts regarding a
21 violation of KRS 61.870 to 61.884 ~~shall~~may, upon a finding that ***there was a***
22 ***complete absence of a justiciable issue***~~[the records were willfully withheld in~~
23 ~~violation of KRS 61.870 to 61.884]~~, be awarded costs, including reasonable
24 attorney's fees, incurred in connection with the legal action. If such person prevails
25 in part, the court ~~shall~~may in its discretion award him ***or her*** costs or an
26 appropriate portion thereof. In addition, it shall be within the discretion of the court
27 to award the person an amount not to exceed twenty-five dollars (\$25) for each day

1 that he or she was denied the right to inspect or copy said public record. Attorney's
2 fees, costs, and awards under this subsection shall be paid by the agency that the
3 court determines is responsible for the violation.