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New Law Permits Local Law Enforcement Agencies to Charge Additional Fees for Certain Public Records Requests

Governor Mike DeWine signed House Bill 135 into law on Jan. 2, 2024. Among other provisions, the new law gives state and local law enforcement agencies the authority to charge up to \$750 in fees when producing video records in response to a public records request. The new law goes into effect March 1, 2025, and the applicable provisions will be added to R.C. 149.43(B)(1).

Applicable Fees

Under the new law, local law enforcement agencies can charge the “actual cost associated with preparing a video record for inspection or production.” The law defines “actual cost” broadly, including costs related to “reviewing, blurring or otherwise obscuring, redacting, uploading or producing the video records, including but not limited to the storage medium on which the record is produced, staff time, and any other relevant overhead necessary to comply with the request.”

Maximum Amount of Fees

Local law enforcement agencies are permitted to charge up to \$75 per hour of video produced, and the total fees are capped at \$750. However, it is unclear whether the \$750 maximum applies when, for example, a requester asks for several different bodycam or dashcam videos in a single request where costs incurred by the local law enforcement agency could substantially exceed \$750.

Upfront Payment Requirements Are Permitted

The new law also gives local law enforcement agencies the ability to require upfront payment before starting the process necessary to fulfill the video records request. If a local law enforcement agency

chooses to include an upfront payment requirement in its public records policy, the agency is not obligated to fulfill the request until the requester pays the “estimated actual cost” provided by the agency. When imposing this upfront payment requirement, local law enforcement agencies must provide the actual cost estimate to the requester within five days of receiving the request.

This provision also gives local law enforcement agencies flexibility because, if the “actual cost” ends up being higher than the “estimated actual cost,” the agency can bill the requester for the additional cost so long as the agency notifies the requester that the final cost could potentially be 20% higher than the initial estimated cost. However, any additional payment greater than the “estimated actual cost” is capped at 20% of the initial estimated cost.

What the New Law Means

This new law is welcome news for Ohio’s local law enforcement agencies that have been buried recently with requests for these records. For more information on how to properly amend public records policies and begin charging fees under HB 135, please contact the authors or any attorney with Frost Brown Todd’s [Government Services](#) Practice Group.

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