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## FISCAL IMPACT REPORT

SPONSOR Nibert/Wirth LAST UPDATED \_\_\_\_\_  
ORIGINAL DATE 02/10/2023  
BILL  
SHORT TITLE Security System IPRA Disclosure NUMBER House Bill 251  
ANALYST Hitzman

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal		Recurring	General Fund

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

Relates to House Bill 232

### Sources of Information

LFC Files

#### Responses Received From

Office of the Attorney General (NMAG)

Commission of Public Records

Administrative Offices of the Courts (AOC)

## SUMMARY

### Synopsis of House Bill 251

House Bill 251 (HB251) amends the Inspection of Public Records Act (IPRA) to exempt records of security systems at public facilities of the state or political subdivision if disclosure of which would reveal information that could be used to plan or execute an attack on a public facility or person.

This bill does not contain an effective date and, as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed into law.

## FISCAL IMPLICATIONS

The bill does not contain an appropriation and is expected to have indeterminate but minimal fiscal impacts, primarily related to administrative capacity at agencies to review information requests.

## SIGNIFICANT ISSUES

AOC notes an existing IPRA exception already exists for “tactical response plans or procedures prepared for or by the state or a political subdivision of the state, the publication of which could reveal specific vulnerabilities, risk assessments or tactical emergency security procedures that could be used to facilitate the planning or execution of a terrorist attack.” However, AOC notes security systems-related documents are not encompassed by this existing IPRA exception and could include critical information related to courthouse security, camera footage, active shooter training information, parking information of judge and staff vehicles, and other sensitive information. For example, AOC provides the following:

There are also serious privacy concerns related to the availability of camera records, particularly for vulnerable court users. The Court has already recognized the need to protect “certain witnesses,” from recording, “including but not limited to the victims of sex crimes and their families, police informants, undercover agents, relocated witnesses, and juveniles.” Rule 23-107(A)(2) NMRA 2021. Judges have discretion to prevent media from recording images of these types of sensitive witnesses, but their images are freely available in court security camera footage. Other vulnerable groups, such as victims of domestic violence and undocumented immigrants, may also be hesitant to come to courts if they knew that recordings of their activities within the courts were available to any member of the public who requests them.

In addition to concerns about images of individuals being disclosed, there is also the potential for security camera footage to display personal identifier information, and other sensitive protected information in court filings (such as addresses of petitioners in protective order cases and medical treatment information of specialty court participants).

AG also notes this, providing the following:

As drafted, the proposed new exception to disclosure appears to be remarkably similar to the existing exception to disclosure in Section 14-2-1(G), which exempts tactical response plans or procedures that could be used to facilitate a terrorist attack. As drafted, the new exception appears to differ from Section 14-2-1(G) mostly by referring more broadly to an “attack on a public facility or person” rather than the more specific “terrorist attack” and by applying more broadly to “records of the security system” rather than only tactical response plans or procedures. Given what appears to be this significant overlap between the two exceptions, the bill could simply amend the existing Section 14-2-1(G) instead of creating an entirely new exception. Alternatively, additional detail and specificity could help clarify the intent behind the exception.

AOC consulted with the National Center for State Courts (NCSC) and notes that several other states protect such records from public dissemination, including Iowa, New Hampshire, South Dakota, Vermont, Arizona, Washington, Florida, Alabama, Louisiana, and Maryland. For example, “In Arizona, Rule 123 of the Rules of the Supreme Court of Arizona governs access to court records. While there is a presumption that court records will be open and accessible to the public, security plans, codes, and other records that provide for the security of information, individuals, or property are closed, including digital recordings made by court security cameras.” As such, AOC notes HB251 is in line with national best practices to protect the safety and

security of state personnel and visitors to public facilities.

## **PERFORMANCE IMPLICATIONS**

AOC notes HB251 “Would clarify and expedite the preparation of responses to IPRA requests involving security camera footage, and other security system records, resulting in more efficient use of staff time.” There may also be a benefit realized by this and other agencies if the exception prevents security breaches of public facilities that could cause injuries, death, or property damage.

## **ADMINISTRATIVE IMPLICATIONS**

The Commission of Public Records notes the bill as written would not result in additional needs or impacts at the agency.

However, AOC notes “these records will still be available via court order or approval from the administrative authority of the facility, which will still require administrative resources to copy the records and make them available; however, it will eliminate the administrative resources necessary to respond to IPRA requests for these records.”

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

HB251 relates to House Bill 232, which would also enact a new exception to IPRA for critical infrastructure information.

## **TECHNICAL ISSUES**

As noted by the Attorney General’s office, as drafted, the bill does not contain definitions for the terms “security system” and “public facility.”

JH/al/ne