
Wisconsin Legislative Council

ACT MEMO



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April 26, 2024

2023 Wisconsin Act 253
[2023 Senate Bill 789]

**Fees for Redacting Certain Law
Enforcement Records**

BACKGROUND

The Wisconsin Public Records law generally provides a right for any requester to inspect or obtain copies of public records, subject to various exceptions. An authority to whom a request for records has been made may only impose a fee upon the requester for certain, specific costs related to providing the requested records. Namely, an authority may impose a fee for the actual, necessary, and direct costs of:

- Reproducing and transcribing the record, unless a fee is otherwise specifically established or authorized to be established by law.
- Photographing and photographic processing of the record, if the authority provides a photograph of the record, the form of which does not permit copying.
- Locating the record, if the cost of locating the record is \$50 or more.
- Mailing or shipping a copy or photograph of the record, if mailed to the requestor.

In *Milwaukee Journal Sentinel v. City of Milwaukee*, 2012 WI 65, the Supreme Court of Wisconsin held that the above circumstances in which an authority may charge a fee for costs related to providing the records do not include redacting confidential information from records.

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2023 Wisconsin Act 253 permits an authority that is a law enforcement agency to impose a fee on the requester for the actual, necessary, and direct cost of redacting recorded audio or video content, to the extent redaction is necessary to comply with applicable constitutional, statutory, or common law. The act provides that in calculating the actual, necessary, and direct cost of redacting audio or video content, the cost must be based on the pay rate of the law enforcement agency's lowest paid employee capable of performing the task.

The authority to impose redaction fees under the act, however, is subject to the following exceptions.

First, a law enforcement agency may not impose the fee with respect to a request for records containing audio or video content if any of the following apply:

- The requester is an individual directly involved in the event to which the records relate or is that individual's attorney, other authorized representative, or, if the individual is under the age of 18, the individual's parent or guardian.
- The event to which the requested records relate is a shooting involving an officer of a law enforcement agency.

- Prior to fulfilling the request, the law enforcement agency did not provide the requester in writing an estimate of the amount of the fee to be charged.

Second, a law enforcement agency also may not impose a fee with respect to a request for records containing audio or video content if the requestor, during the calendar year in which the law enforcement agency receives the request, has made 10 or fewer requests to that law enforcement agency for records containing audio or video content, including the current request, but excluding any request in which the requester is an individual directly involved in the event or the requested records relate to a shooting involving an officer of a law enforcement agency. This exception only applies to a requester who is an “individual,” however, if the requester provides written certification to the law enforcement agency that the requester will not use the audio or video content for financial gain, not including an award of damages in a civil action. An individual who provides false certification is subject to a \$10,000 forfeiture for each violation.

Effective date: March 31, 2024

For a full history of the bill, visit the Legislature’s [bill history page](#).

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