



Title: **State legal costs impede KORA**

Author:

Size: 46.34 square inch

Topeka, KS Circulation: 47801

EDITORIAL

State legal costs impede KORA

Agencies stifle requests for public records information by pulling lawyers into mix

The Kansas Department for Children and Families demanded \$2,855 for copies of emails sent or received by six employees over a two-day period. The Topeka Capital-Journal initiated the Kansas Open Records Act request.

Less than \$500 of the total was attributed to the cost of compiling data by DCF information technology staff. The majority of the cost stemmed from the agency's insistence on a 120-hour legal review of documents. DCF claimed it was a great bargain. We disagree.

DCF's response follows a trend by government insiders to thwart public inquiry and minimize disclosure of potentially embarrassing information by forcing anyone making a request to pay for an attorney to sift through page after page.

Custodians of public records too often reveal fundamental opposition to transparency by padding KORA estimates with these legal fees.

Media companies might shell out that kind of cash for DCF emails unquestionably part of the public record, but individuals are less likely to afford a \$3,000 ticket to learn more about what public employees sitting in public buildings are doing with public information about implementation of public policy.

Kansas law ought to be amended to put an end to this punitive practice of charging for legal analysis of items sought under KORA. It is reasonable to continue applying a fee for actual production of records.

Many states are ahead of Kansas on this good-government front. The National Freedom of Information Coalition affirmed agencies in Louisiana are blocked from applying a fee for time a lawyer spends reading solicited materials. Georgia doesn't hit taxpayers with a bill when attorneys plow through

Title: **State legal costs impede KORA**

Author:

Size: 46.34 square inch

Topeka, KS Circulation: 47801

a pile of paper, but the state permits a fee for redacting confidential information.

Officials in Texas cannot charge for legal reviews tied to open record requests. Texas also set the following caps: \$28.50 per hour for IT staff and \$15 an hour for clerical work. In The Capital-Journal's request to DCF, the agency demanded \$35 per hour for IT services. The unwelcome intervention by DCF lawyers would cost the newspaper \$20 per hour.

A starting point for debate in Kansas is a bill introduced by Sen. Jacob LaTurner, R-Pittsburg. He proposed records provided with less than one hour of staff time or were fewer than 25 pages would be free. He recommended maximum fees of \$18 per hour for clerical time, \$60 an hour for work by an attorney and \$38 per hour by IT staff. We believe his fee proposals are too high.

We also understand the political challenge of adopting a KORA reform bill. Obstacles can be surmounted if lawmakers vote as champions of transparency rather than protectors of those keenly interested in harboring secrets.