

**State Laws Related to Fee Waivers for Public Records Requests**

How Addressed in State Law?	State
Mandatory Waiver: Record Custodian “Shall/must” Waive Fee	8 states <a href="#">Connecticut, see 1-210 (3)</a> <a href="#">Idaho, see 74-102(10)(f)</a> <a href="#">Illinois, see 5 ILCS 140, section 6(c)</a> <a href="#">Michigan, see 15.234(2)</a> <a href="#">New Jersey, see N.J.S.A. 47:1A-5(b)(2)</a> <a href="#">Oklahoma, see 51 OS 24A.5v1 (no link to specific section available)</a> <a href="#">Texas, see Tex. Gov't Code 552.267</a>  *Hawaii includes mandatory waiver in its <a href="#">Code of Regulations, see 2-71-32</a>
Discretionary Waiver: Record Custodian “May” Waive Fee	21 states  Alaska, Arkansas, Colorado, Delaware, Indiana, Louisiana, Maine, Maryland, Massachusetts, Missouri, Nevada, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, Utah, Washington, Wisconsin  *California authorizes waiver of fees in rules, not in statute
No Specific Fee Waiver Provision	21 states  Alabama, Florida, Georgia, Iowa, Kansas, Kentucky, Minnesota, Mississippi, Montana, Nebraska, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Ohio, Tennessee, Vermont, Virginia, West Virginia, Wyoming

*Sources: The Reporters Committee for Freedom of Press “Open Government Guide”; state legislative websites*

**Brief Outline of State Laws Providing that Record Custodian “Shall/Must” Waive Fee**

Connecticut:

- Agency required to waive fee: 1) if requester is indigent; 2) the records are found to be exempt from disclosure; 3) the agency determines that disclosure benefits the general welfare; or 4) the requester is an elected official who obtains the records as part of his or her duties

Hawaii:

- Rules require that an agency must waive the first \$60 of fees when a request for waiver is supported by a statement of facts, including identity of requester, and agency finds that the waiver of fees is in the public interest
- Rules states that a waiver is in the public interest when the record pertains to the operations or activities of an agency; the record is not readily available in the public domain, and the requester

has the primary intention and actual ability to widely disseminate the information to the general public at large

Idaho:

- Agency shall not charge any cost or fee for copies or labor when the requester has demonstrated that request is: 1) likely to contribute significantly to the public's understanding of the operations or activities of the government; 2) not primarily in the individual interest of the requester, including but not limited to the requester's interest in litigation; and 3) will not occur if fees are charged because the requester has insufficient financial resources to pay the fees

Illinois:

- If request states purpose of request and also indicates waiver or reduction in fee is in the public interest, the public body must furnish the documents without charge or at a reduced fee as determined by the body
- To determine amount of waiver or fee reduction, public body may consider amount of materials requested and costs of copying
- Waiver or fee reduction is in the public interest if the principal purpose of the request is to access and disseminate information regarding the health, safety and welfare or the legal rights of the general public and not principally for personal or commercial benefit.

Michigan:

- Waiver required when public body determines request is the public interest because searching for or furnishing copies of the record can be considered as primarily benefiting the general public
- Waiver required for the first \$20 of each request when individual submits an affidavit stating that he or she is receiving public assistance or otherwise shows an inability to pay because of indigency

New Jersey:

- No fee may be charged to a victim of a crime for a copy or copies of a record to which the crime victim is entitled

Oklahoma:

- A search fee may not be charged if release of documents is in the public interest
- Public interest includes release to the news media, scholars, authors and taxpayers seeking to determine whether those entrusted with the affairs of the government are honestly, faithfully, and competently performing their duties as public servants.

Texas:

- Public information must be provided for free or at reduced charge if the governmental body determines that waiver or reduction of the charge is in the public interest because providing the copy of the information primarily benefits the general public
- Copying costs may be waived if the cost to a governmental body of processing the collection of a charge for a copy of public information will exceed the amount of the charge
- A member of the legislature is entitled to one free copy of public information that is requested from a state agency