

(III) FOR NONCOMPLIANCE WITH THE ORDER, PUNISH THE RESPONSIBLE EMPLOYEE FOR CONTEMPT.

(D) DAMAGES.

(1) A DEFENDANT GOVERNMENTAL UNIT IS LIABLE TO THE COMPLAINANT FOR ACTUAL DAMAGES AND ANY PUNITIVE DAMAGES THAT THE COURT CONSIDERS APPROPRIATE IF THE COURT FINDS THAT ANY DEFENDANT KNOWINGLY AND WILLFULLY FAILED TO DISCLOSE OR FULLY TO DISCLOSE A PUBLIC RECORD THAT THE COMPLAINANT WAS ENTITLED TO INSPECT UNDER THIS PART III OF THIS SUBTITLE.

(2) AN OFFICIAL CUSTODIAN IS LIABLE FOR ACTUAL DAMAGES AND ANY PUNITIVE DAMAGES THAT THE COURT CONSIDERS APPROPRIATE IF THE COURT FINDS THAT, AFTER TEMPORARILY DENYING INSPECTION OF A PUBLIC RECORD, THE OFFICIAL CUSTODIAN FAILED TO PETITION A COURT FOR AN ORDER TO CONTINUE THE DENIAL.

(E) DISCIPLINARY ACTION.

(1) WHENEVER THE COURT ORDERS THE PRODUCTION OF A PUBLIC RECORD THAT WAS WITHHELD FROM THE APPLICANT AND, IN ADDITION, FINDS THAT THE CUSTODIAN ACTED ARBITRARILY OR CAPRICIOUSLY IN WITHHOLDING THE PUBLIC RECORD, THE COURT SHALL SEND A CERTIFIED COPY OF ITS FINDING TO THE APPOINTING AUTHORITY OF THE CUSTODIAN.

(2) ON RECEIPT OF THE STATEMENT OF THE COURT AND AFTER AN APPROPRIATE INVESTIGATION, THE APPOINTING AUTHORITY SHALL TAKE THE DISCIPLINARY ACTION THAT THE CIRCUMSTANCES WARRANT.

(F) COSTS.

IF THE COURT DETERMINES THAT THE COMPLAINANT HAS SUBSTANTIALLY PREVAILED, THE COURT MAY ASSESS AGAINST A DEFENDANT GOVERNMENTAL UNIT REASONABLE COUNSEL FEES AND OTHER LITIGATION COSTS THAT THE COMPLAINANT REASONABLY INCURRED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 76A, § 5(b) and (c) and the second sentence of § 3(e).

In the introductory language of subsection (a) of this section, the defined term "public record" is substituted for the former phrase "record covered by this article", for clarity. For conformity, throughout the rest of this section, the term "public record[s]" is substituted for the former references to "records".

In subsection (d) of this section, the former reference "knew or should have known" is deleted in light of the reference "knowingly and willfully".