

§1406. Authority to review financial records of counties as those records relate to corrections

1. County jail records. Notwithstanding any other provision of law to the contrary, the commissioner may inspect, review and take custody of records of the counties as those records relate to the funding and operation of the county jails. Upon the request of the commissioner, a county jail within 15 days of the request shall supply complete and accurate information. The commissioner shall work with the jails to assist them in achieving compliance with the requirements of this subsection. The commissioner shall enforce the standards of this subsection by imposition of monetary penalties pursuant to policies and procedures under section 1208-B, subsection 1, paragraph B. This subsection must be liberally construed to effect the purpose of this section.

[PL 2017, c. 284, Pt. SSSSS, §1 (NEW).]

2. Violation. A state government agency or local government entity whose officer or employee violates subsection 1 commits a civil violation for which a fine of not more than \$5,000 may be adjudged.

[PL 2017, c. 284, Pt. SSSSS, §1 (NEW).]

3. Appeal. If the commissioner is aggrieved by a refusal or denial to inspect or copy a record or a failure to allow the inspection or copying of a record under this section, the commissioner may appeal the refusal, denial or failure within 30 calendar days of the receipt of the written notice of refusal, denial or failure to the Superior Court for the county where the person refusing, failing or denying the inspection or copying resides or the agency employing that person has its principal office. The agency or official shall file a statement of position explaining the basis for denial within 14 calendar days of service of the appeal. If a court, after a review, and taking of testimony and other evidence as determined necessary, determines the refusal, denial or failure was not for just and proper cause, the court shall enter an order for disclosure. Appeals may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

[PL 2017, c. 284, Pt. SSSSS, §1 (NEW).]

4. Proceedings not exclusive. The proceedings authorized by this section are not exclusive of any other civil remedy provided by law.

[PL 2017, c. 284, Pt. SSSSS, §1 (NEW).]

5. Attorney's fees. In an appeal under subsection 3 or another civil proceeding, the court may award reasonable attorney's fees and litigation expenses to the substantially prevailing plaintiff who appealed pursuant to subsection 3 or in another civil proceeding if the court determines that the illegal action was committed in bad faith. Attorney's fees and litigation costs may not be awarded to or against a federally recognized Indian tribe.

[PL 2017, c. 284, Pt. SSSSS, §1 (NEW).]

6. Subpoena power. The commissioner may, in connection with the performance of the commissioner's duties, apply to the Superior Court for a subpoena to compel the attendance of witnesses and the production of books, papers, records and documents of individuals, firms, associations and corporations and all officers, boards, commissions and departments of county government. The court, before issuing the subpoena, shall provide adequate opportunity for the commissioner and the party against whom the subpoena is requested to be heard. The court may issue the subpoena only on a showing by the commissioner and specific findings of fact by the court that the attendance of the witness or the production of the books, papers, records or documents is reasonably necessary to carry out specific duties of the commissioner that are related to the operations and finances of the county jails and that the commissioner has made reasonable efforts to secure the attendance or the books, papers, records or documents without recourse to compulsory process.

[PL 2017, c. 284, Pt. SSSSS, §1 (NEW).]

SECTION HISTORY

PL 2017, c. 284, Pt. SSSSS, §1 (NEW).

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