

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

AB 370 (Carrillo)
Version: March 12, 2025
Hearing Date: June 17, 2025
Fiscal: Yes
Urgency: No
AM

SUBJECT

California Public Records Act: cyberattacks

DIGEST

This bill adds an additional unusual circumstance under which the initial response time to a public records request may be extended by an agency for an additional 14 days to include the inability of the agency, because of a cyberattack, to access its electronic servers or systems in order to search for and obtain a record that the agency believes is responsive to a request and is maintained on the servers or systems in an electronic format.

EXECUTIVE SUMMARY

The California Public Records Act (CPRA) makes all public records of a public agency open to public inspection upon request and grants the public the right to obtain a copy of any public record, unless the records are otherwise exempt from public disclosure. Under the CPRA, a public agency is required to make a determination within 10 days of a records request on whether the agency is in possession of the requested records and whether those records are disclosable. The agency must also provide an estimated date and time the requested records will be made available to the requester. An agency may extend that 10-day response period by an additional 14 days in specified “unusual circumstances.” This bill would add an additional “unusual circumstance” under which the initial response time may be extended to include the inability of the agency, because of a cyberattack, to access its electronic servers or systems in order to search for and obtain a record that the agency believes is responsive to a request and is maintained on the servers or systems in an electronic format. The bill is sponsored by the City of Hesperia and supported by various cities, public agencies, water districts, and associations representing government entities. The Committee received no timely opposition.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Provides, pursuant to the California Constitution, that the people have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials and agencies are required to be open to public scrutiny. (Cal. const. art. I, § 3(b)(1).)
 - a) Requires a statute to be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access. (Cal. const. art. I, § 3(b)(1).)
 - b) Requires a statute that limits the public's right of access to be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest. (Cal. const. art. I, § 3(b)(1).)
- 2) Governs the disclosure of information collected and maintained by public agencies pursuant to the CPRA. (Gov. Code §§ 792.000 et seq.)
 - a) States that the Legislature, mindful of the right of individuals to privacy, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state. (Gov. Code § 7921.000.)
 - b) Defines "public records" as any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. (Gov. Code § 7920.530.)
 - c) Defines "public agency" as any state or local agency. (Gov. Code § 7920.525(a).)
- 3) Provides that all public records are accessible to the public upon request, unless the record requested is exempt from public disclosure. (Gov. Code § 7922.525.)
 - a) Some records are prohibited from being disclosed and other records are permissively exempted from being disclosed. (See e.g. Gov. Code §§ 7920.505 & 7922.200.)
 - b) There are several general categories of documents or information that are permissively exempt from disclosure under the CPRA essentially due to the character of the information. The exempt information can be withheld by the public agency with custody of the information, but it also may be disclosed if it is shown that the public's interest in disclosure outweighs the public's interest in non-disclosure of the information. (*CBS, Inc. v. Block* (1986) 42 Cal.3d 646, at 652.).¹

¹ *CBS, Inc. v. Block* (1986) 42 Cal.3d 646, at 652 (stating that "[t]wo exceptions to the general policy of disclosure are set forth in the [CPRA]. Section 6254 lists 19 categories of disclosure-exempt material. These exemptions are permissive, not mandatory. The [CPRA] endows the agency with discretionary authority to override the statutory exceptions when a dominating public interest favors

- 4) Requires each public agency, upon a request for a copy of public records, to determine, within 10 days from receipt of the request, whether the request seeks copies of disclosable public records in the possession of that agency and requires the agency to promptly notify the person making the request of the determination and the reasons therefor. (Gov. Code § 7922.535(a).)
 - a) If the agency determines that the request seeks public records that are disclosable to the public, the agency must also state the estimated date and time when the records will be made available to the requester. (*Ibid.*)
 - b) Authorizes, in unusual circumstances for the times above, to be extended by written notice, as provided. (*Id.* at subd. (b)-(c).)

This bill:

- 1) Adds an additional unusual circumstance under which the initial response time to a public records request may be extended to include the inability of the agency, because of a cyberattack, to access its electronic servers or systems in order to search for and obtain a record that the agency believes is responsive to a request and is maintained on the servers or systems in an electronic format.
- 2) Provides that this does not relieve the agency of its obligation to provide the record when the requested record is maintained in a location other than on the electronic server or system affected by the cyberattack, or maintained in a nonelectronic format.
- 3) Provides that these provisions apply only until the agency regains its ability to access its electronic servers or systems and search for and obtain electronic records that may be responsive to a request.

COMMENTS

1. Stated need for the bill

The author writes:

AB 370 seeks to safeguard the public's fundamental right to access government information by addressing the increasing threat of cyberattacks against public entities. Current law does not account for cybersecurity-related disruptions, creating challenges in upholding transparency and compliance with the California Public Records Act (CPRA). This bill ensures that public entities have the necessary tools to navigate emerging cyber threats while maintaining their obligation to provide access to information about government operations.

disclosure.”). The exemptions in Section 6254 were continued under the reorganization of the CPRA and may be referred to as former Section 6254 provisions. (Gov. Code § 7920.505.)

2. Public right of access under the CPRA

Access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state. (Gov. Code § 7921.000.) In 2004, the right of public access was enshrined in the California Constitution with the passage of Proposition 59 (Nov. 3, 2004, statewide general election),² which amended the California Constitution to specifically protect the right of the public to access and obtain government records: "The people have the right of access to information concerning the conduct of the people's business, and therefore . . . the writings of public officials and agencies shall be open to public scrutiny." (Cal. Const., art. I, sec. 3 (b)(1).) In 2014, voters approved Proposition 42 (Jun. 3, 2014, statewide direct primary election)³ to further increase public access to government records by requiring local agencies to comply with the CPRA and the Ralph M. Brown Act⁴, and with any subsequent statutory enactment amending either act, as provided. (Cal. Const., art. I, sec. 3 (b)(7).)

Under the CPRA, public records are open to inspection by the public at all times during the office hours of the agency, unless exempted from disclosure. (Gov. Code § 7922.252.) A public record is defined as any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any public agency regardless of physical form or characteristics. (Gov. Code § 7920.530.) The CPRA requires a public agency to make a determination within 10 days of a records request on whether the agency is in possession of the requested records and whether they are disclosable records, either in part or full, including an explanation for the agency's determination and an estimated date and time the records will be made available. (Gov. Code § 7922.535(a).) The CPRA allows an agency to extend that response period by 14 days in specified "unusual circumstances." (*Id.* at subd. (b).) These "unusual circumstances" are: (1) needing to search for and collect the requested records from facilities that are separate from the office processing the request; (2) needing to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request; (3) needing to consult with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein; (4) needing to compile data, to write programming language or a computer program, or to construct a computer report to extract data; or (5) when needed to search for, collect, and appropriately examine records during a state of emergency proclaimed by the Governor in the jurisdiction where the agency is located (*Id.* at subd. (b)(1)-(5).)

² Prop. 59 was placed on the ballot by a unanimous vote of both houses of the Legislature. (SCA 1 (Burton, Ch. 1, Stats. 2004)).

³ Prop. 42 was placed on the ballot by a unanimous vote of both houses of the Legislature. (SCA 3 (Leno, Ch. 123, Stats. 2013)).

⁴ The Ralph M. Brown Act is the open meetings laws that applies to local agencies. (Gov. Code §§ 59450 et. seq.)

This bill adds an additional “unusual circumstance” that would allow an agency to extend their initial response time by 14 days to also include the inability of the agency, because of a cyberattack, to access its electronic servers or systems in order to search for and obtain a record that the agency believes is responsive to a request and is maintained on the servers or systems in an electronic format. The bill provides guardrails to ensure that the extension of time due to a cyberattack is not used as a way to delay or avoid responding to a CPRA request by specifying that the bill does not relieve the agency of its obligation to comply with the CPRA when the requested record is maintained in a location other than on the electronic server or system affected by the cyberattack, or maintained in a nonelectronic format. Additionally, the bill states that the bill only applies until the agency regains its ability to access its electronic servers or systems and search for and obtain electronic records that may be responsive to a request.

Cyber security threats have become an ever present problem for public and private entities alike. A 2022 study conducted by the Center for Internet Security, as reported in their annual nationwide cybersecurity review of more than 3,600 public entities, revealed that cyberattacks on these entities increased astronomically between 2022 and 2023.⁵ Some recent examples in this state include the San Joaquin County Superior Court, which had nearly all of its digital services knocked offline due to a cyberattack in 2024.⁶ Solano County’s public libraries also faced a ransomware attack in 2024 that took their systems down for several months.⁷ In 2023, the San Bernardino Sheriff’s Office was attacked with ransomware, and to regain control of its computer system, the Sheriff’s office paid a \$1.1 million ransom in cryptocurrency.⁸ The City of Long Beach also faced a cyber-security issue in 2023 and were required to take some systems offline to address the issue.⁹ In 2020, the University of California paid \$1 million in ransom following a cyberattack.¹⁰ The sponsor of the bill argues the bill “allows cities to direct efforts towards restoring disrupted services” during a cyberattack by allowing flexibility to respond to CPRA requests.

⁵ *Nationwide Cybersecurity Review: 2022 Summary Report*, MS-ISAC & EI-ISAC, available at <https://learn.cisecurity.org/NCSR-2022-Summary-Report>.

⁶ Jonathan Greig, *California court suffering from tech outages after cyberattack*, The Record, (Nov. 1, 2024), available at <https://therecord.media/california-court-suffering-from-tech-outages-cyberattack>.

⁷ Jessica Flores, *California County Struggling Months After Ransomware Attack*, Government Technology (Jul. 3, 2024), available at <https://www.govtech.com/security/california-county-struggling-months-after-ransomware-attack>.

⁸ Brian Rokos, *San Bernardino County paid \$1.1 million ransom to hacker of Sheriff’s Department computers*, The Sun, (May 5, 2023), available at <https://www.sbsun.com/2023/05/04/san-bernardino-county-paid-1-1-million-ransom-to-hacker-of-sheriffs-department-computers/>.

⁹ Jonathan Greig, *Long Beach is latest California city facing cybersecurity incident*, The Record, (Nov. 16, 2023), available at <https://therecord.media/long-beach-facing-cyber-incident>.

¹⁰ Davey Winder, *The University of California Pays \$1 Million in Ransom Following a Cyber Attack*, Forbes, Jun. 29, 2020, available at <https://www.forbes.com/sites/daveywinder/2020/06/29/the-university-of-california-pays-1-million-ransom-following-cyber-attack/>.

3. Statements in support

The City of Hesperia, the sponsor of the bill, writes:

[...] AB 370 offers some flexibility for local agencies by broadening the definition of "unusual circumstances" to include situations where an agency is unable to access its electronic servers or systems due to a cyberattack, preventing it from searching for and retrieving electronically stored records that may be responsive to a request. The extension granted under these circumstances would remain in effect only until the agency regains full access to its electronic systems and is able to conduct the necessary search and record retrieval.

Since 2021, several local government agencies have experienced notable cyberattacks. During these incidents, ransomware compromised IT systems, leading to temporary service disruptions and prompting a coordinated response from cybersecurity experts and law enforcement. These events significantly impact operations and highlight the growing threat of cybercrime to local governments.

The extended timeline granted under AB 370 allows City officials to direct efforts toward restoring disrupted services. Cyberattacks place significant strain on an agency's IT infrastructure and staff, and this bill would allow agencies to focus on mitigating the attack and stabilizing their systems without the added pressure of meeting PRA response timelines, ultimately maintaining better overall operational integrity.

The California Contract Cities Association writes in support stating:

While AB 370 has a narrow focus, the bill's impact is significant. By adjusting the definition of "unusual circumstances" in the California Public Records Act, the legislation will offer cities more time to respond to Public Records Act (PRA) requests for information on their electronic system that may have been compromised during a cyberattack. [...] AB 370 helps to ensure cities are better equipped to navigate these threats.

SUPPORT

City of Hesperia (sponsor)
Association of California Healthcare Districts
California Association of Recreation & Park Districts
California Contract Cities Association
California Municipal Clerks Association
California Special Districts Association
California State Association of Counties
City of Norwalk

League of California Cities
Public Risk Innovation, Solutions, and Management
Rural County Representatives of California
Urban Counties of California

OPPOSITION

None received

RELATED LEGISLATION

Pending Legislation: AB 1004 (Wallis, 2025) provides that any record that contains financial information provided by an Indian tribe to a state or local agency as a condition of or requirement for receiving financial assistance to be confidential, not a public record, and not open to public inspection and makes conforming changes. AB 1004 is currently pending in this Committee and is set to be heard on the same day as this bill.

Prior Legislation: SB 1034 (Seyarto, Ch. 161, Stats. 2024) added an additional unusual circumstance under which the initial response time to a public records request may be extended by an agency for an additional 14 days to include the need to search for, collect, appropriately examine, and copy records during a state of emergency proclaimed by the Governor when the state of emergency has affected the agency's ability to timely respond to requests due to decreased staffing or closure of the agency's facilities, and specifies that this provision only applies to records not created during and applying to the state of emergency.

PRIOR VOTES

Assembly Floor (Ayes 75, Noes 0)
Assembly Appropriations Committee (Ayes 14, Noes 0)
Assembly Judiciary Committee (Ayes 12, Noes 0)
