



CALIFORNIA NEWS PUBLISHERS ASSOCIATION  
CNPA Services, Inc.

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April 13, 2023

Honorable Brian Maienschein (Chair)  
Honorable Bill Essayli (Vice Chair)  
Honorable Damon Connolly  
Honorable Diane Dixon  
Honorable Matt Haney  
Honorable Ash Kalra  
Honorable Blanca Pacheco  
Honorable Diane Papan  
Honorable Eloise Gómez Reyes  
Honorable Robert Rivas  
Honorable Kate A. Sanchez  
Assembly Judiciary Committee  
1020 N Street, Room 104  
Sacramento, CA 95814

Re: Support AB 1758 (Assembly Judiciary): Public Court Records: Fees for Public Access

Dear Chair Maienschein and members of the Committee:

We are writing on behalf of the First Amendment Coalition and the California News Publishers Association, organizations that advocate for government transparency and public access to information, in support of AB 1758. This bill would ensure more meaningful access to our state courts by putting reasonable limits on the fees courts can charge the press and public to search for, view and download electronic records that are already maintained on court websites.

The California Constitution guarantees “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 shall be open to public scrutiny.” (Cal. Const. art. I, § 3 (b)(1).) Court proceedings are “the people’s business.” (See, e.g., *NBC Subsidiary (KNBC-TV) Inc. v. Superior Court* (1999) 20 Cal. 4th 1178.) Under the California Public Records Act, public agencies are prohibited from charging the public a fee to copy a public record in an electronic format that is more than the “direct cost [to the agency] of producing a copy of a record in an electronic format.” (Gov. Code Sec. 7922.570.) Public agencies cannot charge for their costs of staff searching for records, redacting nonpublic information from records, or

monitoring the public viewing of records, even though such costs may be substantial. (*National Lawyers Guild v. City of Hayward* (2020) 9 Cal. 5th 488, 506; *North County Parents Organization v. Department of Education* (1994) 23 Cal. App. 4th 144, 146.)

While the California Public Records Act does not apply to the judicial branch of state government (See Gov. Code Sec. 7920.540(a)), both the United States and California Constitutions provide a public right of access to court records that is comparable, and of

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constitutional dimension. (See, e.g., *NBC Subsidiary*, *supra*, 20 Cal. 4th p. 1178; *Press-Enterprise Co. v. Superior Court of California* (1986) 464 U.S. 501; *Press-Enterprise Co. v. Superior Court of California* (1986) 478 U.S. 1; *Associated Press v. U.S. District Court* (9th Cir. 1983) 705 F.2d 1143.) This right of access includes a right to be free from any “arbitrary interference with access to important information,” and such interference “is an abridgment of the freedoms of speech and of the press protected by the First Amendment.” (*Richmond Newspapers, Inc. v. Virginia* (1980) 448 U.S. 555, 583 [Stevens, J., concurring].)

Unfortunately, the charges levied by some California courts to search for, view and download electronic public court records amount to just such an arbitrary barrier to access clearly public records. For example, some courts charge .50 cents per page to simply view electronic records on Superior Court websites. For journalists who do the important work of informing the public about developments in our courts, such charges are in practical effect a complete barrier to accessing public court records.

When journalists cannot access court records due to excessive fees, our entire state loses. Ready access to court documents is consistent with the First Amendment and long-standing tradition of transparency in our judicial system.

AB 1758 puts important limits on what courts can pass on to the press and public for accessing electronic records remotely, thereby removing real barriers to this important right of access.

For all of these reasons, we respectfully urge your “AYE” vote.


Very truly yours,

FIRST AMENDMENT COALITION



David E. Snyder  
Executive Director

CALIFORNIA NEWS PUBLISHERS  
ASSOCIATION



Brittney Barsotti  
General Counsel

**ABOUT THE FIRST AMENDMENT COALITION**

FAC is a California nonprofit corporation working across California to advance freedom of speech and governmental transparency and has worked extensively to ensure public access to court records and proceedings.

**ABOUT THE CALIFORNIA NEWS PUBLISHERS ASSOCIATION**

CNPA is a nonprofit trade association representing more than 800 daily, weekly, digital, and student news publications in California. Its members regularly rely on public records to inform their communities.