



PUBLIC.RESOURCE.ORG ~ *A Nonprofit Corporation*

Open Source America's Operating System

"It's Not Just A Good Idea—It's The Law!"

August 17, 2021

Ms. Cyndi Galvin, Reviser of Statutes
Mr. Jay D. Hartz, Director
Legislative Research Commission
Kentucky General Assembly
700 Capital Avenue
Frankfort, Kentucky 40601
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Dear Ms. Galvin and Mr. Harz:

This request is submitted under the Kentucky Open Records Act, KRS 61.870 et seq., on behalf of Public.Resource.Org, Inc. ("Public Resource"), a 501(c)(3) nonprofit organization and Scott Horn, Co-Director of the Kentucky Open Government Coalition. We are requesting copies of the Kentucky Administrative Regulations and the Kentucky Revised Statutes in the electronic source format in which it is maintained. If the certified version of the Kentucky Revised Statutes are also in your possession, we request those materials as well.

Under the Open Records Law, we are entitled to obtain public records in the "standard electronic . . . format . . . where the agency currently maintains the records in electronic format." KRS 61.874(2)(a). While we are aware that versions of both collections are available on the Kentucky Legislative Research Commission's web site as files in PDF format, what we seek is different. Our request is for the original source format that is used to maintain the database that, in turn, is used to produce the PDF files. This standard format is known in the information technology world as "revisable form" (such as Microsoft Word) and differs from the "final form" (such as PDF). We would accept the records in any of the following formats: Microsoft Word, XML, or JSON, database exports, or in other formats if that is how they are maintained. If you maintain the records in some other revisable format, please provide us with information about that format so we can determine if that would satisfy our request.

We request that the files be delivered only in their revisable electronic format, and not in paper or a final electronic form. The agency is required to produce them in the standard format in which they are maintained. See KRS 61.874(2)(a); Kentucky State Police v. Courier Journal, 601 S.W.3d 501, 508 (Ky. Ct. App. 2020) (affirming Franklin Circuit Court order requiring KSP to produce entire database in electronic format). We are willing to pay for the cost of any electronic media necessary to transmit them (which should be \$0 if they are emailed or shared through a file-transfer service) but are not required to pay for any staff or other costs. See KRS 61.874(3); Kentucky State Police, 601 S.W.3d at 507-508.

This request is submitted for a noncommercial purpose. Public.Resource.Org and the Kentucky Open Government Coalition are non-profit organizations that work, among other things, to enhance the public's understanding of government and the law. The purpose of this request is to enable the organizations to further transform the presentation of the collections to make them more usable to citizens. For example, instead of presenting the Kentucky Revised Statutes as a collection of PDF documents, we would like to transform it into modern HTML used in web pages and apps, adding functionality like better crosslinking between sections of the KRS, accessibility to the visually impaired, and links to other legal materials, such as citations in the KRS to the U.S. Code, the Code of Federal Regulations, and references to court opinions. The U.S. Supreme Court recently reaffirmed that we have the right, under the "government edicts" doctrine, to freely republish this information. See, e.g., *Georgia v. Public.Resource.Org, Inc.*, 140 S. Ct. 1498 (2020) (holding that government edicts doctrine prohibited state from asserting copyright claim against Public.Resource.Org for posting annotated code online).

Finally, both requesters qualify as "residents" of the Commonwealth pursuant to KRS 61.870(10). Public.Resource.Org qualifies under KRS 61.870(10)(g) as "news-gathering organization(s)" because it publish news, opinion, legal information, and analysis of interest to a general audience on its websites, public.resource.org and law.resource.org, and is not affiliated with any of the entities described in KRS 189.635(b)(2). See KRS 189.635(b)(1)(e). Moreover, Scott Horn, as well as the Kentucky Open Government Coalition, are "residents" of Kentucky pursuant to KRS 61.870(10) (a)-(b).

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