



Department of Public Safety and Correctional Services

Office of the Secretary Office of Government and Legislative Affairs

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BILL: HOUSE BILL 42

POSITION: LETTER OF INFORMATION

EXPLANATION: This bill shortens several time limits under Maryland's Public Information Act (PIA) for State and local governmental agencies to respond to applications to inspect public records. The bill reduces, from 30 days to 7 days after receipt of an application, the amount of time a custodian of a public record has to grant or deny an application to inspect a public record and, for an approved application, produce the public record.

COMMENTS:

The Department of Public Safety and Correctional Services (DPSCS) is committed to being open, transparent, and collaborative with the public and the communities we serve. The Public Information Act (PIA) allows for the public to request and inspect documents which is a crucial element of the public's trust in our government institutions. DPSCS is committed to safeguarding, archiving, and maintaining public records as well as individual personally identifiable information in accordance with all laws and regulations. DPSCS works in good faith to provide timely and cost-efficient responses, while also balancing the legal and ethical obligations to protect personal and proprietary information.

- HB 42 creates a significant burden for the Department as it receives a large volume of requests under the Public Information Act (PIA) due to the operational size and overall scope of the agency.
- The Department's Division of Correction (DOC) operates approximately 17 State correctional facilities which house offenders sentenced to incarceration for 18 months and longer. The Department also runs the Baltimore City Jail, under the Division of Pretrial, Detention, and Services (DPDS), which houses pretrial detainees and inmates sentenced to incarceration for 18 months and less. Between the DOC and DPDS, the Department is responsible for an average daily population of approximately 21,000 incarcerated offenders.
- As of the end fiscal year 2019, the Division of Parole and Probation supervised 39,191 active criminal cases.

- The Department also has a certain degree of oversight for several boards and commission, including the Emergency Number Systems Board, the Maryland Commission on Correctional Standards, and the Maryland Police and Correctional Training Commissions.
- Given the breadth of the agency's responsibilities, and significant number of offenders under its care, custody, and control, the Department receives hundreds of PIA requests annually.
- Each request received is assigned to a single point of contact and assigned out to a subject matter expert. Once an appropriate response has been drafted or the request has been denied based on the PIA, the draft response must be submitted to the Assistant Attorney Generals (AAG) that provide legal counsel to the Department. These AAGs then must review each document to determine which PIA requests may be released and which are prohibited from being released. In many cases, documents must be reviewed and redacted if portions of the document cannot be released. This is an extraordinarily time consuming task.
- The Department frequently and legitimately, exhausts the 30-day time frame currently permitted under law to respond to these requests. The Department believes the proposed seven-day timeframe proposed by HB 42 is unreasonable and makes timely response nearly impossible.
- The Department will need additional resources in order to attempt to comply with HB 42. As stated in the fiscal note, the Department of Legislative Services estimates that HB 42 will result in an increase in State expenditures (all funds) by at least \$1.9 million in fiscal 2021, which accounts for the bill's October 1, 2020 effective date, and by at least \$2.3 million annually thereafter. This estimate reflects the cost of hiring at least 31 regular, full-time staff, across multiple State agencies, dedicated solely to handling PIA requests.

CONCLUSION: For these reasons, the Department of Public Safety and Correctional Services respectfully asks this Committee to consider this information as it deliberates on House Bill 42.