

HOUSE BILL 806

P3

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CF SB 554

By: **Chair, Health and Government Operations Committee (By Request – Office of the Attorney General)**

Introduced and read first time: January 29, 2025

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Public Information Act – Frivolous, Vexatious, or Abusive Requests – Remedies**

3 FOR the purpose of authorizing the custodian of a record to file a certain complaint relating
4 to a Public Information Act request or pattern of requests with the State Public
5 Information Act Compliance Board or circuit court; authorizing the Compliance
6 Board to issue a certain order or dismiss a complaint under certain circumstances;
7 authorizing a complainant to appeal a certain decision of the Compliance Board;
8 authorizing the circuit court to issue a certain order under certain circumstances;
9 and generally relating to the Public Information Act.

10 BY repealing and reenacting, without amendments,
11 Article – General Provisions
12 Section 4–1A–01 and 4–1A–05(a)
13 Annotated Code of Maryland
14 (2019 Replacement Volume and 2024 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – General Provisions
17 Section 4–1A–04(b), 4–1A–10, and 4–362(a), (b), (c), and (g)
18 Annotated Code of Maryland
19 (2019 Replacement Volume and 2024 Supplement)

20 BY adding to
21 Article – General Provisions
22 Section 4–1A–05(c)
23 Annotated Code of Maryland
24 (2019 Replacement Volume and 2024 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
26 That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – General Provisions**

2 4–1A–01.

3 There is a State Public Information Act Compliance Board.

4 4–1A–04.

5 (b) The Board shall:

6 (1) receive, review, and, subject to § 4–1A–07 of this subtitle, resolve
7 complaints filed under § 4–1A–05 of this subtitle from any custodian alleging that an
8 applicant’s request or pattern of requests is frivolous, vexatious, **ABUSIVE**, or in bad faith;

9 (2) issue a written decision as to whether the applicant’s request or pattern
10 of requests is frivolous, vexatious, **ABUSIVE**, or in bad faith; and

11 (3) if the Board finds that the applicant’s request is frivolous, vexatious,
12 **ABUSIVE**, or in bad faith, based on the totality of the circumstances including the number
13 and scope of the applicant’s past requests and the custodian’s responses to past requests
14 and efforts to cooperate with the applicant, issue an order authorizing the custodian to:

15 (i) ignore the request **OR PATTERN OF REQUESTS** that is the
16 subject of the custodian’s complaint, **INCLUDING, IN THE BOARD’S DISCRETION,**
17 **FUTURE REQUESTS ON THE SAME OR SIMILAR TOPICS; [or]**

18 (ii) respond to a less burdensome version of the request within a
19 reasonable time frame, as determined by the Board; **OR**

20 **(III) PROVIDE ANY OTHER NONMONETARY RELIEF THAT, IN THE**
21 **BOARD’S DISCRETION, IS APPROPRIATE UNDER THE CIRCUMSTANCES, INCLUDING**
22 **AN ORDER THAT THE CUSTODIAN NEED NOT RESPOND TO FUTURE REQUESTS FROM**
23 **THE APPLICANT OR ANOTHER PERSON MAKING A REQUEST ON BEHALF OF THE**
24 **APPLICANT FOR A SPECIFIED PERIOD OF TIME.**

25 4–1A–05.

26 (a) Any applicant, the applicant’s designated representative, or a custodian may
27 file a written complaint with the Board seeking a written decision and order from the Board
28 under § 4–1A–04 of this subtitle if:

29 (1) the complainant has attempted to resolve the dispute through the
30 Office of the Public Access Ombudsman under § 4–1B–04 of this title; and

1 (2) the Public Access Ombudsman has issued a final determination stating
2 that the dispute was not resolved.

3 **(C) THE BOARD MAY DISMISS A COMPLAINT BEFORE REQUESTING OR**
4 **RECEIVING A RESPONSE TO THE COMPLAINT IF IT DETERMINES THAT THE**
5 **COMPLAINT IS FRIVOLOUS, VEXATIOUS, ABUSIVE, OR IN BAD FAITH.**

6 4-1A-10.

7 (a) ~~[A person or governmental unit]~~ **AN APPLICANT OR CUSTODIAN** need not
8 exhaust the administrative remedy under this subtitle before filing suit.

9 (b) (1) Except as otherwise provided in this subtitle, an applicant, a
10 complainant, or a custodian may appeal the decision issued by the Board under this subtitle
11 in accordance with § 4-362 of this title.

12 (2) An appeal under this subsection automatically stays the decision of the
13 Board pending the circuit court's decision.

14 **(3) A COMPLAINANT MAY APPEAL THE BOARD'S DISMISSAL OF A**
15 **COMPLAINT UNDER § 4-1A-05(C) OF THIS SUBTITLE.**

16 4-362.

17 (a) (1) Subject to paragraph ~~[(3)]~~ **(4)** of this subsection, whenever a person or
18 governmental unit is denied inspection of a public record or is not provided with a copy,
19 printout, or photograph of a public record as requested, the person or governmental unit
20 may file a complaint with the circuit court.

21 **(2) SUBJECT TO PARAGRAPH (5) OF THIS SUBSECTION, A CUSTODIAN**
22 **MAY FILE A COMPLAINT IN CIRCUIT COURT ALLEGING THAT AN APPLICANT'S**
23 **REQUEST OR PATTERN OF REQUESTS IS FRIVOLOUS, VEXATIOUS, ABUSIVE, OR IN**
24 **BAD FAITH.**

25 ~~[(2)]~~ **(3)** Except as otherwise provided in Subtitle 1A of this title and
26 subject to paragraph ~~[(3)]~~ **(4)** of this subsection, an applicant, a complainant, or a custodian
27 may appeal to the circuit court a decision issued by the State Public Information Act
28 Compliance Board as provided under § 4-1A-10 of this title.

29 ~~[(3)]~~ **(4)** ~~[A]~~ **EXCEPT AS PROVIDED IN PARAGRAPH (5) OF THIS**
30 **SUBSECTION, A complaint or an appeal under this subsection shall be filed with the circuit**
31 **court for the county where:**

32 **[(i)** for appeals of decisions by the Board issued in accordance with
33 the Board's authority under § 4-1A-04(b) of this title, the applicant resides or has a
34 principal place of business;**]**

1 [(ii)] (I) the complainant resides or has a principal place of
2 business; or

3 [(iii)] (II) the public record is located.

4 **(5) A COMPLAINT FILED UNDER PARAGRAPH (2) OF THIS**
5 **SUBSECTION AND APPEALS OF DECISIONS BY THE BOARD ISSUED IN ACCORDANCE**
6 **WITH THE BOARD'S AUTHORITY UNDER § 4-1A-04(B) OF THIS TITLE MAY BE FILED**
7 **WITH THE CIRCUIT COURT FOR THE COUNTY WHERE:**

8 **(I) THE PUBLIC RECORD IS LOCATED; OR**

9 **(II) THE APPLICANT RESIDES OR HAS A PRINCIPAL PLACE OF**
10 **BUSINESS.**

11 (b) (1) Unless, for good cause shown, the court otherwise directs, and
12 notwithstanding any other provision of law, the defendant shall serve an answer or
13 otherwise plead to the complaint within 30 days after service of the complaint.

14 (2) [The] **EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS**
15 **SUBSECTION, THE** defendant:

16 (i) has the burden of sustaining a decision to:

17 1. deny inspection of a public record; or

18 2. deny the person or governmental unit a copy, printout, or
19 photograph of a public record; and

20 (ii) in support of the decision, may submit a memorandum to the
21 court.

22 **(3) FOR A COMPLAINT FILED IN ACCORDANCE WITH SUBSECTION**
23 **(A)(2) OF THIS SECTION, THE CUSTODIAN HAS THE BURDEN OF DEMONSTRATING**
24 **THAT THE REQUEST OR PATTERN OF REQUESTS IS FRIVOLOUS, VEXATIOUS,**
25 **ABUSIVE, OR IN BAD FAITH.**

26 (c) (1) Except for cases that the court considers of greater importance, a
27 proceeding under this section, including an appeal, shall:

28 (i) take precedence on the docket;

29 (ii) be heard at the earliest practicable date; and

30 (iii) be expedited in every way.

1 (2) The court may examine the public record in camera to determine
2 whether any part of the public record may be withheld under this title.

3 (3) The court may:

4 (i) enjoin the State, a political subdivision, or a unit, an official, or
5 an employee of the State or of a political subdivision from:

6 1. withholding the public record; or

7 2. withholding a copy, printout, or photograph of the public
8 record;

9 (ii) issue an order for the production of the public record or a copy,
10 printout, or photograph of the public record that was withheld from the complainant; and

11 (iii) for noncompliance with the order, punish the responsible
12 employee for contempt.

13 **(4) FOR A COMPLAINT FILED UNDER SUBSECTION (A)(2) OF THIS**
14 **SECTION, THE COURT MAY ISSUE AN ORDER AUTHORIZING THE CUSTODIAN TO:**

15 **(I) IGNORE THE REQUEST OR PATTERN OF REQUESTS THAT IS**
16 **THE SUBJECT OF THE CUSTODIAN’S COMPLAINT, INCLUDING FUTURE REQUESTS ON**
17 **THE SAME OR SIMILAR TOPICS;**

18 **(II) RESPOND TO A LESS BURDENSOME VERSION OF THE**
19 **REQUEST WITHIN A REASONABLE TIME FRAME; OR**

20 **(III) PROVIDE ANY OTHER RELIEF THAT, IN THE COURT’S**
21 **DISCRETION, IS APPROPRIATE UNDER THE CIRCUMSTANCES, INCLUDING AN ORDER**
22 **THAT THE CUSTODIAN NEED NOT RESPOND TO FUTURE REQUESTS FROM THE**
23 **APPLICANT OR ANOTHER PERSON MAKING A REQUEST ON BEHALF OF THE**
24 **APPLICANT FOR A SPECIFIED PERIOD OF TIME.**

25 (g) Notwithstanding § 12–302(a) of the Courts Article, a party who is aggrieved
26 by a final judgment of a circuit court in a judicial review proceeding under subsection
27 **[(a)(2)] (A)(3)** of this section may appeal to the Appellate Court of Maryland in the manner
28 that law provides for appeal of civil cases.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2025.