



HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE

House Bill 42

Public Information Act -Applications for Inspection -Responses and Time Limits

February 11, 2020

Unfavorable Report

Patrick Hogan, Vice Chancellor for Government Relations

Chair Pendergrass, Vice Chair Pena-Melnyk and committee members, thank you for the opportunity to share our thoughts on House Bill 42. The bill shortens time limits under Maryland's Public Information Act (PIA) from 30 to 7 days; reduces the timeframe to provide requested information from 30 to 7 days; and reduces notification of time delay from 10 to 5 days and notification of denial from 10 to 5 days.

The Maryland Public Information Act entitles each person to complete information about the affairs of government and the official acts of public officials and employees, unless otherwise expressly provided by law. The University System of Maryland (USM) is committed to providing customer-friendly service when responding to requests for public information.

The reduced PIA response time in House Bill 42 is extreme and fails to address the scope and breadth sought by an individual requester. The USM, and the constituent campuses, currently lack adequate staff to turn requests around this quickly. Many requests are broad and require communication with the requester to narrow the scope, which takes time. Requesters seek copies of email correspondence, requiring the development of search queries with the assistance of information technology staff, frequently resulting in a large volume of emails (typically in the upper 100s to 1000s of pages) that must be reviewed for responsiveness. After searches are conducted, and documents are reviewed for responsiveness, attorneys and/or paralegals must review and redact information that is protected from disclosure under the PIA; this can take hours, depending on the volume of responsive documents. The work cannot be done in an automated fashion.

In many cases, the search for documents and the attorney review will not be able to be performed to meet the 5-day deadline for denials or the 7-day deadline for granting requests. The University of Maryland, College Park receives so many requests that they frequently need to request extensions to the current 30-day deadline for producing documents.

Requesters can file suit where there is a failure to produce documents in compliance with PIA deadlines and where a requester substantially prevails, they can recover damages and their attorney's fees. There would likely be substantially more of these cases filed if legislation is passed with these very demanding deadlines.

Thank you for allowing the USM to share our thoughts regarding House Bill 42 and urge an unfavorable report.