



Debra Gardner, Legal Director  
Public Justice Center  
201 North Charles Street, Suite 1200  
Baltimore, Maryland 21201  
410-625-9409, ext 228  
gardnerd@publicjustice.org

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## SB 449

### Public Information Act – Revisions (Equitable Access to Records Act)

Hearing before the Education, Health & Environmental Affairs Committee, February 23, 2021

**Position: FAVORABLE**

**SB 449 represents a significant advance in improving Maryland’s Public Information Act (PIA).** As reflected in the 2019 report of the Public Access Ombud and the PIA Compliance Board (Report), to fulfill the promise of 2015 reforms, there is a significant need to make access to dispute resolution under the Act more accessible, faster, and less expensive for both applicants for public records and for governmental entity custodians.

SB 449’s expansion of the Compliance Board’s jurisdiction will do just that. It will provide user-friendly access to both mediation with the Ombud and immediate recourse to the Board where mediation was unsuccessful. This reform will open access to public records to many in Maryland who are currently blocked from pursuing their rights to public records. Under the current law, as well documented by the Report, all too often government entities in Maryland continue to deny requests that should be granted (at least in part), or worse, ignore valid requests altogether.

**A recent example shows the need for this bill. PJC staff sent an identical simple PIA request to 40 similar county and municipal agencies across the state. Of the 40, 17 (43%) completely ignored the request, 6 more (15%) acknowledged it but never responded otherwise, and months after records were due, only 10 (25%) had provided records, and only 5 (13%) fully complied with the law in all respects.**

Applicants for public records have no effective remedy if the government entity refuses to participate in mediation and the applicant cannot afford to hire a lawyer and take the agency to court. SB 449 incentivizes meaningful mediation, expands the scope of the Ombud’s mediation authority, and provides effective remedies for both sides through the Compliance Board, consistent with the purpose of the PIA.

Yet any party dissatisfied with a Board decision may still appeal to the circuit court and obtain a final, judicial determination. Moreover, a Board decision is automatically stayed when such an appeal is filed. As amended by SB 449, Maryland’s PIA will provide maximum access and flexibility to all interested parties.

**SB 449 is necessary to change the culture of compliance with the PIA from essentially optional (Report at 5) to mandatory, as this body intended. The PJC urges a FAVORABLE REPORT on SB 449.** If you have any questions, please feel free to contact Debra Gardner, Legal Director, gardnerd@publicjustice.org, 410-625-9409 x228.