Testimony for the House Health and Government Operations Committee
February 11, 2021

HB 183 – Public Information Act – Revisions (Equitable Access to Records Act)

FAVORABLE

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The ACLU of Maryland supports HB 502, which would strengthen Maryland's Public Information Act ("PIA") and codify into law the main recommendations from the PIA Compliance Board and Public Access Ombudsman's 2019 report.[1]

In particular, this bill would advance a policy of proactive disclosure by:

- expanding the PIA Board's jurisdiction,
- issuing new guidance and reporting requirements for agency custodians, and
- improving timeliness, efficiency, and transparency in records requests.

In doing so, this bill underscores that the PIA is grounded in the principle that "Government of the people, by the people, and for the people must be open to the people."[2]

The ACLU of Maryland believes strongly in open and transparent government, because a true democracy demands it. The PIA is a necessary tool for Marylanders to provide checks and balances on elected officials and government agencies. Filing PIA requests and obtaining information is a meaningful step toward keeping our government accountable. When this avenue becomes unavailable, it undermines confidence in fair government and prevents individuals from engaging in meaningful and informed debate about matters of public interest.

Our organization's intake department has taken calls and requests for assistance from residents across the state who face barriers accessing public information, whether due to agency mismanagement, confusion, miscommunication, or unwillingness to help.

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[1] State of Maryland Public Information Act Compliance Board, and Office of the Public Access Ombudsman, *Final Report on the Public Information Act*, December 27, 2019, available at: https://news.maryland.gov/mpiaombuds/wp-content/uploads/sites/20/2019/12/Final-Report-on-the-PIA-12.27.19.pdf

[2] Office of the Attorney General, Maryland Public Information Act Manual, 14th Ed. (2015).

Some recent examples include:

- A man sought dash camera video of his police encounter; he got one response stating the video was available for a $15 fee, and another denying the request because all dash cameras were inoperable.
- A man incarcerated in Alleghany County had his fee waiver denied despite indigency, and was charged $509 for records from his own facility.
- A Baltimore City woman sought public records regarding her son's fatal vehicle collision but was unable to obtain forms and received no help or guidance from the State's Attorney's Office.
- A Harford County man's request for records to reveal government misconduct in taxation were denied because the custodian considered his request "questions" instead of specific record requests.
- Bethesda parents sought records to bolster their case to improve an intersection adjacent to the local high school to prevent vehicle collisions, but multiple requests were denied.

Regardless of whether these cases were handled properly, it is clear state agencies need better guidance, systems, and accountability.

The underlying principle of the PIA is "All persons are entitled to have access to information about the affairs of government and the official acts of public officials and employees [and the Act] shall be construed in favor of allowing inspection of a public record, with the least cost and least delay."[3]

Marylanders must have reliable access to information about how state agencies are responding to their individual cases, and acting on matters of public interest. Excessive fees contribute to an inequitable system in which the right to petition is only available to those with means. By codifying the PIA Ombudsman's main recommendations that were based on extensive research, data analysis, interviews, and recognized best practices, HB 183 will help ensure that the PIA is implemented consistently with its original intent, and that Maryland state government remains of the people, by the people, for the people, and open to the people.

For the foregoing reasons, we urge a favorable report on HB 183.

[3] GP § 4-103(a)-(b).