

February 15, 2022

Testimony on SB 307
Public Records - Retention and Inspection - Communications (Transparency in Public Records Act of 2022)
Education, Health, and Environmental Affairs

Position: Favorable

Common Cause Maryland support SB 307 which would strengthen transparency by requiring that certain communications made or received by State employees or public officials having to do with public business be considered public record, subject to the Public Information Act (PIA). It also clarifies that the Office of the Governor is in fact subject to the requirements under this Act.

The PIA is an essential tool for public oversight of our state, county, and local governments. It allows Marylanders greater transparency into the workings of our officials, gives us access to data collected with public dollars, and helps ensure a level of transparency vital to a healthy democracy.

Retention of information is a foundational component of the PIA and the spirit with which it was passed as these records can later be invaluable when evaluating and investigating possible malfeasance in our government. However, this kind of transparency is impossible if State employees and public officials shield information, specifically communications dealing with public business, from disclosure by using platforms that destroy these communications within a specified period of time.

That was exactly the case in 2021, when it was revealed that the Office of the Governor had been using a digital platform called Wickr to communicate about public business. The digital platform which, according to the Washington Post, markets itself to government agencies and others seeking security from foreign and domestic cyberthreats, destroyed their communications within 24 hours making it impossible to access what would be considered public records through our PIA.

While Common Cause Maryland discourages use of these platforms like Wickr by any public official or State employee as it relates to public business which was used during the 2020 election cycle to coordinate sham election reviews across the states, we understand the need to use chat platforms and that many of them may provide options that allow communications to be destroyed within a specified amount of time. SB 307 would ensure communications through these platforms are retained, ensuring these records are available under the PIA.

Retaining these communications can only serve to increase the abilities of citizens to understand the workings of their government and hold their officials accountable for their actions.

We urge a favorable report.