



Maryland | Delaware | DC Press Association

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To: Education, Energy & Environment Committee

From: Rebecca Snyder, Executive Director, MDDC Press Association

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Re: **OPPOSE SB555**

The Maryland-Delaware-District of Columbia Press Association represents a diverse membership of news media organizations, from large metro dailies like the Washington Post and the Baltimore Sun, to hometown newspapers such as The Annapolis Capital and the Maryland Gazette to publications such as The Daily Record, the Baltimore Times, and online-only publications such as Maryland Matters and Baltimore Brew.

The Press Association, ACLU, Common Cause Maryland, Disability Rights Maryland and Public Justice Center strongly oppose HB 821, which would allow custodians to deny access to public records if those records are involved in pending litigation, or even the expectation of litigation. This is a very broad, sweeping change to the Public Information Act, which has a stated policy in favor of public access, with no discernible reason.

There are numerous exemptions to disclosure under the Public Information Act. As the [PIA Manual, Chapter 3](#) opening paragraph says, "Given the PIA's policy in favor of public access and the requirement that the PIA generally "be construed in favor of permitting inspection of a record," these exceptions should be construed narrowly, unless an "unwarranted invasion" of personal privacy would result." This bill is written so broadly that virtually any record that could be involved in litigation could be shielded. Subtitle 3, Part IV of the PIA allows for a broad set of discretionary exemptions. Records may be shielded only if it is not detrimental to the public interest. That gets at the heart of the Public Information Act. HB 821 actively works against the goals of the Public Information Act.

The stakes are high. "Reasonably anticipated litigation" is both overly broad and extraordinarily vague. That phrasing is likely to open a floodgate of litigation over its definition. For example, the term could block legitimate pre-litigation due diligence to determine whether there is a good faith basis for a suit against a government entity or officer.

The proponent seeks to put the government on the "same footing" as private litigants, but the government is not on the same footing. It has far broader responsibility for public accountability and transparency in support of democracy, as codified in the PIA. This bill doesn't just chip away at that duty, it takes a bulldozer to it.

We urge an unfavorable report.

