

MCPA_MSA - SB 554 Public Information Act - Abusive

Uploaded by: Andrea Mansfield

Position: FAV



Maryland Chiefs of Police Association

Maryland Sheriffs' Association



MEMORANDUM

TO: The Honorable Brian Feldman, Chair and
Members of Education, Energy, and Environment Committee

FROM: Darren Popkin, Executive Director, MCPA-MSA Joint Legislative Committee
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee
Samira Jackson, Representative, MCPA-MSA Joint Legislative Committee

DATE: February 20, 2025

RE: **SB 554 - Public Information Act - Frivolous, Vexatious, or Abusive Requests - Remedies**

POSITION: **SUPPORT**

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) **SUPPORT SB 554**. This bill aims to promote transparency and government efficiency within the Public Information Act (PIA), by limiting frivolous and vexatious requests which, albeit rare, present challenges to government operations.

The Public Information Act (PIA) is essential to ensuring public access to government information. It also recognizes that the process must be managed in a way that does not overwhelm or paralyze the agencies responsible for fulfilling these requests. This bill is a necessary and fair solution to address the uncommon but disruptive issue of frivolous, vexatious, and abusive PIA requests, which can undermine the effectiveness of government agencies and impede timely responses to legitimate requests from the public. While government transparency is a foundational principle, it must be balanced with the ability of agencies to function efficiently and effectively. This bill acknowledges that while most PIA requests are legitimate, there are instances where requests are made in bad faith, are abusive, or are vexatious enough to severely disrupt an agency's operations and seeks to remedy that.

By allowing custodians to file complaints in court regarding frivolous, vexatious, or abusive requests, the bill ensures that custodians have the same ability as requesters to seek judicial relief. This is a critical step in providing custodians with the tools they need to protect their agencies from unwarranted interference. In many cases, the burden of handling unreasonable requests can divert resources away from the core functions of the agency, leaving them unable to properly respond to legitimate inquiries. Giving custodians the ability to address these requests directly in circuit court strengthens the PIA process and makes it more efficient and just for all parties involved.

Furthermore, the bill clarifies that the PIA Compliance Board has the discretion to allow custodians to ignore future requests from the same requester if it finds that a pattern of requests is frivolous, vexatious,

532 Baltimore Boulevard, Suite 308
Westminster, Maryland 21157
667-314-3216 / 667-314-3236

abusive, or made in bad faith. This bill brings fairness to the PIA process by putting custodians and requesters on equal footing. Lastly, one of the most significant benefit of this bill is its ability to protect government agencies from requests that, while legally permissible, are so persistent and disruptive that they impede the agency's ability to function. The clarification that custodians may ignore requests if they are deemed frivolous, vexatious, or made in bad faith helps ensure that agencies are not bogged down by requests that serve no purpose other than to disrupt operations.

For these reasons, MCPA and MSA **SUPPORT SB 554** and urge a **FAVORABLE** committee report.

SB554_USM_FAV.pdf

Uploaded by: Andy Clark

Position: FAV



SENATE EDUCATION, ENERGY, AND THE ENVIRONMENT COMMITTEE
Senate Bill 554
Public Information Act - Frivolous, Vexatious, or Abusive Requests - Remedies
February 20, 2025
Favorable

Chair Feldman, Vice Chair Kagan and committee members, thank you for the opportunity to offer our support for Senate Bill 554. The bill makes several important changes to identify and address "vexatious requesters" and remind the public of proper request procedures and what constitutes a reasonable request.

The USM is comprised of twelve distinguished institutions, and three regional centers. We award eight out of every ten bachelor's degrees in the State. Each of USM's 12 institutions has a distinct and unique approach to the mission of educating students and promoting the economic, intellectual, and cultural growth of its surrounding community. These institutions are located throughout the state, from western Maryland to the Eastern Shore, with the flagship campus in the Washington suburbs. The USM includes three Historically Black Institutions, comprehensive institutions and research universities, and the country's largest public online institution.

Frivolous and vexatious public information (PIA) requests are rare but, when they target the institutions of the University System of Maryland (USM), they can disrupt and diminish staff hours better spent with students and faculty. As a result, it makes it harder for USM institutions to respond to legitimate PIA requests from the press, interest groups, and members of the public in a timely fashion. That's why, a few years ago, the General Assembly created a process for custodians to seek relief from the PIA Compliance Board (PIACB) from frivolous, vexatious, or in bad faith requests.

Senate Bill 554 is an extension of that work. It adds "abusive" to the list of requests for which a custodian could seek relief from the PIACB and allows custodians to go directly to circuit court to seek an order that a request is frivolous, vexatious, abusive, or in bad faith. In addition, the bill clarifies and expands the possible relief that the PIACB (or a court) could give and would leave it to the PIACB's (or court's) discretion to make the remedy match the problem.

Finally, to solve a separate problem, Senate Bill 554 would permit the PIACB to dismiss complaints deemed frivolous, vexatious, or in bad faith. This would allow the PIACB to focus on the important substantive issues, rather than frivolous complaints from requesters.

For these reasons, the USM is proud to stand alongside the Office of the Attorney General in support of Senate Bill 554.



USM Office of Government Relations – Susan Lawrence: slawrence@usmd.edu

Anne Arundel County _FAV_SB554.pdf

Uploaded by: Ethan Hunt

Position: FAV



February 20, 2025

Senate Bill 554

**Public Information Act - Frivolous, Vexatious, or Abusive Requests - Remedies
Senate Judicial Proceedings Committee**

Position: FAVORABLE

Anne Arundel County **SUPPORTS** Senate Bill 554 – Public Information Act - Frivolous, Vexatious, or Abusive Requests - Remedies. This Bill would allow counties to file a complaint with the State Public Information Act Compliance Board or circuit court for an order to ignore abusive requests.

The right to access government records granted by the Public Information Act is a vital instrument in safeguarding our democracy. Its proper application promotes democracy by helping the public better understand government decisions through transparency and empowers an informed citizenry to hold their government accountable. However, abusive requests made in bad faith threaten this right. Anne Arundel commits a significant amount of time and resources to help fulfill Public Information Act requests because we value transparency and accountability. Abusive requests place an undue strain on county resources that impede our duty to honor valid requests.

This Bill does not tolerate noncompliance with the Public Information Act. It simply grants counties the ability to file a reasonable complaint to ignore abusive requests and future requests on the same issue, hence saving time and resources that could be dedicated to fulfilling valid requests. Accordingly, Anne Arundel County urges a **FAVORABLE** report on Senate Bill 554.

MML - SB 554 - FAV.pdf

Uploaded by: Justin Fiore

Position: FAV



Maryland Municipal League
The Association of Maryland's Cities and Towns

TESTIMONY

February 20, 2025

Committee: Senate Education, Energy, and the Environment

Bill: SB 554 – Public Information Act - Frivolous, Vexatious, or Abusive Requests - Remedies

Position: Support

Reason for Position:

The Maryland Municipal League supports SB 554, which will provide the PIACB with the authority to grant relief to jurisdictions who receive abusive PIA requests or a pattern of frivolous, vexatious, abusive, or bad faith requests.

The Public Information Act process in Maryland generally defaults to disclosure. Up until recently, PIA requesters could make requests in bad faith that would hamstring local custodians and agencies who were still forced to comply. This legislation builds on those protections for governmental units and will not harm good faith efforts to acquire documents that individuals have a right to request.

For these reasons the League respectfully requests that this committee provide a favorable report on Senate Bill 554. For more information, please contact Justin Fiore, Deputy Director of Advocacy and Public Affairs, at justinf@mdmunicipal.org. Thank you in advance for your consideration.

The Maryland Municipal League uses its collective voice to advocate, empower and protect the interests of our 160 local governments members and elevates local leadership, delivers impactful solutions for our communities, and builds an inclusive culture for the 2 million Marylanders we serve.

47 State Circle, Suite 403 Annapolis, Maryland 21401
(410) 295-9100 www.mdmunicipal.org

Frivolous, vexing or abusive

Uploaded by: Laura Anderson White

Position: FAV



SB 554 / HB 806: frivolous, vexatious, *ABUSIVE*, or in bad faith

Senate Education, Energy and the Environment Committee

Good afternoon Committee Members. My name is Laura Anderson Wright, I am a 30 year employee of the University of Maryland, College Park where I wear two hats: I serve as Sr. Associate General Counsel & the Public Records Officer. I am here today speaking on behalf of the University of Maryland, College Park, the flagship member of the University System of Maryland.

A little about my Maryland roots: Raised & Volunteer: 14; Lived in 18, 21, 17 and now 16; Work in 21 for all of my 30 years. Thus, I am deeply invested in our State, its ideals and its flagship institution.

I apologize for submitting this testimony late; the bill is cross-filed in the House and going to subcommittee. Thus, I thought this hearing would be tabled until that subcommittee met.

As the University of Maryland's Public Records Officer, I have seen the number and complexity of requests skyrocket.

In 2023: College Park received 532 requests for 1,703,748 records.

In 2024, that number went up to 582 for over 2M records.

In 2025, we're already up to 127 as of Feb 18. We haven't even hit the 127-day mark in 2025.

And though amendments to the statute have been made – with some significantly impactful ones in 2021 – the amendments have generally been one-sided. They've failed to take into account changes in the way people communicate – via **EMAIL in particular** — and the nature of the requests themselves. As a direct result, there has been an extraordinarily negative impact on agency operations which ultimately frustrates the letter and spirit of this important statute.

Said differently, it has gotten more and more difficult to provide top notch customer service and abide by the statutory deadlines when you are processing requests that ask for 1000, 10,000 up to 750,000 pages of emails (the largest in my career).

That said, there is one amendment which attempts to provide much-needed relief. However, this now needs additional support. Section 4-1B-04 needs the element “**abusive**” added.

Abusive is not just to the *agency* and its *personnel* handling the request, but also an abuse of the *process* ... and the law.

When you

1. Receive 186 requests in a 12-month period from one person.....
 - a. This clogs up the pipeline and undermines the efficient and effective processing of requests. The abuse perpetrated by a few ruins the process for everyone else.

THAT is abusive.

2. Are threatened with physical harm if you do not process a voluminous request within 10 business days.....
 - a. For state employees who are simply doing their best with an operationally restrictive statute and tight deadlines, it is unnerving to be placed in physical danger.

THAT is abusive.

3. Respond to the same request repeatedly because the statute says a request cannot be ignored despite it being harassment.....

THAT is abusive.

By adding the term “abusive” you add a small, but badly needed amendment to support agencies.

On behalf of the University of Maryland, College Park please support SB 554 cross-filed HB 806.

Thank you.

SB0554 letter of support.pdf

Uploaded by: Lisa Kershner

Position: FAV

WES MOORE
Governor

ARUNA MILLER
Lt. Governor



LISA A. KERSHNER
Public Access Ombudsman

**STATE OF MARYLAND
OFFICE OF THE
PUBLIC ACCESS OMBUDSMAN**

**Testimony of Public Access Ombudsman, in Support of S.B.554
Public Information Act – Frivolous, Vexatious, or Abusive Requests – Remedies
Submitted by Lisa Kershner, Public Access Ombudsman
To the Education, Energy, and the Environment Committee
February 18, 2025**

Dear Chair Feldman, Vice Chair Kagan, and Committee Members,

I submit this letter of support for S.B. 554, which, among other things, would enable a custodian to seek relief directly from an appropriate court when faced with a Public Information Act (“PIA”) request or pattern of requests that is frivolous, vexatious, abusive, or made in bad faith.

I have served as Maryland’s Public Access Ombudsman since the program began in 2016. The program’s core service is to mediate or make other reasonable attempts to resolve PIA disputes between records requestors and custodians.

Each year since the inception of the program, my office has handled hundreds of requests for mediation and other types of assistance. These activities are further described in the Ombudsman’s Annual Report, published each year since 2016, as an Appendix to the Annual Report of the State Public Information Act Compliance Board. For the Committee’s reference, a summary of the data reported by the Ombudsman for FY 2024 and since inception is attached to this letter.

Beginning in July 2022, those with certain types of PIA disputes not resolved through the Ombudsman – including a complaint that a PIA request or pattern of requests is frivolous, vexatious, or made in bad faith – can submit the dispute to the Board for review and decision. While the Board is authorized to decide these disputes and must order certain types of specific relief, it has no authority or means to enforce its own decisions and orders.¹

In my experience as Ombudsman, the number instances in which a PIA request or pattern of requests is truly frivolous, vexatious, made in bad faith, or abusive are comparatively rare. The vast majority of PIA requests – though they may sometimes present legal issues or practical problems for custodians – are legitimate requests made for purposes that are consistent with the

¹ For example, if the Board finds that a custodian improperly denied inspection of a public record, it must issue an order directing the custodian to produce the requested record. If the Board determines that a PIA request (or pattern of requests) is frivolous, vexatious, or made in bad faith, it may order that an agency need not answer a specific request or requests made by the requestor. The Board’s regulations also provide that it may direct that a custodian may ignore future PIA requests that are substantially the same. COMAR 14.02.07.04D.

intent of the PIA. In line with this assessment, since July 2022, my office has mediated only a few matters involving allegations by an agency that a *pattern* of PIA requests is frivolous, vexatious, or made in bad faith, and have received *no requests* for assistance on these grounds based on a single PIA request. This suggests that not only are frivolous, vexatious, bad faith, or abusive PIA requests rare, but that agencies also have been reluctant or restrained in their use of these provisions and invoke the mediation remedy sparingly or as a last resort.²

Unfortunately, however rare instances of egregious misuse of the PIA have been, when they do occur, they disrupt the custodian's performance of regular duties and require inordinate amounts of staff time to address. Thus, frivolous, vexatious, or bad faith PIA requests can prevent or interfere with the ability of a custodian to give full attention to the many other PIA requests that are received.

Further, conduct that rises to the level of bad faith, abuse, or harassment is unlikely to be resolved by voluntary mediation. This is because the conduct involved, almost by definition, is deliberate and intended to harass, disrupt or cause other types of harm to the agency or its staff. In these circumstances, where the nature of a pattern of conduct demonstrates that the PIA is deliberately being used to cause harm or for other improper purposes, it is unlikely that the requestor will have the interest, desire or ability to actually engage the mediation process in good faith with the aim of reaching an outcome that is acceptable to both parties. For mediation to be effective, both parties must genuinely want to resolve the dispute and must participate in good faith in the mediation. For these reasons, I believe that mediation and even Board review following unsuccessful mediation, often prove insufficient to resolve problems involving a pattern of intentional and persistent abuse of the PIA.

Finally, I note that S.B. 554 would provide a potential remedy under the PIA for my office, and for the Board, should either be the target of frivolous, vexatious, abusive, or bad faith PIA requests. Neither my office, nor the Board, has access to the administrative remedy. The Ombudsman cannot mediate matters with her own office, as would be required to file a complaint with the Board, and the Board cannot resolve any complaints it might have about PIA requests it receives.

Therefore, I ask the Committee to issue a favorable report on S.B. 554, which would add provisions to the PIA allowing custodians to pursue a direct judicial remedy for frivolous, vexatious, bad faith, or abusive PIA requests. Thank you for your consideration and please let me know if I can provide any additional information that may be useful to the Committee.

Respectfully submitted,
Lisa A. Kershner
Public Access Ombudsman

² Our reported data reflects that the Ombudsman has received and attempted to mediate three frivolous, vexatious, or bad faith PIA matters on the request of an agency. During the same period, the Ombudsman received hundreds of other requests for mediation or assistance with other issues, including, from time to time, requests from an agency that the Ombudsman assist in reframing or narrowing a PIA request. Though all of these matters involved PIA requests or responses to PIA requests that were viewed as problematic in some respect, they did not involve any allegation that a requestor was deliberately acting in bad faith for improper purposes.

MARYLAND PUBLIC INFORMATION ACT (PIA)
The public's right to information about government activities lies at the heart of a democratic government.

Mediation Metric Report of the Public Access Ombudsman

FY 2024 - Annual Report
July 1, 2023 to June 30, 2024



Annual Report
FY 2024

636 2024

- ♦ 299 - Mediation requests
- ♦ 337 - Other/"help-desk" inquiries

The Big Picture: Mediation Matters!
Early resolution of disputes saves time and resources and increases public knowledge and awareness of the PIA process. Mediation is entirely voluntary, confidential, and in many cases doesn't require an attorney.

Total Mediation Cases, as of June 30, 2024

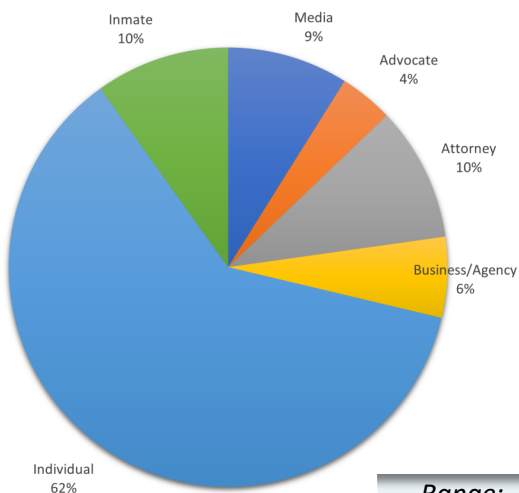
Carry over from FY 2023	53
New/Incoming cases in FY 2024	299
Total Number of Mediation cases	352
Total Mediation cases Closed FY 2024	273
Mediation cases carried over to FY 2024	79

The Agencies

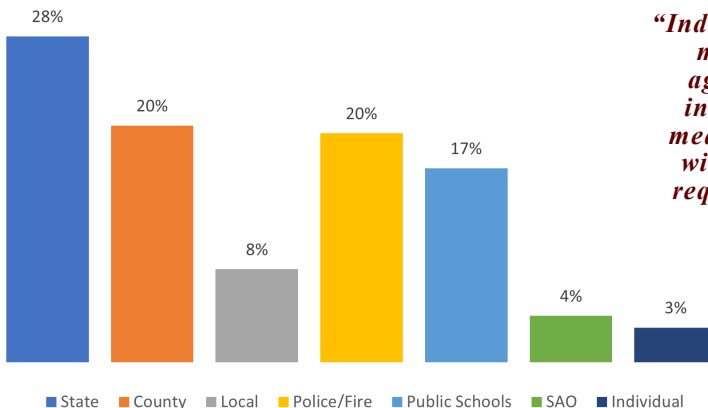
143 unique agencies participated in mediation matters with the PIA Ombudsman in Fiscal Year 2024, including agencies at the state, county, and municipal levels.

The Requesters

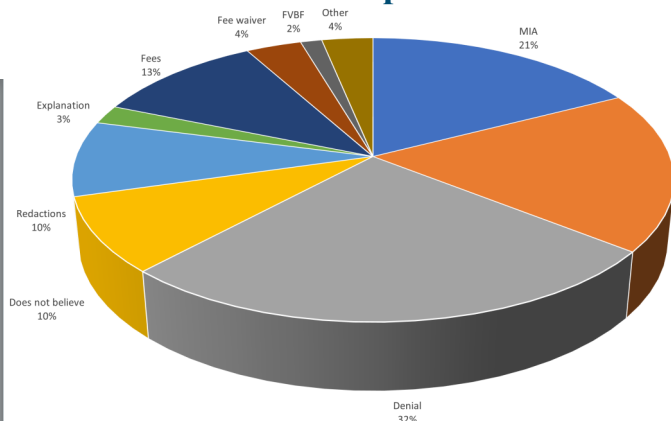
Requesters: Professional/Occupational requesters make up **28%** of requests for assistance, and all individuals make up **72%**.



"Individuals" means agency-initiated mediations with PIA requesters

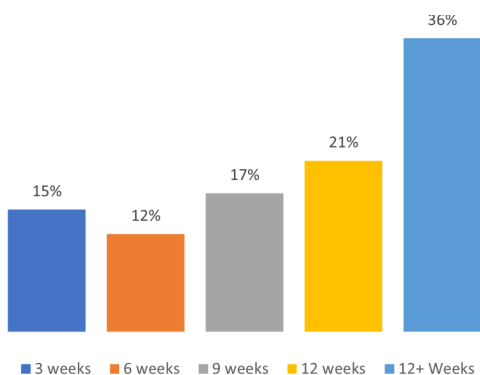


What are the PIA Disputes?



Disputes are presented as framed by the requester. Characterizations are based on how the requesters describe the issues. These are not findings.

How Long Does Mediation Take?



Range:
1 – 186 days.
15% of the cases are closed within 3 weeks and **83%** by 90 days.

- Misapplication of exemption - 42%
- Redaction inappropriate - 10%
- Entire record withheld - 32%
- MIA: No Response - 21%
- Partial, nonresponsive, or incomplete response - 22%

- Fees excessive - 13%
- Fee waiver request denied or ignored - 4%
- Does not believe response - 10%
- Asked for explanation of response - 3%
- Other - 4%
- Frivolous, Vexatious, Bad Faith Request - 3%

Lisa Kershner

200 St. Paul Place,
19th Floor
Baltimore, MD 21202

Phone: 410-576-6560
Email: pia.ombuds@oag.state.md.us
Twitter & YouTube: @MPIA_Ombuds

Ombudsman's Website:

<http://piaombuds.maryland.gov>

MARYLAND PUBLIC INFORMATION ACT (PIA)

The public's right to information about government activities lies at the heart of democracy.

Metrics Handout Office of the Public Access Ombudsman

Since Inception Report
March 30, 2016—June 30, 2024



99 Months
Since
Inception

3647 March 30, 2016

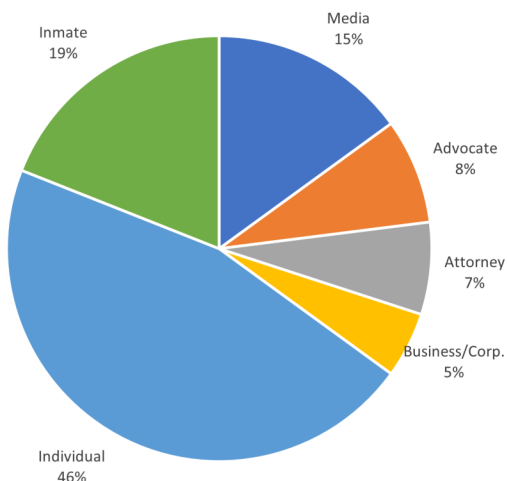
- ♦ 2055 - Mediation requests
- ♦ 1592 - Other / "help-desk" inquiries

The Big Picture: Mediation Matters!

Early resolution of disputes saves time and resources and increases public knowledge and awareness of the PIA process. Mediation is entirely voluntary, confidential, and in many cases doesn't require an attorney.

The Requesters

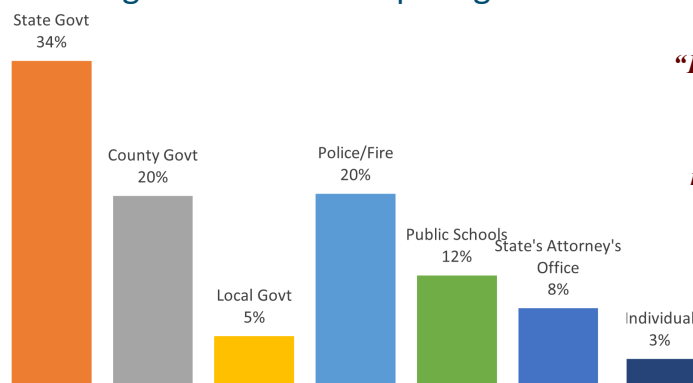
Aggregated Requesters: Professional/Occupational categories make up **35%** of requests for assistance and all individuals make up **65%**.



The Agencies

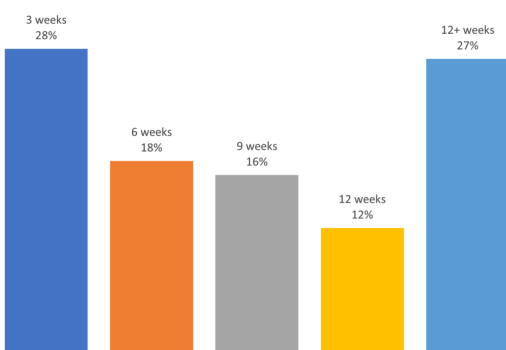
Approximately **390** unique agencies participated in mediation matters with the PIA Ombudsman since the beginning of the program, including agencies at the state, county and local levels.

What Agencies are Participating in Mediation?



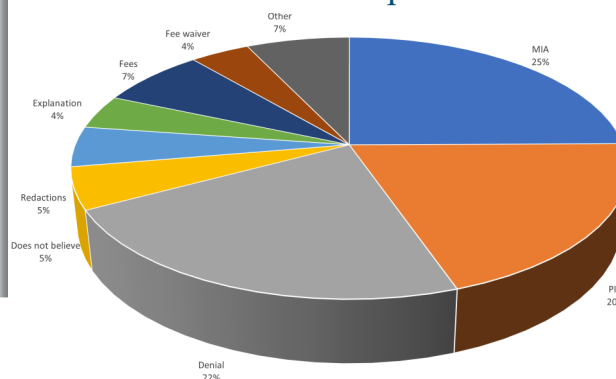
"Individuals" means agency-initiated mediations with PIA requesters

How Long Does Mediation Take?



28% of Ombudsman matters are closed within 3 weeks and **74%** by 90 days.

What are the PIA disputes?



Disputes are presented as framed by the requester. Characterizations are based on how the requesters describe the issues. These are not findings.

Mediations

March 30, 2016 – June 30, 2024

New/Incoming Cases
between 3/30/16–6/30/24

2055

Closed as of 6/30/24

1976

Lisa Kershner

200 St. Paul Place,
25th Floor
Baltimore, MD 21202

Phone: 410-576-6560
Email: pia.ombuds@oag.state.md.us
Twitter & YouTube: @MPIA_Ombuds

Ombudsman's Website:

<http://piaombuds.maryland.gov>

SB0554-JPR_MACo_SUP.pdf

Uploaded by: Sarah Sample

Position: FAV



MARYLAND
Association of
COUNTIES

Senate Bill 554

Public Information Act - Frivolous, Vexatious, or Abusive Requests - Remedies

MACo Position: **SUPPORT**

To: Education, Energy, and the Environment
and Judicial Proceedings Committees

Date: February 20, 2025

From: Sarah Sample

The Maryland Association of Counties (MACo) **SUPPORTS** SB 554. This bill provides reasonable relief for a local custodian of records for a defined set of “abusive” public information requests.

Record custodians are required to follow incredibly specific rules when it comes to the process and timeline for responding to requests under the Maryland Public Information Act (PIA). While they are mostly dealing with reasonable requests, there has increasingly been a narrow set of inquiries that are, at times, vicious and cruel. This has given rise to discomfort and fear in local employees doing this work and, in some cases, has led to challenges in the recruitment and retention efforts to fill these important positions.

The establishment of an abusive request category and potential to provide a remedy will assure custodians that not only is there relief for them in these circumstances, but that officials recognize the value of their contributions. The bill authorizes the PIA Compliance Board to allow custodians to ignore persistent abusive requests, respond in a less burdensome way, or respond with the board’s decision to release the custodian of responsibility. Additionally, if the PIA Compliance Board does not provide relief to a custodian, they have the opportunity to appeal the decision in the Circuit Court for comparable relief.

The remedies provided under the bill will ensure custodians can do their job without fear of harassment and threats. This will provide even greater efficiency in request review for residents seeking certain documentation and records appropriately. Counties believe this is an important bill that, sadly, is becoming more necessary. SB 554 provides practical relief in these instances and for these reasons, MACo urges a **FAVORABLE** report.

SB 554_OAG_Written Testimony (FWA).pdf

Uploaded by: Patrick Hughes

Position: FWA

CAROLYN A. QUATTROCKI
Chief Deputy Attorney General

LEONARD J. HOWIE III
Deputy Attorney General

CARRIE J. WILLIAMS
Deputy Attorney General

ZENTA WICKHAM HURLEY
Chief, Equity, Policy, and Engagement



STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL

PETER V. BERNIS
General Counsel

CHRISTIAN E. BARRERA
Chief Operating Officer

ANTHONY G. BROWN
Attorney General

February 20, 2025

To: The Honorable Brian J. Feldman
Chair, Senate Education, Energy, and the Environment Committee

From: Office of the Attorney General

Re: SB 554 - Public Information Act - Frivolous, Vexatious, or Abusive Requests –
Remedies (Favorable With Amendments)

The Office of the Attorney General (“OAG”) is committed to the principles of open access to public records and to promoting a consistent application of the Public Information Act (“PIA”) throughout the State. Indeed, OAG has long worked toward ensuring the correct implementation of the PIA through, among other things, publication of its Public Information Act Manual.

The primary purpose of this bill is to clarify and improve upon the process that the General Assembly first created in 2021 for custodians to seek relief from the Public Information Act Compliance Board (“PIACB”) when PIA requests are frivolous, vexatious, or in bad faith. Last year, the PIA Compliance Board issued its first decisions under that new provision, and the experience revealed some ways that the provisions could be improved and clarified. Although frivolous and vexatious PIA requests are rare, when they do target an agency, they can disrupt the operations of government and make it hard for an agency to respond timely to legitimate PIA requests from the press, interest groups, and members of the public. Here are links to two of the decisions issued by the PIACB that illustrate the types of issues that can arise:

- https://www.marylandattorneygeneral.gov/Opinions%20PIACB%20Documents/2022/PIACB24_106.pdf
- https://www.marylandattorneygeneral.gov/Opinions%20PIACB%20Documents/2022/PIACB24_029.pdf

To address these types of problems, which have continued even after the enactment of this new process, the bill proposes three changes, which will be discussed below. In addition, based on

feedback from interested parties and questions from House members on the cross-filed House version of the bill, we are proposing a series of amendments to the legislation.

First, the bill would permit custodians to go directly to circuit court, rather than through the PIACB, to seek an order that a request is frivolous, vexatious, abusive, or in bad faith. When a vexatious or frivolous requester is truly disrupting the work of the agency, the relief that can be obtained through the Public Access Ombudsman and the PIACB will not always be sufficient. As the Ombudsman has explained in her written testimony in support of bill, “mediation and even [PIA Compliance] Board review following unsuccessful mediation often prove insufficient to resolve problems involving a pattern of intentional and persistent abuse of the PIA.” Courts, meanwhile, have the authority to enforce their orders, and that authority will sometimes be necessary to solve the problem when a requester is acting in bad faith. This also gives custodians the same sort of options as requesters, who can generally choose whether to go directly to court to challenge a PIA response or instead use the PIACB process. To the extent that custodians choose to file in circuit court, it also has the benefit of freeing up the PIACB to focus on more substantive issues about the interpretation of the PIA.

We emphasize that this proposal would not allow a custodian to ignore a PIA request merely because, in the custodian’s view, the request is frivolous, vexatious, or in bad faith. Rather, the bill’s remedies are available only if *the court* finds that the request meets at least one of those criteria. We also emphasize that custodians would not use this option lightly. In fact, custodians have only used the existing process for seeking relief from frivolous or vexatious PIA requests a handful of times since the law was enacted, showing that custodians are using the process in good faith as a last resort. And the costs of bringing an action in circuit court are even higher than the costs of informal review before the PIACB, meaning that, as a practical matter, the option for court review would only be used in those egregious instances when intervention from a court is needed to prevent the PIA from being abused and ensure that the agency can timely respond to legitimate requests.

Second, the bill would clarify exactly what types of relief the PIACB (or a court) can provide after determining that a request or pattern of requests is frivolous, vexatious, or in bad faith. Right now, the law provides that the PIACB can issue an order authorizing the custodian to “ignore the request that is the subject of the custodian’s complaint.” But that remedy is effectively meaningless if the PIACB or a court can only permit the agency to ignore the request(s) that gave rise to the challenge but the custodian would then have to start the process over again if there is a new vexatious request that is part of the same pattern from the same requester. The PIACB’s regulations already interpret the statute to give it some latitude to preclude future PIA requests on the same topic, but the bill would clarify the possible relief that the Compliance Board or a court could give. To address some questions about the scope of the precise language, we are suggesting an amendment to proposed §§ 4-1A-04(b)(3)(iii) and 4-362(c)(4)(iii) such that they would allow the PIACB (or a court) to:

**PROVIDE OTHER APPROPRIATE NONMONETARY
RELIEF COMMENSURATE WITH THE CONDUCT
FOUND TO BE FRIVOLOUS, VEXATIOUS, OR IN BAD
FAITH, INCLUDING AN ORDER THAT A CUSTODIAN**

**NEED NOT RESPOND TO FUTURE REQUESTS FROM
THE VEXATIOUS REQUESTER FOR A SPECIFIED
PERIOD OF TIME, NOT TO EXCEED ONE YEAR.**

This language is adapted from Connecticut's similar statute. To be clear, the custodian would not have the discretion to decide what remedy is appropriate. Rather, the bill would leave it to the discretion of a neutral decisionmaker (the PIACB or a court) to make the remedy match the problem.

Third, the bill attempts to solve a different, but related, problem. The PIACB has been flooded over the past year with numerous complaints *from requesters* that, on their face, are frivolous, vexatious, or in bad faith. Under current law, the PIACB has had to give full consideration to those complaints, asking for a response from the custodian and issuing a full written decision. That, however, has wasted custodians' time and slowed the PIACB's ability to issue decisions in response to legitimate complaints and on important issues. Thus, the bill would give the PIACB more control over its own docket by authorizing the Board to immediately dismiss complaints to it that are frivolous, vexatious, abusive, or in bad faith. This would allow the PIACB to focus on the important substantive issues within its jurisdiction, rather than frivolous complaints. Again, this provision does not give any discretion to custodians to ignore a complaint from a requester. It merely gives *the PIACB* discretion to control its own docket.

Finally, note that our proposed amendments remove the word "abusive" where the bill as introduced had proposed adding that term to the pre-existing list of frivolous, vexatious, and in bad faith requests.

The OAG thus urges a favorable report on SB 554, as amended.

SB 554

Uploaded by: Dr. Paula Bienenfeld

Position: UNF

Testimony for SB0554, Public Information Act – Frivolous, Vexatious, or Abusive
Requests - Remedies
Dr. Paula Bienenfeld
February 20, 2025
Oppose

My name is Dr. Paula Bienenfeld. I am testifying in strong opposition to Bill SB0554. The purpose of this act is clearly to limit our rights as Maryland residents to access documents and records that should be public information. The threat that the agency itself has the right to decide to prohibit access creates a chilly climate for individuals or organizations that seek to obtain information that otherwise would be publicly available.

In many instances the applicant, and I have had this experience, will submit a Maryland Public Information Act (MPIA) request and receive no, very limited, or an irrelevant response from the agency or elected official to which the request is submitted. In other cases it is common for the agency to obfuscate or attempt to charge thousands of dollars for the public to gain access to public records.

The act specifically allows said agency or elected official, or custodian, to deny in perpetuity any future MPIA request from the individual or organization making the request. The bill goes further, to state that the custodian need not respond to not just that person, but anyone who makes a request “on behalf of the applicant...” Given the poor track record of most of the elected officials and agencies, this in effect creates a chilly Orwellian climate and restricts our access to what is rightfully the ownership of the applicant, in fact, rightfully the ownership of the residents of Maryland.

This is a miserable attempt to shut down the public’s right to know and echoes of the worst of past authoritarian regimes. We have the right to know what our government and our elected officials are doing. This bill stops that right, limiting our rights so much that organizations and individuals will hesitate to file future MPIAs. In fact, that is the likely intent of this bill.

Please vote against this ill-conceived bill, which has as its only purpose to restrict our access to public documents, records, and information about what our agencies, and elected officials, do. Thank you.

sb0554.pdf

Uploaded by: Greg BURTON

Position: UNF

Subject: Opposition to Senate Bill 554 - Public Information Act – Frivolous, Vexatious, or Abusive Requests – Remedies

Dear Members of the Education, Energy, and the Environment Committee,

I am writing to express my opposition to Senate Bill 554, which seeks to address frivolous, vexatious, or abusive requests under the Public Information Act (PIA). While the intent to streamline the process and reduce the burden on custodians of public records is understandable, I have several concerns regarding the provisions outlined in this bill:

1. **Potential for Misuse:** The bill grants significant discretion to the Public Information Act Compliance Board (PIACB) and circuit courts to determine whether a request is frivolous, vexatious, or abusive. This broad discretion could lead to the misuse of power, where legitimate requests for information are unjustly dismissed or ignored. It is essential to ensure that the rights of individuals seeking information are protected and that the process remains transparent and fair.
2. **Chilling Effect on Public Access:** The bill's provisions may deter individuals from exercising their right to access public records due to fear of being labeled as frivolous or vexatious. This could have a chilling effect on public access to information, undermining the principles of transparency and accountability that the PIA is designed to uphold. It is crucial to strike a balance between addressing abusive requests and preserving the public's right to information.
3. **Impact on Accountability and Oversight:** The ability to file complaints and seek information is a vital tool for holding government agencies accountable. By potentially limiting access to public records, Senate Bill 554 could hinder efforts to uncover misconduct, inefficiencies, or other issues within government agencies. Ensuring robust oversight and accountability should be a priority, and any measures that restrict access to information must be carefully considered.
4. **Alternative Solutions:** Instead of granting broad powers to dismiss requests, alternative solutions should be explored to address the issue of abusive requests. For example, implementing clearer guidelines and criteria for determining abusive requests, providing additional resources and support to custodians, and promoting mediation and conflict resolution mechanisms could help address the problem without compromising public access to information.

In conclusion, while the goal of addressing frivolous and abusive requests is important, Senate Bill 554's current provisions may have unintended consequences that undermine transparency, accountability, and public access to information. I urge you to reconsider the bill's approach and explore alternative solutions that protect the rights of individuals seeking information while addressing the concerns of custodians.

Thank you for your consideration.

Sincerely,

Greg Buton

Senate Bill 554-SB0554-John Galbreath Written Test

Uploaded by: John Galbreath

Position: UNF

SENATE BILL 554 (SB0554)

OPPOSED (UNF)

WRITTEN TESTIMONY OF:

**JOHN GALBREATH
2516 CHESTNUT WOODS CT.
REISTERSTOWN, MD 21136**

I am a Maryland citizen, and I oppose this bill for the following reasons:

I. OPEN AND TRANSPARENT GOVERNMENT, AND BROAD ACCESS TO GOVERNMENT RECORDS BY ALL PERSONS, ARE FOUNDATIONAL PRINCIPLES OF THE PUBLIC INFORMATION ACT (“PIA”).

The PIA grants all persons a broad right to inspect government records. Maryland Code, Gen. Prov., § 4-103(a) and (b) (General right to information) state:

- a. “All persons are entitled to have access to information about the affairs of government and the official acts of public officials and employees.”
- b. “To carry out the right set forth in subsection (a) of this section, unless an unwarranted invasion of the privacy of a person in interest would result, this title shall be construed in favor of allowing inspection of a public record, with the least cost and least delay to the person or governmental unit that requests the inspection.”

These foundational principles are attached for the Committee’s convenience as Exhibit 1.

Indeed, the Attorney General’s own PIA manual states at the very start:

“The Maryland Public Information Act is based on the enduring principle that public knowledge of government activities is critical to the functioning of a democratic society; that a Government of the people, by the people, and for the people must be *open* to the people.” December 2024 edition, Preface.

The PIA manual cover page and preface are attached for the Committee’s convenience as Exhibit 2.

II. THIS PROPOSED BILL GOES AGAINST THESE IMPORTANT FOUNDATIONAL PRINCIPLES, BY ADDING DRACONIAN PUNISHMENTS AND ADDING THE THREAT OF DIRECT COURT ACTION BY THE STATE AGAINST CITIZENS AND ORGANIZATIONS WHO REQUEST PUBLIC RECORDS.

A. Under This Bill, Custodians Can Be Authorized To Ignore a Citizen's Future Requests On The Same Or Similar Topics As a Past Request, Even If the Future Requests Are Not Frivolous, Vexatious, Abusive, Or In Bad Faith.

This bill provides that the Public Information Act Compliance Board ("PIACB") and the Circuit Court can authorize custodians to ignore future record requests on the same or similar topics as a past request which was found to be frivolous, vexatious, abusive, or in bad faith. However, a future record request might concern the same or similar topics as a past request – yet be different enough in other respects so that it is not frivolous, vexatious, abusive, or in bad faith. For example, a future request can be significantly narrower in the scope of the information sought, or can be significantly narrower in the time frame for which records are requested.

And once the PIACB or Circuit Court authorizes a custodian to ignore future record requests on the same or similar topics, the custodian is free to do that even if a future request is significantly narrower in scope or time frame, or materially different in some other respect. In other words, a future request would not be judged on its own merits. This would be unfair to citizens and organizations who make a new or amended record request that is not frivolous, vexatious, abusive, or in bad faith, even though a past request on the same or a similar topic may have been so. Simply put, each request should be judged on its own merits.

B. Under This Bill, a Citizen or Organization Can Be Banned Forever From Receiving Any Records They Might Request, On Any Topic and Of Any Scope.

This bill goes even further than the unfair provision discussed above, by also allowing the PIACB and the Circuit Court to provide "any other nonmonetary relief" to the custodian. So other than being nonmonetary, there is no limit on what a custodian can be awarded against a citizen or organization. That includes authorizing the custodian to ignore all their future requests – no matter what the topic of the future request is, and no matter what its scope is. And this total ban can be for any "specified period of time", which could be 5 years, 20 years, or even the lifetime of the citizen or organization.

This is simply too draconian. It goes against the foundational principles of the PIA, which hold that "all persons are entitled to have access to information about the affairs of government and the official acts of public officials and employees" and that this right "shall be construed in favor of allowing inspection of a public record, with the least cost and least delay."

C. This Bill Also Grants a Broad New Right For Custodians To Sue Citizens And Organizations Directly In Circuit Court, Without Having the PIACB Weigh In On The Matter. This Will Have a Profound Chilling Effect On The Public's Right Of Access To Information About Their Government.

And as if the draconian provisions discussed above were not enough, this bill also grants a broad new right for custodians to sue citizens or organizations in Circuit Court, alleging that their

record request is frivolous, vexatious, abusive, or in bad faith. The Attorney General's Office, which has vast legal resources, would file and litigate these lawsuits for its clients – i.e., the State and state agencies. These lawsuits could be filed directly in Circuit Court, without having the PIACB weigh in on the matter.

In addition, these custodian lawsuits against citizens and organizations could be filed in the Circuit Court where the public record is located. Since many state records are located in Annapolis or Baltimore, the citizen or organization could be located in Western Maryland and be forced to defend a lawsuit against them in Annapolis or Baltimore.

If passed, this threat of direct court action by the Attorney General's Office against requestors of public records will have a profound chilling effect on citizens and organizations who request those records, including the press. This chilling effect may be what the Attorney General's Office is looking for – but it does not comport with the PIA's foundational principles.

D. Adding “Abusive” to the Litany of Allowable Reasons For a Custodian Complaint Is Overkill.

The PIA already authorizes custodians to file a complaint with the PIACB if a record request is frivolous, vexatious, or in bad faith. This litany is already sufficient, and does not need to be even further supplemented. Also, “abusive” is a term which primarily means “harsh and insulting”, or “using harsh, insulting language”. The Merriam-Webster definition of “abusive” is attached for the Committee's convenience as Exhibit 3.

Thus, under this bill a custodian could file a PIACB complaint or even a Circuit Court lawsuit concerning a legitimate record request, simply because in the custodian's opinion the request was “harsh” or “insulting”. The PIACB or Circuit Court could then deny the request on that basis, and also trigger the draconian punishments discussed above. This is not what the PIA should be about.

III. OTHER REASONS THIS BILL WILL MOVE MARYLAND AWAY FROM OPEN AND TRANSPARENT GOVERNMENT.

Maryland does not have a State Inspector General to provide independent oversight of state agency practices and procedures, and the PIA thus functions as a critical tool for public oversight. We should be strengthening it, not weakening it.

The Attorney General's Office is not acting in the public interest here. Instead, in proposing this bill, it is acting as the attorney for the State and state agencies. Said another way, the Attorney General's Office is using its governmental position and influence to change the law to benefit its clients – the executive branch and its agencies. This bill would raise the wall around the State and state agencies, and would discourage the public and other organizations, including the press, from trying to see in.

SUMMARY

For all the above reasons, this bill is not in the public interest. Open and transparent government is the cornerstone of a free and democratic society, and this bill would usher in a new era of closed, not open government – and opaque, not transparent government. It will move Maryland away from a government of the people, by the people, and for the people.

We should not add draconian punishments to the PIA, nor should we add the threat of direct lawsuits by the State against citizens and organizations who request access to information about the workings of their government. If anything, we should be making the PIA more citizen-friendly and less restrictive. In short, we should be strengthening the PIA, not weakening it.

[Home](#) [Table of Contents](#)**§ 4-103. General right to information**

West's Annotated Code of Maryland

General Provisions

Effective: October 1, 2014

West's Annotated Code of Maryland
General Provisions (Refs & Annos)
Title 4. Public Information Act (Refs & Annos)
Subtitle 1. Definitions; General Provisions (Refs & Annos)

Effective: October 1, 2014

MD Code, General Provisions, § 4-103
Formerly cited as MD CODE, SG, § 10-612

§ 4-103. General right to informationCurrentness**In general**

(a) All persons are entitled to have access to information about the affairs of government and the official acts of public officials and employees.

General construction

(b) To carry out the right set forth in subsection (a) of this section, unless an unwarranted invasion of the privacy of a person in interest would result, this title shall be construed in favor of allowing inspection of a public record, with the least cost and least delay to the person or governmental unit that requests the inspection.

General Assembly

(c) This title does not preclude a member of the General Assembly from acquiring the names and addresses of and statistical information about individuals who are licensed or, as required by a State law, registered.

Credits

Added by Acts 2014, c. 94, § 2, eff. Oct. 1, 2014.

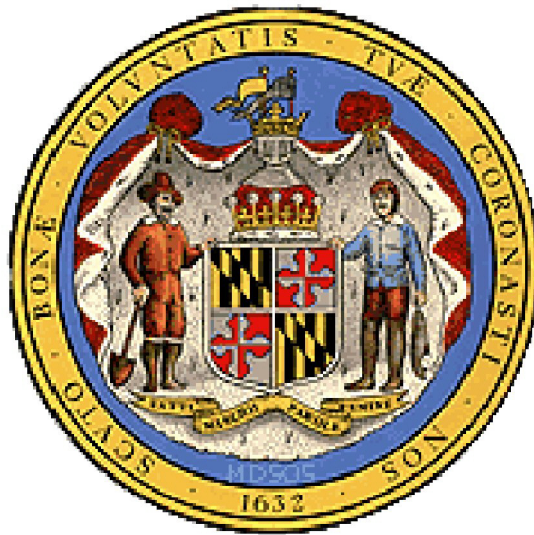
MD Code, General Provisions, § 4-103, MD GEN PROVIS § 4-103

Current through all legislation from the 2024 Regular Session of the General Assembly. Some statute sections may be more current, see credits for details.

END OF DOCUMENT

EXHIBIT 2

Maryland Public Information Act Manual



Office of the Attorney General

**Anthony G. Brown
Attorney General**

Nineteenth Edition
2024

PREFACE

The Maryland Public Information Act is based on the enduring principle that public knowledge of government activities is critical to the functioning of a democratic society; that a Government of the people, by the people, and for the people must be *open* to the people. Members of the public need and deserve complete information as they make the decisions and form the opinions that determine our future path, and the Act ensures that those needs are met fairly and expeditiously while protecting important privacy rights and other public policy goals.

As Attorney General, I am committed to open access to information, and to promoting a consistent application of the Act throughout State and local government. The Office of the Attorney General has long worked toward ensuring the correct implementation of the Act, and I am continuing and expanding on that tradition.

This manual is designed to be a resource for a range of users, from members of the public and the media who request information, to the government officials who have the responsibility to implement the Act's requirements.

The 19th edition of this manual, like those that precede it, is the work of many talented and committed individuals from the Office of the Attorney General. Special credit goes to former Deputy Attorney General, later Judge, Dennis M. Sweeney for preparing the first several editions, and to former Assistant Attorneys General Jack Schwartz and Robert N. McDonald (now Judge McDonald), as well as to Assistant Attorney General Adam D. Snyder, who assumed responsibility for subsequent editions. This most recent edition has been produced under the supervision of Patrick B. Hughes, the current Chief Counsel for Opinions & Advice.

I also wish to thank the local government officials, the Public Access Ombudsman, members of the private bar, and representatives of the media and open-government advocacy groups for their many constructive suggestions about how best to implement the PIA.

In addition to being available in printed version, the Manual is on-line at <http://www.oag.state.md.us/Opengov/pia.htm>.

Please let me know if you have suggestions for further refinements.

*Anthony G. Brown
Attorney General
December 2024*

EXHIBIT 3

abusive adjective

abu·sive (ə-'byü-siv «») also -ziv

Synonyms of *abusive* >

1 a : using harsh, insulting language

| an angry and *abusive* crowd

b : harsh and insulting

| *abusive* language

c : using or involving physical violence or emotional cruelty

| *abusive* behavior

| an *abusive* husband

| an *abusive* relationship

2 : characterized by wrong or improper use or action

especially : **CORRUPT**

| *abusive* financial practices

• **abusively** adverb

• **abusiveness** noun

Synonyms

contumelious

opprobrious

scurril

invective

scurrile

scurrilous

SB554 MDDC Oppose.pdf

Uploaded by: Rebecca Snyder

Position: UNF



Maryland | Delaware | DC Press Association

P.O. Box 26214 | Baltimore, MD 21210

443-768-3281 | rsnyder@mddcpres.com

www.mddcpres.com

To: Education, Energy & Environment Committee

From: Rebecca Snyder, Executive Director, MDDC Press Association

Date: February 18, 2025

Re: **OPPOSE SB 554**

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 oppose HB 806. This bill is meant to help solve situations in which bad actors take advantage of the Public Information Act to submit an overwhelming number and/or frequency of requests meant to unduly burden a custodian's ability to respond to requests. This is not a new issue; in 2022, the legislature approved substantial powers for the Public Information Act Compliance Board to allow custodians to be unresponsive or to respond to a less burdensome version of the request if the Board finds the applicant's request or pattern of requests is "frivolous, vexatious, or in bad faith."

SB554 goes much farther than the existing remedies, adding "ABUSIVE" to the list of frivolous, vexatious and bad faith, and allows the Board to direct the custodian to ignore future requests on the same or similar topics by the applicant. Further, this bill would provide for virtually unlimited relief from the applicant's requests for any amount of time the Board feels appropriate, 4-1A-04.(b)(3)(III) PROVIDE ANY OTHER NONMONETARY RELIEF THAT, IN THE BOARD'S DISCRETION, IS APPROPRIATE UNDER THE CIRCUMSTANCES, INCLUDING AN ORDER THAT THE CUSTODIAN NEED NOT RESPOND TO FUTURE REQUESTS FROM THE APPLICANT OR ANOTHER PERSON MAKING AN REQUEST ON BEHALF OF THE APPLICANT FOR A SPECIFIED PERIOD OF TIME."

We believe that these draconian measures are not needed as the Public Information Act Compliance Board is dealing with these issues and can issue binding opinions that can guide custodians. The PIA Ombudsman, in her 2024 report, noted that about 1% of her caseload concern "vexatious" requests. While that percentage is small, we understand that they are painstaking and time consuming cases. The PIA Compliance Board issued two opinions in 2024 on this very issue that can provide guidance in dealing with these issues. We believe that there is no need at this time for this bill. We have discussed concerns with the OAG.

[Opinion 24-29, James Alford, Applicant](#) and [Opinion 24-106, SM, et. al, Applicant](#) provide definitions for vexatious, frivolous, and bad faith. Although the situations outlined in the opinion was egregious, the current law worked. We urge an unfavorable report.



2025.02.20 - RoT Coalition Letter re SB554.pdf

Uploaded by: Ryan Mulvey

Position: UNF

RIGHT ON TRANSPARENCY

**Written Testimony
Regarding Maryland Senate Bill 554
Before the Senate Committee on Education, Energy, and the Environment**

February 20, 2025

Dear Chair Feldman and Members of the Committee:

We, the undersigned organizations, represent the Right on Transparency coalition.¹ As leaders in the movement for free markets, limited government, and individual liberty, we strongly support comprehensive government transparency reform. When government is open and public-information laws are robust, citizens, members of the media, and even elected officials enjoy a powerful tool to discover inefficiencies and hold public institutions accountable.

SB 554, which would amend the Maryland Public Information Act (“PIA”), would also likely undermine open government. The bill’s proposed reforms to the PIA’s existing “vexatious requester” standard, Md. Code Ann., Gen. Provisions § 4-1A-04 (2024), and its creation of a right of action by the government against its own citizens, will not only endanger the public’s right to request information from the state, but they will ultimately set a dangerous precedent by weaponizing the PIA *against* the public. For reasons detailed below, we ask the Committee to consider the policy implications of SB 554 and its potentially negative impact on transparency.

I. The Creation of a Government Right of Action Defeats the Purpose of Open Government

Proposed Section 4-362(a)(2) would grant custodians the right to file a lawsuit against citizens who submit PIA requests. That provision fundamentally shifts the PIA from a tool for public oversight to one that can suppress scrutiny of state government and its official activities. Indeed, the introduction of a right of action *against* the public by the government runs counter to the very purpose of transparency laws.

A government right of action will undoubtedly chill the submission of requests, especially among those who lack the resources to defend themselves in costly litigation. Investigative journalists, citizen activists, and everyday people will now think twice before seeking information about what the government is up to. Although Proposed Section 4-362(b)(3) would place the burden on a custodian to sustain a “vexatious requester” suit—no doubt a silver lining to an otherwise problematic reform—courts would still be given remedial authority to enjoin future requests for an indeterminate period. SB 554 would give the same authority to State Public Information Act Compliance Board (“Board”), too. For the reasons detailed below, *see infra* III, this is an undesirable change.

¹ See Statement of Principles, <https://rightontransparency.org/> (last visited Feb. 18, 2025).

From a constitutional perspective, the creation of a government right of action under the PIA also risks infringing on the Maryland Declaration of Rights, which protects as inalienable the right of the people to alter or reform their government (art. 1), to regulate the internal government of the state (art. 4), to petition the government for the redress of grievances (art. 13), and to enjoy freedom of speech (art. 10) and liberty of the press (art. 40). Relatedly, the potential for lawsuits by custodians raises serious anti-SLAPP concerns, as such suits could be understood as legally prohibited insofar as they reflect an effort to silence or punish those who seek to scrutinize government actions through use of the PIA. *See generally* Md. Code Ann., Courts & Judicial Proceedings § 5-807 (2024).

Again, allowing custodians to initiate legal actions against PIA applicants dramatically shifts the balance of power in favor of the government, contradicting the democratic principle that government transparency is a public good. The PIA already provides sufficient safeguards for custodians facing vexatious requests in the form of the Board and the Public Access Ombudsman. Involving the courts, as SB 554 envisions, would be a step in the wrong direction.

II. The Addition of “Abusive” to Section 4-1A-04 is Ambiguous and Redundant

As it stands, the PIA already contains a strong “vexatious requester” standard that empowers the Board to adjudicate complaints from custodians about a “request” or “pattern of requests” that is “frivolous, vexatious, or in bad faith.” Md. Code Ann., Gen. Provisions § 4-1A-04(b)(1) (2024). The addition of “abusive” to the criteria for excusing a custodian’s obligation under the PIA is both ambiguous and redundant.

SB 554 fails to offer any definition of “abusive.” It would therefore be left to the Board’s discretion to define. That might result in an unfairly broad and inconsistent interpretation. In some instances, applicants need to file complex requests, and custodians might try to improperly characterize such requests as “abusive.” More importantly, there is little reason to think the addition of the word “abusive” is necessary for effective implementation of the PIA.

The Board has recently entered decisions that apply the existing “vexatious requester” standard against requesters who are deemed “abusive.” As the Board has explained, the statutory term “vexatious” already *includes* requests that “are intended to harass or annoy a custodian,” are “recurring, repetitive and unrelenting,” or which “contain *abusive*, disparaging, or profane language.” Md. Pub. Info. Act Compliance Bd. Case No. 24-106 at 12 (Sept. 26, 2024) (cleaned up and emphasis added); *see also* Md. Pub. Info. Act Compliance Bd. Case No. 24-114 (Oct. 25, 2024) (same). Insofar as the Board understands existing law to cover “abusive” requests, then the revisions contained in SB 554 are unnecessary.

III. Preemptively Blocking Future Requests Undermines the Goals of the PIA

SB 554 would permit the Board—and courts, as addressed above—to preemptively excuse custodians from responding to PIA requests, even in instances where future requests do not concern the same or similar topics as existing vexatious request. Moreover, the Board would be empowered to provide this type of relief for any “specified period of time,” including perhaps indefinitely. These proposed changes are deeply problematic.

It would undermine the purpose of the PIA to allow a custodian to ignore an applicant's request for disclosure without any consideration of the substance of his or her request and its merits. Not only does this reform raise due-process concerns, but it is a poor approach to open government. The PIA is meant to promote transparency and democratic engagement. It protects the right of any person to access information about the affairs of government, and it creates a presumption in favor of disclosure. *See* Md. Code Ann., Gen. Provisions § 4-103 (2024). Granting the Board the power to shield custodians from applicants based effectively on their identity severely undercuts the promise of the PIA.

Conclusion

A healthy democracy depends on the public's ability to engage with its government and access information without fear of retaliation. The PIA recognizes that end by enshrining a general right to inspect "information about the affairs of government and the official acts of public officials and employees." Md. Code Ann., Gen. Provisions § 4-103(a). SB 554 would work against this stated goal of openness by empowering the Board, circuit courts, and custodians to undermine transparency under the guise of addressing "abusive" requests. Indeed, the bill's reforms, if realized, would only embolden secrecy. The PIA already contains strong safeguards against so-called "vexatious requesters." There is simply no demonstrated need for injecting ambiguous language—let alone a constitutionally suspect government right of action—into the law.

We urge the Committee to consider alternative solutions that strengthen, rather than weaken, the public's right to information. Thank you for your consideration of our concerns.

The Right on Transparency Coalition

- [Americans for Prosperity Foundation](#)
- [Goldwater Institute](#)
- [Mackinac Center for Public Policy](#)
- [National Taxpayers Union](#)
- [Parents Defending Education](#)
- [Southeastern Legal Foundation](#)

MDCD Broadcasters Association -- Nelson Written Te

Uploaded by: Timothy Nelson

Position: UNF



MARYLAND GENERAL ASSEMBLY

Education, Energy, and the Environment Committee

Written Testimony of Timothy G. Nelson on behalf of the Maryland-DC-Delaware Broadcasters Association Regarding Senate Bill 554

(Public Information Act – Frivolous, Vexatious, or Abusive Requests – Remedies)

Submitted February 18, 2025

Thank you for the opportunity to submit this written testimony regarding Senate Bill 554, “Public Information Act – Frivolous, Vexatious, or Abusive Requests – Remedies.” My name is Tim Nelson, and I serve as counsel to the Maryland-DC-Delaware Broadcasters Association (“MDCD” or the “Association”).¹ On behalf of the Association and its Members, which include approximately 20 television stations and 110 radio stations, I thank the Committee for holding a hearing on Senate Bill 554 and for considering the Association’s perspective.

I write to express MDCD’s strong opposition to Senate Bill 554. As proposed, Senate Bill 554 would empower the State Public Information Compliance Board (the “Board”), as well as the judicial system, to muzzle—through orders permitting certain public records requests to be ignored or summarily denied—those members of the public, including journalists, whose requests are deemed frivolous, vexatious, abusive, or in bad faith. SB 554 runs contrary to the Public Information Act, and, potentially, the First Amendment.

Senate Bill 554 would grant the Board and, in certain instances, circuit courts, the authority to permit the custodian of public records to “ignore the request or pattern of requests that is the subject of the custodian’s complaint” including by ordering that “the custodian need not respond to future requests . . . for a specified period of time.” It is one thing to permit the Board or a circuit court to authorize a custodian to ignore or respond in a narrowly tailored fashion to a particular public records request, as is allowed under current Maryland law. It is quite another for the State to empower the Board to effectively prohibit a member of the public from requesting access to government records. Senate Bill 554, in bestowing upon the Board the authority to punitively prevent future public records requests, is likely to undermine transparency and to have a chilling effect on those seeking access to public records. MDCD wonders whether the government’s ability to, for practical purposes, dictate that certain individuals and entities are not allowed to make future

¹ The Maryland-DC-Delaware Broadcasters Association is a voluntary, non-profit trade association that advocates for the interests of its member radio and television stations and, more generally, the interests of broadcasting in Maryland, Delaware, and Washington, D.C.

public records requests would amount to an unlawful prior restraint on speech in violation of the First Amendment.²

In addition, Senate Bill 554’s language permitting the Board to take administrative action regarding “abusive” information requests is unnecessary and potentially confusing. Current law already allows the Board to deal with requests that are “frivolous,” “vexatious,” or in “bad faith.” And Maryland courts have started to interpret this “frivolous,” “vexatious,” or in “bad faith” language, establishing the contours of the law. Inserting a new, arguably redundant term therefore seems unwarranted at best.

MDCD’s Members—local television and radio stations—are the most trusted source of news and information here in Maryland and across the country. One of the central, critical roles the Association’s member stations perform is to inform the public about the actions of Maryland’s public bodies, figures, and officials. As the United States Supreme Court has recognized, “[b]eyond question, the role of the media is important; acting as the ‘eyes and ears’ of the public[.]”³ Accordingly, MDCD has long advocated for transparency in government and against measures that seek to limit rights of this State’s citizens and its newsgathering entities to access public records. Maryland’s law already provides a process for dealing with public records requests deemed frivolous, vexatious, and/or made in bad faith. SB 554 is unnecessary. Worse, it goes too far and allows the State to silence its citizens.

* * * * *

² Indeed, unlawful prior restraints on speech are “the most serious and least tolerable infringement on First Amendment rights [that bears] a heavy presumption against its constitutional validity.” *Baltimore Sun Co. v. State*, 340 Md. 437, 448, 667 A.2d 166, 171 (1995).

³ *Houchins v. KQED, Inc.*, 438 U.S. 1, 8 (1978).