



House Health and Government Operations Committee
House Bill 821
Public Information Act - Denials - Pending Litigation
February 11, 2025
Favorable

Chair Pena-Melnyk, Vice Chair Cullison and committee members, thank you for the opportunity to offer our support for House Bill 821. The bill would create a new Public Information Act (PIA) exemption that would allow (but not require) a custodian to withhold records relating to pending or reasonably anticipated litigation.

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.

The exemption is in addition to any other exemptions (like attorney-client privilege or work product) that might apply, but the special additional protection provided for by this provision would apply only until the litigation is over. Similar exemptions exist in at least 7 other states including California, Delaware, Missouri, Oklahoma Oregon, Texas, and Vermont. More importantly, the exemption would put government litigants on a level playing field with private litigants, because it precludes private litigants from using the PIA to obtain early discovery or to circumvent discovery rules—a disadvantage for government litigants when they are facing private litigants.

For these reasons, the USM is proud to stand alongside the Office of the Attorney General in support of House Bill 821.



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