



Maryland | Delaware | DC Press Association

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To: Health & Government Operations Committee
From: Rebecca Snyder, Executive Director, MDDC Press Association
Date: February 11, 2021
Re: **HB 183 – Support**

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

The press works to shine light and share information on topics that affect us all. By accessing available public information, journalists are able to provide people data points to help them make more informed decisions. Information under the PIA belongs to all of us. There is a side of the story that doesn't get told if public information is withheld. Journalists connect the dots in their storytelling and help readers better understand a topic.

The bill builds on the successful implementation of the Public Information Act Compliance Board and the Ombudsman programs begun in 2015. It provides the PIA Compliance Board with comprehensive jurisdiction to review and decide PIA disputes that are not resolved through mediation with the Ombudsman. The bill also requires custodians to adopt a policy of proactive records disclosure, and to annually track and report information about their PIA requests and responses.

This proposed legislation—especially the provisions expanding the Board's jurisdiction—would implement the primary recommendations in the Ombudsman and Board's published Final Report on the Public Information Act (<https://news.maryland.gov/mpiaombuds/wp-content/uploads/sites/20/2019/12/Final-Report-on-the-PIA-12.27.19.pdf>). As stated in the Report, providing the Board with comprehensive jurisdiction in this way is expected to improve the PIA dispute-resolution process by both enhancing the Ombudsman's mediation program, and by providing an accessible administrative process for reviewing and deciding matters that can't be solved through mediation alone.

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Specifically, the bill:

- Increases the topical jurisdiction of the Board's review and issued opinions to include denials of inspection, fee waivers and timely response and lowers the floor for fee disputes from \$350 to \$200. The Board will continue to issue written opinions, which have been helpful in clarifying the law.
- Authorizes the Board to order the custodian to rectify violations, including waiving fees, adjusting costs of producing records and producing records for inspection. Only matters that have been offered mediation through the Ombudsman's office will be considered by the Board. Additionally, custodians who allege an applicant's pattern of requests are frivolous, vexatious or in bad faith, may petition the Board to review the requests and issue a written opinion potentially authorizing the custodian to ignore the request or respond to a less burdensome version of the request.
- Requires proactive disclosure of public records to save custodians time and effort in fulfilling commonly-requested items and an annual report on the requests received, fulfilled and denied during the calendar year.
- Adjusts the expertise of the members of the Public Information Act Compliance Board to include two members that are attorneys admitted to the Maryland Bar (statute currently requires one) and one who is knowledgeable about electronic records and technology.
- Increases staffing to four staff members to support the board and the office of the Public Access Ombudsman (currently, staffing levels are unspecified)

I hear regularly from members about PIA problems. For some journalists, PIA requests are ignored or information clearly available under the PIA is denied. For others, exorbitant fees and uneven waivers make accessing the records difficult, if not impossible. Under current PIA law, there is no recourse other than the courts if there is a dispute over a denial or an overbroad exemption. The reforms of 2015 brought positive change to the PIA, in the form of the Ombudsman and the PIA Compliance Board. We believe it is time to enhance the jurisdiction of the PIA Compliance Board to create a stronger body of precedent through its opinions and to provide more clarity to both requestors and custodians about the application of the law.

We also applaud the enforcement mechanism in the bill which would prohibit the charging of fees for a records request if the custodian does not meet the deadlines for response. This means that if a custodian does not produce records within 30 days or ask for an extension within the allotted time period, they will not be able to charge for the records. We hope this will incentivize custodians to prioritize records management and PIA requests.

The Press Association encourages a favorable report on HB183.