



House Bill 42

Public Information Act - Applications for Inspection - Responses and Time Limits

MACo Position: **OPPOSE**

To: Health and Government Operations Committee

Date: February 11, 2020

From: Alex Butler

The Maryland Association of Counties (MACo) OPPOSES HB 42 as it unreasonably reduces the response time for county records custodians under Maryland's Public Information Act (PIA). While the bill's intent may be to create faster request fulfillment, HB 42 mandates an unmanageable timeline that would likely actually degrade record production and significantly increase county expenditures.

Maryland's carefully balanced PIA laws strive to promote access to public information, while wisely protecting a substantial range of information from being disclosed. State law places the duty of determining what contents of public records are mandatory disclosures, permitted disclosures, or required denials—and the contents of specific files and documents can frequently contain a combination of each such category. Public sector professionals are asked to make these judgments routinely, at the risk of lawsuit or other repercussions if they err in their judgments.

HB 42 seeks to compress the timetable for making such decisions, with potentially damaging results. The bill would shorten the amount of time record custodians have to: (1) fulfill a request from 30 to 7 days; (2) respond to a request signaling more time is needed to process the request from 10 to 5 days; and (3) issue a written explanation for the denial of a request from 10 to 5 days. The bill also shortens the number of days any of these timelines may be extended from 30 to 7 days.

For many counties (as the custodians of many such records) the shortened timelines would require the addition of several new employees for the exclusive purpose of handling PIA requests. Even with the addition of new resources, such a stringent timeline could lead to mistakes or less thorough reviews in the release of information and subject counties to unnecessary lawsuits. In most instances, the 30-day time limit strikes a proper balance

between expedient document production, the capacity of counties to ensure protection of documents they are legally unable to disclose, and the capacity of custodians to search for and produce all relevant requested documents.

Existing law §4–203 of the General Provisions Article requires that already available records be produced for inspection immediately upon request. In general, the number of PIA requests that counties receive have been increasing in both number and complexity. Counties struggle with far-reaching abusive requests that require significant amounts of time to search for and process records. However, even focused and rational requests take time and money to fulfill.

Maryland's PIA law already includes carefully considered time limits to allow custodians the reasonable amount of time needed to compile records, make required redactions, and produce records for inspection. Reductions to the amount of time custodians have for request response and fulfillment put a significant strain on county resources and can deliver less desirable results for requestors. Accordingly, MACo urges the Committee to give HB 42 an **UNFAVORABLE** report.