
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1457 Session of
2021

INTRODUCED BY TOPPER, SCHLEGEL CULVER, ECKER, FREEMAN, HERSHEY,
JOZWIAK, MILLARD, NEILSON, ROAE, ROWE, SANCHEZ AND WHEELAND,
MAY 20, 2021

REFERRED TO COMMITTEE ON STATE GOVERNMENT, MAY 20, 2021

AN ACT

1 Amending the act of February 14, 2008 (P.L.6, No.3), entitled
2 "An act providing for access to public information, for a
3 designated open-records officer in each Commonwealth agency,
4 local agency, judicial agency and legislative agency, for
5 procedure, for appeal of agency determination, for judicial
6 review and for the Office of Open Records; imposing
7 penalties; providing for reporting by State-related
8 institutions; requiring the posting of certain State contract
9 information on the Internet; and making related repeals," in
10 agency response, providing for vexatious requester.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. The act of February 14, 2008 (P.L.6, No.3), known
14 as the Right-to-Know Law, is amended by adding a section to
15 read:

16 Section 906. Vexatious requester.

17 (a) General rule.--An agency may petition the Office of Open
18 Records for relief from an individual that the agency alleges is
19 a vexatious requester. The petition shall:

20 (1) Be submitted under penalty of 18 Pa.C.S. § 4904

21 (relating to unsworn falsification to authorities).

1 (2) Be provided to the Office of Open Records and the
2 requester alleged to be a vexatious requester.

3 (3) Detail the conduct by the individual which the
4 agency alleges demonstrates vexatiousness, including, as
5 appropriate:

6 (i) The number of requests filed.

7 (ii) The total number of pending requests.

8 (iii) The scope of the requests.

9 (iv) The nature, content, language or subject matter
10 of the requests.

11 (v) The nature, content, language or subject matter
12 of other oral and written communications to the agency.

13 (vi) Conduct the agency alleges is placing an
14 unreasonable burden on the agency.

15 (vii) Conduct the agency alleges is intended to
16 harass the agency.

17 (viii) Any other relevant information.

18 (b) Processing requests.--Upon receipt of a petition under
19 subsection (a), the executive director of the Office of Open
20 Records shall:

21 (1) Within three business days, notify the requester
22 alleged to be a vexatious requester that the requester may,
23 within five business days, file a preliminary response to the
24 petition.

25 (2) Within 10 business days, inform the agency whether
26 pending requests and new requests from the requester alleged
27 to be a vexatious requester should continue to be processed
28 or should be stayed pending resolution of the proceedings
29 under this section. A decision under this paragraph is not
30 appealable.

1 (c) Initial finding.--The executive director shall, within
2 30 calendar days after receiving a petition under subsection
3 (a), review the petition and determine whether further
4 proceedings are warranted. The following shall apply:

5 (1) If the executive director determines that further
6 proceedings are not warranted, the executive director shall
7 deny the petition. The denial shall be in writing and include
8 an explanation of the reasons for the denial.

9 (2) If the executive director determines that further
10 proceedings are warranted, the executive director shall
11 establish a briefing schedule to provide a fair opportunity
12 for the requester to respond to the agency's petition.

13 (d) Hearing determination.--After reviewing the requester's
14 response to the agency's petition, if any, the executive
15 director shall determine whether a hearing is warranted. The
16 executive director shall notify the parties of the
17 determination. A decision to hold or not hold a hearing is not
18 appealable. The executive director may admit into evidence
19 testimony, evidence and documents that the executive director
20 believes to be reasonably probative and relevant. The executive
21 director may limit the nature and extent of evidence found to be
22 cumulative.

23 (e) Mediation.--At any time during proceedings under this
24 section, the executive director may recommend that both parties
25 participate in mediation conducted by the Office of Open
26 Records. If both parties agree, the mediation shall last for a
27 period of up to 90 calendar days and may be extended with the
28 agreement of both parties. During the mediation, any other
29 proceedings under this section shall be stayed.

30 (f) Final opinion.--The executive director shall issue a

1 final opinion either granting or denying the petition within 90
2 calendar days of its filing. Upon a grant of the petition, the
3 executive director may provide appropriate relief commensurate
4 with the vexatious conduct, including, but not limited to, an
5 order that the agency need not comply with future requests from
6 the vexatious requester for a specified period of time, but not
7 to exceed one year. The final opinion shall be posted on the
8 Office of Open Record's publicly accessible Internet website.

9 (g) Appeal to Commonwealth Court.--Except for a decision
10 under subsection (b) or (d), any party aggrieved by a decision
11 made under this section may appeal the decision to Commonwealth
12 Court within 15 calendar days.

13 Section 2. This act shall take effect in 60 days.