

SENATE BILL 135

By Haile

AN ACT to amend Tennessee Code Annotated, Title 10,  
Chapter 7, Part 5, relative to records requests.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 10-7-503(a)(7), is amended by  
adding the following new subdivision (C):

(i)

(a) If a person makes a request to view or copy a public record that constitutes harassment, the records custodian charged with fulfilling the request must, prior to petitioning a court of record of competent jurisdiction for an order to enjoin the person from making records requests, provide the person with notice by certified mail requesting to mediate the dispute with the cost of mediation to be incurred by the employing entity of the records custodian. A statement outlining the rights of the requestor under this subdivision (a)(7)(C) must be included with the notice.

(b) If the person receiving notice does not respond within ten (10) days of receiving notice of the person's intent to mediate the dispute, or rejects the opportunity to mediate the dispute, the records custodian may petition a court to enjoin the person from making records requests in accordance with this section.

(c) If the parties agree to mediation, the records custodian shall select a certified mediator who must use alternative dispute resolution techniques to resolve the dispute. The mediator shall, in consultation with the parties, schedule the time and location of the mediation, and thoroughly inform both parties of their rights and responsibilities under this section.

(d) If the parties reach a full and final settlement agreement, the mediator shall reduce the agreement to writing for the parties to execute.

(e) If the parties cannot reach an agreement, the mediator shall include notes to that effect upon issuing the dispute certification notice to the parties, and the records custodian may petition a court to enjoin the person from making records requests in accordance with this subdivision (a)(7)(C).

(f) An agreement entered into pursuant to mediation may include, without limitation, an agreement as to the conduct of either party, monetary compensation for the costs of producing records requested, fees for the costs of mediation, or any other equitable remedy to which the parties may agree.

(g) If the mediator finds that the requestor harassed the records custodian, or if a requestor is offered mediation and is unresponsive to or rejects the opportunity to mediate, the requestor shall not request records from the records custodian until the matter has been resolved by a court of competent jurisdiction. At the conclusion of mediation, upon the issuance of a dispute certification notice, either party to mediation may appeal the ruling of the mediator to the court.

(ii) A records custodian shall not petition a court for injunctive relief unless:

(a) The records custodian has unsuccessfully attempted to resolve the dispute by mediation under subdivision (a)(7)(C)(i); and

(b) The records custodian has notified the person making the requests by certified mail stating the specific, alleged conduct that constitutes harassment in violation of this subdivision (a)(7)(C).

(iii) After a petition is filed and while the case is pending, the records custodian shall continue to comply with this part, but if the records custodian prevails the person

making the requests shall reimburse the records custodian for the labor costs incurred by the records custodian in producing the records during the pendency of the case.

(iv) A court may, upon finding by a preponderance of evidence that a records request constitutes harassment, enjoin the person who made the request from making a public records request for a period of up to one (1) year; provided, that the person, while subject to the injunction, may petition the court for permission to make a public records request and the court may approve the petition if the petitioner shows that the public records request does not constitute harassment.

(v) A records custodian who petitions a court for an injunction pursuant to this subdivision (a)(7)(C) shall provide a written report to the office of open records counsel that includes a copy of the petition and any injunction or orders issued by the court. The report must be filed no later than three (3) months after the petition is filed. If a final order has not been issued within three (3) months of the petition's filing, the records custodian shall provide the final order to the office of open records counsel as soon as reasonably possible after the final order is issued. The office of open records counsel shall include a summary of the reports received as part of the office's annual report required by § 8-4-603(b) and provide the summary to the advisory committee on open government.

(vi) As used in this subdivision (a)(7)(C):

(a) "Harassment" means a public records request made to a governmental entity:

(1) That is made in a manner that would cause a reasonable person, including a records custodian or any staff of the public entity in control of the public records, to be seriously abused, intimidated, threatened, or harassed;

(2) For which the conduct in fact seriously abuses, intimidates, threatens, or harasses the person; and

(3) That is not made for any legitimate purpose; and

(b) "Legitimate purpose" includes, but is not limited to, gathering information for the purpose of:

(1) Publication or broadcast by a person engaged in gathering information for publication or broadcast connected with or employed by the news media or press, or who is independently engaged in gathering information for publication or broadcast, excluding the gathering of information for publication or broadcast only on a social media platform;

(2) Using the information for a commercial purpose or for academic research; and

(3) Investigating or evaluating government operations for a public purpose.

(vii) This subdivision (a)(7)(C) is repealed July 1, 2025.

SECTION 2. This act takes effect upon becoming a law, the public welfare requiring it.