

OFFICE OF LEGISLATIVE RESEARCH  
PUBLIC ACT SUMMARY



**PA 18-95—sHB 5175**

*Government Administration and Elections Committee*

**AN ACT CONCERNING APPEALS UNDER THE FREEDOM OF INFORMATION ACT AND PETITIONS FOR RELIEF FROM VEXATIOUS REQUESTERS**

**SUMMARY:** This act (1) adds to the factors that the Freedom of Information Commission (FOIC) must consider when determining whether to hear certain appeals brought under the Freedom of Information Act (FOIA) and (2) establishes a procedure under which public agencies may petition FOIC for relief from “vexatious requesters.” Relief may include an order that the agency need not comply with future requests from the requester for a period of up to one year.

EFFECTIVE DATE: October 1, 2018

**CERTAIN FOIA APPEALS**

By law, anyone aggrieved by a public agency's decision to deny access to a public meeting or information subject to disclosure under FOIA may appeal to FOIC. FOIC's executive director must obtain the commission's permission before scheduling any appeal that she believes (1) presents a claim beyond the commission's jurisdiction, (2) would cause an injustice, or (3) would constitute an abuse of the commission's administrative process.

The act requires FOIC, when deciding whether to grant permission to schedule such an appeal, to consider additional information about the nature of any injustice or abuse of administrative process. Specifically, it must consider:

1. whether the request or appeal is repetitious or cumulative;
2. any history of nonappearance at commission proceedings or disruption of FOIC's administrative process, including delaying proceedings; and
3. any refusals to participate in settlement conferences conducted by an FOIC ombudsman in accordance with regulations.

Under existing law, FOIC must also consider the nature, content, language, or subject matter of (1) the request or appeal, (2) prior or contemporaneous requests or appeals, and (3) other verbal or written communications to the agency or its officials, by the person making the request or taking the appeal. It must grant permission to hear the appeal unless it finds that the executive director's belief about the nature of the

appeal is well founded.

## VEXATIOUS REQUESTERS

### *Agency Petition*

The act authorizes public agencies to petition FOIC for relief from requesters they allege to be vexatious. The petition must be sworn under penalty of false statement and detail the alleged conduct that demonstrates a vexatious history of requests, including:

1. the number of requests filed and pending;
2. the scope of the requests;
3. the requests' nature, content, language, or subject matter and the requester's other oral or written communications to the agency; and
4. a pattern of conduct that amounts to an abuse of the right to access information under FOIA or an interference with the agency's operation.

By law, false statement is a class A misdemeanor (see Table on Penalties).

### *FOIC Review*

Under the act, upon receiving a petition, FOIC's executive director must review it and determine whether it warrants a hearing. If the executive director determines that a hearing is not warranted, she must recommend that the commission deny the petition. At its next regular meeting, the commission must vote on the recommendation and after the meeting, it must issue a written explanation of the reasons for accepting or rejecting the recommendation.

If the executive director determines that a hearing is warranted, the act requires the commission to serve all parties, by certified or registered mail, with a copy of the petition and any other FOIC notice or order. After due notice, the commission must hear and grant or deny the petition within one year after its filing. If the commission grants a petition, it may provide appropriate relief commensurate with the vexatious conduct, including an order that the agency need not comply with future requests from the requester for a specified period of time, up to one year.

Existing law allows FOIC to impose a civil penalty of up to \$1,000 if it determines, after a hearing, that someone has taken an appeal frivolously, without reasonable grounds, and solely to harass the agency.

### *Appeal*

Under the act, any party aggrieved by FOIC's decision to grant a petition may apply to New Britain Superior Court for an order reversing it. The deadline for doing so is 15 days after the meeting when the

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commission granted the petition.