

Amendment No. _____

FILED
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

Signature of Sponsor

AMEND Senate Bill No. 590

House Bill No. 626*

by deleting all language after the enacting clause and substituting instead the following:

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

(i) If a person's requests to view public records constitute harassment, the records custodian charged with fulfilling the request may petition a court of competent jurisdiction for relief in fulfilling future public records requests from the person in accordance with subdivision (a)(7)(B)(ii).

(ii) A court may, upon finding clear and convincing evidence that a person's records requests constitute harassment, issue an order allowing the governmental entity to charge the requestor for future requests to view public records as though the requestor had requested to obtain copies for a period of one (1) year, and subject the requestor to subdivision (a)(7)(A)(vii).

(iii) A governmental entity that petitions a court for relief as provided in this subdivision (a)(7)(B) shall provide a written report to the office of open records counsel that includes a copy of the petition and any orders issued by the court in relation to the matter. The report must be filed no later than three (3) months after the petition is made. If further court action is taken after the report is filed, the governmental entity shall update the report to the office of open records counsel. The office of open records counsel shall include a summary of reports submitted under this subdivision (a)(7)(B)(iii) as part of its annual report required under § 8-4-603(b) and shall provide an annual summary of these reports to the advisory committee on open government who may use the reports to study the application of this section.



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(iv) As used in this subdivision (a)(7)(B):

(a) "Harassment" means twelve (12) or more public records requests made to the same governmental entity within a period of one (1) year:

(1) That are made in a manner that would cause a reasonable person, including a records custodian or any staff of the governmental 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 are not made in good faith or for any legitimate purpose, or are made maliciously; and

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

(1) Publication or broadcast, or otherwise distributing information to other persons by any means;

(2) Investigating or evaluating a legitimate claim or potential claim a person may have against a governmental entity, its agents, or employees; or

(3) Using the information for a commercial purpose.

SECTION 2. Tennessee Code Annotated, Section 10-7-503, is amended by adding the following as a new subsection:

(h)

(1)

(A) It is the intent of this subsection (h) to facilitate access to, and the request of, public records.

(B) This subsection (h) does not apply to a state or local governmental entity during an emergency, as that term is defined in § 58-2-101, to the extent that the emergency directly impacts the state or local

governmental entity. After an emergency ceases to exist, the impacted state or local governmental entity shall resume compliance with this subsection (h) as soon as reasonably practicable.

(2)

(A) No later than January 1, 2020, each state and local governmental entity subject to this chapter shall provide basic government information on the governmental entity's website, if the governmental entity maintains a website.

(B) If a state or local governmental entity does not maintain a website, the governmental entity shall:

(i) Provide the basic government information to this state or to a county or municipality that maintains a website, to a private entity that maintains a website, or to an association or agency that maintains a website and that was established for the benefit of local government officials or counties, cities, towns, or other local governments; provided, that the county, municipality, entity, association, or agency agrees to provide the basic government information on its website; or

(ii) Make the basic government information available at a physical location accessible to the public and readily provide copies of the basic government information without charge to any person who requests copies; provided, that the basic government information related to public meetings is available at a location open to the public for at least forty-eight (48) hours prior to the public meeting. The governmental entity shall inform the public of that location in a manner in which the public is reasonably able to know or find the location.

(3)

(A) Agendas must be available on the applicable website as required by this subsection (h) at least forty-eight (48) hours in advance of a meeting.

(B) Agendas must clearly describe matters to be discussed or decided.

(4) A governing body may provide on the website the draft minutes of a meeting, clearly designated, in addition to minutes approved by a governing body. If a governing body chooses not to provide draft minutes on its website, it shall provide contact information for members of the public to request a copy of draft meeting minutes when approved minutes are not yet available.

(5)

(A) Public meeting documents that are provided electronically to a governing body must be available on the website forty-eight (48) hours in advance of the meeting. Supplemental public meeting documents provided within forty-eight (48) hours of a meeting must be posted on the website as soon as practicable.

(B) If a public meeting document does not exist in digital form or cannot be easily converted into digital form, a governmental entity may instead include in the meeting agenda a list of documents not included on the website and a summary of the document's content; provided, that the governmental entity makes these documents available at a physical location open and accessible to the public for at least forty-eight (48) hours prior to the public meeting and readily provides copies of the documents without charge to any person who requests copies. The physical location and the hours the location is open must be provided on the agenda.

(6) The basic government information must be updated on the website when new information is available.

(7) The office of open records counsel is authorized to provide guidance to local governmental entities concerning compliance with this section.

(8) The advisory committee on open government shall provide a report and recommendations to the general assembly by January 1, 2021, regarding basic government information provided to citizens on government websites.

(9) As used in this section:

(A) "Basic government information" includes:

(i) A list and the contact information of elected officials and the members of each governing body;

(ii) Agendas of upcoming meetings of each governing body and of committees of each governing body, and beginning March 1, 2021, the agendas of at least the twelve (12) most recent meetings;

(iii) The approved minutes of the most recent meeting, and beginning March 1, 2021, the approved minutes of at least the twelve (12) most recent meetings of each governing body;

(iv) Public meeting documents that are provided in a board packet to members of each governing body in advance of an upcoming meeting, and beginning March 1, 2021, public meeting documents of the twelve (12) most recent meetings;

(v) The current annual budget document of the governmental entity and the annual budget document from the most recent five (5) years;

(vi) The comprehensive annual financial report, and other annual financial reports and audits of the governmental entity that are required to be produced by law from the most recent five (5) years, including additional summaries or information provided by a

governmental entity that provide explanation and context to the financial reports;

(vii) The charter or other organizing or governing documents of the governmental entity and governing body, as applicable;

(viii) Policies, rules, ordinances, or resolutions governing the public meetings, public hearings, and public records of each governing body;

(ix) The contact information of a person or persons for more information about the public meetings, public hearings, and public records of a state or local governmental entity, including the name and telephone number of each such person; and

(x) The contact information and address of the records custodian of the state or local governmental body; and

(B) "Governing body" has the same meaning as defined in § 8-44-102, and includes the appropriate governing authority for the state or local governmental entity and governmental bodies created by the governing authority for the governmental entity.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.