

Amendment No. 2 to SB0590

Bell  
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 makes a request to view or copy a public record that constitutes harassment, the records custodian charged with fulfilling the request may petition a court of record of competent jurisdiction for an order to enjoin the person from making records requests.

(ii) A records custodian shall not petition a court for injunctive relief unless the records custodian has notified the person making the requests in writing stating the specific conduct that may constitute harassment in violation of this subdivision (a)(7)(B) and the person has continued to engage in such conduct after the notification. The records custodian shall provide such notification after the fifth harassing request by the person.

(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

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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)(B) 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)(B):

(a) "Harassment" means six (6) 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 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 are not made for any legitimate purpose and are made maliciously; 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;

(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)(B) is repealed July 1, 2024.

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