

Janet T. Mills
Governor

Sara Gagné-Holmes
Commissioner



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February 5, 2025

Senator Anne Carney, Chair
Representative Amy Kuhn, Chair
Members, Joint Standing Committee on Judiciary
100 State House Station
Augusta, ME 04330-0100

Re: Opposition to LD 152, *An Act to Amend the Freedom of Access Act to Require a Specific Time Frame for Agencies to Comply with Requests of Public Records*

Senator Carney, Representative Kuhn, and Members of the Joint Standing Committee on Judiciary:

Thank you for the opportunity to share our deep concerns about this proposal to require full responses to all Freedom of Access Act (FOAA) requests within 30 days of the request.

First, to level set: according to Department recordkeeping, in 2024 nearly 77 percent of FOAA requests (386 of a total 515 requests) were closed in less than 30 days with 44 percent (228 total) requests closed in five days or less. The Department is committed to timeliness of responses and has demonstrated year-over-year improvements. For example, process and protocol improvements helped the Department increase the volume of requests fulfilled in under 5 days from 34 percent in 2023 to the 44 percent reported in 2024. Summarized, we believe this is a solution in search of a problem.

The limited requests that take longer to fulfill are due to their complexity and size. Large and complex requests take significant program staff time to gather and review and significant time of the Public Access Officer, whose role also includes non-FOAA constituent services, as well as a legal review to ensure appropriate redactions, when necessary. DHHS is subject to numerous confidentiality obligations, both state and federal, and it takes time to be thoughtful and precise in ensuring that any FOAA production does not run afoul of these considerations.

Imposing a 30-day response time for all FOAA requests, regardless of their breadth, is unreasonable and would mean that staff would have to turn away from other pressing work to focus full time on meeting this timeframe, thereby putting other critical work aside.

Thank you again for the opportunity to provide our concerns.

Sincerely,

A handwritten signature in cursive script that reads "Sara Gagné-Holmes".

Sara Gagné-Holmes
Commissioner
Department of Health and Human Services

DHHS FOAA Response Times 2023 vs 2024

