

S 849

OPEN Government Act of 2007

Congress: 110 (2007–2009, Ended)

Chamber: Senate

Policy Area: Government Operations and Politics

Introduced: Mar 13, 2007

Current Status: Held at the desk.

Latest Action: Held at the desk. (Sep 4, 2007)

Official Text: https://www.congress.gov/bill/110th-congress/senate-bill/849

Sponsor

Name: Sen. Leahy, Patrick J. [D-VT]

Party: Democratic • State: VT • Chamber: Senate

Cosponsors (16 total)

| Cosponsor | Party / State | Role | Date Joined |
|----------------------------------|---------------|------|--------------|
| Sen. Cornyn, John [R-TX] | R · TX | | Mar 13, 2007 |
| Sen. Feingold, Russell D. [D-WI] | D · WI | | Mar 15, 2007 |
| Sen. Kerry, John F. [D-MA] | D · MA | | Mar 15, 2007 |
| Sen. Specter, Arlen [R-PA] | R · PA | | Mar 15, 2007 |
| Sen. Isakson, Johnny [R-GA] | R · GA | | Mar 21, 2007 |
| Sen. Brown, Sherrod [D-OH] | D · OH | | Mar 27, 2007 |
| Sen. Cardin, Benjamin L. [D-MD] | D · MD | | Apr 10, 2007 |
| Sen. Landrieu, Mary L. [D-LA] | D · LA | | Apr 30, 2007 |
| Sen. Sanders, Bernard [I-VT] | I · VT | | May 16, 2007 |
| Sen. Durbin, Richard J. [D-IL] | D · IL | | May 21, 2007 |
| Sen. McCaskill, Claire [D-MO] | D · MO | | Jun 20, 2007 |
| Sen. Obama, Barack [D-IL] | D · IL | | Jun 25, 2007 |
| Sen. Alexander, Lamar [R-TN] | R · TN | | Jul 9, 2007 |
| Sen. Smith, Gordon H. [R-OR] | R · OR | | Jul 11, 2007 |
| Sen. Coburn, Tom [R-OK] | R · OK | | Sep 4, 2007 |
| Sen. Boxer, Barbara [D-CA] | D · CA | | Sep 11, 2007 |

Committee Activity

| Committee | Chamber | Activity | Date |
|---------------------|---------|-------------|--------------|
| Judiciary Committee | Senate | Reported By | Apr 30, 2007 |

Subjects & Policy Tags

Policy Area:

Government Operations and Politics

Related Bills

| Bill | Relationship | Last Action |
|-------------|--------------|---|
| 110 S 2488 | Related bill | Dec 31, 2007: Became Public Law No: 110-175. |
| 110 S 2427 | Related bill | Dec 6, 2007: Read twice and referred to the Committee on the Judiciary. (text of measure as introduced: CR S14854-14855) |
| 110 HR 1326 | Related bill | Mar 27, 2007: Referred to the Subcommittee on Information Policy, Census, and National Archives. |
| 110 HR 1309 | Related bill | Mar 15, 2007: Received in the Senate and Read twice and referred to the Committee on Homeland Security and Governmental Affairs. |

Openness Promotes Effectiveness in our National Government Act of 2007 or the OPEN Government Act of 2007 - Amends the Freedom of Information Act (FOIA) to revise requirements for federal agency disclosures of information requested under that Act.

(Sec. 3) Provides definitions of "representative of the news media" and "news," for purposes of request processing fees. Regards a freelance journalist as working for a news-media entity if the journalist can demonstrate a solid basis for expecting publication through that entity, whether or not the journalist is actually employed by the entity.

(Sec. 4) Provides that, for purposes of awarding attorney fees and litigation costs, a FOIA complainant has substantially prevailed in a legal proceeding to compel disclosure if such complainant obtained relief through either: (1) a judicial order or an enforceable written agreement or consent decree; or (2) a voluntary or unilateral change in position by the agency provided that the complainant's claim is not insubstantial.

(Sec. 5) Directs the Attorney General to: (1) notify the Special Counsel of civil actions taken for arbitrary and capricious rejections of requests for agency records; and (2) submit annual reports to Congress on the number of such civil actions in the preceding year. Directs the Special Counsel to submit an annual report to Congress on investigations of agency rejections of FOIA requests.

(Sec. 6) Requires the 20-day period during which an agency must determine whether to comply with a FOIA request to begin on the date on which the request is first received by the appropriate component of the agency, but in any event no later than 10 days after the request is first received by any component of the agency that is designated in the agency's FOIA regulations to receive FOIA requests. Prohibits the tolling of the 20-day period by the agency except: (1) that the agency may make one request to the requester for information and toll the 20-day period while it is awaiting such information that it has reasonably requested from the FOIA requester; or (2) if necessary to clarify with the requester issues regarding fee assessment. Ends the tolling period on the agency's receipt of the requester's response to the agency's request for information or clarification.

Prohibits an agency from assessing search fees if it fails to comply with time limits provided that no unusual or exceptional circumstances apply to the processing of the request. Requires each agency to make available its FOIA Public Liaison, who shall assist in the resolution of any disputes between the requester and the agency.

(Sec. 7) Requires agencies to establish: (1) a system to assign an individualized tracking number for FOIA requests received that will take longer than 10 days to process and provide to each person making a request the tracking number assigned to the request; and (2) a telephone line or Internet service that provides information on the status of a request. Makes this requirement effective one year after the enactment of this Act.

(Sec. 8) Requires any statutory exemption from disclosure under FOIA enacted after the date of enactment of this Act to cite directly to FOIA disclosure exemption provisions.

(Sec. 9) Revises annual agency reporting requirements on compliance with FOIA to require information on: (1) FOIA denials based upon particular statutes; (2) agency response times and; (3) compliance of each principal component of an agency and for the agency overall. Requires agencies to make the raw statistical data used in reports electronically available to the public upon request.

(Sec. 10) Redefines "record" under FOIA to include any information maintained by a contractor for a federal agency.

(Sec. 11) Establishes within the National Archives and Records Administration (NARA) an Office of Government Information Services to: (1) review compliance with FOIA policies; (2) recommend policy changes to Congress and the President; and (3) offer mediation services between FOIA requesters and administrative agencies as a non-exclusive alternative to litigation. Authorizes the Office to issue advisory opinions if mediation has not resolved the dispute.

Requires each agency to designate a Chief FOIA Officer, who shall: (1) have responsibility for compliance with the FOIA; (2) monitor FOIA implementation; (3) recommend to the head of the agency such adjustments to agency practices, policies, personnel, and funding as may be necessary to improve its implementation of the FOIA; and (4) facilitate public understanding of the purposes of the FOIA's statutory exemptions. Requires agencies to designate at least one FOIA Public Liaison who shall be appointed by the Chief FOIA Officer. Requires the liaison to: (1) serve as an official to whom a FOIA requester can raise concerns about the service the FOIA requester has received from the FOIA Requester Center; and (2) be responsible for assisting in reducing delays, increasing transparency and understanding of the status of requests, and assisting in the resolution of disputes.

(Sec. 12) Requires the Office of Personnel Management (OPM) to report to Congress on personnel policies related to FOIA.

Actions Timeline

- **Sep 4, 2007:** Received in the House.
- **Sep 4, 2007:** Held at the desk.
- **Aug 6, 2007:** Message on Senate action sent to the House.
- **Aug 3, 2007:** Measure laid before Senate by unanimous consent. (consideration: CR S10986-10991)
- **Aug 3, 2007:** Passed/agreed to in Senate: Passed Senate with amendments by Unanimous Consent.(text: CR 9/4/2007 S11071-11073)
- **Aug 3, 2007:** Passed Senate with amendments by Unanimous Consent. (text: CR 9/4/2007 S11071-11073)
- **Apr 30, 2007:** Committee on the Judiciary. Reported by Senator Leahy without amendment. With written report No. 110-59. Additional views filed.
- **Apr 30, 2007:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 127.
- **Apr 12, 2007:** Committee on the Judiciary. Ordered to be reported without amendment favorably.
- **Mar 14, 2007:** Committee on the Judiciary. Hearings held.
- **Mar 13, 2007:** Introduced in Senate
- **Mar 13, 2007:** Sponsor introductory remarks on measure. (CR S3066)
- **Mar 13, 2007:** Read twice and referred to the Committee on the Judiciary.