

(S. B. 63)
(Conference)

(No. 156-2025)

(Approved December 13, 2025)

AN ACT

To add a new Section 2.1, amend Sections 4, 5, 6, 7, 8, and 9, add a new Section 10 and renumber current Sections 10, 11, 12, 13, 14, and 15 as Sections 11, 12, 13, 14, 15, and 16 of Act No. 141-2019, as amended, known as the “Transparency and Expedited Procedure for Public Records Access Act,” to facilitate its implementation and ensure the Government of Puerto Rico’s compliance with the public policy set forth in said statute; fix penalties for noncompliance; and for other related purposes.

STATEMENT OF MOTIVES

Act No. 141-2019, as amended, known as the “Transparency and Expedited Procedure for Public Records Access Act,” provides the legal framework that allows citizens to request the Government of Puerto Rico to disclose public records. The main purpose of Act No. 141-2019 is to recognize citizens’ right to access public records and to adopt mechanisms that facilitate the exercise of this right. According to its Statement of Motives, Act No. 141-2019 is based on the Federal Freedom of Information Act (FOIA).

The right to access public records is a corollary to the constitutional principles of freedom of speech, of the press, and of association. *Ortiz v. Bauermeister*, 152 DPR 161 (2000). In the 1960s, the Freedom of Information Act (FOIA), 5 U.S.C. § 552, which applies to federal agencies, established a procedure whereby citizens may request public records under the custody of government entities. However, Puerto Rico did not have a similar statute that allowed citizens to access records that, though public in nature, were not available to the people through the Government of

Puerto Rico's official websites. Lawmakers addressed this issue by enacting the "Transparency and Expedited Procedure for Public Records Access Act," thus guaranteeing access to not publicly available records that remained inaccessible to citizens.

Although the purpose of Act No. 141-2019 included "[...] ensuring and facilitating the right of all the citizens of our island to inspect the content of records, reports, and documents generated in connection with the transaction of government business, and which are maintained by the State's agencies," *Ortiz v. Bauermeister*, *supra*, at p. 175, some of its provisions have generated confusion among the legal community, the members of the press, and the government entities that are required to comply with the provisions of Act No. 141-2019.

On the one hand, a large number of the requests submitted under Act No. 141, *supra*, concern information already available and accessible to the public through the official web portals of the appropriate government entities, or whose public availability is the responsibility of a particular office as prescribed by law. For example, the contracts of the Government of Puerto Rico are available to any interested party through the Office of the Comptroller's website, in accordance with the provisions of Act No. 18 of October 30, 1975, as amended, "Contract Registry Act," and Regulation No. 33 of the Office of the Comptroller, "Registry of Contracts of the Office of the Comptroller of the Commonwealth of Puerto Rico." Likewise, the laws and regulations are published in the Comprehensive Legislative Tracking System (SUTRA, Spanish acronym).

On the other hand, a significant number of the requests made under Act No. 141, *supra*, concern documents that do not exist or information that is in multiple files or locations. For such reason, the courts have ordered government entities to create or prepare documents containing a summary, compilation, and/or edited version of data and information to address the requester's request to receive the

information in a summarized form or in a specific format. This type of practice undermines the integrity of the information, thereby reducing its reliability.

Another common request is for requesters to seek access to documents that have not been digitized and are located in physical files compiled over decades. It has become a trend for requesters to insist that the government entity provide access to such public records in the format or form of their choosing, without taking into account the burden it imposes on the entity, even after said entity has prepared an area within its facilities to allow requesters to physically inspect and/or obtain the copies they deem pertinent. Thus, the affected government entities have been forced to litigate the appropriateness of preparing lists or creating new documents, even when access had already been provided in the least burdensome manner for the entity. The court rulings have been inconsistent and have deviated from the rulings in actions arising under the FOIA.

The government entities most affected by these requests tend to be those with limited resources, adjusted budgets, or reduced staff. Logically, litigating requests for documents that do not exist places a financial burden on these entities. Therefore, it is necessary to clarify certain legal provisions so that both the citizens and the Government of Puerto Rico may submit requests and make informed decisions knowing their rights and obligations.

The law does not require entities to create or prepare documents or records that do not exist at the time of the request. Access to public records should be understood as the right to access the document containing the requested information.

This legislation proposes amendments to facilitate the Government of Puerto Rico's compliance with Act No. 141-2019 and clarifies the process a citizen must follow to request public records. It also establishes the penalties a government entity may face for noncompliance with the provisions of Act No. 141-2019. Lastly, it

includes the use of accessible technological tools as an alternative to fulfill public record requests.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- A new Section 2.1 is hereby added to Act No. 141-2019, as amended, to read as follows:

“Section 2.1. - Definitions.

1) ‘Public Record’ means or refers to any public information, whose access is not prohibited by law, that is contained in an existing document prepared by, or under the custody of, the entities listed in Section 2 of this Act.

2) ‘Format’ means the manner in which an entity shall provide access to the requested public record. As a general rule, the requester shall be entitled to choose between receiving the public record in hard copy, PDF, or URL, or conducting a physical inspection. No entity shall be required to create or prepare a document that does not exist at the time the request for records is submitted.

3) ‘Denial of disclosure’ or ‘Denial of access’ means the act of preventing access to the public records requested under this Act or the denial of a request for public records that are not accessible to the general public without charge.”

Section 2.- Section 4 of Act No. 141-2019, as amended, is hereby amended to read as follows:

“Section 4. - Proactive Disclosure.

The Government of Puerto Rico shall facilitate the access to public records, and proactively disclose information about its operations, actions, and the results of its transactions on a regular basis through its official websites and other means of communications. Government entities are required to periodically and proactively disclose on their official websites updated information about their operations, the performance and control of their delegated functions, as well as all public records generated by the entity on a regular basis. Personnel files or any other similar records

shall not be deemed to be public. Public records that, at the time the request for access is submitted, are already published on official government websites and accessible without charge, shall not be subject to the request for records process provided in Sections 5, 6, 7, and 8 of this Act.

...”

Section 3.- Section 5 of Act No. 141-2019, as amended, is hereby amended to read as follows:

“Section 5.- Public Records Officers.

...

...

Public Records Officers shall be required to receive and process public records requests, as well as facilitate the access to documents within the period prescribed in this Act. Public Records Officers shall maintain a log of the public records requests in the order they are received and shall assign a number thereto. This number shall serve as a reference in any transaction or review process in connection with the requests. Likewise, the Officers shall provide citizens who wish to submit a public records request with the necessary assistance.

...

Public Records Officers shall submit monthly reports on the number of requests received, the type of information requested, and the status of the request. These monthly reports shall be made available to the public on the website of each government entity.”

Section 4.- Section 6 of Act No. 141-2019, as amended, is hereby amended to read as follows:

“Section 6. - Requests.

Any person may submit a public records request in writing or electronically, without the need to show proof of a private or legal interest. The request for public

records shall be submitted to the Head or Director of the agency or government entity, the Presiding Officer of the appropriate Legislative House and/or the Chief Justice of the Judicial Branch, with a copy to the Public Records Officer. Public records requests that are not submitted as provided above shall be deemed to be improper, and the period for disclosure shall not be tolled. The Public Records Officer shall be responsible for sending written notice to the requester of public records or information acknowledging receipt of the request and providing the identification number assigned thereto by email, fax, or regular mail.

The public records request shall include, at least, one mailing address and one email address for notification purposes and a description of the requested records. If the requested document or the record containing the requested information is available in the requested format, the government entity shall provide access thereto in such format, except for good cause.”

Section 5.- Section 7 of Act No. 141-2019, as amended, is hereby amended to read as follows:

“Section 7.- Time to Produce or Make Available the Public Record.

If the requested information is contained in a document or record that does not exceed three hundred (300) pages or its equivalent, or that is less than three (3) years old, counted from the date on which it was originally produced, subject to the provisions of this Act, the Public Records Officers of the government entity shall produce the public records for inspection, reproduction, or both, upon request of any requester, as soon as practicable, but no later than (20) business days. If the requested information is contained in a document or record that exceeds three hundred (300) pages or its equivalent, or is older than three (3) years, counted from the date on which it was originally produced, Public Records Officers shall produce the public records for inspection, reproduction, or both, in accordance with the provisions of this Act as soon as practicable, but no later than (30) business days. In the case of

the Executive Branch, the central Office of the government agency or entity shall comply with the aforementioned period. However, if the request is submitted directly to a regional Office of a government agency or entity, the information shall be produced within a period not to exceed thirty (30) business days. In such cases, the regional Public Records Officer shall promptly acknowledge receipt of the request to the central office by email, within a period not to exceed forty-eight (48) hours, and make a determination with respect to the request, as appropriate. The period to produce the information shall commence on the date on which the requester submitted the public records request to the government entity, as shown in the email, postal service postmark, or fax transmission receipt, pursuant to Section 6. If the government entity does not respond within the prescribed period, the request shall be deemed to have been denied, and the requester may resort to Court. The time limit may be extended once for an additional twenty (20) business days, if the Public Records Officer gives the requester written notice of the time extension within the prescribed initial period stating the reason why an extension to produce the requested record or documents is needed.

All decisions denying a public records request shall specify, in writing, the legal basis for the denial or refusal to produce the records within the prescribed period. No public records that have been expressly classified as confidential by law, regulation, or judicial determination prior to the record request shall be disclosed.

Public Records Officers act in accordance with the provisions of this Act when they:

- a) Make the records available to the requester at the facilities of the government entities for inspection and reproduction.
- b) Send the records to the requester by email.
- c) Send a copy of the records by First Class mail; provided, that the requester is willing to pay the postage and related costs.

d) Provide the requester with a URL and the instructions on how to retrieve the requested information.

e) Allow the requester to inspect the documents or records containing the requested information.

If the information is not available, the Public Records Officers shall be deemed to comply with the provisions of this Act if they provide the requester with access thereto in the manner prescribed herein.”

Section 6.- Section 8 of Act No. 141-2019, as amended, is hereby amended to read as follows:

“Section 8.- Collection of Charges.

...

The entity shall expressly notify the requester that the requested public record is not available in the requested format. Furthermore, the entity shall be required to notify requesters of the formats in which the record is readily available. No entity may be required to produce or create a document that does not exist at the time the request is submitted. If the production of the public record places an undue burden on the government entity, it shall disclose the public record in the available or least expensive format. The government entity shall establish the method to confirm the delivery of the requested public record.”

Section 7.- Section 9 of Act No. 141-2019, as amended, is hereby amended to read as follows:

“Section 9.- Special Petition for Judicial Review Before the Court of First Instance.

Any person to whom a government entity has notified its decision not to deliver the record requested or has failed to deliver such record within the established period or an extension thereof, shall be entitled to file, pro se or by counsel, a Special

Petition for Public Records Disclosure Order before the Court of First Instance of San Juan Part.

The Judicial Branch shall create and have available to the public a simple fillable form in order to file such petition. The filing of such petition shall not require the cancellation of stamps or the payment of fees. Likewise, except under duly supported special circumstances, citizens shall not be required to hire an attorney to be able to file the petition nor shall they be prevented from filing such petition pro se. The Supreme Court is hereby recommended to establish a process to randomly select the judges who shall hear these cases.

The Court itself shall give notice of the petition to the government entity free of charge. To that effect, the Clerk of the Court of First Instance with which the petition was filed shall give notice to the government entity that notified the petitioner of its decision not to produce the requested records, or that failed to deliver the records within the prescribed period, for the entity to appear in writing, apprising the government entity that failure to do so shall entail the acceptance of the allegations made in the complaint and, thus, the relief sought shall be then granted in accordance with this Act without being further summoned or afforded an opportunity to be heard.

The petition in question shall be filed within a non-extendable period of thirty (30) days counted from the date on which the entity notified its determination not to deliver the requested records or the date on which the period prescribed therefor elapsed if no response was given.

A government entity that is notified of a petition filed under this Act shall be required to appear in writing within ten (10) business days from the date notice was given to such effect by the Clerk of the Court of First Instance. For the purposes of the aforementioned time limit, the days on which the government entity operates

partially or is in an administrative recess decreed by an executive or administrative order shall not be considered business days.

The Court shall hold a hearing within three (3) business days of the receipt of the answer of the government entity, if it believes that the particular circumstances of the case and the requested records so warrant.

The Court shall resolve the controversy by written judgment stating the legal basis for affirming or denying the public records request within ten (10) days counted from the date on which the government entity filed its answer with the court or from the date of the hearing if such hearing was held. The final judgment disposing of the issue in controversy may be reviewed on appeal by the Court of Appeals.”

Section 8.- A new Section 10 is hereby added, and current Sections 10, 11, 12, 13, 14, and 15 are hereby renumbered as Sections 11, 12, 13, 14, 15, and 16 of Act No. 141-2019, as amended, to read as follows:

“Section 10.- Penalty.

If an agency or government entity to which this Act applies fails to comply with a Judgment entered by the Court pursuant to the provisions of Section 9, it may be punished by a fine of up to one hundred (100) dollars per day. The total fine shall not exceed eighteen thousand (18,000) dollars.

Section 11.- ...

Section 12.- ...

Section 13.- ...

Section 14.- ...

Section 15.- ...

Section 16.- ...

Section 9.- Effectiveness.

This Act shall take effect upon its approval. The amendments to Section 10 shall apply retroactively to any penalty imposed that has not been satisfied by the effective date of this Act.