

SENATE BILL 362

P3, E4

7lr1415
CF 7lr1414

By: **Senator Conway**

Introduced and read first time: January 25, 2017

Assigned to: Judicial Proceedings and Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Public Information Act – Records Relating to Alleged Job-Related Misconduct**
3 **by Law Enforcement Officers**

4 FOR the purpose of providing that a certain record relating to alleged job-related
5 misconduct by a law enforcement officer is not a personnel record for purposes of the
6 Public Information Act; authorizing a custodian to deny inspection of certain records
7 relating to alleged job-related misconduct by a law enforcement officer, subject to
8 certain conditions; defining a certain term; altering a certain definition; and
9 generally relating to the Public Information Act and records relating to alleged
10 job-related misconduct by law enforcement officers.

11 BY repealing and reenacting, with amendments,
12 Article – General Provisions
13 Section 4–101, 4–311, and 4–351
14 Annotated Code of Maryland
15 (2014 Volume and 2016 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
17 That the Laws of Maryland read as follows:

18 **Article – General Provisions**

19 4–101.

20 (a) In this title the following words have the meanings indicated.

21 (b) “Applicant” means a person or governmental unit that asks to inspect a public
22 record.

23 (c) “Board” means the State Public Information Act Compliance Board.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(d) “Custodian” means:

(1) the official custodian; or

(2) any other authorized individual who has physical custody and control of a public record.

(E) (1) “LAW ENFORCEMENT OFFICER” HAS THE MEANING STATED IN § 3–101 OF THE PUBLIC SAFETY ARTICLE.

(2) “LAW ENFORCEMENT OFFICER” INCLUDES:

(I) AN OFFICER WHO SERVES IN A PROBATIONARY STATUS; AND

(II) AN OFFICER WHO SERVES AT THE PLEASURE OF THE APPOINTING AUTHORITY OF A COUNTY OR MUNICIPAL CORPORATION.

[(e)] (F) “News media” means:

(1) newspapers;

(2) magazines;

(3) journals;

(4) press associations;

(5) news agencies;

(6) wire services;

(7) radio;

(8) television; and

(9) any printed, photographic, mechanical, or electronic means of disseminating news and information to the public.

[(f)] (G) “Official custodian” means an officer or employee of the State or of a political subdivision who is responsible for keeping a public record, whether or not the officer or employee has physical custody and control of the public record.

[(g)] (H) “Person in interest” means:

(1) a person or governmental unit that is the subject of a public record or a designee of the person or governmental unit;

(2) if the person has a legal disability, the parent or legal representative of the person; [or]

(3) as to requests for correction of certificates of death under § 5–310(d)(2) of the Health – General Article, the spouse, adult child, parent, adult sibling, grandparent, or guardian of the person of the deceased at the time of the deceased’s death; **OR**

(4) AS TO REQUESTS FOR RECORDS OF AN INVESTIGATION OR ADJUDICATION OF ALLEGED JOB–RELATED MISCONDUCT BY A LAW ENFORCEMENT OFFICER, INCLUDING RECORDS OF ANY DISCIPLINE IMPOSED, THE LAW ENFORCEMENT OFFICER OR THE INDIVIDUAL WHO MADE THE ALLEGATION.

[(h)] (I) (1) “Personal information” means information that identifies an individual.

(2) Except as provided in § 4–355 of this title, “personal information” includes an individual’s:

- (i) name;
- (ii) address;
- (iii) driver’s license number or any other identification number;
- (iv) medical or disability information;
- (v) photograph or computer–generated image;
- (vi) Social Security number; and
- (vii) telephone number.

(3) “Personal information” does not include an individual’s:

- (i) driver’s status;
- (ii) driving offenses;
- (iii) five–digit zip code; or
- (iv) information on vehicular accidents.

[(i)] (J) “Political subdivision” means:

- (1) a county;

(2) a municipal corporation;

(3) an unincorporated town;

(4) a school district; or

(5) a special district.

[j)] (K) (1) “Public record” means the original or any copy of any documentary material that:

(i) is made by a unit or an instrumentality of the State or of a political subdivision or received by the unit or instrumentality in connection with the transaction of public business; and

(ii) is in any form, including:

1. a card;
2. a computerized record;
3. correspondence;
4. a drawing;
5. film or microfilm;
6. a form;
7. a map;
8. a photograph or photostat;
9. a recording; or
10. a tape.

(2) “Public record” includes a document that lists the salary of an employee of a unit or an instrumentality of the State or of a political subdivision.

(3) “Public record” does not include a digital photographic image or signature of an individual, or the actual stored data of the image or signature, recorded by the Motor Vehicle Administration.

1 **(A) FOR PURPOSES OF THIS SECTION, A RECORD OF AN INVESTIGATION OR**
2 **ADJUDICATION OF ALLEGED JOB-RELATED MISCONDUCT BY A LAW ENFORCEMENT**
3 **OFFICER, INCLUDING A RECORD OF ANY DISCIPLINE IMPOSED, IS NOT A PERSONNEL**
4 **RECORD.**

5 **[(a)] (B)** Subject to subsection **[(b)] (C)** of this section, a custodian shall deny
6 inspection of a personnel record of an individual, including an application, a performance
7 rating, or scholastic achievement information.

8 **[(b)] (C)** A custodian shall allow inspection by:

9 (1) the person in interest; or

10 (2) an elected or appointed official who supervises the work of the
11 individual.

12 4-351.

13 (a) Subject to subsection (b) of this section, a custodian may deny inspection of:

14 (1) records of investigations conducted by the Attorney General, a State's
15 Attorney, a municipal or county attorney, a police department, or a sheriff;

16 (2) an investigatory file compiled for any other law enforcement, judicial,
17 correctional, or prosecution purpose; **[or]**

18 (3) records that contain intelligence information or security procedures of
19 the Attorney General, a State's Attorney, a municipal or county attorney, a police
20 department, a State or local correctional facility, or a sheriff; **OR**

21 **(4) RECORDS OF AN INVESTIGATION OR ADJUDICATION OF ALLEGED**
22 **JOB-RELATED MISCONDUCT BY A LAW ENFORCEMENT OFFICER, INCLUDING**
23 **RECORDS OF ANY DISCIPLINE IMPOSED.**

24 (b) A custodian may deny inspection by a person in interest only to the extent
25 that the inspection would:

26 (1) interfere with a valid and proper law enforcement proceeding;

27 (2) deprive another person of a right to a fair trial or an impartial
28 adjudication;

29 (3) constitute an unwarranted invasion of personal privacy;

30 (4) disclose the identity of a confidential source;

1 (5) disclose an investigative technique or procedure;

2 (6) prejudice an investigation; or

3 (7) endanger the life or physical safety of an individual.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2017.