

SENATE BILL 456

E2

1lr1012
CF HB 502

By: **Senator Sydnor**

Introduced and read first time: January 20, 2021

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Office of the State's Attorney – Collection and Publication of Prosecutorial**
3 **Information**

4 FOR the purpose of requiring each Office of the State's Attorney in each county and
5 Baltimore City to collect and disclose certain information to the Governor's Office of
6 Crime Prevention, Youth, and Victim Services; requiring the State's Attorneys to
7 record and maintain certain information collected for a certain period of time;
8 requiring each State's Attorney to collect and publish certain information on the
9 website for each office; requiring the State's Attorneys to affirmatively disclose a
10 certain fact if certain policies are not maintained; requiring the State's Attorneys to
11 redact or replace with an anonymizing identifier certain information; requiring the
12 State's Attorneys to begin making certain information available on or before a
13 certain date; requiring the State's Attorneys to publish certain information on a
14 certain website; requiring the State's Attorneys to provide certain information to
15 certain persons; requiring the Office to determine the manner in which the State's
16 Attorneys disclose certain information; requiring the Office to determine a schedule
17 and plan in which the State's Attorneys will report certain information on or before
18 a certain date; authorizing the Office to implement a certain schedule and plan in a
19 certain manner; requiring each State's Attorney to begin disclosing certain data to
20 the Office on or before a certain date; requiring the State's Attorney to complete the
21 transmission of certain data on or before a certain date; requiring the Office to begin
22 publishing online certain information in a certain manner on or before a certain date
23 each year; prohibiting certain data published online from containing certain
24 individualized or personal information; requiring the Office to issue reports on
25 certain data in a certain manner; authorizing, under certain circumstances, the
26 State's Attorneys to satisfy a request for information under the Maryland Public
27 Information Act (MPIA) by referring the requestor to a certain website; authorizing
28 a certain requestor of information under the MPIA to seek judicial review under
29 certain circumstances; making the provisions of this Act severable; defining certain
30 terms; and generally relating to the Office of the State's Attorney and the collection

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



and publication of information.

BY adding to

Article – Criminal Procedure

Section 15–501 through 15–506 to be under the new subtitle “Subtitle 5. State’s
Attorney’s Data Collection”

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)

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

Article – Criminal Procedure

SUBTITLE 5. STATE’S ATTORNEY’S DATA COLLECTION.

15–501.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
INDICATED.

(B) “CASE NUMBER” MEANS THE UNIQUE NUMBER ASSIGNED TO A
CRIMINAL CASE ASSOCIATED WITH A PARTICULAR CRIMINAL CHARGE.

(C) “CHARGE” MEANS AN ACCUSATION OF A CRIME BY A STATE’S ATTORNEY
INITIATED BY A TICKET, A COMPLAINT, OR ANY OTHER CHARGING DOCUMENT.

(D) “CHARGE DESCRIPTION” MEANS:

(1) THE NAME OF THE CHARGE AS PROVIDED BY LAW;

(2) A STATEMENT OF THE CONDUCT THAT IS ALLEGED TO HAVE BEEN
VIOLATED;

(3) THE ASSOCIATED STATUTORY SECTION ESTABLISHING THE
ALLEGED CONDUCT AS CRIMINAL; AND

(4) THE CLASSIFICATION OF THE CRIME.

(E) “CHARGE IDENTIFICATION” MEANS THE UNIQUE IDENTIFICATION
NUMBER ASSIGNED TO THE CHARGE.

(F) “CHARGE MODIFIER” MEANS AN AGGRAVATING OR MITIGATING
CIRCUMSTANCE OF AN ALLEGED CHARGE THAT ENHANCES, REDUCES, OR

1 RECLASSIFIES THE ALLEGED CHARGE TO A DIFFERENT CLASSIFICATION GRADE OR
2 LEVEL.

3 (G) "DISPOSITION" MEANS THE CONCLUSION OF THE PROSECUTION OF A
4 CHARGE, INCLUDING:

5 (1) NOLLE PROSEQUI;

6 (2) DIVERSION;

7 (3) DISMISSAL;

8 (4) DISMISSAL AS PART OF A PLEA BARGAIN;

9 (5) CONVICTION AS PART OF A PLEA BARGAIN;

10 (6) CONVICTION AT TRIAL; AND

11 (7) ACQUITTAL.

12 (H) "INITIATION" MEANS THE CREATION OR INSTITUTION OF A CHARGE
13 AGAINST A CRIMINAL DEFENDANT, WHETHER BY POLICE, PROSECUTORS, GRAND
14 JURY, OR OTHER ENTITY.

15 (I) "OFFICE" MEANS THE GOVERNOR'S OFFICE OF CRIME PREVENTION,
16 YOUTH, AND VICTIM SERVICES.

17 (J) (1) "POLICY" MEANS FORMAL OR INFORMAL GUIDANCE FOR
18 EMPLOYEES OF A STATE'S ATTORNEY, WHETHER OR NOT IN WRITING.

19 (2) "POLICY" INCLUDES:

20 (I) A PROCEDURE;

21 (II) A GUIDELINE;

22 (III) A MANUAL;

23 (IV) A TRAINING MATERIAL;

24 (V) A DIRECTION;

25 (VI) AN INSTRUCTION; OR

(VII) ANY OTHER PIECE OF INFORMATION.

(K) "STATE'S ATTORNEY" MEANS THE OFFICE OF THE STATE'S ATTORNEY IN EACH COUNTY IN THE STATE AND BALTIMORE CITY.

(L) "UNIQUE IDENTIFIER" MEANS A RANDOMLY GENERATED NUMBER THAT IS ASSIGNED IN PLACE OF A DEFENDANT'S NAME.

15-502.

(A) EXCEPT AS PROVIDED IN THIS SECTION AND IN ACCORDANCE WITH LOCAL AND STATE LAW, EACH STATE'S ATTORNEY SHALL COLLECT AND DISCLOSE, IN ACCORDANCE WITH § 15-505 OF THIS SUBTITLE, FOR EACH CASE PROSECUTED:

(1) THE CASE NUMBER;

(2) THE INDICTMENT NUMBER;

(3) THE DOCKET NUMBER;

(4) THE UNIQUE IDENTIFIER;

(5) THE DEFENDANT'S:

(I) RACE;

(II) GENDER;

(III) DISABILITY STATUS, IF ANY; AND

(IV) THE SOURCE OF THE DISABILITY STATUS, IF ANY;

(6) THE INCIDENT DATE;

(7) THE ARREST DATE;

(8) THE DISTRICT OR NEIGHBORHOOD OF ARREST;

(9) THE PRIMARY ARRESTING AGENCY;

(10) OTHER AGENCIES INVOLVED IN THE ARREST, IF ANY;

1 (11) THE CHARGES LISTED ON THE ARRESTING AGENCY'S
2 PAPERWORK;

3 (12) IF APPLICABLE, THE REASON THE STATE'S ATTORNEY DECLINED
4 TO PROSECUTE THE ARREST;

5 (13) THE CHARGES BROUGHT BY THE STATE'S ATTORNEY;

6 (14) THE PROSECUTOR WHO BROUGHT THE CHARGE;

7 (15) WHETHER THE DEFENDANT WAS DETERMINED ELIGIBLE FOR
8 COURT-APPOINTED COUNSEL, AND THE PROCEEDING WHERE THE DETERMINATION
9 WAS MADE;

10 (16) THE ARRAIGNMENT DATE;

11 (17) THE CHARGE MODIFICATION DATE;

12 (18) WHETHER DIVERSION WAS OFFERED AND, IF SO:

13 (I) THE DATE DIVERSION WAS OFFERED;

14 (II) IF STATED ON THE RECORD, THE JUDICIAL POSITION ON
15 DIVERSION; AND

16 (III) THE DIVERSION TERMS, INCLUDING HOW MUCH THE
17 DEFENDANT MUST PAY;

18 (19) WHETHER THE CHARGE CARRIES A MANDATORY MINIMUM
19 SENTENCE;

20 (20) THE PROSECUTOR'S RECOMMENDATION ON BAIL OR BOND,
21 INCLUDING RELEASE CONDITIONS;

22 (21) WHETHER BAIL OR BOND WAS IMPOSED ON THE DEFENDANT;

23 (22) WHETHER BOND WAS SECURED, UNSECURED, OR OTHER TYPE;

24 (23) THE DATE BAIL OR BOND WAS IMPOSED;

25 (24) IF ORDERED, RELEASE CONDITIONS;

26 (25) THE DATE RANGE OF ANY PRETRIAL DETENTION;

(26) INFORMATION ON WHETHER A RISK ASSESSMENT OR OTHER ALGORITHM-BASED OR QUANTITATIVE TOOL WAS USED IN DETERMINING WHETHER PRETRIAL DETENTION WAS ORDERED OR THE AMOUNT OF BAIL OR BOND AND, IF USED:

(I) THE NAME OF THE OFFICE OR AGENCY THAT CONDUCTED THE RISK ASSESSMENT; AND

(II) THE NAME OF ANY OFFICE, AGENCY, INDIVIDUAL, OR ATTORNEY THAT RECEIVED THE RISK ASSESSMENT RESULTS;

(27) INFORMATION ON WHETHER A STATUTORY OR CONSTITUTIONAL RIGHT OF THE DEFENDANT WAS WAIVED, EITHER BY STIPULATION OR ON THE RECORD, INCLUDING:

(I) THE DATE OF THE WAIVER;

(II) THE RIGHT WAIVED; AND

(III) WHETHER THE RIGHT WAS WAIVED AS A CONDITION OF A PLEA BARGAIN;

(28) WHETHER A PLEA WAS OFFERED;

(29) WHETHER A TIME LIMIT WAS PROVIDED WITH A PLEA OFFER;

(30) ALL TERMS OF ALL PLEAS OFFERED, INCLUDING:

(I) THE CHARGES DISMISSED;

(II) THE SENTENCE RANGES FOR THE CHARGES DISMISSED;

(III) THE CHARGES IN THE PLEA;

(IV) THE SENTENCE RANGES FOR THE CHARGES IN THE PLEA;

(V) ANY CHARGES COVERED BY THE PLEA BUT NOT PART OF THE CONVICTION; AND

(VI) THE PENALTIES OR SENTENCE OFFERED FOR TAKING THE PLEA;

1 **(31) WHETHER THE PLEA WAS ACCEPTED OR REJECTED;**

2 **(32) WHETHER DISCOVERY WAS OFFERED TO THE DEFENDANT BEFORE**
3 **THE PLEA;**

4 **(33) THE DATE DISCOVERY WAS DISCLOSED TO THE DEFENSE OR**
5 **DEFENDANT;**

6 **(34) THE PRESIDING JUDGE AT THE PRETRIAL STAGE;**

7 **(35) THE DISPOSITION, INCLUDING:**

8 **(I) THE CASE OR CHARGES DISMISSED BY THE STATE'S**
9 **ATTORNEY, IF ANY;**

10 **(II) IF DISMISSED, THE REASON FOR DISMISSAL;**

11 **(III) IF CONVICTED, WHETHER BY PLEA, JURY TRIAL, OR BENCH**
12 **TRIAL; AND**

13 **(IV) IF THE CASE WAS DISMISSED BY A JUDGE, THE REASON FOR**
14 **DISMISSAL;**

15 **(36) THE PRESIDING JUDGE AT THE DISPOSITION;**

16 **(37) THE DISPOSITION DATE;**

17 **(38) THE SENTENCE TYPE;**

18 **(39) THE SENTENCE LENGTH;**

19 **(40) THE PRESIDING JUDGE AT SENTENCING;**

20 **(41) SUPERVISION TERMS;**

21 **(42) SERVICES REQUIRED OR PROVIDED, IF ANY;**

22 **(43) FINES, FEES, OR SURCHARGES REQUIRED, IF ANY; AND**

23 **(44) FORFEITURE OF PROPERTY REQUIRED, IF ANY.**

24 **(B) EACH STATE'S ATTORNEY SHALL RECORD AND MAINTAIN THE**
25 **INFORMATION COLLECTED IN ACCORDANCE WITH THIS SECTION FOR AT LEAST 10**

1 YEARS.

2 15-503.

3 (A) EACH STATE'S ATTORNEY SHALL COLLECT AND PUBLISH ON THE
4 WEBSITE FOR EACH OFFICE IN ACCORDANCE WITH § 15-504 OF THIS SUBTITLE:

5 (1) ALL OFFICE POLICIES RELATED TO:

6 (I) CHARGING AND CHARGE DISMISSAL;

7 (II) BAIL;

8 (III) SENTENCING;

9 (IV) PLEA BARGAINS;

10 (V) GRAND JURY PRACTICES;

11 (VI) DISCOVERY PRACTICES;

12 (VII) WITNESS TREATMENT, INCLUDING WHEN AND HOW TO
13 PROCURE A MATERIAL WITNESS WARRANT;

14 (VIII) HOW A DECISION IS MADE TO PROSECUTE A MINOR AS AN
15 ADULT;

16 (IX) HOW FINES AND FEES ARE ASSESSED;

17 (X) CRIMINAL AND CIVIL FORFEITURE PRACTICES;

18 (XI) MENTAL HEALTH SCREENING AND COLLECTION OF MENTAL
19 HEALTH HISTORY;

20 (XII) SUBSTANCE ABUSE SCREENING AND COLLECTION OF
21 SUBSTANCE ABUSE HISTORY;

22 (XIII) DOMESTIC VIOLENCE SURVIVORS;

23 (XIV) DIVERSION PRACTICES AND POLICIES;

24 (XV) HUMAN RESOURCES, INCLUDING:

1 1. HIRING;

2 2. EVALUATING;

3 3. PROMOTING; AND

4 4. ROTATION AMONG DIVISIONS OR UNITS;

5 (XVI) INTERNAL DISCIPLINE POLICIES AND PROCEDURES;

6 (XVII) VICTIM SERVICES;

7 (XVIII) RESTORATIVE JUSTICE PROGRAMS;

8 (XIX) A LISTING OF OFFICE TRAININGS IN THE IMMEDIATE
9 PRECEDING CALENDAR YEAR;

10 (XX) PRACTICES INVOLVING TRACKING AND RESPONDING TO AN
11 INMATE APPLICATION FOR PAROLE AND RESENTENCING; AND

12 (XXI) POLICIES SPECIFIC TO VULNERABLE POPULATIONS;

13 (2) FOR EACH ATTORNEY EMPLOYED:

14 (I) AGE;

15 (II) GENDER;

16 (III) RACE;

17 (IV) DATE HIRED;

18 (V) TITLE; AND

19 (VI) DISCIPLINARY HISTORY; AND

20 (3) THE NUMBER OF:

21 (I) ATTORNEYS ON STAFF;

22 (II) CASES HANDLED EACH YEAR FOR EACH ATTORNEY;

23 (III) ATTORNEYS WHO WORKED IN THE OFFICE IN A TEMPORARY

OR CONTRACTUAL CAPACITY DURING THE IMMEDIATE PRECEDING CALENDAR YEAR;

(IV) PARALEGALS AND ADMINISTRATIVE STAFF EMPLOYED BY THE OFFICE;

(V) INVESTIGATORS UTILIZED DURING THE IMMEDIATE PRECEDING CALENDAR YEAR;

(VI) EXPERTS UTILIZED DURING THE IMMEDIATE PRECEDING CALENDAR YEAR WHETHER ON STAFF OR OTHERWISE EMPLOYED; AND

(VII) POLICE OR DETECTIVES WHO WORK DIRECTLY FOR THE OFFICE.

(B) IF A STATE'S ATTORNEY DOES NOT MAINTAIN A POLICY RELATED TO THE TOPICS DESCRIBED IN ITEM (A)(1) OF THIS SECTION, THE STATE'S ATTORNEY SHALL AFFIRMATIVELY DISCLOSE THAT FACT.

(C) THE STATE'S ATTORNEY SHALL REDACT OR REPLACE WITH AN ANONYMIZING IDENTIFIER THE NAMES AND OTHER PERSONALLY IDENTIFYING INFORMATION COLLECTED AND PUBLISHED IN ACCORDANCE WITH ITEM (A)(2) OF THIS SECTION.

15-504.

(A) BEGINNING APRIL 1, 2022, EACH STATE'S ATTORNEY SHALL BEGIN MAKING PUBLICLY AVAILABLE ALL OF THE INFORMATION DESCRIBED IN § 15-503 OF THIS SUBTITLE BY:

(1) PUBLISHING THE INFORMATION ON THE STATE'S ATTORNEY'S WEBSITE; AND

(2) PROVIDING THE INFORMATION TO ANY PERSON WHO REQUESTS THE INFORMATION DIRECTLY FROM THE STATE'S ATTORNEY.

(B) THE STATE'S ATTORNEY SHALL INCLUDE IN THE INFORMATION COLLECTED UNDER § 15-503 OF THIS SUBTITLE:

(1) THE EFFECTIVE DATE OF THE POLICY; OR

(2) THE DATE THE INFORMATION WAS GATHERED.

(C) EACH STATE'S ATTORNEY SHALL PUBLISH REVISED, UPDATED, OR NEWLY DRAFTED POLICIES OR NEWLY COLLECTED INFORMATION ON A TIMELY BASIS AT LEAST ONCE EACH YEAR.

15-505.

(A) THE OFFICE SHALL:

(1) DETERMINE THE MANNER IN WHICH THE STATE'S ATTORNEY DISCLOSES TO THE OFFICE THE INFORMATION COLLECTED UNDER § 15-502 OF THIS SUBTITLE;

(2) ENSURE THE DISCLOSURE OF INFORMATION UNDER THIS SUBTITLE IS PERFORMED IN A UNIFORM AND CONSISTENT MANNER;

(3) (I) DETERMINE AN IMPLEMENTATION SCHEDULE AND PLAN BY WHICH THE STATE'S ATTORNEY SHALL DISCLOSE ALL INFORMATION COLLECTED UNDER § 15-502 OF THIS SUBTITLE ON OR BEFORE OCTOBER 1, 2024.

(II) AT THE SOLE DISCRETION OF THE OFFICE, THE IMPLEMENTATION SCHEDULE AND PLAN DESCRIBED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY INCLUDE:

1. IMPLEMENTATION ON A ROLLING BASIS THAT STARTS BY PRIORITIZING A SUBSET OF THE DATA COLLECTED UNDER § 15-502 OF THIS SUBTITLE; OR

2. PRIORITIZE DISCLOSURE FROM LARGER STATE'S ATTORNEY OFFICES.

(B) (1) ON OR BEFORE OCTOBER 1, 2022, AND IN ACCORDANCE WITH THE IMPLEMENTATION SCHEDULE AND PLAN DESCRIBED IN THIS SECTION, EACH STATE'S ATTORNEY SHALL BEGIN DISCLOSING DATA, STRIPPED OF ANY INDIVIDUALIZED OR IDENTIFYING PERSONAL INFORMATION ABOUT ANY PERSON ARRESTED OR PROSECUTED, TO THE OFFICE FOR THE IMMEDIATELY PRECEDING CALENDAR YEAR.

(2) ON OR BEFORE JANUARY 31, 2023, THE STATE'S ATTORNEY SHALL COMPLETE THE REQUIRED DISCLOSURE OF DATA UNDER THIS SUBSECTION.

(C) (1) ON OR BEFORE MAY 1, 2023, AND EACH YEAR THEREAFTER, THE OFFICE SHALL BEGIN PUBLISHING ONLINE THE DATA COLLECTED UNDER § 15-502 OF THIS SUBTITLE IN A MODERN, OPEN, ELECTRONIC FORMAT THAT IS

1 MACHINE-READABLE, MACHINE-SEARCHABLE, AND READILY ACCESSIBLE TO THE
2 PUBLIC ON THE OFFICE'S WEBSITE.

3 (2) DATA PUBLISHED IN ACCORDANCE WITH THIS SUBSECTION MAY
4 NOT CONTAIN INDIVIDUALIZED OR IDENTIFYING PERSONAL INFORMATION ABOUT
5 ANY PERSON ARRESTED OR PROSECUTED.

6 (E) ON OR BEFORE SEPTEMBER 1, 2023, THE OFFICE SHALL:

7 (1) REPORT ON THE DATA RECEIVED FROM THE STATE'S ATTORNEYS,
8 COMPARING AND CONTRASTING THE PRACTICES AND TRENDS AMONG AND
9 BETWEEN THE STATE'S ATTORNEYS; AND

10 (2) IDENTIFYING STATE'S ATTORNEYS NOT IN COMPLIANCE WITH
11 THIS SUBTITLE.

12 (F) (1) THE OFFICE SHALL, AT LEAST TWICE PER YEAR, PUBLISH
13 ISSUE-SPECIFIC REPORTS THAT PROVIDE IN-DEPTH ANALYSIS OF ONE OR MORE
14 AREAS OF PROSECUTORIAL DECISION-MAKING.

15 (2) AT LEAST ONE REPORT UNDER THIS SUBSECTION SHALL FOCUS
16 ON RACIAL DISPARITIES.

17 15-506.

18 (A) (1) THE STATE'S ATTORNEY MAY SATISFY A REQUEST FOR
19 INFORMATION IN ACCORDANCE WITH THE MARYLAND PUBLIC INFORMATION ACT
20 BY REFERRING THE REQUESTING PARTY TO THE OFFICE WEBSITE CONTAINING THE
21 DATA IF THE STATE'S ATTORNEY:

22 (I) IS IN COMPLIANCE WITH THIS SUBTITLE; AND

23 (II) IN GOOD FAITH, REASONABLY BELIEVES THAT THE
24 REQUEST FOR INFORMATION CAN BE SATISFIED BY REFERENCE TO THE DATA MADE
25 PUBLICLY AVAILABLE UNDER THIS SUBTITLE.

26 (2) IF AN INFORMATION REQUEST IS ABLE TO BE SATISFIED IN
27 ACCORDANCE WITH THIS SUBSECTION, THE STATE'S ATTORNEY MAY FULFILL THE
28 REQUEST WITHOUT AFFIRMATIVELY COLLECTING OR DISCLOSING THE PARTICULAR
29 INFORMATION BEING REQUESTED.

30 (B) THE REQUESTING PARTY MAY SEEK JUDICIAL REVIEW IN ACCORDANCE
31 WITH § 4-362 OF THE GENERAL PROVISIONS ARTICLE FOR PURPOSES OF

1 **COMPELLING DISCLOSURE IF:**

2 **(1) THE REQUESTING PARTY DOES NOT BELIEVE THAT THE REQUEST**
3 **CAN BE SATISFIED UNDER THIS SECTION; AND**

4 **(2) THE STATE’S ATTORNEY REFUSES TO DISCLOSE THE**
5 **INFORMATION BEING REQUESTED.**

6 SECTION 2. AND BE IT FURTHER ENACTED, That, if any provision of this Act or
7 the application thereof to any person or circumstance is held invalid for any reason in a
8 court of competent jurisdiction, the invalidity does not affect other provisions or any other
9 application of this Act that can be given effect without the invalid provision or application,
10 and for this purpose the provisions of this Act are declared severable.

11 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2021.