

HOUSE BILL 671

E4

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By: **The Speaker**

Introduced and read first time: January 26, 2021

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Public Information Act – Personnel and Investigatory Records – Complaints**
3 **Against Police Officers**

4 FOR the purpose of requiring a custodian to allow inspection of certain records by the
5 United States Attorney, the Attorney General, the State Prosecutor, or a State's
6 Attorney; establishing that a record relating to a formal complaint of job-related
7 misconduct made against a police officer is not a personnel record under certain
8 provisions of the Public Information Act under certain circumstances; authorizing a
9 custodian to deny inspection of certain records involving a certain complaint of
10 job-related misconduct made against a police officer only under certain
11 circumstances; requiring a custodian to provide a certain person with a certain
12 statement under certain circumstances; requiring each law enforcement agency to
13 annually submit certain information relating to use of force complaints to the
14 Maryland Police Training and Standards Commission; requiring the Commission to
15 annually post on its website and submit to the General Assembly a compendium of
16 certain information; prohibiting the Governor's Office of Crime Prevention, Youth,
17 and Victim Services from making certain grant funds available to a certain law
18 enforcement agency under certain circumstances; defining certain terms; and
19 generally relating to personnel records and investigatory records under the Public
20 Information Act.

21 BY renumbering

22 Article – General Provisions
23 Section 4–101(i) and (j), respectively
24 to be Section 4–101(j) and (k), respectively
25 Annotated Code of Maryland
26 (2019 Replacement Volume and 2020 Supplement)

27 BY repealing and reenacting, without amendments,

28 Article – General Provisions
29 Section 4–101(a)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Annotated Code of Maryland
(2019 Replacement Volume and 2020 Supplement)

BY adding to

Article – General Provisions
Section 4–101(i)

Annotated Code of Maryland
(2019 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,

Article – General Provisions
Section 4–311 and 4–351

Annotated Code of Maryland
(2019 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,

Article – Public Safety
Section 3–514

Annotated Code of Maryland
(2018 Replacement Volume and 2020 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That Section(s) 4–101(i) and (j), respectively, of Article – General Provisions of the
Annotated Code of Maryland be renumbered to be Section(s) 4–101(j) and (k), respectively.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
as follows:

Article – General Provisions

4–101.

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

**(I) “POLICE OFFICER” HAS THE MEANING STATED IN § 3–201 OF THE
PUBLIC SAFETY ARTICLE.**

4–311.

**(A) IN THIS SECTION, “ADMINISTRATIVELY CHARGED” MEANS THAT A
POLICE OFFICER HAS BEEN FORMALLY ACCUSED OF MISCONDUCT IN AN
ADMINISTRATIVE PROCEEDING.**

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

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

2 (1) the person in interest;

3 (2) an elected or appointed official who supervises the work of the
4 individual; **[or]**

5 (3) an employee organization described in Title 6 of the Education Article
6 of the portion of the personnel record that contains the individual's:

7 (i) home address;

8 (ii) home telephone number; and

9 (iii) personal cell phone number;

10 **(4) THE UNITED STATES ATTORNEY;**

11 **(5) THE ATTORNEY GENERAL;**

12 **(6) THE STATE PROSECUTOR; OR**

13 **(7) A STATE'S ATTORNEY.**

14 **(D) A RECORD RELATING TO A FORMAL COMPLAINT OF JOB-RELATED**
15 **MISCONDUCT MADE AGAINST A POLICE OFFICER, INCLUDING AN INVESTIGATION**
16 **RECORD, A HEARING RECORD, OR A DISCIPLINARY DECISION, IS NOT A PERSONNEL**
17 **RECORD FOR PURPOSES OF THIS SECTION IF:**

18 **(1) THE ALLEGED MISCONDUCT INVOLVES THE DISCHARGE OF A**
19 **FIREARM;**

20 **(2) THE ALLEGED MISCONDUCT INVOLVES THE USE OF FORCE**
21 **RESULTING IN DEATH OR SERIOUS BODILY INJURY; OR**

22 **(3) THE POLICE OFFICER WAS ADMINISTRATIVELY CHARGED WITH:**

23 **(I) COMMITTING A SEXUAL ASSAULT;**

24 **(II) ENGAGING IN DISHONESTY, COMMITTING PERJURY,**
25 **MAKING FALSE STATEMENTS, FILING FALSE REPORTS, OR DESTROYING,**
26 **FALSIFYING, OR CONCEALING EVIDENCE DIRECTLY RELATING TO THE REPORTING,**
27 **INVESTIGATION, OR PROSECUTION OF A CRIME;**

**(III) ENGAGING IN PROHIBITED DISCRIMINATION DIRECTLY
RELATING TO THE REPORTING, INVESTIGATION, OR PROSECUTION OF A CRIME; OR**

**(IV) IMPROPERLY USING FORCE AGAINST A MEMBER OF THE
PUBLIC.**

4–351.

(a) Subject to [subsection (b)] **SUBSECTIONS (B) AND (C)** of this section, **AND
EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION**, a custodian may deny
inspection of:

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

(2) an investigatory file compiled for any other law enforcement, judicial,
correctional, or prosecution purpose; or

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

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

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

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

(3) constitute an unwarranted invasion of personal privacy;

(4) disclose the identity of a confidential source;

(5) disclose an investigative technique or procedure;

(6) prejudice an investigation; or

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

**(C) A CUSTODIAN MAY DENY INSPECTION OF A RECORD DESCRIBED IN §
4–311(D) OF THIS SUBTITLE BY A PERSON OTHER THAN A PERSON LISTED IN
SUBSECTION (D) OF THIS SECTION ONLY TO THE EXTENT THAT THE INSPECTION
WOULD:**

(1) INTERFERE WITH A VALID AND PROPER LAW ENFORCEMENT PROCEEDING;

(2) DEPRIVE ANOTHER PERSON OF A RIGHT TO A FAIR TRIAL OR AN IMPARTIAL ADJUDICATION;

(3) CONSTITUTE AN UNWARRANTED INVASION OF PERSONAL PRIVACY;

(4) DISCLOSE THE IDENTITY OF A CONFIDENTIAL SOURCE;

(5) DISCLOSE AN INVESTIGATIVE TECHNIQUE OR PROCEDURE;

(6) PREJUDICE AN INVESTIGATION; OR

(7) ENDANGER THE LIFE OR PHYSICAL SAFETY OF AN INDIVIDUAL.

(D) A CUSTODIAN SHALL ALLOW INSPECTION OF A RECORD DESCRIBED IN § 4-311(D) OF THIS SUBTITLE BY:

(1) THE UNITED STATES ATTORNEY;

(2) THE ATTORNEY GENERAL;

(3) THE STATE PROSECUTOR; OR

(4) A STATE'S ATTORNEY.

(E) IF A PERSON REQUESTS INSPECTION OF RECORDS RELATING TO A FORMAL COMPLAINT OF JOB-RELATED MISCONDUCT MADE AGAINST A POLICE OFFICER AND THE REQUEST IS DENIED, THE CUSTODIAN SHALL PROVIDE THE PERSON WITH A STATEMENT OF THE OUTCOME OF THE INVESTIGATION OF THE COMPLAINT.

Article – Public Safety

3-514.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “ADMINISTRATIVELY CHARGED” MEANS THAT A POLICE OFFICER HAS BEEN FORMALLY ACCUSED OF MISCONDUCT IN AN ADMINISTRATIVE PROCEEDING.

(3) "EXONERATED" MEANS THAT A POLICE OFFICER ACTED IN ACCORDANCE WITH THE LAW AND AGENCY POLICY.

(4) "LAW ENFORCEMENT AGENCY" HAS THE MEANING STATED IN § 3-201 OF THIS TITLE.

(5) "NOT CHARGED" MEANS THAT A DETERMINATION HAS BEEN MADE NOT TO ADMINISTRATIVELY CHARGE A POLICE OFFICER IN CONNECTION WITH ALLEGED MISCONDUCT.

(6) "POLICE OFFICER" HAS THE MEANING STATED IN § 3-201 OF THIS TITLE.

(7) "UNFOUNDED" MEANS THAT THE ALLEGATIONS AGAINST A POLICE OFFICER ARE NOT SUPPORTED BY FACT.

(B) Each law enforcement agency shall require a [law enforcement] POLICE officer who was involved in a use of force incident in the line of duty to file an incident report regarding the use of force by the end of the officer's shift unless the officer is disabled.

(C) (1) ON OR BEFORE MARCH 1 EACH YEAR, EACH LAW ENFORCEMENT AGENCY SHALL SUBMIT TO THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION THE NUMBER OF USE OF FORCE COMPLAINTS MADE AGAINST ITS POLICE OFFICERS DURING THE PREVIOUS CALENDAR YEAR, AGGREGATED BY NUMBERS OF COMPLAINTS ADMINISTRATIVELY CHARGED, NOT CHARGED, UNFOUNDED, AND EXONERATED.

(2) ON OR BEFORE JULY 15 EACH YEAR, THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION SHALL POST ON ITS WEBSITE AND SUBMIT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, A COMPENDIUM OF THE INFORMATION SUBMITTED BY LAW ENFORCEMENT AGENCIES UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(3) IF A LAW ENFORCEMENT AGENCY HAS NOT SUBMITTED THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION BY JULY 1 FOR THE PREVIOUS CALENDAR YEAR, THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES MAY NOT MAKE ANY GRANT FUNDS AVAILABLE TO THAT LAW ENFORCEMENT AGENCY.

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