

SENATE BILL 763

E2

2lr3172
CF 2lr3173

By: **Senator Sydnor**

Introduced and read first time: February 7, 2022

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Collection and Publication of Criminal Case and Prosecutorial Information**

3 FOR the purpose of establishing requirements for the collection and dissemination of
4 certain information relating to the Office of the State's Attorney in each county and
5 Baltimore City, coordinated in a certain manner by the Administrative Office of the
6 Courts and the State Commission on Criminal Sentencing Policy; and generally
7 relating to the Office of the State's Attorney and the collection and publication of
8 information.

9 BY adding to

10 Article – Criminal Procedure

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

13 Annotated Code of Maryland

14 (2018 Replacement Volume and 2021 Supplement)

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

17 **Article – Criminal Procedure**

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

19 **15–501.**

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

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **(D) “CHARGE DESCRIPTION” MEANS:**

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

5 **(2) A STATEMENT OF THE CRIMINAL PROVISION THAT IS ALLEGED TO**
6 **HAVE BEEN VIOLATED;**

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

9 **(4) THE CLASSIFICATION OF THE CRIME.**

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

12 **(F) “CHARGE MODIFIER” MEANS AN AGGRAVATING OR MITIGATING**
13 **CIRCUMSTANCE OF AN ALLEGED CHARGE THAT ENHANCES, REDUCES, OR**
14 **RECLASSIFIES THE ALLEGED CHARGE TO A DIFFERENT CLASSIFICATION GRADE OR**
15 **LEVEL.**

16 **(G) “COMMISSION” MEANS THE STATE COMMISSION ON CRIMINAL**
17 **SENTENCING POLICY.**

18 **(H) “DISPOSITION” MEANS THE CONCLUSION OF THE PROSECUTION OF A**
19 **CHARGE, INCLUDING:**

20 **(1) NOLLE PROSEQUI;**

21 **(2) DIVERSION;**

22 **(3) DISMISSAL;**

23 **(4) DISMISSAL AS PART OF A PLEA BARGAIN;**

24 **(5) CONVICTION AS PART OF A PLEA BARGAIN;**

25 **(6) CONVICTION AT TRIAL; AND**

26 **(7) ACQUITTAL.**

1 **(I) “INITIATION” MEANS THE CREATION OR INSTITUTION OF A CHARGE**
2 **AGAINST A CRIMINAL DEFENDANT, WHETHER BY POLICE, PROSECUTORS, GRAND**
3 **JURY, OR OTHER ENTITY.**

4 **(J) (1) “POLICY” MEANS FORMAL, WRITTEN GUIDANCE FOR EMPLOYEES**
5 **OF A STATE’S ATTORNEY.**

6 **(2) “POLICY” INCLUDES:**

7 **(I) A PROCEDURE;**

8 **(II) A GUIDELINE;**

9 **(III) A MANUAL;**

10 **(IV) TRAINING MATERIAL;**

11 **(V) A DIRECTION;**

12 **(VI) AN INSTRUCTION; OR**

13 **(VII) ANY OTHER PIECE OF INFORMATION.**

14 **(3) “POLICY” DOES NOT INCLUDE:**

15 **(I) ATTORNEY WORK PRODUCT; OR**

16 **(II) INFORMATIONAL LEGAL OR PROCEDURAL ADVICE OR**
17 **GUIDANCE OFFERED AMONG ATTORNEYS WITHIN AN OFFICE OF A STATE’S**
18 **ATTORNEY.**

19 **(K) “STATE’S ATTORNEY” MEANS THE OFFICE OF THE STATE’S ATTORNEY**
20 **IN EACH COUNTY IN THE STATE AND BALTIMORE CITY.**

21 **(L) “UNIQUE IDENTIFIER” MEANS A RANDOMLY GENERATED NUMBER THAT**
22 **IS ASSIGNED IN PLACE OF A DEFENDANT’S NAME.**

23 **15-502.**

24 **(A) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, AND IN**
25 **ACCORDANCE WITH § 15-505 OF THIS SUBTITLE AND OTHER LOCAL AND STATE LAW,**
26 **THE ADMINISTRATIVE OFFICE OF THE COURTS, WITH THE COOPERATION OF EACH**

1 STATE'S ATTORNEY, SHALL COLLECT AND DISCLOSE THE FOLLOWING
2 INFORMATION FOR EACH CASE PROSECUTED:

3 (1) THE CASE NUMBER;

4 (2) THE INDICTMENT NUMBER;

5 (3) THE DOCKET NUMBER;

6 (4) THE UNIQUE IDENTIFIER;

7 (5) THE DEFENDANT'S:

8 (I) RACE;

9 (II) GENDER; AND

10 (III) DISABILITY STATUS, IF ANY, AND THE SOURCE OF THE
11 DISABILITY STATUS;

12 (6) THE INCIDENT DATE;

13 (7) THE ARREST DATE;

14 (8) THE DISTRICT OR NEIGHBORHOOD OF ARREST;

15 (9) THE PRIMARY ARRESTING AGENCY;

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

17 (11) THE CHARGES LISTED ON THE ARRESTING AGENCY'S
18 PAPERWORK;

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

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

22 (14) THE PROSECUTOR WHO BROUGHT THE CHARGE;

23 (15) WHETHER THE DEFENDANT WAS DETERMINED ELIGIBLE FOR
24 COURT-APPOINTED COUNSEL, AND THE PROCEEDING WHERE THE DETERMINATION
25 WAS MADE;

1 **(16) THE ARRAIGNMENT DATE;**

2 **(17) THE CHARGE MODIFICATION DATE;**

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

4 **(I) THE DATE DIVERSION WAS OFFERED;**

5 **(II) IF STATED ON THE RECORD, THE JUDICIAL POSITION ON**
6 **DIVERSION; AND**

7 **(III) THE DIVERSION TERMS, INCLUDING HOW MUCH THE**
8 **DEFENDANT MUST PAY;**

9 **(19) WHETHER THE CHARGE CARRIES A MANDATORY MINIMUM**
10 **SENTENCE;**

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

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

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

15 **(23) THE DATE BAIL OR BOND WAS IMPOSED;**

16 **(24) IF ORDERED, RELEASE CONDITIONS;**

17 **(25) THE DATE RANGE OF ANY PRETRIAL DETENTION;**

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

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

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

26 **(27) INFORMATION ON WHETHER A STATUTORY OR CONSTITUTIONAL**

1 RIGHT OF THE DEFENDANT WAS WAIVED, EITHER BY STIPULATION OR ON THE
2 RECORD, INCLUDING:

3 (I) THE DATE OF THE WAIVER;

4 (II) THE RIGHT WAIVED; AND

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

7 (28) WHETHER A PLEA WAS OFFERED;

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

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

10 (I) THE CHARGES DISMISSED;

11 (II) THE SENTENCE RANGES FOR THE CHARGES DISMISSED;

12 (III) THE CHARGES IN THE PLEA;

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

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

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

18 (31) WHETHER THE PLEA WAS ACCEPTED OR REJECTED;

19 (32) WHETHER DISCOVERY WAS OFFERED TO THE DEFENDANT BEFORE
20 THE PLEA;

21 (33) THE DATE DISCOVERY WAS DISCLOSED TO THE DEFENSE OR
22 DEFENDANT;

23 (34) THE PRESIDING JUDGE AT THE PRETRIAL STAGE;

24 (35) THE DISPOSITION, INCLUDING:

25 (I) THE CASE OR CHARGES DISMISSED BY THE STATE'S

1 ATTORNEY, IF ANY;

2 (II) IF DISMISSED, THE REASON FOR DISMISSAL;

3 (III) IF CONVICTED, WHETHER BY PLEA, JURY TRIAL, OR BENCH
4 TRIAL; AND

5 (IV) IF THE CASE WAS DISMISSED BY A JUDGE, THE REASON FOR
6 DISMISSAL;

7 (36) THE PRESIDING JUDGE AT THE DISPOSITION;

8 (37) THE DISPOSITION DATE;

9 (38) THE SENTENCE TYPE;

10 (39) THE SENTENCE LENGTH;

11 (40) THE PRESIDING JUDGE AT SENTENCING;

12 (41) SUPERVISION TERMS;

13 (42) SERVICES REQUIRED OR PROVIDED, IF ANY;

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

15 (44) FORFEITURE OF PROPERTY REQUIRED, IF ANY.

16 (B) INFORMATION DISCLOSED UNDER SUBSECTION (A) OF THIS SECTION
17 MAY NOT INCLUDE ANY IDENTIFIABLE INFORMATION RELATING TO A WITNESS.

18 (C) EACH STATE'S ATTORNEY SHALL COOPERATE WITH THE
19 ADMINISTRATIVE OFFICE OF THE COURTS TO PROVIDE ANY DATA NECESSARY TO
20 MEET THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION.

21 (D) THE ADMINISTRATIVE OFFICE OF THE COURTS SHALL RECORD AND
22 MAINTAIN THE INFORMATION COLLECTED IN ACCORDANCE WITH THIS SECTION FOR
23 AT LEAST 10 YEARS.

24 15-503.

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

(1) ALL OFFICE POLICIES RELATED TO:

(I) CHARGING AND CHARGE DISMISSAL;

(II) BAIL;

(III) SENTENCING;

(IV) PLEA BARGAINS;

(V) GRAND JURY PRACTICES;

(VI) DISCOVERY PRACTICES;

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

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

(IX) HOW FINES AND FEES ARE ASSESSED;

(X) CRIMINAL AND CIVIL FORFEITURE PRACTICES;

**(XI) MENTAL HEALTH SCREENING AND COLLECTION OF MENTAL
HEALTH HISTORY;**

**(XII) SUBSTANCE ABUSE SCREENING AND COLLECTION OF
SUBSTANCE ABUSE HISTORY;**

(XIII) DOMESTIC VIOLENCE SURVIVORS;

(XIV) DIVERSION PRACTICES AND POLICIES;

(XV) HUMAN RESOURCES, INCLUDING:

1. HIRING;

2. EVALUATING;

3. PROMOTING; AND

1 4. ROTATION AMONG DIVISIONS OR UNITS;

2 (XVI) INTERNAL DISCIPLINE POLICIES AND PROCEDURES;

3 (XVII) VICTIM SERVICES;

4 (XVIII) RESTORATIVE JUSTICE PROGRAMS;

5 (XIX) A LISTING OF OFFICE TRAININGS IN THE IMMEDIATELY
6 PRECEDING CALENDAR YEAR;

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

9 (XXI) POLICIES SPECIFIC TO VULNERABLE POPULATIONS; AND

10 (2) THE NUMBER OF:

11 (I) ATTORNEYS ON STAFF;

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

13 (III) ATTORNEYS WHO WORKED IN THE OFFICE IN A TEMPORARY
14 OR CONTRACTUAL CAPACITY DURING THE IMMEDIATELY PRECEDING CALENDAR
15 YEAR;

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

18 (V) INVESTIGATORS UTILIZED DURING THE IMMEDIATELY
19 PRECEDING CALENDAR YEAR;

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

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

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

27 15-504.

(A) BEGINNING APRIL 1, 2023, EACH STATE'S ATTORNEY SHALL MAKE PUBLICLY AVAILABLE ALL 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) (1) THE COMMISSION, IN COORDINATION WITH THE ADMINISTRATIVE OFFICE OF THE COURTS, SHALL:

(I) DETERMINE THE MANNER IN WHICH THE ADMINISTRATIVE OFFICE OF THE COURTS PROVIDES TO THE COMMISSION THE INFORMATION COLLECTED UNDER § 15-502 OF THIS SUBTITLE;

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

(III) DETERMINE AN IMPLEMENTATION SCHEDULE AND PLAN BY WHICH THE ADMINISTRATIVE OFFICE OF THE COURTS WILL DISCLOSE INFORMATION COLLECTED UNDER § 15-502 OF THIS SUBTITLE ON OR BEFORE OCTOBER 1, 2025.

(2) THE IMPLEMENTATION SCHEDULE AND PLAN DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY:

(I) INCLUDE IMPLEMENTATION ON A ROLLING BASIS THAT

1 STARTS BY PRIORITIZING A SUBSET OF THE DATA COLLECTED UNDER § 15-502 OF
2 THIS SUBTITLE; OR

3 (II) PRIORITIZE DISCLOSURE OF SPECIFIC INFORMATION FROM
4 LARGER STATE'S ATTORNEY OFFICES.

5 (B) (1) ON OR BEFORE OCTOBER 1, 2023, AND IN ACCORDANCE WITH THE
6 IMPLEMENTATION SCHEDULE AND PLAN DESCRIBED IN SUBSECTION (A) OF THIS
7 SECTION, THE ADMINISTRATIVE OFFICE OF THE COURTS SHALL BEGIN DISCLOSING
8 DATA, STRIPPED OF ANY INDIVIDUALIZED OR IDENTIFYING PERSONAL
9 INFORMATION ABOUT ANY PERSON ARRESTED OR PROSECUTED, TO THE
10 COMMISSION FOR THE IMMEDIATELY PRECEDING CALENDAR YEAR.

11 (2) ON OR BEFORE JANUARY 31, 2024, THE ADMINISTRATIVE OFFICE
12 OF THE COURTS SHALL COMPLETE THE REQUIRED DISCLOSURE OF DATA UNDER
13 THIS SUBSECTION.

14 (C) (1) ON OR BEFORE MAY 1, 2024, AND EACH MAY 1 THEREAFTER, THE
15 COMMISSION SHALL PUBLISH ONLINE THE DATA COLLECTED UNDER § 15-502 OF
16 THIS SUBTITLE IN A MODERN, OPEN, ELECTRONIC FORMAT THAT IS
17 MACHINE-READABLE, MACHINE-SEARCHABLE, AND READILY ACCESSIBLE TO THE
18 PUBLIC ON THE COMMISSION'S WEBSITE.

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

22 (D) ON OR BEFORE SEPTEMBER 1, 2024, THE COMMISSION SHALL REPORT
23 ON THE DATA RECEIVED FROM THE ADMINISTRATIVE OFFICE OF THE COURTS,
24 COMPARING AND CONTRASTING THE PRACTICES AND TRENDS AMONG
25 JURISDICTIONS.

26 (E) (1) THE COMMISSION SHALL, AT LEAST TWICE PER YEAR, PUBLISH
27 ISSUE-SPECIFIC REPORTS THAT PROVIDE IN-DEPTH ANALYSIS OF ONE OR MORE
28 AREAS OF PROSECUTORIAL DECISION MAKING.

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

31 15-506.

32 (A) (1) IN ORDER TO COMPLY WITH A REQUEST MADE UNDER THE
33 MARYLAND PUBLIC INFORMATION ACT, A STATE'S ATTORNEY MAY SATISFY A

1 REQUEST FOR INFORMATION GATHERED AS REQUIRED UNDER THIS SUBTITLE BY
2 REFERRING THE REQUESTING PARTY TO THE COMMISSION WEBSITE CONTAINING
3 THE DATA IF THE STATE'S ATTORNEY:

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

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

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

12 (B) THE REQUESTING PARTY MAY SEEK JUDICIAL REVIEW IN ACCORDANCE
13 WITH § 4-362 OF THE GENERAL PROVISIONS ARTICLE FOR PURPOSES OF
14 COMPELLING DISCLOSURE IF:

15 (1) THE REQUESTING PARTY DOES NOT BELIEVE THAT THE REQUEST
16 CAN BE SATISFIED UNDER THIS SECTION; AND

17 (2) THE STATE'S ATTORNEY REFUSES TO DISCLOSE THE
18 INFORMATION BEING REQUESTED.

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

24 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 October 1, 2022.