

HOUSE BILL 1051

P3, D3

3lr2583

By: Delegates Kaiser, Crutchfield, ~~and Wu~~ Wu, Alston, Bagnall, Bhandari, Chisholm, Cullison, Guzzone, Hill, Hutchinson, S. Johnson, Kerr, Kipke, R. Lewis, Lopez, Martinez, M. Morgan, Pena-Melnyk, Reilly, Rosenberg, Szeliga, Taveras, White, and Woods

Introduced and read first time: February 10, 2023

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 7, 2023

CHAPTER _____

1 AN ACT concerning

2 **Public Information Act – Decisions of the State Public Information Act**
3 **Compliance Board – Appeals**

4 FOR the purpose of authorizing an applicant to appeal a certain decision issued by the
5 State Public Information Act Compliance Board; authorizing a party aggrieved by a
6 final judgment of a circuit court in a proceeding for judicial review of a certain
7 decision of the ~~State Public Information Act Compliance~~ Board to appeal to the
8 Appellate Court of Maryland; and generally relating to the Public Information Act.

9 BY repealing and reenacting, without amendments,

10 Article – General Provisions
11 Section 4–101(a) through (c)
12 Annotated Code of Maryland
13 (2019 Replacement Volume and 2022 Supplement)

14 BY repealing and reenacting, with amendments,

15 Article – General Provisions
16 Section 4–1A–10 and 4–362
17 Annotated Code of Maryland
18 (2019 Replacement Volume and 2022 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

Article – General Provisions

4–101.

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

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

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

4–1A–10.

(a) A person or governmental unit need not exhaust the administrative remedy under this subtitle before filing suit.

(b) (1) Except as otherwise provided in this subtitle, AN APPLICANT, a complainant, or A custodian may appeal the decision issued by the Board under this subtitle in accordance with § 4–362 of this title.

(2) An appeal under this subsection automatically stays the decision of the Board pending the circuit court’s decision.

4–362.

(a) (1) Subject to paragraph (3) of this subsection, whenever a person or governmental unit is denied inspection of a public record or is not provided with a copy, printout, or photograph of a public record as requested, the person or governmental unit may file a complaint with the circuit court.

(2) Except as otherwise provided in Subtitle 1A of this title and subject to paragraph (3) of this subsection, ~~a complainant or custodian~~ AN APPLICANT, A COMPLAINANT, OR A CUSTODIAN may appeal to the circuit court a decision issued by the State Public Information Act Compliance Board as provided under § 4–1A–10 of this title.

(3) A complaint or an appeal under this subsection shall be filed with the circuit court for the county where:

(i) FOR APPEALS OF DECISIONS BY THE BOARD ISSUED IN ACCORDANCE WITH THE BOARD’S AUTHORITY UNDER § 4–1A–04(B) OF THIS TITLE, THE APPLICANT RESIDES OR HAS A PRINCIPAL PLACE OF BUSINESS;

(ii) the complainant resides or has a principal place of business; or

~~(ii)~~ **(III)** the public record is located.

(b) (1) Unless, for good cause shown, the court otherwise directs, and notwithstanding any other provision of law, the defendant shall serve an answer or otherwise plead to the complaint within 30 days after service of the complaint.

(2) The defendant:

(i) has the burden of sustaining a decision to:

1. deny inspection of a public record; or

2. deny the person or governmental unit a copy, printout, or photograph of a public record; and

(ii) in support of the decision, may submit a memorandum to the court.

(c) (1) Except for cases that the court considers of greater importance, a proceeding under this section, including an appeal, shall:

(i) take precedence on the docket;

(ii) be heard at the earliest practicable date; and

(iii) be expedited in every way.

(2) The court may examine the public record in camera to determine whether any part of the public record may be withheld under this title.

(3) The court may:

(i) enjoin the State, a political subdivision, or a unit, an official, or an employee of the State or of a political subdivision from:

1. withholding the public record; or

2. withholding a copy, printout, or photograph of the public record;

(ii) issue an order for the production of the public record or a copy, printout, or photograph of the public record that was withheld from the complainant; and

(iii) for noncompliance with the order, punish the responsible employee for contempt.

(d) (1) A defendant governmental unit is liable to the complainant for statutory damages and actual damages that the court considers appropriate if the court finds that any defendant knowingly and willfully failed to:

(i) disclose or fully to disclose a public record that the complainant was entitled to inspect under this title; or

(ii) provide a copy, printout, or photograph of a public record that the complainant requested under § 4–205 of this title.

(2) An official custodian is liable for actual damages that the court considers appropriate if the court finds that, after temporarily denying inspection of a public record, the official custodian failed to petition a court for an order to continue the denial.

(3) Statutory damages imposed by the court under paragraph (1) of this subsection may not exceed \$1,000.

(e) (1) Whenever the court orders the production of a public record or a copy, printout, or photograph of a public record that was withheld from the applicant and, in addition, finds that the custodian acted arbitrarily or capriciously in withholding the public record or the copy, printout, or photograph of the public record, the court shall send a certified copy of its finding to the appointing authority of the custodian.

(2) On receipt of the statement of the court and after an appropriate investigation, the appointing authority shall take the disciplinary action that the circumstances warrant.

(f) If the court determines that the complainant has substantially prevailed, the court may assess against a defendant governmental unit reasonable counsel fees and other litigation costs that the complainant reasonably incurred.

(G) NOTWITHSTANDING § 12–302(A) OF THE COURTS ARTICLE, A PARTY WHO IS AGGRIEVED BY A FINAL JUDGMENT OF A CIRCUIT COURT IN A JUDICIAL REVIEW PROCEEDING UNDER SUBSECTION (A)(2) OF THIS SECTION MAY APPEAL TO THE APPELLATE COURT OF MARYLAND IN THE MANNER THAT LAW PROVIDES FOR APPEAL OF CIVIL CASES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2023.