

**PUBLIC INFORMATION ACT
Annotated Code of Maryland
General Provisions Article¹**

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¹ Although we do our best to ensure that this reproduction of the Public Information Act is up to date, readers should not rely on it in place of the published volumes of the Annotated Code of Maryland.

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SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS

§ 4-101. DEFINITIONS.

- (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.
- (d) “Custodian” means:
 - (1) the official custodian; or
 - (2) any other authorized individual who has physical custody and control of a public record.
- (e) “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) “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) “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.

(h) (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) "Police officer" has the meaning stated in § 3-201 of the Public Safety Article.

(j) "Political subdivision" means:

(1) a county;

(2) a municipal corporation;

(3) an unincorporated town;

(4) a school district; or

(5) a special district.

(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:

(i) 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; or

(ii) a record or any information submitted to the Public Access Ombudsman or the Board under Subtitle 1A of this title.

(l) “Technical infraction” means a minor rule violation by an individual solely related to the enforcement of administrative rules that:

(1) does not involve an interaction between a member of the public and the individual;

(2) does not relate to the individual’s investigative, enforcement, training, supervision, or reporting responsibilities; and

(3) is not otherwise a matter of public concern.

§ 4-102. LIMITATION ON RECORDS.

The State, a political subdivision, or a unit of the State or of a political subdivision may keep only the information about a person that:

(1) is needed by the State, the political subdivision, or the unit to accomplish a governmental purpose that is authorized or required to be accomplished under:

- (i) a statute or any other legislative mandate;
- (ii) an executive order of the Governor;
- (iii) an executive order of the chief executive of a local jurisdiction; or
- (iv) a judicial rule; and

(2) is relevant to accomplishment of the purpose.

§ 4-103. GENERAL RIGHT TO INFORMATION.

(a) All persons are entitled to have access to information about the affairs of government and the official acts of public officials and employees.

(b) To carry out the right set forth in subsection (a) of this section, unless an unwarranted invasion of the privacy of a person in interest would result, this title shall be construed in favor of allowing inspection of a public record, with the least cost and least delay to the person or governmental unit that requests the inspection.

(c) This title does not preclude a member of the General Assembly from acquiring the names and addresses of and statistical information about individuals who are licensed or, as required by a State law, registered.

§ 4-104.

(a) Each official custodian shall adopt a policy of proactive disclosure of public records that are available for inspection under this title.

(b) The policy adopted under subsection (a) of this section may:

(1) vary as appropriate to the type of public records and to reflect the staff and budgetary resources of the governmental unit; and

(2) include publication of public records on the website of the governmental unit, to the extent practicable, or publication of prior response to requests for inspection made under this title.

SUBTITLE 1A. STATE PUBLIC INFORMATION ACT COMPLIANCE BOARD

§ 4-1A-01.

There is a State Public Information Act Compliance Board

§ 4-1A-02.

(a) (1) The Board consists of five members.

(2) (i) One member of the Board shall be a representative:

1. from a nongovernmental nonprofit group that is organized in the State;
2. who works on issues related to transparency or open government; and
3. who is nominated by representatives of the open government and news media communities.

(ii) One member of the Board shall:

1. have knowledge of the provisions of this title;
2. have served as a custodian in the State as defined in § 4-101(d) of this title; and
3. be nominated by the Maryland Association of Counties and the Maryland Municipal League.

(iii) 1. Three members of the Board shall be private citizens of the State.

2. A private citizen member of the Board may not be:
 - A. a custodian of a public record;
 - B. a member of the news media; or

C. a staff member or spokesperson for an organization that represents the interests of custodians or applicants for public records.

(3) At least two members of the Board shall be attorneys admitted to the Maryland Bar.

(4) At least one member of the Board shall be knowledgeable about electronic records, including electronic storage, retrieval, review, and reproduction technologies.

(5) (i) The Governor shall publish, on the Web site of the Office of the Governor, notice of the Governor's intent to consider applicants for positions on the Board.

(ii) The notice shall include:

1. application procedures;
2. criteria for evaluating an applicant's qualifications; and
3. procedures for resolving any conflicts of interest.

(iii) The Governor shall solicit recommendations for positions on the Board from representatives of the custodian, news media, and nonprofit communities.

(iv) 1. An individual may submit to the Governor an application for membership on the Board as provided under subparagraph (ii) of this paragraph.

2. The names and qualifications of applicants shall be posted on the Web site of the Office of the Governor.

(v) When evaluating an applicant, the Governor shall:

1. consider the need for geographic, political, racial, ethnic, cultural, and gender diversity on the Board; and

2. ensure the neutrality of the Board.

(6) Subject to paragraphs (2) through (4) of this subsection and with the advice and consent of the Senate, the Governor shall appoint the members of the Board from the pool of applicants under paragraph (5) of this subsection.

(b) From among the members of the Board, the Governor shall appoint a chair.

(c) (1) The term of a member is 3 years.

(2) The terms of members are staggered as required by the terms provided for members of the Board on October 1, 2015.

(3) At the end of a term, a member continues to serve until a successor is appointed.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed.

(5) A member may not serve for more than two consecutive 3-year terms.

§ 4-1A-03.

(a) A majority of the full authorized membership of the Board is a quorum.

(b) The Board shall determine the times and places of its meetings.

(c) A member of the Board:

(1) may not receive compensation as a member of the Board; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(d) (1) Subject to paragraph (2) of this subsection, the Office of the Attorney General shall provide staff and office space for the Board.

(2) The Office of the Attorney General shall provide at least two staff members to assist the Board and the Office of the Public Access Ombudsman to carry out the duties of the Board under this subtitle and the Office under Subtitle 1B of this title.

§ 4-1A-04.

(a) The Board shall:

(1) receive, review, and, subject to § 4-1A-07 of this subtitle, resolve complaints filed under § 4-1A-05 of this subtitle from any applicant or the applicant's designated representative alleging that a custodian:

(i) denied inspection of a public record in violation of this title;

(ii) charged an unreasonable fee under § 4-206 of this title of more than \$350; or

(iii) failed to respond to a request for a public record within the time limits established under § 4-203(a) or (d) of this title;

(2) issue a written decision as to whether a violation has occurred; and

(3) order the custodian to:

(i) if the Board finds that the custodian has denied inspection of a public record in violation of this title, produce the public record for inspection;

(ii) if the Board finds that the custodian charged an unreasonable fee under § 4-206 of this title, reduce the fee to an amount determined by the Board to be reasonable and refund the difference; or

(iii) if the Board finds that the custodian failed to respond to a request for a public record within the time limits established under § 4-203(a) or (d) of this title:

1. promptly respond; and

2. at the Board's discretion and only if the written decision includes the Board's reasons for ordering the waiver, waive all or part of the fee the custodian is otherwise entitled to charge under § 4-206 of this title.

(b) The Board shall:

(1) receive, review, and, subject to § 4-1A-07 of this subtitle, resolve complaints filed under § 4-1A-05 of this subtitle from any custodian alleging that an applicant's request or pattern of requests is frivolous, vexatious, or in bad faith;

(2) issue a written decision as to whether the applicant's request or pattern of requests is frivolous, vexatious, or in bad faith; and

(3) if the Board finds that the applicant's request is frivolous, vexatious, or in bad faith, based on the totality of the circumstances including the number and scope of the applicant's past requests and the custodian's responses to past requests and efforts to cooperate with the applicant, issue an order authorizing the custodian to:

(i) ignore the request that is the subject of the custodian's complaint; or

(ii) respond to a less burdensome version of the request within a reasonable timeframe, as determined by the Board.

(c) The Board shall:

(1) adopt regulations to carry out this subtitle;

(2) study ongoing compliance with this title by custodians; and

(3) make recommendations to the General Assembly for improvements to this title.

(d) (1) On or before October 1 of each year, the Board shall submit a report to the Governor and, subject to § 2-1246 of the State Government Article, the General Assembly.

(2) The report shall:

- (i) describe the activities of the Board;
- (ii) describe the decisions of the Board;
- (iii) state the number and nature of complaints filed with the Board; and
- (iv) recommend any improvements to this title.

§ 4-1A-05.

(a) Any applicant, the applicant's designated representative, or a custodian may file a written complaint with the Board seeking a written decision and order from the Board under § 4-1A-04 of this subtitle if:

(1) the complainant has attempted to resolve the dispute through the Office of the Public Access Ombudsman under § 4-1B-04 of this title; and

(2) the Public Access Ombudsman has issued a final determination stating that the dispute was not resolved.

(b) The complaint shall:

(1) identify the custodian or applicant that is the subject of the complaint;

(2) describe the action of the custodian or applicant, the date of the action, and the circumstances of the action;

(3) be signed by the complainant;

(4) if available, include a copy of the original request for public records and the custodian's response, if any; and

(5) be filed within 30 calendar days after the complainant receives the final determination of the Public Access Ombudsman under § 4-1B-04 of this title.

§ 4-1A-06.

(a) Except as provided in subsection (c) of this section, on receipt of a written complaint, the Board promptly shall:

- (1) send the complaint to the custodian or applicant identified in the complaint; and
 - (2) request that a response to the complaint be sent to the Board.
- (b) (1) The custodian or applicant shall file a written response to the complaint within 30 calendar days after receiving the complaint.
- (2) On request of the Board, the custodian shall provide:
 - (i) if the complaint alleges that the custodian failed to respond to a request for a public record within the time limits established under § 4-203 of this title, a response to the request for the public record;
 - (ii) if the complaint alleges that the custodian denied inspection of a public record in violation of this title:
 1. a copy of the public record, descriptive index of the public record, or written reason why the record cannot be disclosed, as appropriate; and
 2. the provision of law on which the custodian relied in denying inspection of the public record; or
 - (iii) if the complaint alleges that the custodian charged an unreasonable fee under § 4-206 of this title, the basis for the fee that was charged.
 - (3) (i) If the complaint alleges that the custodian denied the inspection of a public record under § 4-301(a)(2)(ii) of this title, the custodian may not be required to produce the record for Board review.
 - (ii) The Board may request information about the public record from the custodian.
 - (4) On request of the Board, a custodian or an applicant shall provide an affidavit or a statement containing the facts that are at issue in the complaint.
 - (5) The Board shall maintain the confidentiality of any record or information submitted by a custodian or an applicant under this subsection.
 - (6) A custodian may not be civilly or criminally liable under Maryland law for providing or describing a public record to the Board under this subsection.
 - (7) The provision of a record or a description of the record to the Board under this subsection may not be construed as a waiver of any applicable privilege.

(c) If a written response or information requested under subsection (b) of this section is not received within 30 calendar days after the request is sent, the Board shall decide the case on the facts before the Board.

§ 4-1A-07.

(a) (1) The Board shall review the complaint and any response.

(2) The Board shall issue a written decision within 30 calendar days after receiving the written response and all information requested under § 4-1A-06(b) of this subtitle.

(b) (1) (i) Subject to subparagraph (ii) of this paragraph, if the Board is unable to reach a determination based on the written submissions before it, the Board may schedule an informal conference to hear from the complainant, the affected custodian or applicant, or any other person with relevant information about the subject of the complaint.

(ii) The Board shall hold the informal conference under subparagraph (i) of this paragraph in a location that is as convenient as practicable to the complainant and the affected custodian or applicant.

(2) When conducting a conference that is scheduled under paragraph (1) of this subsection, the Board may allow the parties to testify by teleconference or submit written testimony by electronic mail.

(3) An informal conference scheduled by the Board is not a contested case within the meaning of § 10-202(d) of the State Government Article.

(4) The Board shall issue a written decision within 30 calendar days after the informal conference.

(c) (1) If the Board is unable to issue a decision on a complaint within the time periods specified in subsection (a) or (b) of this section, the Board shall:

(i) state in writing the reason for its inability to issue a decision; and

(ii) issue a decision as soon as possible but not later than 120 days after the filing of the complaint.

(2) (i) A decision of the Board may state that the Board is unable to resolve the complaint.

(ii) A person may not appeal under § 4-1A-10 of this subtitle or § 4-362(a)(2) of this title a decision of the Board stating that the Board is unable to resolve the complaint.

(d) The Board shall send a copy of the written decision to the complainant and the affected custodian or applicant.

§ 4-1A-08.

(a) The Board may send to any custodian in the State any written decision that will provide the custodian with guidance on compliance with this title.

(b) The Attorney General shall post on the Web site of the Office of the Attorney General all of the Board's written decisions under this subtitle.

§ 4-1A-09.

Compliance by a custodian with an order of the Board:

(1) is not an admission to a violation of this title by the custodian; and

(2) may not be used as evidence in a proceeding conducted in accordance with § 4-362 of this title.

§ 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, a complainant or 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.

SUBTITLE 1B. PUBLIC ACCESS OMBUDSMAN

§ 4-1B-01.

In this subtitle, "Ombudsman" means the Public Access Ombudsman.

§ 4-1B-02.

(a) There is an Office of the Public Access Ombudsman.

(b) Subject to § 4-1A-03(d)(2) of this title, the Office of the Attorney General shall provide office space and staff for the Ombudsman, with appropriate steps taken to protect the autonomy and independence of the Ombudsman.

§ 4-1B-03.

(a) Subject to subsections (b) and (c) of this section, the Attorney General shall appoint the Ombudsman.

(b) The Ombudsman shall have been admitted to practice law in the State.

(c) (1) The Office of the Attorney General shall publish, on its Web site, notice of the Attorney General's intent to consider applicants for the Ombudsman position.

(2) The notice shall include:

- (i) application procedures;
- (ii) criteria for evaluating an applicant's qualifications; and
- (iii) procedures for resolving any conflicts of interest.

(3) (i) An individual may submit to the Attorney General an application for the Ombudsman position as provided under paragraph (2) of this subsection.

(ii) The Office of the Attorney General shall post on its Web site the names and qualifications of applicants.

(d) (1) The term of the Ombudsman is 4 years.

(2) At the end of a term, the Ombudsman continues to serve until a successor is appointed and qualifies.

(3) An Ombudsman who is appointed after a term begins serves for the remainder of the term until a successor is appointed and qualifies.

(e) The Ombudsman shall be a full-time State employee.

(f) The Ombudsman is entitled to an annual salary as provided for in the State budget.

§ 4-1B-04.

(a) Subject to subsection (d) of this section, the Ombudsman shall make reasonable attempts to resolve disputes between applicants and custodians relating to requests for public records under this title, including disputes over:

(1) the custodian's application of an exemption;

(2) redactions of information in the public record;

(3) the failure of the custodian to produce a public record in a timely manner or to disclose all records relevant to the request;

(4) overly broad requests for public records;

(5) the amount of time a custodian needs, given available staff and resources, to produce public records;

(6) a request for or denial of a fee waiver under § 4-206(e) of this title; and

(7) repetitive or redundant requests from an applicant;

(8) fees imposed under § 4-206 of this title; and

(9) a request or pattern of requests from an applicant that is alleged to be frivolous, vexatious, or made in bad faith.

(b) Within 90 calendar days after receiving a request for dispute resolution, unless the parties mutually agree to extend the deadline, the Ombudsman shall issue a final determination stating:

(1) that the dispute has been resolved; or

(2) that the dispute has not been resolved.

(c) If the Ombudsman issues a final determination that the dispute has not been resolved, the Ombudsman shall inform the applicant and the custodian of the availability of review by the Board under § 4-1A-04 of this title.

(d) (1) When resolving disputes under this section, the Ombudsman may not:

(i) compel a custodian to disclose public records or redacted information in the custodian's physical custody to the Ombudsman or an applicant; or

(ii) except as provided in paragraphs (2) and (3) of this subsection, disclose information received from an applicant or custodian without written consent from the applicant and custodian.

(2) (i) The Ombudsman may disclose information received from an applicant or custodian to the assistant Attorney General assigned to the Office of the Public Access Ombudsman or to any other person working under the direction of the Ombudsman.

(ii) An individual to whom the Ombudsman discloses information under this paragraph may not disclose the information without written consent from the applicant and custodian.

(3) The Ombudsman may transfer basic information about a dispute, including the identity of the applicant and custodian and the nature of the dispute, to the Board if appropriate steps have been taken to protect the confidentiality of communications made or received in the course of attempting to resolve the dispute.

SUBTITLE 2. INSPECTION OF PUBLIC RECORDS

§ 4-201. INSPECTION OF PUBLIC RECORDS.

(a) (1) Except as otherwise provided by law, a custodian shall allow a person or governmental unit to inspect any public record at any reasonable time.

(2) Inspection or copying of a public record may be denied only to the extent provided under this title.

(b) To protect public records and to prevent unnecessary interference with official business, each official custodian shall adopt reasonable rules or regulations that, subject to this title, govern timely production and inspection of a public record.

(c) Each official custodian shall:

(1) designate types of public records of the governmental unit that are to be made available to any applicant immediately on request; and

(2) maintain a current list of the types of public records that have been designated as available to any applicant immediately on request.

§ 4-202. APPLICATION TO INSPECT PUBLIC RECORD REQUIRED.

(a) Except as provided in subsection (b) of this section, a person or governmental unit that wishes to inspect a public record shall submit a written application to the custodian.

(b) A person or governmental unit need not submit a written application to the custodian if:

(1) the person or governmental unit seeks to inspect a public record listed by an official custodian in accordance with § 4-201(c)(2) of this subtitle; or

(2) the custodian waives the requirement for a written application.

(c) If the individual to whom the application is submitted is not the custodian of the public record, within 10 working days after receiving the application, the individual shall give the applicant:

(1) notice of that fact; and

(2) if known:

(i) the name of the custodian; and

(ii) the location or possible location of the public record.

(d) When an applicant requests to inspect a public record and a custodian determines that the record does not exist, the custodian shall notify the applicant of this determination:

(1) if the custodian has reached this determination on initial review of the application, immediately; or

(2) if the custodian has reached this determination after a search for potentially responsive public records, promptly after the search is completed but not more than 30 days after receiving the application.

§ 4-203. TIMELINESS OF DECISION ON APPLICATION.

(a) (1) Except as provided in paragraph (2) of this subsection, the custodian shall grant or deny the application promptly, but not more than 30 days after receiving the application.

(2) The custodian shall grant or deny an application that is the subject of § 4-356 of this title not more than 50 days after receiving the application.

(b) (1) A custodian who approves the application shall produce the public record immediately or within a reasonable period that is needed to retrieve the public record, but not more than 30 days after receipt of the application.

(2) If the custodian reasonably believes that it will take more than 10 working days to produce the public record, the custodian shall indicate in writing or by electronic mail within 10 working days after receipt of the request:

(i) the amount of time that the custodian anticipates it will take to produce the public record;

(ii) an estimate of the range of fees that may be charged to comply with the request for public records; and

(iii) the reason for the delay.

(3) Failure to produce the public record in accordance with this subsection constitutes a denial of an application that may not be considered the result of a bona fide dispute unless the custodian has complied with paragraph (2) of this subsection and is working with the applicant in good faith.

(c) (1) A custodian who denies the application shall:

(i) within 10 working days, give the applicant a written statement that gives:

1. the reasons for the denial;

2. if inspection is denied under § 4-343 of this title:

A. a brief explanation of why the denial is necessary; and

B. an explanation of why redacting information would not address the reasons for the denial;

3. the legal authority for the denial;

4. without disclosing the protected information, a brief description of the undisclosed record that will enable the applicant to assess the applicability of the legal authority for the denial; and

5. notice of the remedies under this title for review of the denial; and

(ii) allow inspection of any part of the record that is subject to inspection.

(2) A custodian may not ignore an application to inspect public records on the grounds that the application was intended for purposes of harassment.

(d) Any time limit imposed under this section:

(1) with the consent of the applicant, may be extended for not more than 30 days; and

(2) if the applicant or custodian seeks resolution of a dispute under subtitle 1A or 1B of this title, shall be extended pending resolution of that dispute.

§ 4-204. IMPROPER CONDITION ON GRANTING APPLICATION.

(a) Except to the extent that the grant of an application is related to the status of the applicant as a person in interest and except as required by other law or regulation, the custodian may not condition the grant of an application on:

(1) the identity of the applicant;

(2) any organizational or other affiliation of the applicant; or

(3) a disclosure by the applicant of the purpose for an application.

(b) This section does not preclude an official custodian from considering the identity of the applicant, any organizational or other affiliation of the applicant, or the purpose for the application if:

(1) the applicant chooses to provide this information for the custodian to consider in making a determination under Subtitle 3, Part IV of this title;

(2) the applicant has requested a waiver of fees under § 4-206(e) of this subtitle; or

(3) the identity of the applicant, any organizational or other affiliation of the applicant, or the purpose for the application is material to the determination of the official custodian in accordance with § 4-206(e)(2) of this subtitle.

(c) Consistently with this section, an official may request the identity of an applicant for the purpose of contacting the applicant.

§ 4-205. COPIES; PRINTOUTS; PHOTOGRAPHS; ELECTRONIC FORMAT.

(a) (1) In this section, “metadata” means information, generally not visible when an electronic document is printed, describing the history, tracking, or management of the electronic document, including information about data in the electronic document that describes how,

when, and by whom the data is collected, created, accessed, or modified and how the data is formatted.

(2) “Metadata” does not include:

- (i) a spreadsheet formula;
- (ii) a database field;
- (iii) an externally or internally linked file; or
- (iv) a reference to an external file or a hyperlink.

(b) Except as otherwise provided in this section, if an applicant who is authorized to inspect a public record requests a copy, printout, or photograph of the public record, the custodian shall provide the applicant with:

(1) a copy, printout, or photograph of the public record; or

(2) if the custodian does not have facilities to reproduce the public record, access to the public record to make the copy, printout, or photograph.

(c) (1) Except as provided in paragraph (2) of this subsection, the custodian of a public record shall provide an applicant with a copy of the public record in a searchable and analyzable electronic format if:

(i) the public record is in a searchable and analyzable electronic format;

(ii) the applicant requests a copy of the public record in a searchable and analyzable electronic format; and

(iii) the custodian is able to provide a copy of the public record, in whole or in part, in a searchable and analyzable electronic format that does not disclose:

1. confidential or protected information for which the custodian is required to deny inspection in accordance with Subtitle 3, Parts I through III of this title; or

2. information for which a custodian has chosen to deny inspection in accordance with Subtitle 3, Part IV of this title.

(2) The State Department of Assessments and Taxation is not required to provide an applicant with a copy of the public record in a searchable and analyzable electronic format if the State Department of Assessments and Taxation has provided the public record to a contractor that will provide the applicant a copy of the public record in a searchable and analyzable electronic format for a reasonable cost.

(3) A custodian may remove metadata from an electronic document before providing the electronic document to an applicant by:

- (i) using a software program or function; or
- (ii) converting the electronic document into a different searchable and analyzable format.

(4) This subsection may not be construed to:

- (i) require the custodian to reconstruct a public record in an electronic format if the custodian no longer has the public record available in an electronic format;
- (ii) allow a custodian to make a public record available only in an electronic format;
- (iii) require a custodian to create, compile, or program a new public record; or
- (iv) require a custodian to release an electronic record in a format that would jeopardize or compromise the security or integrity of the original record or of any proprietary software in which the record is maintained.

(5) If a public record exists in a searchable and analyzable electronic format, the act of a custodian providing a portion of the public record in a searchable and analyzable electronic format does not constitute creating a new public record.

(d) (1) The copy, printout, or photograph shall be made:

- (i) while the public record is in the custody of the custodian; and
- (ii) whenever practicable, where the public record is kept.

(2) The official custodian may set a reasonable time schedule to make copies, printouts, or photographs.

§ 4-206. FEES.

(a) (1) In this section the following words have the meanings indicated.

(2) “Indigent” means an individual’s family household income is less than 50% of the median family income for the State as reported in the Federal Register.

(3) “Reasonable fee” means a fee bearing a reasonable relationship to the recovery of actual costs incurred by a governmental unit.

(b) (1) Subject to the limitations in this section, the official custodian may charge an applicant a reasonable fee for:

(i) the search for, preparation of, and reproduction of a public record prepared, on request of the applicant, in a customized format; and

(ii) the actual costs of the search for, preparation of, and reproduction of a public record in standard format, including media and mechanical processing costs.

(2) The staff and attorney review costs included in the calculation of actual costs incurred under this section shall be prorated for each individual's salary and actual time attributable to the search for and preparation of a public record under this section.

(c) The official custodian may not charge a fee for the first 2 hours that are needed to search for a public record and prepare it for inspection.

(d) (1) If another law sets a fee for a copy, an electronic copy, a printout, or a photograph of a public record, that law applies.

(2) The official custodian may charge for the cost of providing facilities for the reproduction of the public record if the custodian did not have the facilities.

(e) The official custodian may waive a fee under this section if:

(1) the applicant asks for a waiver; and

(2) (i) the applicant is indigent and files an affidavit of indigency; or

(ii) after consideration of the ability of the applicant to pay the fee and other relevant factors, the official custodian determines that the waiver would be in the public interest.

(f) If the custodian of a public record for a local school system charges an applicant a fee under subsection (b) of this section, the custodian shall provide written notice to the applicant that the applicant may file a complaint with the Board to contest the fee.

SUBTITLE 3. DENIALS OF INSPECTION

Part I. IN GENERAL

§ 4-301. IN GENERAL.

(a) Subject to subsection (b) of this section, a custodian shall deny inspection of a public record or any part of a public record if:

(1) by law, the public record is privileged or confidential; or

(2) the inspection would be contrary to:

- (i) a State statute;
- (ii) a federal statute or a regulation that is issued under the statute and has the force of law;
- (iii) the rules adopted by the Court of Appeals; or
- (iv) an order of a court of record.

(b) If an applicant files a complaint with the Ombudsman challenging a denial or the application of an exemption under this subtitle, the custodian shall demonstrate that:

- (1) the denial or the exemption is clearly applicable to the requested public record; and
- (2) if inspection is denied under Part IV of this subtitle, the harm from disclosure of the public record is greater than the public interest in access to the information in the public record.

§ 4-302. RESERVED.

§ 4-303. RESERVED.

PART II. REQUIRED DENIALS FOR SPECIFIC RECORDS

§ 4-304. IN GENERAL

Unless otherwise provided by law, a custodian shall deny inspection of a public record, as provided in this part.

§ 4-305. ADOPTION RECORDS.

A custodian shall deny inspection of public records that relate to the adoption of an individual.

§ 4-306. HOSPITAL RECORDS.

A custodian shall deny inspection of a hospital record that:

- (1) relates to:
 - (i) medical administration;
 - (ii) staff;
 - (iii) medical care; or

- (iv) other medical information; and
- (2) contains general or specific information about one or more individuals.

§ 4-307. WELFARE RECORDS.

A custodian shall deny inspection of public records that relate to welfare for an individual.

§ 4-308. LIBRARY RECORDS.

(a) Subject to subsection (b) of this section, a custodian shall prohibit inspection, use, or disclosure of a circulation record of a public library or any other item, collection, or grouping of information about an individual that:

- (1) is maintained by a library;
- (2) contains an individual's name or the identifying number, symbol, or other identifying particular assigned to the individual; and
- (3) identifies the use a patron makes of that library's materials, services, or facilities.

(b) A custodian shall allow inspection, use, or disclosure of a circulation record of a public library only:

- (1) in connection with the library's ordinary business; and
- (2) for the purposes for which the record was created.

§ 4-309. GIFTS OF LIBRARY, ARCHIVAL, OR MUSEUM MATERIALS.

A custodian shall deny inspection of library, archival, or museum material given by a person to the extent that the person who made the gift limits disclosure as a condition of the gift.

§ 4-310. LETTER OF REFERENCE.

A custodian shall deny inspection of a letter of reference.

§ 4-311. PERSONNEL RECORDS.

(a) Subject to subsection (b) 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.

(b) A custodian shall allow inspection by:

(1) the person in interest;

(2) an elected or appointed official who supervises the work of the individual; or

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

(i) home address;

(ii) home telephone number; and

(iii) personal cell phone number.

(c) (1) Except as provided in paragraph (2) of this subsection, a record relating to an administrative or criminal investigation of misconduct by a police officer, including an internal affairs investigatory record, a hearing record, and records relating to a disciplinary decision, is not a personnel record for purposes of this section.

(2) A record of a technical infraction is a personnel record for the purposes of this section.

§ 4-312. RETIREMENT RECORDS.

(a) Subject to subsections (b) through (e) of this section, a custodian shall deny inspection of a retirement record for an individual.

(b) (1) A custodian shall allow inspection:

(i) by the person in interest;

(ii) by the appointing authority of the individual;

(iii) after the death of the individual, by a beneficiary, a personal representative, or any other person who satisfies the administrators of the retirement and pension systems that the person has a valid claim to the benefits of the individual;

(iv) by any law enforcement agency to obtain the home address of a retired employee of the agency when contact with the retired employee is documented to be necessary for official agency business; and

(v) subject to paragraph (2) of this subsection, by the employees of a county unit that, by county law, is required to audit the retirement records for current or former employees of the county.

(2) (i) The information obtained during an inspection under paragraph (1)(v) of this subsection is confidential.

(ii) The county unit and its employees may not disclose any information obtained during an inspection under paragraph (1)(v) of this subsection that would identify a person in interest.

(c) A custodian shall allow release of information as provided in § 21-504 or § 21-505 of the State Personnel and Pensions Article.

(d) (1) On request, a custodian shall state whether the individual receives a retirement or pension allowance.

(2) On written request, a custodian shall:

(i) disclose the amount of the part of a retirement allowance that is derived from employer contributions and that is granted to:

1. a retired elected or appointed official of the State;
2. a retired elected official of a political subdivision; or
3. a retired appointed official of a political subdivision who is a member of a separate system for elected or appointed officials; and

(ii) disclose the benefit formula and the variables for calculating the retirement allowance of:

1. a current elected or appointed official of the State;
2. a current elected official of a political subdivision; or
3. a current appointed official of a political subdivision who is a member of a separate system for elected or appointed officials.

(e) (1) This subsection applies only to Anne Arundel County.

(2) On written request, a custodian of retirement records shall disclose:

(i) the total amount of the part of a pension or retirement allowance that is derived from employer contributions and that is granted to a retired elected or appointed official of the county;

(ii) the total amount of the part of a pension or retirement allowance that is derived from employee contributions and that is granted to a retired elected or appointed official of the county if the retired elected or appointed official consents to the disclosure;

(iii) the benefit formula and the variables for calculating the retirement allowance of a current elected or appointed official of the county; and

(iv) the amount of the employee contributions plus interest attributable to a current elected or appointed official of the county if the current elected or appointed official consents to the disclosure.

(3) A custodian of retirement records shall maintain a list of those elected or appointed officials of the county who have consented to the disclosure of information under paragraph (2)(ii) or (iv) of this subsection.

§ 4-313. STUDENT RECORDS.

(a) Subject to subsections (b) and (c) of this section, a custodian shall deny inspection of a school district record about the home address, home telephone number, biography, family, physiology, religion, academic achievement, or physical or mental ability of a student.

(b) A custodian shall allow inspection by:

(1) the person in interest; or

(2) an elected or appointed official who supervises the student.

(c) (1) A custodian may allow inspection of the home address or home telephone number of a student of a public school by:

(i) an organization of parents, teachers, students, or former students, or any combination of those groups, of the school;

(ii) an organization or a force of the military;

(iii) a person engaged by a school or board of education to confirm a home address or home telephone number;

(iv) a representative of a community college in the State; or

(v) the Maryland Higher Education Commission.

(2) The Maryland Higher Education Commission or a person, an organization, or a community college that obtains information under this subsection may not:

- (i) use this information for a commercial purpose; or
- (ii) disclose this information to another person, organization, or community college.

(3) When a custodian allows inspection under this subsection, the custodian shall notify the Maryland Higher Education Commission, person, organization, or community college of the prohibitions under paragraph (2) of this subsection regarding use and disclosure of this information.

§ 4-314. HIGHER EDUCATION INVESTMENT CONTRACTS.

(a) Subject to subsection (b) of this section, a custodian shall deny inspection of any record disclosing:

(1) the name of an account holder or a qualified beneficiary of a prepaid contract under Title 18, Subtitle 19 of the Education Article; or

(2) the name of an account holder or a qualified designated beneficiary of an investment account under Title 18, Subtitle 19A of the Education Article.

(b) A custodian:

(1) shall allow inspection by a person in interest; and

(2) may release information to an eligible institution of higher education designated:

(i) by an account holder of a prepaid contract or a qualified beneficiary under Title 18, Subtitle 19 of the Education Article; or

(ii) by an account holder or a qualified designated beneficiary under Title 18, Subtitle 19A of the Education Article.

§ 4-314.1

(a) Except as provided in subsection (b) of this section, a custodian shall deny inspection of any record disclosing:

(1) a safety evaluation or school emergency plan developed under § 7-1510 of the Education Article;

(2) an emergency response policy developed under § 7-1509 of the Education Article and § 3-520 of the Public Safety Article;

(3) guidelines for school resource officers and supplemental coverage by local law enforcement agencies developed by the Maryland Center for School Safety under § 7-1508 of the Education Article; or

(4) a plan to implement the Maryland Center for School Safety's guidelines adopted by a local school system under § 7-1508 of the Education Article.

(b) A custodian shall allow inspection of safety evaluation, school emergency plan, and emergency response policy records by the following entities in the performance of the entity's official duties:

- (1) the Maryland Center for School Safety;
- (2) the Interagency Commission on School Construction;
- (3) the Department of State Police;
- (4) the Department of Public Safety and Correctional Services;
- (5) the Maryland Emergency Management Agency;
- (6) local law enforcement agencies; and
- (7) local organizations for emergency management.

§ 4-315. TRAFFIC ACCIDENT REPORTS; CRIMINAL CHARGING DOCUMENTS; TRAFFIC CITATIONS.

(a) This section applies only to public records that relate to:

- (1) police reports of traffic accidents;
- (2) criminal charging documents before service on the defendant named in the document;

or

- (3) traffic citations filed in the Maryland Automated Traffic System.

(b) A custodian shall deny inspection of a record described in subsection (a) of this section to any of the following persons who request inspection of records to solicit or market legal services:

- (1) an attorney who is not an attorney of record of a person named in the record; or
- (2) a person who is employed by, retained by, associated with, or acting on behalf of an attorney described in this subsection.

§ 4-316. ARREST WARRANTS AND CHARGING DOCUMENTS.

(a) Except as provided in subsection (d) of this section and subject to subsection (e) of this section, unless otherwise ordered by the court, files and records of the court pertaining to an arrest warrant issued under Maryland Rule 4-212(d)(1) or (2) and the charging document on which the arrest warrant was issued may not be open to inspection until:

(1) the arrest warrant has been served and a return of service has been filed in accordance with Maryland Rule 4-212(g); or

(2) 90 days have elapsed since the arrest warrant was issued.

(b) Except as provided in subsection (d) of this section and subject to subsection (e) of this section, unless otherwise ordered by the court, files and records of the court pertaining to an arrest warrant issued in accordance with a grand jury indictment or conspiracy investigation and the charging document on which the arrest warrant was issued may not be open to inspection until all arrest warrants for any co-conspirators have been served and all returns of service have been filed in accordance with Maryland Rule 4-212(g).

(c) Subject to subsections (a) and (b) of this section, unless sealed under Maryland Rule 4-201(d), the files and records shall be open to inspection.

(d) (1) The name, address, birth date, driver's license number, sex, height, and weight of an individual contained in an arrest warrant issued under Maryland Rule 4-212(d)(1) or (2) or issued in accordance with a grand jury indictment or conspiracy investigation may be released to the Motor Vehicle Administration for use by the Administration for purposes of § 13-406.1 or § 16-204 of the Transportation Article.

(2) Except as provided in paragraph (1) of this subsection, information in a charging document that identifies an individual may not be released to the Motor Vehicle Administration.

(e) Subsections (a) and (b) of this section may not be construed to prohibit:

(1) the release of statistical information concerning unserved arrest warrants;

(2) the release of information by a State's Attorney or peace officer concerning an unserved arrest warrant and the charging document on which the arrest warrant was issued;

(3) inspection of files and records of a court concerning an unserved arrest warrant and the charging document on which the arrest warrant was issued by:

(i) a judicial officer;

- (ii) any authorized court personnel;
 - (iii) a State's Attorney;
 - (iv) a peace officer;
 - (v) a correctional officer who is authorized by law to serve an arrest warrant;
 - (vi) a bail bondsman, surety insurer, or surety who executes bail bonds who executed a bail bond for the individual who is subject to arrest under the arrest warrant;
 - (vii) an attorney authorized by the individual who is subject to arrest under the arrest warrant;
 - (viii) the Department of Juvenile Services; or
 - (ix) a federal, State, or local criminal justice agency described under Title 10, Subtitle 2 of the Criminal Procedure Article; or
- (4) the release of information by the Department of Public Safety and Correctional Services or the Department of Juvenile Services to notify a victim under § 11-507 of the Criminal Procedure Article.

§ 4-317. DEPARTMENT OF NATURAL RESOURCES RECORDS.

- (a) Subject to § 8-704.1 of the Natural Resources Article and subsection (b) of this section, a custodian may not knowingly disclose a public record of the Department of Natural Resources containing personal information about the owner of a registered vessel.
- (b) A custodian shall disclose personal information about the owner of a registered vessel for use in the normal course of business activity by a financial institution, as defined in § 1-101(i) of the Financial Institutions Article, its agents, employees, or contractors, but only:
- (1) to verify the accuracy of personal information submitted by the individual to that financial institution; and
 - (2) if the information submitted is not accurate, to obtain correct information only for the purpose of:
 - (i) preventing fraud by the individual;
 - (ii) pursuing legal remedies against the individual; or
 - (iii) recovering on a debt or security interest against the individual.

§ 4-318. MARYLAND TRANSIT ADMINISTRATION RECORDS.

(a) Except as provided in subsection (b) of this section, a custodian shall deny inspection of all records of persons created, generated, or obtained by, or submitted to, the Maryland Transit Administration or its agents or employees in connection with the use or purchase of electronic fare media provided by the Maryland Transit Administration or its agents, employees, or contractors.

(b) A custodian shall allow inspection of the records described in subsection (a) of this section by:

- (1) an individual named in the record; or
- (2) the attorney of record of an individual named in the record.

§ 4-319. MARYLAND TRANSPORTATION AUTHORITY RECORDS.

(a) Subject to subsection (b) of this section, a custodian shall deny inspection of every record that:

- (1) is:
 - (i) a photograph, a videotape, or an electronically recorded image of a vehicle;
 - (ii) a vehicle movement record;
 - (iii) personal financial information;
 - (iv) a credit report;
 - (v) other personal information; or
 - (vi) other financial information; and

(2) has been created, recorded, or obtained by, or submitted to, the Maryland Transportation Authority or its agents or employees for or about an electronic toll collection system or associated transaction system.

(b) A custodian shall allow inspection of the records described in subsection (a) of this section by:

- (1) an individual named in the record;
- (2) the attorney of record of an individual named in the record;

(3) an employee or agent of the Maryland Transportation Authority in any investigation or proceeding relating to a violation of speed limitations or to the imposition of or indemnification from liability for failure to pay a toll in connection with any electronic toll collection system;

(4) an employee or agent of a third party that has entered into an agreement with the Maryland Transportation Authority to use an electronic toll collection system for nontoll applications in the collection of revenues due to the third party; or

(5) an employee or agent of an entity in another state operating or having jurisdiction over a toll facility.

§ 4-320. MOTOR VEHICLE ADMINISTRATION.

(a) (1) In this section, “telephone solicitation” means the initiation of a telephone call to an individual or to the residence or business of an individual to encourage the purchase or rental of or investment in property, goods, or services.

(2) “Telephone solicitation” does not include a telephone call or message:

(i) to an individual who has given express permission to the person making the telephone call;

(ii) to an individual with whom the person has an established business relationship; or

(iii) by a tax-exempt, nonprofit organization.

(b) Except as provided in subsections (c) through (f) of this section, a custodian may not knowingly disclose a public record of the Motor Vehicle Administration containing personal information.

(c) A custodian shall disclose personal information when required by federal law.

(d) (1) This subsection applies only to the disclosure of personal information for any use in response to a request for an individual motor vehicle record.

(2) The custodian may not disclose personal information without written consent from the person in interest.

(3) (i) At any time the person in interest may withdraw consent to disclose personal information by notifying the custodian.

(ii) The withdrawal by the person in interest of consent to disclose personal information shall take effect as soon as practicable after it is received by the custodian.

(e) (1) This subsection applies only to the disclosure of personal information for inclusion in lists of information to be used for surveys, marketing, and solicitations.

(2) The custodian may not disclose personal information for surveys, marketing, and solicitations without written consent from the person in interest.

(3) (i) At any time the person in interest may withdraw consent to disclose personal information by notifying the custodian.

(ii) The withdrawal by the person in interest of consent to disclose personal information shall take effect as soon as practicable after it is received by the custodian.

(4) The custodian may not disclose personal information under this subsection for use in telephone solicitations.

(5) Personal information disclosed under this subsection may be used only for surveys, marketing, or solicitations and only for a purpose approved by the Motor Vehicle Administration.

(f) Notwithstanding subsections (d) and (e) of this section, and subject to § 4-320.1 of this subtitle, a custodian shall disclose personal information:

(1) for use by a federal, state, or local government, including a law enforcement agency, or a court in carrying out its functions;

(2) for use in connection with matters of:

(i) motor vehicle or driver safety;

(ii) motor vehicle theft;

(iii) motor vehicle emissions;

(iv) motor vehicle product alterations, recalls, or advisories;

(v) performance monitoring of motor vehicle parts and dealers; and

(vi) removal of nonowner records from the original records of motor vehicle manufacturers;

(3) for use by a private detective agency licensed by the Secretary of State Police under Title 13 of the Business Occupations and Professions Article or a security guard service licensed by the Secretary of State Police under Title 19 of the Business Occupations and Professions Article for a purpose allowed under this subsection;

(4) for use in connection with a civil, an administrative, an arbitral, or a criminal proceeding in a federal, state, or local court or regulatory agency for service of process, investigation in anticipation of litigation, and execution or enforcement of judgments or orders;

(5) for purposes of research or statistical reporting as approved by the Motor Vehicle Administration provided that the personal information is not published, redisclosed, or used to contact the individual;

(6) for use by an insurer, an insurance support organization, or a self-insured entity, or its employees, agents, or contractors, in connection with rating, underwriting, claims investigating, and antifraud activities;

(7) for use in the normal course of business activity by a legitimate business entity or its agents, employees, or contractors, but only:

(i) to verify the accuracy of personal information submitted by the individual to that entity; and

(ii) if the information submitted is not accurate, to obtain correct information only for the purpose of:

1. preventing fraud by the individual;
2. pursuing legal remedies against the individual; or
3. recovering on a debt or security interest against the individual;

(8) for use by an employer or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. § 31101 et seq.);

(9) for use in connection with the operation of a private toll transportation facility;

(10) for use in providing notice to the owner of a towed or impounded motor vehicle;

(11) for use by an applicant who provides written consent from the individual to whom the information pertains if the consent is obtained within the 6-month period before the date of the request for personal information;

(12) for use in any matter relating to:

(i) the operation of a Class B (for hire), Class C (funeral and ambulance), or Class Q (limousine) vehicle; and

(ii) public safety or the treatment by the operator of a member of the public;

(13) for a use specifically authorized by State law, if the use is related to the operation of a motor vehicle or public safety;

(14) for use by a hospital to obtain, for hospital security, information relating to ownership of vehicles parked on hospital property;

(15) for use by a procurement organization requesting information under § 4-516 of the Estates and Trusts Article for the purposes of organ, tissue, and eye donation;

(16) for use by an electric company, as defined in § 1-101 of the Public Utilities Article, but only:

(i) information describing a plug-in electric drive vehicle, as defined in § 11-145.1 of the Transportation Article, and identifying the address of the registered owner of the plug-in vehicle;

(ii) for use in planning for the availability and reliability of the electric power supply; and

(iii) if the information is not:

1. published or redisclosed, including redisclosed to an affiliate as defined in § 7-501 of the Public Utilities Article; or

2. used for marketing or solicitation; and

(17) for use by an attorney, a title insurance producer, or any other individual authorized to conduct a title search of a manufactured home under Title 8B of the Real Property Article.

(g) (1) A person receiving personal information under subsection (e) or (f) of this section may not use or redisclose the personal information for a purpose other than the purpose for which the custodian disclosed the personal information.

(2) A person receiving personal information under subsection (d), (e), or (f) of this section may not disclose the personal information to a federal agent or federal agency for the purpose of federal immigration enforcement unless the person is presented with a valid warrant issued by a federal court of a court of this State.

(3) A person receiving personal information under subsection (e) or (f) of this section who rediscloses the personal information shall:

(i) keep a record for 5 years of the person to whom the information is redisclosed and the purpose for which the information is to be used; and

(ii) make the record available to the custodian on request.

(h) (1) The custodian shall adopt regulations to implement and enforce this section.

(2) (i) The custodian shall adopt regulations and procedures for securing from a person in interest a waiver of privacy rights under this section when an applicant requests personal information about the person in interest that the custodian is not authorized to disclose under subsections (c) through (f) of this section.

(ii) The regulations and procedures adopted under this paragraph shall:

1. state the circumstances under which the custodian may request a waiver; and

2. conform with the waiver requirements in the federal Driver's Privacy Protection Act of 1994 and other federal law.

(i) The custodian may develop and implement methods for monitoring compliance with this section and ensuring that personal information is used only for the purposes for which it is disclosed.

§ 4-320.1

(a) In this section, "facial recognition" means a biometric software application that identifies or verifies a person by comparing and analyzing patterns based on a person's facial contours.

(b) (1) Notwithstanding any other provision of this title, an officer, an employee, an agent, or a contractor of the State or a political subdivision shall deny inspection of the part of a public record that contains personal information or inspection of a photograph of an individual by any federal agency seeking access for the purpose of enforcing federal immigration law, unless the officer, employee, agent, or contractor is provided with a valid warrant issued by a federal court or court of this State.

(2) Notwithstanding any other provision of this title, an officer, an employee, an agent, or a contractor of the State or a political subdivision shall deny inspection using a facial recognition search of a digital photographic image or actual stored data of a digital photographic image by any federal agency seeking access for the purpose of enforcing federal immigration law, unless the officer, employee, agent, or contractor is provided with a valid warrant issued by a federal court or court of this State.

(3) On or before June 1, 2023, and each June 1 thereafter, the Motor Vehicle Administration, the Department of State Police, and the Department of Public Safety and Correctional Services shall, with respect to requests from federal agencies seeking access for the purpose of federal immigration enforcement for personal information, a photograph of an individual, or a facial recognition search, whether or not the request was initiated through a State or local law enforcement agency, report to the General Assembly, in accordance with § 2-1257 of the State Government Article, the following information for the immediately preceding calendar year:

(i) the number of requests received from any federal agency for personal information, a photograph of an individual, or a facial recognition search;

(ii) the number of requests received from any federal agency for personal information, a photograph of an individual, or a facial recognition search for which a valid warrant was issued by a federal court of court of this State was provided;

(iii) the number and purpose of facial recognition searches completed for any federal agency based on personal information or a photograph of an individual provided to the federal agency by the Motor Vehicle Administration, the Department of State Police, or the Department of Public Safety and Correctional Services; and

(iv) the number of individuals whose personal information or photograph was provided to any federal agency by, respectively, the Motor Vehicle Administration, the Department of State Police, and the Department of Public Safety and Correctional Services.

§ 4-321. RECORDED IMAGES FROM TRAFFIC CONTROL SIGNAL MONITORING SYSTEM.

(a) In this section, “recorded images” has the meaning stated in § 21-202.1, § 21-809, § 21-810, or § 24-111.3 of the Transportation Article.

(b) Except as provided in subsection (c) of this section, a custodian shall deny inspection of recorded images produced by:

(1) a traffic control signal monitoring system operated under § 21-202.1 of the Transportation Article;

(2) a speed monitoring system operated under § 21-809 of the Transportation Article;

(3) a work zone speed control system operated under § 21-810 of the Transportation Article; or

(4) a vehicle height monitoring system operated under § 24-111.3 of the Transportation Article.

(c) A custodian shall allow inspection of recorded images:

(1) as required in § 21-202.1, § 21-809, § 21-810, or § 24-111.3 of the Transportation Article;

(2) by any person issued a citation under § 21-202.1, § 21-809, § 21-810, or § 24-111.3 of the Transportation Article, or by an attorney of record for the person; or

(3) by an employee or agent of an agency in an investigation or a proceeding relating to the imposition of or indemnification from civil liability under § 21-202.1, § 21-809, § 21-810, or § 24-111.3 of the Transportation Article.

§ 4-322. SURVEILLANCE IMAGES.

(a) In this section, “surveillance image” has the meaning stated in § 10-112 of the Criminal Law Article.

(b) Except as provided in subsection (c) of this section, a custodian of a surveillance image shall deny inspection of the surveillance image.

(c) A custodian shall allow inspection of a surveillance image:

(1) as required in § 10-112 of the Criminal Law Article;

(2) by any person issued a citation under § 10-112 of the Criminal Law Article, or by an attorney of record for the person; or

(3) by an employee or agent of the Baltimore City Department of Public Works in an investigation or a proceeding relating to the imposition of or indemnification from civil liability under § 10-112 of the Criminal Law Article.

§ 4-323. RISK BASED CAPITAL RECORDS.

Subject to § 4-310 of the Insurance Article, a custodian shall deny inspection of all risk based capital reports and risk based capital plans and any other records that relate to those reports or plans.

§ 4-324. RENEWABLE ENERGY CREDIT RECORDS.

A custodian shall deny inspection of an application for renewable energy credit certification or a claim for renewable energy credits under Title 10, Subtitle 15 of the Agriculture Article.

§ 4-325. FIREARM AND HANDGUN RECORDS.

(a) Except as provided in subsections (b) and (c) of this section, a custodian shall deny inspection of all records of a person authorized to:

(1) sell, purchase, rent, or transfer a regulated firearm under Title 5, Subtitle 1 of the Public Safety Article; or

(2) carry, wear, or transport a handgun under Title 5, Subtitle 3 of the Public Safety Article.

(b) A custodian shall allow inspection of firearm or handgun records by:

(1) the individual named in the record; or

(2) the attorney of record of the individual named in the record.

(c) This section may not be construed to prohibit the Department of State Police or the Department of Public Safety and Correctional Services from accessing firearm or handgun records in the performance of that department's official duty.

§ 4-326. CAPTURED LICENSE PLATE DATA

(a) (1) In this section the following words have the meanings indicated.

(2) "Automatic license plate reader system" has the meaning stated in § 3-509 of the Public Safety Article.

(3) "Captured plate data" has the meaning stated in § 3-509 of the Public Safety Article.

(b) Except as provided in subsections (c) and (d) of this section, a custodian of captured plate data collected by an automatic license plate reader system shall deny inspection of the captured plate data.

(c) A custodian may use or share captured plate data in the course of the custodian's duties as authorized under § 3-509 of the Public Safety Article.

(d) Subsection (b) of this section does not apply to an electronic toll collection system or associated transaction system operated by or in conjunction with the Maryland Transportation Authority.

§ 4-327.

(a) Except as provided in subsection (b) of this section, a custodian shall deny inspection of criminal records and police records relating to the conviction of a crime that have been shielded under Title 10, Subtitle 3 of the Criminal Procedure Article.

(b) A custodian shall allow inspection of shielded records by a person authorized to access shielded records under § 10-302(b) of the Criminal Procedure Article.

PART III. REQUIRED DENIALS FOR SPECIFIC INFORMATION**§ 4-328. IN GENERAL.**

Unless otherwise provided by law, a custodian shall deny inspection of a part of a public record, as provided in this part.

§ 4-329. MEDICAL OR PSYCHOLOGICAL INFORMATION.

(a) Except for subsection (b)(3) of this section, this section does not apply to:

- (1) a nursing home as defined in § 19-1401 of the Health-General Article; or
- (2) an assisted living program as defined in § 19-1801 of the Health-General Article.

(b) Subject to subsection (c) of this section, a custodian shall deny inspection of the part of a public record that contains:

(1) medical or psychological information about an individual, other than an autopsy report of a medical examiner;

(2) personal information about an individual with, or perceived to have, a disability as defined in § 20-701 of the State Government Article; or

(3) any report on human immunodeficiency virus or acquired immunodeficiency syndrome submitted in accordance with Title 18 of the Health-General Article.

(c) A custodian shall allow the person in interest to inspect the public record to the extent allowed under § 4-304(a) of the Health-General Article.

§ 4-330. SOCIOLOGICAL INFORMATION.

If the official custodian has adopted rules or regulations that define sociological information for purposes of this section, a custodian shall deny inspection of the part of a public record that contains sociological information, in accordance with the rules or regulations.

§ 4-331. INFORMATION ABOUT PUBLIC EMPLOYEES.

Subject to § 21-504 of the State Personnel and Pensions Article, a custodian shall deny inspection of the part of a public record that contains the home address or telephone number of an employee of a unit or an instrumentality of the State or of a political subdivision unless:

- (1) the employee gives permission for the inspection; or
- (2) the unit or instrumentality that employs the individual determines that inspection is needed to protect the public interest.

§ 4-332. INFORMATION ABOUT NOTARIES PUBLIC.

(a) Subject to subsections (b) through (e) of this section, a custodian shall deny inspection of the part of a public record that contains information about the application and commission of a person as a notary public.

(b) A custodian shall allow inspection of the part of a public record that gives:

- (1) the name of the notary public;
- (2) the notary public's business address or, if a business address is not provided to the custodian by the notary public, the notary public's home address;
- (3) the notary public's business telephone number or, if a business telephone number is not provided to the custodian by the notary public, the notary public's home telephone number;
- (4) the issue and expiration dates of the notary public's commission;
- (5) the date the person took the oath of office as a notary public; or
- (6) the signature of the notary public.

(c) A custodian may allow inspection of other information about a notary public if the custodian finds a compelling public purpose.

(d) A custodian may deny inspection of a record by a notary public or any other person in interest only to the extent that the inspection could:

- (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.

(e) A custodian who sells lists of notaries public shall omit from the lists the name of any notary public, on written request of the notary public.

§ 4-333. LICENSING RECORDS.

(a) Subject to subsections (b) through (d) of this section, a custodian shall deny inspection of the part of a public record that contains information about the licensing of an individual in an occupation or a profession.

(b) A custodian shall allow inspection of the part of a public record that gives:

(1) the name of the licensee;

(2) the business address of the licensee or, if the business address is not available, the home address of the licensee after the custodian redacts any information that identifies the location as the home address of an individual with a disability as defined in § 20-701 of the State Government Article;

(3) the business telephone number of the licensee;

(4) the educational and occupational background of the licensee;

(5) the professional qualifications of the licensee;

(6) any orders and findings that result from formal disciplinary actions; and

(7) any evidence that has been provided to the custodian to meet the requirements of a statute as to financial responsibility.

(c) A custodian may allow inspection of other information about a licensee if:

(1) the custodian finds a compelling public purpose; and

(2) the rules or regulations of the official custodian allow the inspection.

(d) Except as otherwise provided by this section or other law, a custodian shall allow inspection by the person in interest.

(e) A custodian who sells lists of licensees shall omit from the lists the name of any licensee, on written request of the licensee.

§ 4-334. SOCIAL SECURITY NUMBERS.

(a) Except as provided in subsection (b) of this section, a custodian shall deny inspection of the part of an application for a marriage license under § 2-402 of the Family Law Article or a recreational license under Title 4 of the Natural Resources Article that contains a Social Security number.

(b) A custodian shall allow inspection of the part of an application described in subsection (a) of this section that contains a Social Security number by:

(1) a person in interest; or

(2) on request, the State Child Support Enforcement Administration.

§ 4-335. TRADE SECRETS; CONFIDENTIAL INFORMATION.

A custodian shall deny inspection of the part of a public record that contains any of the following information provided by or obtained from any person or governmental unit:

(1) a trade secret;

(2) confidential commercial information;

(3) confidential financial information; or

(4) confidential geological or geophysical information.

§ 4-336. FINANCIAL INFORMATION.

(a) This section does not apply to the salary of a public employee.

(b) Subject to subsection (c) of this section, a custodian shall deny inspection of the part of a public record that contains information about the finances of an individual, including assets, income, liabilities, net worth, bank balances, financial history or activities, or creditworthiness.

(c) A custodian shall allow inspection by the person in interest.

§ 4-337. COLLUSIVE OR ANTICOMPETITIVE ACTIVITY.

A custodian shall deny inspection of the part of a public record that contains information:

- (1) generated by the bid analysis management system;
- (2) concerning an investigation of a transportation contractor's suspected collusive or anticompetitive activity; and
- (3) submitted to the Maryland Department of Transportation by the United States Department of Transportation or by another state.

§ 4-338. SECURITY OF INFORMATION SYSTEMS.

A custodian shall deny inspection of the part of a public record that contains information about the security of an information system.

§ 4-339. ALARM OR SECURITY SYSTEM.

(a) Except as provided in subsection (b) of this section, a custodian shall deny inspection of the part of a public record that identifies or contains personal information about a person, including a commercial entity, that maintains an alarm or security system.

(b) A custodian shall allow inspection by:

- (1) the person in interest;
- (2) an alarm or security system company if the company can document that it currently provides alarm or security services to the person in interest;
- (3) law enforcement personnel; and
- (4) emergency services personnel, including:
 - (i) a career firefighter;
 - (ii) an emergency medical services provider, as defined in § 13-516 of the Education Article;
 - (iii) a rescue squad employee; and

(iv) a volunteer firefighter, a rescue squad member, or an advanced life support unit member.

§ 4-340. SENIOR CITIZEN ACTIVITIES CENTERS.

(a) “Senior citizen activities center” has the meaning stated in § 10-513 of the Human Services Article.

(b) Except as provided in subsection (c) of this section, a custodian shall deny inspection of the part of a public record that contains the name, address, telephone number, or electronic mail address of any individual enrolled in or any member of a senior citizen activities center.

(c) A custodian shall allow inspection by:

(1) a person in interest;

(2) law enforcement personnel; or

(3) emergency services personnel, including:

(i) a career firefighter;

(ii) an emergency medical services provider, as defined in § 13-516 of the Education Article;

(iii) a rescue squad employee; and

(iv) a volunteer firefighter, a rescue squad member, or an advanced life support unit member.

§ 4-341.

(a) In this section, “governmental entity” means a unit or an instrumentality of the State or of a political subdivision.

(b) A custodian shall deny inspection of a distribution list and a request to be added to a distribution list that identifies a physical address, an e-mail address, or a telephone number of an individual that is used by a governmental entity or an elected official for the sole purpose of:

(1) periodically sending news about the official activities of the governmental entity or elected official; or

(2) sending informational notices or emergency alerts.

§ 4-342. RESERVED.**PART IV. DENIAL OF PART OF PUBLIC RECORD****§ 4-343. IN GENERAL.**

Unless otherwise provided by law, if a custodian believes that inspection of a part of a public record by the applicant would be contrary to the public interest, the custodian may deny inspection by the applicant of that part of the record, as provided in this part.

§ 4-344. INTERAGENCY OR INTRA-AGENCY LETTERS OR MEMORANDA.

A custodian may deny inspection of any part of an interagency or intra-agency letter or memorandum that would not be available by law to a private party in litigation with the unit.

§ 4-345. EXAMINATION INFORMATION.

(a) Subject to subsection (b) of this section, a custodian may deny inspection of test questions, scoring keys, and other examination information that relates to the administration of licenses, employment, or academic matters.

(b) After a written promotional examination has been given and graded, a custodian shall allow a person in interest to inspect the examination and the results of the examination, but may not allow the person in interest to copy or otherwise to reproduce the examination.

§ 4-346. STATE OR LOCAL RESEARCH PROJECT.

(a) Subject to subsection (b) of this section, a custodian may deny inspection of a public record that contains the specific details of a research project that an institution of the State or of a political subdivision is conducting.

(b) A custodian may not deny inspection of the part of a public record that gives only the name, title, and expenditures of a research project described in subsection (a) of this section and the date when the final project summary of the research project will be available.

§ 4-347. INVENTIONS OWNED BY STATE PUBLIC INSTITUTION OF HIGHER EDUCATION.

(a) Subject to subsection (b) of this section, a custodian may deny inspection of the part of a public record that contains information disclosing or relating to an invention owned in whole or in part by a State public institution of higher education for 4 years to allow the institution

to evaluate whether to patent or market the invention and pursue economic development and licensing opportunities related to the invention.

(b) A custodian may not deny inspection of a part of a public record described in subsection (a) of this section if:

(1) the information disclosing or relating to an invention has been published or disseminated by the inventors in the course of their academic activities or disclosed in a published patent;

(2) the invention referred to in that part of the record has been licensed by the institution for at least 4 years; or

(3) 4 years have elapsed from the date of the written disclosure of the invention to the institution.

§ 4-348. CONFIDENTIAL INFORMATION OWNED BY SPECIFIC STATE ENTITIES.

A custodian may deny inspection of the part of a public record that contains information disclosing or relating to a trade secret, confidential commercial information, or confidential financial information owned in whole or in part by:

(1) the Maryland Technology Development Corporation; or

(2) a public institution of higher education, if the information is part of the institution's activities under § 15-107 of the Education Article.

§ 4-349. REAL ESTATE APPRAISALS.

(a) Subject to subsection (b) of this section and other law, until the State or a political subdivision acquires title to property, a custodian may deny inspection of a public record that contains a real estate appraisal of the property.

(b) A custodian may not deny inspection by the owner of the property.

§ 4-350. SITE-SPECIFIC LOCATIONS OF CERTAIN PLANTS, ANIMALS, OR PROPERTY.

(a) A custodian may deny inspection of a public record that contains information concerning the site-specific location of an endangered or threatened species of plant or animal, a species of plant or animal in need of conservation, a cave, or a historic property as defined in § 5A-301 of the State Finance and Procurement Article.

(b) A custodian may not deny inspection of a public record described in subsection (a) of this section if requested by:

- (1) the owner of the land on which the resource is located; or
- (2) any entity that is authorized to take the land through the right of eminent domain.

§ 4-351. INVESTIGATIONS INTELLIGENCE INFORMATION; SECURITY PROCEDURES.

(a) Subject to subsections (b), (c), and (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;

(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; or

(4) records, other than a record of a technical infraction, relating to an administrative or criminal investigation of misconduct by a police officer, including an internal affairs investigatory record, a hearing record, and records relating to a disciplinary decision.

(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 shall allow inspection of a record described in subsection (a)(4) of this section by:

- (1) the United States Attorney;
- (2) the Attorney General;
- (3) the State Prosecutor; or
- (4) the State's Attorney for the jurisdiction relevant to the record.

(d) Except as provided in subsection (c) of this section, a custodian:

(1) shall redact the portions of a record described in subsection (a)(4) of this section to the extent that the record reflects:

- (i) medical information of the person in interest;
- (ii) personal contact information of the person in interest or a witness; or
- (iii) information relating to the family of the person in interest; and

(2) may redact the portion of a record described in subsection (a)(4) of this section to the extent that the record reflects witness information other than personal contact information.

(e) A custodian shall notify the person in interest of a record described in subsection (a)(4) of this section when the record is inspected, but may not disclose the identity of the requestor to the person in interest.

§ 4-352. INFORMATION RELATED TO EMERGENCY MANAGEMENT.

(a) Subject to subsections (b) and (c) of this section, a custodian may deny inspection of:

(1) response procedures or plans prepared to prevent or respond to emergency situations, the disclosure of which would reveal vulnerability assessments, specific tactics, specific emergency procedures, or specific security procedures;

(2) (i) building plans, blueprints, schematic drawings, diagrams, operational manuals, or any other records of ports and airports and any other mass transit facilities, bridges, tunnels, emergency response facilities or structures, buildings where hazardous materials are stored, arenas, stadiums, waste and water systems, and any other building, structure, or facility, the disclosure of which would reveal the building's, structure's, or facility's internal layout, specific location, life, safety, and support systems, structural elements, surveillance techniques, alarm or security systems or technologies, operational and transportation plans or protocols, or personnel deployments; or

(ii) records of any other building, structure, or facility, the disclosure of which would reveal the building's, structure's, or facility's life, safety, and support systems, surveillance techniques, alarm or security systems or technologies, operational and evacuation plans or protocols, or personnel deployments; or

(3) records that:

(i) are prepared to prevent or respond to emergency situations; and

(ii) identify or describe the name, location, pharmaceutical cache, contents, capacity, equipment, physical features, or capabilities of individual medical facilities, storage facilities, or laboratories.

(b) The custodian may deny inspection of a part of a public record under subsection (a) of this section only to the extent that the inspection would:

(1) jeopardize the security of any building, structure, or facility;

(2) facilitate the planning of a terrorist attack; or

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

(c) (1) This subsection does not apply to the records of any building, structure, or facility owned or operated by the State or any political subdivision.

(2) A custodian may not deny inspection of a public record under subsection (a) or (b) of this section that relates to a building, structure, or facility that has been subjected to a catastrophic event, including a fire, an explosion, or a natural disaster.

(3) Subject to subsections (a) and (b) of this section, a custodian may not deny inspection of a public record that relates to an inspection of or issuance of a citation concerning a building, structure, or facility by an agency of the State or any political subdivision.

§ 4-353. MARYLAND PORT ADMINISTRATION INFORMATION.

(a) A custodian may deny inspection of any part of a public record that contains:

(1) stevedoring or terminal services or facility use rates or proposed rates generated, received, or negotiated by the Maryland Port Administration or any private operating company created by the Maryland Port Administration;

(2) a proposal generated, received, or negotiated by the Maryland Port Administration or any private operating company created by the Maryland Port Administration for use of

stevedoring or terminal services or facilities to increase waterborne commerce through the ports of the State; or

(3) except as provided in subsection (b) of this section, research or analysis related to maritime businesses or vessels compiled for the Maryland Port Administration or any private operating company created by the Maryland Port Administration to evaluate its competitive position with respect to other ports.

(b) (1) A custodian may not deny inspection of any part of a public record under subsection (a)(3) of this section by the exclusive representative identified in Section 1 of the memorandum of understanding, or any identical section of a successor memorandum, between the State and the American Federation of State, County and Municipal Employees dated June 28, 2000, or the memorandum of understanding, or any identical section of a successor memorandum, between the State and the Maryland Professional Employees Council dated August 18, 2000, if the part of the public record:

(i) is related to State employees; and

(ii) would otherwise be available to the exclusive representative under Article 4, Section 12 of the applicable memorandum of understanding, or any identical section of a successor memorandum of understanding.

(2) Before the inspection of any part of a public record under paragraph (1) of this subsection, the exclusive representative shall enter into a nondisclosure agreement with the Maryland Port Administration to ensure the confidentiality of the information provided.

§ 4-354. UNIVERSITY OF MARYLAND GLOBAL CAMPUS RECORDS.

(a) A custodian may deny inspection of any part of a public record that:

(1) relates to the competitive position of the University of Maryland Global Campus with respect to other providers of education services; and

(2) contains:

(i) fees, tuition, charges, and any information supporting fees, tuition, and charges, proposed, generated, received, or negotiated for receipt by the University of Maryland Global Campus, except fees, tuition, and charges published in catalogues and ordinarily charged to students;

(ii) a proposal generated, received, or negotiated by the University of Maryland Global Campus, other than with its students, for the provision of education services; or

(iii) any research, analysis, or plans compiled by or for the University of Maryland Global Campus relating to its operations or proposed operations.

(b) A custodian may not deny inspection of any part of a public record under subsection (a) of this section if:

(1) the record relates to a procurement by the University of Maryland Global Campus;

(2) the University of Maryland Global Campus is required to develop or maintain the record by law or at the direction of the Board of Regents of the University System of Maryland; or

(3) (i) the record is requested by the exclusive representative of any bargaining unit of employees of the University of Maryland Global Campus;

(ii) the record relates to a matter that is the subject of collective bargaining negotiations between the exclusive representative and the University of Maryland Global Campus; and

(iii) the exclusive representative has entered into a nondisclosure agreement with the University of Maryland Global Campus to ensure the confidentiality of the information provided.

§ 4-355. PUBLIC INSTITUTION OF HIGHER EDUCATION RECORDS.

(a) (1) In this section the following words have the meanings indicated.

(2) “Directory information” has the meaning stated in 20 U.S.C. § 1232g.

(3) “Personal information” means:

(i) an address;

(ii) a telephone number;

(iii) an e-mail address; or

(iv) directory information.

(b) A custodian of a record kept by a public institution of higher education that contains personal information relating to a student, a former student, or an applicant may:

(1) require that a request to inspect a record containing personal information be made in writing and sent by first-class mail; and

(2) deny inspection of the part of the record containing the personal information if the information is requested for commercial purposes.

§ 4-356.

(a) (1) In this section the following words have the meanings indicated.

(2) “Victim” means:

(i) a victim of domestic violence, as defined under § 4-701 of the Family Law Article;

(ii) a victim of a violation of Title 3, Subtitle 3 of the Criminal Law Article; or

(iii) a victim of a violation of Title 3, Subtitle 6 of the Criminal Law Article, except for a violation of § 3-607 of the Criminal Law Article where the victim is an adult.

(3)(i) “Victim’s representative” has the meaning stated in § 11-104 of the Criminal Procedure Article.

(ii) “Victim’s representative” does not include a person acting in concert with a person alleged to have committed the crime against the victim.

(b) (1) This section does not apply to a public record that has been entered into evidence in a court proceeding.

(2) This section may not be construed to:

(i) create a right of civil action for a victim or victim’s representative; or

(ii) affect the discovery or evidentiary rights of a party to a civil suit or criminal prosecution.

(c) Subject to subsections (d) and (e) of this section, before granting inspection of the part of a 9-1-1 communications record that depicts a victim, a custodian shall:

(1) within 30 days after receiving the request and if the custodian has contact information for the victim or victim’s representative, notify the victim or victim’s representative of the request;

(2) allow 10 days for a response from the victim or victim’s representative indicating that inspection may be contrary to the public interest; and

(3) consider any response received under item (2) of this subsection in determining whether to grant or deny the inspection.

(d) A custodian may redact the information described under subsection (c) of this section if a failure to do so would result in a constructive denial of the entire public record.

(e) A custodian shall allow inspection by the person in interest.

§ 4-357. RESERVED.

PART V. TEMPORARY DENIALS

§ 4-358. TEMPORARY DENIALS.

(a) Whenever this title authorizes inspection of a public record but the official custodian believes that inspection would cause substantial injury to the public interest, the official custodian may deny inspection temporarily.

(b) (1) Within 10 working days after the denial, the official custodian shall petition a court to order authorization for the continued denial of inspection.

(2) The petition shall be filed with the circuit court for the county where:

(i) the public record is located; or

(ii) the principal place of business of the official custodian is located.

(3) The petition shall be served on the applicant, as provided in the Maryland Rules.

(c) The applicant is entitled to appear and to be heard on the petition.

(d) If, after the hearing, the court finds that inspection of the public record would cause substantial injury to the public interest, the court may issue an appropriate order authorizing the continued denial of inspection.

§ 4-359. RESERVED

§ 4-360. RESERVED.

PART VI. ADMINISTRATIVE AND JUDICIAL REVIEW

§ 4-361. RESERVED.

§ 4-362. JUDICIAL REVIEW.

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

SUBTITLE 4. LIABILITY; PROHIBITED ACTS; PENALTIES; IMMUNITY

§ 4-401. UNLAWFUL DISCLOSURE OF PUBLIC RECORDS.

(a) A person, including an officer or employee of a governmental unit, is liable to an individual for actual damages that the court considers appropriate if the court finds by clear and convincing evidence that:

(1) (i) the person willfully and knowingly allows inspection or use of a public record in violation of this subtitle; and

(ii) the public record names or, with reasonable certainty, otherwise identifies the individual by an identifying factor such as:

1. an address;
2. a description;
3. a fingerprint or voice print;
4. a number; or
5. a picture; or

(2) the person willfully and knowingly obtains, discloses, or uses personal information in violation of § 4-320 of this title.

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

§ 4-402. PROHIBITED ACTS; CRIMINAL PENALTIES.

(a) A person may not:

(1) willfully or knowingly violate any provision of this title;

(2) fail to petition a court after temporarily denying inspection of a public record; or

(3) by false pretenses, bribery, or theft, gain access to or obtain a copy of a personal record if disclosure of the personal record to the person is prohibited by this title.

(b) A person who violates any provision of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000.

§ 4-403. IMMUNITY FOR CERTAIN DISCLOSURES.

A custodian is not civilly or criminally liable for transferring or disclosing the contents of a public record to the Attorney General under § 5-313 of the State Personnel and Pensions Article.

SUBTITLE 5. MISCELLANEOUS PROVISIONS

§ 4-501. PERSONAL RECORDS.

(a) In this section, “personal record” means a public record that names or, with reasonable certainty, otherwise identifies an individual by an identifying factor such as:

- (1) an address;
- (2) a description;
- (3) a fingerprint or voice print;
- (4) a number; or
- (5) a picture.

(b) (1) Personal records may not be created unless the need for the information has been clearly established by the unit collecting the records.

(2) Personal information collected for personal records:

- (i) shall be appropriate and relevant to the purposes for which it is collected;
- (ii) shall be accurate and current to the greatest extent practicable; and
- (iii) may not be obtained by fraudulent means.

(c) (1) This subsection applies only to units of the State.

(2) Except as otherwise provided by law, an official custodian who keeps personal records shall collect, to the greatest extent practicable, personal information from the person in interest.

(3) An official custodian who requests personal information for personal records shall provide the following information to each person in interest from whom personal information is collected:

- (i) the purpose for which the personal information is collected;
- (ii) any specific consequences to the person for refusal to provide the personal information;
- (iii) the person's right to inspect, amend, or correct personal records, if any;
- (iv) whether the personal information is generally available for public inspection; and
- (v) whether the personal information is made available or transferred to or shared with any entity other than the official custodian.

(4) Each unit of the State shall post its privacy policies on the collection of personal information, including the policies specified in this subsection, on its Internet Web site.

(5) The following personal records are exempt from the requirements of this subsection:

- (i) information concerning the enforcement of criminal laws or the administration of the penal system;
- (ii) information contained in investigative materials kept for the purpose of investigating a specific violation of State law and maintained by a State agency whose principal function may be other than law enforcement;
- (iii) information contained in public records that are accepted by the State Archivist for deposit in the Maryland Hall of Records;
- (iv) information gathered as part of formal research projects previously reviewed and approved by federally mandated institutional review boards; and
- (v) any other personal records exempted by regulations adopted by the Secretary of Budget and Management, based on the recommendation of the Secretary of Information Technology.

(d) (1) This subsection does not apply to:

- (i) a unit in the Legislative Branch of the State government;

(ii) a unit in the Judicial Branch of the State government; or

(iii) a board of license commissioners.

(2) If a unit or an instrumentality of the State keeps personal records, the unit or instrumentality shall submit an annual report to the Secretary of General Services.

(3) An annual report shall state:

(i) the name of the unit or instrumentality;

(ii) for each set of personal records:

1. the name of the set;

2. the location of the set; and

3. if a subunit keeps the set, the name of the subunit;

(iii) for each set of personal records that has not been previously reported:

1. the category of individuals to whom the set applies;

2. a brief description of the types of information that the set contains;

3. the major uses and purposes of the information;

4. by category, the source of information for the set; and

5. the policies and procedures of the unit or instrumentality as to:

A. access and challenges to the personal record by the person in interest; and

B. storage, retrieval, retention, disposal, and security, including controls on access; and

(iv) for each set of personal records that has been disposed of or changed significantly since the unit or instrumentality last submitted a report, the information required under item (iii) of this paragraph.

(4) A unit or an instrumentality that has two or more sets of personal records may combine the personal records in the report only if the character of the personal records is highly similar.

(5) The Secretary of General Services shall adopt regulations that govern the form and method of reporting under this subsection.

(6) The annual report shall be available for public inspection.

(e) The official custodian may allow inspection of personal records for which inspection otherwise is not authorized by a person who is engaged in a research project if:

(1) the researcher submits to the official custodian a written request that:

(i) describes the purpose of the research project;

(ii) describes the intent, if any, to publish the findings;

(iii) describes the nature of the requested personal records;

(iv) describes the safeguards that the researcher would take to protect the identity of the persons in interest; and

(v) states that persons in interest will not be contacted unless the official custodian approves and monitors the contact;

(2) the official custodian is satisfied that the proposed safeguards will prevent the disclosure of the identity of persons in interest; and

(3) the researcher makes an agreement with the unit or instrumentality that:

(i) defines the scope of the research project;

(ii) sets out the safeguards for protecting the identity of the persons in interest; and

(iii) states that a breach of any condition of the agreement is a breach of contract.

§ 4-502. CORRECTIONS OF PUBLIC RECORDS.

(a) A person in interest may request a unit of the State to correct inaccurate or incomplete information in a public record that:

(1) the unit keeps; and

(2) the person in interest is authorized to inspect.

(b) A request under this section shall:

(1) be in writing;

(2) describe the requested change precisely; and

(3) state the reasons for the change.

(c) (1) Within 30 days after receiving a request under this section, a unit shall:

- (i) make or refuse to make the requested change; and
 - (ii) give the person in interest written notice of the action taken.
- (2) A notice of refusal shall contain the unit's reasons for the refusal.
- (d) (1) If the unit finally refuses a request under this section, the person in interest may submit to the unit a concise statement that, in five pages or less, states the reasons for the request and for disagreement with the refusal.
- (2) If the unit provides the disputed information to a third party, the unit shall provide to that party a copy of the statement submitted to the unit by the person in interest.
- (e) If a unit is subject to Title 10, Subtitle 2 of the State Government Article, a person or governmental unit may seek administrative and judicial review in accordance with that subtitle of:
- (1) a decision of the unit to deny:
 - (i) a request to change a public record; or
 - (ii) a right to submit a statement of disagreement; or
 - (2) the failure of the unit to provide the statement to a third party.

§ 4-503.

- (a) Each governmental unit that maintains public records shall:
- (1) identify a representative who a member of the public should contact to request a public record from the governmental unit;
 - (2) maintain contact information for the governmental unit's representative that includes:
 - (i) the representative's name;
 - (ii) the representative's business address;
 - (iii) the representative's business phone number;
 - (iv) the representative's business e-mail address; and
 - (v) the Internet address of the governmental unit;
 - (3) (i) post the contact information maintained under item (2) of this subsection in a user-friendly format on the Web site of the governmental unit; or

(ii) if the governmental unit does not have a Web site, keep the contact information maintained under item (2) of this subsection at a place easily accessible by the public;

(4) annually update the contact information maintained under item (2) of this subsection; and

(5) annually submit the contact information maintained under item (2) of this subsection to the Office of the Attorney General.

(b) The Office of the Attorney General shall:

(1) post the contact information submitted under subsection (a)(5) of this section in a user-friendly format on the Web site of the Office of the Attorney General; and

(2) include the contact information submitted under subsection (a)(5) of this section in any Public Information Act manual published by the Office of the Attorney General.

§ 4-601. SHORT TITLE.

This title may be cited as the Public Information Act.