

HOUSE BILL 1221

E2, E4

0lr2309
CF 0lr3648

By: **Delegate Clippinger**

Introduced and read first time: February 7, 2020

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

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

4 FOR the purpose of establishing that a record relating to a formal complaint of job–related
5 misconduct made against a law enforcement officer is not a personnel record under
6 certain provisions of the Public Information Act under certain circumstances;
7 authorizing a custodian to deny inspection of certain records involving a complaint
8 of job–related misconduct made against a law enforcement officer; authorizing a
9 custodian to deny inspection of certain records by a complainant only under certain
10 circumstances; defining a certain term; and generally relating to personnel records
11 and investigatory records under the Public Information Act.

12 BY renumbering
13 Article – General Provisions
14 Section 4–101(e) through (j), respectively
15 to be Section 4–101(f) through (k), respectively
16 Annotated Code of Maryland
17 (2019 Replacement Volume)

18 BY repealing and reenacting, without amendments,
19 Article – General Provisions
20 Section 4–101(a)
21 Annotated Code of Maryland
22 (2019 Replacement Volume)

23 BY adding to
24 Article – General Provisions
25 Section 4–101(e)
26 Annotated Code of Maryland
27 (2019 Replacement Volume)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



BY repealing and reenacting, with amendments,

Article – General Provisions

Section 4–311 and 4–351

Annotated Code of Maryland

(2019 Replacement Volume)

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

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

Article – General Provisions

4–101.

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

**(E) “LAW ENFORCEMENT OFFICER” HAS THE MEANING STATED IN § 3–101
OF THE PUBLIC SAFETY ARTICLE.**

4–311.

(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) A RECORD RELATING TO A FORMAL COMPLAINT OF JOB-RELATED
MISCONDUCT MADE AGAINST A LAW ENFORCEMENT OFFICER, INCLUDING AN**

1 INVESTIGATION RECORD, A HEARING RECORD, OR A DISCIPLINARY DECISION, IS
2 NOT A PERSONNEL RECORD FOR PURPOSES OF THIS SECTION IF:

3 (1) THE ALLEGED MISCONDUCT INVOLVES THE DISCHARGE OF A
4 FIREARM AT A PERSON BY A LAW ENFORCEMENT OFFICER;

5 (2) THE ALLEGED MISCONDUCT INVOLVES THE USE OF FORCE BY A
6 LAW ENFORCEMENT OFFICER RESULTING IN DEATH OR SERIOUS BODILY INJURY; OR

7 (3) A SUSTAINED INVESTIGATORY FINDING WAS MADE BY A LAW
8 ENFORCEMENT AGENCY THAT A LAW ENFORCEMENT OFFICER:

9 (I) COMMITTED A SEXUAL ASSAULT INVOLVING A MEMBER OF
10 THE PUBLIC;

11 (II) ENGAGED IN DISHONESTY, COMMITTED PERJURY, MADE
12 FALSE STATEMENTS, FILED FALSE REPORTS, OR DESTROYED, FALSIFIED, OR
13 CONCEALED EVIDENCE DIRECTLY RELATING TO THE REPORTING, INVESTIGATION,
14 OR PROSECUTION OF A CRIME; OR

15 (III) ENGAGED IN PROHIBITED DISCRIMINATION DIRECTLY
16 RELATING TO THE REPORTING, INVESTIGATION, OR PROSECUTION OF A CRIME.

17 4-351.

18 (a) Subject to subsection (b) of this section, a custodian may deny inspection of:

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

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

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

26 (4) RECORDS OF AN INVESTIGATION, A HEARING, OR A DECISION
27 INVOLVING A COMPLAINT OF JOB-RELATED MISCONDUCT MADE AGAINST A LAW
28 ENFORCEMENT OFFICER.

29 (b) A custodian may deny inspection OF A RECORD DESCRIBED IN SUBSECTION
30 (A) OF THIS SECTION by a person in interest OR, FOR A RECORD DESCRIBED IN
31 SUBSECTION (A)(4) OF THIS SECTION, A COMPLAINANT only to the extent that the

1 inspection would:

- 2 (1) interfere with a valid and proper law enforcement proceeding;
- 3 (2) deprive another person of a right to a fair trial or an impartial
4 adjudication;
- 5 (3) constitute an unwarranted invasion of personal privacy;
- 6 (4) disclose the identity of a confidential source;
- 7 (5) disclose an investigative technique or procedure;
- 8 (6) prejudice an investigation; or
- 9 (7) endanger the life or physical safety of an individual.

10 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2020.