

SENATE BILL 479

R2, P2

(11r1368)

ENROLLED BILL

— *Education, Health, and Environmental Affairs/Health and Government Operations* —

Introduced by **Senators Conway, Manno, Raskin, Benson, Ferguson, Frosh, Garagiola, Gladden, Glassman, Pinsky, Pugh, Young, and Zirkin**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Transportation – Procurement for MARC Train Service – Disclosure**
3 **~~Requirements Regarding Involvement in Deportations~~**

4 FOR the purpose of ~~requiring certain entities that submit a bid or proposal to the~~
5 ~~Maryland Department of Transportation or certain other units of the State or~~
6 ~~local government to provide certain MARC train service to submit a certain~~
7 ~~statement concerning certain deportation activity in which the entity may have~~
8 ~~engaged; requiring an entity to include certain information in the statement;~~
9 ~~requiring the Department of Transportation or certain other units of the State~~
10 ~~or local government to consider certain information provided by certain entities~~
11 ~~seeking to provide certain MARC train service; defining certain terms; and~~
12 ~~generally relating to the disclosure of certain information by entities that~~
13 ~~submit bids or proposals on procurement contracts to provide certain MARC~~
14 ~~train service.~~ *prohibiting certain entities from being considered a responsible*

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

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

Italics indicate opposite chamber/conference committee amendments.



bidder or offeror for certain contracts to provide Maryland Area Regional Commuter (MARC) service unless the entities comply with certain requirements; requiring that, in conjunction with the submission of certain bids or offers, certain entities provide certain units with a certain statement and estimated date for completing a certain process of assembling records; requiring certain entities to notify certain units of changes to a certain estimated date; requiring certain entities to comply with certain requirements for a certain process of assembling records; requiring certain entities to contract with certain archivists and historians to conduct a certain initial analysis and ensure that a certain process of assembling records is conducted in a certain manner; establishing requirements for a certain initial analysis; requiring certain entities to submit certain information to the State Archivist after a certain process of assembling records is completed; requiring the State Archivist to approve certain archivists, historians, and initial reports; requiring the State Archivist to provide certain guidance and oversight; requiring the State Archivist to make certain determinations and provide certain written notice of the determination to certain units; authorizing the State Archivist to use a designee to carry out certain provisions; requiring certain units to provide notice of intent to award certain contracts within a certain period of time; prohibiting certain units from awarding certain contracts to certain entities that do not comply with certain provisions; authorizing certain units to award certain entities after receiving certain notice; providing that certain prohibitions do not apply if a contract is awarded to certain bidders or offerors; authorizing certain entities to award certain contracts to certain entities after receiving certain notice; providing that, notwithstanding certain requirements, certain units may award certain contracts to certain bidders or offerors; prohibiting certain entities, bidders, or offerors from submitting certain protests; requiring that certain entities that submit certain bids or proposals to the Maryland Transit Administration comply with certain requirements; providing for the application of this Act; defining certain terms; and generally relating to procurement for MARC service and requirements for assembling records and disclosing information related to the deportation of victims.

BY adding to

Article – State Finance and Procurement

Section 12–501 through ~~12–504~~ 12–511 to be under the new subtitle “Subtitle 5.

Disclosure Requirements Regarding Involvement in Deportations”

Annotated Code of Maryland

(2009 Replacement Volume and 2010 Supplement)

BY adding to

Article – Transportation

Section 7–508

Annotated Code of Maryland

(2008 Replacement Volume and 2010 Supplement)

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

Article – State Finance and Procurement

SUBTITLE 5. DISCLOSURE REQUIREMENTS REGARDING INVOLVEMENT IN DEPORTATIONS.

12-501.

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

~~(B) “DEPARTMENT” MEANS THE MARYLAND DEPARTMENT OF TRANSPORTATION.~~

~~(C) (B) “DIRECT INVOLVEMENT IN THE DEPORTATION OF VICTIMS” MEANS OWNERSHIP OR OPERATION OF THE TRAINS ON WHICH INDIVIDUALS WERE ~~DEPORTED~~ TRANSPORTED TO EXTERMINATION CAMPS, DEATH CAMPS, OR ANY FACILITY USED TO TRANSITION INDIVIDUALS TO EXTERMINATION CAMPS OR DEATH CAMPS, DURING THE PERIOD BEGINNING ON ~~JANUARY 1, 1942~~ SEPTEMBER 1, 1939, AND ENDING ON ~~DECEMBER 31, 1944~~ SEPTEMBER 2, 1945.~~

~~(D) (C)~~ “ENTITY” MEANS:

(1) A CORPORATION, AFFILIATE, OR OTHER SIMILAR ORGANIZATION OR A SUCCESSOR IN INTEREST OF THE CORPORATION, AFFILIATE, OR SIMILAR ORGANIZATION THAT CONTROLS, OR IS CONTROLLED OR OWNED OR PARTIALLY OWNED BY OR UNDER COMMON CONTROL WITH, A CORPORATION THAT ~~HAS~~ HAD DIRECT INVOLVEMENT IN THE DEPORTATION OF VICTIMS; OR

(2) A MEMBER OF A PARTNERSHIP OR A CONSORTIUM THAT INCLUDES AN ENTITY THAT CERTIFIES THAT IT ~~HAS~~ HAD DIRECT INVOLVEMENT IN THE DEPORTATION OF VICTIMS.

~~(D)~~ “MARC” MEANS THE MARYLAND AREA REGIONAL COMMUTER.

(E) (1) “PROPERTY” MEANS ANY PERSONAL BELONGINGS OWNED OR CONTROLLED BY VICTIMS ~~OF THE DEPORTATIONS TO EXTERMINATION CAMPS, DEATH CAMPS, OR FACILITIES USED TO TRANSITION INDIVIDUALS TO EXTERMINATION CAMPS OR DEATH CAMPS, DURING THE PERIOD BEGINNING ON JANUARY 1, 1942, AND ENDING ON DECEMBER 31, 1944.~~

(2) "PROPERTY" INCLUDES:

(I) JEWELRY;

(II) BOOKS;

(III) ARTIFACTS;

(IV) PRECIOUS METALS; AND

(V) CURRENCY.

(F) "PROCESS OF ASSEMBLING THE RECORDS" MEANS TO:

(1) ORGANIZE, DIGITIZE, AND MAKE RECORDS AVAILABLE TO THE PUBLIC IN AN INTERNET ACCESSIBLE, ELECTRONIC FORMAT THAT IS SEARCHABLE AND ANALYZABLE; AND

(2) PREPARE TO SUBMIT THE INFORMATION DESCRIBED IN § 12-507 OF THIS SUBTITLE TO THE STATE ARCHIVIST.

~~(F)~~(G) (1) "RECORDS" MEANS MATERIAL RELATING TO THE DEPORTATION OF VICTIMS.

(2) "RECORDS" INCLUDES:

~~(1)~~ (I) DOCUMENTS;

~~(2)~~ (II) CORRESPONDENCE;

~~(3)~~ (III) MEMORANDA;

~~(4)~~ (IV) RECEIPTS;

~~(5)~~ (V) INVOICES;

~~(6)~~ (VI) PRESENTATIONS;

~~(7)~~ (VII) AUDITS; AND

~~(8)~~ (VIII) ANY OTHER MATERIALS RELATED TO ITEMS (1) THROUGH (7) OF THIS SUBSECTION.

(H) "VICTIM" MEANS AN INDIVIDUAL WHO WAS ON AN ENTITY'S TRAIN FOR THE PURPOSE OF BEING TRANSPORTED TO AN EXTERMINATION CAMP,

DEATH CAMP, OR A FACILITY USED TO TRANSITION INDIVIDUALS TO
EXTERMINATION CAMPS OR DEATH CAMPS DURING THE PERIOD BEGINNING ON
SEPTEMBER 1, 1939 AND ENDING ON SEPTEMBER 2, 1945.

12-502.

FOR THE PURPOSES OF THIS SUBTITLE:

(1) TWO OR MORE ENTITIES SHALL BE CONSIDERED AS THE SAME
ENTITY IF:

(I) ONE ENTITY IS A WHOLLY OWNED SUBSIDIARY OF THE
OTHER; OR

(II) ONE ENTITY OWNS OR DIRECTLY OR INDIRECTLY
CONTROLS MORE THAN 50% OF THE VOTING SECURITIES OF THE OTHER
ENTITY, REGARDLESS OF WHETHER THE EQUITY INTEREST IN THAT OTHER
ENTITY IS OWNED BY A FOREIGN GOVERNMENT; AND

(2) IF AN EQUITY INTEREST IN AN ENTITY IS OR WAS OWNED BY A
FOREIGN GOVERNMENT, THAT EQUITY INTEREST SHALL BE ATTRIBUTED TO
THE ENTITY.

12-503.

THIS SUBTITLE APPLIES TO AN ENTITY THAT:

(1) ~~HAS~~ HAD DIRECT INVOLVEMENT IN THE DEPORTATION OF
VICTIMS; AND

(2) SUBMITS A BID OR OFFER TO A UNIT OF STATE OR LOCAL
GOVERNMENT ON A PROCUREMENT CONTRACT ~~WITH THE DEPARTMENT OR
WITH ANY OTHER UNIT OF THE STATE OR LOCAL GOVERNMENT~~ TO PROVIDE
MARC ~~TRAIN~~ SERVICE THAT IS FUNDED IN WHOLE OR IN PART WITH PUBLIC
FUNDS.

12-504.

AN ENTITY MAY NOT BE CONSIDERED A RESPONSIBLE BIDDER OR
OFFEROR FOR A PROCUREMENT CONTRACT TO PROVIDE MARC SERVICE
UNLESS THE ENTITY COMPLIES WITH THE REQUIREMENTS OF §§ 12-505
THROUGH 12-507 OF THIS SUBTITLE.

~~12-504.~~ 12-505.

1 (A) ~~BEFORE SUBMITTING~~ IN CONJUNCTION WITH THE SUBMISSION OF A
2 ~~FORMAL BID OR OFFER ON A PROCUREMENT CONTRACT TO THE DEPARTMENT~~
3 ~~OR OTHER UNIT OF THE~~ A UNIT OF STATE OR LOCAL GOVERNMENT TO PROVIDE
4 ~~MARC TRAIN SERVICE, AN ENTITY SHALL~~ SUBMIT TO THE UNIT:

5 (1) ~~CERTIFY TO THE DEPARTMENT OR UNIT WHETHER A~~
6 ~~STATEMENT THAT~~ THE ENTITY ~~HAS~~ HAD DIRECT INVOLVEMENT IN THE
7 DEPORTATION OF VICTIMS; AND

8 (2) ~~DISCLOSE TO THE DEPARTMENT OR OTHER UNIT THE~~
9 ~~INFORMATION DESCRIBED IN SUBSECTION (B) OF THIS SECTION~~ AN ESTIMATED
10 DATE FOR COMPLETING THE PROCESS OF ASSEMBLING THE RECORDS AND
11 PROVIDING INFORMATION TO THE STATE ARCHIVIST IN ACCORDANCE WITH §§
12 12-506 AND 12-507 OF THIS SUBTITLE.

13 (B) THE ENTITY SHALL NOTIFY THE UNIT OF ANY CHANGE IN THE
14 ESTIMATED DATE THAT WAS SUBMITTED TO THE UNIT IN ACCORDANCE WITH
15 SUBSECTION (A) OF THIS SECTION.

16 12-506.

17 (A) BEFORE A UNIT OF STATE OR LOCAL GOVERNMENT MAY AWARD A
18 PROCUREMENT CONTRACT TO PROVIDE MARC SERVICE TO AN ENTITY SUBJECT
19 TO THIS SUBTITLE, THE ENTITY SHALL COMPLY WITH THE PROVISIONS OF THIS
20 SECTION FOR THE PROCESS OF ASSEMBLING THE RECORDS RELATED TO THE
21 DEPORTATION OF VICTIMS.

22 (B) (1) AN ENTITY SHALL CONTRACT WITH AN ARCHIVIST AND A
23 HISTORIAN TO CONDUCT AN INITIAL ANALYSIS OF THE RECORDS.

24 (2) THE ARCHIVIST AND HISTORIAN THAT CONDUCT THE INITIAL
25 ANALYSIS SHALL:

26 (I) BE APPROVED BY THE STATE ARCHIVIST;

27 (II) BE INDEPENDENT OF THE ENTITY; AND

28 (III) CONDUCT THE ANALYSIS IN ACCORDANCE WITH THE
29 STANDARDS OF THE SOCIETY OF AMERICAN ARCHIVISTS AND THE COUNCIL OF
30 STATE ARCHIVISTS.

31 (3) THE INITIAL ANALYSIS SHALL INCLUDE:

1 (I) AN INSPECTION OF EACH LOCATION IN WHICH THE
2 ENTITY MAINTAINS RECORDS THAT MAY BE RELATED TO THE DEPORTATION OF
3 VICTIMS; AND

4 (II) A REPORT SUBMITTED TO THE STATE ARCHIVIST.

5 (4) THE INITIAL REPORT SUBMITTED TO THE STATE ARCHIVIST
6 SHALL INCLUDE:

7 (I) A LIST OF EACH LOCATION INSPECTED AND AN
8 ASSESSMENT OF WHETHER THE LOCATION MAINTAINS ANY RECORDS;

9 (II) AN OUTLINE AND ASSESSMENT OF THE QUALITY OF THE
10 RECORDS;

11 (III) A TIMELINE FOR THE PROCESS TO ASSEMBLE THE
12 RECORDS; AND

13 (IV) AN ESTIMATED COST TO ASSEMBLE THE RECORDS.

14 (C) (1) AFTER THE INITIAL ANALYSIS IS CONCLUDED AND THE STATE
15 ARCHIVIST HAS APPROVED THE INITIAL REPORT IN ACCORDANCE WITH §
16 12-508(A)(2)(I) OF THIS SUBTITLE, THE ENTITY SHALL CONTRACT WITH AN
17 ARCHIVIST AND A HISTORIAN TO ENSURE THAT THE PROCESS OF ASSEMBLING
18 THE RECORDS IS COMPLETED IN A MANNER CONSISTENT WITH:

19 (I) THE INITIAL REPORT; AND

20 (II) THE STANDARDS OF THE SOCIETY OF AMERICAN
21 ARCHIVISTS AND THE COUNCIL OF STATE ARCHIVISTS.

22 (2) THE ARCHIVIST AND HISTORIAN CONTRACTED WITH TO CARRY
23 OUT PARAGRAPH (1) OF THIS SUBSECTION:

24 (I) SHALL BE APPROVED BY THE STATE ARCHIVIST; AND

25 (II) MAY BE THE ARCHIVIST AND HISTORIAN THAT
26 CONDUCTED THE INITIAL ANALYSIS OR ANOTHER ARCHIVIST AND HISTORIAN
27 APPROVED BY THE STATE ARCHIVIST.

28 (D) AFTER THE PROCESS OF ASSEMBLING THE RECORDS IS COMPLETE,
29 THE ENTITY SHALL PROVIDE THE INFORMATION REQUIRED UNDER § 12-507 OF
30 THIS SUBTITLE TO THE STATE ARCHIVIST.

(B) ~~AN~~

12-507.

BEFORE A UNIT OF STATE OR LOCAL GOVERNMENT MAY AWARD A
PROCUREMENT CONTRACT TO PROVIDE MARC SERVICE TO AN ENTITY SUBJECT
TO THIS SUBTITLE, THE ENTITY SHALL STATE, AS TO THE DEPORTATION OF
INDIVIDUALS TO EXTERMINATION CAMPS, DEATH CAMPS, OR A FACILITY TO
TRANSITION INDIVIDUALS TO EXTERMINATION CAMPS OR DEATH CAMPS
DURING THE PERIOD BETWEEN JANUARY 1, 1942, AND DECEMBER 31, 1944
PROVIDE THE STATE ARCHIVIST WITH THE FOLLOWING INFORMATION AS IT
RELATES TO THE DEPORTATION OF VICTIMS:

(1) A WRITTEN STATEMENT PROVIDING:

(I) WHETHER THE ENTITY ~~HAS ANY~~ POSSESSES, HAS
CUSTODY OF, OR CONTROLS RECORDS RELATING TO THE ~~DEPORTATIONS IN ITS
POSSESSION, CUSTODY, OR CONTROL~~ DEPORTATION OF VICTIMS;

(II) ~~THE~~ EACH LOCATION WHERE THE RECORDS ARE
MAINTAINED; AND

(III) THE CONTENTS AND ADDRESSES OF ~~ANY~~ EACH ARCHIVE
OR OTHER FACILITY WHERE THE ENTITY MAINTAINS RECORDS;

(2) A DETAILED INDEX OF THE RECORDS, INCLUDING:

(I) THE LOCATION OF THE RECORDS AND A LIST OF ANY
MONEY RECEIVED FOR EACH DEPORTATION, DELINEATED BY INDIVIDUAL
CONVOYS AND PERSONS; AND

(II) AN ACCOUNTING OF EACH PIECE OF PROPERTY TAKEN
OR CONFISCATED ~~IN CONNECTION WITH THE DEPORTATIONS~~ FROM EACH
VICTIM;

(3) IF THE ENTITY NO LONGER HAS IN ITS CUSTODY OR CONTROL
ANY OR ALL OF THE PROPERTY TAKEN OR CONFISCATED ~~IN CONNECTION WITH
THE DEPORTATIONS~~ FROM EACH VICTIM, A WRITTEN DESCRIPTION OF:

(I) THE TIME AND MANNER IN WHICH THE ENTITY
DISPOSED OF OR CONVERTED THE PROPERTY;

(II) ANY PROPERTY CURRENTLY OWNED OR OPERATED BY
THE ENTITY THAT WAS EXCHANGED FOR THE EXPROPRIATED PROPERTY;

1 (III) ANY EXPROPRIATED PROPERTY CURRENTLY OWNED BY
2 THE ENTITY OR ANY OTHER PROPERTY DERIVED FROM THE EXPROPRIATED
3 PROPERTY; AND

4 (IV) ANY OTHER DERIVATIVE OR TRACEABLE PROPERTY
5 THAT REMAINS IN THE ENTITY'S POSSESSION, CUSTODY, OR CONTROL AS A
6 RESULT OF ITS DEPORTATIONS ACTIVITY; AND

7 ~~(4) IF ANY RECORDS RELATING TO THE DEPORTATIONS HAVE~~
8 ~~BEEN MADE PUBLIC, A CONFIRMATION THAT THE MATERIALS MADE AVAILABLE~~
9 ~~FOR PUBLIC REVIEW CONSTITUTE ALL OF THE RECORDS, REGARDLESS OF THE~~
10 ~~DATE THE RECORDS WERE CREATED OR OBTAINED; AND~~

11 ~~(5)~~ A WRITTEN STATEMENT CONCERNING WHETHER THE ENTITY
12 HAS PROVIDED RESTITUTION OR REPARATIONS TO ALL IDENTIFIABLE VICTIMS
13 OF THE DEPORTATIONS AND, IF SO STATED, A DETAILED ~~REPORT~~ DESCRIPTION
14 ON HOW THE RESTITUTION OR REPARATIONS APPLIES SPECIFICALLY TO
15 ~~INDIVIDUALS DEPORTED BY THE ENTITY~~ THE DEPORTATION OF EACH VICTIM.

16 12-508.

17 (A) THE STATE ARCHIVIST SHALL:

18 (1) APPROVE AN ARCHIVIST AND HISTORIAN TO CONDUCT THE
19 INITIAL ANALYSIS REQUIRED UNDER § 12-506(B) OF THIS SUBTITLE;

20 (2) WITHIN 14 DAYS AFTER RECEIVING THE INITIAL REPORT
21 SUBMITTED IN ACCORDANCE WITH § 12-506(B) OF THIS SUBTITLE;

22 (I) REVIEW THE REPORT AND DETERMINE WHETHER, IN
23 THE PROFESSIONAL OPINION OF THE STATE ARCHIVIST, THE REPORT IS
24 CONSISTENT WITH THE STANDARDS OF THE SOCIETY OF AMERICAN ARCHIVISTS
25 AND THE COUNCIL OF STATE ARCHIVISTS; AND

26 (II) APPROVE AN ARCHIVIST AND HISTORIAN THAT WILL
27 ENSURE THAT THE PROCESS OF ASSEMBLING THE RECORDS IS COMPLETED IN A
28 MANNER CONSISTENT WITH:

29 1. THE INITIAL REPORT; AND

30 2. THE STANDARDS OF THE SOCIETY OF AMERICAN
31 ARCHIVISTS AND THE COUNCIL OF STATE ARCHIVISTS;

1 (3) AS NEEDED, PROVIDE GUIDANCE FOR AND OVERSIGHT OF THE
2 PROCESS OF ASSEMBLING THE RECORDS;

3 (4) AFTER RECEIVING FROM AN ENTITY THE INFORMATION
4 REQUIRED UNDER § 12-507 OF THIS SUBTITLE, DETERMINE WHETHER, IN THE
5 PROFESSIONAL OPINION OF THE STATE ARCHIVIST:

6 (I) THE PROCESS OF ASSEMBLING THE RECORDS IS
7 COMPLETE;

8 (II) THE PROCESS OF ASSEMBLING THE RECORDS WAS
9 COMPLETED IN A MANNER CONSISTENT WITH:

10 1. THE INITIAL REPORT SUBMITTED IN ACCORDANCE
11 WITH § 12-506(B) OF THIS SUBTITLE; AND

12 2. THE STANDARDS OF THE SOCIETY OF AMERICAN
13 ARCHIVISTS AND THE COUNCIL OF STATE ARCHIVISTS; AND

14 (III) THE INFORMATION SUBMITTED UNDER § 12-507 OF
15 THIS SUBTITLE IS AS COMPLETE AND ACCURATE AS POSSIBLE; AND

16 (5) PROVIDE WRITTEN NOTICE OF THE DETERMINATION MADE
17 UNDER ITEM (4) OF THIS SUBSECTION TO:

18 (I) THE ENTITY; AND

19 (II) IF THE STATE ARCHIVIST DETERMINES THAT THE
20 ENTITY MET THE REQUIREMENTS SET FORTH IN ITEM (4)(I), (II), AND (III) OF
21 THIS SUBSECTION, TO THE UNIT OF STATE OR LOCAL GOVERNMENT AWARDED
22 THE PROCUREMENT CONTRACT TO PROVIDE MARC SERVICE.

23 (B) THE STATE ARCHIVIST MAY USE A DESIGNEE TO CARRY OUT ANY
24 PROVISION OF THIS SECTION.

25 12-509.

26 (A) AT LEAST 30 DAYS BEFORE AWARDED A PROCUREMENT CONTRACT
27 ON WHICH AN ENTITY SUBJECT TO THIS SUBTITLE SUBMITTED A BID OR OFFER,
28 A UNIT OF STATE OR LOCAL GOVERNMENT SHALL PUBLISH NOTICE OF ITS
29 INTENT TO AWARD THE PROCUREMENT CONTRACT.

