

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 342

(Senator Madaleno)

Education, Health, and Environmental Affairs

Health and Government Operations

State Government - Access to Public Records in Electronic Formats - Termination Date

This bill repeals the termination date for provisions of law requiring a custodian of a public record to provide a copy of a public record in a searchable and analyzable electronic format under specified circumstances.

Fiscal Summary

State Effect: Any costs incurred by State agencies to provide a copy of a public record in an electronic format continue to be offset by applicant fees.

Local Effect: Any costs incurred by local governments to provide a copy of a public record in an electronic format continue to be offset by applicant fees.

Small Business Effect: None.

Analysis

Bill Summary/Current Law: Current provisions of law require a custodian of a public record to provide a copy of the public record in a searchable and analyzable electronic format under specified circumstances. These provisions may not be construed to require a custodian of a public record to reconstruct a public record in an electronic format if the custodian no longer has the public record available in an electronic format; allow a custodian to make a public record available only in an electronic format; require a custodian to create, compile, or program a new public record; or 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 it is maintained. A custodian of a public record is authorized to remove metadata from an electronic document before providing it to an applicant, and a custodian may charge an applicant a

reasonable fee for making or supervising the making of an electronic copy. The official custodian of a public record must comply with these provisions even if the public record is in the physical custody or control of another person.

The above provisions of law terminate September 30, 2013. The bill repeals this termination date.

The Maryland Public Information Act grants the public a broad right of access to records that are in the possession of State and local government agencies. The Act's basic mandate is to enable the public to access government records without unnecessary cost or delay. A custodian must provide access unless the requested record falls within a statutory exception.

An applicant who is authorized to inspect a public record may have a copy, printout, or photograph of the public record, or, if the custodian does not have facilities to reproduce the public record, access to the public record to make the copy, printout, or photograph. The copy, printout, or photograph must be made while the public record is in the custody of the custodian – and, whenever practicable, where the public record is kept. The official custodian may set a reasonable time schedule to make copies, printouts, or photographs.

Background: The Department of Disabilities has advised that, with the advent of new screen reading software for computers and handheld devices, current provisions of law related to public records in electronic format increase access for individuals who are blind or with low vision. Nearly 100,000 State residents are either blind or have serious difficulty seeing even when wearing glasses.

Additional Information

Prior Introductions: None.

Cross File: HB 70 (Delegate Carr) - Health and Government Operations.

Information Source(s): Department of Disabilities, Department of Health and Mental Hygiene, Judiciary (Administrative Office of the Courts), Department of Legislative Services

Fiscal Note History: First Reader - January 29, 2013
mlm/lgc Revised - Senate Third Reader - March 18, 2013

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