

SENATE BILL 234

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SB 169/13 – JPR

4lr1620

By: **Senators Middleton and Raskin**

Introduced and read first time: January 16, 2014

Assigned to: Judicial Proceedings

A BILL ENTITLED

AN ACT concerning

Criminal Procedure – Reports to Crimesolvers/Crimestoppers Organization – Inadmissibility and Confidentiality

FOR the purpose of establishing that evidence of a communication or information contained in the communication between an individual reporting alleged criminal activity to a certain Crimesolvers/Crimestoppers organization and the individual who accepts the report on behalf of the organization is not admissible in a court proceeding; providing that certain records of a Crimesolvers/Crimestoppers organization may not be compelled to be produced before a court or other tribunal except on a certain motion; authorizing a court to subpoena certain records or a certain report under certain circumstances; requiring a court to conduct a certain inspection of certain records in a certain manner to make a certain determination; requiring the court, on making a certain determination, to present evidence to a certain movant in a certain manner; requiring the court to execute a certain affidavit under certain circumstances; requiring the court to return certain materials in a certain manner; requiring that the returned materials be stored for a certain period of time; establishing that a law enforcement agency that receives information concerning alleged criminal activity from a certain Crimesolvers/Crimestoppers organization may not disclose the identity of an individual providing information about the criminal activity under a promise of anonymity; prohibiting a person who receives a certain report from intentionally and knowingly and without certain consent disclosing the report or providing certain other information to a person not employed by a law enforcement agency; establishing penalties for a violation of this Act; defining a certain term; and generally relating to crime reporting.

BY adding to

Article – Criminal Procedure

Section 11–1101 through 11–1103 to be under the new subtitle “Subtitle 11.
Anonymous Crime Reporting”

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Annotated Code of Maryland
(2008 Replacement Volume and 2013 Supplement)

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

Article – Criminal Procedure

SUBTITLE 11. ANONYMOUS CRIME REPORTING.

11-1101.

IN THIS SUBTITLE, “CRIMESOLVERS/CRIMESTOPPERS ORGANIZATION” MEANS A PRIVATE, NONPROFIT MARYLAND CORPORATION GOVERNED BY A CIVILIAN VOLUNTEER BOARD OF DIRECTORS OPERATED ON A LOCAL OR STATEWIDE LEVEL THAT:

(1) OFFERS ANONYMITY TO AN INDIVIDUAL PROVIDING INFORMATION TO THE CORPORATION;

(2) ACCEPTS AND EXPENDS DONATIONS FOR CASH REWARDS TO INDIVIDUALS WHO REPORT TO THE CORPORATION INFORMATION ABOUT ALLEGED CRIMINAL ACTIVITY THAT THE CORPORATION FORWARDS TO APPROPRIATE LAW ENFORCEMENT AGENCIES; AND

(3) IS ESTABLISHED AS PART OF A COOPERATIVE ALLIANCE AMONG THE NEWS MEDIA, THE COMMUNITY, AND LAW ENFORCEMENT OFFICIALS.

11-1102.

(A) EVIDENCE OF A COMMUNICATION OR INFORMATION CONTAINED IN THE COMMUNICATION BETWEEN AN INDIVIDUAL REPORTING ALLEGED CRIMINAL ACTIVITY TO A CRIMESOLVERS/CRIMESTOPPERS ORGANIZATION AND THE INDIVIDUAL WHO ACCEPTS THE REPORT ON BEHALF OF THE CRIMESOLVERS/CRIMESTOPPERS ORGANIZATION IS NOT ADMISSIBLE IN A COURT PROCEEDING.

(B) A RECORD OF A CRIMESOLVERS/CRIMESTOPPERS ORGANIZATION CONCERNING A REPORT OF CRIMINAL ACTIVITY MAY NOT BE COMPELLED TO BE PRODUCED BEFORE A COURT OR OTHER TRIBUNAL EXCEPT ON A MOTION:

(1) FILED IN A CRIMINAL TRIAL COURT BY A DEFENDANT WHO ALLEGES THAT THE RECORD OR REPORT CONTAINS EVIDENCE THAT IS EXCULPATORY TO THE DEFENDANT IN THE TRIAL OF THAT OFFENSE; OR

(2) FILED IN A CIVIL CASE BY A PLAINTIFF WHO ALLEGES THAT DENIAL OF ACCESS TO THE RECORD CONCERNING THE REPORT OF CRIMINAL ACTIVITY ABROGATES ANY PART OF A COGNIZABLE COMMON LAW CAUSE OF ACTION IF THE PLAINTIFF ALLEGING ABROGATION:

(I) WAS CHARGED WITH OR CONVICTED OF A CRIMINAL OFFENSE BASED AT LEAST PARTIALLY ON THE REPORT AND THE CHARGES WERE DISMISSED, THE PLAINTIFF WAS ACQUITTED, OR THE CONVICTION WAS OVERTURNED, AS APPLICABLE; AND

(II) ESTABLISHES IN THE MOTION A PRIMA FACIE CASE THAT THE PLAINTIFF'S ABROGATED CLAIM IS BASED ON INJURIES FROM THE CRIMINAL CHARGE OR CONVICTION CAUSED BY THE WRONGFUL ACTS OF ANOTHER PERFORMED IN CONNECTION WITH THE REPORT.

(C) (1) ON MOTION OF A MOVANT UNDER SUBSECTION (B) OF THIS SECTION, THE COURT MAY SUBPOENA THE RECORDS OR REPORT DESCRIBED IN SUBSECTION (B) OF THIS SECTION.

(2) THE COURT SHALL CONDUCT AN IN CAMERA INSPECTION OF MATERIALS PRODUCED UNDER SUBPOENA IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION TO DETERMINE WHETHER THE MATERIALS CONTAIN:

(I) EVIDENCE THAT IS EXCULPATORY TO THE DEFENDANT;
OR

(II) INFORMATION NECESSARY TO A PLAINTIFF AS DESCRIBED UNDER SUBSECTION (B)(2) OF THIS SECTION.

(D) (1) IF THE COURT DETERMINES THAT THE MATERIALS PRODUCED CONTAIN EVIDENCE THAT IS EXCULPATORY TO THE DEFENDANT OR INFORMATION NECESSARY TO A PLAINTIFF AS DESCRIBED BY SUBSECTION (B)(2) OF THIS SECTION, THE COURT SHALL PRESENT THE EVIDENCE TO THE MOVANT IN A FORM THAT DOES NOT DISCLOSE THE IDENTITY OF THE PERSON WHO WAS THE SOURCE OF THE EVIDENCE UNLESS THE STATE OR FEDERAL CONSTITUTION REQUIRES THE DISCLOSURE OF THAT PERSON'S IDENTITY.

(2) THE COURT SHALL EXECUTE AN AFFIDAVIT ACCOMPANYING THE DISCLOSED MATERIALS DESCRIBED IN PARAGRAPH (1) OF THIS

SUBSECTION SWEARING THAT, IN THE OPINION OF THE COURT, THE MATERIALS DISCLOSED REPRESENT THE EVIDENCE THE MOVANT IS ENTITLED TO RECEIVE UNDER THIS SECTION.

(E) (1) THE COURT SHALL RETURN TO THE CRIMESOLVERS/CRIMESTOPPERS ORGANIZATION THE MATERIALS THAT ARE PRODUCED UNDER THIS SECTION BUT NOT DISCLOSED TO THE MOVANT.

(2) THE CRIMESOLVERS/CRIMESTOPPERS ORGANIZATION SHALL STORE THE MATERIALS AT LEAST UNTIL THE FIRST ANNIVERSARY OF THE FOLLOWING APPROPRIATE DATE:

(I) THE DATE OF EXPIRATION OF THE TIME FOR ALL DIRECT APPEALS IN A CRIMINAL CASE; OR

(II) THE DATE A PLAINTIFF'S RIGHT TO APPEAL IN A CIVIL CASE IS EXHAUSTED.

11-1103.

(A) A PERSON WHO RECEIVES A REPORT CONCERNING ALLEGED CRIMINAL ACTIVITY FROM A CRIMESOLVERS/CRIMESTOPPERS ORGANIZATION MAY NOT INTENTIONALLY AND KNOWINGLY AND WITHOUT THE CONSENT OF THE PERSON WHO MADE THE REPORT DISCLOSE TO A PERSON NOT EMPLOYED BY A LAW ENFORCEMENT AGENCY THE CONTENTS OF A REPORT OF A CRIMINAL ACT OR THE IDENTITY OF AN INDIVIDUAL WHO PROVIDED TO THE CRIMESOLVERS/CRIMESTOPPERS ORGANIZATION INFORMATION ABOUT THE CRIMINAL ACTIVITY UNDER A PROMISE OF ANONYMITY.

(B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING \$1,000 OR BOTH.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014.