

HOUSE BILL 402

P3

6lr0409
CF 6lr3205

By: **Delegates Barron, Smith, Sydnor, Angel, Moon, and Pena–Melnik**

Introduced and read first time: January 28, 2016

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Public Information Act – Personnel and Investigatory Records – Formal**
3 **Complaints Against Public Employees**

4 FOR the purpose of establishing that a certain person is a person in interest under the
5 Public Information Act; establishing that certain records do not constitute personnel
6 records under the Public Information Act; authorizing a custodian to deny inspection
7 of certain records; and generally relating to personnel records and investigatory
8 records under the Public Information Act.

9 BY repealing and reenacting, with amendments,
10 Article – General Provisions
11 Section 4–101(g), 4–311, and 4–351
12 Annotated Code of Maryland
13 (2014 Volume and 2015 Supplement)

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

16 **Article – General Provisions**

17 4–101.

18 (g) “Person in interest” means:

19 (1) a person or governmental unit that is the subject of a public record or a
20 designee of the person or governmental unit;

21 (2) if the person has a legal disability, the parent or legal representative of
22 the person; [or]

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (3) as to requests for correction of certificates of death under § 5–310(d)(2)
2 of the Health – General Article, the spouse, adult child, parent, adult sibling, grandparent,
3 or guardian of the person of the deceased at the time of the deceased’s death; **OR**

4 **(4) AS TO REQUESTS FOR RECORDS RELATED TO A FORMAL**
5 **COMPLAINT MADE AGAINST A GOVERNMENTAL UNIT OR AN EMPLOYEE OF A**
6 **GOVERNMENTAL UNIT, THE COMPLAINANT.**

7 4–311.

8 (a) Subject to [subsection] **SUBSECTIONS (b) AND (C)** of this section, a custodian
9 shall deny inspection of a personnel record of an individual, including an application, a
10 performance rating, or scholastic achievement information.

11 (b) A custodian shall allow inspection by:

12 (1) the person in interest; or

13 (2) an elected or appointed official who supervises the work of the
14 individual.

15 **(C) A RECORD RELATED TO A FORMAL COMPLAINT OF JOB-RELATED**
16 **MISCONDUCT MADE AGAINST A PUBLIC EMPLOYEE, INCLUDING AN INVESTIGATION**
17 **RECORD, A HEARING RECORD, OR A DISCIPLINARY DECISION, IS NOT A PERSONNEL**
18 **RECORD FOR THE PURPOSES OF THIS SUBTITLE.**

19 4–351.

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

21 (1) records of investigations conducted by the Attorney General, a State’s
22 Attorney, a municipal or county attorney, a police department, or a sheriff;

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

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

28 **(4) RECORDS OF AN INVESTIGATION, A HEARING, OR A DECISION BY A**
29 **GOVERNMENTAL UNIT CONNECTED WITH A COMPLAINT OF JOB-RELATED**
30 **MISCONDUCT MADE AGAINST A PUBLIC EMPLOYEE.**

31 (b) A custodian may deny inspection by a person in interest only to the extent
32 that the inspection would:

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

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2016.