

# HOUSE BILL 1638

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CF SB 788

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By: **Delegates Sydnor, Cullison, Dumais, Fraser-Hidalgo, Gibson, J. Lewis, McComas, Pena-Melnyk, Pendergrass, Reilly, and Sample-Hughes**

Introduced and read first time: February 9, 2018

Assigned to: Health and Government Operations and Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Public Information Act – Revisions**

3 FOR the purpose of providing that, except as otherwise provided by law, the Public  
4 Information Act does not authorize a custodian of records to allow the inspection of  
5 the Social Security number or date of birth of an individual except to a person in  
6 interest; requiring, except under certain circumstances, a custodian to deny  
7 inspection of the part of a personal surveillance video regarding an incident that  
8 depicts certain individuals or information or does not result in certain actions;  
9 requiring a custodian to deny inspection of certain records regardless of a subsequent  
10 action taken by law enforcement or a court resulting from the incident recorded;  
11 requiring that a victim who is the subject of a record that is denied inspection under  
12 certain provisions of this Act be notified of all requests to inspect the record;  
13 requiring the Maryland Police Training and Standards Commission to develop  
14 certain standards and procedures in consultation with certain groups; requiring a  
15 custodian to allow inspection of a recording from a personal surveillance video by a  
16 person in interest; prohibiting a custodian from allowing copying of a recording from  
17 a personal surveillance video under certain circumstances; requiring a custodian to  
18 deny inspection of a certain distribution list and a request to be added to a certain  
19 distribution list; providing for the application and construction of certain provisions  
20 of this Act; defining certain terms; and generally relating to the Public Information  
21 Act.

22 BY repealing and reenacting, with amendments,  
23 Article – General Provisions  
24 Section 4-101 and 4-103  
25 Annotated Code of Maryland  
26 (2014 Volume and 2017 Supplement)

27 BY adding to  
28 Article – General Provisions

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 4–327.1 and 4–341  
2 Annotated Code of Maryland  
3 (2014 Volume and 2017 Supplement)

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

6 **Article – General Provisions**

7 4–101.

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

9 (b) “Applicant” means a person or governmental unit that asks to inspect a public  
10 record.

11 (c) “Board” means the State Public Information Act Compliance Board.

12 (d) “Custodian” means:

13 (1) the official custodian; or

14 (2) any other authorized individual who has physical custody and control  
15 of a public record.

16 (e) “News media” means:

17 (1) newspapers;

18 (2) magazines;

19 (3) journals;

20 (4) press associations;

21 (5) news agencies;

22 (6) wire services;

23 (7) radio;

24 (8) television; and

25 (9) any printed, photographic, mechanical, or electronic means of  
26 disseminating news and information to the public.

27 (f) “Official custodian” means an officer or employee of the State or of a political

1 subdivision who is responsible for keeping a public record, whether or not the officer or  
2 employee has physical custody and control of the public record.

3 (g) “Person in interest” means:

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

6 (2) if the person has a legal disability, the parent or legal representative of  
7 the person; or

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

11 (h) (1) “Personal information” means information that identifies an individual.

12 (2) Except as provided in § 4–355 of this title, “personal information”  
13 includes an individual’s:

14 (i) name;

15 (ii) address;

16 (iii) driver’s license number or any other identification number;

17 (iv) medical or disability information;

18 (v) photograph or computer-generated image;

19 (vi) Social Security number; and

20 (vii) telephone number.

21 (3) “Personal information” does not include an individual’s:

22 (i) driver’s status;

23 (ii) driving offenses;

24 (iii) five-digit zip code; or

25 (iv) information on vehicular accidents.

26 (I) (1) **“PERSONAL SURVEILLANCE VIDEO” MEANS AUDIO OR VIDEO**  
27 **RECORDED BY A DEVICE ATTACHED TO OR DESIGNED TO FOLLOW A LAW**  
28 **ENFORCEMENT OFFICER, A FIREFIGHTER, AN EMERGENCY MEDICAL TECHNICIAN,**

1 OR AN EMPLOYEE OF A UNIT OR AN INSTRUMENTALITY OF THE STATE OR A  
2 POLITICAL SUBDIVISION.

3 (2) "PERSONAL SURVEILLANCE VIDEO" INCLUDES VIDEO AND AUDIO  
4 RECORDED BY:

5 (I) A BODY-WORN DIGITAL RECORDING DEVICE; OR

6 (II) A DRONE OR ROBOT FOLLOWING AN INDIVIDUAL LISTED IN  
7 PARAGRAPH (1) OF THIS SUBSECTION.

8 (3) "PERSONAL SURVEILLANCE VIDEO" DOES NOT INCLUDE VIDEO  
9 AND AUDIO RECORDED BY:

10 (I) A CAMERA MOUNTED ON AN AUTOMOBILE, A TRUCK, OR A  
11 SIMILAR VEHICLE; OR

12 (II) A SURVEILLANCE CAMERA MOUNTED AT A STATIONARY  
13 LOCATION.

14 [(i)] (J) "Political subdivision" means:

15 (1) a county;

16 (2) a municipal corporation;

17 (3) an unincorporated town;

18 (4) a school district; or

19 (5) a special district.

20 [(j)] (K) (1) "Public record" means the original or any copy of any  
21 documentary material that:

22 (i) is made by a unit or an instrumentality of the State or of a  
23 political subdivision or received by the unit or instrumentality in connection with the  
24 transaction of public business; and

25 (ii) is in any form, including:

26 1. a card;

27 2. a computerized record;

- 1 3. correspondence;
- 2 4. a drawing;
- 3 5. film or microfilm;
- 4 6. a form;
- 5 7. a map;
- 6 8. a photograph or photostat;
- 7 9. a recording; or
- 8 10. a tape.

9 (2) "Public record" includes a document that lists the salary of an employee  
10 of a unit or an instrumentality of the State or of a political subdivision.

11 (3) "Public record" does not include a digital photographic image or  
12 signature of an individual, or the actual stored data of the image or signature, recorded by  
13 the Motor Vehicle Administration.

14 4-103.

15 (a) All persons are entitled to have access to information about the affairs of  
16 government and the official acts of public officials and employees.

17 (b) To carry out the right set forth in subsection (a) of this section, unless an  
18 unwarranted invasion of the privacy of a person in interest would result, this title shall be  
19 construed in favor of allowing inspection of a public record, with the least cost and least  
20 delay to the person or governmental unit that requests the inspection.

21 (c) This title does not preclude a member of the General Assembly from acquiring  
22 the names and addresses of and statistical information about individuals who are licensed  
23 or, as required by a State law, registered.

24 **(D) EXCEPT AS OTHERWISE PROVIDED BY LAW, THIS TITLE DOES NOT**  
25 **AUTHORIZE A CUSTODIAN TO ALLOW THE INSPECTION OF THE SOCIAL SECURITY**  
26 **NUMBER OR DATE OF BIRTH OF AN INDIVIDUAL, WHETHER OR NOT THE INDIVIDUAL**  
27 **IS DECEASED, EXCEPT TO A PERSON IN INTEREST.**

28 **4-327.1.**

29 **(A) (1) THIS SECTION DOES NOT APPLY TO A PUBLIC RECORD THAT HAS**  
30 **BEEN ENTERED INTO EVIDENCE IN A COURT PROCEEDING.**

1           **(2) THIS SECTION MAY NOT BE CONSTRUED TO AFFECT THE**  
2 **DISCOVERY OR EVIDENTIARY RIGHTS OF A PARTY TO A CIVIL SUIT OR CRIMINAL**  
3 **PROSECUTION.**

4           **(B) (1) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A**  
5 **CUSTODIAN SHALL DENY INSPECTION OF THAT PART OF A PERSONAL**  
6 **SURVEILLANCE VIDEO REGARDING AN INCIDENT THAT:**

7                   **(I) DEPICTS A VICTIM OR INFORMATION THAT COULD IDENTIFY**  
8 **A VICTIM OF DOMESTIC VIOLENCE, AS DEFINED IN § 4-701 OF THE FAMILY LAW**  
9 **ARTICLE;**

10                   **(II) DEPICTS A VICTIM OR INFORMATION THAT COULD IDENTIFY**  
11 **A VICTIM OF A VIOLATION OF TITLE 3, SUBTITLE 3 OF THE CRIMINAL LAW ARTICLE;**

12                   **(III) DEPICTS A VICTIM OR INFORMATION THAT COULD IDENTIFY**  
13 **A VICTIM OF, EXCEPT FOR A VIOLATION OF § 3-607 OF THE CRIMINAL LAW ARTICLE**  
14 **WHERE THE VICTIM IS AN ADULT, A VIOLATION OF TITLE 3, SUBTITLE 6 OF THE**  
15 **CRIMINAL LAW ARTICLE;**

16                   **(IV) DEPICTS THE DEATH OF A LAW ENFORCEMENT OFFICER, A**  
17 **FIREFIGHTER, AN EMERGENCY MEDICAL TECHNICIAN, OR AN EMPLOYEE OF A UNIT**  
18 **OR AN INSTRUMENTALITY OF THE STATE OR A POLITICAL SUBDIVISION THAT**  
19 **OCCURRED IN THE PERFORMANCE OF THE INDIVIDUAL'S DUTIES; OR**

20                   **(V) DOES NOT RESULT IN:**

21                           **1. THE ARREST, ATTEMPTED ARREST, TEMPORARY**  
22 **DETENTION, ATTEMPTED TEMPORARY DETENTION, SEARCH, ATTEMPTED SEARCH,**  
23 **CITATION, DEATH, OR INJURY OF AN INDIVIDUAL;**

24                           **2. THE USE OF FORCE AGAINST AN INDIVIDUAL; OR**

25                           **3. A COMPLAINT OR ALLEGATION OF OFFICER**  
26 **MISCONDUCT MADE AGAINST ANY LAW ENFORCEMENT OFFICER INVOLVED IN THE**  
27 **INCIDENT.**

28           **(2) A CUSTODIAN SHALL DENY INSPECTION OF RECORDS AS**  
29 **REQUIRED BY THIS SUBSECTION REGARDLESS OF A SUBSEQUENT ACTION TAKEN BY**  
30 **LAW ENFORCEMENT OR A COURT RESULTING FROM THE INCIDENT RECORDED.**

31           **(3) (I) A VICTIM WHO IS THE SUBJECT OF A RECORD THAT IS**  
32 **DENIED INSPECTION UNDER THIS SUBSECTION SHALL BE NOTIFIED OF ALL**

1 REQUESTS TO INSPECT THE RECORD.

2 (II) THE MARYLAND POLICE TRAINING AND STANDARDS  
3 COMMISSION, IN CONSULTATION WITH THE MARYLAND ASSOCIATION OF  
4 COUNTIES, THE MARYLAND MUNICIPAL LEAGUE, LAW ENFORCEMENT AGENCIES,  
5 THE PRESS, VICTIM RIGHTS ADVOCATES, AND OTHER STAKEHOLDERS, SHALL  
6 DEVELOP UNIFORM STANDARDS AND PROCEDURES TO CARRY OUT THE PROVISIONS  
7 OF THIS PARAGRAPH.

8 (C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A CUSTODIAN  
9 SHALL ALLOW INSPECTION OF A RECORDING FROM A PERSONAL SURVEILLANCE  
10 VIDEO BY A PERSON IN INTEREST.

11 (2) A CUSTODIAN MAY NOT ALLOW COPYING OF A RECORDING FROM  
12 A PERSONAL SURVEILLANCE VIDEO IF:

13 (I) THE PERSON IN INTEREST IS UNDER INVESTIGATION FOR,  
14 CHARGED WITH, RECEIVED PROBATION BEFORE JUDGMENT FOR, IS SUBJECT TO A  
15 PEACE OR PROTECTIVE ORDER AS A RESULT OF, PLEADED NOLO CONTENDERE TO,  
16 PLEADED GUILTY TO, OR HAS BEEN FOUND GUILTY OF A VIOLATION DESCRIBED IN  
17 SUBSECTION (A) OF THIS SECTION IF THE RECORDING IS OF THE INCIDENT LEADING  
18 TO THE INVESTIGATION, PROBATION BEFORE JUDGMENT, ORDER, CHARGE, PLEA,  
19 OR VERDICT; AND

20 (II) THE RECORDING IS OF THE INCIDENT LEADING TO THE  
21 INVESTIGATION, PROBATION BEFORE JUDGMENT, ORDER, CHARGE, PLEA, OR  
22 VERDICT.

23 4-341.

24 (A) IN THIS SECTION, "GOVERNMENTAL ENTITY" MEANS A UNIT OR AN  
25 INSTRUMENTALITY OF THE STATE OR OF A POLITICAL SUBDIVISION.

26 (B) A CUSTODIAN SHALL DENY INSPECTION OF A DISTRIBUTION LIST AND A  
27 REQUEST TO BE ADDED TO A DISTRIBUTION LIST THAT IDENTIFIES A PHYSICAL  
28 ADDRESS, AN ELECTRONIC MAIL ADDRESS, OR A TELEPHONE NUMBER OF AN  
29 INDIVIDUAL THAT IS USED BY A GOVERNMENTAL ENTITY OR AN ELECTED OFFICIAL  
30 FOR THE SOLE PURPOSE OF:

31 (1) PERIODICALLY SENDING NEWS ABOUT THE OFFICIAL ACTIVITIES  
32 OF THE GOVERNMENTAL ENTITY OR ELECTED OFFICIAL; OR

33 (2) SENDING INFORMATIONAL NOTICES OR EMERGENCY ALERTS.

1           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June  
2 1, 2018.