

# HOUSE BILL 1221

E2, E4

0lr2309  
CF 0lr3648

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By: **Delegate Clippinger**

Introduced and read first time: February 7, 2020

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Public Information Act – Personnel and Investigatory Records – Complaints**  
3 **Against Law Enforcement Officers**

4 FOR the purpose of establishing that a record relating to a formal complaint of job–related  
5 misconduct made against a law enforcement officer is not a personnel record under  
6 certain provisions of the Public Information Act under certain circumstances;  
7 authorizing a custodian to deny inspection of certain records involving a complaint  
8 of job–related misconduct made against a law enforcement officer; authorizing a  
9 custodian to deny inspection of certain records by a complainant only under certain  
10 circumstances; defining a certain term; and generally relating to personnel records  
11 and investigatory records under the Public Information Act.

12 BY renumbering

13 Article – General Provisions  
14 Section 4–101(e) through (j), respectively  
15 to be Section 4–101(f) through (k), respectively  
16 Annotated Code of Maryland  
17 (2019 Replacement Volume)

18 BY repealing and reenacting, without amendments,

19 Article – General Provisions  
20 Section 4–101(a)  
21 Annotated Code of Maryland  
22 (2019 Replacement Volume)

23 BY adding to

24 Article – General Provisions  
25 Section 4–101(e)  
26 Annotated Code of Maryland  
27 (2019 Replacement Volume)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,  
2 Article – General Provisions  
3 Section 4–311 and 4–351  
4 Annotated Code of Maryland  
5 (2019 Replacement Volume)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
7 That Section(s) 4–101(e) through (j), respectively, of Article – General Provisions of the  
8 Annotated Code of Maryland be renumbered to be Section(s) 4–101(f) through (k),  
9 respectively.

10 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read  
11 as follows:

12 **Article – General Provisions**

13 4–101.

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

15 **(E) “LAW ENFORCEMENT OFFICER” HAS THE MEANING STATED IN § 3–101**  
16 **OF THE PUBLIC SAFETY ARTICLE.**

17 4–311.

18 (a) Subject to subsection (b) of this section, a custodian shall deny inspection of a  
19 personnel record of an individual, including an application, a performance rating, or  
20 scholastic achievement information.

21 (b) A custodian shall allow inspection by:

22 (1) the person in interest;

23 (2) an elected or appointed official who supervises the work of the  
24 individual; or

25 (3) an employee organization described in Title 6 of the Education Article  
26 of the portion of the personnel record that contains the individual’s:

27 (i) home address;

28 (ii) home telephone number; and

29 (iii) personal cell phone number.

30 **(C) A RECORD RELATING TO A FORMAL COMPLAINT OF JOB-RELATED**  
31 **MISCONDUCT MADE AGAINST A LAW ENFORCEMENT OFFICER, INCLUDING AN**

1 INVESTIGATION RECORD, A HEARING RECORD, OR A DISCIPLINARY DECISION, IS  
2 NOT A PERSONNEL RECORD FOR PURPOSES OF THIS SECTION IF:

3 (1) THE ALLEGED MISCONDUCT INVOLVES THE DISCHARGE OF A  
4 FIREARM AT A PERSON BY A LAW ENFORCEMENT OFFICER;

5 (2) THE ALLEGED MISCONDUCT INVOLVES THE USE OF FORCE BY A  
6 LAW ENFORCEMENT OFFICER RESULTING IN DEATH OR SERIOUS BODILY INJURY; OR

7 (3) A SUSTAINED INVESTIGATORY FINDING WAS MADE BY A LAW  
8 ENFORCEMENT AGENCY THAT A LAW ENFORCEMENT OFFICER:

9 (I) COMMITTED A SEXUAL ASSAULT INVOLVING A MEMBER OF  
10 THE PUBLIC;

11 (II) ENGAGED IN DISHONESTY, COMMITTED PERJURY, MADE  
12 FALSE STATEMENTS, FILED FALSE REPORTS, OR DESTROYED, FALSIFIED, OR  
13 CONCEALED EVIDENCE DIRECTLY RELATING TO THE REPORTING, INVESTIGATION,  
14 OR PROSECUTION OF A CRIME; OR

15 (III) ENGAGED IN PROHIBITED DISCRIMINATION DIRECTLY  
16 RELATING TO THE REPORTING, INVESTIGATION, OR PROSECUTION OF A CRIME.

17 4-351.

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

19 (1) records of investigations conducted by the Attorney General, a State's  
20 Attorney, a municipal or county attorney, a police department, or a sheriff;

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

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

26 (4) RECORDS OF AN INVESTIGATION, A HEARING, OR A DECISION  
27 INVOLVING A COMPLAINT OF JOB-RELATED MISCONDUCT MADE AGAINST A LAW  
28 ENFORCEMENT OFFICER.

29 (b) A custodian may deny inspection OF A RECORD DESCRIBED IN SUBSECTION  
30 (A) OF THIS SECTION by a person in interest OR, FOR A RECORD DESCRIBED IN  
31 SUBSECTION (A)(4) OF THIS SECTION, A COMPLAINANT only to the extent that the

1 inspection would:

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

10 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
11 October 1, 2020.