

SENATE BILL 535

P3

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By: **Senators Kagan and Reilly**

Introduced and read first time: January 30, 2020

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Public Information Act – Denial of Part of a Public Record – Victims and**
3 **Witnesses**

4 FOR the purpose of defining “contrary to the public interest” for the purposes of a certain
5 provision of law authorizing a custodian to deny inspection of a part of a public record
6 under certain circumstances; defining the term “witness” for the purposes of certain
7 provisions of this Act relating to inspections of part of a 9–1–1 communications
8 record; requiring a custodian to take certain actions before granting inspection of the
9 part of a 9–1–1 communications record that depicts a witness; and generally relating
10 to victims and witnesses and denials of part of a public record.

11 BY repealing and reenacting, with amendments,
12 Article – General Provisions
13 Section 4–343 and 4–356
14 Annotated Code of Maryland
15 (2019 Replacement Volume)

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

18 **Article – General Provisions**

19 4–343.

20 **(A) IN THIS SECTION, “CONTRARY TO THE PUBLIC INTEREST” INCLUDES A**
21 **SITUATION IN WHICH A CUSTODIAN REASONABLY BELIEVES THAT INSPECTION OF**
22 **THE PART OF A PUBLIC RECORD WOULD REVEAL THE IDENTITY OF A VICTIM OR A**
23 **WITNESS, OTHER THAN A LAW ENFORCEMENT OFFICER ON ACTIVE DUTY, OF A**
24 **VIOLATION OF:**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(1) TITLE 2 OF THE CRIMINAL LAW ARTICLE;**

2 **(2) TITLE 3, SUBTITLE 3 OF THE CRIMINAL LAW ARTICLE;**

3 **(3) TITLE 3, SUBTITLE 6 OF THE CRIMINAL LAW ARTICLE, EXCEPT**
4 **FOR A VIOLATION OF § 3-607 OF THE CRIMINAL LAW ARTICLE IF THE VICTIM IS AN**
5 **ADULT; OR**

6 **(4) DOMESTIC VIOLENCE, AS DEFINED UNDER § 4-701 OF THE**
7 **FAMILY LAW ARTICLE.**

8 **(B)** Unless otherwise provided by law, if a custodian believes that inspection of a
9 part of a public record by the applicant would be contrary to the public interest, the
10 custodian may deny inspection by the applicant of that part of the record, as provided in
11 this part.

12 4-356.

13 (a) (1) In this section the following words have the meanings indicated.

14 (2) “Victim” means:

15 (i) a victim of domestic violence, as defined under § 4-701 of the
16 Family Law Article;

17 (ii) a victim of a violation of Title 3, Subtitle 3 of the Criminal Law
18 Article; or

19 (iii) a victim of a violation of Title 3, Subtitle 6 of the Criminal Law
20 Article, except for a violation of § 3-607 of the Criminal Law Article where the victim is an
21 adult.

22 (3) (i) “Victim’s representative” has the meaning stated in § 11-104 of
23 the Criminal Procedure Article.

24 (ii) “Victim’s representative” does not include a person acting in
25 concert with a person alleged to have committed the crime against the victim.

26 **(4) (I) “WITNESS” MEANS:**

27 **1. A WITNESS OF DOMESTIC VIOLENCE, AS DEFINED IN §**
28 **4-701 OF THE FAMILY LAW ARTICLE;**

29 **2. A WITNESS OF A VIOLATION OF TITLE 2 OF THE**
30 **CRIMINAL LAW ARTICLE;**

1 **3. A WITNESS OF A VIOLATION OF TITLE 3, SUBTITLE 3**
2 **OF THE CRIMINAL LAW ARTICLE, EXCEPT FOR A VIOLATION OF § 3-607 OF THE**
3 **CRIMINAL LAW ARTICLE IF THE VICTIM IS AN ADULT; OR**

4 **4. A WITNESS OF A VIOLATION OF TITLE 3, SUBTITLE 6**
5 **OF THE CRIMINAL LAW ARTICLE.**

6 **(II) “WITNESS” DOES NOT INCLUDE A LAW ENFORCEMENT**
7 **OFFICER ON ACTIVE DUTY.**

8 (b) (1) This section does not apply to a public record that has been entered into
9 evidence in a court proceeding.

10 (2) This section may not be construed to:

11 (i) create a right of civil action for a victim or victim’s
12 representative; or

13 (ii) affect the discovery or evidentiary rights of a party to a civil suit
14 or criminal prosecution.

15 (c) Subject to subsections (d) and (e) of this section, before granting inspection of
16 the part of a 9-1-1 communications record that depicts a **WITNESS OR A** victim, a custodian
17 shall:

18 (1) within 30 days after receiving the request and if the custodian has
19 contact information for the **WITNESS**, victim, or victim’s representative, notify the
20 **WITNESS**, victim, or victim’s representative of the request;

21 (2) allow 10 days for a response from the **WITNESS**, victim, or victim’s
22 representative indicating that inspection may be contrary to the public interest; and

23 (3) consider any response received under item (2) of this subsection in
24 determining whether to grant or deny the inspection.

25 (d) A custodian may redact the information described under subsection (c) of this
26 section if a failure to do so would result in a constructive denial of the entire public record.

27 (e) A custodian shall allow inspection by the person in interest.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
29 1, 2020.