

# SENATE BILL 590

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CF HB 502

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By: **Senators Kagan and Lam**

Introduced and read first time: January 31, 2020

Assigned to: Education, Health, and Environmental Affairs

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## A BILL ENTITLED

1 AN ACT concerning

2 **Public Information Act – Revisions**

3 FOR the purpose of requiring each official custodian to adopt a certain policy of proactive  
4 disclosure; providing that the policy may vary in a certain manner and include the  
5 publication of certain records or information; requiring each official custodian to  
6 publish a certain annual report on a certain website, to the extent practicable;  
7 requiring the report of an official custodian to include certain information; requiring  
8 a certain member of the Public Information Act Compliance Board to have served as  
9 a custodian, rather than an official custodian, in the State; requiring two members  
10 of the Board, rather than one member, to be attorneys; requiring one member of the  
11 Board to be knowledgeable about electronic records; requiring the Office of the  
12 Attorney General to provide at least a certain number of staff members to assist the  
13 Board and requiring the Office of the Public Access Ombudsman to carry out certain  
14 duties; requiring the Board to receive, review, and resolve certain complaints from  
15 applicants and applicants' designated representatives and certain complaints from  
16 a custodian; altering the minimum fee charged under which the Board is required to  
17 take certain actions with regard to a complaint; requiring the Board to order a  
18 custodian to take certain actions under certain circumstances; requiring the Board  
19 to issue an order authorizing a custodian to take certain actions under certain  
20 circumstances; requiring the Board to adopt certain regulations; altering the  
21 circumstances under which an applicant or an applicant's designated representative  
22 is authorized to file a certain written complaint; authorizing a custodian to file a  
23 certain complaint under certain circumstances; altering the time period within  
24 which a certain complaint must be filed; altering the time period within which a  
25 certain response must be filed; requiring a custodian to provide certain information  
26 to the Board on request; requiring a custodian or an applicant, on request of the  
27 Board, to provide a certain affidavit; requiring the Board to maintain the  
28 confidentiality of certain records and information; altering certain time periods  
29 within which the Board must issue certain decisions and opinions under certain  
30 circumstances; requiring the Ombudsman to issue a certain final determination  
31 within a certain period of time except under certain circumstances; requiring the

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Ombudsman to inform the applicant and the custodian of the availability of certain  
 2 review by the Board under certain circumstances; authorizing the Ombudsman to  
 3 disclose certain information to certain persons; authorizing the Ombudsman to  
 4 transfer certain information to the Board under certain circumstances; requiring the  
 5 Ombudsman to submit a certain annual report to the Governor and the General  
 6 Assembly; requiring the Ombudsman's report to include certain information;  
 7 prohibiting a custodian from failing to respond to an application for the inspection of  
 8 a public record within certain time limits except under certain circumstances;  
 9 prohibiting a custodian who violates a certain provision of this Act from charging a  
 10 certain fee; requiring the Office of the Attorney General to allocate certain staff  
 11 members on or before a certain date; making stylistic and conforming changes; and  
 12 generally relating to the Public Information Act.

13 BY repealing and reenacting, without amendments,

14 Article – General Provisions

15 Section 4–101(a) and (c) and 4–1B–01

16 Annotated Code of Maryland

17 (2019 Replacement Volume)

18 BY adding to

19 Article – General Provisions

20 Section 4–104 and 4–105

21 Annotated Code of Maryland

22 (2019 Replacement Volume)

23 BY repealing and reenacting, with amendments,

24 Article – General Provisions

25 Section 4–1A–02(a), 4–1A–03(d), 4–1A–04 through 4–1A–07, 4–1B–02(b), 4–1B–04,  
 26 and 4–402

27 Annotated Code of Maryland

28 (2019 Replacement Volume)

29 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

30 That the Laws of Maryland read as follows:

31 **Article – General Provisions**

32 4–101.

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

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

35 **4–104.**

36 (A) EACH OFFICIAL CUSTODIAN SHALL ADOPT A POLICY OF PROACTIVE  
 37 DISCLOSURE OF PUBLIC RECORDS THAT ARE AVAILABLE FOR INSPECTION UNDER

1 THIS TITLE.

2 (B) THE POLICY ADOPTED UNDER SUBSECTION (A) OF THIS SECTION MAY:

3 (1) VARY AS APPROPRIATE TO THE TYPE OF PUBLIC RECORD AND TO  
4 REFLECT THE STAFF AND BUDGETARY RESOURCES OF THE GOVERNMENTAL UNIT;  
5 AND

6 (2) INCLUDE PUBLICATION OF PUBLIC RECORDS ON THE WEBSITE OF  
7 THE GOVERNMENTAL UNIT OR PUBLICATION OF PRIOR RESPONSES TO REQUESTS  
8 FOR INSPECTION MADE UNDER THIS TITLE.

9 4-105.

10 (A) ON OR BEFORE JULY 1 EACH YEAR, EACH OFFICIAL CUSTODIAN SHALL  
11 PUBLISH ON THE WEBSITE OF THE GOVERNMENTAL UNIT, TO THE EXTENT  
12 PRACTICABLE, A REPORT ON THE REQUESTS RECEIVED DURING THE IMMEDIATELY  
13 PRECEDING CALENDAR YEAR UNDER THIS TITLE FOR INSPECTION OF PUBLIC  
14 RECORDS OF THE GOVERNMENTAL UNIT.

15 (B) THE REPORT SHALL INCLUDE:

16 (1) THE NUMBER OF REQUESTS RECEIVED UNDER THIS TITLE,  
17 INCLUDING:

18 (I) THE NUMBER OF REQUESTS GRANTED OR DENIED WITHIN  
19 10 BUSINESS DAYS;

20 (II) THE NUMBER OF REQUESTS GRANTED OR DENIED WITHIN  
21 30 DAYS; AND

22 (III) THE NUMBER OF REQUESTS GRANTED OR DENIED IN MORE  
23 THAN 30 DAYS AND THE REASONS FOR THE DELAYS, INCLUDING THE NUMBER OF  
24 EXTENSIONS REQUESTED AND THE NUMBER OF REQUESTS THAT WERE THE  
25 SUBJECT OF DISPUTE RESOLUTION UNDER § 4-1B-04 OF THIS TITLE;

26 (2) THE OUTCOMES OF THE REQUESTS, INCLUDING:

27 (I) THE TOTAL NUMBER OF REQUESTS GRANTED IN FULL;

28 (II) THE TOTAL NUMBER OF REQUESTS GRANTED IN PART;

29 (III) THE TOTAL NUMBER OF REQUESTS DENIED IN FULL; AND

1 (IV) THE TOTAL NUMBER OF REQUESTS FOR WHICH REDACTED  
2 PUBLIC RECORDS WERE PROVIDED;

3 (3) THE AMOUNT OF FEES CHARGED UNDER § 4-206 OF THIS TITLE;

4 (4) THE NUMBER OF FEE WAIVERS GRANTED UNDER § 4-206(E) OF  
5 THIS TITLE; AND

6 (5) A DESCRIPTION OF EFFORTS BY THE GOVERNMENTAL UNIT TO  
7 PROACTIVELY DISCLOSE INFORMATION IN ACCORDANCE WITH THE POLICY  
8 ADOPTED UNDER § 4-104 OF THIS SUBTITLE.

9 4-1A-02.

10 (a) (1) The Board consists of five members.

11 (2) (i) One member of the Board shall be a representative:

12 1. from a nongovernmental nonprofit group that is organized  
13 in the State;

14 2. who works on issues related to transparency or open  
15 government; and

16 3. who is nominated by representatives of the open  
17 government and news media communities.

18 (ii) One member of the Board shall:

19 1. have knowledge of the provisions of this title;

20 2. have served as [an official] A custodian in the State as  
21 defined in § 4-101(d) of this title; and

22 3. be nominated by the Maryland Association of Counties  
23 and the Maryland Municipal League.

24 (iii) 1. Three members of the Board shall be private citizens of  
25 the State.

26 2. A private citizen member of the Board may not be:

27 A. a custodian of a public record;

28 B. a member of the news media; or

1 C. a staff member or spokesperson for an organization that  
2 represents the interests of custodians or applicants for public records.

3 (3) At least [one member] **TWO MEMBERS** of the Board shall be [an  
4 attorney] **ATTORNEYS** admitted to the Maryland Bar.

5 **(4) AT LEAST ONE MEMBER OF THE BOARD SHALL BE**  
6 **KNOWLEDGEABLE ABOUT ELECTRONIC RECORDS, INCLUDING ELECTRONIC**  
7 **STORAGE, RETRIEVAL, REVIEW, AND REPRODUCTION TECHNOLOGIES.**

8 **[(4)] (5)** (i) The Governor shall publish, on the website of the Office of  
9 the Governor, notice of the Governor's intent to consider applicants for positions on the  
10 Board.

11 (ii) The notice shall include:

- 12 1. application procedures;
- 13 2. criteria for evaluating an applicant's qualifications; and
- 14 3. procedures for resolving any conflicts of interest.

15 (iii) The Governor shall solicit recommendations for positions on the  
16 Board from representatives of the custodian, news media, and nonprofit communities.

17 (iv) 1. An individual may submit to the Governor an application  
18 for membership on the Board as provided under subparagraph (ii) of this paragraph.

19 2. The names and qualifications of applicants shall be posted  
20 on the website of the Office of the Governor.

21 (v) When evaluating an applicant, the Governor shall:

- 22 1. consider the need for geographic, political, racial, ethnic,  
23 cultural, and gender diversity on the Board; and
- 24 2. ensure the neutrality of the Board.

25 **[(5)] (6)** Subject to paragraphs (2) [and (3)] **THROUGH (4)** of this  
26 subsection and with the advice and consent of the Senate, the Governor shall appoint the  
27 members of the Board from the pool of applicants under paragraph **[(4)] (5)** of this  
28 subsection.

29 4-1A-03.

1 (d) (1) [The] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE  
2 Office of the Attorney General shall provide staff and office space for the Board.

3 (2) THE OFFICE OF THE ATTORNEY GENERAL SHALL PROVIDE AT  
4 LEAST FOUR STAFF MEMBERS TO ASSIST THE BOARD AND THE OFFICE OF THE  
5 PUBLIC ACCESS OMBUDSMAN TO CARRY OUT THE DUTIES OF THE BOARD UNDER  
6 THIS SUBTITLE AND THE OFFICE UNDER SUBTITLE 1B OF THIS TITLE.

7 4-1A-04.

8 (a) The Board shall:

9 (1) receive, review, and, subject to § 4-1A-07 of this subtitle, resolve  
10 complaints filed under § 4-1A-05 of this subtitle from any applicant or the applicant's  
11 designated representative alleging that a custodian:

12 (I) DENIED INSPECTION OF A PUBLIC RECORD IN VIOLATION OF  
13 THIS TITLE;

14 (II) charged an unreasonable fee under § 4-206 of this title OF MORE  
15 THAN \$200;

16 (III) UNREASONABLY FAILED TO WAIVE A FEE UNDER § 4-206(E)  
17 OF THIS TITLE; OR

18 (IV) FAILED TO RESPOND TO A REQUEST FOR A PUBLIC RECORD  
19 WITHIN THE TIME LIMITS ESTABLISHED UNDER § 4-203 OF THIS TITLE;

20 (2) issue a written opinion as to whether a violation has occurred; and

21 (3) ORDER THE CUSTODIAN TO:

22 (I) IF THE BOARD FINDS THAT THE CUSTODIAN HAS DENIED  
23 INSPECTION OF A PUBLIC RECORD IN VIOLATION OF THIS TITLE, PRODUCE THE  
24 PUBLIC RECORD FOR INSPECTION;

25 (II) if the Board finds that the custodian charged an unreasonable  
26 fee under § 4-206 of this title, [order the custodian to] reduce the fee to an amount  
27 determined by the Board to be reasonable and refund the difference;

28 (III) IF THE BOARD FINDS THAT THE CUSTODIAN  
29 UNREASONABLY FAILED TO WAIVE A FEE UNDER § 4-206(E) OF THIS TITLE, WAIVE  
30 THE FEE OR RECONSIDER THE FEE WAIVER REQUEST; OR

1 (IV) IF THE BOARD FINDS THAT THE CUSTODIAN FAILED TO  
2 RESPOND TO A REQUEST FOR A PUBLIC RECORD WITHIN THE TIME LIMITS  
3 ESTABLISHED UNDER § 4-203 OF THIS TITLE, PROMPTLY RESPOND AND, AT THE  
4 BOARD'S DISCRETION, WAIVE ANY FEE THE CUSTODIAN IS OTHERWISE ENTITLED TO  
5 CHARGE UNDER § 4-206 OF THIS TITLE.

6 (B) THE BOARD SHALL:

7 (1) RECEIVE, REVIEW, AND, SUBJECT TO § 4-1A-07 OF THIS  
8 SUBTITLE, RESOLVE COMPLAINTS FILED UNDER § 4-1A-05 OF THIS SUBTITLE FROM  
9 ANY CUSTODIAN ALLEGING THAT AN APPLICANT'S REQUEST OR PATTERN OF  
10 REQUESTS IS FRIVOLOUS, VEXATIOUS, OR IN BAD FAITH;

11 (2) ISSUE A WRITTEN OPINION AS TO WHETHER THE APPLICANT'S  
12 REQUEST OR PATTERN OF REQUESTS IS FRIVOLOUS, VEXATIOUS, OR IN BAD FAITH;  
13 AND

14 (3) IF THE BOARD FINDS THAT THE APPLICANT'S REQUEST IS  
15 FRIVOLOUS, VEXATIOUS, OR IN BAD FAITH, BASED ON THE TOTALITY OF THE  
16 CIRCUMSTANCES INCLUDING THE NUMBER AND SCOPE OF THE APPLICANT'S PAST  
17 REQUESTS AND THE CUSTODIAN'S RESPONSES TO PAST REQUESTS AND EFFORTS TO  
18 COOPERATE WITH THE APPLICANT, ISSUE AN ORDER AUTHORIZING THE CUSTODIAN  
19 TO:

20 (I) IGNORE THE REQUEST THAT IS THE SUBJECT OF THE  
21 CUSTODIAN'S COMPLAINT; OR

22 (II) RESPOND TO A LESS BURDENSOME VERSION OF THE  
23 REQUEST WITHIN A REASONABLE TIME FRAME, AS DETERMINED BY THE BOARD.

24 [(b)] (C) The Board shall:

25 (1) ADOPT REGULATIONS TO CARRY OUT THIS TITLE;

26 [(1)] (2) study ongoing compliance with this title by custodians; and

27 [(2)] (3) make recommendations to the General Assembly for  
28 improvements to this title.

29 [(c)] (D) (1) On or before October 1 of each year, the Board shall submit a  
30 report to the Governor and, subject to § 2-1257 of the State Government Article, the  
31 General Assembly.

32 (2) The report shall:

- 1 (i) describe the activities of the Board;
- 2 (ii) describe the opinions of the Board;
- 3 (iii) state the number and nature of complaints filed with the Board;
- 4 and
- 5 (iv) recommend any improvements to this title.

6 4-1A-05.

7 (a) Any applicant [or], the applicant's designated representative, **OR A**  
8 **CUSTODIAN** may file a written complaint with the Board seeking a written opinion and  
9 order from the Board **UNDER § 4-1A-04 OF THIS SUBTITLE** if:

10 (1) [a custodian charged a fee under § 4-206 of this title of more than \$350]  
11 **THE COMPLAINANT HAS ATTEMPTED TO RESOLVE THE DISPUTE THROUGH THE**  
12 **OFFICE OF THE PUBLIC ACCESS OMBUDSMAN UNDER § 4-1B-04 OF THIS TITLE;** and

13 (2) [the complainant alleges in the complaint that the fee is unreasonable]  
14 **THE PUBLIC ACCESS OMBUDSMAN HAS ISSUED A FINAL DETERMINATION STATING**  
15 **THAT THE DISPUTE WAS NOT RESOLVED.**

16 (b) The complaint shall:

17 (1) identify the custodian **OR APPLICANT** that is the subject of the  
18 complaint;

19 (2) describe the action of the custodian **OR APPLICANT**, the date of the  
20 action, and the circumstances of the action;

21 (3) be signed by the complainant;

22 (4) if available, include a copy of the original request for public records **AND**  
23 **THE CUSTODIAN'S RESPONSE, IF ANY;** and

24 (5) be filed within [90] **45** days after the [action that is the subject of the  
25 complaint occurred] **COMPLAINANT RECEIVES THE FINAL DETERMINATION OF THE**  
26 **PUBLIC ACCESS OMBUDSMAN UNDER § 4-1B-04 OF THIS TITLE.**

27 4-1A-06.

28 (a) Except as provided in subsection (c) of this section, on receipt of a written  
29 complaint, the Board promptly shall:



1           (1)    send the complaint to the custodian **OR APPLICANT** identified in the  
2 complaint; and

3           (2)    request that a response to the complaint be sent to the Board.

4           (b)   (1)    The custodian **OR APPLICANT** shall file a written response to the  
5 complaint within [15] **30** days after [the custodian receives] **RECEIVING** the complaint.

6           (2)    On request of the Board, the custodian shall [include with its written  
7 response to the complaint] **PROVIDE:**

8                        **(I)    IF THE COMPLAINT ALLEGES THAT THE CUSTODIAN FAILED**  
9 **TO RESPOND TO A REQUEST FOR A PUBLIC RECORD WITHIN THE TIME LIMITS**  
10 **ESTABLISHED UNDER § 4-203 OF THIS TITLE, A RESPONSE TO THE REQUEST FOR**  
11 **THE PUBLIC RECORD;**

12                       **(II)   IF THE COMPLAINT ALLEGES THAT THE CUSTODIAN DENIED**  
13 **INSPECTION OF A PUBLIC RECORD IN VIOLATION OF THIS TITLE:**

14                               **1.    A COPY OF THE PUBLIC RECORD OR DESCRIPTIVE**  
15 **INDEX OF THE PUBLIC RECORD, AS APPROPRIATE; AND**

16                               **2.    THE PROVISION OF LAW ON WHICH THE CUSTODIAN**  
17 **RELIED IN DENYING INSPECTION OF THE PUBLIC RECORD;**

18                               **(III) IF THE COMPLAINT ALLEGES THAT THE CUSTODIAN**  
19 **CHARGED AN UNREASONABLE FEE UNDER § 4-206 OF THIS TITLE,** the basis for the fee  
20 that was charged; **OR**

21                               **(IV) IF THE COMPLAINT ALLEGES THAT THE CUSTODIAN**  
22 **UNREASONABLY FAILED TO WAIVE A FEE UNDER § 4-206 OF THIS TITLE, THE BASIS**  
23 **ON WHICH THE CUSTODIAN DENIED THE WAIVER REQUEST.**

24                       **(3)    ON REQUEST OF THE BOARD, A CUSTODIAN OR AN APPLICANT**  
25 **SHALL PROVIDE AN AFFIDAVIT CONTAINING A STATEMENT OF FACTS THAT ARE AT**  
26 **ISSUE IN THE COMPLAINT.**

27                       **(4)    THE BOARD SHALL MAINTAIN THE CONFIDENTIALITY OF ANY**  
28 **RECORD OR CONFIDENTIAL INFORMATION SUBMITTED BY A CUSTODIAN OR AN**  
29 **APPLICANT UNDER THIS SUBSECTION THAT IS NOT A PUBLIC RECORD.**

30           (c)    If a written response **OR INFORMATION REQUESTED UNDER SUBSECTION**  
31 **(B) OF THIS SECTION** is not received within [45] **30** days after the [notice] **REQUEST** is  
32 sent, the Board shall decide the case on the facts before the Board.

1 4-1A-07.

2 (a) (1) The Board shall review the complaint and any response.

3 (2) [If the information in the complaint and response is sufficient for  
4 making a determination based on the Board's own interpretation of the evidence,] **THE**  
5 **BOARD SHALL ISSUE A WRITTEN OPINION** within 30 days after receiving [the response,  
6 the Board shall issue a written opinion as to whether a violation of this title has occurred  
7 or will occur] **THE WRITTEN RESPONSE AND ALL INFORMATION REQUESTED UNDER §**  
8 **4-1A-06(B) OF THIS SUBTITLE.**

9 (b) (1) (i) Subject to subparagraph (ii) of this paragraph, if the Board is  
10 unable to reach a determination based on the written submissions before it, the Board may  
11 schedule an informal conference to hear from the complainant, the **AFFECTED** custodian  
12 **OR APPLICANT**, or any other person with relevant information about the subject of the  
13 complaint.

14 (ii) The Board shall hold the informal conference under  
15 subparagraph (i) of this paragraph in a location that is as convenient as practicable to the  
16 complainant and the **AFFECTED** custodian **OR APPLICANT**.

17 (2) When conducting a conference that is scheduled under paragraph (1) of  
18 this subsection, the Board may allow the parties to testify by teleconference or submit  
19 written testimony by electronic mail.

20 (3) An informal conference scheduled by the Board is not a contested case  
21 within the meaning of § 10-202(d) of the State Government Article.

22 (4) The Board shall issue a written opinion within 30 days after the  
23 informal conference.

24 (c) (1) If the Board is unable to issue an opinion on a complaint within the  
25 time periods specified in subsection (a) or (b) of this section, the Board shall:

26 (i) state in writing the reason for its inability to issue an opinion;  
27 and

28 (ii) issue an opinion as soon as possible but not later than [90] **120**  
29 days after the filing of the complaint.

30 (2) An opinion of the Board may state that the Board is unable to resolve  
31 the complaint.

32 (d) The Board shall send a copy of the written opinion to the complainant and the  
33 affected custodian **OR APPLICANT**.

1 4-1B-01.

2 In this subtitle, "Ombudsman" means the Public Access Ombudsman.

3 4-1B-02.

4 (b) **[The] SUBJECT TO § 4-1A-03(D)(2) OF THIS TITLE, THE** Office of the  
5 Attorney General shall provide office space and staff for the Ombudsman, with appropriate  
6 steps taken to protect the autonomy and independence of the Ombudsman.

7 4-1B-04.

8 (a) Subject to subsection **[(b)] (D)** of this section, the Ombudsman shall make  
9 reasonable attempts to resolve disputes between applicants and custodians relating to  
10 requests for public records under this title, including disputes over:

11 (1) the custodian's application of an exemption;

12 (2) redactions of information in the public record;

13 (3) the failure of the custodian to produce a public record in a timely  
14 manner or to disclose all records relevant to the request;

15 (4) overly broad requests for public records;

16 (5) the amount of time a custodian needs, given available staff and  
17 resources, to produce public records;

18 (6) a request for or denial of a fee waiver under § 4-206(e) of this title; and

19 (7) repetitive or redundant requests from an applicant.

20 **(B) WITHIN 90 DAYS AFTER RECEIVING A REQUEST FOR DISPUTE**  
21 **RESOLUTION, UNLESS THE PARTIES MUTUALLY AGREE TO EXTEND THE DEADLINE,**  
22 **THE OMBUDSMAN SHALL ISSUE A FINAL DETERMINATION STATING:**

23 **(1) THAT THE DISPUTE HAS BEEN RESOLVED; OR**

24 **(2) THAT THE DISPUTE HAS NOT BEEN RESOLVED.**

25 **(C) IF THE OMBUDSMAN ISSUES A FINAL DETERMINATION STATING THAT**  
26 **THE DISPUTE HAS NOT BEEN RESOLVED, THE OMBUDSMAN SHALL INFORM THE**  
27 **APPLICANT AND THE CUSTODIAN OF THE AVAILABILITY OF REVIEW BY THE BOARD**  
28 **UNDER § 4-1A-04 OF THIS TITLE.**

1            **[(b)] (D)**     (1)    When resolving disputes under this section, the Ombudsman  
2 may not:

3                            (i)     compel a custodian to disclose public records or redacted  
4 information in the custodian's physical custody to the Ombudsman or an applicant; or

5                            (ii)    except as provided in **[paragraph] PARAGRAPHS (2) AND (3)** of  
6 this subsection, disclose information received from an applicant or custodian without  
7 written consent from the applicant and custodian.

8                            (2)     The Ombudsman may disclose information received from an applicant  
9 or custodian to the assistant Attorney General assigned to the Office of the **PUBLIC**  
10 **ACCESS Ombudsman OR TO ANY OTHER PERSON WORKING UNDER THE DIRECTION**  
11 **OF THE OMBUDSMAN.**

12                            (3)     **THE OMBUDSMAN MAY TRANSFER BASIC INFORMATION ABOUT A**  
13 **DISPUTE, INCLUDING THE IDENTITY OF THE APPLICANT AND CUSTODIAN AND THE**  
14 **NATURE OF THE DISPUTE, TO THE BOARD IF APPROPRIATE STEPS HAVE BEEN**  
15 **TAKEN TO PROTECT THE CONFIDENTIALITY OF COMMUNICATIONS MADE OR**  
16 **RECEIVED IN THE COURSE OF ATTEMPTING TO RESOLVE THE DISPUTE.**

17                            (E)     (1)     **ON OR BEFORE OCTOBER 1 EACH YEAR, IN CONJUNCTION WITH**  
18 **THE REPORT OF THE PUBLIC INFORMATION ACT COMPLIANCE BOARD REQUIRED**  
19 **UNDER § 4-1A-04 OF THIS TITLE, THE OMBUDSMAN SHALL SUBMIT A REPORT TO**  
20 **THE GOVERNOR AND, SUBJECT TO § 2-1257 OF THE STATE GOVERNMENT ARTICLE,**  
21 **THE GENERAL ASSEMBLY.**

22                            (2)     **THE REPORT SHALL:**

23                            (I)     **DESCRIBE THE ACTIVITIES OF THE OMBUDSMAN;**

24                            (II)    **STATE THE NUMBER AND NATURE OF REQUESTS FOR**  
25 **DISPUTE RESOLUTION MADE TO THE OMBUDSMAN;**

26                            (III)   **DESCRIBE THE AGGREGATE OUTCOMES OF DISPUTE**  
27 **RESOLUTIONS CONDUCTED BY THE OMBUDSMAN;**

28                            (IV)   **HIGHLIGHT ANY AREAS OF CONCERN AND RECOMMEND**  
29 **BEST PRACTICES FOR GOVERNMENTAL UNITS IN RESPONDING TO REQUESTS FOR**  
30 **PUBLIC RECORDS UNDER THIS TITLE; AND**

31                            (V)     **RECOMMEND ANY IMPROVEMENTS TO THIS TITLE.**

1 (a) (1) A person may not:

2 [(1)] (I) willfully or knowingly violate any provision of this title;

3 [(2)] (II) fail to petition a court after temporarily denying inspection of a  
4 public record; or

5 [(3)] (III) by false pretenses, bribery, or theft, gain access to or obtain a  
6 copy of a personal record if disclosure of the personal record to the person is prohibited by  
7 this title.

8 [(b)] (2) A person who violates [any provision] PARAGRAPH (1) of this [section]  
9 SUBSECTION is guilty of a misdemeanor and on conviction is subject to a fine not exceeding  
10 \$1,000.

11 (B) (1) A CUSTODIAN MAY NOT FAIL TO RESPOND TO A REQUEST FOR THE  
12 INSPECTION OF A PUBLIC RECORD WITHIN THE TIME LIMITS ESTABLISHED UNDER §  
13 4-203 OF THIS TITLE UNLESS THE CUSTODIAN HAS REQUESTED:

14 (I) AN EXTENSION UNDER § 4-203(D) OF THIS TITLE; OR

15 (II) DISPUTE RESOLUTION UNDER § 4-1B-04 OF THIS TITLE.

16 (2) A CUSTODIAN WHO VIOLATES PARAGRAPH (1) OF THIS  
17 SUBSECTION MAY NOT CHARGE A FEE FOR RESPONDING TO THE REQUEST.

18 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before July 1, 2021, the  
19 Office of the Attorney General shall allocate any additional staff members required to be  
20 assigned under § 4-1A-03(d)(2) of the General Provisions Article, as enacted by Section 1  
21 of this Act.

22 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
23 1, 2020.