

SENATE BILL 178

P3, E4

(PRE-FILED)

1lr1057
CF HB 120

By: **Senator Carter**

Requested: October 21, 2020

Introduced and read first time: January 13, 2021

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 17, 2021

CHAPTER _____

1 AN ACT concerning

2 ~~Public Information Act – Personnel Records – Investigations of Law~~
3 ~~Enforcement Officers~~

4 ~~(Anton’s Law)~~

5 Maryland Police Accountability Act of 2021 – Personnel Records –
6 Investigations of Law Enforcement Officers

7 (Anton’s Law)

8 FOR the purpose of establishing that a certain record relating to an administrative or
9 criminal investigation of misconduct by a law enforcement officer is not a personnel
10 record for purposes of certain provisions of the Public Information Act; authorizing
11 a custodian to deny inspection of records relating to an administrative or criminal
12 investigation of misconduct by a law enforcement officer; defining certain terms;
13 providing for the application of this Act; and generally relating to personnel records
14 and the Public Information Act.

15 BY renumbering

16 Article – General Provisions

17 Section 4–101(e) through (j), respectively

18 to be Section 4–101(f) through (k), respectively

19 Annotated Code of Maryland

20 (2019 Replacement Volume and 2020 Supplement)

21 BY repealing and reenacting, without amendments,

22 Article – General Provisions

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Section 4–101(a)
 2 Annotated Code of Maryland
 3 (2019 Replacement Volume and 2020 Supplement)

4 BY adding to
 5 Article – General Provisions
 6 Section 4–101(e) and (l)
 7 Annotated Code of Maryland
 8 (2019 Replacement Volume and 2020 Supplement)

9 BY repealing and reenacting, with amendments,
 10 Article – General Provisions
 11 Section 4–311 and 4–351
 12 Annotated Code of Maryland
 13 (2019 Replacement Volume and 2020 Supplement)

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

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

20 **Article – General Provisions**

21 4–101.

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

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

25 **(L) “TECHNICAL INFRACTION” MEANS A MINOR RULE VIOLATION BY AN**
 26 **INDIVIDUAL SOLELY RELATED TO THE ENFORCEMENT OF ADMINISTRATIVE RULES**
 27 **THAT:**

28 **(1) DOES NOT INVOLVE AN INTERACTION BETWEEN A MEMBER OF**
 29 **THE PUBLIC AND THE INDIVIDUAL;**

30 **(2) DOES NOT RELATE TO THE INDIVIDUAL’S INVESTIGATIVE,**
 31 **ENFORCEMENT, TRAINING, SUPERVISION, OR REPORTING RESPONSIBILITIES; AND**

32 **(3) IS NOT OTHERWISE A MATTER OF PUBLIC CONCERN.**

33 4–311.

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

4 (b) A custodian shall allow inspection by:

5 (1) the person in interest;

6 (2) an elected or appointed official who supervises the work of the
7 individual; or

8 (3) an employee organization described in Title 6 of the Education Article
9 of the portion of the personnel record that contains the individual's:

10 (i) home address;

11 (ii) home telephone number; and

12 (iii) personal cell phone number.

13 (c) **(1) ~~A~~ EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,**
14 **A RECORD RELATING TO AN ADMINISTRATIVE OR CRIMINAL INVESTIGATION OF**
15 **MISCONDUCT BY A LAW ENFORCEMENT OFFICER, INCLUDING AN INTERNAL AFFAIRS**
16 **INVESTIGATORY RECORD, A HEARING RECORD, AND RECORDS RELATING TO A**
17 **DISCIPLINARY DECISION, IS NOT A PERSONNEL RECORD FOR PURPOSES OF THIS**
18 **SECTION.**

19 **(2) A RECORD OF A TECHNICAL INFRACTION IS A PERSONNEL**
20 **RECORD FOR THE PURPOSES OF THIS SECTION.**

21 4-351.

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

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

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

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

30 **(4) RECORDS, OTHER THAN A RECORD OF A TECHNICAL INFRACTION,**

1 RELATING TO AN ADMINISTRATIVE OR CRIMINAL INVESTIGATION OF MISCONDUCT
2 BY A LAW ENFORCEMENT OFFICER, INCLUDING AN INTERNAL AFFAIRS
3 INVESTIGATORY RECORD, A HEARING RECORD, AND RECORDS RELATING TO A
4 DISCIPLINARY DECISION.

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

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

15 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be construed to
16 apply prospectively to any Public Information Act request made on or after the effective
17 date of this Act regardless of when the record requested to be produced was created.

18 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2021.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.