

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 636

(Delegate Guzzone)

Health and Government Operations

Education, Energy, and the Environment

Public Information Act - Inspection of E-Mail Addresses and Telephone
Numbers

This bill alters the definition of “personal information” under the Maryland Public Information Act (PIA) to include an individual’s email address. The bill makes other changes under PIA that establishes when a custodian is prohibited from allowing, or authorized to allow, the inspection of records related to email addresses and telephone numbers, as specified.

Fiscal Summary

State Effect: Any impact on PIA-related activities is not expected to materially affect State finances.

Local Effect: Any impact on PIA-related activities is not expected to materially affect local government finances.

Small Business Effect: None.

Analysis

Bill Summary/Current Law:

Student Records

Under current law and subject to specified exceptions, a custodian must deny inspection of a school district record about the specified personal information of a student, including their home telephone number. However, a custodian may allow inspection of the specified

personal information of the student, including their home telephone number, by specified entities (such as institutions of higher education or school board employees).

Under the bill, a custodian must deny inspection of a school district record about, among other things, a student's telephone number and personal email address. The bill authorizes a custodian to allow inspection of, among other things, the student's telephone number and personal email address by specified entities.

State and Local Government Employees

Subject to specified provisions under the State Personnel and Pensions Article regarding the release of retiree information to public employee organizations, a custodian must, *under current law*, deny inspection of the part of a public record that contains the home address or telephone number of an employee in a unit or an instrumentality of the State or of a political subdivision unless (1) the employee gives permission for the inspection, or (2) the unit or instrumentality that employs the individual determines that inspection is needed to protect the interest of the public.

Under the bill, the part of the public record the custodian must deny inspection of also includes the personal telephone number or the personal email address of a specified employee.

Notaries Public

Under current law and subject to specified exceptions, a custodian must deny inspection of the part of a public record that contains information about the application and commission of a person as a public notary. However, a custodian must allow inspection of the part of a public record that gives specified information regarding the public notary, such as their name, business address, or business telephone number.

Under the bill, a custodian must also allow inspection of the part of a public record that gives the notary public's business email address or, if a business email address is not provided to the custodian by the notary public, the notary public's personal email address.

Licensing Records

Under current law and subject to specified exceptions, a custodian must deny inspection of the part of a public record that contains information about the licensing of an individual in an occupation or profession. However, a custodian must allow inspection of the part of a public record that gives specified business information, such as the name of the licensee, the business address, or the business telephone number of the licensee.

Under the bill, a custodian must also allow inspection of the part of a public record that gives the business email address of the licensee, if the email address is identified by the licensee as a business email address.

Maryland Public Information Act

PIA establishes that all persons are entitled to have access to information about the affairs of government and the official acts of public officials and employees. Each governmental unit that maintains public records must identify a representative whom a member of the public may contact to request a public record. The Office of the Attorney General (OAG) must post all such contact information on its website and in any *Public Information Act Manual* published by OAG.

Duties of Custodians

Generally, a custodian of a public record must permit inspection of any public record at any reasonable time. A custodian must designate types of public records that are to be made available to any applicant immediately on request and maintain a current list of the types of public records that have been so designated. Each custodian must adopt reasonable rules or regulations that, consistent with PIA, govern timely production and inspection of a public record. Chapter 658 of 2021, effective July 1, 2022, requires each official custodian to adopt a policy of proactive disclosure of public records that are available for inspection under PIA, as specified.

Denials

Required Denials: A custodian must deny inspection of a public record or any part of a public record if (1) the public record is privileged or confidential by law or (2) the inspection would be contrary to a State statute, a federal statute or regulation, the Maryland Rules, or an order of a court of record. PIA also requires denial of inspection for specified personal and confidential records and information, including, for example, personnel and student records, hospital records, specified medical and financial information, and shielded criminal and police records. Chapter 62 of 2021 specifies that a record relating to an administrative or criminal investigation of misconduct by a police officer is not a protected personnel record under PIA and requires a custodian to allow access to such records by federal and State prosecutors.

Discretionary Denials: Unless otherwise specified, if a custodian believes that inspection of a part of a public record by an applicant would be contrary to the public interest, the custodian may deny inspection to the applicant of that part of the record. PIA specifies the types of records and information that are eligible for discretionary denials, including documents that would not be available through discovery in a lawsuit.

Procedure for Denial: A custodian who denies inspection of a public record must, within 10 working days, provide a written statement to the applicant that gives (1) the reason for denial; (2) if denying a part of a record on a discretionary basis, a brief explanation of why the denial is necessary and why redacting information would not address the reasons for the denial; (3) the legal authority for the denial; (4) a brief description of the undisclosed record (without disclosing the protected information); and (5) notice of the available statutory remedies.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Maryland Association of Counties; Maryland Department of Emergency Management; Maryland Municipal League; Comptroller's Office; Judiciary (Administrative Office of the Courts); Maryland Higher Education Commission; University System of Maryland; Department of Budget and Management; Maryland Department of the Environment; Department of General Services; Maryland Department of Health; Department of Housing and Community Development; Department of Natural Resources; Department of Public Safety and Correctional Services; Maryland Department of Transportation; Baltimore City Public Schools; Prince George's County Public Schools; Department of Legislative Services

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