
By: Delegate Getty

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Assigned to: Commerce and Government Matters

Committee Report: Favorable with amendments

House action: Adopted

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CHAPTER ____

1 AN ACT concerning

2 **Public Records - Copying and Access**

3 FOR the purpose of requiring that a copy of a public record be given in the form or
 4 format requested by the applicant under certain circumstances; requiring the State,
 5 a political subdivision, or a unit of the State or a political subdivision to make a
 6 reasonable effort to maintain its public records in a certain manner and to search
 7 for public records in electronic form or format; ~~requiring the State, a political~~
 8 ~~subdivision, or a unit of the State or a political subdivision to make available by~~
 9 ~~computer telecommunications certain public records; providing for certain deletions~~
 10 ~~from certain records under certain circumstances; authorizing the official custodian~~
 11 ~~of certain records to include certain costs in fees charged for providing certain~~
 12 ~~copies of those records; requiring the Office of Technology in the Department of~~
 13 ~~Budget and Management to conduct a certain study and submit a certain report on~~
 14 ~~or before a certain date;~~ defining a certain term; and generally relating to the
 15 copying and access to public records.

16 BY repealing and reenacting, with amendments,
 17 Article - State Government
 18 Section 10-611(f) ~~and 10-620, 10-620, and 10-621~~
 19 Annotated Code of Maryland
 20 (1995 Replacement Volume and 1996 Supplement)

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

2

1 **Article - State Government**

2 10-611.

3 (f) (1) "Public record" means the original or any copy of any documentary
4 material that:

5 (i) is made by a unit or instrumentality of the State government or of
6 a political subdivision or received by the unit or instrumentality in connection with the
7 transaction of public business; and

8 (ii) is in any form, including:

- 9 1. a card;
- 10 2. a computerized OR ELECTRONIC record;
- 11 3. correspondence;
- 12 4. a drawing;
- 13 5. film or microfilm;
- 14 6. a form;
- 15 7. a map;
- 16 8. a photograph or photostat;
- 17 9. a recording; or
- 18 10. a tape.

19 (2) "Public record" includes a document that lists the salary of an employee
20 of a unit or instrumentality of the State government or of a political subdivision.

21 (3) "Public record" does not include a digital photographic image or
22 signature of an individual, or the actual stored data thereof, recorded by the Motor
23 Vehicle Administration.

24 10-620.

25 (a) (1) Except as otherwise provided in this subsection, an applicant who is
26 authorized to inspect a public record may have:

27 (i) a copy, printout, or photograph of the public record; or

28 (ii) if the custodian does not have facilities to reproduce the public
29 record, access to the public record to make the copy, printout, or photograph.

30 (2) An applicant may not have a copy of a judgment until:

31 (i) the time for appeal expires; or

32 (ii) if an appeal is noted, the appeal is dismissed or adjudicated.

33 (b) (1) The copy, printout, or photograph shall be made:

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1 (i) while the public record is in the custody of the custodian; and

2 (ii) whenever practicable, where the public record is kept.

3 (2) The official custodian may set a reasonable time schedule to make
4 copies, printouts, or photographs.

5 (C) (1) A COPY OF A PUBLIC RECORD SHALL BE ~~GIVEN~~ PROVIDED IN THE
6 FORM OR FORMAT REQUESTED BY THE APPLICANT IF THE RECORD IS READILY
7 REPRODUCIBLE BY THE CUSTODIAN IN THAT FORM OR FORMAT.

8 (2) THE STATE, A POLITICAL SUBDIVISION, OR A UNIT OF THE STATE OR
9 A POLITICAL SUBDIVISION SHALL MAKE A REASONABLE EFFORT TO:

10 (I) MAINTAIN ITS PUBLIC RECORDS IN FORMS OR FORMATS THAT
11 ARE BOTH READILY REPRODUCIBLE AND LIKELY TO BE REQUESTED; AND

12 (II) SEARCH, EITHER MANUALLY OR THROUGH AUTOMATED
13 MEANS, FOR PUBLIC RECORDS IN ELECTRONIC FORM OR FORMAT.

14 ~~(3) THE STATE, A POLITICAL SUBDIVISION, OR A UNIT OF THE STATE OR
15 A POLITICAL SUBDIVISION SHALL MAKE AVAILABLE BY COMPUTER
16 TELECOMMUNICATIONS PUBLIC RECORDS INCLUDING:~~

17 ~~(I) FINAL OPINIONS, INCLUDING CONCURRING AND DISSENTING
18 OPINIONS, AS WELL AS ORDERS, MADE IN THE ADJUDICATION OF CASES;~~

19 ~~(II) STATEMENTS OF POLICY AND INTERPRETATIONS THAT HAVE
20 BEEN ADOPTED AND ARE NOT PUBLISHED IN THE MARYLAND REGISTER;~~

21 ~~(III) ADMINISTRATIVE STAFF MANUALS AND INSTRUCTIONS TO
22 STAFF THAT AFFECT A MEMBER OF THE PUBLIC;~~

23 ~~(IV) COPIES OF PUBLIC RECORDS, REGARDLESS OF FORM OR
24 FORMAT, THAT HAVE BEEN RELEASED TO ANY PERSON AND WHICH, BECAUSE OF
25 THEIR SUBJECT MATTER, HAVE BECOME OR ARE LIKELY TO BECOME THE SUBJECT
26 OF SUBSEQUENT REQUESTS FOR SUBSTANTIALLY THE SAME RECORDS; AND~~

27 ~~(V) A GENERAL INDEX OF RECORDS DESCRIBED IN ITEM (IV) OF
28 THIS SUBPARAGRAPH.~~

29 ~~(4) (I) TO THE EXTENT REQUIRED TO PREVENT A CLEARLY
30 UNWARRANTED INVASION OF PERSONAL PRIVACY, THE STATE, A POLITICAL
31 SUBDIVISION, OR A UNIT OF THE STATE OR A POLITICAL SUBDIVISION MAY DELETE
32 IDENTIFYING DETAILS WHEN IT MAKES AVAILABLE OR PUBLISHES PUBLIC
33 RECORDS DESCRIBED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH.~~

34 ~~(II) IF A DELETION IN A PUBLIC RECORD IS MADE, THE
35 JUSTIFICATION FOR THE DELETION SHALL BE EXPLAINED FULLY IN WRITING, AND
36 THE EXTENT OF THE DELETION SHALL BE INDICATED ON THE PART OF THE
37 RECORD THAT IS MADE AVAILABLE OR PUBLISHED.~~

1 ~~(III) IF TECHNICALLY FEASIBLE, THE EXTENT OF THE DELETION~~
2 ~~SHALL BE INDICATED AT THE PLACE IN THE RECORD WHERE THE DELETION IS~~
3 ~~MADE.~~

4 10-621.

5 (a) Subject to the limitations in this section, the official custodian may charge an
6 applicant a reasonable fee for the search for, preparation of, and reproduction of a public
7 record.

8 (b) The official custodian may not charge a fee for the first 2 hours that are
9 needed to search for a public record and prepare it for inspection.

10 (c) (1) If another law sets a fee for a copy, printout, or photograph of a public
11 record, that law applies.

12 (2) The official custodian otherwise may charge any reasonable fee for
13 making or supervising the making of a copy, printout, or photograph of a public record.

14 (3) The official custodian may charge for the cost of providing facilities for
15 the reproduction of the public record if the custodian did not have the facilities.

16 (4) THE OFFICIAL CUSTODIAN OF A COMPUTERIZED OR ELECTRONIC
17 RECORD MAY INCLUDE AS PART OF THE REASONABLE FEE FOR PROVIDING A COPY
18 OF THE RECORD IN A COMPUTERIZED OR ELECTRONIC FORMAT THE COSTS
19 INCURRED IN CREATING OR COPYING THE RECORD AS A COMPUTERIZED OR
20 ELECTRONIC RECORD.

21 (d) The official custodian may waive a fee under this section if:

22 (1) the applicant asks for a waiver; and

23 (2) after consideration of the ability of the applicant to pay the fee and
24 other relevant factors, the official custodian determines that the waiver would be in the
25 public interest.

26 SECTION 2. AND BE IT FURTHER ENACTED, That:

27 (a) The Office of Information Technology in the Department of Budget and
28 Management, in consultation with the Office of the Attorney General, the Maryland
29 Association of Counties, and the Maryland Municipal League, shall study the feasibility
30 of making public records available by computer telecommunications; and

31 (b) On or before December 31, 1997, the Office of Information Technology shall
32 submit a written report of its study to the Governor and, subject to § 2-1312 of the State
33 Government Article, to the General Assembly.

34 SECTION 2- 3. AND BE IT FURTHER ENACTED, That this Act shall take
35 effect October 1, 1997.

