Unofficial Copy
2001 Regular Session
P3
11r3057

By: **Delegate Hurson** Rules suspended

Introduced and read first time: March 19, 2001

Rules suspended

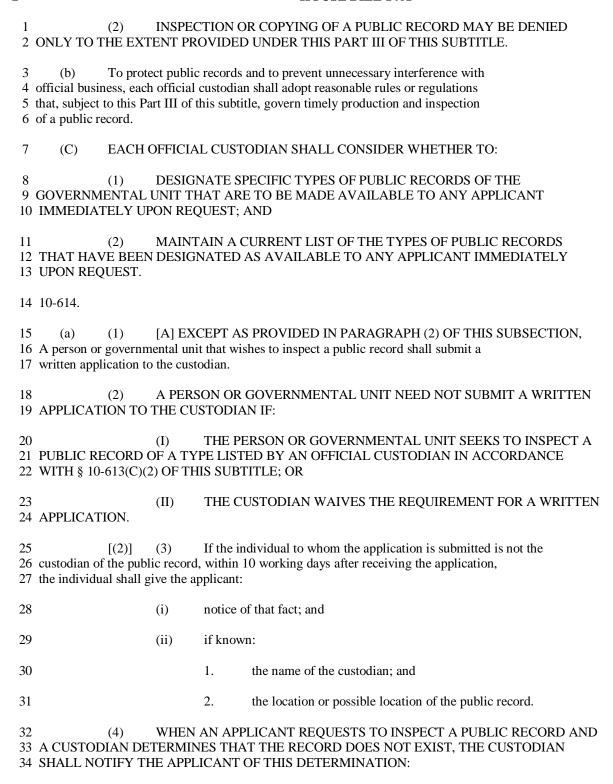
Assigned to: Commerce and Government Matters

A BILL ENTITLED

4	AT	1 000	•
1	AN	ACT	concerning

2 State Government	: - Public Information A	ct - Access	to Public	: Record	S
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- 3 FOR the purpose of requiring an official custodian of public records to consider
- 4 whether to designate certain public records to be made immediately available
- 5 upon request and to maintain a list of those public records; waiving the
- 6 requirement for certain persons and governmental units to submit a written
- 7 application to review certain public records; requiring the custodian of certain
- 8 public records to follow certain notification procedures to an applicant
- 9 requesting certain public records, if the public records do not exist or the
- application for disclosure of public records does not reasonably describe the
- public record; providing for certain considerations that a custodian of public
- 12 records may take into account when determining whether to grant an
- application for public records; providing clarification of certain provisions of the
- Maryland Public Information Act; defining certain terms; providing for the
- construction of this Act; and generally relating to the access of public records
- under the Maryland Public Information Act.
- 17 BY repealing and reenacting, with amendments,
- 18 Article State Government
- 19 Section 10-613, 10-614, 10-618(a), 10-621, 10-623, and 10-626
- 20 Annotated Code of Maryland
- 21 (1999 Replacement Volume and 2000 Supplement)
- 22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
- 23 MARYLAND, That the Laws of Maryland read as follows:
- 24 Article State Government
- 25 10-613.
- 26 (a) (1) Except as otherwise provided by law, a custodian shall permit a
- 27 person or governmental unit to inspect any public record at any reasonable time.

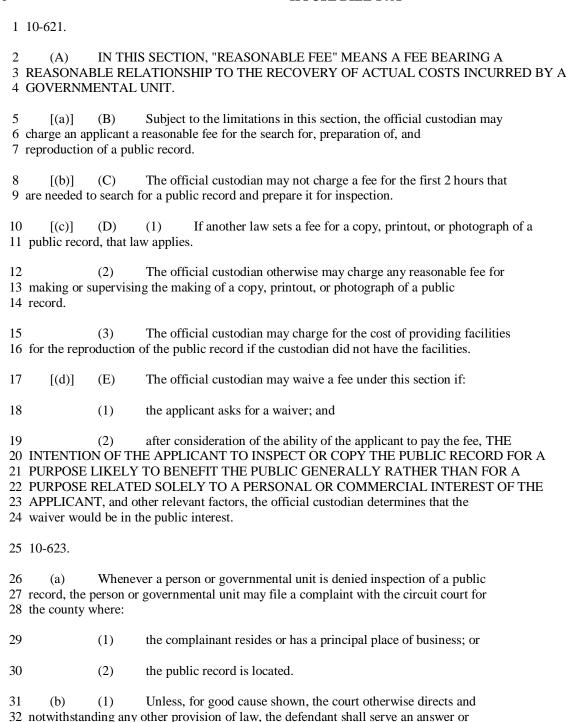


1 2	(I) INITIAL REVIEW OF TH		IF THE CUSTODIAN HAS REACHED THIS DETERMINATION UPON PPLICATION, IMMEDIATELY; OR
5		POT	IF THE CUSTODIAN HAS REACHED THIS DETERMINATION ENTIALLY RESPONSIVE PUBLIC RECORDS, PROMPTLY MPLETED BUT NOT TO EXCEED 30 DAYS AFTER RECEIVING
9	PUBLIC RECORD BECA	USE IS O	AN APPLICATION DOES NOT REASONABLY DESCRIBE A THE APPLICATION IS DEEMED BY A CUSTODIAN TO BE R OVERLY BROAD, THE CUSTODIAN SHALL NOTIFY THE CLUSION:
11 12	(I) INITIAL REVIEW OF TH		IF THE CUSTODIAN HAS REACHED THIS CONCLUSION UPON APPLICATION, IMMEDIATELY; OR
15		ALL	IF THE CUSTODIAN HAS REACHED THIS CONCLUSION AFTER A LY RESPONSIVE PUBLIC RECORDS, PROMPTLY AFTER THE UT NOT TO EXCEED 30 DAYS AFTER RECEIVING THE
		olicat	30 days after receiving an application, the THE custodian ion PROMPTLY, BUT NOT TO EXCEED 30 DAYS AFTER FION.
	record immediately or with	hin t	ian who approves the application shall produce the public he reasonable period that is needed to retrieve the d 30 days after receipt of the application.
23	(3) A cı	ıstod	ian who denies the application shall:
24	(i)		immediately notify the applicant;
25 26	(ii) that gives:		within 10 working days, give the applicant a written statement
27			1. the reasons for the denial;
28			2. the legal authority for the denial; and
29 30	for review of the denial; an		3. notice of the remedies under this Part III of this subtitle
31 32	(iii) inspection and is reasonab		permit inspection of any part of the record that is subject to verable.
33 34	(4) With subsection may be extended		consent of the applicant, any time limit imposed under this r not more than 30 days.
35 36			TO THE EXTENT THAT THE GRANT OF AN APPLICATION IS OF THE APPLICANT AS A PERSON IN INTEREST AND

1 EXCEPT AS REQUIRED BY OTHER LAW OR REGULATION, THE CUSTODIAN MAY NOT 2 CONDITION THE GRANT OF AN APPLICATION ON: THE IDENTITY OF THE APPLICANT; 3 (I) ANY ORGANIZATIONAL OR OTHER AFFILIATION OF THE (II)5 APPLICANT; OR A DISCLOSURE BY THE APPLICANT OF THE PURPOSE FOR AN (III) 7 APPLICATION. NOTHING IN THIS SUBSECTION PRECLUDES AN OFFICIAL 8 (2) 9 CUSTODIAN FROM CONSIDERING THE IDENTITY OF THE APPLICANT, ANY 10 ORGANIZATIONAL OR OTHER AFFILIATION OF THE APPLICANT, OR THE PURPOSE 11 FOR THE APPLICATION IF: 12 (I) THE APPLICANT CHOOSES TO PROVIDE THIS INFORMATION 13 FOR THE CUSTODIAN TO CONSIDER IN MAKING A DETERMINATION UNDER § 10-618 14 OF THIS SUBTITLE: OR THE APPLICANT HAS REQUESTED A WAIVER OF FEES 15 (II)16 PURSUANT TO § 10-621(E) OF THIS SUBTITLE; AND 17 THE IDENTITY OF THE APPLICANT, ANY ORGANIZATIONAL 18 OR OTHER AFFILIATION OF THE APPLICANT, OR THE PURPOSE FOR THE 19 APPLICATION IS MATERIAL TO THE DETERMINATION OF THE OFFICIAL CUSTODIAN 20 IN ACCORDANCE WITH TO § 10-621(E)(2) OF THIS SUBTITLE. CONSISTENT WITH THIS SUBSECTION, AN OFFICIAL MAY REQUEST 21 22 THE IDENTITY OF AN APPLICANT FOR THE PURPOSE OF CONTACTING THE 23 APPLICANT. 24 10-618. Unless otherwise provided by law, if a custodian believes that 25 26 inspection of a part of a public record by the applicant would be contrary to the public 27 interest, the custodian may deny inspection by the applicant of that part, as provided 28 in this section. 29 IN DETERMINING WHETHER DISCLOSURE WOULD BE (I) 30 CONTRARY TO THE PUBLIC INTEREST, THE CUSTODIAN SHALL CONSIDER WHETHER 31 THE POTENTIAL HARMFUL CONSEQUENCES OF DISCLOSING A PUBLIC RECORD ARE 32 SUFFICIENT TO OUTWEIGH THE PUBLIC INTEREST IN ACCESS TO PUBLIC RECORDS. THE DETERMINATION OF WHETHER DISCLOSURE OF A RECORD 33 (II)34 WOULD BE CONTRARY TO THE PUBLIC INTEREST IS IN THE CUSTODIAN'S SOUND 35 DISCRETION, TO BE EXERCISED ONLY AFTER CAREFUL CONSIDERATION IS GIVEN TO 36 THE PUBLIC INTEREST INVOLVED.

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(2)



otherwise plead to the complaint within 30 days after service of the complaint.

The defendant:

1 2	public record; and	(i)	has the burden of sustaining a decision to deny inspection of a
3	court.	(ii)	in support of the decision, may submit a memorandum to the
5 6	(c) (1) proceeding under this		For cases that the court considers of greater importance, a including an appeal, shall:
7		(i)	take precedence on the docket;
8		(ii)	be heard at the earliest practicable date; and
9		(iii)	be expedited in every way.
10 11	(2) whether any part of it		rt may examine the public record in camera to determine withheld under this Part III of this subtitle.
12	(3)	The cou	rt may:
13 14	employee of the State	(i) e or of a p	enjoin the State, a political subdivision, or a unit, official, or political subdivision from withholding the public record;
15 16	withheld from the con	(ii) mplainan	pass an order for the production of the public record that was t; and
17 18	employee for contem	(iii) pt.	for noncompliance with the order, punish the responsible
21 22	finds that any defend	itive dan ant know	dant governmental unit is liable to the complainant for actual nages that the court considers appropriate if the court ingly and willfully failed to disclose or fully to disclose ainant was entitled to inspect under this Part III of this
26		rt conside f a public	ial custodian is liable for actual damages and any punitive ers appropriate if the court finds that, after temporarily record, the official custodian failed to petition a court nial.
30	arbitrarily or capricio	usly in w	Whenever the court orders the production of a public record plicant and, in addition, finds that the custodian acted withholding the public record, the court shall send a the appointing authority of the custodian.
	(2) investigation, the app circumstances warrar	ointing a	pt of the statement of the court and after an appropriate uthority shall take the disciplinary action that the

