Unofficial Copy P3 HB 1461/01 - CGM 2002 Regular Session 2lr2018

By: Delegate Taylor

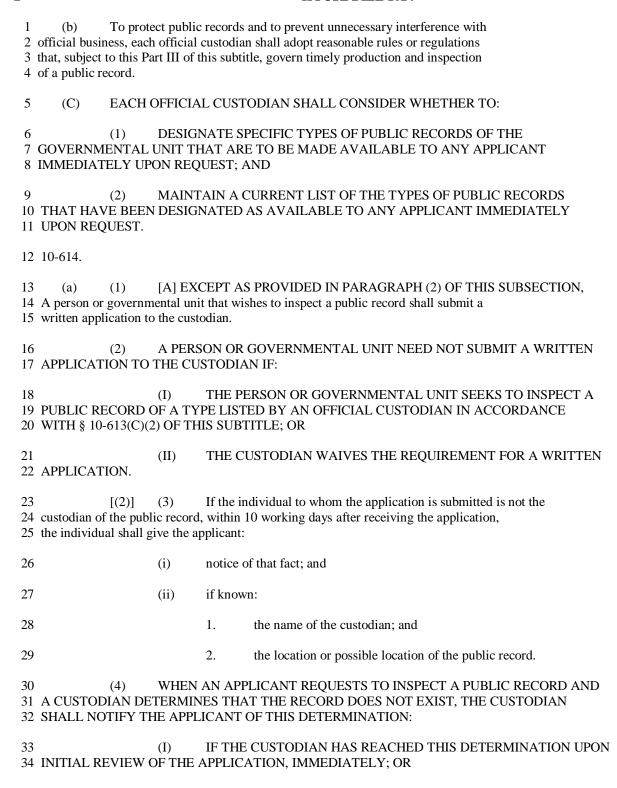
Introduced and read first time: February 8, 2002 Assigned to: Commerce and Government Matters

A BILL ENTITLED

	4 T T	4 000	
1	AN	A("I"	concerning

2 State Government - Public Information Act - Access to Public Records

- 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
- 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
- 15 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 2001 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.
- 28 (2) INSPECTION OR COPYING OF A PUBLIC RECORD MAY BE DENIED
- 29 ONLY TO THE EXTENT PROVIDED UNDER THIS PART III OF THIS SUBTITLE.



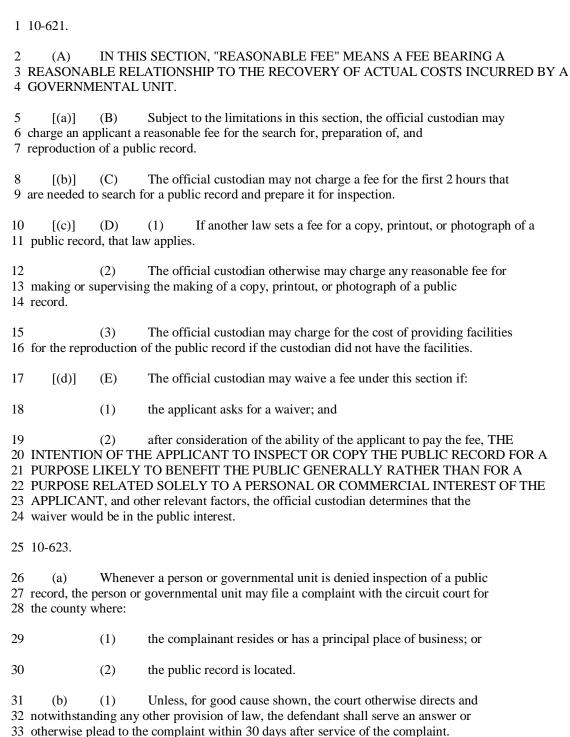
3		H IS CO	ΓΕΝΤΙΑΙ	CUSTODIAN HAS REACHED THIS DETERMINATION LLY RESPONSIVE PUBLIC RECORDS, PROMPTLY ED BUT NOT TO EXCEED 30 DAYS AFTER RECEIVING	
7		ECAUSI UOUS O	E THE A	LICATION DOES NOT REASONABLY DESCRIBE A PPLICATION IS DEEMED BY A CUSTODIAN TO BE LY BROAD, THE CUSTODIAN SHALL NOTIFY THE I:	
9 10	INITIAL REVIEW C	(I) OF THE A		CUSTODIAN HAS REACHED THIS CONCLUSION UPON TION, IMMEDIATELY; OR	
13			LY RESP	CUSTODIAN HAS REACHED THIS CONCLUSION AFTER A PONSIVE PUBLIC RECORDS, PROMPTLY AFTER THE TO EXCEED 30 DAYS AFTER RECEIVING THE	
	(b) (1) [Within 30 days after receiving an application, the] THE custodian shall grant or deny the application PROMPTLY, BUT NOT TO EXCEED 30 DAYS AFTER RECEIVING THE APPLICATION.				
	A custodian who approves the application shall produce the public record immediately or within the reasonable period that is needed to retrieve the public record, but not to exceed 30 days after receipt of the application.				
21	(3)	A custoo	dian who	denies the application shall:	
22		(i)	immedia	ately notify the applicant;	
23 24	that gives:	(ii)	within 1	0 working days, give the applicant a written statement	
25			1.	the reasons for the denial;	
26			2.	the legal authority for the denial; and	
27 28	for review of the deni	al; and	3.	notice of the remedies under this Part III of this subtitle	
29 30	inspection and is reas	(iii) onably so		aspection of any part of the record that is subject to	
31 32	(4) subsection may be ex			of the applicant, any time limit imposed under this re than 30 days.	
35		STATUS RED BY	OF THI	E EXTENT THAT THE GRANT OF AN APPLICATION IS E APPLICANT AS A PERSON IN INTEREST AND LAW OR REGULATION, THE CUSTODIAN MAY NOT PPLICATION ON:	

1		(I)	THE IDENTITY OF THE APPLICANT;
2 3	APPLICANT; OR	(II)	ANY ORGANIZATIONAL OR OTHER AFFILIATION OF THE
4 5	APPLICATION.	(III)	A DISCLOSURE BY THE APPLICANT OF THE PURPOSE FOR AN
8		NG THE	UBSECTION DOES NOT PRECLUDE AN OFFICIAL CUSTODIAN IDENTITY OF THE APPLICANT, ANY ORGANIZATIONAL OR HE APPLICANT, OR THE PURPOSE FOR THE APPLICATION
			THE APPLICANT CHOOSES TO PROVIDE THIS INFORMATION CONSIDER IN MAKING A DETERMINATION UNDER § 10-618
13 14		(II) 0-621(E)	1. THE APPLICANT HAS REQUESTED A WAIVER OF FEES OF THIS SUBTITLE; AND
17	OR OTHER AFFILL APPLICATION IS N	//ATERIA	2. THE IDENTITY OF THE APPLICANT, ANY ORGANIZATIONAL OF THE APPLICANT, OR THE PURPOSE FOR THE AL TO THE DETERMINATION OF THE OFFICIAL CUSTODIAN 10-621(E)(2) OF THIS SUBTITLE.
	\- /		STENT WITH THIS SUBSECTION, AN OFFICIAL MAY REQUEST PLICANT FOR THE PURPOSE OF CONTACTING THE
22	10-618.		
25	inspection of a part o	f a public	otherwise provided by law, if a custodian believes that e record by the applicant would be contrary to the public my inspection by the applicant of that part, as provided
29	THE POTENTIAL H	IARMFU	IN DETERMINING WHETHER DISCLOSURE WOULD BE IC INTEREST, THE CUSTODIAN SHALL CONSIDER WHETHER IL CONSEQUENCES OF DISCLOSING A PUBLIC RECORD ARE IN THE PUBLIC INTEREST IN ACCESS TO PUBLIC RECORDS.
33		BE EXER	THE DETERMINATION OF WHETHER DISCLOSURE OF A RECORD OTHE PUBLIC INTEREST IS IN THE CUSTODIAN'S SOUND CISED ONLY AFTER CAREFUL CONSIDERATION IS GIVEN TO

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(2)

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 cour	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 cor	(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	[(d) (1) A defendant governmental unit is liable to the complainant for actual damages and any punitive damages that the court considers appropriate if the court finds that any defendant knowingly and willfully failed to disclose or fully to disclose a public record that the complainant was entitled to inspect under this Part III of this subtitle.					
26	An official custodian is liable for actual damages and any punitive damages that the court considers appropriate if the court finds that, after temporarily denying inspection of a public record, the official custodian failed to petition a court for an order to continue the denial.					
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			

