

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 377

(Senator Ruben, *et al.*)

Education, Health, and Environmental Affairs

Health and Government Operations

Access to Public Records - Required Denials - Alarm and Security Systems

This emergency bill requires a custodian of a public record to deny inspection of the part of the record that identifies or contains personal information about a person that maintains an alarm or security system. However, the bill requires a custodian to permit inspection by: (1) the person in interest; (2) an alarm or security system company that currently provides alarm or security services to the person in interest; and (3) law enforcement and emergency services personnel.

Fiscal Summary

State Effect: None. The change is procedural in nature and would not directly affect governmental finances.

Local Effect: None.

Small Business Effect: Potential minimal.

Analysis

Current Law: Generally, a custodian of a public record must permit inspection of the record at a reasonable time.

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) a State statute; (b) a federal statute or regulation; (c) the Maryland Rules; or (d) an order of a court of record. Denial of inspection is also mandatory for public

records relating to adoption, welfare records, letters of reference, and specified information about an individual maintained by a library. Denial of inspection is required for information in a public record relating to certain medical, psychological, and sociological information; trade secrets; certain personal information about public employees; information about the security of an information system; and licensing records.

Unless otherwise provided, 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. Other permissible denials include information relating to documents that would not be available through discovery in a lawsuit, certain information about publicly administered tests, research projects conducted by an institution of the State or a political subdivision, real estate appraisals of property to be acquired by the State prior to its acquisition, certain information on inventions owned by State public higher educational institutions, and trade secrets or confidential information owned by the Maryland Technology Development Corporation.

Under Chapter 3 of 2002, permissible denials also include records of any building, structure, or facility whose disclosure would reveal the building's, structure's, or facility's life, safety, and support systems, surveillance techniques, alarm or security systems or technologies, operational and evaluation plans or protocols, or personnel deployments.

Background: In a recent case, a company that sells security and alarm systems challenged a decision by Prince George's County to deny access to a public record that contained names, addresses, and telephone numbers of residents and businesses that subscribe to security system providers using the services of, or registered with, the Prince George's County Police Department. The record is part of a database maintained by the department. The county denied the request on the basis that the information is confidential under a county ordinance. The Circuit Court for Prince George's County upheld the county's decision. The decision was appealed. Before the Court of Special Appeals decided the appeal, the Court of Appeals, on its own initiative, issued a writ of certiorari to hear the case.

In its December 2003 decision, the Court of Appeals, in *Police Patrol Security Systems, Inc. v. Prince George's County, 2003 Md. LEXIS 823*, vacated the circuit court decision. The court found that Chapter 3 applies to all information that has not already been disclosed to the public, including requests that were pending and denials appealed on the enactment date. The court then remanded the case to the circuit court with instructions to remand the matter to Prince George's County so that the county could reconsider its decision and take into account the court's decision and the provision in Chapter 3 that

permits denying access to the part of a public record containing information about alarm or security systems or technologies for private buildings.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of State Police, Department of Legislative Services

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