

Department of Legislative Services  
Maryland General Assembly  
2005 Session

FISCAL AND POLICY NOTE

Senate Bill 308 (Senator Grosfeld)  
Judicial Proceedings

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**Public Records - Required Denials - Access to Court Records**

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This bill excludes a document, record, or other thing that is collected, received, or maintained by a court in connection with one or more specific judicial actions or proceedings from the requirements under the Maryland Public Information Act that a custodian of a public record deny inspection of the part of the record that contains: (1) information about the finances of an individual; or (2) if the information was provided by or obtained from any person or governmental unit, a trade secret or confidential commercial, financial, geological, or geophysical information.

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**Fiscal Summary**

**State Effect:** As the bill applies to the Judiciary, the bill codifies current practice. For any other custodians, any change in State activities would not materially affect State finances.

**Local Effect:** Any change in local government activities would not materially affect local government finances.

**Small Business Effect:** Minimal.

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**Analysis**

**Current Law:** Generally, under the Public Information Act, a custodian of a public record must permit inspection of the record at a reasonable time. However, a custodian must deny access to information under specified circumstances. If the information is provided by or obtained from any person or governmental unit, a custodian must deny inspection to the part of a public record that contains: (1) a trade secret; or (2)

confidential commercial, financial, geological, or geophysical information. A custodian must also deny inspection to the part of a public record that contains financial information about an individual; however, the custodian must permit inspection of this information by the person in interest.

The Act mandates that a custodian deny inspection of a public record in several instances. 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; 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.

**Background:** New rules adopted by the Court of Appeals differ from the Public Information Act in how they treat access to “case records.” Case records are records that come into the court’s possession because they were filed by litigants in judicial actions. The exceptions to the disclosure requirements under the rules are generally narrower than those under the Act. Under these recent additions to the Maryland Rules, a custodian must deny inspection of a case record or any part of a case record only if inspection would be contrary to: (1) federal law or the U.S. Constitution; (2) the Maryland constitution or a State statute other than the Public Information Act that expressly or by necessary implication applies to a court record; (3) a provision of the Public Information Act that is expressly adopted by the rules governing court records; (4) a rule adopted by the Court of Appeals; or (5) a court order. These exceptions are limited to those that have an existing basis or present some compelling need for denying access.

## **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 505 (Delegate Dumais) – Judiciary.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Department of Legislative Services

**Fiscal Note History:** First Reader - February 11, 2005  
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