

UNOFFICIAL COPY OF HOUSE BILL 323
EMERGENCY BILL

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6lr0197
CF 6lr0007

By: **The Speaker (By Request - Administration) and Delegates Aumann, Bartlett, Benson, Bohanan, Boschert, Boteler, Cluster, Conroy, DeBoy, Donoghue, Dumais, Dwyer, Eckardt, Edwards, Elliott, Elmore, Frank, Gilleland, Glassman, Haddaway, Hogan, Impallaria, Jameson, Jennings, Kach, Kelly, King, Kohl, Krebs, Kullen, Levy, Mayer, McComas, McConkey, McDonough, McHale, McKee, Miller, Moe, Myers, O'Donnell, Parrott, Quinter, Shank, Shewell, Sophocleus, Sossi, Stocksdale, Stull, Taylor, Weir, and Weldon**

Introduced and read first time: January 25, 2006
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Court Electronic Records - Personal Information - Victims and Witnesses**

3 FOR the purpose of prohibiting a custodian of information from a certain court or unit
4 of government from disclosing through electronic access that part of certain
5 public records containing a victim's or witness's personal information, electronic
6 mail address, or place of employment; authorizing a court to release a certain
7 public record after a certain hearing; providing for the application of this Act;
8 establishing that this Act may not be construed to prohibit the dissemination or
9 aggregation of certain information; defining a certain term; making this Act an
10 emergency measure; and generally relating to disclosure of records.

11 BY repealing and reenacting, without amendments,
12 Article - State Government
13 Section 10-611
14 Annotated Code of Maryland
15 (2004 Replacement Volume and 2005 Supplement)

16 BY adding to
17 Article - State Government
18 Section 10-616(u)
19 Annotated Code of Maryland
20 (2004 Replacement Volume and 2005 Supplement)

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

Article - State Government

10-611.

(a) In this Part III of this subtitle the following words have the meanings indicated.

(b) "Applicant" means a person or governmental unit that asks to inspect a public record.

(c) "Custodian" means:

(1) the official custodian; or

(2) any other authorized individual who has physical custody and control of a public record.

(d) "Official custodian" means an officer or employee of the State or of a political subdivision who, whether or not the officer or employee has physical custody and control of a public record, is responsible for keeping the public record.

(e) "Person in interest" means:

(1) a person or governmental unit that is the subject of a public record or a designee of the person or governmental unit;

(2) if the person has a legal disability, the parent or legal representative of the person; or

(3) as to requests for correction of certificates of death under § 5-310(d)(2) of the Health - General Article, the spouse, adult child, parent, adult sibling, grandparent, or guardian of the person of the deceased at the time of the deceased's death.

(f) (1) "Personal information" means information that identifies an individual including an individual's address, driver's license number or any other identification number, medical or disability information, name, photograph or computer generated image, Social Security number, or telephone number.

(2) "Personal information" does not include an individual's driver's status, driving offenses, 5-digit zip code, or information on vehicular accidents.

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

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

(ii) is in any form, including:

- 1 1. a card;
- 2 2. a computerized record;
- 3 3. correspondence;
- 4 4. a drawing;
- 5 5. film or microfilm;
- 6 6. a form;
- 7 7. a map;
- 8 8. a photograph or photostat;
- 9 9. a recording; or
- 10 10. a tape.

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

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

17 (h) (1) "Telephone solicitation" means the initiation of a telephone call to an
18 individual or to the residence or business of an individual for the purpose of
19 encouraging the purchase or rental of or investment in property, goods, or services.

20 (2) "Telephone solicitation" does not include a telephone call or message:

21 (i) to an individual who has given express permission to the person
22 making the telephone call;

23 (ii) to an individual with whom the person has an established
24 business relationship; or

25 (iii) by a tax-exempt, nonprofit organization.

26 10-616.

27 (U) (1) IN THIS SUBSECTION, "ELECTRONIC ACCESS" MEANS ACCESS BY
28 ELECTRONIC MEANS AT THE LOCATION WHERE THE RECORDS ARE STORED OR AT A
29 LOCATION OTHER THAN THE LOCATION WHERE THE RECORDS ARE STORED.

30 (2) THIS SUBSECTION DOES NOT APPLY TO ACCESS TO:

1 (I) PUBLIC RECORDS BY THE FOLLOWING PERSONS ACTING
2 WITHIN THE SCOPE OF THEIR DUTIES:

- 3 1. JUDICIAL OFFICIALS OR EMPLOYEES;
- 4 2. LAW ENFORCEMENT PERSONNEL; AND
- 5 3. ATTORNEYS AND EMPLOYEES OF THE STATE'S
6 ATTORNEY'S OFFICE; AND

7 (II) A PUBLIC RECORD IN A COURT ACTION BY AN ATTORNEY OF
8 RECORD IN THE ACTION.

9 (3) NOTWITHSTANDING TITLE 16, CHAPTER 1000 OF THE MARYLAND
10 RULES, A CUSTODIAN MAY NOT DISCLOSE THROUGH ELECTRONIC ACCESS THAT
11 PART OF A PUBLIC RECORD OF A CIRCUIT COURT, THE DISTRICT COURT, OR A UNIT
12 OF GOVERNMENT WITHIN THE JUDICIAL BRANCH IF THE PUBLIC RECORD CONTAINS
13 PERSONAL INFORMATION, THE ELECTRONIC MAIL ADDRESS, OR THE PLACE OF
14 EMPLOYMENT OF A VICTIM OR WITNESS IN ANY OF THE FOLLOWING PROCEEDINGS:

- 15 (I) A CRIMINAL PROCEEDING;
- 16 (II) A JUVENILE DELINQUENCY PROCEEDING;
- 17 (III) A PROCEEDING UNDER TITLE 4, SUBTITLE 5 OF THE FAMILY
18 LAW ARTICLE;
- 19 (IV) A PROCEEDING UNDER TITLE 3, SUBTITLE 8 OF THE COURTS
20 ARTICLE;
- 21 (V) A PROCEEDING UNDER TITLE 3, SUBTITLE 8A OF THE COURTS
22 ARTICLE; OR
- 23 (VI) A PROCEEDING UNDER TITLE 3, SUBTITLE 15 OF THE COURTS
24 ARTICLE.

25 (4) A COURT OF COMPETENT JURISDICTION MAY ORDER A CUSTODIAN
26 TO RELEASE A PUBLIC RECORD REFERENCED IN PARAGRAPH (3) OF THIS
27 SUBSECTION IN A PARTICULAR CASE AFTER HOLDING A HEARING AFTER NOTICE TO
28 ALL PERSONS IN INTEREST AND VICTIMS OR WITNESSES WHO ARE THE SUBJECT OF
29 THE RECORD.

30 (5) THIS SUBSECTION MAY NOT BE CONSTRUED TO PROHIBIT THE
31 DISSEMINATION AND AGGREGATION OF INFORMATION THROUGH ELECTRONIC
32 ACCESS FROM PUBLIC RECORDS THAT ARE OTHERWISE AVAILABLE IF PERSONAL
33 INFORMATION, THE ELECTRONIC MAIL ADDRESSES, AND THE PLACES OF
34 EMPLOYMENT OF VICTIMS OR WITNESSES ARE OMITTED.

35 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
36 measure, is necessary for the immediate preservation of the public health or safety,

- 1 has been passed by a yea and nay vote supported by three-fifths of all the members
- 2 elected to each of the two Houses of the General Assembly, and shall take effect from
- 3 the date it is enacted.