

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, D. Davis, DeBoy, Donoghue, Dumais, Dwyer, Eckardt, Edwards, Elliott, Elmore, Frank, Gilleland, Glassman, Gutierrez, Haddaway, Hogan, Holmes, Impallaria, Jameson, Jennings, Kach, Kelly, King, Kohl, Krebs, Kullen, Lee, Levy, Mayer, McComas, McConkey, McDonough, McHale, McKee, Menes, Miller, Moe, Myers, O'Donnell, Parrott, Proctor, Quinter, Shank, Shewell, Simmons, Sophocleus, Sossi, Stocksdale, Stull, Taylor, Vallario, Weir, and Weldon**

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

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 24, 2006

CHAPTER _____

1 AN ACT concerning

2 **Court ~~Electronic Records - Personal Information-~~ Names and Identities of**
3 **Victims and Witnesses - Remote Access**

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

14 ~~BY repealing and reenacting, without amendments,~~
15 ~~Article State Government~~
16 ~~Section 10-611~~
17 ~~Annotated Code of Maryland~~
18 ~~(2004 Replacement Volume and 2005 Supplement)~~

1 ~~BY adding to~~
 2 ~~Article—State Government~~
 3 ~~Section 10-616(u)~~
 4 ~~Annotated Code of Maryland~~
 5 ~~(2004 Replacement Volume and 2005 Supplement)~~

6 BY adding to
 7 Article - Criminal Procedure
 8 Section 11-105
 9 Annotated Code of Maryland
 10 (2001 Volume and 2005 Supplement)

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

13 ~~Article—State Government~~

14 ~~10-611.~~

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

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

19 (c) ~~"Custodian" means:~~

20 (1) ~~the official custodian; or~~

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

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

26 (e) ~~"Person in interest" means:~~

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

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

31 (3) ~~as to requests for correction of certificates of death under §~~
 32 ~~5-310(d)(2) of the Health—General Article, the spouse, adult child, parent, adult~~
 33 ~~sibling, grandparent, or guardian of the person of the deceased at the time of the~~
 34 ~~deceased's death.~~

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

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

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

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

12 (ii) is in any form, including:

- 13 1. a card;
- 14 2. a computerized record;
- 15 3. correspondence;
- 16 4. a drawing;
- 17 5. film or microfilm;
- 18 6. a form;
- 19 7. a map;
- 20 8. a photograph or photostat;
- 21 9. a recording; or
- 22 10. a tape.

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

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

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

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

- 1 (i) to an individual who has given express permission to the person
2 making the telephone call;
- 3 (ii) to an individual with whom the person has an established
4 business relationship; or
- 5 (iii) by a tax exempt, nonprofit organization.
- 6 40-616.

7 (U) (1) ~~IN THIS SUBSECTION, "ELECTRONIC ACCESS" MEANS ACCESS BY~~
8 ~~ELECTRONIC MEANS AT THE LOCATION WHERE THE RECORDS ARE STORED OR AT A~~
9 ~~LOCATION OTHER THAN THE LOCATION WHERE THE RECORDS ARE STORED.~~

10 (2) ~~THIS SUBSECTION DOES NOT APPLY TO ACCESS TO:~~

11 (I) ~~PUBLIC RECORDS BY THE FOLLOWING PERSONS ACTING~~
12 ~~WITHIN THE SCOPE OF THEIR DUTIES:~~

- 13 1. ~~JUDICIAL OFFICIALS OR EMPLOYEES;~~
- 14 2. ~~LAW ENFORCEMENT PERSONNEL; AND~~
- 15 3. ~~ATTORNEYS AND EMPLOYEES OF THE STATE'S~~
16 ~~ATTORNEY'S OFFICE; AND~~

17 (II) ~~A PUBLIC RECORD IN A COURT ACTION BY AN ATTORNEY OF~~
18 ~~RECORD IN THE ACTION.~~

19 (3) ~~NOTWITHSTANDING TITLE 16, CHAPTER 1000 OF THE MARYLAND~~
20 ~~RULES, A CUSTODIAN MAY NOT DISCLOSE THROUGH ELECTRONIC ACCESS THAT~~
21 ~~PART OF A PUBLIC RECORD OF A CIRCUIT COURT, THE DISTRICT COURT, OR A UNIT~~
22 ~~OF GOVERNMENT WITHIN THE JUDICIAL BRANCH IF THE PUBLIC RECORD CONTAINS~~
23 ~~PERSONAL INFORMATION, THE ELECTRONIC MAIL ADDRESS, OR THE PLACE OF~~
24 ~~EMPLOYMENT OF A VICTIM OR WITNESS IN ANY OF THE FOLLOWING PROCEEDINGS:~~

- 25 (I) ~~A CRIMINAL PROCEEDING;~~
- 26 (II) ~~A JUVENILE DELINQUENCY PROCEEDING;~~
- 27 (III) ~~A PROCEEDING UNDER TITLE 4, SUBTITLE 5 OF THE FAMILY~~
28 ~~LAW ARTICLE;~~
- 29 (IV) ~~A PROCEEDING UNDER TITLE 3, SUBTITLE 8 OF THE COURTS~~
30 ~~ARTICLE;~~
- 31 (V) ~~A PROCEEDING UNDER TITLE 3, SUBTITLE 8A OF THE COURTS~~
32 ~~ARTICLE; OR~~
- 33 (VI) ~~A PROCEEDING UNDER TITLE 3, SUBTITLE 15 OF THE COURTS~~
34 ~~ARTICLE.~~

