

UNOFFICIAL COPY OF HOUSE BILL 632  
EMERGENCY BILL

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By: **Delegates Vallario, D. Davis, Dumais, Gutierrez, Holmes, Lee, Menes,  
Proctor, Quinter, Shank, and Simmons**

Introduced and read first time: February 2, 2006

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2                                   **Public Records - Victim and Witness Information - Remote Access and**  
3                                   **Electronic Copying**

4 FOR the purpose of requiring a certain custodian to prevent certain access to certain  
5 information of a certain victim or witness; requiring a certain custodian to  
6 prevent electronic copying of certain information; defining a certain term;  
7 creating certain exceptions; making this Act an emergency measure; and  
8 generally relating to remote access to victim and witness information contained  
9 in public records.

10 BY repealing and reenacting, with amendments,  
11 Article - State Government  
12 Section 10-616  
13 Annotated Code of Maryland  
14 (2004 Replacement Volume and 2005 Supplement)

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

17                                   **Article - State Government**

18 10-616.

19 (a) Unless otherwise provided by law, a custodian shall deny inspection of a  
20 public record, as provided in this section.

21 (b) A custodian shall deny inspection of public records that relate to the  
22 adoption of an individual.

23 (c) A custodian shall deny inspection of public records that relate to welfare  
24 for an individual.

25 (d) A custodian shall deny inspection of a letter of reference.

1 (e) (1) Subject to the provisions of paragraph (2) of this subsection, a  
2 custodian shall prohibit inspection, use, or disclosure of a circulation record of a  
3 public library or other item, collection, or grouping of information about an individual  
4 that:

5 (i) is maintained by a library;

6 (ii) contains an individual's name or the identifying number,  
7 symbol, or other identifying particular assigned to the individual; and

8 (iii) identifies the use a patron makes of that library's materials,  
9 services, or facilities.

10 (2) A custodian shall permit inspection, use, or disclosure of a circulation  
11 record of a public library only in connection with the library's ordinary business and  
12 only for the purposes for which the record was created.

13 (f) A custodian shall deny inspection of library, archival, or museum material  
14 given by a person to the extent that the person who made the gift limits disclosure as  
15 a condition of the gift.

16 (g) (1) Subject to paragraphs (2) through (7) of this subsection, a custodian  
17 shall deny inspection of a retirement record for an individual.

18 (2) A custodian shall permit inspection:

19 (i) by the person in interest;

20 (ii) by the appointing authority of the individual;

21 (iii) after the death of the individual, by a beneficiary, personal  
22 representative, or other person who satisfies the administrators of the retirement and  
23 pension systems that the person has a valid claim to the benefits of the individual;  
24 and

25 (iv) by any law enforcement agency in order to obtain the home  
26 address of a retired employee of the agency when contact with a retired employee is  
27 documented to be necessary for official agency business.

28 (3) A custodian shall permit inspection by the employees of a county unit  
29 that, by county law, is required to audit the retirement records for current or former  
30 employees of the county. However, the information obtained during the inspection is  
31 confidential, and the county unit and its employees may not disclose any information  
32 that would identify a person in interest.

33 (4) On request, a custodian shall state whether the individual receives a  
34 retirement or pension allowance.

35 (5) A custodian shall permit release of information as provided in §  
36 21-504 or § 21-505 of the State Personnel and Pensions Article.

- 1           (6)     On written request, a custodian shall:
- 2                   (i)     disclose the amount of that part of a retirement allowance that  
3 is derived from employer contributions and that is granted to:
- 4                           1.     a retired elected or appointed official of the State;
- 5                           2.     a retired elected official of a political subdivision; or
- 6                           3.     a retired appointed official of a political subdivision who is  
7 a member of a separate system for elected or appointed officials; or
- 8                   (ii)    disclose the benefit formula and the variables for calculating  
9 the retirement allowance of:
- 10                           1.     a current elected or appointed official of the State;
- 11                           2.     a current elected official of a political subdivision; or
- 12                           3.     a current appointed official of a political subdivision who  
13 is a member of a separate system for elected or appointed officials.
- 14           (7)     (i)     This paragraph applies to Anne Arundel County.
- 15                   (ii)    On written request, a custodian of retirement records shall  
16 disclose:
- 17                           1.     the total amount of that part of a pension or retirement  
18 allowance that is derived from employer contributions and that is granted to a retired  
19 elected or appointed official of the county;
- 20                           2.     the total amount of that part of a pension or retirement  
21 allowance that is derived from employee contributions and that is granted to a retired  
22 elected or appointed official of the county, if the retired elected or appointed official  
23 consents to the disclosure;
- 24                           3.     the benefit formula and the variables for calculating the  
25 retirement allowance of a current elected or appointed official of the county; or
- 26                           4.     the amount of the employee contributions plus interest  
27 attributable to a current elected or appointed official of the county, if the current  
28 elected or appointed official consents to the disclosure.
- 29                   (iii)   A custodian of retirement records shall maintain a list of those  
30 elected or appointed officials of the county who have consented to the disclosure of  
31 information under subparagraph (ii)2 or 4 of this paragraph.
- 32     (h)     (1)     This subsection applies only to public records that relate to:
- 33                   (i)     police reports of traffic accidents;

1 (ii) criminal charging documents prior to service on the defendant  
2 named in the document; and

3 (iii) traffic citations filed in the Maryland Automated Traffic  
4 System.

5 (2) A custodian shall deny inspection of a record described in paragraph  
6 (1) of this subsection to any of the following persons who request inspection of records  
7 for the purpose of soliciting or marketing legal services:

8 (i) an attorney who is not an attorney of record of a person named  
9 in the record; or

10 (ii) a person who is employed by, retained by, associated with, or  
11 acting on behalf of an attorney described in this paragraph.

12 (i) (1) Subject to paragraph (2) of this subsection, a custodian shall deny  
13 inspection of a personnel record of an individual, including an application,  
14 performance rating, or scholastic achievement information.

15 (2) A custodian shall permit inspection by:

16 (i) the person in interest; or

17 (ii) an elected or appointed official who supervises the work of the  
18 individual.

19 (j) A custodian shall deny inspection of a hospital record that:

20 (1) relates to:

21 (i) medical administration;

22 (ii) staff;

23 (iii) medical care; or

24 (iv) other medical information; and

25 (2) contains general or specific information about 1 or more individuals.

26 (k) (1) Subject to paragraphs (2) and (3) of this subsection, a custodian shall  
27 deny inspection of a school district record about the home address, home phone  
28 number, biography, family, physiology, religion, academic achievement, or physical or  
29 mental ability of a student.

30 (2) A custodian shall permit inspection by:

31 (i) the person in interest; or

32 (ii) an elected or appointed official who supervises the student.

1 (3) (i) A custodian may permit inspection of the home address or home  
2 phone number of a student of a public school by:

3 1. an organization of parents, teachers, students, or former  
4 students, or any combination of those groups, of the school;

5 2. an organization or force of the military;

6 3. a person engaged by a school or board of education to  
7 confirm a home address or home phone number;

8 4. a representative of a community college in the State; or

9 5. the Maryland Higher Education Commission.

10 (ii) The Commission or a person, organization, or community  
11 college that obtains information under this paragraph may not:

12 1. use this information for a commercial purpose; or

13 2. disclose this information to another person, organization,  
14 or community college.

15 (iii) When a custodian permits inspection under this paragraph, the  
16 custodian shall notify the Commission, person, organization, or community college of  
17 the prohibitions under subparagraph (ii) of this paragraph regarding use and  
18 disclosure of this information.

19 (l) Subject to the provisions of § 4-310 of the Insurance Article, a custodian  
20 shall deny inspection of all RBC reports and RBC plans and any other records that  
21 relate to those reports or plans.

22 (m) (1) Subject to the provisions of paragraph (2) of this subsection, a  
23 custodian shall deny inspection of all photographs, videotapes or electronically  
24 recorded images of vehicles, vehicle movement records, personal financial  
25 information, credit reports, or other personal or financial data created, recorded,  
26 obtained by or submitted to the Maryland Transportation Authority or its agents or  
27 employees in connection with any electronic toll collection system or associated  
28 transaction system.

29 (2) A custodian shall permit inspection of the records enumerated in  
30 paragraph (1) of this subsection by:

31 (i) an individual named in the record;

32 (ii) the attorney of record of an individual named in the record;

33 (iii) employees or agents of the Maryland Transportation Authority  
34 in any investigation or proceeding relating to a violation of speed limitations or to the  
35 imposition of or indemnification from liability for failure to pay a toll in connection  
36 with any electronic toll collection system;

1 (iv) employees or agents of a third party that has entered into an  
2 agreement with the Maryland Transportation Authority to use an electronic toll  
3 collection system for nontoll applications in the collection of revenues due to the third  
4 party; or

5 (v) employees or agents of an entity in another state operating or  
6 having jurisdiction over a toll facility.

7 (n) (1) Subject to paragraph (2) of this subsection, a custodian shall deny  
8 inspection of any record disclosing:

9 (i) the name of an account holder or qualified beneficiary of a  
10 prepaid contract under Title 18, Subtitle 19 of the Education Article; and

11 (ii) the name of an account holder or qualified designated  
12 beneficiary of an investment account under Title 18, Subtitle 19A of the Education  
13 Article.

14 (2) A custodian:

15 (i) shall permit inspection by a person in interest; and

16 (ii) may release information to an eligible institution of higher  
17 education designated:

18 1. by an account holder of a prepaid contract or qualified  
19 beneficiary under Title 18, Subtitle 19A of the Education Article; or

20 2. by an account holder or qualified designated beneficiary  
21 under Title 18, Subtitle 19A of the Education Article.

22 (o) (1) In this subsection, "recorded images" has the meaning stated in §  
23 21-202.1 of the Transportation Article.

24 (2) Except as provided in paragraph (3) of this subsection, a custodian of  
25 recorded images produced by a traffic control signal monitoring system operated  
26 under § 21-202.1 of the Transportation Article shall deny inspection of the recorded  
27 images.

28 (3) A custodian shall allow inspection of recorded images:

29 (i) as required in § 21-202.1 of the Transportation Article;

30 (ii) by any person issued a citation under § 21-202.1 of the  
31 Transportation Article, or an attorney of record for the person; or

32 (iii) by an employee or agent of a law enforcement agency in an  
33 investigation or proceeding relating to the imposition of or indemnification from civil  
34 liability pursuant to § 21-202.1 of the Transportation Article.

1 (p) (1) Except as provided in paragraphs (2) through (5) of this subsection, a  
2 custodian may not knowingly disclose a public record of the Motor Vehicle  
3 Administration containing personal information.

4 (2) A custodian shall disclose personal information when required by  
5 federal law.

6 (3) (i) This paragraph applies only to the disclosure of personal  
7 information for any use in response to a request for an individual motor vehicle  
8 record.

9 (ii) The custodian may not disclose personal information without  
10 written consent from the person in interest.

11 (iii) 1. At any time the person in interest may withdraw consent  
12 to disclose personal information by notifying the custodian.

13 2. The withdrawal by the person in interest of consent to  
14 disclose personal information shall take effect as soon as practicable after it is  
15 received by the custodian.

16 (4) (i) This paragraph applies only to the disclosure of personal  
17 information for inclusion in lists of information to be used for surveys, marketing, and  
18 solicitations.

19 (ii) The custodian may not disclose personal information for  
20 surveys, marketing, and solicitations without written consent from the person in  
21 interest.

22 (iii) 1. At any time the person in interest may withdraw consent  
23 to disclose personal information by notifying the custodian.

24 2. The withdrawal by the person in interest of consent to  
25 disclose personal information shall take effect as soon as practicable after it is  
26 received by the custodian.

27 (iv) The custodian may not disclose personal information under this  
28 paragraph for use in telephone solicitations.

29 (v) Personal information disclosed under this paragraph may be  
30 used only for surveys, marketing, or solicitations and only for a purpose approved by  
31 the Motor Vehicle Administration.

32 (5) Notwithstanding the provisions of paragraphs (3) and (4) of this  
33 subsection, a custodian shall disclose personal information:

34 (i) for use by a federal, state, or local government, including a law  
35 enforcement agency, or a court in carrying out its functions;

36 (ii) for use in connection with matters of:

1. motor vehicle or driver safety;
2. motor vehicle theft;
3. motor vehicle emissions;
4. motor vehicle product alterations, recalls, or advisories;
5. performance monitoring of motor vehicle parts and  
6 dealers; and
7. removal of nonowner records from the original records of  
8 motor vehicle manufacturers;

9 (iii) for use by a private detective agency licensed by the Secretary of  
10 State Police under Title 13 of the Business Occupations and Professions Article or a  
11 security guard service licensed by the Secretary of State Police under Title 19 of the  
12 Business Occupations and Professions Article for a purpose permitted under this  
13 paragraph;

14 (iv) for use in connection with a civil, administrative, arbitral, or  
15 criminal proceeding in a federal, state, or local court or regulatory agency for service  
16 of process, investigation in anticipation of litigation, and execution or enforcement of  
17 judgments or orders;

18 (v) for purposes of research or statistical reporting as approved by  
19 the Motor Vehicle Administration provided that the personal information is not  
20 published, redisclosed, or used to contact the individual;

21 (vi) for use by an insurer, insurance support organization, or  
22 self-insured entity, or its employees, agents, or contractors, in connection with rating,  
23 underwriting, claims investigating, and antifraud activities;

24 (vii) for use in the normal course of business activity by a legitimate  
25 business entity, its agents, employees, or contractors, but only:

26 1. to verify the accuracy of personal information submitted  
27 by the individual to that entity; and

28 2. if the information submitted is not accurate, to obtain  
29 correct information only for the purpose of:

30 A. preventing fraud by the individual;

31 B. pursuing legal remedies against the individual; or

32 C. recovering on a debt or security interest against the  
33 individual;



1 (viii) for use by an employer or insurer to obtain or verify information  
2 relating to a holder of a commercial driver's license that is required under the  
3 Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C.A. § 2701 et seq.);

4 (ix) for use in connection with the operation of a private toll  
5 transportation facility;

6 (x) for use in providing notice to the owner of a towed or impounded  
7 motor vehicle;

8 (xi) for use by an applicant who provides written consent from the  
9 individual to whom the information pertains if the consent is obtained within the  
10 6-month period before the date of the request for personal information;

11 (xii) for use in any matter relating to:

12 1. the operation of a Class B (for hire), Class C (funeral and  
13 ambulance), or Class Q (limousine) vehicle; and

14 2. public safety or the treatment by the operator of a member  
15 of the public;

16 (xiii) for a use specifically authorized by the law of this State, if the  
17 use is related to the operation of a motor vehicle or public safety; and

18 (xiv) for use by a hospital to obtain, for hospital security purposes,  
19 information relating to ownership of vehicles parked on hospital property.

20 (6) (i) A person receiving personal information under paragraph (4) or  
21 (5) of this subsection may not use or redisclose the personal information for a purpose  
22 other than the purpose for which the custodian disclosed the personal information.

23 (ii) A person receiving personal information under paragraph (4) or  
24 (5) of this subsection who rediscloses the personal information shall:

25 1. keep a record for 5 years of the person to whom the  
26 information is redisclosed and the purpose for which the information is to be used;  
27 and

28 2. make the record available to the custodian on request.

29 (7) (i) The custodian shall adopt regulations to implement and enforce  
30 the provisions of this subsection.

31 (ii) 1. The custodian shall adopt regulations and procedures for  
32 securing a person in interest's waiver of privacy rights under this subsection when an  
33 applicant requests personal information about the person in interest that the  
34 custodian is not authorized to disclose under paragraphs (2) through (5) of this  
35 subsection.

- 1   2.         The regulations and procedures adopted under this  
2 subparagraph shall:
- 3   A.         state the circumstances under which the custodian may  
4 request a waiver; and
- 5   B.         conform with the waiver requirements in the federal  
6 Driver's Privacy Protection Act of 1994 and other federal law.

7                         (8)         The custodian may develop and implement methods for monitoring  
8 compliance with this section and ensuring that personal information is used only for  
9 purposes for which it is disclosed.

10         (q)         (1)         Except as provided in paragraph (4) of this subsection and subject to  
11 the provisions of paragraph (5) of this subsection, unless otherwise ordered by the  
12 court, files and records of the court pertaining to an arrest warrant issued pursuant  
13 to Maryland Rule 4-212(d)(1) or (2) and the charging document upon which the arrest  
14 warrant was issued may not be open to inspection until either:

15                                 (i)         the arrest warrant has been served and a return of service has  
16 been filed in compliance with Maryland Rule 4-212(g); or

17                                 (ii)         90 days have elapsed since the arrest warrant was issued.

18                         (2)         Except as provided in paragraph (4) of this subsection and subject to  
19 the provisions of paragraph (5) of this subsection, unless otherwise ordered by the  
20 court, files and records of the court pertaining to an arrest warrant issued pursuant  
21 to a grand jury indictment or conspiracy investigation and the charging document  
22 upon which the arrest warrant was issued may not be open to inspection until all  
23 arrest warrants for any co-conspirators have been served and all returns of service  
24 have been filed in compliance with Maryland Rule 4-212(g).

25                         (3)         Subject to the provisions of paragraphs (1) and (2) of this subsection,  
26 unless sealed pursuant to Maryland Rule 4-201(d), the files and records shall be open  
27 to inspection.

28                         (4)         (i)         Subject to subparagraph (ii) of this paragraph, the name,  
29 address, birth date, driver's license number, sex, height, and weight of an individual  
30 contained in an arrest warrant issued pursuant to Maryland Rule 4-212(d)(1) or (2)  
31 or issued pursuant to a grand jury indictment or conspiracy investigation may be  
32 released to the Motor Vehicle Administration for use by the Administration for  
33 purposes of § 13-406.1 or § 16-204 of the Transportation Article.

34                                 (ii)         Except as provided in subparagraph (i) of this paragraph,  
35 information contained in a charging document that identifies an individual may not  
36 be released to the Motor Vehicle Administration.

37                         (5)         The provisions of paragraphs (1) and (2) of this subsection may not be  
38 construed to prohibit:

- 1 (i) the release of statistical information concerning unserved arrest  
2 warrants;
- 3 (ii) the release of information by a State's Attorney or peace officer  
4 concerning an unserved arrest warrant and the charging document upon which the  
5 arrest warrant was issued; or
- 6 (iii) inspection of files and records, of a court pertaining to an  
7 unserved arrest warrant and the charging document upon which the arrest warrant  
8 was issued, by:
- 9 1. a judicial officer;
- 10 2. any authorized court personnel;
- 11 3. a State's Attorney;
- 12 4. a peace officer;
- 13 5. a correctional officer who is authorized by law to serve an  
14 arrest warrant;
- 15 6. a bail bondsman, surety insurer, or surety who executes  
16 bail bonds who executed a bail bond for the individual who is subject to arrest under  
17 the arrest warrant;
- 18 7. an attorney authorized by the individual who is subject to  
19 arrest under the arrest warrant;
- 20 8. the Department of Public Safety and Correctional Services  
21 or the Department of Juvenile Services for the purpose of notification of a victim  
22 under the provisions of § 11-507 of the Criminal Procedure Article; or
- 23 9. a federal, State, or local criminal justice agency described  
24 under Title 10, Subtitle 2 of the Criminal Procedure Article.
- 25 (r) (1) Except as provided in paragraph (2) of this subsection, a custodian  
26 shall deny inspection of all records of persons created, generated, obtained by, or  
27 submitted to the Maryland Transit Administration, its agents, or employees in  
28 connection with the use or purchase of electronic fare media provided by the  
29 Maryland Transit Administration, its agents, employees, or contractors.
- 30 (2) A custodian shall permit inspection of the records enumerated in  
31 paragraph (1) of this subsection by:
- 32 (i) an individual named in the record; or
- 33 (ii) the attorney of record of an individual named in the record.

1 (s) (1) Except as provided in paragraph (2) of this subsection, a custodian  
2 may not knowingly disclose a public record of the Department of Natural Resources  
3 containing personal information.

4 (2) Notwithstanding paragraph (1) of this subsection, a custodian shall  
5 disclose personal information for use in the normal course of business activity by a  
6 financial institution, as defined in § 1-101(i) of the Financial Institutions Article, its  
7 agents, employees, or contractors, but only:

8 (i) to verify the accuracy of personal information submitted by the  
9 individual to that financial institution; and

10 (ii) if the information submitted is not accurate, to obtain correct  
11 information only for the purpose of:

- 12 1. preventing fraud by the individual;
- 13 2. pursuing legal remedies against the individual; or
- 14 3. recovering on a debt or security interest against the  
15 individual.

16 (t) A custodian shall deny inspection of an application for renewable energy  
17 credit certification or a claim for renewable energy credits under Title 10, Subtitle 15  
18 of the Agriculture Article.

19 (U) (1) IN THIS SUBSECTION, "REMOTE ACCESS" MEANS THE ABILITY TO  
20 INSPECT, SEARCH, OR COPY A COURT RECORD BY ELECTRONIC MEANS FROM A  
21 LOCATION OTHER THAN THE LOCATION WHERE THE RECORD IS STORED.

22 (2) NOTWITHSTANDING ANY OTHER LAW OR RULE TO THE CONTRARY,  
23 EXCEPT FOR IDENTIFYING INFORMATION OF LAW ENFORCEMENT OFFICERS AND  
24 OTHER PUBLIC OFFICIALS ACTING IN THEIR OFFICIAL CAPACITIES AND EXPERT  
25 WITNESSES, A CUSTODIAN SHALL PREVENT:

26 (I) REMOTE ACCESS TO THE NAME, ADDRESS, TELEPHONE  
27 NUMBER, ELECTRONIC MAIL ADDRESS, PLACE OF EMPLOYMENT, AND OTHER  
28 IDENTIFYING INFORMATION OF A VICTIM OR WITNESS OTHER THAN A DEFENDANT  
29 IN A CRIMINAL CASE; AND

30 (II) ELECTRONIC COPYING OF INFORMATION DESCRIBED IN ITEM  
31 (I) OF THIS PARAGRAPH THAT IS NOT AVAILABLE BY REMOTE ACCESS AT COMPUTER  
32 TERMINALS THAT A COURT OR OTHER JUDICIAL AGENCY MAKES AVAILABLE FOR  
33 PUBLIC USE.

34 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency  
35 measure, is necessary for the immediate preservation of the public health or safety,  
36 has been passed by a ye and nay vote supported by three-fifths of all the members  
37 elected to each of the two Houses of the General Assembly, and shall take effect from  
38 the date it is enacted.

