

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

Senate Bill 549

(Senator Gladden) (By Request – Baltimore City
Administration)

Education, Health, and Environmental Affairs

State Government - Custodian of Records - Inspection of Public Records

This bill requires a custodian of public records to deny inspection of the records if the request is related to a matter that is the subject of a pending civil action. An exception is provided if a petition for inspection is filed with the court in which the civil action is pending and the court grants the petition on a showing of good cause for the necessity of inspection. The bill provides that if the petition is granted, the court order shall be narrowly tailored to satisfy only the purpose for which the inspection was sought. The bill prohibits a court from finding a showing of good cause on the basis that a particular entity of State or local government is the only source of the information.

Fiscal Summary

State Effect: Potential increase in the workload of the Judiciary, depending on the number of petitions filed. Any costs related to training court personnel on properly shielding the applicable records, as well as costs associated with modifying the case management system, could be handled with existing budgeted resources.

Local Effect: Potential increase in the workload of the circuit courts, depending on the number of petitions filed. Any costs related to training court personnel on properly shielding the applicable records can be handled with existing budgeted resources. Potential reduction in expenditures for Baltimore City of at least \$61,300 annually.

Small Business Effect: None.

Analysis

Current Law: 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.

State Fiscal Effect: The Judiciary advises there is a potential for a significant increase in the workload of the District Court and circuit courts, the extent of which will depend on the number of petitions filed to permit inspection. Any additional costs related to training court personnel on properly shielding the applicable records, as well as costs associated with modifying the case management system, could be handled with existing budgeted resources.

Local Fiscal Effect: Potential increase in the workload of the circuit courts, depending on the number of petitions filed. Any additional costs related to training court personnel on properly shielding the applicable records could be handled with existing budgeted resources.

Baltimore City advises this bill would decrease the operational impact public information requests have on the various city agencies, as the bill would help ensure that only nonduplicitous and good faith requests are made of the city regarding matters which are the subject of active litigation. Baltimore City anticipates at least \$61,300 in savings annually, based on the assumption that the city receives approximately three to seven

requests each month. This estimate also assumes that each request involves at least two agencies and requires the response of at least two staff members per agency.

Additional Information

Prior Introductions: None.

Cross File: HB 615 (Delegate Anderson, *et al.*) (By Request – Baltimore City Administration) – Health and Government Operations.

Information Source(s): Department of Human Resources; Judiciary (Administrative Office of the Courts); Comptroller's Office; Department of Health and Mental Hygiene; Department of Labor, Licensing, and Regulation; Baltimore City; Department of Legislative Services

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mll/hlb

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