

Department of Legislative Services  
Maryland General Assembly  
2011 Session

FISCAL AND POLICY NOTE

House Bill 37

(Delegate Carr, *et al.*)

Health and Government Operations

Education, Health, and Environmental Affairs

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State Government - Access to Public Records - Electronic Documents

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This bill requires a custodian of a public record to provide a copy of a public record in a searchable and analyzable electronic format under specified circumstances. The bill may not be construed to require a custodian of a public record to reconstruct a public record in an electronic format if the custodian no longer has the public record available in an electronic format; allow a custodian to make a public record available only in an electronic format; require a custodian to create, compile, or program a new public record; or require a custodian to release an electronic record in a format that would jeopardize or compromise the security or integrity of the original record or of any proprietary software in which it is maintained. A custodian of a public record is authorized to remove metadata from an electronic document before providing it to an applicant, and a custodian may charge an applicant a reasonable fee for making or supervising the making of an electronic copy. The official custodian of a public record must comply with the bill's requirements even if the public record is in the physical custody or control of another person.

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Fiscal Summary

**State Effect:** None. Any costs incurred by State agencies to provide a copy of a public record in an electronic format will be offset by applicant fees.

**Local Effect:** None. Any costs incurred by local governments to provide a copy of a public record in an electronic format will be offset by applicant fees.

**Small Business Effect:** Minimal.

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## Analysis

**Current Law/Background:** The Maryland Public Information Act grants the public a broad right of access to records that are in the possession of State and local government agencies. The Act's basic mandate is to enable people to have access to government records without unnecessary cost or delay. Custodians have a responsibility to provide such access unless the requested records fall within one of the exceptions in the statute.

An applicant who is authorized to inspect a public record may have a copy, printout, or photograph of the public record; or, if the custodian does not have facilities to reproduce the public record, access to the public record to make the copy, printout, or photograph. The copy, printout, or photograph must be made while the public record is in the custody of the custodian; and whenever practicable, where the public record is kept. The official custodian may set a reasonable time schedule to make copies, printouts, or photographs.

The Department of Disabilities advises that, with the advent of new screen reading software for computers and handheld devices, the bill's provisions give greater access to public records to individuals who are blind or with low vision. In 2009, an estimated 96,200 State residents were either blind or had serious difficulty seeing even when wearing glasses.

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## Additional Information

**Prior Introductions:** HB 1301 of 2010 passed the House and received a favorable report from the Senate Education, Health, and Environmental Affairs Committee, but no further action was taken.

**Cross File:** None.

**Information Source(s):** U.S. Census Bureau (2005-2009 American Community Survey); Kent, Washington, and Worcester counties; Baltimore City; State Department of Assessments and Taxation; Maryland Department of Agriculture; Maryland State Archives; Board of Public Works; Department of Budget and Management; Department of Human Resources; Department of Natural Resources; Maryland Department of the Environment; Department of General Services; Department of Housing and Community Development; Department of Disabilities; Department of Health and Mental Hygiene; Department of State Police; Maryland Department of Aging; Maryland Department of Transportation; Department of Legislative Services

**Fiscal Note History:** First Reader - January 27, 2011  
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