

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 596 (Delegate Sydnor)
Health and Government Operations

Procurement - Confidential Proprietary Information, Goods, or Services
Provided to a Governmental Entity - Nondisclosure Agreement

This bill prohibits a governmental entity from entering into a nondisclosure agreement that violates an individual's right to privacy under the Fourth Amendment to the U.S. Constitution. "Nondisclosure agreement" means an oral or written agreement between a governmental entity and a contractor that prohibits the entity from disclosing to the public the confidential or proprietary information, goods, or services (including information technology) that the contractor provides to the entity. The bill applies to the State and political subdivisions of the State.

Fiscal Summary

State Effect: The bill does not directly affect governmental finances, but it may have an operational effect to the extent that it impedes the State from entering into some contractual relationships for information technology and/or public safety-related equipment and services that require nondisclosure agreements.

Local Effect: The bill does not directly affect local governmental finances, but it may have a comparable operational effect on local governments.

Small Business Effect: None.

Analysis

Current Law: There are no statutory provisions related to governmental entities entering into nondisclosure agreements.

The Fourth Amendment to the U.S. Constitution generally prohibits unreasonable searches and seizures and requires probable cause for search warrants. It reads: “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”

Background: In April 2015, it was revealed that the Baltimore City Police Department had been using cellphone tracking technology that was not disclosed to the public. It was later revealed in court proceedings that the police department had signed a nondisclosure agreement with the company that provided the technology that prevented the police department from discussing its existence or capabilities.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Budget and Management; *Baltimore Sun*; Board of Public Works; Department of Legislative Services

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Analysis by: Michael C. Rubenstein

Direct Inquiries to:
(410) 946-5510
(301) 970-5510