

**Department of Legislative Services**  
Maryland General Assembly  
2018 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

Senate Bill 1054 (Senator Kagan)  
Education, Health, and Environmental Affairs

---

**Public Information Act - 9-1-1 Communications - Denial of Part of a Public Record**

---

This bill requires a custodian to deny inspection, under the Maryland Public Information Act (PIA), of any part of a 9-1-1 communications record that contains personally identifiable or relevant information, third party information under specified conditions, and certain types of images. A custodian may redact the information if failure to do so would result in a constructive denial of the entire public record. However, a custodian must allow inspection by an individual who is a person in interest.

---

**Fiscal Summary**

**State Effect:** The bill does not materially affect State operations or finances.

**Local Effect:** The bill's requirements can likely be handled with existing local resources. Revenues are not affected.

**Small Business Effect:** None.

---

**Analysis**

**Bill Summary:** A custodian must deny inspection of the part of a 9-1-1 communications record that contains:

- personally identifiable information such as the name, address, telephone number, or email address of the person;
- personally relevant information that may identify the person, the person's medical history, the person's family, or where the person lives;

- third-party information, if the custodian is aware that the information was provided voluntarily to the file by the third party; and
- images that may be considered gory or gruesome or convey scenes of murder or suicide.

The bill's provisions may not be construed to affect the discovery or evidentiary rights of a party to a civil suit or criminal prosecution.

### **Current Law:**

#### *Maryland's Public Information Act, Generally*

PIA establishes that all persons are entitled to have access to information about the affairs of government and the official acts of public officials and employees. Each governmental unit that maintains public records must identify a representative who a member of the public may contact to request a public record. The Office of the Attorney General (OAG) must post all such contact information on its website and in any *Public Information Act Manual* published by OAG.

*Required Denials:* 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 State statute, a federal statute or regulation, the Maryland Rules, or an order of a court of record. Denial of inspection is also mandatory for public records relating to adoption, welfare records, hospital records, letters of reference, specified information about an individual maintained by a library, retirement records, certain police records, criminal charging documents, arrest warrants, personnel records, certain hospital and school records, records of certain State agencies, certain recorded and surveillance images, and captured plate data collected by automatic license plate reader systems. Denial of inspection is required for information in a public record relating to certain medical, psychological, sociological, and financial information; trade secrets; certain personal information about public employees; information about the security of an information system; and licensing records.

*Discretionary Denials:* Unless otherwise specified, 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. PIA specifies the types of records that are eligible for discretionary denials, including documents that would not be available through discovery in a lawsuit.

A custodian that denies inspection of a public record on this basis must provide (1) a written statement to the applicant giving the reason for denial; (2) the legal authority on which it is based; (3) a brief description of the undisclosed record (without disclosing the protected

information), including an explanation of why redacting information would not address the reason for the denial; and (4) a notice of the statutory remedies available.

For purposes of PIA, a “person in interest” means a person or governmental unit that is

- the subject of a public record;
- a designee of the person or governmental unit; or
- in the case of a person that has a legal disability, the parent or legal representative of the person.

Recordings of 9-1-1 calls are generally available for public inspection under PIA, unless a specific exception applies.

**Background:** The Virginia Freedom of Information Act exempts some personal identification information of 9-1-1 callers from mandatory disclosure and authorizes the information to be redacted. The exemption applies to subscriber data and other identifying information of a personal, medical, or financial nature collected by or provided to a local governing body in connection with a 9-1-1 or E-9-1-1 emergency dispatch system or an emergency notification or reverse 9-1-1 system if such records are not otherwise publicly available.

Pennsylvania’s Right to Know Law exempts records or parts of records, except for time response logs, that pertain to audio recordings, telephone, or radio transmissions received by emergency dispatch personnel, including 9-1-1 recordings. However, if an agency or a court determines that the public interest in disclosure of a 9-1-1 recording or transcript of a 9-1-1 recording outweighs the interest in nondisclosure, it may be released.

---

## **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland Institute for Emergency Medical Services Systems; Maryland State Commission on Criminal Sentencing Policy; Department of Public Safety and Correctional Services; Maryland Association of Counties; Baltimore, Garrett, and Montgomery counties; Department of Legislative Services

**Fiscal Note History:** First Reader - February 20, 2018  
mm/mcr

---

Analysis by: Michelle Davis

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