

HOUSE BILL 413

P3

9lr1916

By: **Delegates Barron, Acevero, Anderson, Cullison, Hill, Ivey, Jackson, Jalisi, Johnson, R. Lewis, Lierman, McIntosh, Moon, Mosby, Pena-Melnyk, Smith, Wells, and K. Young**

Introduced and read first time: January 30, 2019

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Public Information Act – Personnel and Investigatory Records – Formal**
3 **Complaints Against Public Employees**

4 FOR the purpose of establishing that certain records do not constitute personnel records
5 under the Public Information Act; authorizing a custodian to deny inspection of
6 certain records; and generally relating to personnel records and investigatory records
7 under the Public Information Act.

8 BY repealing and reenacting, with amendments,
9 Article – General Provisions
10 Section 4–311 and 4–351
11 Annotated Code of Maryland
12 (2014 Volume and 2018 Supplement)

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

15 **Article – General Provisions**

16 4–311.

17 (a) Subject to [subsection] **SUBSECTIONS (b) AND (C)** of this section, a custodian
18 shall deny inspection of a personnel record of an individual, including an application, a
19 performance rating, or scholastic achievement information.

20 (b) A custodian shall allow inspection by:

21 (1) the person in interest;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) an elected or appointed official who supervises the work of the
2 individual; or

3 (3) an employee organization described in Title 6 of the Education Article
4 of the portion of the personnel record that contains the individual's:

5 (i) home address;

6 (ii) home telephone number; and

7 (iii) personal cell phone number.

8 **(C) A RECORD RELATED TO A FORMAL COMPLAINT OF JOB-RELATED**
9 **MISCONDUCT MADE AGAINST A PUBLIC EMPLOYEE, INCLUDING AN INVESTIGATION**
10 **RECORD, A HEARING RECORD, OR A DISCIPLINARY DECISION, IS NOT A PERSONNEL**
11 **RECORD FOR THE PURPOSES OF THIS SUBTITLE.**

12 4-351.

13 (a) Subject to subsection (b) of this section, a custodian may deny inspection of:

14 (1) records of investigations conducted by the Attorney General, a State's
15 Attorney, a municipal or county attorney, a police department, or a sheriff;

16 (2) an investigatory file compiled for any other law enforcement, judicial,
17 correctional, or prosecution purpose; [or]

18 (3) records that contain intelligence information or security procedures of
19 the Attorney General, a State's Attorney, a municipal or county attorney, a police
20 department, a State or local correctional facility, or a sheriff; **OR**

21 **(4) RECORDS OF AN INVESTIGATION, A HEARING, OR A DECISION BY A**
22 **GOVERNMENTAL UNIT CONNECTED WITH A COMPLAINT OF JOB-RELATED**
23 **MISCONDUCT MADE AGAINST A PUBLIC EMPLOYEE.**

24 (b) A custodian may deny inspection by a person in interest only to the extent
25 that the inspection would:

26 (1) interfere with a valid and proper law enforcement proceeding;

27 (2) deprive another person of a right to a fair trial or an impartial
28 adjudication;

29 (3) constitute an unwarranted invasion of personal privacy;

- 1 (4) disclose the identity of a confidential source;
- 2 (5) disclose an investigative technique or procedure;
- 3 (6) prejudice an investigation; or
- 4 (7) endanger the life or physical safety of an individual.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2019.