

SENATE BILL 5

P3

(PRE-FILED)

9lr0558
CF HB 215

By: **Senator Kagan**

Requested: October 10, 2018

Introduced and read first time: January 9, 2019

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 15, 2019

CHAPTER _____

1 AN ACT concerning

2 **Public Information Act – 9–1–1 Communications – Denial of Part of a Public**
3 **Record**

4 FOR the purpose of ~~requiring~~ authorizing a certain custodian of records to deny inspection
5 of ~~the~~ part of a 9–1–1 communications record ~~that depicts certain information,~~
6 ~~subject to a certain exception~~ under certain circumstances after providing certain
7 notice and considering certain information; requiring a custodian to grant or deny a
8 certain application within a certain period of time; authorizing a custodian to redact
9 certain information under certain circumstances; requiring a certain custodian to
10 allow inspection of a certain public record by the person in interest; providing for the
11 application of this Act; providing that this Act may not be construed to affect the
12 discovery or evidentiary rights of certain parties or to create a certain right of civil
13 action; defining ~~a certain term~~ certain terms; and generally relating to the denial of
14 part of a 9–1–1 communications record.

15 BY repealing and reenacting, with amendments,
16 Article – General Provisions
17 Section 4–203(a)
18 Annotated Code of Maryland
19 (2014 Volume and 2018 Supplement)

20 BY repealing and reenacting, without amendments,
21 Article – General Provisions
22 Section ~~4–328~~ 4–343

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Annotated Code of Maryland
2 (2014 Volume and 2018 Supplement)

3 BY adding to
4 Article – General Provisions
5 Section ~~4-342~~ 4-356
6 Annotated Code of Maryland
7 (2014 Volume and 2018 Supplement)

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

10 **Article – General Provisions**

11 ~~4-328.~~

12 ~~Unless otherwise provided by law, a custodian shall deny inspection of a part of a~~
13 ~~public record, as provided in this part.~~

14 4-203.

15 (a) (1) [The] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
16 SUBSECTION, THE custodian shall grant or deny the application promptly, but not more
17 than 30 days after receiving the application.

18 (2) THE CUSTODIAN SHALL GRANT OR DENY AN APPLICATION THAT
19 IS THE SUBJECT OF § 4-356 OF THIS TITLE NOT MORE THAN 50 DAYS AFTER
20 RECEIVING THE APPLICATION.

21 ~~4-343.~~

22 Unless otherwise provided by law, if a custodian believes that inspection of a part of
23 a public record by the applicant would be contrary to the public interest, the custodian may
24 deny inspection by the applicant of that part of the record, as provided in this part.

25 ~~4-342.~~

26 ~~(A) IN THIS SECTION, “GORY OR GRUESOME” MEANS SCENES SHOWING~~
27 ~~SEVERE BODILY INJURY, INCLUDING PROFUSE BLEEDING, SEVERE LACERATIONS,~~
28 ~~DISFIGUREMENT, AND TRAUMATIC INJURIES.~~

29 4-356.

30 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
31 INDICATED.

1 **(2) "VICTIM" MEANS:**

2 **(I) A VICTIM OF DOMESTIC VIOLENCE, AS DEFINED UNDER §**
3 **4-701 OF THE FAMILY LAW ARTICLE;**

4 **(II) A VICTIM OF A VIOLATION OF TITLE 3, SUBTITLE 3 OF THE**
5 **CRIMINAL LAW ARTICLE; OR**

6 **(III) A VICTIM OF A VIOLATION OF TITLE 3, SUBTITLE 6 OF THE**
7 **CRIMINAL LAW ARTICLE, EXCEPT FOR A VIOLATION OF § 3-607 OF THE CRIMINAL**
8 **LAW ARTICLE WHERE THE VICTIM IS AN ADULT.**

9 **(3) (I) "VICTIM'S REPRESENTATIVE" HAS THE MEANING STATED IN**
10 **§ 11-104 OF THE CRIMINAL PROCEDURE ARTICLE.**

11 **(II) "VICTIM'S REPRESENTATIVE" DOES NOT INCLUDE A**
12 **PERSON ACTING IN CONCERT WITH A PERSON ALLEGED TO HAVE COMMITTED THE**
13 **CRIME AGAINST THE VICTIM.**

14 **(B) (1) THIS SECTION DOES NOT APPLY TO A PUBLIC RECORD THAT HAS**
15 **BEEN ENTERED INTO EVIDENCE IN A COURT PROCEEDING.**

16 **(2) THIS SECTION MAY NOT BE CONSTRUED TO:**

17 **(I) CREATE A RIGHT OF CIVIL ACTION FOR A VICTIM OR**
18 **VICTIM'S REPRESENTATIVE; OR**

19 **(II) AFFECT THE DISCOVERY OR EVIDENTIARY RIGHTS OF A**
20 **PARTY TO A CIVIL SUIT OR CRIMINAL PROSECUTION.**

21 **~~(C) SUBJECT TO SUBSECTIONS (D) AND (E) OF THIS SECTION, A CUSTODIAN~~**
22 **~~SHALL DENY INSPECTION OF THE PART OF A 9-1-1 COMMUNICATIONS RECORD THAT~~**
23 **~~DEPICTS:~~**

24 **~~(1) A VICTIM OR INFORMATION THAT COULD IDENTIFY A VICTIM OF~~**
25 **~~DOMESTIC VIOLENCE, AS DEFINED IN § 4-701 OF THE FAMILY LAW ARTICLE;~~**

26 **~~(2) A VICTIM OR INFORMATION THAT COULD IDENTIFY A VICTIM OF A~~**
27 **~~VIOLATION OF TITLE 3, SUBTITLE 3 OF THE CRIMINAL LAW ARTICLE;~~**

28 **~~(3) A VICTIM OR INFORMATION THAT COULD IDENTIFY A VICTIM OF,~~**
29 **~~EXCEPT FOR A VIOLATION OF § 3-607 OF THE CRIMINAL LAW ARTICLE WHERE THE~~**
30 **~~VICTIM IS AN ADULT, A VIOLATION OF TITLE 3, SUBTITLE 6 OF THE CRIMINAL LAW~~**
31 **~~ARTICLE;~~**

1 ~~(4) PERSONALLY RELEVANT INFORMATION THAT MAY IDENTIFY THE~~
2 ~~INDIVIDUAL'S MEDICAL HISTORY;~~

3 ~~(5) IF THE CUSTODIAN IS AWARE THAT INFORMATION WAS PROVIDED~~
4 ~~VOLUNTARILY TO THE FILE BY A THIRD PARTY, THE THIRD PARTY INFORMATION; OR~~

5 ~~(6) IMAGES THAT MAY BE CONSIDERED GORY OR GRUESOME OR~~
6 ~~CONVEY SCENES OF MURDER OR SUICIDE.~~

7 (C) SUBJECT TO SUBSECTIONS (D) AND (E) OF THIS SECTION, BEFORE
8 GRANTING INSPECTION OF THE PART OF A 9-1-1 COMMUNICATIONS RECORD THAT
9 DEPICTS A VICTIM, A CUSTODIAN SHALL:

10 (1) WITHIN 30 DAYS AFTER RECEIVING THE REQUEST AND IF THE
11 CUSTODIAN HAS CONTACT INFORMATION FOR THE VICTIM OR VICTIM'S
12 REPRESENTATIVE, NOTIFY THE VICTIM OR VICTIM'S REPRESENTATIVE OF THE
13 REQUEST;

14 (2) ALLOW 10 DAYS FOR A RESPONSE FROM THE VICTIM OR VICTIM'S
15 REPRESENTATIVE INDICATING THAT INSPECTION MAY BE CONTRARY TO THE
16 PUBLIC INTEREST; AND

17 (3) CONSIDER ANY RESPONSE RECEIVED UNDER ITEM (2) OF THIS
18 SUBSECTION IN DETERMINING WHETHER TO GRANT OR DENY THE INSPECTION.

19 (D) A CUSTODIAN MAY REDACT THE INFORMATION DESCRIBED UNDER
20 SUBSECTION (C) OF THIS SECTION IF A FAILURE TO DO SO WOULD RESULT IN A
21 CONSTRUCTIVE DENIAL OF THE ENTIRE PUBLIC RECORD.

22 (E) A CUSTODIAN SHALL ALLOW INSPECTION BY THE PERSON IN INTEREST.

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