A BILL ENTITLED

AN ACT concerning

Public Information Act – Personnel and Investigatory Records – Complaints
Against Law Enforcement Officers

FOR the purpose of establishing that a record relating to a formal complaint of job–related
misconduct made against a law enforcement officer is not a personnel record under
certain provisions of the Public Information Act under certain circumstances;
authorizing a custodian to deny inspection of certain records involving a complaint
of job–related misconduct made against a law enforcement officer; authorizing a
custodian to deny inspection of certain records by a complainant only under certain
circumstances; defining a certain term; and generally relating to personnel records
and investigatory records under the Public Information Act.

BY renumbering
Article – General Provisions
Section 4–101(e) through (j), respectively
to be Section 4–101(f) through (k), respectively
Annotated Code of Maryland
(2019 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – General Provisions
Section 4–101(a)
Annotated Code of Maryland
(2019 Replacement Volume)

BY adding to
Article – General Provisions
Section 4–101(e)
Annotated Code of Maryland
(2019 Replacement Volume)
BY repealing and reenacting, with amendments,
Article – General Provisions
Section 4–311 and 4–351
Annotated Code of Maryland
(2019 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 4–101(e) through (j), respectively, of Article – General Provisions of the Annotated Code of Maryland be renumbered to be Section(s) 4–101(f) through (k), respectively.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – General Provisions

4–101.

(a) In this title the following words have the meanings indicated.

(E) “LAW ENFORCEMENT OFFICER” HAS THE MEANING STATED IN § 3–101 OF THE PUBLIC SAFETY ARTICLE.

4–311.

(a) Subject to subsection (b) of this section, a custodian shall deny inspection of a personnel record of an individual, including an application, a performance rating, or scholastic achievement information.

(b) A custodian shall allow inspection by:

(1) the person in interest;

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

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

(i) home address;

(ii) home telephone number; and

(iii) personal cell phone number.

(C) A RECORD RELATING TO A FORMAL COMPLAINT OF JOB–RELATED MISCONDUCT MADE AGAINST A LAW ENFORCEMENT OFFICER, INCLUDING AN
INVESTIGATION RECORD, A HEARING RECORD, OR A DISCIPLINARY DECISION, IS
NOT A PERSONNEL RECORD FOR PURPOSES OF THIS SECTION IF:

(1) THE ALLEGED MISCONDUCT INVOLVES THE DISCHARGE OF A
FIREARM AT A PERSON BY A LAW ENFORCEMENT OFFICER;

(2) THE ALLEGED MISCONDUCT INVOLVES THE USE OF FORCE BY A
LAW ENFORCEMENT OFFICER RESULTING IN DEATH OR SERIOUS BODILY INJURY; OR

(3) A SUSTAINED INVESTIGATORY FINDING WAS MADE BY A LAW
ENFORCEMENT AGENCY THAT A LAW ENFORCEMENT OFFICER:

(I) COMMITTED A SEXUAL ASSAULT INVOLVING A MEMBER OF
THE PUBLIC;

(II) ENGAGED IN DISHONESTY, COMMITTED PERJURY, MADE
FALSE STATEMENTS, FILED FALSE REPORTS, OR DESTROYED, FALSIFIED, OR
CONCEALED EVIDENCE DIRECTLY RELATING TO THE REPORTING, INVESTIGATION,
OR PROSECUTION OF A CRIME; OR

(III) ENGAGED IN PROHIBITED DISCRIMINATION DIRECTLY
RELATING TO THE REPORTING, INVESTIGATION, OR PROSECUTION OF A CRIME.

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

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

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

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

(4) RECORDS OF AN INVESTIGATION, A HEARING, OR A DECISION
INVOLVING A COMPLAINT OF JOB–RELATED MISCONDUCT MADE AGAINST A LAW
ENFORCEMENT OFFICER.

(b) A custodian may deny inspection OF A RECORD DESCRIBED IN SUBSECTION
(A) OF THIS SECTION by a person in interest OR, FOR A RECORD DESCRIBED IN
SUBSECTION (A)(4) OF THIS SECTION, A COMPLAINANT only to the extent that the
inspection would:

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

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

(3) constitute an unwarranted invasion of personal privacy;

(4) disclose the identity of a confidential source;

(5) disclose an investigative technique or procedure;

(6) prejudice an investigation; or

(7) endanger the life or physical safety of an individual.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2020.