

HOUSE BILL 272

P3

11r0738

(PRE-FILED)

By: **Delegate Carr**

Requested: September 25, 2020

Introduced and read first time: January 13, 2021

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 7, 2021

CHAPTER _____

1 AN ACT concerning

2 **Public Information Act – Required Denials – Sociological Information and**
3 **Distribution Lists**

4 FOR the purpose of ~~establishing that certain provisions of law do not preclude a member of~~
5 ~~the General Assembly from acquiring certain information for certain purposes;~~
6 prohibiting a definition of “sociological information” adopted in rules or regulations
7 by an official custodian for certain purposes from including a certain notice, or a list
8 of the recipients of a certain notice; requiring a custodian to deny inspection under
9 the Public Information Act of only a certain part of a certain distribution list, rather
10 than the full distribution list; requiring a custodian to allow the inspection of a
11 certain notice or a list of recipients of a certain notice under certain circumstances;
12 defining “distribution list” to exclude a certain list of recipients; making a stylistic
13 change; and generally relating to required denials under the Public Information Act.

14 BY repealing and reenacting, with amendments,
15 Article – General Provisions
16 Section ~~4-103(e)~~, 4-330, and 4-341
17 Annotated Code of Maryland
18 (2019 Replacement Volume and 2020 Supplement)

19 BY repealing and reenacting, without amendments,
20 Article – General Provisions
21 Section 5-101(v)
22 Annotated Code of Maryland

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.



(2019 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, without amendments,
 Article – Real Property
 Section 12–111
 Annotated Code of Maryland
 (2015 Replacement Volume and 2020 Supplement)

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

Article – General Provisions

~~4–103.~~

~~(e) This title does not preclude a member of the General Assembly from acquiring:~~

~~(1) the names and addresses of and statistical information about individuals who are licensed or, as required by a State law, registered; OR~~

~~(2) THE NAMES AND ADDRESSES OF INDIVIDUALS IDENTIFIED ON A DISTRIBUTION LIST IN CONNECTION WITH A LEGISLATIVE ACTION, AS DEFINED UNDER § 5–101 OF THIS ARTICLE.~~

4–330.

(A) If the official custodian has adopted rules or regulations that define, **SUBJECT TO SUBSECTION (B) OF THIS SECTION**, “sociological information” for purposes of this section, a custodian shall deny inspection of the part of a public record that contains sociological information, in accordance with the rules or regulations.

(B) **A DEFINITION OF “SOCIOLOGICAL INFORMATION” ADOPTED UNDER SUBSECTION (A) OF THIS SECTION MAY NOT INCLUDE A NOTICE, OR A LIST OF THE RECIPIENTS OF A NOTICE, GIVEN UNDER § 12–111 OF THE REAL PROPERTY ARTICLE.**

4–341.

(a) (1) In this [section, “governmental] **SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(2) **“DISTRIBUTION LIST” DOES NOT INCLUDE A LIST OF RECIPIENTS WHO HAVE RECEIVED A NOTICE UNDER § 12–111 OF THE REAL PROPERTY ARTICLE.**

(3) **“GOVERNMENTAL entity” means a unit or an instrumentality of the State or of a political subdivision.**

1 (b) A custodian shall deny inspection of **THE PART OF** a distribution list and a
2 request to be added to a distribution list that identifies a physical address, an e-mail
3 address, or a telephone number of an individual that is used by a governmental entity or
4 an elected official for the sole purpose of:

5 (1) periodically sending news about the official activities of the
6 governmental entity or elected official; or

7 (2) sending informational notices or emergency alerts.

8 **(C) A CUSTODIAN SHALL ALLOW THE INSPECTION OF A NOTICE, OR A LIST**
9 **OF THE RECIPIENTS OF A NOTICE, GIVEN UNDER § 12-111 OF THE REAL PROPERTY**
10 **ARTICLE ONLY ON RECEIPT OF:**

11 **(1) A WRITTEN APPLICATION; AND**

12 **(2) A STATEMENT, SIGNED UNDER OATH, THAT THE NOTICE OR LIST**
13 **IS NOT INTENDED TO BE USED FOR COMMERCIAL SOLICITATION.**

14 5-101.

15 (v) (1) "Legislative action" means an official action or nonaction relating to:

16 (i) a bill, a resolution, an amendment, a nomination, an
17 appointment, a report, or any other matter within the jurisdiction of the General Assembly;

18 (ii) a bill presented to the Governor for signature or veto; or

19 (iii) testimony or other advocacy in an official capacity as a member
20 of the General Assembly before a unit of State or local government.

21 (2) "Legislative action" includes:

22 (i) introduction;

23 (ii) sponsorship;

24 (iii) consideration;

25 (iv) debate;

26 (v) amendment;

27 (vi) passage;

- 1 (vii) defeat;
- 2 (viii) approval; and
- 3 (ix) veto.

4 Article – Real Property

5 12–111.

6 (a) Civil engineers, land surveyors, real estate appraisers, and their assistants
7 acting on behalf of the State or of any of its instrumentalities or any body politic or corporate
8 having the power of eminent domain after every real and bona fide effort to notify the owner
9 or occupant in writing with respect to the proposed entry may:

10 (1) Enter on any private land to make surveys, run lines or levels, or obtain
11 information relating to the acquisition or future public use of the property or for any
12 governmental report, undertaking, or improvement;

13 (2) Set stakes, markers, monuments, or other suitable landmarks or
14 reference points where necessary; and

15 (3) Enter on any private land and perform any function necessary to
16 appraise the property.

17 (b) If any civil engineer, surveyor, real estate appraiser, or any of their assistants
18 is refused permission to enter or remain on any private land for the purposes set out in
19 subsection (a) of this section, the person, the State, its instrumentality, or the body politic
20 or corporate on whose behalf the person is acting may apply to a law court of the county
21 where the property, or any part of it, is located for an order directing that the person be
22 permitted to enter on and remain on the land to the extent necessary to carry out the
23 purposes authorized by this section.

24 (c) If a civil engineer, surveyor, real estate appraiser, or any of their assistants
25 enters on any private land under the authority of this section or any court order passed
26 pursuant to it, and damages or destroys any land or personal property on it, the owner of
27 the property has a cause of action for damages against the civil engineer, surveyor, real
28 estate appraiser, or assistant and against the State, its instrumentality, or the body politic
29 or corporate on whose behalf the person inflicting the damage was acting.

30 (d) Any landowner or other person who willfully obliterates, damages, or removes
31 any stake, marker, monument, or other landmark set by any civil engineer, surveyor, or
32 real estate appraiser or any of their assistants acting pursuant to this section, except if the
33 stake, marker, monument, or other landmark interferes with the proper use of the property,
34 is guilty of a misdemeanor and on conviction shall be fined not more than \$500.

1 (e) Any person who has knowledge of an order issued pursuant to subsection (b)
2 and who obstructs any civil engineer, surveyor, real estate appraiser, or any of their
3 assistants acting under the authority of the order may be punished as for contempt of court.

4 (f) In Anne Arundel County, Montgomery County, or Baltimore City, an agent or
5 employee, or one or more assistants of the jurisdiction, after real and bona fide effort to
6 notify the occupant or the owner, if the land is unoccupied or if the occupant is not the
7 owner, may enter on any private land to make test borings and soil tests and obtain
8 information related to such tests for the purpose of determining the possibility of public use
9 of the property. If an agent, employee, or assistant is refused permission to enter or remain
10 on any private land for the purposes set out in this subsection, Anne Arundel County,
11 Montgomery County, or Baltimore City may apply to a law court of the jurisdiction where
12 the property or any part of it is located for an order directing that its agent, employee, or
13 assistant be permitted to enter and remain on the land to the extent necessary to carry out
14 the purposes authorized by this subsection. The court may require that the applying
15 jurisdiction post a bond in an amount sufficient to reimburse any person for damages
16 reasonably estimated to be caused by test borings, soil tests, and related activities. If any
17 person enters on any private land under the authority of this section or of any court order
18 passed pursuant to it and damages or destroys any land or personal property on it, the
19 owner of the property has a cause of action for damages against the jurisdiction that
20 authorized the entrance. Any person who knows of an order issued under this subsection
21 and who obstructs any agent, employee, or assistant acting under the authority of the order
22 may be punished for contempt of court.

23 (g) The State Highway Administration, the Maryland Transit Administration,
24 and the agents, employees, and consultants of the State Highway Administration and the
25 Maryland Transit Administration may enter upon private property to conduct
26 environmental and engineering studies, including soil boring and excavation, necessary to
27 determine the suitability of the property for use by the administration entering the
28 property. Entry onto private property for these purposes shall not be undertaken without
29 prior consent of the property owner. If, after real and bona fide effort, the consent of the
30 property owner cannot be secured, the administration seeking entry may apply to a law or
31 equity court where the property or any part of it is located for an order directing that entry
32 be permitted. "Bona fide effort" shall include either 30 days advance notice in writing by
33 certified mail return receipt requested to the last known address of the property owner or
34 posting notice on the property not less than 30 days in advance, and such other
35 requirements as the court may deem appropriate. The administration entering the
36 property, when removing, displacing, boring, or excavating soil under the provisions of this
37 section, shall replace the topsoil in a manner which will approach the level of compaction
38 and contour as when removed. An administration entering private property under the
39 authority of this subsection shall reimburse the landowner or lessee who is farming the
40 property for agricultural products destroyed or damaged by the administration's agents,
41 employees, or consultants and shall be responsible for any other damages that may be
42 incurred as a result of such entry on private property.

43 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
44 October 1, 2021.