SENATE BILL 178

By: Senator Carter
Requested: October 21, 2020
Introduced and read first time: January 13, 2021
Assigned to: Judicial Proceedings

A BILL ENTITLED

AN ACT concerning

Public Information Act – Personnel Records – Investigations of Law
Enforcement Officers
(Anton’s Law)

FOR the purpose of establishing that a record relating to an administrative or criminal
investigation of misconduct by a law enforcement officer is not a personnel record for
purposes of certain provisions of the Public Information Act; authorizing a custodian
to deny inspection of records relating to an administrative or criminal investigation
of misconduct by a law enforcement officer; defining a certain term; providing for the
application of this Act; and generally relating to personnel records and 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 and 2020 Supplement)

BY repealing and reenacting, without amendments,
Article – General Provisions
Section 4–101(a)
Annotated Code of Maryland
(2019 Replacement Volume and 2020 Supplement)

BY adding to
Article – General Provisions
Section 4–101(e)
Annotated Code of Maryland
(2019 Replacement Volume and 2020 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
BY repealing and reenacting, with amendments,

Article – General Provisions
Section 4–311 and 4–351
Annotated Code of Maryland
(2019 Replacement Volume and 2020 Supplement)

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 AN ADMINISTRATIVE OR CRIMINAL
INVESTIGATION OF MISCONDUCT BY A LAW ENFORCEMENT OFFICER, INCLUDING AN INTERNAL AFFAIRS INVESTIGATORY RECORD, A HEARING RECORD, AND RECORDS RELATING TO A DISCIPLINARY DECISION, IS NOT A PERSONNEL RECORD FOR PURPOSES OF THIS SECTION.

(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 RELATING TO AN ADMINISTRATIVE OR CRIMINAL INVESTIGATION OF MISCONDUCT BY A LAW ENFORCEMENT OFFICER, INCLUDING AN INTERNAL AFFAIRS INVESTIGATORY RECORD, A HEARING RECORD, AND RECORDS RELATING TO A DISCIPLINARY DECISION.

(b) A custodian may deny inspection by a person in interest 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 be construed to apply prospectively to any Public Information Act request made on or after the effective date of this Act regardless of when the record requested to be produced was created.
SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.