SENATE BILL 178

P3, E4

(PRE–FILED)

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

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: February 17, 2021

CHAPTER _____

1  AN ACT concerning

2   Public Information Act – Personnel Records – Investigations of Law
3   Enforcement Officers
4   (Anton’s Law)
5   Maryland Police Accountability Act of 2021 – Personnel Records –
6   Investigations of Law Enforcement Officers
7   (Anton’s Law)

8  FOR the purpose of establishing that a certain 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 certain terms;
providing for the application of this Act; and generally relating to personnel records
and the Public Information Act.

15  BY renumbering
16    Article – General Provisions
17    Section 4–101(e) through (j), respectively
18    to be Section 4–101(f) through (k), respectively
19    Annotated Code of Maryland
20    (2019 Replacement Volume and 2020 Supplement)

21  BY repealing and reenacting, without amendments,
22    Article – General Provisions

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.
Section 4–101(a)  
Annotated Code of Maryland  
(2019 Replacement Volume and 2020 Supplement)

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

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.

(L) “TECHNICAL INFRACTION” MEANS A MINOR RULE VIOLATION BY AN  
INDIVIDUAL SOLELY RELATED TO THE ENFORCEMENT OF ADMINISTRATIVE RULES  
THAT:

(1) DOES NOT INVOLVE AN INTERACTION BETWEEN A MEMBER OF  
THE PUBLIC AND THE INDIVIDUAL;

(2) DOES NOT RELATE TO THE INDIVIDUAL’S INVESTIGATIVE,  
ENFORCEMENT, TRAINING, SUPERVISION, OR REPORTING RESPONSIBILITIES; AND  

(3) IS NOT OTHERWISE A MATTER OF PUBLIC CONCERN.

4–311.
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(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) (1) Except as provided in paragraph (2) of this subsection, 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.

(2) A record of a technical infraction is a personnel record for the purposes of this section.

4–351.

(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, other than a record of a technical infraction,
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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.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.