

SENATE BILL 373

P3

EMERGENCY BILL

2lr0564
CF HB 163

By: **Senator Kagan**

Introduced and read first time: January 21, 2022

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

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

4 FOR the purpose of prohibiting a definition of “sociological information” adopted in rules or
5 regulations by an official custodian for certain purposes from including a certain
6 notice or a list of the recipients of a certain notice; requiring a custodian to deny
7 inspection under the Public Information Act of only a certain part of a certain
8 distribution list, rather than the full distribution list; requiring a custodian to allow
9 the inspection of a certain notice or a list of recipients of a certain notice under
10 certain circumstances; defining “distribution list” to exclude a certain list of
11 recipients; and generally relating to required denials under the Public Information
12 Act.

13 BY repealing and reenacting, with amendments,
14 Article – General Provisions
15 Section 4–330 and 4–341
16 Annotated Code of Maryland
17 (2019 Replacement Volume and 2021 Supplement)

18 BY repealing and reenacting, without amendments,
19 Article – Real Property
20 Section 12–111
21 Annotated Code of Maryland
22 (2015 Replacement Volume and 2021 Supplement)

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

25 **Article – General Provisions**

26 4–330.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

10 4–341.

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

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

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

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

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

23 (2) sending informational notices or emergency alerts.

24 (C) **A CUSTODIAN SHALL ALLOW THE INSPECTION OF A NOTICE, OR A LIST**
25 **OF THE RECIPIENTS OF A NOTICE, GIVEN UNDER § 12–111 OF THE REAL PROPERTY**
26 **ARTICLE ONLY ON RECEIPT OF:**

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

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

30 **Article – Real Property**

31 12–111.

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

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

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

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

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

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

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

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

33 (f) In Anne Arundel County, Montgomery County, or Baltimore City, an agent or
34 employee, or one or more assistants of the jurisdiction, after real and bona fide effort to
35 notify the occupant or the owner, if the land is unoccupied or if the occupant is not the
36 owner, may enter on any private land to make test borings and soil tests and obtain
37 information related to such tests for the purpose of determining the possibility of public use
38 of the property. If an agent, employee, or assistant is refused permission to enter or remain

1 on any private land for the purposes set out in this subsection, Anne Arundel County,
2 Montgomery County, or Baltimore City may apply to a law court of the jurisdiction where
3 the property or any part of it is located for an order directing that its agent, employee, or
4 assistant be permitted to enter and remain on the land to the extent necessary to carry out
5 the purposes authorized by this subsection. The court may require that the applying
6 jurisdiction post a bond in an amount sufficient to reimburse any person for damages
7 reasonably estimated to be caused by test borings, soil tests, and related activities. If any
8 person enters on any private land under the authority of this section or of any court order
9 passed pursuant to it and damages or destroys any land or personal property on it, the
10 owner of the property has a cause of action for damages against the jurisdiction that
11 authorized the entrance. Any person who knows of an order issued under this subsection
12 and who obstructs any agent, employee, or assistant acting under the authority of the order
13 may be punished for contempt of court.

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

34 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
35 measure, is necessary for the immediate preservation of the public health or safety, has
36 been passed by a yea and nay vote supported by three-fifths of all the members elected to
37 each of the two Houses of the General Assembly, and shall take effect from the date it is
38 enacted.