SENATE BILL 777

By: Senator Carter
Introduced and read first time: February 7, 2022
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 Public Information Act – Records Relating to Police Misconduct – Fees

3 FOR the purpose of prohibiting an official custodian from charging a fee for the search and
4 preparation of a certain number of pages of a certain record relating to an
5 administrative or criminal investigation of misconduct by a police officer; and
6 generally relating to fees for inspection of records relating to police misconduct.

7 BY repealing and reenacting, with amendments,
8 Article – General Provisions
9 Section 4–206
10 Annotated Code of Maryland
11 (2019 Replacement Volume and 2021 Supplement)

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

14 Article – General Provisions

15 4–206.

16 (a) (1) In this section the following words have the meanings indicated.

17 (2) “Indigent” means an individual’s family household income is less than
18 50% of the median family income for the State as reported in the Federal Register.

19 (3) “Reasonable fee” means a fee bearing a reasonable relationship to the
20 recovery of actual costs incurred by a governmental unit.

21 (b) (1) Subject to the limitations in this section, the official custodian may
22 charge an applicant a reasonable fee for:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
(i) the search for, preparation of, and reproduction of a public record prepared, on request of the applicant, in a customized format; and

(ii) the actual costs of the search for, preparation of, and reproduction of a public record in standard format, including media and mechanical processing costs.

(2) The staff and attorney review costs included in the calculation of actual costs incurred under this section shall be prorated for each individual’s salary and actual time attributable to the search for and preparation of a public record under this section.

(c) (1) The official custodian may not charge a fee for:

(1) the first 2 hours that are needed to search for a public record and prepare it for inspection; OR

(II) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF THE SEARCH AND PREPARATION EXCEEDS 2 HOURS, THE SEARCH AND PREPARATION OF THE FIRST 500 PAGES OF THE RECORD FOR INSPECTION.

(2) Paragraph (1)(II) of this subsection applies only to records, other than a record of a technical infraction, relating to an administrative or criminal investigation of misconduct by a police officer, including an internal affairs investigatory record, a hearing record, and records relating to a disciplinary decision.

(d) (1) If another law sets a fee for a copy, an electronic copy, a printout, or a photograph of a public record, that law applies.

(2) The official custodian may charge for the cost of providing facilities for the reproduction of the public record if the custodian did not have the facilities.

(e) The official custodian may waive a fee under this section if:

(1) the applicant asks for a waiver; and

(2) (i) the applicant is indigent and files an affidavit of indigency; or

(ii) after consideration of the ability of the applicant to pay the fee and other relevant factors, the official custodian determines that the waiver would be in the public interest.

(f) If the custodian of a public record for a local school system charges an applicant a fee under subsection (b) of this section, the custodian shall provide written notice to the applicant that the applicant may file a complaint with the Board to contest the fee.
SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2022.