## **HOUSE BILL 1051**

P3, D3 3lr2583

By: Delegates Kaiser, Crutchfield, and Wu

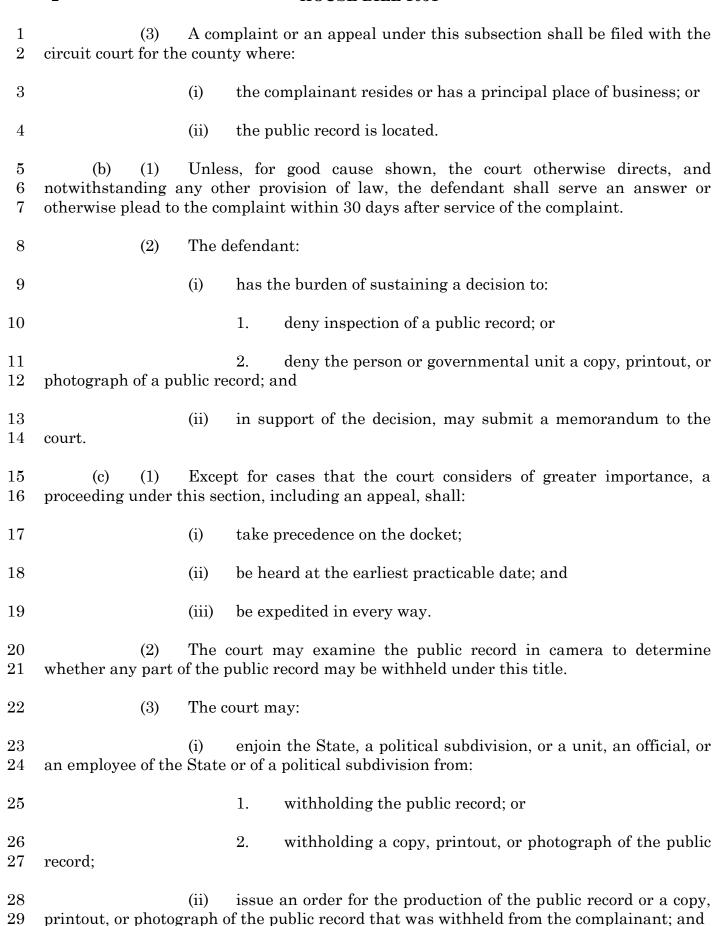
Introduced and read first time: February 10, 2023 Assigned to: Health and Government Operations

## A BILL ENTITLED

1	AN ACT concerning
2 3	Public Information Act – Decisions of the State Public Information Act Compliance Board – Appeals
4 5 6 7	FOR the purpose of authorizing a party aggrieved by a final judgment of a circuit court in a proceeding for judicial review of a certain decision of the State Public Information Act Compliance Board to appeal to the Appellate Court of Maryland; and generally relating to the Public Information Act.
8 9 10 11 12	BY repealing and reenacting, with amendments, Article – General Provisions Section 4–362 Annotated Code of Maryland (2019 Replacement Volume and 2022 Supplement)
13 14	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:
15	Article - General Provisions
16	4–362.
17 18 19 20	(a) (1) Subject to paragraph (3) of this subsection, whenever a person or governmental unit is denied inspection of a public record or is not provided with a copy, printout, or photograph of a public record as requested, the person or governmental unit may file a complaint with the circuit court.
21 22 23	(2) Except as otherwise provided in Subtitle 1A of this title and subject to paragraph (3) of this subsection, a complainant or custodian may appeal to the circuit court a decision issued by the State Public Information Act Compliance Board as provided under

 $\S 4-1A-10$  of this title.





- 1 (iii) for noncompliance with the order, punish the responsible 2 employee for contempt.
- 3 (d) (1) A defendant governmental unit is liable to the complainant for 4 statutory damages and actual damages that the court considers appropriate if the court 5 finds that any defendant knowingly and willfully failed to:
- 6 (i) disclose or fully to disclose a public record that the complainant 7 was entitled to inspect under this title; or
- 8 (ii) provide a copy, printout, or photograph of a public record that the 9 complainant requested under § 4–205 of this title.
- 10 (2) An official custodian is liable for actual damages that the court considers appropriate if the court finds that, after temporarily denying inspection of a public record, the official custodian failed to petition a court for an order to continue the denial.
- 14 (3) Statutory damages imposed by the court under paragraph (1) of this 15 subsection may not exceed \$1,000.
- 16 (e) (1) Whenever the court orders the production of a public record or a copy, 17 printout, or photograph of a public record that was withheld from the applicant and, in 18 addition, finds that the custodian acted arbitrarily or capriciously in withholding the public 19 record or the copy, printout, or photograph of the public record, the court shall send a 20 certified copy of its finding to the appointing authority of the custodian.
- 21 (2) On receipt of the statement of the court and after an appropriate 22 investigation, the appointing authority shall take the disciplinary action that the 23 circumstances warrant.
- 24 (f) If the court determines that the complainant has substantially prevailed, the 25 court may assess against a defendant governmental unit reasonable counsel fees and other 26 litigation costs that the complainant reasonably incurred.
- (G) NOTWITHSTANDING § 12–302(A) OF THE COURTS ARTICLE, A PARTY WHO IS AGGRIEVED BY A FINAL JUDGMENT OF A CIRCUIT COURT IN A JUDICIAL REVIEW PROCEEDING UNDER SUBSECTION (A)(2) OF THIS SECTION MAY APPEAL TO THE APPELLATE COURT OF MARYLAND IN THE MANNER THAT LAW PROVIDES FOR APPEAL OF CIVIL CASES.
- 32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 33 October 1, 2023.