

HB163of2022_Carr_Fav.pdf

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Position: FAV

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Committee

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Health Occupations and
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The Maryland House of Delegates
ANNAPOLIS, MARYLAND 21401

Sponsor Testimony in SUPPORT of HB 163
Public Information Act - Required Denials - Sociological Information and
Distribution Lists

January 18, 2022

House Bill 163 strengthens the Maryland Public Information Act by closing loopholes. It is identical to HB272 which passed unanimously in the House in 2021.

The bill has three parts.

First, it clarifies that a “distribution list” does not include a notice, or a list of the recipients of a notice, to those whose property is being surveyed for a possible eminent domain taking by the Maryland Department of Transportation. It also provides for the redaction of distribution lists when appropriate, instead of an outright denial.

Second, it prohibits a definition of “sociological information” adopted under rules or regulations by a custodian, from including such a notice.

And third, it requires that a requestor sign an affidavit that such a notice will not be used for commercial purposes.

In the past, MDOT freely shared public records with individuals, municipalities and members of the General Assembly. Unfortunately, MDOT in recent years has aggressively exploited loopholes in the Public Information Act to shut down legitimate public record requests. This desire to avoid public scrutiny runs counter

to the MPIA, hence the need for the bill.

North Chevy Chase is a municipality in my district, located adjacent to the Capital Beltway (I495). They contacted me in 2019 after their citizens began receiving letters from MDOT notifying them that workers would be entering their properties to survey for acquisition for the proposed widening of the Beltway for private toll lanes.

I contacted MDOT on the Town's behalf to request copies of the notices or a list of the affected properties. MDOT denied the request, citing section 4-341 of the MPIA (enacted in 2018) and calling their mail merged letters a "distribution list." However, shielding such letters from the public was not the intent of the 2018 law. That law was designed to help municipalities, not hurt them as MDOT claim is allowed.

The MPIA forbids disclosure of "sociological information." However, this basis for denial may be used only if an official custodian has adopted rules or regulations that define the meaning and scope of that term. MDOT used their overly broad definition of "sociological information" in its justification to avoid revealing the list of specific properties affected by the widening proposal. MDOT quietly adopted this definition in 2014, exploiting a longstanding loophole in the MPIA.

MDOT did admit that in 2019, that the owners of over 3,700 properties received these notices along the entire length of the I495 and I270.

I respectfully ask for your favorable report.

MDDC Support HB163.pdf

Uploaded by: Rebecca Snyder

Position: FAV



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To: Health & Government Operations Committee

From: Rebecca Snyder, Executive Director, MDDC Press Association

Date: January 18, 2022

Re: **HB 163 - SUPPORT**

The Maryland-Delaware-District of Columbia Press Association represents a diverse membership of newspaper publications, from large metro dailies such as the Washington Post and the Baltimore Sun, to hometown newspapers such as The Frederick News Post and Hagerstown Herald-Mail to publications such as The Daily Record, Baltimore Jewish Times, and online-only publications such as Baltimore Fishbowl, MarylandReporter.com and Baltimore Brew.

The Press Association is pleased to support House Bill 163, which does three specific things to further transparency and close loopholes in the PIA: clarifies that a "distribution list" does not include recipients of a notice of a specific action by a government body; prohibits the inclusion of those recipients in a definition of "sociological information;" and requires that a requestor acknowledge that such notices will not be used for commercial purposes.

These are specific and tailored steps to increase transparency prompted by the overly broad use of this exemption by the Department of Transportation. We urge a favorable report.



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HB0163 - OPR - Public Information Act - Required D

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Position: INFO



Larry Hogan
Governor
Boyd K. Rutherford
Lt. Governor
James F. Ports, Jr.
Secretary

January 18, 2022

The Honorable Shane E. Pendergrass
Chair, Health and Government Operations Committee
The Maryland House of Delegates
House Office Building, Room 241
Annapolis MD 21401

Re: Letter of Information – House Bill 163 – Public Information Act – Required Denials – Sociological Information and Distribution Lists

Dear Chair Pendergrass and Committee Members:

The Maryland Department of Transportation (MDOT) takes no position on House Bill 163 but offers the following information for the Committee's consideration.

The MDOT is committed to protecting the privacy of Maryland citizens and the personal data we possess in order to conduct business with the public. Releasing a personal address, regardless of a requestor's sworn use, would disclose private sociological information. Such a release could produce unwanted targeting for political, commercial, or business gain. An individual's personal address could be a mental hospital or rehab facility or result in the unwanted exposure of a person in a domestic abuse situation. MDOT is not legally permitted to release personally identifiable information (PII), including personal contact information such as home addresses.

Allowing distribution lists to leave a custodian's possession would once again raise concerns over personal information privacy and protection that could lead to cyber, financial, or other types of harm to those individuals whose information is released. The proposed legislation could also lead to the release of other personal information, such as email addresses. There is nothing that allows the public to opt out of their information being provided should these bills become law. Additionally, House Bill 163 neither defines a clear penalty to those who violate the sworn statement, nor does it provide recourse for those whose personal information is subject to a breach or other nefarious activity. The automatic denial provided by the current law removes any ambiguity and ensures that personal information is protected.

The Maryland Department of Transportation respectfully requests the Committee consider this information as it deliberates House Bill 163.

Respectfully submitted,

Pilar Helm
Director of Government Affairs
Maryland Department of Transportation
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