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To: The Honorable Brian J. Feldman
Chair, Senate Education, Energy, and the Environment Committee

From: Office of the Attorney General

Re: HB 636 Public Information Act - Inspection of E-Mail Addresses and Telephone
Numbers (SUPPORT)

The Office of the Attorney General (“OAG”) is committed to the principles of open access to public records and to promoting a consistent application of the Public Information Act (“PIA”) throughout the State. Indeed, OAG has long worked toward ensuring the correct implementation of the PIA through, among other things, publication of its Public Information Act Manual.

The PIA was first enacted in 1970, long before email and cellphones became a part of our everyday lives. As a result, there is often uncertainty and ambiguity about how certain provisions of the PIA—especially those that protect the personal information of individuals from disclosure—should apply to email addresses and cellphone numbers. For example, there is some uncertainty as to whether the provision in § 4-331 of the General Provisions (“GP”) Article that shields the “home address” of State and local government employees would extend to the personal *email* addresses of such employees. Similarly, there is ambiguity as to whether the provision in GP § 4-333 that generally requires a custodian to disclose a licensee’s “business address” would apply to a licensee’s business *email* address. These ambiguities lead to challenges for custodians across the State, especially when the provisions in question are mandatory, as custodians are faced with the possibility of a legal challenge from the requester if they withhold the information and a legal challenge from the person in interest if they disclose the information.

The goal of this bill, which the OAG endorses, is to clarify the applicability of certain PIA exemptions to email addresses and cellphone numbers. In some cases, such as clarifying that the protection for government employees’ home phone numbers in GP § 4-331 extends to those employees’ personal cellphone numbers, the changes to the text of the PIA would merely codify current practice and the longstanding advice of our Office. In other cases, the changes would provide clarity where the practice across the State may not be entirely consistent. Either way, the goal is to provide clarity to custodians across the State so as to ensure a consistent application of the PIA. For these reasons, we urge a favorable report on this bill.

cc: Members of the Education, Energy, and the Environment Committee