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**STATE OF MARYLAND
OFFICE OF THE
PUBLIC ACCESS OMBUDSMAN**

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**House Bill 636 - Public Information Act - Inspection of
E-Mail Addresses and Telephone Numbers
Letter of Information**

Chairperson Feldman, Vice Chairperson Kagan, and Members of the Senate Education, Energy, and the Environment Committee:

Thank you for the opportunity to submit this letter of information regarding House Bill 636.

As you may know, Maryland law charges the Public Access Ombudsman with attempting to resolve disputes that arise under the Public Information Act (“PIA”) between record requesters and custodians. Typically, the Ombudsman carries out her duties in the context of voluntary and confidential mediation. The Office also receives a number of inquiries, primarily from State and local government agencies and their counsel, for consultations aimed at preventing PIA disputes (referred to internally as “helpdesk” matters). From the opening of our doors in 2016 through the end of fiscal year 2022, the Office has handled a total of 1,481 mediation requests and 1,004 helpdesk matters. It has been a genuine honor to serve as the Public Access Ombudsman.

The status of personal e-mail addresses and cellphone numbers (as opposed to home landline telephone numbers) under the PIA is an issue that commonly crops up in the Ombudsman’s caseload. Save for two very specific exemptions (related to distribution lists, § 4-341, and records of public institutions of higher education, § 4-355), the PIA does not speak to the status of e-mail addresses at all. And, while the PIA contains several exemptions that refer to “home” telephone numbers (e.g., information about public employees, § 4-331), it does not specify whether these telephone numbers include cellphone numbers.

But, as you know well, citizens frequently use personal e-mail to communicate with State and local government employees and officials. Similarly, government employees and officials often conduct public business—both with constituents and with one another—by e-mail. In short, e-mail is a regular means of transacting public business with and within State and local government. Further, given the ubiquity of cellphones—and comparative decline in landline telephone use—there are, no doubt, many records that contain personal cellphone numbers. Thus, it is important for the General Assembly to modernize the PIA and provide records custodians with clear direction on the status of e-mail addresses, as well as all types of personal telephone numbers, that are contained in the public records of State and local agencies.

In the absence of direction from the Legislature, the Office has encountered a great deal of uncertainty among both requesters and records custodians—with the predictable result that agencies devise their own individual approaches, sometimes on an *ad hoc* and inconsistent basis. For example, there has been confusion about whether the requirement that custodians disclose, under § 4-333(b)(2)'s licensing exemption, the “business address” of a licensee includes disclosure of a business *e-mail* address. House Bill 636 would address this type of problem, primarily by amending the definition of “personal information” to include an individual’s e-mail address. The bill also clarifies the status of personal e-mail addresses within several specific exemptions, and eliminates references to “home” telephone numbers, instead referring to simply to “telephone numbers” or “personal telephone numbers,” terms that more clearly encompass cellphones.

The changes made by House Bill 636 would thus bring greater certainty and clarity to both requesters and custodians regarding disclosure of this type of personal information when it is contained within public records.

Again, thank you for your consideration of the information contained in this letter. Please do not hesitate to let me know if this Office can be of assistance to you and your constituents.

Lisa A. Kershner
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