

# SENATE BILL 535

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CF HB 1619

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By: **Senators Kagan and Reilly**

Introduced and read first time: January 30, 2020

Assigned to: Education, Health, and Environmental Affairs

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Committee Report: Favorable

Senate action: Adopted

Read second time: February 25, 2020

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Public Information Act – Denial of Part of a Public Record – Victims and**  
3 **Witnesses**

4 FOR the purpose of defining “contrary to the public interest” for the purposes of a certain  
5 provision of law authorizing a custodian to deny inspection of a part of a public record  
6 under certain circumstances; defining the term “witness” for the purposes of certain  
7 provisions of this Act relating to inspections of part of a 9–1–1 communications  
8 record; requiring a custodian to take certain actions before granting inspection of the  
9 part of a 9–1–1 communications record that depicts a witness; and generally relating  
10 to victims and witnesses and denials of part of a public record.

11 BY repealing and reenacting, with amendments,  
12 Article – General Provisions  
13 Section 4–343 and 4–356  
14 Annotated Code of Maryland  
15 (2019 Replacement Volume)

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

18 **Article – General Provisions**

19 4–343.

20 **(A) IN THIS SECTION, “CONTRARY TO THE PUBLIC INTEREST” INCLUDES A**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 SITUATION IN WHICH A CUSTODIAN REASONABLY BELIEVES THAT INSPECTION OF  
2 THE PART OF A PUBLIC RECORD WOULD REVEAL THE IDENTITY OF A VICTIM OR A  
3 WITNESS, OTHER THAN A LAW ENFORCEMENT OFFICER ON ACTIVE DUTY, OF A  
4 VIOLATION OF:

5 (1) TITLE 2 OF THE CRIMINAL LAW ARTICLE;

6 (2) TITLE 3, SUBTITLE 3 OF THE CRIMINAL LAW ARTICLE;

7 (3) TITLE 3, SUBTITLE 6 OF THE CRIMINAL LAW ARTICLE, EXCEPT  
8 FOR A VIOLATION OF § 3-607 OF THE CRIMINAL LAW ARTICLE IF THE VICTIM IS AN  
9 ADULT; OR

10 (4) DOMESTIC VIOLENCE, AS DEFINED UNDER § 4-701 OF THE  
11 FAMILY LAW ARTICLE.

12 (B) Unless otherwise provided by law, if a custodian believes that inspection of a  
13 part of a public record by the applicant would be contrary to the public interest, the  
14 custodian may deny inspection by the applicant of that part of the record, as provided in  
15 this part.

16 4-356.

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

18 (2) "Victim" means:

19 (i) a victim of domestic violence, as defined under § 4-701 of the  
20 Family Law Article;

21 (ii) a victim of a violation of Title 3, Subtitle 3 of the Criminal Law  
22 Article; or

23 (iii) a victim of a violation of Title 3, Subtitle 6 of the Criminal Law  
24 Article, except for a violation of § 3-607 of the Criminal Law Article where the victim is an  
25 adult.

26 (3) (i) "Victim's representative" has the meaning stated in § 11-104 of  
27 the Criminal Procedure Article.

28 (ii) "Victim's representative" does not include a person acting in  
29 concert with a person alleged to have committed the crime against the victim.

30 (4) (I) "WITNESS" MEANS:

1                   1.     A WITNESS OF DOMESTIC VIOLENCE, AS DEFINED IN §  
2 4-701 OF THE FAMILY LAW ARTICLE;

3                   2.     A WITNESS OF A VIOLATION OF TITLE 2 OF THE  
4 CRIMINAL LAW ARTICLE;

5                   3.     A WITNESS OF A VIOLATION OF TITLE 3, SUBTITLE 3  
6 OF THE CRIMINAL LAW ARTICLE, EXCEPT FOR A VIOLATION OF § 3-607 OF THE  
7 CRIMINAL LAW ARTICLE IF THE VICTIM IS AN ADULT; OR

8                   4.     A WITNESS OF A VIOLATION OF TITLE 3, SUBTITLE 6  
9 OF THE CRIMINAL LAW ARTICLE.

10                   (ii)   “WITNESS” DOES NOT INCLUDE A LAW ENFORCEMENT  
11 OFFICER ON ACTIVE DUTY.

12           (b)   (1)   This section does not apply to a public record that has been entered into  
13 evidence in a court proceeding.

14                   (2)   This section may not be construed to:

15                   (i)   create a right of civil action for a victim or victim’s  
16 representative; or

17                   (ii)   affect the discovery or evidentiary rights of a party to a civil suit  
18 or criminal prosecution.

19           (c)   Subject to subsections (d) and (e) of this section, before granting inspection of  
20 the part of a 9-1-1 communications record that depicts a **WITNESS OR A** victim, a custodian  
21 shall:

22                   (1)   within 30 days after receiving the request and if the custodian has  
23 contact information for the **WITNESS**, victim, or victim’s representative, notify the  
24 **WITNESS**, victim, or victim’s representative of the request;

25                   (2)   allow 10 days for a response from the **WITNESS**, victim, or victim’s  
26 representative indicating that inspection may be contrary to the public interest; and

27                   (3)   consider any response received under item (2) of this subsection in  
28 determining whether to grant or deny the inspection.

29           (d)   A custodian may redact the information described under subsection (c) of this  
30 section if a failure to do so would result in a constructive denial of the entire public record.

31           (e)   A custodian shall allow inspection by the person in interest.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
2 1, 2020.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.