

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 649

(Senator Lam, *et al.*)

Judicial Proceedings

Public Information Act – Motor Vehicle Administration – Warrant for Personal
Information and Reporting

This bill requires a custodian of records for the Motor Vehicle Administration (MVA) to deny inspection by U.S. Immigration and Customs Enforcement of the part of a public record that contains personal information unless the custodian is provided with a valid warrant issued by a federal court or a court of the State. By June 1, 2022, and each June 1 thereafter, MVA must report to the General Assembly specified information on requests received from federal law enforcement agencies.

Fiscal Summary

State Effect: The bill's requirements can likely be handled with existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The report must include (1) the number of requests received from federal law enforcement agencies, in total and by law enforcement agency; (2) the number of requests received from federal law enforcement agencies for personal information for which a valid warrant was provided; (3) the number and purpose of facial recognition searches completed by federal law enforcement agencies based on personal information provided to federal law enforcement agencies by MVA; and (4) the number of individuals whose personal information was provided to a federal law enforcement agency by MVA.

Current Law: A custodian must deny inspection of a public record or any part of a public record if (1) the public record is privileged or confidential by law or (2) the inspection would be contrary to a State statute, a federal statute or regulation, the Maryland Rules, or an order of a court of record. Maryland's Public Information Act (PIA) also requires denial of inspection for personal and confidential records, including, for example, hospital and medical records, financial records, certain police and related criminal records, and licensing records.

Motor Vehicle Administration Records

Subject to specified exceptions, including when required to do so by federal law, a custodian may not knowingly disclose a public record of MVA that contains personal information. However, a custodian must disclose personal information for various purposes, including for use by a federal, state, or local government, including a law enforcement agency, or a court in carrying out its functions. It must also disclose personal information for use in connection with a civil, administrative, arbitral, or a criminal proceeding in a federal, state, or local court, as specified.

“Personal information,” means information that identifies an individual, including an individual's name, address, driver's license or other identification number, medical or disability information, photograph or computer-generated image, Social Security number, and telephone number.

Procedure for Denial

A custodian who denies inspection of a public record must, within 10 working days, provide a written statement to the applicant that gives (1) the reason for denial; (2) if denying a part of a record on a discretionary basis, a brief explanation of why the denial is necessary and why redacting information would not address the reasons for the denial; (3) the legal authority for the denial; (4) a brief description of the undisclosed record (without disclosing the protected information); and (5) notice of the available statutory remedies.

Additional Comments: As the bill amends PIA, it is assumed, for purposes of this fiscal and policy note, that the bill's provisions related to denial of inspection of MVA records apply only to requests for inspection of MVA records under PIA and do not affect other requests for MVA records by law enforcement agencies.

Additional Information

Prior Introductions: HB 1626 of 2018, a similar bill, received a hearing in the House Environment and Transportation Committee but was subsequently withdrawn.

Designated Cross File: HB 892 (Delegate Stein, *et al.*) - Environment and Transportation and Judiciary.

Information Source(s): Office of the Attorney General; Judiciary (Administrative Office of the Courts); Department of State Police; Maryland Department of Transportation; Department of Public Safety and Correctional Services; Baltimore City; Howard and Prince George's counties; Maryland Association of Counties; cities of Annapolis and Bowie; Maryland Municipal League; Department of Legislative Services

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mr/mcr

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