

HOUSE BILL 120

P3, E4

(PRE-FILED)

11r0542
CF SB 178

By: **Delegates Acevero and Barron**

Requested: September 14, 2020

Introduced and read first time: January 13, 2021

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Public Information Act – Personnel Records – Investigations of Law**
3 **Enforcement Officers**
4 **(Anton’s Law)**

5 FOR the purpose of establishing that a record relating to an administrative or criminal
6 investigation of misconduct by a law enforcement officer is not a personnel record for
7 purposes of certain provisions of the Public Information Act; authorizing a custodian
8 to deny inspection of records relating to an administrative or criminal investigation
9 of misconduct by a law enforcement officer; defining a certain term; providing for the
10 application of this Act; and generally relating to personnel records and the Public
11 Information Act.

12 BY renumbering

13 Article – General Provisions
14 Section 4–101(e) through (j), respectively
15 to be Section 4–101(f) through (k), respectively
16 Annotated Code of Maryland
17 (2019 Replacement Volume and 2020 Supplement)

18 BY repealing and reenacting, without amendments,

19 Article – General Provisions
20 Section 4–101(a)
21 Annotated Code of Maryland
22 (2019 Replacement Volume and 2020 Supplement)

23 BY adding to

24 Article – General Provisions
25 Section 4–101(e)
26 Annotated Code of Maryland
27 (2019 Replacement Volume and 2020 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,
2 Article – General Provisions
3 Section 4–311 and 4–351
4 Annotated Code of Maryland
5 (2019 Replacement Volume and 2020 Supplement)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
7 That Section(s) 4–101(e) through (j), respectively, of Article – General Provisions of the
8 Annotated Code of Maryland be renumbered to be Section(s) 4–101(f) through (k),
9 respectively.

10 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
11 as follows:

12 **Article – General Provisions**

13 4–101.

14 (a) In this title the following words have the meanings indicated.

15 **(E) “LAW ENFORCEMENT OFFICER” HAS THE MEANING STATED IN § 3–101**
16 **OF THE PUBLIC SAFETY ARTICLE.**

17 4–311.

18 (a) Subject to subsection (b) of this section, a custodian shall deny inspection of a
19 personnel record of an individual, including an application, a performance rating, or
20 scholastic achievement information.

21 (b) A custodian shall allow inspection by:

22 (1) the person in interest;

23 (2) an elected or appointed official who supervises the work of the
24 individual; or

25 (3) an employee organization described in Title 6 of the Education Article
26 of the portion of the personnel record that contains the individual’s:

27 (i) home address;

28 (ii) home telephone number; and

29 (iii) personal cell phone number.

1 **(C) A RECORD RELATING TO AN ADMINISTRATIVE OR CRIMINAL**
2 **INVESTIGATION OF MISCONDUCT BY A LAW ENFORCEMENT OFFICER, INCLUDING AN**
3 **INTERNAL AFFAIRS INVESTIGATORY RECORD, A HEARING RECORD, AND RECORDS**
4 **RELATING TO A DISCIPLINARY DECISION, IS NOT A PERSONNEL RECORD FOR**
5 **PURPOSES OF THIS SECTION.**

6 4-351.

7 (a) Subject to subsection (b) of this section, a custodian may deny inspection of:

8 (1) records of investigations conducted by the Attorney General, a State's
9 Attorney, a municipal or county attorney, a police department, or a sheriff;

10 (2) an investigatory file compiled for any other law enforcement, judicial,
11 correctional, or prosecution purpose; [or]

12 (3) records that contain intelligence information or security procedures of
13 the Attorney General, a State's Attorney, a municipal or county attorney, a police
14 department, a State or local correctional facility, or a sheriff; **OR**

15 **(4) RECORDS RELATING TO AN ADMINISTRATIVE OR CRIMINAL**
16 **INVESTIGATION OF MISCONDUCT BY A LAW ENFORCEMENT OFFICER, INCLUDING AN**
17 **INTERNAL AFFAIRS INVESTIGATORY RECORD, A HEARING RECORD, AND RECORDS**
18 **RELATING TO A DISCIPLINARY DECISION.**

19 (b) A custodian may deny inspection by a person in interest only to the extent
20 that the inspection would:

21 (1) interfere with a valid and proper law enforcement proceeding;

22 (2) deprive another person of a right to a fair trial or an impartial
23 adjudication;

24 (3) constitute an unwarranted invasion of personal privacy;

25 (4) disclose the identity of a confidential source;

26 (5) disclose an investigative technique or procedure;

27 (6) prejudice an investigation; or

28 (7) endanger the life or physical safety of an individual.

29 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be construed to
30 apply prospectively to any Public Information Act request made on or after the effective
31 date of this Act regardless of when the record requested to be produced was created.

1 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2021.