

SENATE BILL 373

P3

EMERGENCY BILL

2lr0564
CF HB 163

By: **Senator Kagan**

Introduced and read first time: January 21, 2022

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 3, 2022

CHAPTER _____

1 AN ACT concerning

2 ~~Public Information Act – Required Denials – Sociological Information and~~
3 ~~Distribution Lists~~
4 Department of Transportation – Notice of Entry Onto Private Property

5 FOR the purpose of ~~prohibiting a definition of “sociological information” adopted in rules or~~
6 ~~regulations by an official custodian for certain purposes from including a certain~~
7 ~~notice or a list of the recipients of a certain notice; requiring a custodian to deny~~
8 ~~inspection under the Public Information Act of only a certain part of a certain~~
9 ~~distribution list, rather than the full distribution list; requiring a custodian to allow~~
10 ~~the inspection of a certain notice or a list of recipients of a certain notice under~~
11 ~~certain circumstances; defining “distribution list” to exclude a certain list of~~
12 ~~recipients; and generally relating to required denials under the Public Information~~
13 ~~Act.~~ requiring the State Highway Administration or the Maryland Transit
14 Administration to send a copy of a certain notice to members of the General Assembly
15 under certain circumstances; and generally relating to notices of entry onto private
16 property.

17 ~~BY repealing and reenacting, with amendments,~~
18 ~~Article – General Provisions~~
19 ~~Section 4-330 and 4-341~~
20 ~~Annotated Code of Maryland~~
21 ~~(2019 Replacement Volume and 2021 Supplement)~~

22 BY repealing and reenacting, ~~without~~ with amendments,
23 Article – Real Property

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 Section 12-111
 2 Annotated Code of Maryland
 3 (2015 Replacement Volume and 2021 Supplement)

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

6 ~~Article — General Provisions~~

7 ~~4-330.~~

8 ~~(A) If the official custodian has adopted rules or regulations that define~~
 9 ~~[sociological information], SUBJECT TO SUBSECTION (B) OF THIS SECTION,~~
 10 ~~“SOCIOLOGICAL INFORMATION” for purposes of this section, a custodian shall deny~~
 11 ~~inspection of the part of a public record that contains sociological information, in accordance~~
 12 ~~with the rules or regulations.~~

13 ~~(B) A DEFINITION OF “SOCIOLOGICAL INFORMATION” ADOPTED UNDER~~
 14 ~~SUBSECTION (A) OF THIS SECTION MAY NOT INCLUDE A NOTICE, OR A LIST OF THE~~
 15 ~~RECIPIENTS OF A NOTICE, GIVEN UNDER § 12-111 OF THE REAL PROPERTY~~
 16 ~~ARTICLE.~~

17 ~~4-341.~~

18 ~~(a) (1) In this section[, “governmental”] THE FOLLOWING WORDS HAVE THE~~
 19 ~~MEANINGS INDICATED.~~

20 ~~(2) “DISTRIBUTION LIST” DOES NOT INCLUDE A LIST OF RECIPIENTS~~
 21 ~~WHO HAVE RECEIVED A NOTICE UNDER § 12-111 OF THE REAL PROPERTY ARTICLE.~~

22 ~~(3) “GOVERNMENTAL entity” means a unit or an instrumentality of the~~
 23 ~~State or of a political subdivision.~~

24 ~~(b) A custodian shall deny inspection of THE PART OF a distribution list and a~~
 25 ~~request to be added to a distribution list that identifies a physical address, an e-mail~~
 26 ~~address, or a telephone number of an individual that is used by a governmental entity or~~
 27 ~~an elected official for the sole purpose of:~~

28 ~~(1) periodically sending news about the official activities of the~~
 29 ~~governmental entity or elected official; or~~

30 ~~(2) sending informational notices or emergency alerts.~~

31 ~~(C) A CUSTODIAN SHALL ALLOW THE INSPECTION OF A NOTICE, OR A LIST~~
 32 ~~OF THE RECIPIENTS OF A NOTICE, GIVEN UNDER § 12-111 OF THE REAL PROPERTY~~
 33 ~~ARTICLE ONLY ON RECEIPT OF:~~

1 (e) Any person who has knowledge of an order issued pursuant to subsection (b)
2 and who obstructs any civil engineer, surveyor, real estate appraiser, or any of their
3 assistants acting under the authority of the order may be punished as for contempt of court.

4 (f) In Anne Arundel County, Montgomery County, or Baltimore City, an agent or
5 employee, or one or more assistants of the jurisdiction, after real and bona fide effort to
6 notify the occupant or the owner, if the land is unoccupied or if the occupant is not the
7 owner, may enter on any private land to make test borings and soil tests and obtain
8 information related to such tests for the purpose of determining the possibility of public use
9 of the property. If an agent, employee, or assistant is refused permission to enter or remain
10 on any private land for the purposes set out in this subsection, Anne Arundel County,
11 Montgomery County, or Baltimore City may apply to a law court of the jurisdiction where
12 the property or any part of it is located for an order directing that its agent, employee, or
13 assistant be permitted to enter and remain on the land to the extent necessary to carry out
14 the purposes authorized by this subsection. The court may require that the applying
15 jurisdiction post a bond in an amount sufficient to reimburse any person for damages
16 reasonably estimated to be caused by test borings, soil tests, and related activities. If any
17 person enters on any private land under the authority of this section or of any court order
18 passed pursuant to it and damages or destroys any land or personal property on it, the
19 owner of the property has a cause of action for damages against the jurisdiction that
20 authorized the entrance. Any person who knows of an order issued under this subsection
21 and who obstructs any agent, employee, or assistant acting under the authority of the order
22 may be punished for contempt of court.

23 (g) **(1)** The State Highway Administration, the Maryland Transit
24 Administration, and the agents, employees, and consultants of the State Highway
25 Administration and the Maryland Transit Administration may enter upon private property
26 to conduct environmental and engineering studies, including soil boring and excavation,
27 necessary to determine the suitability of the property for use by the administration entering
28 the property. Entry onto private property for these purposes shall not be undertaken
29 without prior consent of the property owner. If, after real and bona fide effort, the consent
30 of the property owner cannot be secured, the administration seeking entry may apply to a
31 law or equity court where the property or any part of it is located for an order directing that
32 entry be permitted. "Bona fide effort" shall include either 30 days advance notice in writing
33 by certified mail return receipt requested to the last known address of the property owner
34 or posting notice on the property not less than 30 days in advance, and such other
35 requirements as the court may deem appropriate. The administration entering the
36 property, when removing, displacing, boring, or excavating soil under the provisions of this
37 section, shall replace the topsoil in a manner which will approach the level of compaction
38 and contour as when removed. An administration entering private property under the
39 authority of this subsection shall reimburse the landowner or lessee who is farming the
40 property for agricultural products destroyed or damaged by the administration's agents,
41 employees, or consultants and shall be responsible for any other damages that may be
42 incurred as a result of such entry on private property.

43 **(2) WHEN THE STATE HIGHWAY ADMINISTRATION, THE MARYLAND**
44 **TRANSIT ADMINISTRATION, OR AN AGENT, AN EMPLOYEE, OR A CONSULTANT OF**

1 THE STATE HIGHWAY ADMINISTRATION OR THE MARYLAND TRANSIT
2 ADMINISTRATION GIVES NOTICE TO A PROPERTY OWNER OR POSTS NOTICE TO
3 PROPERTY IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION, THE STATE
4 HIGHWAY ADMINISTRATION OR THE MARYLAND TRANSIT ADMINISTRATION SHALL
5 SEND A COPY OF THE NOTICE TO THE GENERAL ASSEMBLY MEMBERS WHO
6 REPRESENT THE LEGISLATIVE DISTRICT IN WHICH THE PROPERTY IS LOCATED.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
8 measure, is necessary for the immediate preservation of the public health or safety, has
9 been passed by a ye and nay vote supported by three-fifths of all the members elected to
10 each of the two Houses of the General Assembly, and shall take effect from the date it is
11 enacted.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.