

SENATE BILL 777

P3, E4

2lr2912

By: **Senator Carter**

Introduced and read first time: February 7, 2022

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 5, 2022

CHAPTER _____

1 AN ACT concerning

2 **Task Force to Study Public Information Act – ~~Records Relating to Police~~**
3 **Misconduct – Fees Requests Made to Law Enforcement – Establishment**

4 FOR the purpose of ~~prohibiting an official custodian from charging a fee for the search and~~
5 ~~preparation of a certain number of pages of a certain record relating to an~~
6 ~~administrative or criminal investigation of misconduct by a police officer; and~~
7 ~~generally relating to fees for inspection of records relating to police misconduct~~
8 establishing the Task Force to Study Public Information Act Requests Made to Law
9 Enforcement; and generally relating to the Public Information Act.

10 ~~BY repealing and reenacting, with amendments,~~
11 ~~Article – General Provisions~~
12 ~~Section 4-206~~
13 ~~Annotated Code of Maryland~~
14 ~~(2019 Replacement Volume and 2021 Supplement)~~

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

17 **Article – General Provisions**

18 ~~4-206.~~

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

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 ~~(2) "Indigent" means an individual's family household income is less than~~
2 ~~50% of the median family income for the State as reported in the Federal Register.~~

3 ~~(3) "Reasonable fee" means a fee bearing a reasonable relationship to the~~
4 ~~recovery of actual costs incurred by a governmental unit.~~

5 ~~(b) (1) Subject to the limitations in this section, the official custodian may~~
6 ~~charge an applicant a reasonable fee for:~~

7 ~~(i) the search for, preparation of, and reproduction of a public record~~
8 ~~prepared, on request of the applicant, in a customized format; and~~

9 ~~(ii) the actual costs of the search for, preparation of, and~~
10 ~~reproduction of a public record in standard format, including media and mechanical~~
11 ~~processing costs.~~

12 ~~(2) The staff and attorney review costs included in the calculation of actual~~
13 ~~costs incurred under this section shall be prorated for each individual's salary and actual~~
14 ~~time attributable to the search for and preparation of a public record under this section.~~

15 ~~(e) (1) The official custodian may not charge a fee for:~~

16 ~~(I) the first 2 hours that are needed to search for a public record and~~
17 ~~prepare it for inspection; OR~~

18 ~~(II) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF THE~~
19 ~~SEARCH AND PREPARATION EXCEEDS 2 HOURS, THE SEARCH AND PREPARATION OF~~
20 ~~THE FIRST 500 PAGES OF THE RECORD FOR INSPECTION.~~

21 ~~(2) PARAGRAPH (1)(II) OF THIS SUBSECTION APPLIES ONLY TO~~
22 ~~RECORDS, OTHER THAN A RECORD OF A TECHNICAL INFRACTION, RELATING TO AN~~
23 ~~ADMINISTRATIVE OR CRIMINAL INVESTIGATION OF MISCONDUCT BY A POLICE~~
24 ~~OFFICER, INCLUDING AN INTERNAL AFFAIRS INVESTIGATORY RECORD, A HEARING~~
25 ~~RECORD, AND RECORDS RELATING TO A DISCIPLINARY DECISION.~~

26 ~~(d) (1) If another law sets a fee for a copy, an electronic copy, a printout, or a~~
27 ~~photograph of a public record, that law applies.~~

28 ~~(2) The official custodian may charge for the cost of providing facilities for~~
29 ~~the reproduction of the public record if the custodian did not have the facilities.~~

30 ~~(e) The official custodian may waive a fee under this section if:~~

31 ~~(1) the applicant asks for a waiver; and~~

32 ~~(2) (i) the applicant is indigent and files an affidavit of indigency; or~~

1 ~~(ii) after consideration of the ability of the applicant to pay the fee~~
2 ~~and other relevant factors, the official custodian determines that the waiver would be in~~
3 ~~the public interest.~~

4 ~~(f) If the custodian of a public record for a local school system charges an~~
5 ~~applicant a fee under subsection (b) of this section, the custodian shall provide written~~
6 ~~notice to the applicant that the applicant may file a complaint with the Board to contest~~
7 ~~the fee~~

8 (a) There is a Task Force to Study Public Information Act Requests Made to Law
9 Enforcement.

10 (b) The Task Force consists of the following members:

11 (1) two members of the Senate of Maryland, appointed by the President of
12 the Senate;

13 (2) two members of the House of Delegates, appointed by the Speaker of
14 the House;

15 (3) the Secretary of State Police, or the Secretary's designee;

16 (4) the Public Defender, or the Public Defender's designee; and

17 (5) the following members, appointed by the President of the Senate and
18 the Speaker of the House:

19 (i) one representative of the Maryland Municipal League;

20 (ii) one representative of the Maryland Association of Counties;

21 (iii) one representative of the Maryland Chiefs of Police Association;

22 (iv) one representative of the Maryland Sheriffs Association;

23 (v) one representative of the Maryland, Delaware, and District of
24 Columbia Press Association, Inc.;

25 (vi) one representative of the Maryland State's Attorneys'
26 Association; and

27 (vii) one representative of the Baltimore Legal Action Team.

28 (c) The President of the Senate and the Speaker of the House shall designate the
29 chair of the Task Force.

1 (d) The Office of the Attorney General shall provide staff for the Task Force.

2 (e) A member of the Task Force:

3 (1) may not receive compensation as a member of the Task Force; but

4 (2) is entitled to reimbursement for expenses under the Standard State
5 Travel Regulations, as provided in the State budget.

6 (f) The Task Force shall review and study:

7 (1) costs charged by law enforcement agencies in relation to disclosure of
8 records requested under the Maryland Public Information Act;

9 (2) procedures applied by law enforcement agencies in the disclosure of
10 records requested under the Maryland Public Information Act; and

11 (3) the status and operations of the Maryland Public Information Act
12 Compliance Board.

13 (g) (1) On or before December 31, 2022, the Task Force shall submit an interim
14 report on its findings, in accordance with § 2-1257 of the State Government Article, to the
15 General Assembly.

16 (2) On or before December 31, 2023, the Task Force shall submit a final
17 report on its findings, in accordance with § 2-1257 of the State Government Article, to the
18 General Assembly.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 ~~October 1, 2022~~ June 1, 2022. It shall remain effective for a period of 1 year and 9 months
21 and, at the end of February 29, 2024, this Act, with no further action required by the
22 General Assembly, shall be abrogated and of no further force and effect.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.