



House Bill 502

Public Information Act – Revisions

MACo Position: **SUPPORT**
WITH AMENDMENTS

To: Health and Government Operations Committee

Date: February 11, 2020

From: Alex Butler

The Maryland Association of Counties (MACo) **SUPPORTS HB 502 WITH AMENDMENTS**. While MACo and the counties are generally supportive of the state laws ensuring public access to documents and information, there are aspects of the bill that pose serious legal, implementation, and cost challenges that deserve careful consideration and revision. It is also worth noting that the survey that gave rise to the recommendations in this bill only interviewed State record custodians and did not include any local government agencies.

MACo's primary concern over the bill relates to the provisions giving the Public Information Act Compliance Board (Board) new authority to review record denials and compel disclosure. Currently, challenges to record denials are properly heard by the Circuit Court, where a judge can conduct an *in camera* (private) review of the records in question to determine whether their release was valid. This protects counties from liability concerns, particularly for mandatory denials.

However, neither the Board nor the Attorney General's Office carry the same legal weight and protections afforded by formal judicial review. **MACo urges the records denial portion of the bill be struck or, in the alternative, a formal Administrative Court process be established.** MACo's other amendments are largely technical but would provide needed clarity and corrections to the bill.

HB 502 would significantly expand the authority of the Board and care should be taken to provide clarity and avoid unintended consequences. MACo is willing to work with the Committee, bill sponsor, and other stakeholders to address our concerns. Accordingly, MACo requests the Committee give HB 502 a **FAVORABLE WITH AMENDMENTS** report.

Proposed “reprint” draft of HB 502, with MACo suggested amendments. Full amendment language lessened the readability of the document, but will be provided to Committee Counsel.

HOUSE BILL 502

P3

Olr1431
CF Olr3176

By: Delegates Lierman, Barron, Carr, Cox, Cullison, Grammer, Guyton, Hill, Kerr, R. Lewis, Love, Moon, and K. Young

Introduced and read first time: January 24, 2020

Assigned to: Health and Government Operations

A BILL ENTITLED

AN ACT concerning

Public Information Act – Revisions

FOR the purpose of requiring each official custodian to adopt a certain policy of proactive disclosure; providing that the policy may vary in a certain manner and include the publication of certain records or information; requiring each official custodian to publish a certain annual report on a certain website, to the extent practicable; requiring the report of an official custodian to include certain information; requiring a certain member of the Public Information Act Compliance Board to have served as a custodian, rather than an official custodian, in the State; requiring two members of the Board, rather than one member, to be attorneys; requiring one member of the Board to be knowledgeable about electronic records; requiring the Office of the Attorney General to provide at least a certain number of staff members to assist the Board and requiring the Office of the Public Access Ombudsman to carry out certain duties; requiring the Board to receive, review, and resolve certain complaints from applicants and applicants’ designated representatives and certain complaints from a custodian; altering the minimum fee charged under which the Board is required to take certain actions with regard to a complaint; requiring the Board to order a custodian to take certain actions under certain circumstances; requiring the Board to issue an order authorizing a custodian to take certain actions under certain circumstances; requiring the Board to adopt certain regulations; altering the circumstances under which an applicant or an applicant’s designated representative is authorized to file a certain written complaint; authorizing a custodian to file a certain complaint under certain circumstances; altering the time period within which a certain complaint must be filed; altering the time period within which a certain response must be filed; requiring a custodian to provide certain information to the Board on request; requiring a custodian or an applicant, on request of the Board, to provide a certain affidavit; requiring the Board to maintain the confidentiality of certain records and information; altering certain time periods within

which the Board must issue certain decisions and opinions under certain circumstances; requiring the Ombudsman to issue a certain final determination within a certain period of time except under certain circumstances; requiring the Ombudsman to inform the applicant and the custodian of the availability of certain review by the Board under certain circumstances; authorizing the Ombudsman to disclose certain information to certain persons; authorizing the Ombudsman to transfer certain information to the Board under certain circumstances; requiring the Ombudsman to submit a certain annual report to the Governor and the General Assembly; requiring the Ombudsman's report to include certain information; prohibiting a custodian from failing to respond to an application for the inspection of a public record within certain time limits except under certain circumstances; prohibiting a custodian who violates a certain provision of this Act from charging a certain fee; requiring the Office of the Attorney General to allocate certain staff members on or before a certain date; making stylistic and conforming changes; and generally relating to the Public Information Act.

BY repealing and reenacting, without amendments,
Article – General Provisions
Section 4–101(a) and (c) and 4–1B–01
Annotated Code of Maryland
(2019 Replacement Volume)

BY adding to
Article – General Provisions
Section 4–104 and 4–105
Annotated Code of Maryland
(2019 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – General Provisions
Section 4–1A–02(a), 4–1A–03(d), 4–1A–04 through 4–1A–07, 4–1B–02(b), 4–1B–04,
and 4–4027
Annotated Code of Maryland
(2019 Replacement Volume)

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

Article – General Provisions

4–101.

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

(c) “Board” means the State Public Information Act Compliance Board.

4-104.

(A) EACH OFFICIAL CUSTODIAN SHALL ADOPT A POLICY OF PROACTIVE DISCLOSURE OF PUBLIC RECORDS THAT ARE AVAILABLE FOR INSPECTION UNDER THIS TITLE.

(B) THE POLICY ADOPTED UNDER SUBSECTION (A) OF THIS SECTION MAY:

(1) VARY AS APPROPRIATE TO THE TYPE OF PUBLIC RECORD AND TO REFLECT THE STAFF AND BUDGETARY RESOURCES OF THE GOVERNMENTAL UNIT; AND

(2) INCLUDE PUBLICATION OF PUBLIC RECORDS ON THE WEBSITE OF THE GOVERNMENTAL UNIT OR PUBLICATION OF PRIOR RESPONSES TO REQUESTS FOR INSPECTION MADE UNDER THIS TITLE.

4-105.

(A) ON OR BEFORE JULY 1 EACH YEAR, EACH OFFICIAL CUSTODIAN SHALL PUBLISH ON THE WEBSITE OF THE GOVERNMENTAL UNIT, TO THE EXTENT PRACTICABLE, A REPORT ON THE REQUESTS RECEIVED DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR UNDER THIS TITLE FOR INSPECTION OF PUBLIC RECORDS OF THE GOVERNMENTAL UNIT.

(B) THE REPORT SHALL INCLUDE:

(1) THE NUMBER OF REQUESTS RECEIVED UNDER THIS TITLE, INCLUDING:

(I) THE NUMBER OF REQUESTS GRANTED OR DENIED WITHIN 10 BUSINESS DAYS;

**(II) THE NUMBER OF REQUESTS GRANTED OR DENIED WITHIN 30 DAYS;
AND**

(III) THE NUMBER OF REQUESTS GRANTED OR DENIED IN MORE THAN 30 DAYS AND THE REASONS FOR THE DELAYS, INCLUDING THE NUMBER OF EXTENSIONS REQUESTED AND THE NUMBER OF REQUESTS THAT WERE THE SUBJECT OF DISPUTE RESOLUTION UNDER § 4-1B-04 OF THIS TITLE;

(2) THE OUTCOMES OF THE REQUESTS, INCLUDING:

(I) THE TOTAL NUMBER OF REQUESTS GRANTED IN FULL;

(II) THE TOTAL NUMBER OF REQUESTS GRANTED IN PART;

(III) THE TOTAL NUMBER OF REQUESTS DENIED IN FULL; AND

(IV) THE TOTAL NUMBER OF REQUESTS FOR WHICH REDACTED PUBLIC RECORDS WERE PROVIDED;

(3) THE AMOUNT OF FEES CHARGED UNDER § 4–206 OF THIS TITLE;

(4) THE NUMBER OF FEE WAIVERS GRANTED UNDER § 4–206(E) OF THIS TITLE;
AND

(5) A DESCRIPTION OF EFFORTS BY THE GOVERNMENTAL UNIT TO PROACTIVELY DISCLOSE INFORMATION IN ACCORDANCE WITH THE POLICY ADOPTED UNDER § 4–104 OF THIS SUBTITLE.

4–1A–02.

(a) (1) The Board consists of five members.

(2) (i) One member of the Board shall be a representative:

1. from a nongovernmental nonprofit group that is organized in the State;

2. who works on issues related to transparency or open government; and

3. who is nominated by representatives of the open government and news media communities.

(ii) One member of the Board shall:

1. have knowledge of the provisions of this title;

2. have served as [an official] A custodian in the State as defined in § 4–101(d) of this title; and

3. be nominated by the Maryland Association of Counties and the Maryland Municipal League.

(iii) 1. Three members of the Board shall be private citizens of the State.

2. A private citizen member of the Board may not be:

A. a custodian of a public record;

B. a member of the news media; or

C. a staff member or spokesperson for an organization that represents the interests of custodians or applicants for public records.

(3) At least [one member] **TWO MEMBERS** of the Board shall be [an attorney] **ATTORNEYS** admitted to the Maryland Bar.

(4) AT LEAST ONE MEMBER OF THE BOARD SHALL BE KNOWLEDGEABLE ABOUT ELECTRONIC RECORDS, INCLUDING ELECTRONIC STORAGE, RETRIEVAL, REVIEW, AND REPRODUCTION TECHNOLOGIES.

[(4)] **(5)** (i) The Governor shall publish, on the website of the Office of the Governor, notice of the Governor's intent to consider applicants for positions on the Board.

(ii) The notice shall include:

1. application procedures;
2. criteria for evaluating an applicant's qualifications; and
3. procedures for resolving any conflicts of interest.

(iii) The Governor shall solicit recommendations for positions on the Board from representatives of the custodian, news media, and nonprofit communities.

(iv) 1. An individual may submit to the Governor an application for membership on the Board as provided under subparagraph (ii) of this paragraph.

2. The names and qualifications of applicants shall be posted on the website of the Office of the Governor.

(v) When evaluating an applicant, the Governor shall:

1. consider the need for geographic, political, racial, ethnic, cultural, and gender diversity on the Board; and
2. ensure the neutrality of the Board.

[(5)] **(6)** Subject to paragraphs (2) [and (3)] **THROUGH (4)** of this subsection and with the advice and consent of the Senate, the Governor shall appoint the members of the Board from the pool of applicants under paragraph [(4)] **(5)** of this subsection.

4-1A-03.

(d) (1) [The] **SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE** Office of the Attorney General shall provide staff and office space for the Board.

(2) **THE OFFICE OF THE ATTORNEY GENERAL SHALL PROVIDE AT LEAST FOUR STAFF MEMBERS TO ASSIST THE BOARD AND THE OFFICE OF THE PUBLIC ACCESS OMBUDSMAN TO CARRY OUT THE DUTIES OF THE BOARD UNDER THIS SUBTITLE AND THE OFFICE UNDER SUBTITLE 1B OF THIS TITLE.**

4-1A-04.

(a) The Board shall:

(1) receive, review, and, subject to § 4-1A-07 of this subtitle, resolve complaints filed under § 4-1A-05 of this subtitle from any applicant or the applicant's designated representative alleging that a custodian:

(I) ~~CHARGED AN UNREASONABLE FEE UNDER § 4-206 OF THIS TITLE OF MORE THAN \$200;~~

~~(II)~~ charged an unreasonable fee under § 4-206 of this title **OF MORE THAN \$200;**

~~(III)~~ **UNREASONABLY FAILED TO WAIVE A FEE UNDER § 4-206(E) OF THIS TITLE; OR**

~~(IV)~~ **FAILED TO RESPOND TO A REQUEST FOR A PUBLIC RECORD WITHIN THE TIME LIMITS ESTABLISHED UNDER § 4-203(C)(1(I)) OF THIS TITLE;**

(2) issue a written opinion as to whether a violation has occurred; and

(3) **IF THE BOARD OPINES THAT A VIOLATION OCCURRED,** **ORDER THE CUSTODIAN TO:**

(I) ~~**IF THE BOARD FINDS THAT THE CUSTODIAN HAS DENIED INSPECTION OF A PUBLIC RECORD IN VIOLATION OF THIS TITLE, PRODUCE THE PUBLIC RECORD FOR INSPECTION;**~~

~~(II)~~ if the Board finds that the custodian charged an unreasonable fee under § 4-206 of this title, [order the custodian to] reduce the fee to an amount determined by the Board to be reasonable and refund the difference;

~~(H)~~(II) IF THE BOARD FINDS THAT THE CUSTODIAN UNREASONABLY FAILED TO WAIVE A FEE UNDER § 4–206(E) OF THIS TITLE, ~~WAIVE THE FEE OR~~ RECONSIDER THE FEE WAIVER REQUEST; OR

(IV) IF THE BOARD FINDS THAT THE CUSTODIAN FAILED TO RESPOND TO A REQUEST FOR A PUBLIC RECORD WITHIN THE TIME LIMITS ESTABLISHED UNDER § 4–203 OF THIS TITLE, PROMPTLY RESPOND AND, AT THE BOARD’S DISCRETION, ~~WAIVE ANY RECONSIDER ANY~~ FEE THE CUSTODIAN IS OTHERWISE ENTITLED TO CHARGE UNDER § 4–206 OF THIS TITLE.

(B) THE BOARD SHALL:

(1) RECEIVE, REVIEW, AND, SUBJECT TO § 4–1A–07 OF THIS SUBTITLE, RESOLVE COMPLAINTS FILED UNDER § 4–1A–05 OF THIS SUBTITLE FROM ANY CUSTODIAN ALLEGING THAT AN APPLICANT’S REQUEST OR PATTERN OF REQUESTS IS FRIVOLOUS, VEXATIOUS, OR IN BAD FAITH;

(2) ISSUE A WRITTEN OPINION AS TO WHETHER THE APPLICANT’S REQUEST OR PATTERN OF REQUESTS IS FRIVOLOUS, VEXATIOUS, OR IN BAD FAITH; AND

(3) IF THE BOARD FINDS THAT THE APPLICANT’S REQUEST IS FRIVOLOUS, VEXATIOUS, OR IN BAD FAITH, BASED ON THE TOTALITY OF THE CIRCUMSTANCES INCLUDING THE NUMBER AND SCOPE OF THE APPLICANT’S PAST REQUESTS AND THE CUSTODIAN’S RESPONSES TO PAST REQUESTS AND EFFORTS TO COOPERATE WITH THE APPLICANT, ISSUE AN ORDER AUTHORIZING THE CUSTODIAN TO:

(I) IGNORE THE REQUEST THAT IS THE SUBJECT OF THE CUSTODIAN’S COMPLAINT; OR

(II) RESPOND TO A LESS BURDENSOME VERSION OF THE REQUEST WITHIN A REASONABLE TIME FRAME, AS DETERMINED BY THE BOARD.

[(b)] (C) The Board shall:

(1) ADOPT REGULATIONS TO CARRY OUT SUBTITLES 1A AND 1B OF THIS TITLE;

[(1)] (2) study ongoing compliance with this title by custodians; and

[(2)] (3) make recommendations to the General Assembly for improvements to this title.

[(c)] (D)(1) On or before October 1 of each year, the Board shall submit a report to the Governor and, subject to § 2–1257 of the State Government Article, the General Assembly.

(2) The report shall:

- (i) describe the activities of the Board;
- (ii) describe the opinions of the Board;
- (iii) state the number and nature of complaints filed with the Board; and
- (iv) recommend any improvements to this title.

4-1A-05.

(a) Any applicant [or], the applicant's designated representative, **OR A CUSTODIAN** may file a written complaint with the Board seeking a written opinion and order from the Board **UNDER § 4-1A-04 OF THIS SUBTITLE** if:

(1) [a custodian charged a fee under § 4-206 of this title of more than \$350] **THE COMPLAINANT HAS ATTEMPTED TO RESOLVE THE DISPUTE THROUGH THE OFFICE OF THE PUBLIC ACCESS OMBUDSMAN UNDER § 4-1B-04 OF THIS TITLE;** and

(2) [the complainant alleges in the complaint that the fee is unreasonable] **THE PUBLIC ACCESS OMBUDSMAN HAS ISSUED A FINAL DETERMINATION STATING THAT THE DISPUTE WAS NOT RESOLVED.**

(b) The complaint shall:

(1) identify the custodian **OR APPLICANT** that is the subject of the complaint;

(2) describe the action of the custodian **OR APPLICANT**, the date of the action, and the circumstances of the action;

(3) be signed by the complainant;

(4) if available, include a copy of the original request for public records **AND THE CUSTODIAN'S RESPONSE, IF ANY;** and

(5) be filed within [90] **45** days after the [action that is the subject of the complaint occurred] **COMPLAINANT RECEIVES THE FINAL DETERMINATION OF THE PUBLIC ACCESS OMBUDSMAN UNDER § 4-1B-04 OF THIS TITLE.**

4-1A-06.

(a) Except as provided in subsection (c) of this section, on receipt of a written complaint, the Board promptly shall:

(1) send the complaint to the custodian **OR APPLICANT** identified in the complaint;
and

(2) request that a response to the complaint be sent to the Board.

(b) (1) The custodian **OR APPLICANT** shall file a written response to the complaint within [15] **30** days after [the custodian receives] **RECEIVING** the complaint.

(2) On request of the Board, the custodian shall [include with its written response to the complaint] **PROVIDE:**

(I) **IF THE COMPLAINT ALLEGES THAT THE CUSTODIAN FAILED TO RESPOND TO A REQUEST FOR A PUBLIC RECORD WITHIN THE TIME LIMITS ESTABLISHED UNDER § 4-203(C)(1)(I) OF THIS TITLE, A RESPONSE TO THE REQUEST FOR THE PUBLIC RECORD;**

(II) **IF THE COMPLAINT ALLEGES THAT THE CUSTODIAN DENIED INSPECTION OF A PUBLIC RECORD IN VIOLATION OF THIS TITLE:**

1. **A COPY OF THE PUBLIC RECORD OR DESCRIPTIVE INDEX OF THE PUBLIC RECORD, AS APPROPRIATE; AND**

2. **THE PROVISION OF LAW ON WHICH THE CUSTODIAN RELIED IN DENYING INSPECTION OF THE PUBLIC RECORD;**

(III) **IF THE COMPLAINT ALLEGES THAT THE CUSTODIAN CHARGED AN UNREASONABLE FEE UNDER § 4-206 OF THIS TITLE, the basis for the fee that was charged; OR**

(IV) **IF THE COMPLAINT ALLEGES THAT THE CUSTODIAN UNREASONABLY FAILED TO WAIVE A FEE UNDER § 4-206 OF THIS TITLE, THE BASIS ON WHICH THE CUSTODIAN DENIED THE WAIVER REQUEST.**

~~(3) **ON REQUEST OF THE BOARD, A CUSTODIAN OR AN APPLICANT SHALL PROVIDE AN AFFIDAVIT CONTAINING A STATEMENT OF FACTS THAT ARE AT ISSUE IN THE COMPLAINT.**~~

~~(4) **(I) THE BOARD SHALL MAINTAIN THE CONFIDENTIALITY OF ANY RECORD OR CONFIDENTIAL INFORMATION SUBMITTED BY A CUSTODIAN OR AN APPLICANT UNDER THIS SUBSECTION THAT IS NOT A PUBLIC RECORD.**~~

~~**(II) RECORDS OR INFORMATION PROVIDED TO THE BOARD ARE NOT SUBJECT TO A REQUEST UNDER SECTION 201 OF THIS TITLE.**~~

(c) If a written response **OR INFORMATION REQUESTED UNDER SUBSECTION (B) OF THIS SECTION** is not received within [45] **30** days after the [notice] **REQUEST** is sent, the Board shall decide the case on the facts before the Board.

4-1A-07.

(a) (1) The Board shall review the complaint and any response.

(2) [If the information in the complaint and response is sufficient for making a determination based on the Board's own interpretation of the evidence,] **THE BOARD SHALL ISSUE A WRITTEN OPINION** within 30 days after receiving [the response, the Board shall issue a written opinion as to whether a violation of this title has occurred or will occur] **THE WRITTEN RESPONSE AND ALL INFORMATION REQUESTED UNDER § 4-1A-06(B) OF THIS SUBTITLE.**

(b) (1) (i) Subject to subparagraph (ii) of this paragraph, if the Board is unable to reach a determination based on the written submissions before it, the Board may schedule an informal conference to hear from the complainant, the **AFFECTED** custodian **OR APPLICANT**, or any other person with relevant information about the subject of the complaint.

(ii) The Board shall hold the informal conference under subparagraph (i) of this paragraph in a location that is as convenient as practicable to the complainant and the **AFFECTED** custodian **OR APPLICANT**.

(2) When conducting a conference that is scheduled under paragraph (1) of this subsection, the Board may allow the parties to testify by teleconference or submit written testimony by electronic mail.

(3) An informal conference scheduled by the Board is not a contested case within the meaning of § 10-202(d) of the State Government Article.

(4) The Board shall issue a written opinion within 30 days after the informal conference.

(c) (1) If the Board is unable to issue an opinion on a complaint within the time periods specified in subsection (a) or (b) of this section, the Board shall:

(i) state in writing the reason for its inability to issue an opinion; and

(ii) issue an opinion as soon as possible but not later than **[90] 120** days after the filing of the complaint.

(2) An opinion of the Board may state that the Board is unable to resolve the complaint.

(d) The Board shall send a copy of the written opinion to the complainant and the affected custodian **OR APPLICANT**.

4-1B-01.

In this subtitle, "Ombudsman" means the Public Access Ombudsman.

4-1B-02.

(b) [The] **SUBJECT TO § 4-1A-03(D)(2) OF THIS TITLE, THE** Office of the Attorney General shall provide office space and staff for the Ombudsman, with appropriate steps taken to protect the autonomy and independence of the Ombudsman.

4-1B-04.

(a) Subject to subsection [(b)] **(D)** of this section, the Ombudsman shall make reasonable attempts to resolve disputes between applicants and custodians relating to requests for public records under this title, including disputes over:

- (1) the custodian's application of an exemption;
- (2) redactions of information in the public record;
- (3) the failure of the custodian to produce a public record in a timely manner or to disclose all records relevant to the request;
- (4) overly broad requests for public records;
- (5) the amount of time a custodian needs, given available staff and resources, to produce public records;
- (6) a request for or denial of a fee waiver under § 4-206(e) of this title; and
- (7) repetitive or redundant requests from an applicant.

(B) WITHIN 90 DAYS AFTER RECEIVING A REQUEST FOR DISPUTE RESOLUTION, UNLESS THE PARTIES MUTUALLY AGREE TO EXTEND THE DEADLINE, THE OMBUDSMAN SHALL ISSUE A FINAL DETERMINATION STATING:

- (1) THAT THE DISPUTE HAS BEEN RESOLVED; OR**
- (2) THAT THE DISPUTE HAS NOT BEEN RESOLVED.**

(C) IF THE OMBUDSMAN ISSUES A FINAL DETERMINATION STATING THAT THE DISPUTE HAS NOT BEEN RESOLVED, THE OMBUDSMAN SHALL INFORM THE APPLICANT AND THE CUSTODIAN OF THE AVAILABILITY OF REVIEW BY THE BOARD UNDER § 4-1A-04 OF THIS TITLE.

[(b)] (D) (1) When resolving disputes under this section, the Ombudsman may not:

(i) compel a custodian to disclose public records or redacted information in the custodian's physical custody to the Ombudsman or an applicant; or

(ii) except as provided in [paragraph] **PARAGRAPHS (2) AND (3)** of this subsection, disclose information received from an applicant or custodian without written consent from the applicant and custodian.

(2) The Ombudsman may disclose information received from an applicant or custodian to the assistant Attorney General assigned to the Office of the **PUBLIC ACCESS Ombudsman OR TO ANY OTHER PERSON WORKING UNDER THE DIRECTION OF THE OMBUDSMAN, SUBJECT TO THE CONFIDENTIALITY REQUIREMENTS IN § 4-1A-06(B)(4) OF THIS TITLE.**

(3) **THE OMBUDSMAN MAY TRANSFER BASIC INFORMATION ABOUT A DISPUTE, INCLUDING THE IDENTITY OF THE APPLICANT AND CUSTODIAN AND THE NATURE OF THE DISPUTE, TO THE BOARD IF APPROPRIATE STEPS HAVE BEEN TAKEN TO PROTECT THE CONFIDENTIALITY OF COMMUNICATIONS MADE OR RECEIVED IN THE COURSE OF ATTEMPTING TO RESOLVE THE DISPUTE.**

(E) (1) **ON OR BEFORE OCTOBER 1 EACH YEAR, IN CONJUNCTION WITH THE REPORT OF THE PUBLIC INFORMATION ACT COMPLIANCE BOARD REQUIRED UNDER § 4-1A-04 OF THIS TITLE, THE OMBUDSMAN SHALL SUBMIT A REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.**

(2) **THE REPORT SHALL:**

(I) **DESCRIBE THE ACTIVITIES OF THE OMBUDSMAN;**

(II) **STATE THE NUMBER AND NATURE OF REQUESTS FOR DISPUTE RESOLUTION MADE TO THE OMBUDSMAN;**

(III) **DESCRIBE THE AGGREGATE OUTCOMES OF DISPUTE RESOLUTIONS CONDUCTED BY THE OMBUDSMAN;**

(IV) **HIGHLIGHT ANY AREAS OF CONCERN AND RECOMMEND BEST PRACTICES FOR GOVERNMENTAL UNITS IN RESPONDING TO REQUESTS FOR PUBLIC RECORDS UNDER THIS TITLE; AND**

(V) **RECOMMEND ANY IMPROVEMENTS TO THIS TITLE.**

(a) **(1)** A person may not:

[(1)] **(I)** willfully or knowingly violate any provision of this title;

[(2)] **(II)** fail to petition a court after temporarily denying inspection of a public record; or

[(3)] **(III)** by false pretenses, bribery, or theft, gain access to or obtain a copy of a personal record if disclosure of the personal record to the person is prohibited by this title.

[(b)] **(2)** A person who violates [any provision] **PARAGRAPH (1)** of this [section] **SUBSECTION** is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000.

(B) ~~(1)~~ A CUSTODIAN MAY NOT FAIL TO RESPOND TO A REQUEST FOR THE INSPECTION OF A PUBLIC RECORD WITHIN THE TIME LIMITS ESTABLISHED UNDER § 4-203(C)(1)(I) OF THIS TITLE UNLESS THE CUSTODIAN HAS REQUESTED:

(I) AN EXTENSION UNDER § 4-203(D) OF THIS TITLE; OR

(II) DISPUTE RESOLUTION UNDER § 4-1B-04 OF THIS TITLE.

~~**(2) — A CUSTODIAN WHO VIOLATES PARAGRAPH (1) OF THIS SUBSECTION MAY NOT CHARGE A FEE FOR RESPONDING TO THE REQUEST.**~~

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before July 1, 2021, the Office of the Attorney General shall allocate any additional staff members required to be assigned under § 4-1A-03(d)(2) of the General Provisions Article, as enacted by Section 1 of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2020.