

HOUSE BILL 395

P1, P3

2lr1923
CF SB 307

By: **Delegates Stewart, Boyce, Foley, Korman, Lehman, and Solomon**

Introduced and read first time: January 19, 2022

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Public Records – Retention and Inspection – Communications**
3 **(Transparency in Public Records Act of 2022)**

4 FOR the purpose of altering the definition of “public record” and defining “record” for the
5 purposes of the Public Information Act and the State records management program
6 to include certain written, electronic, and recorded audio or video communications;
7 defining “unit” for the purposes of the State records management program to include
8 the Office of the Governor; and generally relating to the retention and inspection of
9 public records.

10 BY repealing and reenacting, with amendments,
11 Article – General Provisions
12 Section 4–101
13 Annotated Code of Maryland
14 (2019 Replacement Volume and 2021 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – State Government
17 Section 10–608
18 Annotated Code of Maryland
19 (2021 Replacement Volume)

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

22 **Article – General Provisions**

23 4–101.

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) "Applicant" means a person or governmental unit that asks to inspect a public
2 record.

3 (c) "Board" means the State Public Information Act Compliance Board.

4 (d) "Custodian" means:

5 (1) the official custodian; or

6 (2) any other authorized individual who has physical custody and control
7 of a public record.

8 (e) "News media" means:

9 (1) newspapers;

10 (2) magazines;

11 (3) journals;

12 (4) press associations;

13 (5) news agencies;

14 (6) wire services;

15 (7) radio;

16 (8) television; and

17 (9) any printed, photographic, mechanical, or electronic means of
18 disseminating news and information to the public.

19 (f) "Official custodian" means an officer or employee of the State or of a political
20 subdivision who is responsible for keeping a public record, whether or not the officer or
21 employee has physical custody and control of the public record.

22 (g) "Person in interest" means:

23 (1) a person or governmental unit that is the subject of a public record or a
24 designee of the person or governmental unit;

25 (2) if the person has a legal disability, the parent or legal representative of
26 the person; or

1 (3) as to requests for correction of certificates of death under § 5–310(d)(2)
2 of the Health – General Article, the spouse, adult child, parent, adult sibling, grandparent,
3 or guardian of the person of the deceased at the time of the deceased’s death.

4 (h) (1) “Personal information” means information that identifies an individual.

5 (2) Except as provided in § 4–355 of this title, “personal information”
6 includes an individual’s:

7 (i) name;

8 (ii) address;

9 (iii) driver’s license number or any other identification number;

10 (iv) medical or disability information;

11 (v) photograph or computer-generated image;

12 (vi) Social Security number; and

13 (vii) telephone number.

14 (3) “Personal information” does not include an individual’s:

15 (i) driver’s status;

16 (ii) driving offenses;

17 (iii) five-digit zip code; or

18 (iv) information on vehicular accidents.

19 (i) “Police officer” has the meaning stated in § 3–201 of the Public Safety Article.

20 (j) “Political subdivision” means:

21 (1) a county;

22 (2) a municipal corporation;

23 (3) an unincorporated town;

24 (4) a school district; or

25 (5) a special district.

1 (k) (1) "Public record" means the original or any copy of any documentary
2 material that:

3 (i) is made by a unit or an instrumentality of the State or of a
4 political subdivision or received by the unit or instrumentality in connection with the
5 transaction of public business; and

6 (ii) is in any form, including:

- 7 1. a card;
- 8 2. a computerized record;
- 9 3. correspondence;
- 10 4. a drawing;
- 11 5. film or microfilm;
- 12 6. a form;
- 13 7. a map;
- 14 8. a photograph or photostat;
- 15 9. a recording; or
- 16 10. a tape.

17 (2) "Public record" includes:

18 (I) ANY WRITTEN, ELECTRONIC, OR RECORDED AUDIO OR
19 VIDEO COMMUNICATION MADE IN CONNECTION WITH THE TRANSACTION OF PUBLIC
20 BUSINESS:

21 1. MADE OR RECEIVED BY AN EMPLOYEE OF THE STATE
22 OR A POLITICAL SUBDIVISION; OR

23 2. MADE OR RECEIVED BY A PUBLIC OFFICIAL; OR

24 (II) a document that lists the salary of an employee of a unit or an
25 instrumentality of the State or of a political subdivision.

26 (3) "Public record" does not include a digital photographic image or
27 signature of an individual, or the actual stored data of the image or signature, recorded by
28 the Motor Vehicle Administration.

1 (l) “Technical infraction” means a minor rule violation by an individual solely
2 related to the enforcement of administrative rules that:

3 (1) does not involve an interaction between a member of the public and the
4 individual;

5 (2) does not relate to the individual’s investigative, enforcement, training,
6 supervision, or reporting responsibilities; and

7 (3) is not otherwise a matter of public concern.

8 Article – State Government

9 10–608.

10 (a) In this Part II of this subtitle the following words have the meanings
11 indicated.

12 (b) “Archives” means the State Archives.

13 (c) “Division” means the Records Management Division of the Department of
14 General Services.

15 (d) “Program” means a program for the management of the records of a unit of
16 the State government.

17 **(E) “RECORD” INCLUDES ANY WRITTEN, ELECTRONIC, OR RECORDED**
18 **AUDIO OR VIDEO COMMUNICATION MADE IN CONNECTION WITH THE TRANSACTION**
19 **OF PUBLIC BUSINESS:**

20 **(1) MADE OR RECEIVED BY AN EMPLOYEE OF THE STATE; OR**

21 **(2) MADE OR RECEIVED BY A PUBLIC OFFICIAL OF THE STATE.**

22 **[(e)] (F)** “Records officer” means any individual designated under § 10–610(b) of
23 this subtitle.

24 **(G) “UNIT” INCLUDES THE OFFICE OF THE GOVERNOR.**

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
26 1, 2022.