

SENATE BILL 753

P3, G2

3lr1752
CF 3lr1821

By: **Senator Folden**

Introduced and read first time: February 6, 2023

Assigned to: Education, Energy, and the Environment

A BILL ENTITLED

1 AN ACT concerning

2 **Public Information Act – Personnel Records of Elected Officials and Joint**
3 **Ethics Committee Records**

4 FOR the purpose of establishing that certain records of elected officials are not personnel
5 records for the purposes of inspection under the Public Information Act; establishing
6 that certain records of the State Ethics Commission and Joint Committee on
7 Legislative Ethics are available for public inspection under certain circumstances;
8 and generally relating to inspection of records of elected officials.

9 BY repealing and reenacting, without amendments,
10 Article – General Provisions
11 Section 4–101(a) and (l) and 5–101(a) and (u)
12 Annotated Code of Maryland
13 (2019 Replacement Volume and 2022 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article – General Provisions
16 Section 4–311, 5–407, and 5–517
17 Annotated Code of Maryland
18 (2019 Replacement Volume and 2022 Supplement)

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

21 **Article – General Provisions**

22 4–101.

23 (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 (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 4-311.

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

12 (b) A custodian shall allow inspection by:

13 (1) the person in interest;

14 (2) an elected or appointed official who supervises the work of the
15 individual; or

16 (3) an employee organization described in Title 6 of the Education Article
17 of the portion of the personnel record that contains the individual's:

18 (i) home address;

19 (ii) home telephone number; and

20 (iii) personal cell phone number.

21 (c) (1) Except as provided in paragraph (2) of this subsection, **THE**
22 **FOLLOWING RECORDS ARE NOT PERSONNEL RECORDS FOR THE PURPOSES OF THIS**
23 **SECTION:**

24 (I) a record relating to an administrative or criminal investigation
25 of misconduct by a police officer, including an internal affairs investigatory record, a
26 hearing record, and records relating to a disciplinary decision[, is not a personnel record
27 for purposes of this section]; **AND**

28 (II) **A RECORD RELATING TO AN ADMINISTRATIVE OR CRIMINAL**
29 **INVESTIGATION OF MISCONDUCT BY AN ELECTED OFFICIAL OR A PERSON**
30 **APPOINTED TO FILL AN ELECTED OFFICE.**

1 (2) A record of a technical infraction is a personnel record for the purposes
2 of this section.

3 5–101.

4 (a) In this title the following words have the meanings indicated unless:

5 (1) the context clearly requires a different meaning; or

6 (2) a different definition is adopted for a particular provision.

7 (u) “Joint Ethics Committee” means the Joint Committee on Legislative Ethics.

8 5–407.

9 (a) Notwithstanding any other law, and except as provided in subsections (b) and
10 (c) of this section, after a complaint is filed:

11 (1) the proceedings, meetings, and activities of the Ethics Commission and
12 its employees relating to the complaint are confidential; and

13 (2) information relating to the complaint, including the identity of the
14 complainant and respondent, may not be disclosed by:

15 (i) the Ethics Commission;

16 (ii) the staff of the Ethics Commission;

17 (iii) the complainant; or

18 (iv) the respondent.

19 (b) Except as provided in subsection (c) of this section, the restrictions in
20 subsection (a) of this section apply unless:

21 (1) the matter is referred for prosecution; **[or]**

22 (2) the Ethics Commission finds a violation of this title; **OR**

23 **(3) THE ETHICS COMMISSION HAS CLOSED THE COMPLAINT OR**
24 **INVESTIGATION.**

25 (c) (1) The Ethics Commission may release any information if the respondent
26 agrees in writing to the release.

27 (2) On request of the respondent, the Ethics Commission shall disclose the
28 identity of the complainant to the respondent.

1 5-517.

2 (a) Except as provided in subsections (b) and (c) of this section, any matter before
3 the Joint Ethics Committee, including information relating to any complaint, proceeding,
4 or record of the Joint Ethics Committee, shall remain confidential.

5 (b) Public access and inspection of an activity or a record of the Joint Ethics
6 Committee shall be available for:

7 (1) a disclosure or disclaimer of a conflict of interest form filed with the
8 Joint Ethics Committee;

9 (2) a portion of a meeting in which a disclosure or disclaimer form is
10 reviewed by the Joint Ethics Committee;

11 (3) information relating to a complaint, proceeding, or record of the Joint
12 Ethics Committee involving a member of the General Assembly:

13 (I) if consent to public access and inspection is granted by:

14 [(i)] 1. the member involved in the matter; or

15 [(ii)] 2. a three-fourths vote of the full membership of the Joint
16 Ethics Committee, based on criteria established by rule; **OR**

17 **(II) IF THE JOINT ETHICS COMMITTEE HAS CLOSED THE**
18 **COMPLAINT OR INVESTIGATION THAT IS THE SUBJECT OF THE RECORD;**

19 (4) a rule or broadly applicable opinion issued by the Joint Ethics
20 Committee; or

21 (5) any matter or record that is otherwise available for public access or
22 inspection as specifically authorized under this subtitle.

23 (c) (1) The Joint Ethics Committee shall provide a copy of a complaint alleging
24 a violation of the antiharassment policy and procedures and a notice of the Joint Ethics
25 Committee's action to the Human Resources Manager of the Department of Legislative
26 Services.

27 (2) For information received under paragraph (1) of this subsection, the
28 Human Resources Manager shall be subject to the confidentiality restrictions of subsections
29 (a) and (b) of this section.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2023.