

HOUSE BILL 1042

P1, P5, D1

EMERGENCY BILL

0lr1906

By: ~~Delegate Lafferty~~ Delegates Lafferty, Hammen, Pendergrass, Benson, Costa, Donoghue, Elliott, Hubbard, Jenkins, Kach, Kipke, Krebs, Kullen, McDonough, Montgomery, Morhaim, Nathan-Pulliam, Oaks, Pena-Melnyk, Reznik, Riley, Tarrant, and V. Turner

Introduced and read first time: February 15, 2010

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted with floor amendments

Read second time: March 23, 2010

CHAPTER _____

1 AN ACT concerning

2 **State Government – Disclosure of Personal Information on Websites**
3 **– Prohibition**

4 FOR the purpose of prohibiting, on or after a certain date, certain courts, the
5 Maryland General Assembly, and certain departments and units of the
6 Executive Branch of State government from publicly posting or displaying on
7 certain Internet websites certain personal information of an individual under
8 certain circumstances; authorizing certain persons to request that certain
9 official custodians mask certain personal information in the Internet version of
10 public records; requiring that certain requests be in a certain form; requiring
11 certain official custodians under certain circumstances to mask certain personal
12 information and provide certain notice within a certain period of time; providing
13 that certain provisions of this Act do not apply to public records after a certain
14 period; authorizing the State Archives to publish certain electronic or print
15 indices, records, descriptions, summaries, or original records; prohibiting
16 certain persons from submitting for recording certain deeds and other
17 recordable instruments that contain certain personal information; providing
18 that the inclusion of certain personal information does not affect the validity of
19 certain deeds or recordable instruments; providing that the masking of certain
20 personal information does not affect the validity of certain deeds and recordable
21 instruments; defining certain terms; making this Act an emergency measure;

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 providing for the application of this Act; and generally relating to prohibiting
 2 the posting or displaying of personal information on government websites.

3 BY adding to
 4 Article – Courts and Judicial Proceedings
 5 Section 1–205
 6 Annotated Code of Maryland
 7 (2006 Replacement Volume and 2009 Supplement)

8 BY adding to
 9 Article – State Government
 10 Section 2–1804 and 8–504
 11 Annotated Code of Maryland
 12 (2009 Replacement Volume)

13 BY repealing and reenacting, with amendments,
 14 Article – State Government
 15 Section 9–1009
 16 Annotated Code of Maryland
 17 (2009 Replacement Volume)

18 BY adding to
 19 Article – Real Property
 20 Section 3–111 and 4–101(c)
 21 Annotated Code of Maryland
 22 (2003 Replacement Volume and 2009 Supplement)

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

25 **Article – Courts and Judicial Proceedings**

26 **1–205.**

27 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
 28 **MEANINGS INDICATED.**

29 **(2) “COURT” MEANS THE COURT OF APPEALS, THE COURT OF**
 30 **SPECIAL APPEALS, A CIRCUIT COURT, THE DISTRICT COURT OF MARYLAND,**
 31 **AND AN ORPHANS’ COURT,~~AND THE MARYLAND TAX COURT.~~**

32 **(3) “PERSONAL INFORMATION” MEANS AN INDIVIDUAL’S:**

33 **(I) SOCIAL SECURITY NUMBER; OR**

34 **(II) DRIVER’S LICENSE NUMBER.**

1 **(3) “INDEPENDENT UNIT” MEANS A UNIT IN THE EXECUTIVE**
2 **BRANCH OF STATE GOVERNMENT THAT IS NOT IN A DEPARTMENT.**

3 **(4) “MASK” MEANS TO REDACT FROM PUBLIC VIEW THOSE**
4 **PORTIONS OF A PUBLIC RECORD THAT CONTAIN PERSONAL INFORMATION,**
5 **WITHOUT PERMANENTLY ALTERING THE ORIGINAL PUBLIC RECORD.**

6 **(5) “OFFICIAL CUSTODIAN” MEANS AN OFFICER OR EMPLOYEE**
7 **OF THE STATE WHO, WHETHER OR NOT THE OFFICER OR EMPLOYEE HAS**
8 **PHYSICAL CUSTODY AND CONTROL OF A PUBLIC RECORD, IS RESPONSIBLE FOR**
9 **KEEPING THE PUBLIC RECORD.**

10 **(6) “PERSON IN INTEREST” MEANS:**

11 **(I) AN INDIVIDUAL THAT IS THE SUBJECT OF PERSONAL**
12 **INFORMATION CONTAINED IN A PUBLIC RECORD OR A DESIGNEE OF THE**
13 **INDIVIDUAL; OR**

14 **(II) IF THE INDIVIDUAL HAS A LEGAL DISABILITY, THE**
15 **PARENT OR LEGAL REPRESENTATIVE OF THE INDIVIDUAL.**

16 **(7) “PERSONAL INFORMATION” MEANS AN INDIVIDUAL’S:**

17 **(I) SOCIAL SECURITY NUMBER; OR**

18 **(II) DRIVER’S LICENSE NUMBER.**

19 **(8) (I) “PUBLIC RECORD” MEANS THE ORIGINAL OR ANY COPY**
20 **OF ANY DOCUMENTARY MATERIAL THAT:**

21 **1. IS MADE BY A UNIT OR INSTRUMENTALITY OF THE**
22 **STATE GOVERNMENT OR RECEIVED BY THE UNIT IN CONNECTION WITH THE**
23 **TRANSACTION OF PUBLIC BUSINESS; AND**

24 **2. IS IN ANY FORM, INCLUDING:**

25 **A. A CARD;**

26 **B. A COMPUTERIZED RECORD;**

27 **C. CORRESPONDENCE;**

28 **D. A DRAWING;**

- 1 **E. FILM OR MICROFILM;**
2 **F. A FORM;**
3 **G. A MAP;**
4 **H. A PHOTOGRAPH OR PHOTOSTAT;**
5 **I. A RECORDING; OR**
6 **J. A TAPE.**

7 **(II) "PUBLIC RECORD" INCLUDES A DOCUMENT THAT LISTS**
8 **THE SALARY OF AN EMPLOYEE OF A UNIT OR INSTRUMENTALITY OF THE STATE**
9 **GOVERNMENT.**

10 **(III) "PUBLIC RECORD" DOES NOT INCLUDE A DIGITAL**
11 **PHOTOGRAPHIC IMAGE OR SIGNATURE OF AN INDIVIDUAL, OR THE ACTUAL**
12 **STORED DATA THEREOF, RECORDED BY THE MOTOR VEHICLE**
13 **ADMINISTRATION.**

14 **(4) (9) "PUBLICLY POST OR DISPLAY" MEANS TO**
15 **INTENTIONALLY COMMUNICATE OR OTHERWISE MAKE AVAILABLE TO THE**
16 **PUBLIC.**

17 **(B) A EXCEPT AS OTHERWISE PROVIDED BY LAW, ON OR AFTER JUNE 1,**
18 **2010, A DEPARTMENT OR AN INDEPENDENT UNIT, TO THE EXTENT**
19 **PRACTICABLE, MAY NOT PUBLICLY POST OR DISPLAY ON AN INTERNET WEBSITE**
20 **MAINTAINED OR PAID FOR BY THE DEPARTMENT OR INDEPENDENT UNIT AN**
21 **INDIVIDUAL'S PERSONAL INFORMATION.**

22 **(1) SOCIAL SECURITY NUMBER; OR**

23 **(2) DRIVER'S LICENSE NUMBER.**

24 **(C) (1) A PERSON IN INTEREST MAY REQUEST AN OFFICIAL**
25 **CUSTODIAN TO MASK PERSONAL INFORMATION IN THE INTERNET VERSION OF A**
26 **PUBLIC RECORD.**

27 **(2) A REQUEST MADE IN ACCORDANCE WITH THIS SUBSECTION**
28 **SHALL BE:**

29 **(I) BE IN WRITING; AND**

1 (II) PROVIDE AN ADEQUATE DESCRIPTION OF THE PUBLIC
2 RECORD INCLUDING A NAME AND ADDRESS OR TYPE AND LOCATION OF THE
3 PUBLIC RECORD.

4 (3) WITHIN 30 DAYS AFTER RECEIVING A REQUEST UNDER THIS
5 SECTION, AN OFFICIAL CUSTODIAN SHALL:

6 (I) MASK THE PERSONAL INFORMATION IN THE INTERNET
7 VERSION OF THE RECORD; AND

8 (II) GIVE THE PERSON IN INTEREST WRITTEN NOTICE OF
9 THE ACTION TAKEN.

10 (4) THIS SUBSECTION DOES NOT APPLY TO A PUBLIC RECORD
11 AFTER 72 YEARS FROM THE DATE IT WAS MADE OR RECEIVED BY A UNIT OR
12 INSTRUMENTALITY OF THE STATE GOVERNMENT.

13 9-1009.

14 (a) The Archives may:

15 (1) repair and preserve the records under the supervision of the State
16 Archivist, as provided in the State budget;

17 (2) make a copy of any record in the Archives; and

18 (3) certify the copy.

19 (B) THE ARCHIVES MAY PUBLISH, ELECTRONICALLY OR IN PRINT,
20 INDICES TO RECORDS, DESCRIPTIONS, SUMMARIES OF RECORD MATERIAL, OR
21 ORIGINAL RECORD MATERIAL, IN WHOLE OR IN PART, THAT ARE NOT
22 OTHERWISE RESTRICTED FROM ACCESS UNDER EXISTING LAW.

23 [(b)](C) The Archives shall index or provide other finding aids for:

24 (1) the historical records acquired under § 9-1010 of this subtitle; and

25 (2) the land records in its custody under § 9-1011 of this subtitle.

26 [(c)](D) (1) Except as provided in paragraph (2) of this subsection, the
27 Archives may charge a reasonable fee for providing a copy of a record and for
28 certifying the record.

29 (2) If, with the written approval of a judge of a circuit court, the clerk
30 of court asks for a copy of a land record that a court has transferred to the Commission

1 or Archives, the Archives shall provide, without charge, a micrographic copy of the
2 land record.

3 Article – Real Property

4 3-111.

5 (A) IN THIS SECTION, “PERSONAL INFORMATION” MEANS AN
6 INDIVIDUAL’S:

7 (1) SOCIAL SECURITY NUMBER; OR

8 (2) DRIVER’S LICENSE NUMBER.

9 (B) ON OR AFTER JUNE 1, 2010, A PERSON MAY NOT SUBMIT FOR
10 RECORDING A DEED OR OTHER RECORDABLE INSTRUMENT THAT CONTAINS
11 PERSONAL INFORMATION.

12 (C) IF A DEED OR OTHER RECORDABLE INSTRUMENT THAT CONTAINS
13 PERSONAL INFORMATION IS INADVERTENTLY RECORDED, THE INCLUSION OF
14 THE PERSONAL INFORMATION DOES NOT AFFECT THE VALIDITY OF THE
15 INSTRUMENT.

16 4-101.

17 (C) THE MASKING OF PERSONAL INFORMATION IN ACCORDANCE WITH §
18 8-504 OF THE STATE GOVERNMENT ARTICLE DOES NOT AFFECT THE VALIDITY
19 OF A DEED OR OTHER RECORDABLE INSTRUMENT.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
21 construed to apply only prospectively and may not be applied or interpreted to have
22 any effect on or application to any document, deed, or other material that was publicly
23 posted or displayed before June 1, 2010, unless a person in interest makes a request to
24 have personal information masked in accordance with this Act.

25 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act ~~shall take~~
26 ~~effect October 1, 2010~~ is an emergency measure, is necessary for the immediate
27 preservation of the public health or safety, has been passed by a ye and nay vote
28 supported by three-fifths of all the members elected to each of the two Houses of the
29 General Assembly, and shall take effect from the date it is enacted.