

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1042

(Delegate Lafferty, *et al.*)

Health and Government Operations

Judicial Proceedings

State Government - Disclosure of Personal Information on Websites - Prohibition

This emergency bill prohibits, to the extent practicable, a principal department or independent unit of the Executive Branch, the General Assembly, or a court from intentionally making available an individual's Social Security number or driver's license number on a web site that it maintains or otherwise pays for beginning June 1, 2010. In addition, a "person in interest" may request that an official custodian mask personal information in the Internet version of a public record.

Fiscal Summary

State Effect: The bill may result in a moderate additional operational burden for the Maryland State Archives or the Judiciary to make programming changes to certain information systems, respond to requests to mask personal information, or delete such information; however, it is expected that these activities can be handled with existing budgeted resources.

Local Effect: The bill is not anticipated to materially affect local operations or finances.

Small Business Effect: None.

Analysis

Bill Summary: The bill defines a "court" as the Court of Appeals, the Court of Special Appeals, a circuit court, the District Court of Maryland, or an orphans' court.

The bill defines a "person in interest" as an individual that is the subject of personal information contained in a public record, or a designee of the individual, or if the

individual has a legal disability, the parent or legal representative of the individual. An “official custodian” means an officer or employee of the State who is responsible for keeping a public record, notwithstanding physical custody of the record. A “public record” is defined by the bill as an original or copy of documentary material that is made by a unit or instrumentality of the State government or received by the unit in connection with the transaction of public business in any form including a card, computerized record, correspondence, drawing, film, microfilm, form, map, photograph, photostat, recording, or tape; a public record includes a document that lists a State employee’s salary but does not include a digital photographic image or signature of an individual, or the actual stored data, recorded by the Motor Vehicle Administration.

A person in interest that requests an official custodian to mask personal information must make the request in writing with the description, name, and address or the type and location of the public record. On request, the official custodian must mask the personal information and give the person in interest notice of the action taken within 30 days. However, a person may not make a request to mask a public record 72 years after the public record was made or received by a unit of the State government.

The bill prohibits, beginning June 1, 2010, a person from including personal information in a deed or other instrument intended for recording. In addition, a person engaged to perform or charged with the duty to record a deed or other recordable instrument that contains personal information may permanently delete personal information or request that the personal information be masked under the procedures established by the bill. A person who inadvertently records a deed or other instrument with personal information or deletes or masks personal information in accordance with the bill’s procedures is immune from civil liability or criminal penalty. If a deed or other recordable instrument with personal information is inadvertently recorded, the inclusion of the personal information does not affect the validity of the instrument. In addition, the masking of personal information under the bill does not affect the validity of a deed or other recordable instrument.

The Maryland State Archives is authorized to publish indices to records, descriptions, summaries of record material, or original record material that are not otherwise restricted from access under current law.

The bill states that it may only be construed to only apply prospectively and has no effect on or application to any document, deed, or other material that was publicly posted or displayed before June 1, 2010, except for a request to have personal information masked.

Current Law: Individuals, corporations, business trusts, estate trusts, partnerships, associations, and other commercial entities are prohibited from publicly posting or

displaying an individual's Social Security number. State and local governments are exempt from this provision of the Commercial Law Article.

Background: A recently created project developed by the Judiciary and the Maryland State Archives provides online access to about 170 million pages of Maryland Land Record documents. While Social Security numbers, driver's license numbers, and other information regarding a person's identity are not required to be recorded with land record documents and are not commonly found on the documents, some have been found to contain identity information, particularly Social Security numbers hand-written by the clerks of land record offices at the time of recordation.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Anne Arundel Circuit Court, Department of Budget and Management, Maryland State Archives, Comptroller's Office, Judiciary (Administrative Office of the Courts), Maryland Tax Court, Maryland Department of Transportation, Department of Legislative Services

Fiscal Note History: First Reader - March 8, 2010
ncs/mcr Revised - House Third Reader - April 6, 2010
Revised - Enrolled Bill - April 27, 2010

Analysis by: Evan M. Isaacson

Direct Inquiries to:
(410) 946-5510
(301) 970-5510