



House Bill 402

Public Information Act – Personnel and Investigatory Records – Formal Complaints Against Public Employees

MACo Position: **OPPOSE**

To: Health and Government Operations Committee

Date: February 24, 2016

From: Leslie Knapp, Jr.

The Maryland Association of Counties (MACo) **OPPOSES** HB 402. While well-intentioned, the bill would upset the reasoned and longstanding practice of the Maryland Public Information Act (PIA) to protect the details of sensitive internal investigations regarding employees and personnel.

HB 402 would expand the definition of “person in interest” to include the complainant for requests for records related to a formal complaint made against a governmental unit or an employee of a governmental unit. The bill also states that records relating to a formal complaint of job-related misconduct against a public employee may not be considered personnel records. Finally, the bill provides that records of an investigation, hearing, or decision by a governmental unit connected with a complaint of job-related misconduct made against a public employee are subject to a discretionary denial as opposed to a mandatory denial.

While MACo appreciates the intent behind this bill, MACo is concerned that the bill’s effects would have significant repercussions far beyond addressing any perceived effects of the Maryland Court of Appeals decision in *Maryland State Police v. Dashiell* (opinion published June 25, 2015). The Court in *Dashiell* went to great effort to highlight the sensitive nature of these internal records and the long established and justified precedent of shielding the specifics of such an investigation under the PIA.

County government employees are subject to numerous complaints, sometimes unfounded, and access to such information could lead to abuse by disgruntled citizens. Proper venues already exist for a citizen who wishes to pursue a remedy beyond an internal agency review – the courts or various quasi-judicial bodies such as the Maryland Commission on Civil Rights. Furthermore, the bill’s provisions would become a convenient method of avoiding discovery in a litigation context.

HB 402 would upset a longstanding precedent regarding the protection of sensitive internal personnel records of all kinds of governmental employees. Accordingly, MACo urges the Committee to give HB 402 an **UNFAVORABLE** report.