

# HOUSE BILL 1241

P3  
HB 492/16 – HGO

7lr2835

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By: **Delegates Saab, Aumann, Cluster, S. Howard, Jacobs, Krebs, Malone, McComas, McConkey, W. Miller, Morgan, and Simonaire**

Introduced and read first time: February 10, 2017

Assigned to: Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Public Bodies – Use and Retention of E-Mail – Requirements**

3 FOR the purpose of prohibiting an employee of a public body from creating or maintaining  
4 government e-mail by using a personal e-mail account; requiring an employee of a  
5 public body, under certain circumstances, to forward government e-mail to the  
6 official e-mail account of the employee within a certain time period; requiring each  
7 public body to retain government e-mail for at least a certain period of time;  
8 requiring the State Archivist to adopt certain regulations; providing for the  
9 construction of a certain provision of this Act; defining certain terms; and generally  
10 relating to the use and retention of e-mail by public bodies.

11 BY adding to

12 Article – General Provisions

13 Section 4.5–101 through 4.5–103 to be under the new title “Title 4.5. E-Mail Use and  
14 Retention”

15 Annotated Code of Maryland

16 (2014 Volume and 2016 Supplement)

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

19 **Article – General Provisions**

20 **TITLE 4.5. E-MAIL USE AND RETENTION.**

21 **4.5–101.**

22 **(A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS**  
23 **INDICATED.**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(B) (1) “GOVERNMENT E-MAIL” MEANS ELECTRONIC MAIL, INCLUDING METADATA, SENT OR RECEIVED BY A PUBLIC BODY IN ACCORDANCE WITH LAW OR IN CONNECTION WITH THE TRANSACTION OF PUBLIC BUSINESS.

(2) “GOVERNMENT E-MAIL” INCLUDES ELECTRONIC MAIL SENT OR RECEIVED BY A PUBLIC BODY THAT:

(I) CONTAINS EVIDENCE OF THE PUBLIC BODY’S ORGANIZATION, FUNCTIONS, POLICIES, DECISIONS, PROCEDURES, OPERATIONS, OR OTHER ACTIVITIES; OR

(II) IS RELEVANT AND USEFUL TO THE EXECUTION AND IMPLEMENTATION OF THE ONGOING WORK OF THE PUBLIC BODY.

(C) “OFFICIAL E-MAIL ACCOUNT” MEANS AN ELECTRONIC MAIL ADDRESS AND ACCOMPANYING ACCOUNT ON ANY COMPUTER NETWORK CONFIGURED TO SEND ELECTRONIC MAIL, RECEIVE ELECTRONIC MAIL, OR BOTH, THAT IS PROVIDED TO AN EMPLOYEE OF A PUBLIC BODY BY THE PUBLIC BODY.

(D) “PERSONAL E-MAIL ACCOUNT” MEANS AN ELECTRONIC MAIL ADDRESS AND ACCOMPANYING ACCOUNT ON ANY COMPUTER NETWORK CONFIGURED TO SEND ELECTRONIC MAIL, RECEIVE ELECTRONIC MAIL, OR BOTH, THAT IS NOT PROVIDED TO AN EMPLOYEE OF A PUBLIC BODY BY THE PUBLIC BODY.

(E) “PUBLIC BODY” HAS THE MEANING STATED IN § 3-101 OF THIS ARTICLE.

4.5-102.

(A) AN EMPLOYEE OF A PUBLIC BODY MAY NOT CREATE OR MAINTAIN GOVERNMENT E-MAIL BY USING A PERSONAL E-MAIL ACCOUNT.

(B) IF GOVERNMENT E-MAIL IS SENT FROM A THIRD PARTY TO A PERSONAL E-MAIL ACCOUNT OF AN EMPLOYEE OF A PUBLIC BODY, THE EMPLOYEE SHALL FORWARD THE GOVERNMENT E-MAIL TO THE OFFICIAL E-MAIL ACCOUNT OF THE EMPLOYEE WITHIN 5 DAYS AFTER THE GOVERNMENT E-MAIL IS RECEIVED.

4.5-103.

(A) THIS SECTION MAY NOT BE CONSTRUED TO AUTHORIZE AN EMPLOYEE OF A PUBLIC BODY TO DELETE GOVERNMENT E-MAIL THAT IS:

1           **(1) REQUIRED TO BE RETAINED LONGER UNDER ANOTHER**  
2 **PROVISION OF LAW THAN THE PERIOD REQUIRED UNDER SUBSECTION (B) OF THIS**  
3 **SECTION; OR**

4           **(2) THE SUBJECT OF:**

5                   **(I) A PUBLIC INFORMATION REQUEST MADE UNDER TITLE 4 OF**  
6 **THIS ARTICLE;**

7                   **(II) AN OPEN MEETINGS ACT COMPLAINT FILED UNDER § 3-205**  
8 **OF THIS ARTICLE;**

9                   **(III) A RECORDS RETENTION SCHEDULE; OR**

10                   **(IV) ANY OBLIGATION TO PRESERVE RECORDS RELATING TO**  
11 **ANTICIPATED OR FILED LITIGATION.**

12           **(B) EACH PUBLIC BODY SHALL RETAIN GOVERNMENT E-MAIL FOR AT LEAST**  
13 **1 YEAR.**

14           **(C) THE STATE ARCHIVIST SHALL ADOPT REGULATIONS GOVERNING**  
15 **WHICH EMPLOYEES ARE SENIOR EMPLOYEES FOR THE PURPOSES OF SUBSECTION**  
16 **(B) OF THIS SECTION.**

17           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
18 October 1, 2017.