

requirement upon the executive, judicial and legislative branches of State and local government record-keeping. At the very least, if this bill is approved, it will no longer be legally permissible to maintain records containing information about persons unless that information is both necessary and relevant to accomplish a purpose of the agency which is required to be accomplished by statute or executive order. Thus, for example, agencies could no longer lawfully keep records which are merely "helpful and relevant" to accomplish a purpose of the agency.

As further amended in the Senate, House bill 462 would create a new Section 5 (A) (1) of Article 76A which would provide:

"except in cases of temporary denials under section 3(E) of this subtitle any applicant denied the right to inspect public records where the official custodian of the records is an agency subject to the provisions of subtitle 24 of Article 41 of this Code may ask for an administrative review of this decision in accordance with Sections 251 through 254 of Article 41 of this Code."

Question has arisen over whether the administrative hearing available under Article 41, §§251-254, would constitute an administrative remedy which would have to be exhausted before recourse to the courts in the cases in which new Section 5(A) (1) would make that remedy available. 1

We believe that such an administrative hearing, if available, would be held to be an administrative remedy which must be exhausted. When it is within the expertise of an administrative agency to hear and consider evidence brought before it and to make findings as to the propriety of administrative actions or inactions, the Court of Appeals has held that the judicial branch would be performing a function that the Legislature specified be done by an administrative agency and that the courts might be called upon prematurely to decide issues which would never arise in the judicial branch if prescribed administrative remedies were followed; consequently, if a statute provides a specific form of legislative remedy in a specific case, that remedy must be followed. Gingell v. Prince George's County, 249 Md. 374 (1968).

The question has arisen whether, in cases in which the administrative remedy is exhausted, and the applicant seeks judicial review thereof, he must do so under the judicial review provisions of the Administrative Procedure Act or may institute an original action under the provisions of the Public Information Act.