

# HOUSE BILL 947

P3, E4

6lr2579  
CF SB 930

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By: ~~Delegate Sydnor~~ **Delegates Sydnor and Conaway**

Introduced and read first time: February 10, 2016

Assigned to: Judiciary

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 17, 2016

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Public Information Act – Inspection of Records From Body–Worn Digital**  
3 **Recording Devices**

4 FOR the purpose of requiring, except under certain circumstances, a custodian of records  
5 to deny inspection of the part of a recording from a certain body–worn digital  
6 recording device worn by a law enforcement officer regarding certain ~~incidents~~  
7 individuals; requiring certain notification of certain individuals under certain  
8 circumstances; requiring the Attorney General to adopt certain regulations in  
9 consultation with certain groups; requiring a custodian of records to allow inspection  
10 of a recording from a certain body–worn digital recording device worn by a law  
11 enforcement officer by certain individuals; prohibiting a custodian of records from  
12 allowing copying of records from a certain body–worn digital recording device worn  
13 by a law enforcement officer by certain individuals; providing for the construction of  
14 this Act; defining a certain term; and generally relating to the inspection of  
15 recordings from body–worn digital recording devices worn by law enforcement  
16 officers.

17 BY repealing and reenacting, with amendments,

18 Article – General Provisions

19 Section 4–101

20 Annotated Code of Maryland

21 (2014 Volume and 2015 Supplement)

22 BY adding to

23 Article – General Provisions

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### 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 Section 4–356  
2 Annotated Code of Maryland  
3 (2014 Volume and 2015 Supplement)

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

6 **Article – General Provisions**

7 4–101.

8 (a) In this title the following words have the meanings indicated.

9 (b) “Applicant” means a person or governmental unit that asks to inspect a public  
10 record.

11 (c) “Board” means the State Public Information Act Compliance Board.

12 **(D) “BODY–WORN DIGITAL RECORDING DEVICE” MEANS A DEVICE WORN ON**  
13 **THE PERSON OF A LAW ENFORCEMENT OFFICER THAT IS CAPABLE OF RECORDING**  
14 **VIDEO AND INTERCEPTING ORAL COMMUNICATIONS.**

15 **[(d)] (E)** “Custodian” means:

16 (1) the official custodian; or

17 (2) any other authorized individual who has physical custody and control  
18 of a public record.

19 **[(e)] (F)** “News media” means:

20 (1) newspapers;

21 (2) magazines;

22 (3) journals;

23 (4) press associations;

24 (5) news agencies;

25 (6) wire services;

26 (7) radio;

27 (8) television; and

1 (9) any printed, photographic, mechanical, or electronic means of  
2 disseminating news and information to the public.

3 **[(f)] (G)** “Official custodian” means an officer or employee of the State or of a  
4 political subdivision who is responsible for keeping a public record, whether or not the  
5 officer or employee has physical custody and control of the public record.

6 **[(g)] (H)** “Person in interest” means:

7 (1) a person or governmental unit that is the subject of a public record or a  
8 designee of the person or governmental unit;

9 (2) if the person has a legal disability, the parent or legal representative of  
10 the person; or

11 (3) as to requests for correction of certificates of death under § 5–310(d)(2)  
12 of the Health – General Article, the spouse, adult child, parent, adult sibling, grandparent,  
13 or guardian of the person of the deceased at the time of the deceased’s death.

14 **[(h)] (I)** (1) “Personal information” means information that identifies an  
15 individual.

16 (2) Except as provided in § 4–355 of this title, “personal information”  
17 includes an individual’s:

18 (i) name;

19 (ii) address;

20 (iii) driver’s license number or any other identification number;

21 (iv) medical or disability information;

22 (v) photograph or computer-generated image;

23 (vi) Social Security number; and

24 (vii) telephone number.

25 (3) “Personal information” does not include an individual’s:

26 (i) driver’s status;

27 (ii) driving offenses;

28 (iii) five-digit zip code; or

1 (iv) information on vehicular accidents.

2 **[(i)] (J)** “Political subdivision” means:

- 3 (1) a county;
- 4 (2) a municipal corporation;
- 5 (3) an unincorporated town;
- 6 (4) a school district; or
- 7 (5) a special district.

8 **[(j)] (K)** (1) “Public record” means the original or any copy of any  
9 documentary material that:

10 (i) is made by a unit or an instrumentality of the State or of a  
11 political subdivision or received by the unit or instrumentality in connection with the  
12 transaction of public business; and

13 (ii) is in any form, including:

- 14 1. a card;
- 15 2. a computerized record;
- 16 3. correspondence;
- 17 4. a drawing;
- 18 5. film or microfilm;
- 19 6. a form;
- 20 7. a map;
- 21 8. a photograph or photostat;
- 22 9. a recording; or
- 23 10. a tape.

24 (2) “Public record” includes a document that lists the salary of an employee  
25 of a unit or an instrumentality of the State or of a political subdivision.

1 (3) "Public record" does not include a digital photographic image or  
2 signature of an individual, or the actual stored data of the image or signature, recorded by  
3 the Motor Vehicle Administration.

4 **4-356.**

5 (A) (1) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A  
6 CUSTODIAN SHALL DENY INSPECTION OF THAT PART OF A RECORDING FROM A  
7 BODY-WORN DIGITAL RECORDING DEVICE REGARDING AN INCIDENT THAT:

8 ~~(1)~~ (I) ~~INVOLVES~~ DEPICTS A VICTIM OR INFORMATION THAT  
9 COULD IDENTIFY A VICTIM OF DOMESTIC VIOLENCE, AS DEFINED IN § 4-701 OF THE  
10 FAMILY LAW ARTICLE;

11 ~~(2)~~ (II) ~~INVOLVES~~ DEPICTS A VICTIM OR INFORMATION THAT  
12 COULD IDENTIFY A VICTIM OF A VIOLATION OF TITLE 3, SUBTITLE 3 OF THE  
13 CRIMINAL LAW ARTICLE;

14 ~~(3)~~ (III) ~~INVOLVES~~ DEPICTS A VICTIM OR INFORMATION THAT  
15 COULD IDENTIFY A VICTIM OF, EXCEPT FOR A VIOLATION OF § ~~3-603~~ 3-607 OF THE  
16 CRIMINAL LAW ARTICLE WHERE THE VICTIM IS AN ADULT, A VIOLATION OF TITLE  
17 3, SUBTITLE 6 OF THE CRIMINAL LAW ARTICLE; OR

18 ~~(4)~~ (IV) DOES NOT RESULT IN:

19 ~~(1)~~ 1. THE ARREST, ATTEMPTED ARREST, TEMPORARY  
20 DETENTION, ATTEMPTED TEMPORARY DETENTION, SEARCH, ATTEMPTED SEARCH,  
21 CITATION, DEATH, OR INJURY OF AN INDIVIDUAL; OR

22 ~~(2)~~ 2. THE USE OF FORCE AGAINST AN INDIVIDUAL; OR

23 3. A COMPLAINT OR ALLEGATION OF OFFICER  
24 MISCONDUCT MADE AGAINST ANY LAW ENFORCEMENT OFFICER INVOLVED IN THE  
25 INCIDENT.

26 (2) A CUSTODIAN SHALL DENY INSPECTION OF RECORDS AS  
27 REQUIRED BY THIS SUBSECTION REGARDLESS OF A SUBSEQUENT ACTION TAKEN BY  
28 LAW ENFORCEMENT OR A COURT RESULTING FROM THE INCIDENT RECORDED.

29 (3) THIS SECTION MAY NOT BE CONSTRUED TO AFFECT THE  
30 DISCOVERY OR EVIDENTIARY RIGHTS OF A PARTY TO A CIVIL SUIT OR CRIMINAL  
31 PROSECUTION.

1           **(4) (I) A VICTIM WHO IS THE SUBJECT OF A RECORD THAT IS**  
2 **DENIED INSPECTION UNDER THIS SECTION SHALL BE NOTIFIED OF ALL REQUESTS**  
3 **TO INSPECT THE RECORD.**

4           **(II) THE ATTORNEY GENERAL, IN CONSULTATION WITH THE**  
5 **MARYLAND ASSOCIATION OF COUNTIES, THE MARYLAND MUNICIPAL LEAGUE,**  
6 **LAW ENFORCEMENT AGENCIES, THE PRESS, AND OTHER STAKEHOLDERS, SHALL**  
7 **ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS PARAGRAPH.**

8           **(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A CUSTODIAN**  
9 **SHALL ALLOW INSPECTION OF A RECORDING FROM A BODY-WORN DIGITAL**  
10 **RECORDING DEVICE BY:**

11           **(I) AN INDIVIDUAL WHO IS A SUBJECT IN THE RECORDING AND**  
12 **IS DIRECTLY INVOLVED IN THE INCIDENT THAT PROMPTED THE RECORDING;**

13           **(II) IF AN INDIVIDUAL DESCRIBED IN ITEM (I) OF THIS**  
14 **PARAGRAPH IS A MINOR, THE INDIVIDUAL'S PARENT OR LEGAL GUARDIAN; ~~OR~~**

15           **(III) IF THE INDIVIDUAL DESCRIBED IN ITEM (I) OF THIS**  
16 **PARAGRAPH IS DECEASED OR UNABLE TO REQUEST THE RECORDING DUE TO**  
17 **INJURY, THE INDIVIDUAL'S PARENT, LEGAL GUARDIAN, SPOUSE, ADULT CHILD,**  
18 **NEXT OF KIN, OR A REPRESENTATIVE OF THE INDIVIDUAL'S ESTATE; OR**

19           **(IV) IF AN INDIVIDUAL DESCRIBED IN ITEM (I) OF THIS**  
20 **PARAGRAPH IS AN INCAPACITATED PERSON, AS DEFINED BY § 13.5-101 OF THE**  
21 **ESTATES AND TRUSTS ARTICLE, THE INDIVIDUAL'S GUARDIAN OR AGENT.**

22           **(2) A CUSTODIAN MAY NOT ALLOW COPYING OF A RECORDING FROM**  
23 **A BODY-WORN DIGITAL RECORDING DEVICE BY AN INDIVIDUAL WHO:**

24           **(I) IS ALLOWED TO INSPECT THE RECORDING UNDER**  
25 **PARAGRAPH (1) OF THIS SUBSECTION; AND**

26           **(II) IS UNDER INVESTIGATION FOR, ~~OR~~ CHARGED WITH,**  
27 **RECEIVED PROBATION BEFORE JUDGMENT FOR, IS SUBJECT TO A PEACE OR**  
28 **PROTECTIVE ORDER AS A RESULT OF, PLEADED NOLO CONTENDERE TO, PLEADED**  
29 **GUILTY TO, OR HAS BEEN FOUND GUILTY OF A VIOLATION DESCRIBED IN**  
30 **SUBSECTION (A) OF THIS SECTION, IF THE RECORDING IS OF THE INCIDENT LEADING**  
31 **TO THE INVESTIGATION, PROBATION BEFORE JUDGMENT, ORDER, CHARGE, PLEA,**  
32 **OR VERDICT.**

1            (C) A CUSTODIAN SHALL ALLOW INSPECTION OF RECORDS FROM A  
2 BODY-WORN DIGITAL RECORDING DEVICE NOT OTHERWISE PROHIBITED UNDER  
3 THIS TITLE.

4            SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
5 October 1, 2016.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.