SENATE BILL 930

By: Senators Ferguson and Bates
Introduced and read first time: February 5, 2016
Assigned to: Judicial Proceedings

A BILL ENTITLED

AN ACT concerning

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

FOR the purpose of requiring, except under certain circumstances, a custodian of records to deny inspection of the part of a recording from a certain body–worn digital recording device worn by a law enforcement officer regarding certain incidents; requiring a custodian of records to allow inspection of a recording from a certain body–worn digital recording device worn by a law enforcement officer by certain individuals; prohibiting a custodian of records from allowing copying of records from a certain body–worn digital recording device worn by a law enforcement officer by certain individuals; defining a certain term; and generally relating to the inspection of recordings from body–worn digital recording devices worn by law enforcement officers.

BY repealing and reenacting, with amendments,

Article – General Provisions
Section 4–101
Annotated Code of Maryland
(2014 Volume and 2015 Supplement)

BY adding to

Article – General Provisions
Section 4–356
Annotated Code of Maryland
(2014 Volume and 2015 Supplement)

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

Article – General Provisions

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
(a) In this title the following words have the meanings indicated.

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

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

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

[(d)] (E) “Custodian” means:

(1) the official custodian; or

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

[(e)] (F) “News media” means:

(1) newspapers;

(2) magazines;

(3) journals;

(4) press associations;

(5) news agencies;

(6) wire services;

(7) radio;

(8) television; and

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

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

[(g)] (H) “Person in interest” means:
(1) a person or governmental unit that is the subject of a public record or a designee of the person or governmental unit;

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

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

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

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

(i) name;

(ii) address;

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

(iv) medical or disability information;

(v) photograph or computer–generated image;

(vi) Social Security number; and

(vii) telephone number.

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

(i) driver’s status;

(ii) driving offenses;

(iii) five–digit zip code; or

(iv) information on vehicular accidents.

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

(1) a county;

(2) a municipal corporation;
(3) an unincorporated town;

(4) a school district; or

(5) a special district.

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

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

(ii) is in any form, including:

1. a card;

2. a computerized record;

3. correspondence;

4. a drawing;

5. film or microfilm;

6. a form;

7. a map;

8. a photograph or photostat;

9. a recording; or

10. a tape.

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

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

4–356.
(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A CUSTODIAN SHALL DENY INSPECTION OF THAT PART OF A RECORDING FROM A BODY–WORN DIGITAL RECORDING DEVICE REGARDING AN INCIDENT THAT:

(1) INVOLVES DOMESTIC VIOLENCE, AS DEFINED IN § 4–701 OF THE FAMILY LAW ARTICLE;

(2) INVOLVES A VIOLATION OF TITLE 3, SUBTITLE 3 OF THE CRIMINAL LAW ARTICLE;

(3) INVOLVES, EXCEPT FOR A VIOLATION OF § 3–603 OF THE CRIMINAL LAW ARTICLE WHERE THE VICTIM IS AN ADULT, A VIOLATION OF TITLE 3, SUBTITLE 6 OF THE CRIMINAL LAW ARTICLE; OR

(4) DOES NOT RESULT IN:

(I) THE ARREST, TEMPORARY DETENTION, DEATH, OR INJURY OF AN INDIVIDUAL; OR

(II) A COMPLAINT OF OFFICER MISCONDUCT MADE AGAINST ANY LAW ENFORCEMENT OFFICER INVOLVED IN THE INCIDENT.

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

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

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

(III) IF AN INDIVIDUAL DESCRIBED IN ITEM (I) OF THIS PARAGRAPH IS AN INCAPACITATED PERSON, AS DEFINED BY § 13.5–101 OF THE ESTATES AND TRUSTS ARTICLE, THE INDIVIDUAL’S GUARDIAN OR AGENT.

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

(I) IS ALLOWED TO INSPECT THE RECORDING UNDER PARAGRAPH (1) OF THIS SUBSECTION; AND
(II) IS UNDER INVESTIGATION FOR, OR CHARGED WITH,
PLEADED NOLO CONTENDERE TO, PLEADED GUILTY TO, OR HAS BEEN FOUND
GUilty OF A VIOLATION DESCRIBED IN SUBSECTION (A) OF THIS SECTION.

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