

SENATE BILL 899

E4

0lr2609
CF HB 239

By: **Senator Smith**

Introduced and read first time: February 3, 2020

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 21, 2020

CHAPTER _____

1 AN ACT concerning

2 **Maryland Police Training and Standards Commission – Body–Worn Camera**
3 **Policy**

4 FOR the purpose of altering a certain provision of law relating to the interception of an oral
5 communication by a law enforcement officer using a body–worn digital recording
6 device or electronic control device; requiring a certain policy developed and published
7 by the Maryland Police Training and Standards Commission to address the use of a
8 body–worn camera by a certain off–duty law enforcement officer under certain
9 circumstances; repealing a certain obsolete reference; and generally relating to law
10 enforcement officers and body–worn cameras.

11 BY repealing and reenacting, with amendments,
12 Article – Courts and Judicial Proceedings
13 Section 10–402(c)(11)
14 Annotated Code of Maryland
15 (2013 Replacement Volume and 2019 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – Public Safety
18 Section 3–511
19 Annotated Code of Maryland
20 (2018 Replacement Volume and 2019 Supplement)

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

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 Article – Courts and Judicial Proceedings

2 10–402.

3 (c) (11) (i) 1. In this paragraph the following words have the meanings
4 indicated.

5 2. “Body–worn digital recording device” means a device worn
6 on the person of a law enforcement officer that is capable of recording video and intercepting
7 oral communications.

8 3. “Electronic control device” has the meaning stated in §
9 4–109 of the Criminal Law Article.

10 (ii) It is lawful under this subtitle for a law enforcement officer in
11 the course of the officer’s regular duty OR SECONDARY EMPLOYMENT to intercept an oral
12 communication with a body–worn digital recording device or an electronic control device
13 capable of recording video and oral communications if:

14 1. The law enforcement officer is in uniform or prominently
15 displaying the officer’s badge or other insignia;

16 2. The law enforcement officer is making reasonable efforts
17 to conform to standards in accordance with § 3–511 of the Public Safety Article for the use
18 of body–worn digital recording devices or electronic control devices capable of recording
19 video and oral communications;

20 3. The law enforcement officer is a party to the oral
21 communication;

22 4. Law enforcement notifies, as soon as is practicable, the
23 individual that the individual is being recorded, unless it is unsafe, impractical, or
24 impossible to do so; and

25 5. The oral interception is being made as part of a videotape
26 or digital recording.

27 (iii) Failure to notify under subparagraph (ii)4 of this paragraph does
28 not affect the admissibility in court of the recording if the failure to notify involved an
29 individual who joined a discussion in progress for which proper notification was previously
30 given.

31 Article – Public Safety

32 3–511.

1 [On or before January 1, 2016, the] **THE** Maryland Police Training and Standards
2 Commission shall develop and publish online a policy for the issuance and use of a
3 body-worn camera by a law enforcement officer that addresses:

4 (1) the testing of body-worn cameras to ensure adequate functioning;

5 (2) the procedure for the law enforcement officer to follow if the camera
6 fails to properly operate at the beginning of or during the law enforcement officer's shift;

7 (3) when recording is mandatory;

8 (4) when recording is prohibited;

9 (5) when recording is discretionary;

10 (6) when recording may require consent of a subject being recorded;

11 (7) when a recording may be ended;

12 (8) providing notice of recording;

13 (9) access to and confidentiality of recordings;

14 (10) the secure storage of data from a body-worn camera;

15 (11) review and use of recordings;

16 (12) retention of recordings;

17 (13) dissemination and release of recordings;

18 (14) consequences for violations of the agency's body-worn camera policy;

19 **(15) THE USE OF A BODY-WORN CAMERA BY AN OFF-DUTY LAW**
20 **ENFORCEMENT OFFICER AUTHORIZED OR APPROVED BY A LAW ENFORCEMENT**
21 **AGENCY TO WORK SECONDARY EMPLOYMENT WHO IS:**

22 **(I) IN THE UNIFORM OF THE AGENCY; OR**

23 **(II) CARRYING OR POSSESSING A FIREARM AS A PART OF THE**
24 **OFFICER'S OFFICIAL DUTIES;**

25 **[(15)] (16)** notification requirements when another individual becomes a
26 party to the communication following the initial notification;

1 [(16)] (17) specific protections for individuals when there is an expectation
2 of privacy in private or public places; and

3 [(17)] (18) any additional issues determined to be relevant in the
4 implementation and use of body-worn cameras by law enforcement officers.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2020.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.