HOUSE BILL 533

D1, E4, E1

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EMERGENCY BILL ENROLLED BILL

(5lr2268)

— Judiciary/Judicial Proceedings —

Introduced by Delegates Sydnor, Anderson, Bromwell, Brooks, Cluster, Haynes, Jalisi, Lam, McCray, Moon, Morales, Smith, Stein, Vallario, A. Washington, C. Wilson, and P. Young P. Young, Conaway, Carr, Korman, Waldstreicher, Kittleman, and B. Wilson

Read and Examined by Proofreaders:

	-				Proofre	ader.
					Proofre	ader.
Sealed with the Great Seal and	presented	to the	Governor,	for his	approval	this
day of	at			_ o'clock	<u> </u>	M.
					Spe	aker.
	CHAPTER					
AN ACT concerning						
Wiretapping and Electronic S						
<u>Officers</u> – Body–Worn Digital Re	ecording D Except		nd Electro	onic Con	trol Devi	ice –
FOR the purpose of establishing that enforcement officer to interced under certain circumstances; and develop and publish a certain Implementation and Use of B for the composition, chair, and the Commission from recedered reimbursement of certain exp	pt a certair requiring th n policy; es Body Camer d staffing o viving certe	n oral con ne Maryl stablishin as by La f the Con ain con	mmunication and Police and Police and the Constant Enforced mission; and the constant and t	on with a Training of the second seco	certain d Commissa Regardin cers; prov g a memb thorizing	evice on to g the iding ber of the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

<u>Underlining</u> indicates amendments to bill.

Strike out indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



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1 2 3 4 5 6 7	recommendations regarding the use of body cameras by a law enforcement officer; requiring the Commission to report its findings and recommendations to the Maryland Police Training Commission and the General Assembly on or before a certain date; providing that a certain jurisdiction is not subject to certain provisions of law for a certain period under certain circumstances; making this Act an emergency measure; providing for the termination of a certain provision of this Act; defining certain terms; and generally relating to the interception of oral communications.		
8 9 10 11 12	BY adding to Article – Courts and Judicial Proceedings Section 10–402(c)(11) Annotated Code of Maryland (2013 Replacement Volume and 2014 Supplement)		
13 14 15 16 17	BY adding to Article - Public Safety Section 3-510 Annotated Code of Maryland (2011 Replacement Volume and 2014 Supplement)		
18 19	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:		
20	Article - Courts and Judicial Proceedings		
21	10–402.		
22 23	(c) (11) (I) 1. IN THIS PARAGRAPH THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.		
24 25 26	2. "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.		
27 28	3. "ELECTRONIC CONTROL DEVICE" HAS THE MEANING STATED IN § 4–109 OF THE CRIMINAL LAW ARTICLE.		
29 30 31 32 33	(II) IT IS LAWFUL UNDER THIS SUBTITLE FOR A LAW ENFORCEMENT OFFICER IN THE COURSE OF THE OFFICER'S REGULAR DUTY TO INTERCEPT AN ORAL COMMUNICATION WITH A BODY-WORN DIGITAL RECORDING DEVICE OR AN ELECTRONIC CONTROL DEVICE CAPABLE OF RECORDING VIDEO AND ORAL COMMUNICATIONS IF:		

PROMINENTLY DISPLAYING THE OFFICER'S BADGE OR OTHER INSIGNIA;

The law enforcement officer is in uniform, \underline{or}

1	2. The law enforcement officer is conforming
2	MAKING REASONABLE EFFORTS TO CONFORM TO STANDARDS IN ACCORDANCE WITH
3	§ 3–510 of the Public Safety Article for the use of body-worn digital
4	RECORDING DEVICES OR ELECTRONIC CONTROL DEVICES CAPABLE OF RECORDING
5	VIDEO AND ORAL COMMUNICATIONS ESTABLISHED BY THE POLICE TRAINING
6	COMMISSION OR THE DEPARTMENT OF STATE POLICE;
7	3. THE LAW ENFORCEMENT OFFICER IS A PARTY TO THE
8	ORAL COMMUNICATION;
9	2. 4. The Law enforcement officer, if reasonable
0	UNDER THE CIRCUMSTANCES, HAS BEEN IDENTIFIED AS A LAW ENFORCEMENT
1	OFFICER TO THE OTHER PARTIES TO THE ORAL COMMUNICATION BEFORE THE ORAL
2	INTERCEPTION LAW ENFORCEMENT NOTIFIES, AS SOON AS IS PRACTICABLE, THE
13	INDIVIDUAL THAT THE INDIVIDUAL IS BEING RECORDED, UNLESS IT IS UNSAFE,
4	IMPRACTICAL, OR IMPOSSIBLE TO DO SO; AND
	· · · · · · · · · · · · · · · · · · ·
15	$\frac{3}{5}$. The oral interception is being made as part of
6	A VIDEOTAPE OR DIGITAL RECORDING.
17	$\underline{Article-Public\ Safety}$
18	<u>3–510.</u>
19	ON OR BEFORE JANUARY 1, 2016, THE MARYLAND POLICE TRAINING
20	COMMISSION SHALL DEVELOP AND PUBLISH ONLINE A POLICY FOR THE ISSUANCE
21	AND USE OF A BODY-WORN CAMERA BY A LAW ENFORCEMENT OFFICER THAT
22	ADDRESSES:
	(1)
23	(1) THE TESTING OF BODY-WORN CAMERAS TO ENSURE ADEQUATE
24	FUNCTIONING;
	(9)
25	(2) THE PROCEDURE FOR THE LAW ENFORCEMENT OFFICER TO
26	FOLLOW IF THE CAMERA FAILS TO PROPERLY OPERATE AT THE BEGINNING OF OR
27	DURING THE LAW ENFORCEMENT OFFICER'S SHIFT;
	(2) HITTEN DECORDING TO MAND ATTORY.
28	(3) WHEN RECORDING IS MANDATORY;
00	(4) WHEN RECORDING IS BROHIDINED.
29	(4) WHEN RECORDING IS PROHIBITED;
20	(5) WHEN DECORDING IS DISCRETIONARY.
30	(5) WHEN RECORDING IS DISCRETIONARY;
31	(6) WHEN RECORDING MAY REQUIRE CONSENT OF A SUBJECT BEING
32	RECORDED;
14	NECONDED,

1		<u>(7)</u>	WHEN A RECORDING MAY BE ENDED;
2		<u>(8)</u>	PROVIDING NOTICE OF RECORDING;
3		<u>(9)</u>	ACCESS TO AND CONFIDENTIALITY OF RECORDINGS;
4		<u>(10)</u>	THE SECURE STORAGE OF DATA FROM A BODY-WORN CAMERA;
5		<u>(11)</u>	REVIEW AND USE OF RECORDINGS;
6		<u>(12)</u>	RETENTION OF RECORDINGS;
7		<u>(13)</u>	DISSEMINATION AND RELEASE OF RECORDINGS;
8	CAMERA PO		CONSEQUENCES FOR VIOLATIONS OF THE AGENCY'S BODY-WORN
10 11 12	BECOMES NOTIFICAT	\overline{A} \overline{P}	NOTIFICATION REQUIREMENTS WHEN ANOTHER INDIVIDUAL ARTY TO THE COMMUNICATION FOLLOWING THE INITIAL
13 14	<u>EXPECTATI</u>		SPECIFIC PROTECTIONS FOR INDIVIDUALS WHEN THERE IS AN PRIVACY IN PRIVATE OR PUBLIC PLACES; AND
15 16 17	IMPLEMENT OFFICERS.		ANY ADDITIONAL ISSUES DETERMINED TO BE RELEVANT IN THE N AND USE OF BODY-WORN CAMERAS BY LAW ENFORCEMENT
18	<u>SEC 1</u>	TION 2	P. AND BE IT FURTHER ENACTED, That:
19 20	(a) Cameras by		e is a Commission Regarding the Implementation and Use of Body Enforcement Officers.
21	<u>(b)</u>	The C	Commission consists of the following members:
22 23	Senate;	<u>(1)</u>	one member of the Senate of Maryland, appointed by the President of the
24 25	<u>House;</u>	<u>(2)</u>	one member of the House of Delegates, appointed by the Speaker of the
26		<u>(3)</u>	the Secretary of State Police or the Secretary's designee;
27		<u>(4)</u>	the Attorney General or the Attorney General's designee;

1		<u>(5)</u>	the Public Defender or the Public Defender's designee;
2 3	Prevention;	<u>(6)</u>	one representative of the Governor's Office of Crime Control and
4		<u>(7)</u>	one representative of the Maryland Fraternal Order of Police;
5 6	agencies in t	<u>(8)</u> the Sta	one representative from each of the five major local law enforcement te, as determined and appointed by the Governor;
7 8 9	body camero Commission		one representative of a law enforcement agency that currently utilizes ecord law enforcement officer activities, as appointed by the chair of the
0		<u>(10)</u>	one representative of the American Civil Liberties Union;
$\frac{1}{2}$	Colored Peop	<u>(11)</u> ple;	one representative of the National Association for the Advancement of
13		<u>(12)</u>	one representative of the Maryland Sheriff's Association;
14 15	and	<u>(13)</u>	three representatives of the general public, appointed by the Governor;
16 17	<u>Commission</u>	<u>(14)</u> , as de	two experts in any field deemed relevant for the purpose of the termined and appointed by the chair of the Commission;
18		<u>(15)</u>	one representative of the Maryland Chiefs of Police Association; and
9		<u>(16)</u>	one representative of CASA de Maryland.
20 21	<u>(c)</u> members.	The •	Governor shall appoint a chair of the Commission from among its
22 23	(d) State Police		Governor's Office of Crime Control and Prevention and the Department of provide staff for the Commission.
24	<u>(e)</u>	A men	mber of the Commission:
25		<u>(1)</u>	may not receive compensation as a member of the Commission; but
26 27	<u>Travel Regu</u>	(2) lations	is entitled to reimbursement for expenses under the Standard States, as provided in the State budget.
28 29	(f) practices for		Commission shall study and make recommendations regarding the best see of body cameras by a law enforcement officer.

1 2 3	(g) On or before October 1, 2015, the Commission shall report its findings and recommendations to the Maryland Police Training Commission and, in accordance with § 2–1246 of the State Government Article, the General Assembly.
4	SECTION 3. AND BE IT FURTHER ENACTED, That:
5 6 7 8	(1) A jurisdiction that commences a pilot program for the use of body-worn cameras or electronic control devices before the issuance of a policy established in accordance with § 3-510 of the Public Safety Article is not subject to § 10-402(c)(11)(ii)2 of the Courts and Judicial Proceedings Article for the duration of the pilot program.
9 10 11	(2) On the conclusion of a pilot program described in this section, a jurisdiction's fully implemented program shall conform to § 10–402(c)(11)(ii)2 of the Courts and Judicial Proceedings Article.
12 13 14 15 16	SECTION 4. AND BE IT FURTHER ENACTED, That a jurisdiction that has established a program to use body-worn cameras or electronic devices on or before the date this Act becomes effective is not subject to § 10–402(c)(11)(ii)2 of the Courts and Judicial Proceedings Article until a policy is issued in accordance with § 3–510 of the Public Safety Article.
17 18 19 20 21 22 23	SECTION 3 5. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted. Section 2 of this Act shall remain effective through June 1, 2016, and, at the end of June 1, 2016, with no further action required by the General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.
$\begin{array}{c} 24 \\ 25 \end{array}$	$\underline{\sf SECTION~2.~AND~BE~IT~FURTHER~ENACTED},$ That this Act shall take effect October 1, 2015.
	Approved:
	Governor.
	Speaker of the House of Delegates.

President of the Senate.