

SENATE BILL 71

E2, E4

1lr1465

(PRE-FILED)

By: **Senator Sydnor**

Requested: November 1, 2020

Introduced and read first time: January 13, 2021

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Police Officers – Testimony – Presumption of Inadmissibility**
3 **(Maryland Police Accountability Act of 2021)**

4 FOR the purpose of providing that a knowing and willful failure of a certain police officer
5 to activate a body-worn camera creates a rebuttable presumption that certain
6 testimony is inadmissible in a certain proceeding; providing that a certain
7 presumption may be rebutted by a certain showing; providing for the application of
8 this Act; defining certain terms; and generally relating to testimony of police officers.

9 BY adding to

10 Article – Criminal Procedure
11 Section 2–109
12 Annotated Code of Maryland
13 (2018 Replacement Volume and 2020 Supplement)

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

16 **Article – Criminal Procedure**

17 **2–109.**

18 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
19 INDICATED.

20 (2) “LAW ENFORCEMENT AGENCY” HAS THE MEANING STATED IN §
21 3–201 OF THE PUBLIC SAFETY ARTICLE.

22 (3) “POLICE OFFICER” HAS THE MEANING STATED IN § 3–201 OF THE

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **PUBLIC SAFETY ARTICLE.**

2 **(B) THIS SECTION APPLIES TO A POLICE OFFICER WHO IS REQUIRED TO USE**
3 **A BODY-WORN CAMERA WHILE ON DUTY BY THE LAW ENFORCEMENT AGENCY THAT**
4 **EMPLOYS THE POLICE OFFICER.**

5 **(C) (1) THE KNOWING AND WILLFUL FAILURE OF A POLICE OFFICER TO**
6 **ACTIVATE A BODY-WORN CAMERA, IN VIOLATION OF THE POLICY OF THE LAW**
7 **ENFORCEMENT AGENCY THAT EMPLOYS THE POLICE OFFICER, CREATES A**
8 **REBUTTABLE PRESUMPTION THAT ANY TESTIMONY OF THE POLICE OFFICER**
9 **SOUGHT TO BE INTRODUCED IN A CRIMINAL PROSECUTION RELATING TO THE**
10 **INCIDENT THAT WAS NOT RECORDED IS INADMISSIBLE.**

11 **(2) THE PRESUMPTION MAY BE REBUTTED BY A SHOWING THAT:**

12 **(I) THE BODY-WORN CAMERA WAS NOT ACTIVATED DUE TO A**
13 **MALFUNCTION OF THE CAMERA;**

14 **(II) THE POLICE OFFICER WAS:**

15 **1. NOT AWARE OF THE MALFUNCTION; OR**

16 **2. NOT ABLE TO FIX THE MALFUNCTION BEFORE THE**
17 **INCIDENT; AND**

18 **(III) THE LAW ENFORCEMENT AGENCY'S DOCUMENTATION**
19 **SHOWS THAT THE POLICE OFFICER CHECKED THE FUNCTIONALITY OF THE**
20 **BODY-WORN CAMERA AT THE BEGINNING OF THE POLICE OFFICER'S SHIFT.**

21 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
22 **October 1, 2021.**