

SENATE BILL 690

P3, E4
HB 767/17 – JUD

1lr2692

By: **Senator Sydnor**

Introduced and read first time: February 3, 2021

Assigned to: Judicial Proceedings

A BILL ENTITLED

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 individuals;
7 requiring certain notification of certain individuals; requiring the Police Training
8 and Standards Commission to develop certain uniform standards and policies in
9 consultation with certain groups; requiring a custodian of records to allow inspection
10 by certain individuals of a recording from a certain body–worn digital recording
11 device worn by a law enforcement officer; prohibiting a custodian of records from
12 allowing copying of records by certain individuals from a certain body–worn digital
13 recording device worn by a law enforcement officer; providing for the construction
14 and application of this Act; defining a certain term; and generally relating to the
15 inspection of recordings from body–worn digital recording devices worn by law
16 enforcement officers.

17 BY repealing and reenacting, with amendments,
18 Article – General Provisions
19 Section 4–101
20 Annotated Code of Maryland
21 (2019 Replacement Volume and 2020 Supplement)

22 BY adding to
23 Article – General Provisions
24 Section 4–357
25 Annotated Code of Maryland
26 (2019 Replacement Volume and 2020 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – General Provisions

1

2 4–101.

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

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

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

7 **(D) “BODY-WORN DIGITAL RECORDING DEVICE” HAS THE MEANING STATED**
8 **IN § 10–402 OF THE COURTS ARTICLE.**9 **[(d)] (E)** “Custodian” means:

10 (1) the official custodian; or

11 (2) any other authorized individual who has physical custody and control
12 of a public record.13 **[(e)] (F)** “News media” means:

14 (1) newspapers;

15 (2) magazines;

16 (3) journals;

17 (4) press associations;

18 (5) news agencies;

19 (6) wire services;

20 (7) radio;

21 (8) television; and

22 (9) any printed, photographic, mechanical, or electronic means of
23 disseminating news and information to the public.24 **[(f)] (G)** “Official custodian” means an officer or employee of the State or of a
25 political subdivision who is responsible for keeping a public record, whether or not the
26 officer or employee has physical custody and control of the public record.

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

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

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

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

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

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

13 (i) name;

14 (ii) address;

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

16 (iv) medical or disability information;

17 (v) photograph or computer-generated image;

18 (vi) Social Security number; and

19 (vii) telephone number.

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

21 (i) driver’s status;

22 (ii) driving offenses;

23 (iii) five-digit zip code; or

24 (iv) information on vehicular accidents.

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

26 (1) a county;

27 (2) a municipal corporation;

1 (3) an unincorporated town;

2 (4) a school district; or

3 (5) a special district.

4 **[j] (K)** (1) "Public record" means the original or any copy of any
5 documentary material that:

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

9 (ii) is in any form, including:

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

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

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

25 **4-357.**

26 **(A) (1) THIS SECTION DOES NOT APPLY TO A PUBLIC RECORD THAT HAS**
27 **BEEN ENTERED INTO EVIDENCE IN A COURT PROCEEDING.**

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

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

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

10 **(II) DEPICTS A VICTIM OR INFORMATION THAT COULD IDENTIFY**
11 **A VICTIM OF A VIOLATION OF TITLE 3, SUBTITLE 3 OF THE CRIMINAL LAW ARTICLE;**

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

16 **(IV) DEPICTS THE DEATH OF A LAW ENFORCEMENT OFFICER**
17 **THAT OCCURRED IN THE PERFORMANCE OF THE OFFICER'S DUTIES; OR**

18 **(V) DOES NOT RESULT IN:**

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

22 **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) (I) A VICTIM WHO IS THE SUBJECT OF A RECORD SHALL BE**
30 **NOTIFIED OF ALL REQUESTS TO INSPECT THE RECORD.**

1 **(II) THE MARYLAND POLICE TRAINING AND STANDARDS**
2 **COMMISSION, IN CONSULTATION WITH THE MARYLAND ASSOCIATION OF**
3 **COUNTIES, THE MARYLAND MUNICIPAL LEAGUE, LAW ENFORCEMENT AGENCIES,**
4 **THE NEWS MEDIA, VICTIMS' RIGHTS ADVOCATES, AND OTHER STAKEHOLDERS,**
5 **SHALL DEVELOP UNIFORM STANDARDS AND PROCEDURES TO CARRY OUT THE**
6 **PROVISIONS OF THIS PARAGRAPH.**

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

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

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

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

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

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

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

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

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 October 1, 2021.