

# SENATE BILL 583

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By: **Senator Sydnor**

Introduced and read first time: February 6, 2023

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Public Safety – Law Enforcement Agencies – Acquisition and Use of**  
3 **Surveillance Technology**

4 FOR the purpose of prohibiting the use of certain surveillance technology by a law  
5 enforcement agency except under certain circumstances; establishing the Privacy  
6 Technology Board in the Department of Public Safety and Correctional Services for  
7 certain purposes relating to the use of surveillance technology by a law enforcement  
8 agency; requiring a law enforcement agency to submit certain reports to the Board  
9 for surveillance technology used by the agency; and generally relating to the  
10 acquisition and use of surveillance technology by law enforcement agencies.

11 BY adding to

12 Article – Public Safety

13 Section 3–801 through 3–806 to be under the new subtitle “Subtitle 8. Acquisition  
14 and Use of Surveillance Technology by Law Enforcement”

15 Annotated Code of Maryland

16 (2022 Replacement Volume)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

18 That the Laws of Maryland read as follows:

19 **Article – Public Safety**

20 **SUBTITLE 8. ACQUISITION AND USE OF SURVEILLANCE TECHNOLOGY BY LAW**  
21 **ENFORCEMENT.**

22 **3–801.**

23 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**  
24 **INDICATED.**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           **(B) “BOARD” MEANS THE PRIVACY TECHNOLOGY BOARD.**

2           **(C) “EXIGENT CIRCUMSTANCES” MEANS THE GOOD FAITH BELIEF BY A LAW**  
3 **ENFORCEMENT AGENCY THAT THERE IS A DANGER OF, OR AN IMMINENT THREAT OF**  
4 **THE DESTRUCTION OF EVIDENCE REGARDING, DEATH OF OR SERIOUS BODILY**  
5 **INJURY TO ANY PERSON.**

6           **(D) “LARGE-SCALE EVENT” MEANS AN EVENT THAT ATTRACTS 10,000 OR**  
7 **MORE PEOPLE AND PROVIDES A REASONABLE BASIS TO ANTICIPATE THAT EXIGENT**  
8 **CIRCUMSTANCES MAY OCCUR.**

9           **(E) (1) “SURVEILLANCE TECHNOLOGY” MEANS ANY SOFTWARE OR**  
10 **ELECTRONIC DEVICE SYSTEM PRIMARILY INTENDED TO COLLECT, RETAIN,**  
11 **ANALYZE, PROCESS, OR SHARE INFORMATION IN THE FORM OF AUDIO, ELECTRONIC,**  
12 **VISUAL, LOCATION, THERMAL, OLFACTORY, BIOMETRIC, OR SIMILAR INFORMATION**  
13 **SPECIFICALLY ASSOCIATED WITH, OR CAPABLE OF BEING ASSOCIATED WITH, ANY**  
14 **INDIVIDUAL OR GROUP.**

15           **(2) “SURVEILLANCE TECHNOLOGY” INCLUDES SOFTWARE DESIGNED**  
16 **TO MONITOR SOCIAL MEDIA SERVICES OR FORECAST CRIMINAL ACTIVITY OR**  
17 **CRIMINALITY.**

18 **3-802.**

19           **EXCEPT AS PROVIDED IN THIS SUBTITLE, A LAW ENFORCEMENT AGENCY MAY**  
20 **NOT USE SURVEILLANCE TECHNOLOGY.**

21 **3-803.**

22           **(A) THERE IS A PRIVACY TECHNOLOGY BOARD WITHIN THE DEPARTMENT**  
23 **OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.**

24           **(B) THE BOARD CONSISTS OF THE FOLLOWING MEMBERS:**

25           **(1) THE PRESIDENT OF THE MARYLAND CHIEFS OF POLICE**  
26 **ASSOCIATION;**

27           **(2) THE PRESIDENT OF THE MARYLAND SHERIFFS’ ASSOCIATION;**

28           **(3) THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL**  
29 **SERVICES, OR THE SECRETARY’S DESIGNEE;**

1           **(4) THE PRESIDENT OF THE MARYLAND STATE'S ATTORNEYS'**  
2 **ASSOCIATION, OR THE PRESIDENT'S DESIGNEE;**

3           **(5) THE MARYLAND PUBLIC DEFENDER, OR THE PUBLIC**  
4 **DEFENDER'S DESIGNEE; AND**

5           **(6) THE FOLLOWING MEMBERS, APPOINTED BY THE GOVERNOR:**

6                   **(I) A REPRESENTATIVE FROM A PRIVACY ADVOCACY**  
7 **ORGANIZATION WITH RECOGNIZED EXPERTISE IN DEFENDING CIVIL LIBERTIES;**

8                   **(II) A REPRESENTATIVE FROM THE PRIVATE TECHNOLOGY**  
9 **INDUSTRY SECTOR; AND**

10                   **(III) A LEGAL ACADEMIC WITH RECOGNIZED EXPERTISE WITH**  
11 **FOURTH AMENDMENT JURISPRUDENCE.**

12           **(C) THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES**  
13 **SHALL PROVIDE STAFF FOR THE BOARD.**

14           **(D) (1) THE TERM OF A MEMBER APPOINTED BY THE GOVERNOR IS 4**  
15 **YEARS.**

16                   **(2) AT THE END OF A TERM, AN APPOINTED MEMBER CONTINUES TO**  
17 **SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.**

18                   **(3) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES**  
19 **ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND**  
20 **QUALIFIES.**

21                   **(4) A MEMBER MAY BE REAPPOINTED TO THE BOARD.**

22           **(E) A BOARD MEMBER:**

23                   **(1) MAY NOT RECEIVE COMPENSATION FOR SERVING ON THE BOARD;**  
24 **BUT**

25                   **(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE**  
26 **STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.**

27           **(F) THE GOVERNOR SHALL SELECT A CHAIR FROM AMONG THE BOARD'S**  
28 **MEMBERS.**

1           (G) (1) A MAJORITY OF THE BOARD'S MEMBERS CONSTITUTES A  
2 QUORUM.

3           (2) THE BOARD MAY ADOPT RULES FOR CONDUCTING BUSINESS.

4           (H) THE BOARD SHALL:

5           (1) EXCEPT AS PROVIDED IN § 3-804(B) OF THIS SUBTITLE,  
6 AUTHORIZE THE PURCHASE, USE, OR CONTINUED USE OF SURVEILLANCE  
7 TECHNOLOGY BY LAW ENFORCEMENT AGENCIES;

8           (2) EXCEPT AS PROVIDED IN § 3-804(B) OF THIS SUBTITLE,  
9 AUTHORIZE THE USE OF EXISTING SURVEILLANCE TECHNOLOGY OR THE  
10 INFORMATION THAT THE SURVEILLANCE TECHNOLOGY PROVIDES FOR A PURPOSE,  
11 IN A MANNER, OR IN A LOCATION NOT PREVIOUSLY AUTHORIZED BY THE BOARD;

12           (3) HOLD QUARTERLY MEETINGS WITH THE HEAD OF EACH LAW  
13 ENFORCEMENT AGENCY WITHIN THE STATE TO REVIEW PROPOSED SURVEILLANCE  
14 IMPACT REPORTS, REQUIRED UNDER § 3-805 OF THIS SUBTITLE, SUBMITTED BY THE  
15 LAW ENFORCEMENT AGENCY;

16           (4) RECEIVE PUBLIC INPUT ABOUT PROPOSED SURVEILLANCE  
17 TECHNOLOGIES;

18           (5) REVIEW ANNUAL REPORTS, REQUIRED UNDER § 3-805 OF THIS  
19 SUBTITLE, BY LAW ENFORCEMENT AGENCIES ON THE OPERATION OF  
20 SURVEILLANCE TECHNOLOGY USED FOR THE PREVIOUS CALENDAR YEAR; AND

21           (6) MAKE THE ANNUAL REPORTS AND SURVEILLANCE IMPACT  
22 REPORTS, REQUIRED UNDER § 3-805 OF THIS SUBTITLE, PUBLICLY AVAILABLE.

23 **3-804.**

24           (A) EACH LAW ENFORCEMENT AGENCY SHALL OBTAIN AUTHORIZATION  
25 FROM THE BOARD BEFORE:

26           (1) ACCEPTING STATE FUNDS, FEDERAL FUNDS, OR ANY OTHER  
27 DONATIONS FOR SURVEILLANCE TECHNOLOGY;

28           (2) ACQUIRING NEW SURVEILLANCE TECHNOLOGY;

29           (3) USING NEW SURVEILLANCE TECHNOLOGY;

1           **(4) USING EXISTING SURVEILLANCE TECHNOLOGY OR THE**  
2 **INFORMATION THAT THE SURVEILLANCE TECHNOLOGY PROVIDES FOR A PURPOSE,**  
3 **IN A MANNER, OR IN A LOCATION NOT PREVIOUSLY AUTHORIZED BY THE BOARD;**  
4 **AND**

5           **(5) ENTERING INTO A CONTINUING AGREEMENT OR WRITTEN**  
6 **AGREEMENT WITH A NONGOVERNMENTAL ENTITY TO ACQUIRE, SHARE, OR**  
7 **OTHERWISE USE SURVEILLANCE TECHNOLOGY OR THE INFORMATION THAT THE**  
8 **SURVEILLANCE TECHNOLOGY PROVIDES.**

9           **(B) (1) A LAW ENFORCEMENT AGENCY MAY TEMPORARILY ACQUIRE OR**  
10 **USE SURVEILLANCE TECHNOLOGY AND THE DATA FROM THE TECHNOLOGY IN A**  
11 **MANNER NOT EXPRESSLY ALLOWED BY THE BOARD IF:**

12                   **(I) AN EXIGENT CIRCUMSTANCE EXISTS AND REQUIRES THE**  
13 **USE; OR**

14                   **(II) A LARGE-SCALE EVENT OCCURS.**

15           **(2) IF SURVEILLANCE TECHNOLOGY IS ACQUIRED OR USED**  
16 **PURSUANT TO PARAGRAPH (1) OF THIS SUBSECTION, THE LAW ENFORCEMENT**  
17 **AGENCY SHALL:**

18                   **(I) USE THE SURVEILLANCE TECHNOLOGY SOLELY TO**  
19 **RESPOND TO THE EXIGENT CIRCUMSTANCE OR LARGE-SCALE EVENT;**

20                   **(II) CEASE USING THE SURVEILLANCE TECHNOLOGY WHEN THE**  
21 **EXIGENT CIRCUMSTANCE OR LARGE-SCALE EVENT ENDS;**

22                   **(III) KEEP AND MAINTAIN ONLY DATA RELATED TO THE EXIGENT**  
23 **CIRCUMSTANCE AND DISPOSE OF ANY DATA THAT IS NOT RELEVANT TO AN ONGOING**  
24 **INVESTIGATION; AND**

25                   **(IV) FOLLOWING THE END OF AN EXIGENT CIRCUMSTANCE OR**  
26 **LARGE-SCALE EVENT, REPORT THE ACQUISITION OR USE OF THE SURVEILLANCE**  
27 **TECHNOLOGY TO THE BOARD.**

28 **3-805.**

29           **(A) (1) BEFORE SEEKING AUTHORIZATION FROM THE BOARD, EACH LAW**  
30 **ENFORCEMENT AGENCY SHALL SUBMIT A SURVEILLANCE IMPACT REPORT TO THE**  
31 **BOARD FOR EACH SURVEILLANCE TECHNOLOGY TO BE USED BY THE AGENCY.**

- 1           **(2) A SURVEILLANCE IMPACT REPORT SHALL INCLUDE:**
- 2           **(I) A DESCRIPTION OF THE SURVEILLANCE TECHNOLOGY;**
- 3           **(II) THE PROPOSED USE FOR THE SURVEILLANCE**  
4 **TECHNOLOGY;**
- 5           **(III) GENERAL DESCRIPTIVE TERMS OF ANY LOCATION THE**  
6 **SURVEILLANCE TECHNOLOGY IS INTENDED TO BE USED WITHIN THE JURISDICTION**  
7 **OF THE LAW ENFORCEMENT AGENCY AND THE CRIME STATISTICS FOR THE**  
8 **LOCATIONS;**
- 9           **(IV) WHETHER THE SURVEILLANCE TECHNOLOGY HAS BEEN**  
10 **USED OR DEPLOYED IN A MANNER THAT IS DISCRIMINATORY, VIEWPOINT-BIASED,**  
11 **OR ALGORITHM-BIASED;**
- 12           **(V) ANY SPECIFIC TECHNICAL OR PROCEDURAL MEASURES**  
13 **THAT WILL BE IMPLEMENTED TO SAFEGUARD THE PUBLIC FROM POSSIBLE**  
14 **DISCRIMINATORY SURVEILLANCE;**
- 15           **(VI) A LIST OF THE TYPES AND SOURCES OF DATA TO BE**  
16 **COLLECTED, ANALYZED, OR PROCESSED BY THE SURVEILLANCE TECHNOLOGY;**
- 17           **(VII) INFORMATION REGARDING ANY THIRD PARTY THAT THE**  
18 **INFORMATION MAY BE SHARED WITH OR ACCESSED BY;**
- 19           **(VIII) THE TIME PERIOD FOR WHICH INFORMATION COLLECTED**  
20 **FROM THE SURVEILLANCE TECHNOLOGY WILL BE RETAINED BY THE AGENCY;**
- 21           **(IX) THE STEPS THAT WILL BE TAKEN TO ENSURE THAT**  
22 **ADEQUATE SECURITY MEASURES ARE USED TO SAFEGUARD THE DATA FROM**  
23 **UNAUTHORIZED ACCESS;**
- 24           **(X) THE FISCAL COST FOR THE PROPOSED SURVEILLANCE**  
25 **TECHNOLOGY, INCLUDING INITIAL PURCHASE AND ONGOING COSTS;**
- 26           **(XI) A SUMMARY OF ALTERNATIVE METHODS CONSIDERED**  
27 **BEFORE DECIDING TO USE THE PROPOSED SURVEILLANCE TECHNOLOGY; AND**
- 28           **(XII) A SUMMARY OF OTHER KNOWN ENTITIES THAT USE THE**  
29 **PROPOSED SURVEILLANCE TECHNOLOGY AND ANY KNOWN EXPERIENCE WITH THE**  
30 **PROPOSED SURVEILLANCE TECHNOLOGY.**

1           **(B) (1) ON OR BEFORE MARCH 1, 2024, AND EACH MARCH 1**  
2 **THEREAFTER, EACH LAW ENFORCEMENT AGENCY SHALL REPORT TO THE BOARD ON**  
3 **THE OPERATION OF EACH SURVEILLANCE TECHNOLOGY USED BY THE LAW**  
4 **ENFORCEMENT AGENCY IN THE PREVIOUS CALENDAR YEAR.**

5           **(2) THE REPORT REQUIRED UNDER THIS SUBSECTION SHALL**  
6 **INCLUDE:**

7                   **(I) A DESCRIPTION OF EACH SURVEILLANCE TECHNOLOGY**  
8 **THAT WAS USED BY THE AGENCY;**

9                   **(II) A DESCRIPTION OF HOW EACH SURVEILLANCE**  
10 **TECHNOLOGY WAS USED, INCLUDING THE TYPE AND QUANTITY OF DATA GATHERED**  
11 **BY EACH SURVEILLANCE TECHNOLOGY;**

12                   **(III) HOW OFTEN DATA ACQUIRED THROUGH THE USE OF THE**  
13 **SURVEILLANCE TECHNOLOGY WAS SHARED WITH AN OUTSIDE ENTITY, INCLUDING:**

14                           **1. THE NAME OF THE RECIPIENT ENTITY;**

15                           **2. THE TYPES OF DATA DISCLOSED; AND**

16                           **3. JUSTIFICATION FOR THE DISCLOSURE;**

17                   **(IV) A GENERAL DESCRIPTION OF WHERE EACH SURVEILLANCE**  
18 **TECHNOLOGY WAS DEPLOYED GEOGRAPHICALLY WITHIN THE JURISDICTION OF**  
19 **THE LAW ENFORCEMENT AGENCY;**

20                   **(V) A SUMMARY OF COMMUNITY COMPLAINTS OR CONCERNS**  
21 **ABOUT EACH SURVEILLANCE TECHNOLOGY;**

22                   **(VI) ANY SPECIFIC MEASURES TAKEN TO PROTECT INDIVIDUAL**  
23 **CIVIL RIGHTS AND CIVIL LIBERTIES FROM POSSIBLE INFRINGEMENT BY A**  
24 **SURVEILLANCE TECHNOLOGY;**

25                   **(VII) ANY DATA BREACH OR UNAUTHORIZED ACCESS TO THE**  
26 **DATA COLLECTED BY EACH SURVEILLANCE TECHNOLOGY AND ANY ACTION TAKEN**  
27 **IN RESPONSE;**

28                   **(VIII) THE TOTAL ANNUAL FISCAL COST OF EACH SURVEILLANCE**  
29 **TECHNOLOGY, INCLUDING PERSONNEL AND ONGOING COSTS; AND**

30                   **(IX) INFORMATION AND RELEVANT CRIME STATISTICS TO HELP**

1 ASSESS WHETHER EACH SURVEILLANCE TECHNOLOGY HAS BEEN EFFECTIVE AT  
2 ACHIEVING THE IDENTIFIED PURPOSE.

3 (C) ANY REPORT REQUIRED UNDER THIS SECTION SHALL BE A PUBLIC  
4 RECORD.

5 3-806.

6 (A) A VIOLATION OF THIS SUBTITLE CONSTITUTES AN INJURY, AND A  
7 PERSON MAY INSTITUTE PROCEEDINGS FOR INJUNCTIVE RELIEF OR DECLARATORY  
8 RELIEF TO ENFORCE THIS SUBTITLE.

9 (B) A PERSON WHO HAS BEEN SUBJECTED TO A SURVEILLANCE  
10 TECHNOLOGY, OR WHO HAS HAD PERSONAL INFORMATION OBTAINED, RETAINED,  
11 ACCESSED, SHARED, OR USED IN VIOLATION OF THIS SUBTITLE MAY INSTITUTE  
12 PROCEEDINGS AGAINST THE LAW ENFORCEMENT AGENCY AND SHALL BE ENTITLED  
13 TO RECOVER ACTUAL DAMAGES OF \$100 PER DAY FOR EACH DAY OF THE VIOLATION.

14 (C) IN ANY ACTION BROUGHT TO ENFORCE THIS SUBTITLE, A COURT MAY  
15 AWARD REASONABLE ATTORNEY'S FEES TO A PREVAILING PLAINTIFF.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
17 October 1, 2023.