

SENATE BILL 1046

E5

EMERGENCY BILL

5lr3635

By: **Senators McKay and Smith**

Constitutional Requirements Complied with for Introduction in the last 35 Days of Session

Introduced and read first time: February 18, 2025

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Correctional Officers – Body–Worn Digital Recording Devices**

3 FOR the purpose of authorizing the interception of certain oral communications by a
4 correctional officer with a body–worn digital recording device under certain
5 circumstances and subject to certain requirements; requiring the Maryland
6 Correctional Training Commission to develop and publish a certain policy relating
7 to the use of body–worn digital recording devices by a correctional officer; and
8 generally relating to the interception of oral communications by a correctional officer.

9 BY repealing and reenacting, without amendments,
10 Article – Courts and Judicial Proceedings
11 Section 10–402(a)
12 Annotated Code of Maryland
13 (2020 Replacement Volume and 2024 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article – Courts and Judicial Proceedings
16 Section 10–402(c)(11)
17 Annotated Code of Maryland
18 (2020 Replacement Volume and 2024 Supplement)

19 BY adding to
20 Article – Correctional Services
21 Section 8–211
22 Annotated Code of Maryland
23 (2017 Replacement Volume and 2024 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Courts and Judicial Proceedings

10–402.

(a) Except as otherwise specifically provided in this subtitle it is unlawful for any person to:

(1) Willfully intercept, endeavor to intercept, or procure any other person to intercept or endeavor to intercept, any wire, oral, or electronic communication;

(2) Willfully disclose, or endeavor to disclose, to any other person the contents of any wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through the interception of a wire, oral, or electronic communication in violation of this subtitle; or

(3) Willfully use, or endeavor to use, the contents of any wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through the interception of a wire, oral, or electronic communication in violation of this subtitle.

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

2. “Body–worn digital recording device” means a device worn on the person of a law enforcement officer **OR CORRECTIONAL OFFICER** that is capable of recording video and intercepting oral communications.

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

(ii) It is lawful under this subtitle for a law enforcement officer **OR CORRECTIONAL 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:

1. The law enforcement officer **OR CORRECTIONAL OFFICER** is in uniform or prominently displaying the officer’s badge or other insignia;

2. The law enforcement officer **OR CORRECTIONAL OFFICER** is making reasonable efforts to:

A. FOR A LAW ENFORCEMENT OFFICER, conform to standards in accordance with § 3–511 of the Public Safety Article for the use of body–worn digital recording devices or electronic control devices capable of recording video and oral communications; **OR**

1 **B. FOR A CORRECTIONAL OFFICER, CONFORM TO**
2 **STANDARDS IN ACCORDANCE WITH § 8–211 OF THE CORRECTIONAL SERVICES**
3 **ARTICLE FOR THE USE OF BODY–WORN DIGITAL RECORDING DEVICES OR**
4 **ELECTRONIC CONTROL DEVICES CAPABLE OF RECORDING VIDEO AND ORAL**
5 **COMMUNICATIONS;**

6 3. The law enforcement officer **OR CORRECTIONAL**
7 **OFFICER** is a party to the oral communication;

8 4. Law enforcement **OR THE CORRECTIONAL OFFICER**
9 notifies, as soon as is practicable, the individual that the individual is being recorded,
10 unless it is unsafe, impractical, or impossible to do so; and

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

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

17 **Article – Correctional Services**

18 **8–211.**

19 **(A) ON OR BEFORE JANUARY 1, 2026, THE COMMISSION SHALL DEVELOP**
20 **AND PUBLISH ONLINE A POLICY FOR ADOPTION BY THE MANAGING OFFICIAL OF**
21 **EACH CORRECTIONAL FACILITY FOR THE TRAINING, ISSUANCE, AND USE OF A**
22 **BODY–WORN CAMERA BY A CORRECTIONAL OFFICER THAT ADDRESSES:**

23 **(1) THE TESTING OF BODY–WORN CAMERAS TO ENSURE ADEQUATE**
24 **FUNCTIONING;**

25 **(2) THE PROCEDURE FOR THE CORRECTIONAL OFFICER TO FOLLOW**
26 **IF THE CAMERA FAILS TO PROPERLY OPERATE AT THE BEGINNING OF OR DURING**
27 **THE CORRECTIONAL OFFICER’S SHIFT;**

28 **(3) WHEN RECORDING IS MANDATORY;**

29 **(4) WHEN RECORDING IS PROHIBITED;**

30 **(5) WHEN RECORDING IS DISCRETIONARY;**

31 **(6) WHEN RECORDING MAY REQUIRE CONSENT OF A SUBJECT BEING**
32 **RECORDED;**

1 **(7) WHEN A RECORDING MAY BE ENDED;**

2 **(8) PROVIDING NOTICE OF RECORDING;**

3 **(9) ACCESS TO AND CONFIDENTIALITY OF RECORDINGS;**

4 **(10) THE SECURE STORAGE OF DATA FROM A BODY-WORN CAMERA;**

5 **(11) REVIEW AND USE OF RECORDINGS;**

6 **(12) RETENTION OF RECORDINGS;**

7 **(13) DISSEMINATION AND RELEASE OF RECORDINGS;**

8 **(14) CONSEQUENCES FOR VIOLATIONS OF THE FACILITY'S**
9 **BODY-WORN CAMERA POLICY;**

10 **(15) NOTIFICATION REQUIREMENTS WHEN ANOTHER INDIVIDUAL**
11 **BECOMES A PARTY TO THE COMMUNICATION FOLLOWING THE INITIAL**
12 **NOTIFICATION;**

13 **(16) SPECIFIC PROTECTIONS FOR INDIVIDUALS WHEN THERE IS AN**
14 **EXPECTATION OF PRIVACY IN PRIVATE OR PUBLIC PLACES;**

15 **(17) PROCEDURES FOR A CORRECTIONAL OFFICER WHO REGULARLY**
16 **INTERACTS WITH MEMBERS OF THE PUBLIC AS PART OF THE CORRECTIONAL**
17 **OFFICER'S OFFICIAL DUTIES; AND**

18 **(18) ANY ADDITIONAL ISSUES DETERMINED TO BE RELEVANT IN THE**
19 **IMPLEMENTATION AND USE OF BODY-WORN CAMERAS BY CORRECTIONAL**
20 **OFFICERS.**

21 **(B) (1) THE SECRETARY AND THE MANAGING OFFICIAL OF EACH**
22 **CORRECTIONAL FACILITY SHALL DEVELOP AND MAINTAIN A WRITTEN POLICY**
23 **CONSISTENT WITH THE POLICY PUBLISHED BY THE COMMISSION UNDER**
24 **SUBSECTION (A) OF THIS SECTION FOR THE USE OF BODY-WORN CAMERAS.**

25 **(2) A POLICY DEVELOPED AND MAINTAINED UNDER PARAGRAPH (1)**
26 **OF THIS SUBSECTION SHALL SPECIFY WHICH CORRECTIONAL OFFICERS EMPLOYED**
27 **BY THE CORRECTIONAL FACILITY ARE REQUIRED TO USE BODY-WORN CAMERAS.**

1 **(C) A BODY-WORN CAMERA THAT POSSESSES THE REQUISITE**
2 **TECHNOLOGICAL CAPABILITY SHALL AUTOMATICALLY RECORD AND SAVE AT LEAST**
3 **60 SECONDS OF VIDEO FOOTAGE IMMEDIATELY PRIOR TO THE OFFICER ACTIVATING**
4 **THE RECORD BUTTON ON THE DEVICE.**

5 **(D) POLICIES ESTABLISHED IN ACCORDANCE WITH THIS SECTION MAY NOT**
6 **BE NEGATED OR ALTERED THROUGH COLLECTIVE BARGAINING.**

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
8 measure, is necessary for the immediate preservation of the public health or safety, has
9 been passed by a ye and nay vote supported by three-fifths of all the members elected to
10 each of the two Houses of the General Assembly, and shall take effect from the date it is
11 enacted.