

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 1046

(Senators McKay and Smith)

Judicial Proceedings

Correctional Officers - Body-Worn Digital Recording Devices

This emergency bill makes it lawful for a correctional officer, in the course of the correctional 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 under specified circumstances. In addition, the bill requires the Maryland Police Training and Standards Commission (MPTSC), by January 1, 2026, to develop and publish online a policy for adoption by the managing official of each correctional facility for the training, issuance, and use of a body-worn camera (BWC) by a correctional officer that addresses specified issues and procedures. The Secretary of Public Safety and Correctional Services and the managing official of each correctional facility must develop and maintain a written policy consistent with the policy published by MPTSC for the use of BWCs. The bill establishes related requirements and restrictions.

Fiscal Summary

State Effect: The bill's changes are not anticipated to materially affect State finances, as discussed below.

Local Effect: The bill's changes are not anticipated to materially affect local finances, as discussed below.

Small Business Effect: None.

Analysis

Bill Summary: The interception of an oral communication by a correctional officer is lawful if (1) the correctional officer is in uniform or prominently displaying the correctional

officer's badge or other insignia; (2) the correctional officer is making reasonable efforts to conform to the standards for the use of the devices published by MPTSC pursuant to the bill; (3) the correctional officer is a party to the oral communication; (4) the correctional officer notifies, as soon as practicable, the individual that the individual is being recorded, unless it is unsafe, impractical, or impossible to do so; and (5) the oral interception is being made as part of a videotape or digital recording.

The online policy developed and published by MPTSC pursuant to the bill must address:

- the testing of BWCs to ensure adequate functioning;
- the procedure for the correctional officer to follow if the camera fails to properly operate at the beginning of or during the correctional officer's shift;
- when recording is mandatory, prohibited, or discretionary;
- when consent of the subject being recorded is required;
- when a recording may be ended;
- providing notice of a recording;
- access to and confidentiality of recordings;
- the secure storage of data;
- review and use of recordings;
- retention of recordings;
- dissemination and release of recordings;
- consequences for violations of the facility's BWC policy;
- notification requirements when another individual becomes a party to the communication following the initial notification;
- specific protections for individuals when there is an expectation of privacy in private or public places;
- procedures for a correctional officer who regularly interacts with members of the public as part of the correctional officer's official duties; and
- any additional issues determined to be relevant in the implementation and use of BWCs by correctional officers.

A policy developed and maintained by the Secretary of Public Safety and Correctional Services or the managing official of a correctional facility under the bill – which must be consistent with the policy published by MPTSC – must specify which correctional officers employed by the correctional facility are required to use BWCs.

A BWC that possesses the requisite technological capability must automatically record and save at least 60 seconds of video footage immediately prior to the correctional officer activating the record button on the device.

Policies established in accordance with the bill may not be negated or altered through collective bargaining.

A “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. An “electronic control device” means a portable device designed as a weapon capable of injuring, immobilizing, or inflicting pain on an individual by the discharge of electrical current.

Current Law: Under Maryland’s Wiretap Act, it is unlawful to willfully intercept any wire, oral, or electronic communication. Under the Wiretap Act, “intercept” is defined to mean the aural or other acquisition of the contents of any wire, electronic, or oral communication through the use of any electronic, mechanical, or other device. However, statute does authorize the interception of an oral communication if all participants have given prior consent (sometimes called “two-party consent”). Maryland is 1 of 12 two-party consent states, most of which spell out clearly that the consent is required only in circumstances where there is a “reasonable expectation of privacy.”

The Wiretap Act does provide specified exceptions, including one for a law enforcement officer who intercepts an oral communication in the course of the law enforcement officer’s regular duty, so long as the law enforcement officer (1) initially lawfully detained a vehicle during a criminal investigation or for a traffic violation; (2) is a party to the oral communication; (3) has been identified as a law enforcement officer to the other parties to the communication prior to any interception; (4) informs all other parties to the communication of the interception at the beginning of the communication; and (5) makes the interception as part of a videotape recording. In addition, the interception of an oral communication by a law enforcement officer in the course of the officer’s regular duty is lawful if (1) the law enforcement officer is in uniform or prominently displaying the law enforcement officer’s badge or other insignia; (2) the law enforcement officer is making reasonable efforts to conform to standards for the use of a body-worn digital recording device or an electronic control device capable of recording video and oral communications; (3) the law enforcement officer is a party to the oral communication; (4) the law enforcement officer notifies, as soon as practicable, the individual that the individual is being recorded, unless it is unsafe, impractical, or impossible to do so; and (5) the oral interception is being made as part of a videotape or digital recording.

The failure of a law enforcement officer to provide notice, as specified, to an individual who is being recorded in accordance with the requirements for lawful interception of an oral communication with a body-worn digital recording device, does not affect the admissibility in court of the recording if the failure to notify involved an individual who joined the discussion in progress for which proper notification was previously given.

Each interception in violation of the Wiretap Act may be prosecuted as a felony, punishable by up to five years imprisonment, and/or a \$10,000 fine. A person who is the victim of a violation of the Wiretap Act has a civil cause of action against the wiretapper for damages, attorney's fees, and litigation costs.

Chapters 128 and 129 of 2015 established the Commission Regarding the Implementation and Use of Body Cameras by Law Enforcement Officers. Through the examination of model policies and discussion, the commission compiled a list of best practices for BWCs and submitted a report to the General Assembly and the Police Training Commission (now known as MPTSC) in September 2015. The commission's [report](#) addresses (1) procedures for testing and operating equipment, including when BWCs must be activated and when their use is prohibited; (2) notification responsibilities of law enforcement officers to individuals being recorded; (3) confidentiality and ownership of data; (4) procedures and requirements for data storage; (5) the review of recordings by parties in interest; and (6) the establishment of retention periods, the release of recordings as required by the Public Information Act, and the development of written policies for BWCs usage consistent with State law and regulations issued by MPTSC.

Pursuant to Chapters 128 and 129, MPTSC developed a [policy](#) for the issuance and use of BWCs by law enforcement officers, which incorporated the recommendations of the commission.

State Fiscal Effect: MPTSC can develop and publish a policy for the issuance and use of BWCs by correctional officers with existing budgeted resources. The bill's exception to wiretapping and electronic surveillance provisions are not expected to have a material operational or fiscal impact on the Judiciary or the Department of Public Safety and Correctional Services (DPSCS).

The bill does not require the use of body-worn digital recording devices or electronic control devices by State correctional officers; however, the fiscal 2026 budget as introduced includes \$428,790 for the purchase of BWCs for correctional officers within DPSCS.

Local Fiscal Effect: The bill's exception to wiretapping and electronic surveillance provisions are not expected to have a material operational or fiscal impact on local correctional facilities or the circuit courts.

The bill does not require the use of body-worn digital recording devices or electronic control devices by local correctional officers. It is assumed that no local jurisdiction would put such a program in place without the operational and fiscal wherewithal to do so. It is also assumed that local correctional facilities can develop the required policy using existing resources.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Baltimore, Dorchester, and Garrett counties; Judiciary (Administrative Office of the Courts); Department of Public Safety and Correctional Services; Department of Legislative Services

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