

HOUSE BILL 767

P3, E4
HB 947/16 – JUD

7lr0408
CF SB 970

By: **Delegates Sydnor, Conaway, Dumais, and Reilly**

Introduced and read first time: February 3, 2017

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 11, 2017

CHAPTER _____

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

17 BY repealing and reenacting, with amendments,

18 Article – General Provisions

19 Section 4–101

20 Annotated Code of Maryland

21 (2014 Volume and 2016 Supplement)

22 BY adding to

23 Article – General Provisions

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



Section 4–356
Annotated Code of Maryland
(2014 Volume and 2016 Supplement)

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

Article – General Provisions

4–101.

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

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

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

**(D) “BODY–WORN DIGITAL RECORDING DEVICE” HAS THE MEANING STATED
IN § 10–402 OF THE COURTS ARTICLE.**

[(d)] (E) “Custodian” means:

(1) the official custodian; or

(2) any other authorized individual who has physical custody and control
of a public record.

[(e)] (F) “News media” means:

(1) newspapers;

(2) magazines;

(3) journals;

(4) press associations;

(5) news agencies;

(6) wire services;

(7) radio;

(8) television; and

(9) any printed, photographic, mechanical, or electronic means of disseminating news and information to the public.

[(f)] (G) “Official custodian” means an officer or employee of the State or of a political subdivision who is responsible for keeping a public record, whether or not the officer or employee has physical custody and control of the public record.

[(g)] (H) “Person in interest” means:

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

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

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

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

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

(i) name;

(ii) address;

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

(iv) medical or disability information;

(v) photograph or computer-generated image;

(vi) Social Security number; and

(vii) telephone number.

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

(i) driver’s status;

(ii) driving offenses;

(iii) five-digit zip code; or

(iv) information on vehicular accidents.

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

- (1) a county;
- (2) a municipal corporation;
- (3) an unincorporated town;
- (4) a school district; or
- (5) a special district.

[(j)] (K) (1) “Public record” means the original or any copy of any documentary material that:

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

(ii) is in any form, including:

1. a card;
2. a computerized record;
3. correspondence;
4. a drawing;
5. film or microfilm;
6. a form;
7. a map;
8. a photograph or photostat;
9. a recording; or
10. a tape.

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

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

4-356.

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

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

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

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

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

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

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

(V) DOES NOT RESULT IN:

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

2. THE USE OF FORCE AGAINST AN INDIVIDUAL; OR

3. A COMPLAINT OR ALLEGATION OF OFFICER MISCONDUCT MADE AGAINST ANY LAW ENFORCEMENT OFFICER INVOLVED IN THE INCIDENT.

(2) A CUSTODIAN SHALL DENY INSPECTION OF RECORDS AS REQUIRED BY THIS SUBSECTION REGARDLESS OF A SUBSEQUENT ACTION TAKEN BY LAW ENFORCEMENT OR A COURT RESULTING FROM THE INCIDENT RECORDED.

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

~~(4) (I) A VICTIM WHO IS THE SUBJECT OF A RECORD THAT IS DENIED INSPECTION UNDER THIS SECTION SHALL BE NOTIFIED OF ALL REQUESTS TO INSPECT THE RECORD.~~

(II) THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION, IN CONSULTATION WITH THE MARYLAND ASSOCIATION OF COUNTIES, THE MARYLAND MUNICIPAL LEAGUE, LAW ENFORCEMENT AGENCIES, THE PRESS, VICTIMS' RIGHTS ADVOCATES, AND OTHER STAKEHOLDERS, SHALL DEVELOP UNIFORM STANDARDS AND PROCEDURES TO CARRY OUT THE PROVISIONS OF THIS PARAGRAPH.

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

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

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

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

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

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

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

1 (II) IS UNDER INVESTIGATION FOR, CHARGED WITH, RECEIVED
2 PROBATION BEFORE JUDGMENT FOR, IS SUBJECT TO A PEACE OR PROTECTIVE
3 ORDER AS A RESULT OF, PLEADED NOLO CONTENDERE TO, PLEADED GUILTY TO, OR
4 HAS BEEN FOUND GUILTY OF A VIOLATION DESCRIBED IN SUBSECTION (A) OF THIS
5 SECTION IF THE RECORDING IS OF THE INCIDENT LEADING TO THE INVESTIGATION,
6 PROBATION BEFORE JUDGMENT, ORDER, CHARGE, PLEA, OR VERDICT.

7 ~~(C) A CUSTODIAN SHALL ALLOW INSPECTION OF RECORDS FROM A~~
8 ~~BODY WORN DIGITAL RECORDING DEVICE NOT OTHERWISE PROHIBITED UNDER~~
9 ~~THIS TITLE.~~

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2017.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.