

SENATE BILL 40

P3, E4
SB 31/22 – JPR

(PRE-FILED)

3lr0698

By: **Senator Sydnor**

Requested: November 4, 2022

Introduced and read first time: January 11, 2023

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 3, 2023

CHAPTER _____

1 AN ACT concerning

2 **Public Information Act – Inspection of Records From Body–Worn Digital**
3 **Recording Devices**

4 FOR the purpose of establishing certain requirements for a custodian of records related to
5 certain recordings from a certain body–worn digital recording device worn by a law
6 enforcement officer; requiring the Maryland Police Training and Standards
7 Commission to develop certain uniform standards and policies in consultation with
8 certain groups; and generally relating to the inspection of recordings from body–worn
9 digital recording devices worn by law enforcement officers.

10 BY repealing and reenacting, with amendments,
11 Article – General Provisions
12 Section 4–101
13 Annotated Code of Maryland
14 (2019 Replacement Volume and 2022 Supplement)

15 BY adding to
16 Article – General Provisions
17 Section 4–357
18 Annotated Code of Maryland
19 (2019 Replacement Volume and 2022 Supplement)

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

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.



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.

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)** “Police officer” has the meaning stated in § 3–201 of the Public Safety
26 Article.

27 **[(j)] (K)** “Political subdivision” means:

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

[(k)] (L) (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:

(i) 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; or

(ii) a record or any information submitted to the Public Access Ombudsman or the Board under Subtitle 1B of this title.

[(l)] (M) “Technical infraction” means a minor rule violation by an individual solely related to the enforcement of administrative rules that:

(1) does not involve an interaction between a member of the public and the individual;

(2) does not relate to the individual’s investigative, enforcement, training, supervision, or reporting responsibilities; and

(3) is not otherwise a matter of public concern.

4–357.

(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 (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) DOES NOT RESULT IN:

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

1 2. THE USE OF FORCE AGAINST AN INDIVIDUAL; OR

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

5 (V) DEPICTS THE DEATH OF A LAW ENFORCEMENT OFFICER
6 THAT OCCURRED IN THE PERFORMANCE OF THE OFFICER'S DUTIES.

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

10 (3) (I) A VICTIM WHO IS THE SUBJECT OF A RECORD SHALL BE
11 NOTIFIED OF ALL REQUESTS TO INSPECT THE RECORD.

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

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

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

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

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

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

1 **(2) A CUSTODIAN MAY NOT ALLOW INSPECTION OR COPYING OF A**
2 **RECORDING FROM A BODY-WORN DIGITAL RECORDING DEVICE BY AN INDIVIDUAL**
3 **WHO IS UNDER INVESTIGATION FOR OR IS CHARGED WITH A VIOLATION DESCRIBED**
4 **IN SUBSECTION (B) OF THIS SECTION IF THE RECORDING IS OF THE INCIDENT**
5 **LEADING TO THE INVESTIGATION OR CHARGE.**

6 **(3) A CUSTODIAN MAY NOT ALLOW COPYING OF A RECORDING FROM**
7 **A BODY-WORN DIGITAL RECORDING DEVICE BY AN INDIVIDUAL WHO HAS RECEIVED**
8 **PROBATION BEFORE JUDGMENT FOR, IS SUBJECT TO A PEACE OR PROTECTIVE**
9 **ORDER AS A RESULT OF, HAS PLEADED NOLO CONTENDERE TO, HAS PLEADED**
10 **GUILTY TO, OR HAS BEEN FOUND GUILTY OF A VIOLATION DESCRIBED IN**
11 **SUBSECTION (B) OF THIS SECTION IF THE RECORDING IS OF THE INCIDENT LEADING**
12 **TO THE PROBATION BEFORE JUDGMENT, ORDER, PLEA, OR VERDICT.**

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.