

HOUSE BILL 1148

E4

7lr0943

By: **Delegate Sydnor**

Introduced and read first time: February 9, 2017

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Face Recognition Act**

3 FOR the purpose of prohibiting certain police officers from using or requesting targeted or
4 continuous face recognition under certain circumstances; providing that certain
5 police officers may use or request targeted or continuous face recognition under
6 certain circumstances; providing for certain procedures for applying to a court for
7 certain orders; authorizing a court to enter an order authorizing the use of targeted
8 or continuous face recognition under certain circumstances; establishing certain
9 evidentiary rules; providing for certain civil liability and certain remedies for certain
10 violations of this Act; providing for a certain period of limitations for a certain civil
11 action; defining certain terms; and generally relating to the use of face recognition
12 systems by certain investigative or law enforcement officers under certain
13 circumstances.

14 BY adding to
15 Article – Public Safety
16 Section 3–801 through 3–805 to be under the new subtitle “Subtitle 8. Face
17 Recognition Act”
18 Annotated Code of Maryland
19 (2011 Replacement Volume and 2016 Supplement)

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

22 **Article – Public Safety**

23 **SUBTITLE 8. FACE RECOGNITION ACT.**

24 **3–801.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

(B) "ARREST PHOTO DATABASE" MEANS A GOVERNMENT OR PRIVATE DATABASE POPULATED PRIMARILY BY BOOKING OR ARREST PHOTOGRAPHS OR PHOTOGRAPHS OF INDIVIDUALS ENCOUNTERED BY POLICE OFFICERS.

(C) "CENTER" MEANS THE MARYLAND COORDINATION AND ANALYSIS CENTER.

(D) "CONTINUOUS FACE RECOGNITION" MEANS THE USE OF FACE RECOGNITION ON GROUPS OF INDIVIDUALS AS PART OF A CRIMINAL INVESTIGATION OR GENERAL SURVEILLANCE, INCLUDING THE USE OF FACE RECOGNITION TO CONTINUOUSLY IDENTIFY INDIVIDUALS WHOSE IMAGES ARE CAPTURED OR RECORDED BY A SURVEILLANCE CAMERA.

(E) "COURT" MEANS THE DISTRICT COURT OR A CIRCUIT COURT HAVING JURISDICTION OVER THE CRIME BEING INVESTIGATED.

(F) "EMERGENCY WATCH LIST" MEANS A HIGHLY TARGETED DATABASE POPULATED BY A SPECIFIC INDIVIDUAL OR INDIVIDUALS WHOM THERE IS PROBABLE CAUSE TO BELIEVE HAVE COMMITTED, ARE COMMITTING, OR ARE ABOUT TO COMMIT AN OFFENSE THAT INVOLVES THE IMMEDIATE DANGER OF DEATH OR SERIOUS PHYSICAL INJURY TO ANOTHER INDIVIDUAL.

(G) "EXIGENT CIRCUMSTANCES" MEANS AN EMERGENCY OR OTHER JUDICIALLY RECOGNIZED EXCEPTION TO CONSTITUTIONAL WARRANT REQUIREMENTS.

(H) "FACE RECOGNITION" MEANS THE AUTOMATED OR SEMIAUTOMATED PROCESS BY WHICH AN INDIVIDUAL IS SOUGHT TO BE IDENTIFIED BASED ON THE CHARACTERISTICS OF THE INDIVIDUAL'S FACE, INCLUDING IRISES AND EARS.

(I) "LAW ENFORCEMENT AGENCY" HAS THE MEANING STATED IN § 3-201(D) OF THIS TITLE.

(J) "LEGITIMATE LAW ENFORCEMENT PURPOSE" MEANS THE INVESTIGATION, DETECTION, OR ANALYSIS OF A CRIME OR THE OPERATION OF TERRORISTS OR MISSING OR ENDANGERED PERSON SEARCHES OR ALERTS.

(K) "POLICE OFFICER" HAS THE SAME MEANING STATED IN § 3-201(F) OF THIS TITLE.

(L) "STATE IDENTIFICATION PHOTO DATABASE" MEANS A GOVERNMENT OR PRIVATE DATABASE POPULATED PRIMARILY BY PHOTOGRAPHS FROM DRIVERS' LICENSES OR IDENTIFICATION DOCUMENTS MADE OR ISSUED BY OR UNDER THE AUTHORITY OF THE STATE.

(M) "TARGETED FACE RECOGNITION" MEANS THE USE OF FACE RECOGNITION TO IDENTIFY OR ATTEMPT TO IDENTIFY A SPECIFIC INDIVIDUAL AS PART OF A SPECIFIC CRIMINAL INVESTIGATION.

3-802.

(A) A POLICE OFFICER MAY NOT USE OR REQUEST TARGETED FACE RECOGNITION IN CONJUNCTION WITH AN ARREST PHOTO DATABASE UNLESS THAT OFFICER:

(1) HAS PROBABLE CAUSE TO BELIEVE THAT THE INDIVIDUAL THE POLICE OFFICER SEEKS TO IDENTIFY HAS COMMITTED, IS COMMITTING, OR IS ABOUT TO COMMIT A MISDEMEANOR OR A FELONY; AND

(2) DOCUMENTS THAT PROBABLE CAUSE BEFORE OR IMMEDIATELY AFTER THE USE OR REQUEST.

(B) (1) A POLICE OFFICER MAY NOT USE OR REQUEST TARGETED FACE RECOGNITION IN CONJUNCTION WITH A STATE IDENTIFICATION PHOTO DATABASE EXCEPT AS PROVIDED IN THIS SUBSECTION.

(2) A COURT MAY ISSUE AN ORDER AUTHORIZING A POLICE OFFICER TO USE OR REQUEST TARGETED FACE RECOGNITION IN CONJUNCTION WITH A STATE IDENTIFICATION PHOTO DATABASE AFTER DETERMINING FROM AN APPLICATION DESCRIBED IN PARAGRAPH (3) OF THIS SUBSECTION THAT THERE IS PROBABLE CAUSE TO BELIEVE THAT:

(I) A MISDEMEANOR OR FELONY HAS BEEN, IS BEING, OR WILL BE COMMITTED BY THE INDIVIDUAL SOUGHT TO BE IDENTIFIED; AND

(II) THE USE OF FACE RECOGNITION WILL LEAD TO:

1. EVIDENCE OF THE MISDEMEANOR OR FELONY BEING INVESTIGATED; OR

2. THE APPREHENSION OF AN INDIVIDUAL FOR WHOM AN ARREST WARRANT HAS BEEN ISSUED PREVIOUSLY.

**(3) AN APPLICATION FOR AN ORDER UNDER THIS SUBSECTION SHALL
BE:**

(I) IN WRITING;

(II) SIGNED AND SWORN TO OR BY THE APPLICANT; AND

(III) ACCOMPANIED BY AN AFFIDAVIT THAT:

**1. SETS FORTH THE BASIS FOR PROBABLE CAUSE AS
DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION; AND**

**2. CONTAINS FACTS WITHIN THE PERSONAL
KNOWLEDGE OF THE AFFIANT.**

**(4) AN ORDER ISSUED UNDER THIS SUBSECTION SHALL NAME OR
DESCRIBE WITH REASONABLE PARTICULARITY:**

**(I) THE PHOTOGRAPHS OR VIDEO RECORDINGS OF THE
INDIVIDUAL THAT WILL BE USED TO SEARCH THE STATE IDENTIFICATION PHOTO
DATABASE;**

**(II) THE STATE IDENTIFICATION PHOTO DATABASE TO BE
SEARCHED;**

**(III) THE AUTHORITY UNDER WHICH THE ORDER IS MADE AND
THE GROUNDS FOR APPROVING THE USE OF FACE RECOGNITION;**

**(IV) THE NAME OF THE APPLICANT ON WHOSE APPLICATION THE
ORDER WAS ISSUED; AND**

**(V) THE PERIOD OF TIME WITHIN WHICH THE SEARCH SHALL BE
EXECUTED, NOT TO EXCEED 10 CALENDAR DAYS FROM THE DATE OF ISSUANCE OF
THE ORDER.**

**(c) (1) A POLICE OFFICER MAY NOT USE OR REQUEST CONTINUOUS FACE
RECOGNITION WITHIN THE STATE EXCEPT AS PROVIDED IN THIS SUBSECTION.**

**(2) A COURT MAY ISSUE AN ORDER AUTHORIZING A POLICE OFFICER
TO USE OR REQUEST CONTINUOUS FACE RECOGNITION WITHIN THE STATE IN
CONJUNCTION WITH AN EMERGENCY WATCH LIST AFTER DETERMINING FROM AN
APPLICATION DESCRIBED IN PARAGRAPH (3) OF THIS SUBSECTION THAT THERE IS
PROBABLE CAUSE TO BELIEVE THAT:**

1 **(I) A FELONY INVOLVING THE IMMEDIATE DANGER OF DEATH**
2 **OR SERIOUS BODILY INJURY HAS BEEN, IS BEING, OR WILL BE COMMITTED BY THE**
3 **INDIVIDUAL OR INDIVIDUALS INCLUDED IN THE EMERGENCY WATCH LIST;**

4 **(II) AN EMERGENCY SITUATION EXISTS THAT REQUIRES THE**
5 **USE OF CONTINUOUS FACE RECOGNITION WITHOUT DELAY; AND**

6 **(III) THE USE OF FACE RECOGNITION WILL:**

7 **1. LEAD TO EVIDENCE OF THE FELONY BEING**
8 **INVESTIGATED;**

9 **2. LEAD TO THE APPREHENSION OF AN INDIVIDUAL FOR**
10 **WHOM AN ARREST WARRANT HAS BEEN ISSUED PREVIOUSLY; OR**

11 **3. PREVENT A PERSON'S DEATH OR SERIOUS BODILY**
12 **INJURY.**

13 **(3) AN APPLICATION FOR AN ORDER UNDER THIS SUBSECTION SHALL**
14 **BE:**

15 **(I) IN WRITING;**

16 **(II) SIGNED AND SWORN TO OR BY THE APPLICANT; AND**

17 **(III) ACCOMPANIED BY AN AFFIDAVIT THAT:**

18 **1. SETS FORTH THE BASIS FOR PROBABLE CAUSE AS**
19 **DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION; AND**

20 **2. CONTAINS FACTS WITHIN THE PERSONAL**
21 **KNOWLEDGE OF THE AFFIANT.**

22 **(4) AN ORDER ISSUED UNDER THIS SUBSECTION SHALL NAME OR**
23 **DESCRIBE WITH REASONABLE PARTICULARITY:**

24 **(I) THE INDIVIDUAL OR INDIVIDUALS ENROLLED IN THE**
25 **EMERGENCY WATCH LIST, INCLUDING THEIR IDENTITIES, IF KNOWN, AND THE**
26 **PHOTOGRAPHS OR VIDEO RECORDINGS THROUGH WHICH THEY HAVE BEEN**
27 **ENROLLED IN THE LIST;**

1 (II) THE AUTHORITY UNDER WHICH THE ORDER IS MADE AND
2 THE GROUNDS FOR APPROVING THE USE OF FACE RECOGNITION; AND

3 (III) THE NAME OF THE APPLICANT ON WHOSE APPLICATION THE
4 ORDER WAS ISSUED; AND

5 (IV) SPECIFY THE LOCATIONS AND THE PERIOD OF TIME FOR
6 WHICH CONTINUOUS FACE RECOGNITION IS AUTHORIZED, NOT TO EXCEED 7 DAYS
7 UNLESS EXTENDED AS PROVIDED IN PARAGRAPH (5) OF THIS SUBSECTION;

8 (5) (I) THE AUTHORITY TO CONDUCT CONTINUOUS FACE
9 RECOGNITION UNDER THE ORDER MAY BE EXTENDED BEYOND 7 CALENDAR DAYS
10 ON A FINDING OF CONTINUING PROBABLE CAUSE.

11 (II) AN EXTENSION UNDER THIS PARAGRAPH MAY NOT EXCEED
12 AN ADDITIONAL 7 CALENDAR DAYS, UNLESS THE COURT FINDS CONTINUING
13 PROBABLE CAUSE AND DETERMINES THAT GOOD CAUSE EXISTS FOR A LONGER
14 EXTENSION.

15 (D) (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, A
16 POLICE OFFICER MAY USE OR REQUEST TARGETED OR CONTINUOUS FACE
17 RECOGNITION:

18 (I) IN EXIGENT CIRCUMSTANCES;

19 (II) TO IDENTIFY OR LOCATE AN INDIVIDUAL WHO IS DECEASED,
20 INCAPACITATED, OR REASONABLY SUSPECTED TO BE THE VICTIM OF A CRIME,
21 WHOM THE OFFICER DETERMINES, IN GOOD FAITH, CANNOT BE IDENTIFIED
22 THROUGH OTHER MEANS;

23 (III) TO LOCATE AN INDIVIDUAL WHO HAS BEEN REPORTED
24 MISSING, INCLUDING THE SUBJECT OF AN AMBER OR SILVER ALERT;

25 (IV) TO IDENTIFY AN INDIVIDUAL WHO HAS BEEN LAWFULLY
26 ARRESTED, DURING THE PROCESS OF BOOKING THAT INDIVIDUAL AFTER AN ARREST
27 OR DURING THAT INDIVIDUAL'S CUSTODIAL DETENTION; OR

28 (V) TO ASSIST THE MOTOR VEHICLE ADMINISTRATION IN
29 INVESTIGATING INDIVIDUAL CASES OF IDENTITY FRAUD UNDER § 8-301 OF THE
30 CRIMINAL LAW ARTICLE THROUGH DEPLICATION ANALYSIS.

31 (2) (I) IF A POLICE OFFICER USES OR REQUESTS TARGETED FACE
32 RECOGNITION IN CONJUNCTION WITH A STATE IDENTIFICATION PHOTO DATABASE

OR CONTINUOUS FACE RECOGNITION UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION, THE OFFICER SHALL APPLY FOR AN ORDER APPROVING THE USE UNDER SUBSECTION (B) OR (C) OF THIS SECTION WITHIN 24 HOURS AFTER THE USE OCCURS OR INITIATES.

(II) THE USE SHALL TERMINATE IMMEDIATELY IF THE APPLICATION FOR APPROVAL IS DENIED, OR IN THE ABSENCE OF AN APPLICATION WITHIN 24 HOURS.

(III) IN A CASE IN WHICH AN ORDER IS NOT OBTAINED, THE POLICE OFFICER SHALL DESTROY ALL INFORMATION OBTAINED AS A RESULT OF THE SEARCH.

3-803.

(A) A POLICE OFFICER MAY USE OR REQUEST TARGETED OR CONTINUOUS FACE RECOGNITION ONLY FOR A LEGITIMATE LAW ENFORCEMENT PURPOSE.

(B) A POLICE OFFICER WHO KNOWINGLY VIOLATES THIS SECTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$10,000 OR BOTH.

3-804.

(A) (1) AN INDIVIDUAL ARRESTED AS A RESULT OF AN INVESTIGATIVE LEAD GENERATED THROUGH THE USE OR REQUEST OF TARGETED OR CONTINUOUS FACE RECOGNITION SHALL BE NOTIFIED OF THAT USE OR REQUEST.

(2) THE NOTICE SHALL:

(I) STATE THE GENERAL NATURE OF THE LAW ENFORCEMENT INQUIRY; AND

(II) PROVIDE TO THE INDIVIDUAL:

1. THE INFORMATION REGARDING THE DATABASE THAT WAS USED TO IDENTIFY THE INDIVIDUAL AND THE PHOTOGRAPH OR VIDEO RECORDING THAT WAS USED TO SEARCH THAT DATABASE;

2. A COPY OF THE ORDER THAT AUTHORIZED THE USE OR REQUEST UNDER § 3-802(B) AND (C) OF THIS SUBTITLE, IF APPLICABLE; AND

1 **3. INFORMATION REGARDING WHETHER NOTIFICATION**
2 **WAS DELAYED.**

3 **(3) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, NOTICE MUST**
4 **BE DELIVERED WITHIN 48 HOURS OF THAT INDIVIDUAL'S ARREST.**

5 **(4) NOTWITHSTANDING ANY PROVISION OF THE MARYLAND RULES**
6 **OR THIS SUBTITLE, THE COURT, ON A FINDING OF GOOD CAUSE AS DESCRIBED IN §**
7 **1-203.1(D)(5) OF THE CRIMINAL PROCEDURE ARTICLE, MAY ORDER THAT THE**
8 **APPLICATION, AFFIDAVIT, AND ORDERS ISSUED UNDER § 3-802 OF THIS SUBTITLE**
9 **BE SEALED AND THAT THE NOTIFICATION REQUIRED UNDER THIS SECTION BE**
10 **DELAYED FOR A PERIOD OF 30 CALENDAR DAYS, OR FOR AN ADDITIONAL PERIOD, IF**
11 **THE COURT MAKES A FINDING DESCRIBED IN § 1-203.1(D)(6) OF THE CRIMINAL**
12 **PROCEDURE ARTICLE.**

13 **(B) DISCOVERY OF AN APPLICATION, AFFIDAVIT, OR ORDER UNDER §**
14 **3-802(B) AND (C) OF THIS SUBTITLE, AND ANY DOCUMENTS RELATED TO THE USE**
15 **OR REQUEST OF CONTINUOUS OR TARGETED FACE RECOGNITION, IF ANY, ARE**
16 **SUBJECT TO THE PROVISIONS OF MARYLAND RULES 4-262 AND 4-263.**

17 **(C) THE MOTOR VEHICLE ADMINISTRATION SHALL POST NOTICES IN**
18 **CONSPICUOUS LOCATIONS AT EACH OF ITS LOCATIONS, MAKE WRITTEN**
19 **INFORMATION AVAILABLE TO EACH APPLICANT AT ITS LOCATIONS, AND PROVIDE**
20 **INFORMATION ON THE MOTOR VEHICLE ADMINISTRATION'S WEB SITE REGARDING**
21 **LAW ENFORCEMENT FACE RECOGNITION SEARCHES OF DRIVER'S LICENSE AND**
22 **IDENTIFICATION CARD PHOTOGRAPHS.**

23 **3-805.**

24 **(A) THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES**
25 **AND ANY LAW ENFORCEMENT AGENCY USING TARGETED OR CONTINUOUS FACE**
26 **RECOGNITION SHALL ADOPT AN AUDIT PROCESS TO ENSURE THAT FACE**
27 **RECOGNITION IS USED ONLY FOR LEGITIMATE LAW ENFORCEMENT PURPOSES,**
28 **INCLUDING AUDITS OF USES OR REQUESTS MADE BY LAW ENFORCEMENT AGENCIES**
29 **OR INDIVIDUAL POLICE OFFICERS.**

30 **(B) ON OR BEFORE MARCH 1 OF EACH YEAR BEGINNING IN 2018, THE**
31 **DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES, IN**
32 **CONJUNCTION WITH THE CENTER AND LAW ENFORCEMENT AGENCIES THAT USE**
33 **TARGETED OR CONTINUOUS FACE RECOGNITION, SHALL REPORT TO THE SENATE**
34 **JUDICIAL PROCEEDING COMMITTEE AND THE HOUSE JUDICIARY COMMITTEE, IN**
35 **ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE**
36 **FOLLOWING INFORMATION BASED ON DATA FROM THE PREVIOUS CALENDAR YEAR,**

1 FOR USES OR REQUESTS OF TARGETED FACE RECOGNITION IN CONJUNCTION WITH
2 AN ARREST DATABASE, TARGETED FACE RECOGNITION IN CONJUNCTION WITH A
3 STATE IDENTIFICATION PHOTO DATABASE, AND CONTINUOUS FACE RECOGNITION
4 IN CONJUNCTION WITH AN EMERGENCY WATCH LIST, RESPECTIVELY:

5 (1) THE NUMBER OF SEARCHES RUN;

6 (2) THE NUMBER OF ARRESTS AND CONVICTIONS THAT RESULTED
7 FROM THE SEARCHES;

8 (3) THE OFFENSES THAT THE SEARCHES WERE USED TO
9 INVESTIGATE;

10 (4) THE NUMBER OF MOTIONS TO SUPPRESS MADE WITH RESPECT TO
11 THE SEARCHES;

12 (5) THE NUMBER OF SEARCHES RUN IN ACCORDANCE WITH §
13 3-802(D)(1)(I) OF THIS SUBTITLE;

14 (6) FOR TARGETED FACE RECOGNITION IN CONJUNCTION WITH AN
15 ARREST PHOTO DATABASE OR A STATE IDENTIFICATION PHOTO DATABASE,
16 RESPECTIVELY, SUMMARY STATISTICS ON THE RACE, ETHNICITY, AGE, AND GENDER
17 OF THE INDIVIDUALS WHOSE FACES WERE SEARCHED;

18 (7) FOR CONTINUOUS FACE RECOGNITION IN CONJUNCTION WITH AN
19 EMERGENCY WATCH LIST:

20 (I) THE SPECIFIC LOCATIONS WHERE THE SEARCHES WERE
21 RUN;

22 (II) THE DURATION OF THOSE SEARCHES;

23 (III) THE NUMBER OF INDIVIDUALS INCLUDED ON THE
24 EMERGENCY WATCH LIST; AND

25 (IV) SUMMARY STATISTICS ON THE RACE, ETHNICITY, AGE, AND
26 GENDER OF THE INDIVIDUALS INCLUDED ON THE LIST; AND

27 (8) A LIST OF AUDITS THAT WERE COMPLETED BY THE CENTER OR A
28 LAW ENFORCEMENT AGENCY AND A SUMMARY OF THEIR RESULTS.

29 3-805.

(A) WHEN TARGETED OR CONTINUOUS FACE RECOGNITION IS USED OR REQUESTED, RESULTS FROM THOSE SEARCHES AND EVIDENCE DERIVED FROM THE TARGETED OR CONTINUOUS FACE RECOGNITION MAY NOT BE RECEIVED IN EVIDENCE IN A TRIAL, A HEARING, OR ANY OTHER PROCEEDING IN OR BEFORE A COURT, GRAND JURY, DEPARTMENT, OFFICER, AGENCY, REGULATORY BODY, LEGISLATIVE COMMITTEE, OR ANY OTHER AUTHORITY OF THE STATE IF:

(1) THE USE OF FACE RECOGNITION VIOLATED § 3-802, § 3-803, OR § 3-804 OF THIS SUBTITLE; OR

(2) THE POLICE OFFICER WAS REQUIRED TO SUBSEQUENTLY OBTAIN AN ORDER FOR THE USE OR REQUEST IN ACCORDANCE WITH § 3-802(D)(2)(I), BUT DID NOT SUBSEQUENTLY OBTAIN SUCH AN ORDER.

(B) THE EVIDENTIARY BAR DESCRIBED IN SUBSECTION (A) OF THIS SECTION DOES NOT APPLY TO SEARCH RESULTS AND EVIDENCE DERIVED FROM THE SEARCH RESULTS THAT ARE USED TO PROVE A VIOLATION OF THIS SECTION.

(C) (1) IN THIS SUBSECTION, "APPROPRIATE RELIEF" INCLUDES:

(I) PRELIMINARY AND OTHER EQUITABLE OR DECLARATORY RELIEF AS MAY BE APPROPRIATE;

(II) ACTUAL DAMAGES AND PUNITIVE DAMAGES IN APPROPRIATE CASES; AND

(III) REASONABLE ATTORNEY'S FEES AND OTHER LITIGATION COSTS REASONABLY INCURRED.

(2) AN INDIVIDUAL WHO IS SUBJECT TO IDENTIFICATION OR ATTEMPTED IDENTIFICATION THROUGH TARGETED CONTINUOUS FACE RECOGNITION IN VIOLATION OF THIS SUBTITLE, OR WHO DOES NOT RECEIVE THE NOTICE REQUIRED UNDER § 3-804 OF THIS SUBTITLE, MAY RECOVER APPROPRIATE RELIEF IN A CIVIL ACTION FROM THE LAW ENFORCEMENT AGENCY THAT EMPLOYS THE POLICE OFFICER.

(3) THE TRIER OF FACT MAY ASSESS AS DAMAGES THE GREATER OF:

(I) THE SUM OF THE ACTUAL DAMAGES SUFFERED BY THE PLAINTIFF AS A RESULT OF THE VIOLATION; OR

(II) STATUTORY DAMAGES OF THE GREATER OF:

1 **1. \$500 A DAY FOR EACH DAY OF VIOLATION; OR**

2 **2. \$50,000.**

3 **(4) IT IS A COMPLETE DEFENSE AGAINST ANY CIVIL OR CRIMINAL**
4 **ACTION BROUGHT UNDER THIS SUBTITLE IF THE DEFENDANT RELIES IN GOOD**
5 **FAITH ON A COURT WARRANT OR ORDER, A GRAND JURY SUBPOENA, A LEGISLATIVE**
6 **AUTHORIZATION, OR A STATUTORY AUTHORIZATION.**

7 **(5) A CIVIL ACTION UNDER THIS SECTION MAY NOT BE COMMENCED**
8 **LATER THAN 3 YEARS AFTER THE DATE ON WHICH THE CLAIMANT FIRST HAS A**
9 **REASONABLE OPPORTUNITY TO DISCOVER THE VIOLATION.**

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