

SENATE BILL 970

P3, E4
SB 930/16 – JPR

7lr2959
CF HB 767

By: **Senators Kagan and Lee**

Introduced and read first time: February 3, 2017

Assigned to: Judicial Proceedings

A BILL ENTITLED

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 Attorney General to adopt certain regulations in consultation with
9 certain groups; requiring a custodian of records to allow inspection by certain
10 individuals of a recording from a certain body–worn digital recording device worn by
11 a law enforcement officer; prohibiting a custodian of records from allowing copying
12 of records by certain individuals from a certain body–worn digital recording device
13 worn by a law enforcement officer; providing for the construction of this Act;
14 providing for the termination of this Act; defining a certain term; and generally
15 relating to the inspection of recordings from body–worn digital recording devices
16 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
24 Section 4–356
25 Annotated Code of Maryland
26 (2014 Volume and 2016 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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)** “Political subdivision” means:

26 (1) a county;

27 (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.

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

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

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

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

13 (IV) DOES NOT RESULT IN:

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

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

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

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

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

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

30 (II) THE MARYLAND POLICE TRAINING AND STANDARDS
31 COMMISSION, IN CONSULTATION WITH THE MARYLAND ASSOCIATION OF
32 COUNTIES, THE MARYLAND MUNICIPAL LEAGUE, LAW ENFORCEMENT AGENCIES,
33 THE PRESS, VICTIM RIGHTS ADVOCATES, AND OTHER STAKEHOLDERS, SHALL

1 DEVELOP UNIFORM STANDARDS AND PROCEDURES TO CARRY OUT THE PROVISIONS
2 OF THIS PARAGRAPH.

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

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

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

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

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

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

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

21 (II) IS UNDER INVESTIGATION FOR, CHARGED WITH, RECEIVED
22 PROBATION BEFORE JUDGMENT FOR, IS SUBJECT TO A PEACE OR PROTECTIVE
23 ORDER AS A RESULT OF, PLEADED NOLO CONTENDERE TO, PLEADED GUILTY TO, OR
24 HAS BEEN FOUND GUILTY OF A VIOLATION DESCRIBED IN SUBSECTION (A) OF THIS
25 SECTION IF THE RECORDING IS OF THE INCIDENT LEADING TO THE INVESTIGATION,
26 PROBATION BEFORE JUDGMENT, ORDER, CHARGE, PLEA, OR VERDICT.

27 (C) A CUSTODIAN SHALL ALLOW INSPECTION OF RECORDS FROM A
28 BODY-WORN DIGITAL RECORDING DEVICE NOT OTHERWISE PROHIBITED UNDER
29 THIS TITLE.

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