

SENATE BILL 482

E4, D3, E2

51r0978
CF 51r0970

By: **Senators Ramirez, Madaleno, Montgomery, Raskin, and Waugh**

Introduced and read first time: February 6, 2015

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Public Safety – Law Enforcement Officers – Body–Worn Cameras**

3 FOR the purpose of requiring a law enforcement officer to activate both the audio and visual
4 recording capabilities of a body–worn camera under certain circumstances; requiring
5 a certain camera, once activated, to continue recording until a certain event;
6 providing that a law enforcement officer may not use a certain camera to record an
7 individual engaged in certain activities, with a certain exception; providing that a
8 recording made under certain circumstances may not be used to identify certain
9 persons; requiring a certain law enforcement officer to provide a certain notice to the
10 subject of a certain recording; providing certain requirements for recording on
11 private property under certain circumstances; providing for requests to turn the
12 camera off under certain circumstances; requiring a certain law enforcement agency
13 to establish certain policies; limiting the use or review of certain recordings for
14 certain purposes; requiring a certain log to be maintained and updated under certain
15 circumstances; requiring an unedited copy of a certain recording to be maintained;
16 providing that the subject of a certain recording is a certain person in interest;
17 providing that it is lawful under a certain provision of law for a law enforcement
18 officer to intercept a certain oral communication; providing for the application of this
19 Act; and generally relating to law enforcement officers and body–worn cameras.

20 BY adding to

21 Article – Public Safety

22 Section 3–510

23 Annotated Code of Maryland

24 (2011 Replacement Volume and 2014 Supplement)

25 BY adding to

26 Article – Courts and Judicial Proceedings

27 Section 10–402(c)(11)

28 Annotated Code of Maryland

29 (2013 Replacement Volume and 2014 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Public Safety**

4 **3–510.**

5 (A) THIS SECTION APPLIES TO A LAW ENFORCEMENT OFFICER WHO IS
6 PROVIDED WITH A BODY–WORN CAMERA TO WEAR WHILE ON DUTY.

7 (B) (1) A LAW ENFORCEMENT OFFICER SHALL ACTIVATE BOTH THE
8 AUDIO AND VISUAL RECORDING CAPABILITIES OF A BODY–WORN CAMERA WHEN THE
9 LAW ENFORCEMENT OFFICER IS RESPONDING TO A CALL FOR SERVICE OR AT THE
10 INITIATION OF A LAW ENFORCEMENT OR INVESTIGATIVE ENCOUNTER BETWEEN THE
11 LAW ENFORCEMENT OFFICER AND A MEMBER OF THE PUBLIC.

12 (2) SUBJECT TO SUBSECTION (D) OF THIS SECTION, ONCE
13 ACTIVATED, A BODY–WORN CAMERA SHALL CONTINUE RECORDING UNTIL:

14 (I) THE CONCLUSION OF THE ENCOUNTER;

15 (II) THE LAW ENFORCEMENT OFFICER HAS LEFT THE SCENE; OR

16 (III) A SUPERVISOR, ON CAMERA, HAS AUTHORIZED THE
17 RECORDING TO CEASE.

18 (C) (1) A LAW ENFORCEMENT OFFICER MAY NOT USE A BODY–WORN
19 CAMERA TO RECORD AN INDIVIDUAL ENGAGED IN A CONSTITUTIONALLY
20 PROTECTED ACTIVITY, INCLUDING A DEMONSTRATION, A PROTEST, OR AN
21 ATTENDANCE AT A RELIGIOUS FUNCTION, MEETING, OR SIMILAR ACTIVITY, UNLESS
22 THE LAW ENFORCEMENT OFFICER HAS A REASONABLE SUSPICION THAT A CRIMINAL
23 ACTIVITY IS OCCURRING.

24 (2) A VIDEO TAKEN OF A CONSTITUTIONALLY PROTECTED ACTIVITY
25 UNDER THIS SUBSECTION MAY NOT BE USED TO IDENTIFY PERSONS PRESENT AT
26 THE ACTIVITY WHO ARE NOT SUSPECTED OF BEING ENGAGED IN ILLGAL ACTIVITY.

27 (D) (1) A LAW ENFORCEMENT OFFICER WEARING A BODY–WORN CAMERA
28 SHALL NOTIFY A SUBJECT OF A RECORDING THAT THE SUBJECT IS BEING RECORDED
29 AS CLOSE TO THE INCEPTION OF THE ENCOUNTER AS REASONABLY POSSIBLE.

30 (2) (I) WHEN A LAW ENFORCEMENT OFFICER WEARING A
31 BODY–WORN CAMERA ENTERS ON PRIVATE PROPERTY WITHOUT A WARRANT OR IN

1 A NONEMERGENCY SITUATION, THE LAW ENFORCEMENT OFFICER SHALL NOTIFY
2 ALL PERSONS PRESENT THAT A CAMERA IS RECORDING AND PROVIDE ANY PERSON
3 PRESENT THE OPTION TO REQUEST THE CAMERA BE TURNED OFF.

4 (II) IF A REQUEST DESCRIBED IN SUBPARAGRAPH (I) OF THIS
5 PARAGRAPH IS MADE, THE LAW ENFORCEMENT OFFICER SHALL RECORD THE
6 REQUEST ON VIDEO BEFORE THE BODY-WORN CAMERA IS TURNED OFF.

7 (III) IN THE EVENT OF CONTRADICTING REQUESTS FROM MORE
8 THAN ONE PERSON DURING AN ENCOUNTER, THE LAW ENFORCEMENT OFFICER
9 SHALL RECORD THE CONTRADICTING REQUESTS AND CONTINUE RECORDING,
10 UNLESS AND UNTIL THE PERSONS MAKING THE REQUESTS CAN BE SEPARATED.

11 (3) (I) WHEN A LAW ENFORCEMENT OFFICER WITH A
12 BODY-WORN CAMERA BEGINS AN ENCOUNTER WITH A PERSON WHO REPORTS A
13 CRIME, PROVIDES INFORMATION REGARDING A CRIME OR AN ONGOING POLICE
14 INVESTIGATION, CLAIMS TO BE THE VICTIM OF A CRIME, OR REQUESTS TO SPEAK
15 WITH THE OFFICER, AND THE PERSON IS FREE TO END THE ENCOUNTER, THE
16 OFFICER IMMEDIATELY SHALL PROVIDE NOTICE THAT THE BODY-WORN CAMERA IS
17 RECORDING AND PROVIDE THE PERSON WITH THE OPTION TO HAVE THE CAMERA
18 TURNED OFF.

19 (II) A LAW ENFORCEMENT OFFICER SHALL RECORD A REQUEST
20 TO TURN OFF THE BODY-WORN CAMERA BEFORE THE CAMERA IS TURNED OFF.

21 (E) A LAW ENFORCEMENT AGENCY THAT ISSUES A BODY-WORN CAMERA TO
22 A LAW ENFORCEMENT OFFICER SHALL ESTABLISH A POLICY RELATING TO THE USE
23 OF BODY-WORN CAMERAS, INCLUDING:

24 (1) THE TESTING OF BODY-WORN CAMERAS TO ENSURE ADEQUATE
25 FUNCTIONING; AND

26 (2) THE PROCEDURE FOR THE LAW ENFORCEMENT OFFICER IF THE
27 CAMERA FAILS TO PROPERLY OPERATE AT THE BEGINNING OF OR DURING THE LAW
28 ENFORCEMENT OFFICER'S SHIFT.

29 (F) USE OR REVIEW OF A RECORDING MADE UNDER THIS SECTION IS
30 ALLOWED ONLY:

31 (1) FOR A LAW ENFORCEMENT AGENCY'S INTERNAL AND EXTERNAL
32 INVESTIGATIONS OF MISCONDUCT;

1 **(2) FOR A LAW ENFORCEMENT AGENCY'S INTERNAL AUDITING,**
2 **SUPERVISION, OR TRAINING PURPOSES;**

3 **(3) IN THE EVENT THE LAW ENFORCEMENT AGENCY HAS**
4 **REASONABLE SUSPICION THAT THE RECORDING CONTAINS EVIDENCE OF A CRIME;**

5 **(4) IN THE INVESTIGATION, PROSECUTION, OR DEFENSE OF**
6 **CRIMINAL OR CIVIL ACTIONS;**

7 **(5) IN RESPONSE TO PUBLIC RECORDS REQUESTS; OR**

8 **(6) FOR EXTERNAL AUDITING.**

9 **(G) THE STORED VIDEO AND AUDIO DATA FROM A BODY-WORN CAMERA**
10 **MAY NOT, IN WHOLE OR IN PART:**

11 **(1) BE USED TO CREATE A DATABASE OR POOL OF MUG SHOTS;**

12 **(2) BE USED IN PHOTO ARRAYS; OR**

13 **(3) BE OTHERWISE SEARCHED USING FACIAL OR VOICE RECOGNITION**
14 **SOFTWARE.**

15 **(H) (1) IF A LAW ENFORCEMENT OFFICER REVIEWS A RECORDING**
16 **BEFORE THE LAW ENFORCEMENT OFFICER WRITES A STATEMENT ABOUT THE**
17 **ENCOUNTER THAT WAS RECORDED, THE LAW ENFORCEMENT OFFICER SHALL NOTE**
18 **THE FACT THAT THE RECORDING WAS REVIEWED IN THE WRITTEN STATEMENT.**

19 **(2) (I) A LOG OF ALL ACTIVITY RELATING TO EACH RECORDING**
20 **MADE UNDER THIS SECTION SHALL BE MAINTAINED.**

21 **(II) EVERY TIME A RECORDING UNDER THIS SECTION IS**
22 **VIEWED, COPIED, DELETED, OR EDITED, THE INDIVIDUAL ACCESSING THE**
23 **RECORDING SHALL LOG THE IDENTITY OF THE PERSON ACCESSING THE VIDEO,**
24 **WHAT WAS DONE, AND WHEN.**

25 **(III) IN THE EVENT A RECORDING MADE UNDER THIS SECTION IS**
26 **EDITED, AN UNEDITED COPY OF THE RECORDING SHALL BE MAINTAINED.**

27 **(I) THE SUBJECT OF A RECORDING UNDER THIS SECTION IS A PERSON IN**
28 **INTEREST WITH RESPECT TO THE RECORDING UNDER § 4-351 OF THE GENERAL**
29 **PROVISIONS ARTICLE.**

1 **Article – Courts and Judicial Proceedings**

2 10–402.

3 (c) **(11) IT IS LAWFUL UNDER THIS SUBTITLE FOR A LAW ENFORCEMENT**
4 **OFFICER IN THE COURSE OF THE OFFICER’S REGULAR DUTY TO INTERCEPT AN ORAL**
5 **COMMUNICATION IN ACCORDANCE WITH § 3–510 OF THE PUBLIC SAFETY ARTICLE.**

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
7 apply only prospectively and may not be applied or interpreted to have any effect on or
8 application to any recording made before the effective date of this Act.

9 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2015.