

# SENATE BILL 690

P3, E4  
HB 767/17 – JUD

11r2692

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By: **Senator Sydnor**

Introduced and read first time: February 3, 2021

Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 27, 2021

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## 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; requiring the Police Training  
8 and Standards Commission to develop certain uniform standards and policies in  
9 consultation with certain groups; requiring a custodian of records to allow inspection  
10 by certain individuals of a recording from a certain body–worn digital recording  
11 device worn by a law enforcement officer; prohibiting a custodian of records from  
12 allowing inspection or copying of records by certain individuals from a certain  
13 body–worn digital recording device worn by a law enforcement officer; providing for  
14 the construction and application 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 (2019 Replacement Volume and 2020 Supplement)

22 BY adding to  
23 Article – General Provisions

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### 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.



1 Section 4–357  
2 Annotated Code of Maryland  
3 (2019 Replacement Volume and 2020 Supplement)

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

6 **Article – General Provisions**

7 4–101.

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

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

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

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

14 **[(d)] (E)** “Custodian” means:

15 (1) the official custodian; or

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

18 **[(e)] (F)** “News media” means:

19 (1) newspapers;

20 (2) magazines;

21 (3) journals;

22 (4) press associations;

23 (5) news agencies;

24 (6) wire services;

25 (7) radio;

26 (8) television; and

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

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

6           **[(g)] (H)** “Person in interest” means:

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

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

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

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

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

18           (i) name;

19           (ii) address;

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

21           (iv) medical or disability information;

22           (v) photograph or computer-generated image;

23           (vi) Social Security number; and

24           (vii) telephone number.

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

26           (i) driver’s status;

27           (ii) driving offenses;

28           (iii) five-digit zip code; or

1 (iv) information on vehicular accidents.

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

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

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

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

13 (ii) is in any form, including:

- 14 1. a card;
- 15 2. a computerized record;
- 16 3. correspondence;
- 17 4. a drawing;
- 18 5. film or microfilm;
- 19 6. a form;
- 20 7. a map;
- 21 8. a photograph or photostat;
- 22 9. a recording; or
- 23 10. a tape.

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

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

4 ~~4-357.~~

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

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

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

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

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

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

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

24 (V) DOES NOT RESULT IN:

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

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

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

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

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

6           **(II) THE MARYLAND POLICE TRAINING AND STANDARDS**  
 7 **COMMISSION, IN CONSULTATION WITH THE MARYLAND ASSOCIATION OF**  
 8 **COUNTIES, THE MARYLAND MUNICIPAL LEAGUE, LAW ENFORCEMENT AGENCIES,**  
 9 **THE NEWS MEDIA, VICTIMS' RIGHTS ADVOCATES, AND OTHER STAKEHOLDERS,**  
 10 **SHALL DEVELOP UNIFORM STANDARDS AND PROCEDURES TO CARRY OUT THE**  
 11 **PROVISIONS OF THIS PARAGRAPH.**

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

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

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

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

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

26           **(2) A CUSTODIAN MAY NOT ALLOW INSPECTION OR COPYING OF A**  
 27 **RECORDING FROM A BODY-WORN DIGITAL RECORDING DEVICE BY AN INDIVIDUAL**  
 28 **WHO:**

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

31           ~~**(II) IS UNDER INVESTIGATION FOR, OR IS CHARGED WITH, A**~~  
 32 ~~**VIOLATION DESCRIBED IN SUBSECTION (B) OF THIS SECTION IF THE RECORDING IS**~~  
 33 ~~**OF THE INCIDENT LEADING TO THE INVESTIGATION OR CHARGE.**~~

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

9           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
10 October 1, 2021.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.