

HOUSE BILL 1065

P1, E4

71r0917

By: **Delegate Sydnor**

Introduced and read first time: February 8, 2017

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 13, 2017

CHAPTER _____

1 AN ACT concerning

2 ~~State Government—State Commission on Surveillance Technology and Civil~~
3 ~~Rights~~
4 Task Force to Study Law Enforcement Surveillance Technologies

5 FOR the purpose of ~~requiring law enforcement agencies in the State to report certain~~
6 ~~purchases and uses of certain surveillance technology to a certain commission;~~
7 ~~establishing the State Commission on Surveillance Technology and Civil Rights in~~
8 ~~the Executive Department; providing for the composition, chair, quorum, meetings,~~
9 ~~reimbursement, and terms of the Commission; requiring the Office of the Attorney~~
10 ~~General to provide staffing for the Commission; establishing the purposes and~~
11 ~~powers of the Commission; requiring all State departments, agencies, and offices and~~
12 ~~the departments, agencies, and offices of a political subdivision of the State to~~
13 ~~provide certain information and materials when requested by the Commission;~~
14 ~~providing for the Commission's annual reporting to the General Assembly; defining~~
15 ~~certain terms; and generally relating to the State Commission on Surveillance~~
16 ~~Technology and Civil Rights~~ establishing the Task Force to Study Law Enforcement
17 Surveillance Technologies; providing for the composition, chair, and staffing of the
18 Task Force; prohibiting a member of the Task Force from receiving certain
19 compensation, but authorizing the reimbursement of certain expenses; requiring the
20 Task Force to study and make recommendations regarding certain matters;
21 requiring the Task Force to report its findings and recommendations to the Governor
22 and the General Assembly on or before a certain date; providing for the termination
23 of this Act; and generally relating to the Task Force to Study Law Enforcement
24 Surveillance Technologies.

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.



~~BY adding to~~

~~Article — Public Safety~~

~~Section 3-520~~

~~Annotated Code of Maryland~~

~~(2011 Replacement Volume and 2016 Supplement)~~

~~BY adding to~~

~~Article — State Government~~

~~Section 9-3301 to be under the new subtitle “Subtitle 33. State Commission on~~

~~Surveillance Technology and Civil Rights”~~

~~Annotated Code of Maryland~~

~~(2014 Replacement Volume and 2016 Supplement)~~

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

~~Article — Public Safety~~

~~3-520.~~

~~(A) IN THIS SECTION, “SURVEILLANCE DEVICE” MEANS AN ELECTRONIC DEVICE, A SYSTEM, OR A COMPUTER PROGRAM THAT ALLOWS A PERSON TO MONITOR THE ACTIVITIES OF ANOTHER.~~

~~(B) ON OR BEFORE APRIL 1 ANNUALLY, EACH LAW ENFORCEMENT AGENCY SHALL REPORT TO THE STATE COMMISSION ON SURVEILLANCE TECHNOLOGY AND CIVIL RIGHTS, IN ACCORDANCE WITH § 9-3301 OF THE STATE GOVERNMENT ARTICLE:~~

~~(1) (I) THE MANUFACTURER AND MODEL NUMBER OF EACH SURVEILLANCE DEVICE PURCHASED OR ACQUIRED BY THE LAW ENFORCEMENT AGENCY IN THE CALENDAR YEAR PRECEDING THE YEAR IN WHICH THE LAW ENFORCEMENT AGENCY IS REPORTING; AND~~

~~(II) THE MANUFACTURER AND MODEL NUMBER OF EACH SURVEILLANCE DEVICE THAT THE LAW ENFORCEMENT AGENCY USED TO PERFORM SURVEILLANCE OR INFORMATION GATHERING ACTIVITIES IN THE CALENDAR YEAR PRECEDING THE YEAR IN WHICH THE LAW ENFORCEMENT AGENCY IS REPORTING; AND~~

~~(2) A SUMMARY OF THE TECHNICAL SPECIFICATIONS FOR EACH DEVICE AND PROGRAM REPORTED BY THE LAW ENFORCEMENT AGENCY UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

~~Article — State Government~~

~~SUBTITLE 33. STATE COMMISSION ON SURVEILLANCE TECHNOLOGY AND CIVIL RIGHTS.~~

~~9-3301.~~

~~(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

~~(2) "COMMISSION" MEANS THE STATE COMMISSION ON SURVEILLANCE TECHNOLOGY AND CIVIL RIGHTS.~~

~~(3) "SURVEILLANCE DEVICE" MEANS AN ELECTRONIC DEVICE, A SYSTEM, OR A COMPUTER PROGRAM THAT ALLOWS A PERSON TO MONITOR THE ACTIVITIES OF ANOTHER.~~

~~(B) THERE IS A STATE COMMISSION ON SURVEILLANCE TECHNOLOGY AND CIVIL RIGHTS IN THE EXECUTIVE DEPARTMENT.~~

~~(C) THE COMMISSION CONSISTS OF THE FOLLOWING MEMBERS:~~

~~(1) TWO MEMBERS OF THE SENATE OF MARYLAND, APPOINTED BY THE PRESIDENT OF THE SENATE;~~

~~(2) TWO MEMBERS OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE;~~

~~(3) ONE REPRESENTATIVE OF THE AMERICAN CIVIL LIBERTIES UNION, APPOINTED BY THE PUBLIC DEFENDER;~~

~~(4) ONE REPRESENTATIVE OF THE ELECTRONIC PRIVACY INFORMATION CENTER, APPOINTED BY THE PUBLIC DEFENDER;~~

~~(5) ONE REPRESENTATIVE OF LOCAL GOVERNMENT, APPOINTED BY THE EXECUTIVE DIRECTOR OF THE MARYLAND ASSOCIATION OF COUNTIES;~~

~~(6) THE ATTORNEY GENERAL, OR THE ATTORNEY GENERAL'S DESIGNEE;~~

~~(7) THE PUBLIC DEFENDER, OR THE PUBLIC DEFENDER'S DESIGNEE;~~

~~(8) THE SECRETARY OF STATE POLICE, OR THE SECRETARY'S DESIGNEE; AND~~

1 ~~(9) THE EXECUTIVE DIRECTOR OF THE GOVERNOR'S OFFICE OF~~
2 ~~CRIME CONTROL AND PREVENTION, OR THE EXECUTIVE DIRECTOR'S DESIGNEE.~~

3 ~~(D) THE COMMISSION SHALL ELECT A CHAIR AT ITS FIRST MEETING IN~~
4 ~~EACH CALENDAR YEAR.~~

5 ~~(E) (1) A MAJORITY OF THE AUTHORIZED MEMBERSHIP OF THE~~
6 ~~COMMISSION IS A QUORUM.~~

7 ~~(2) THE COMMISSION SHALL MEET AT LEAST QUARTERLY EACH YEAR~~
8 ~~AT THE TIMES AND PLACES DETERMINED BY THE COMMISSION OR THE CHAIR.~~

9 ~~(3) A MEMBER OF THE COMMISSION:~~

10 ~~(I) MAY NOT RECEIVE COMPENSATION FOR SERVICE ON THE~~
11 ~~COMMISSION; BUT~~

12 ~~(H) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER~~
13 ~~THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE~~
14 ~~BUDGET.~~

15 ~~(F) (1) THE TERM OF AN APPOINTED MEMBER OF THE COMMISSION IS 4~~
16 ~~YEARS.~~

17 ~~(2) THE TERMS FOR APPOINTED MEMBERS OF THE COMMISSION ARE~~
18 ~~STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR APPOINTED MEMBERS OF~~
19 ~~THE COMMISSION ON OCTOBER 1, 2017.~~

20 ~~(G) THE OFFICE OF THE ATTORNEY GENERAL SHALL PROVIDE FOR THE~~
21 ~~STAFFING OF THE COMMISSION.~~

22 ~~(H) THE PURPOSES OF THE COMMISSION ARE TO:~~

23 ~~(1) STUDY AND EVALUATE THE USES OF SURVEILLANCE DEVICES~~
24 ~~DISCLOSED BY LAW ENFORCEMENT AGENCIES IN THE STATE UNDER § 3-520 OF THE~~
25 ~~PUBLIC SAFETY ARTICLE;~~

26 ~~(2) EVALUATE THE POTENTIAL IMPACT OF THE SURVEILLANCE~~
27 ~~DEVICES THAT THE COMMISSION STUDIES AND EVALUATES ON THE SECURITY AND~~
28 ~~CIVIL RIGHTS OF INDIVIDUALS IN THE STATE; AND~~

29 ~~(3) MAKE RECOMMENDATIONS TO LAW ENFORCEMENT AGENCIES IN~~
30 ~~THE STATE FOR BEST PRACTICES IN THE USE OF SURVEILLANCE DEVICES BASED ON~~
31 ~~THE COMMISSION'S FINDINGS.~~

1 ~~(I) IN ORDER FOR THE COMMISSION TO CARRY OUT ITS PURPOSES, THE~~
2 ~~COMMISSION MAY:~~

3 ~~(1) REQUEST AND RECEIVE INFORMATION, DOCUMENTS, DATA,~~
4 ~~REPORTS, PAPERS, OR OTHER MATERIAL RELEVANT TO ACCOMPLISHING THE~~
5 ~~COMMISSION'S PURPOSES;~~

6 ~~(2) HOLD HEARINGS FOR THE PURPOSE OF RECEIVING TESTIMONY~~
7 ~~AND EVIDENCE FROM ANY INDIVIDUAL;~~

8 ~~(3) INTERVIEW OR TAKE STATEMENTS FROM PERSONNEL EMPLOYED~~
9 ~~BY OR CONTRACTED WITH THE STATE OR ANY POLITICAL SUBDIVISION OF THE~~
10 ~~STATE;~~

11 ~~(4) ADMINISTER OATHS; AND~~

12 ~~(5) ISSUE SUBPOENAS FOR THE ATTENDANCE OF WITNESSES TO~~
13 ~~TESTIFY OR TO PRODUCE OTHER EVIDENCE.~~

14 ~~(J) (1) A SUBPOENA ISSUED UNDER THIS SECTION MAY BE ENFORCED~~
15 ~~JUDICIALLY.~~

16 ~~(2) EACH DEPARTMENT, AGENCY, OR OFFICE OF THE STATE AND~~
17 ~~EACH DEPARTMENT, AGENCY, OR OFFICE OF A POLITICAL SUBDIVISION OF THE~~
18 ~~STATE SHALL PROVIDE THE COMMISSION WITH ALL INFORMATION, DOCUMENTS,~~
19 ~~DATA, REPORTS, PAPERS, OR OTHER MATERIAL RELEVANT TO A REQUEST MADE BY~~
20 ~~THE COMMISSION UNDER THIS SECTION.~~

21 ~~(K) THE COMMISSION SHALL DEVELOP A SYSTEM BY WHICH LAW~~
22 ~~ENFORCEMENT AGENCIES REPORT TO THE COMMISSION ON THE PURCHASE AND~~
23 ~~USE OF SURVEILLANCE DEVICES IN THE STATE.~~

24 ~~(L) ON OR BEFORE JULY 1 ANNUALLY, THE COMMISSION SHALL REPORT~~
25 ~~ITS FINDINGS AND PROVIDE A SUMMARY OF ALL OF THE PURCHASES AND USES OF~~
26 ~~SURVEILLANCE DEVICES REPORTED BY LAW ENFORCEMENT UNDER § 3-520 OF THE~~
27 ~~PUBLIC SAFETY ARTICLE AND RECOMMENDATIONS THAT THE COMMISSION HAS~~
28 ~~MADE TO LAW ENFORCEMENT AGENCIES IN THE PRECEDING CALENDAR YEAR TO~~
29 ~~THE GENERAL ASSEMBLY IN ACCORDANCE WITH § 2-1246 OF THIS ARTICLE.~~

30 ~~SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the initial~~
31 ~~appointed members of the State Commission on Surveillance Technology and Civil Rights~~
32 ~~shall expire as follows:~~

33 ~~(1) one member in 2018;~~

1 ~~(2) two members in 2019;~~

2 ~~(3) three members in 2020; and~~

3 ~~(4) one member in 2021.~~

4 (a) There is a Task Force to Study Law Enforcement Surveillance Technologies.

5 (b) The Task Force consists of the following members:

6 (1) two members of the Senate of Maryland, appointed by the President of
7 the Senate;

8 (2) two members of the House of Delegates, appointed by the Speaker of
9 the House;

10 (3) the Executive Director of the American Civil Liberties Union of
11 Maryland, or the Executive Director's designee;

12 (4) the Executive Director of the Electronic Privacy Information Center, or
13 the Executive Director's designee;

14 (5) one representative of local government, appointed by the Executive
15 Director of the Maryland Association of Counties;

16 (6) the Coordinator of the Maryland State's Attorneys' Association, or the
17 Coordinator's designee;

18 (7) the Attorney General, or the Attorney General's designee;

19 (8) the Public Defender, or the Public Defender's designee;

20 (9) the Secretary of State Police, or the Secretary's designee; and

21 (10) the Executive Director of the Governor's Office of Crime Control and
22 Prevention, or the Executive Director's designee.

23 (c) The Task Force shall elect a chair of the Task Force from among its members.

24 (d) State agencies represented on the Task Force shall provide staff for the Task
25 Force.

26 (e) A member of the Task Force:

27 (1) may not receive compensation as a member of the Task Force; but

1 (2) is entitled to reimbursement for expenses under the Standard State
2 Travel Regulations, as provided in the State budget.

3 (f) The Task Force shall:

4 (1) study current and planned uses of surveillance technology by law
5 enforcement agencies in the State, including:

6 (i) mass-surveillance devices and techniques;

7 (ii) social media monitoring software;

8 (iii) facial recognition technology;

9 (iv) cell-site simulator technology, including devices commonly
10 referred to as “Stingray” devices and “DRT box” (or “Dirt box”) devices;

11 (v) automatic license plate readers and similar devices used for
12 optical character recognition in public spaces;

13 (vi) aerial surveillance; and

14 (vii) real-time location tracking systems;

15 (2) evaluate the need for transparent civilian oversight of the uses of
16 surveillance technologies by law enforcement agencies in the State; and

17 (3) make recommendations to the General Assembly based on the Task
18 Force’s findings.

19 (g) On or before December 5, 2017, the Task Force shall report its findings and
20 recommendations to the Governor and, in accordance with § 2-1246 of the State
21 Government Article, the General Assembly.

22 ~~SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect~~
23 ~~October 1, 2017.~~

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
25 1, 2017. It shall remain effective for a period of 1 year and 1 month and, at the end of June
26 30, 2018, with no further action required by the General Assembly, this Act shall be
27 abrogated and of no further force and effect.