



Legislation Text

File #: 21-0001, Version: 0

Explanation: Capitals indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

* **Warning:** This is an unofficial, introductory copy of the bill.
The official copy considered by the City Council is the first reader copy.

Introductory*

**City of Baltimore
Council Bill**

Introduced by: Councilmembers Burnett, Cohen, Dorsey

A Bill Entitled

An Ordinance concerning
Surveillance Technology in Baltimore

For the purpose of prohibiting Baltimore City government from purchasing or obtaining certain face surveillance technology; prohibiting Baltimore City government from contracting or subcontracting with another for the purpose of face surveillance technology; prohibiting any person in Baltimore City from obtaining, retaining, accessing, or using certain face surveillance technology or any information obtained from certain face surveillance technology; requiring the Director of Baltimore City Information and Technology to submit an annual report to the Mayor and City Council regarding the use of surveillance by the Mayor and City Council; providing for certain termination dates; providing for certain penalties; and defining certain terms.

By adding

Article 5 - Finance, Property, and Procurement
Section(s) 41-4
Baltimore City Code
(Edition 2000)

By adding

Article 19 - Police Ordinances
Section(s) 18-1 through 18-6, to be under the new subtitle,
"Subtitle 18. Surveillance"
Baltimore City Code
(Edition 2000)

Section 1. Be it ordained by the Mayor and City Council of Baltimore, That the Laws of Baltimore City read as follows:

Baltimore City Code

Article 5. Finance, Property, and Procurement

Subtitle 41. Prohibited Contracts

§ 41-4. Face surveillance technology.

(a) *Scope of section.*

Nothing in this section applies to any contract, agreement, or memorandum of understanding for the access to or use of the Maryland Image Repository System.

(b) *Definitions.*

(1) *In general.*

In this section, the following terms have the meanings specified.

(2) *Face surveillance.*

“Face surveillance” means an automated or semi-automated process that assists in identifying or verifying an individual based on the physical characteristics of the individual’s face.

(3) *Face surveillance system.*

(i) *In general.*

“Face surveillance system” means any computer software or application that performs face surveillance.

(ii) *Exclusion.*

“Face surveillance system” does not include a biometric security system designed specifically to protect against unauthorized access to a particular location or an electronic device.

(c) *Purchase prohibited.*

The City of Baltimore may not purchase or otherwise obtain a face surveillance system or face surveillance systems.

(d) *Contractor use prohibited.*

The City of Baltimore may not contract with another entity or individual, either directly or as a subcontract, for the use of face surveillance in the City.

(e) *Termination of section.*

This section automatically expires on December 31, 2022, unless the City Council, after causing an appropriate study to be undertaken, conducting public hearings, and hearing testimonial evidence, finds that the prohibitions set forth in this section remain in the public interest, in which case this section may be extended for 5 more years.

Article 19. Police Ordinances

Subtitle 18. Surveillance

§ 18-1. Definitions.

(a) *In general.*

In this subtitle, the following terms have the meanings specified.

(b) *Face surveillance.*

“Face surveillance” means an automated or semi-automated process that assists in identifying or verifying an individual based on the physical characteristics of an individual’s face.

(c) *Face surveillance system.*

(1) *In general.*

“Face surveillance system” means any computer software or application that performs face surveillance.

(2) *Exclusions.*

“Face surveillance system” does not include:

- (i) a biometric security system designed specifically to protect against unauthorized access to a particular location or an electronic device; or
- (ii) the Maryland Image Repository System.

(d) *Includes; including.*

“Includes” or “including” means by way of illustration and not by way of limitation.

(e) *Person.*

“Person” means:

- (1) an individual;
- (2) a partnership, firm, association, corporation, or other entity of any kind;
- (3) a receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind; or
- (4) except as used in § 18-3 {“Penalties”} of this subtitle for the imposition of criminal penalties, the Mayor and City Council of Baltimore or an instrumentality or unit of the Mayor and City Council of Baltimore.

§ 18-2. Use of face surveillance technology prohibited.

A person may not obtain, retain, access, or use in Baltimore City:

- (1) any face surveillance system; or
- (2) any information obtained from a face surveillance system.

§ 18-3. Penalties.

(a) *In general.*

Any person who violates any provision of this subtitle is guilty of a misdemeanor and, on conviction, is subject to a fine of not more than \$1,000 or imprisonment for not more than 12 months or both fine and imprisonment.

(b) *Each day a separate offense.*

Each day that a violation continues is a separate offense.

§ 18-4. {Reserved}

§ 18-5. Annual report and assessment.

(a) *Definitions.*

(1) *In general.*

In this section, the following terms have the meanings specified.

(2) *Surveillance technology.*

(i) *In general.*

“Surveillance technology” means any software, electronic device, system utilizing an electronic device, or similar device used, designed, or primarily intended to collect, retain, process, or share audio, electronic, visual, location, thermal, biometric, olfactory, or similar information specifically associated with, or capable of being associated with, any individual or group.

(ii) *Inclusions.*

“Surveillance technology” includes the following:

- (A) international mobile subscriber identity (IMSI) catchers and other cell site simulators;
- (B) automatic license plate readers;
- (C) closed-circuit television cameras;
- (D) gunshot detection hardware and services;
- (E) video and audio monitoring or recording technology, such as surveillance cameras, wide-angle cameras, and wearable body cameras;
- (F) mobile DNA capture technology;
- (G) biometric software or technology, including face surveillance systems and voice, iris, and gait-recognition software and databases;
- (H) software designed to monitor social media services;
- (I) x-ray vans;

- (J) software designed to forecast criminal activity or criminality; radio-frequency I.D. (RFID) scanners; and
- (K) tools, including software and hardware, used to gain unauthorized access to a computer, computer service, or computer network.

(iii) *Exclusions.*

“Surveillance technology” does not include the following devices, hardware, or software:

- (A) office hardware, such as televisions, computers, credit card machines, copy machines, telephones, and printers, that are in common use by City agencies and used for routine City business and transactions;
- (B) City databases and enterprise systems that contain information kept in the ordinary course of City business, including human resource, permit, license, and business records and data;
- (C) City databases and enterprise systems that do not contain any data or other information collected, captured, recorded, retained, processed, intercepted, or analyzed by surveillance technology, including payroll, accounting, or other fiscal databases;
 - (D) information technology security systems, including firewalls and other cybersecurity systems intended to secure City data;
- (E) physical access control systems, employee identification management systems, and other physical control systems;
- (F) infrastructure and mechanical control systems, including those that control or manage street lights, traffic lights, electrical, natural gas, or water or sewer functions;
- (G) manually-operated technological devices used primarily for internal City communications, which are not designed to surreptitiously collect surveillance data, such as radios, personal communication devices, and email systems;
- (H) manually-operated and non-wearable handheld cameras, audio recorders, and video recorders, that are not designed to be used surreptitiously and whose functionality is limited to manually capturing and manually downloading video or audio recordings;
- (I) surveillance devices that cannot record or transmit audio or video or be remotely accessed, such as image stabilizing binoculars or night vision equipment;
- (J) medical equipment and systems used to record, diagnose, treat, or prevent disease or injury, and used and kept in the ordinary course of providing City services;
 - (K) parking ticket devices;
- (L) computer aided dispatch (CAD), records and case management, Live Scan, booking, 9-1-1 and related dispatch and operation or emergency services systems;
 - (M) early warning systems; and
 - (N) computers, software, hardware, or devices intended to be used solely to

monitor the safety and security of City facilities and City vehicles, not generally accessible to the public.

(b) *Scope of section.*

This section only applies to the use of surveillance technology by the Mayor and City Council of Baltimore City.

(c) *Annual surveillance report.*

(1) *In general.*

On or before June 30 of each year, the Director of Baltimore City Information and Technology or any successor entity, in consultation with the Department of Finance, shall submit a report to the Mayor and City Council detailing:

- (1) each purchase of surveillance technology during the prior fiscal year, disaggregated by the purchasing agency;
- (2) an explanation of the use of the surveillance technology.

(2) *Posting to website.*

Baltimore City Information and Technology shall post the reports required by this section prominently on its website.

§ 18-6. Termination of subtitle.

This subtitle automatically expires on December 31, 2022, unless the City Council, after causing an appropriate study to be undertaken, conducting public hearings, and hearing testimonial evidence, finds that the prohibitions and requirements set forth in this subtitle remain in the public interest, in which case this section may be extended for 5 more years.

Section 2. And be it further ordained, That the catchlines contained in this Ordinance are not law and may not be considered to have been enacted as a part of this or any prior Ordinance.

Section 3. And be it further ordained, That this Ordinance takes effect on the 30th day after the date it is enacted.