



Sen. Julie A. Morrison

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10400SB1796sam001

LRB104 09386 RTM 24923 a

1 AMENDMENT TO SENATE BILL 1796

2 AMENDMENT NO. _____. Amend Senate Bill 1796 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Law Enforcement Officer-Worn Body Camera
5 Act is amended by changing Section 10-20 as follows:

6 (50 ILCS 706/10-20)

7 Sec. 10-20. Requirements.

8 (a) The Board shall develop basic guidelines for the use
9 of officer-worn body cameras by law enforcement agencies. The
10 guidelines developed by the Board shall be the basis for the
11 written policy which must be adopted by each law enforcement
12 agency which employs the use of officer-worn body cameras. The
13 written policy adopted by the law enforcement agency must
14 include, at a minimum, all of the following:

15 (1) Cameras must be equipped with pre-event recording,
16 capable of recording at least the 30 seconds prior to

1 camera activation, unless the officer-worn body camera was
2 purchased and acquired by the law enforcement agency prior
3 to July 1, 2015.

4 (2) Cameras must be capable of recording for a period
5 of 10 hours or more, unless the officer-worn body camera
6 was purchased and acquired by the law enforcement agency
7 prior to July 1, 2015.

8 (3) Cameras must be turned on at all times when the
9 officer is in uniform and is responding to calls for
10 service or engaged in any law enforcement-related
11 encounter or activity that occurs while the officer is on
12 duty.

13 (A) If exigent circumstances exist which prevent
14 the camera from being turned on, the camera must be
15 turned on as soon as practicable.

16 (B) Officer-worn body cameras may be turned off
17 when the officer is inside of a patrol car which is
18 equipped with a functioning in-car camera; however,
19 the officer must turn on the camera upon exiting the
20 patrol vehicle for law enforcement-related encounters.

21 (C) Officer-worn body cameras may be turned off
22 when the officer is inside a correctional facility or
23 courthouse which is equipped with a functioning camera
24 system.

25 (4) Cameras must be turned off when:

26 (A) the victim of a crime requests that the camera

1 be turned off, and unless impractical or impossible,
2 that request is made on the recording;

3 (B) a witness of a crime or a community member who
4 wishes to report a crime requests that the camera be
5 turned off, and unless impractical or impossible that
6 request is made on the recording;

7 (C) the officer is interacting with a confidential
8 informant used by the law enforcement agency; or

9 (D) an officer of the Department of Revenue enters
10 a Department of Revenue facility or conducts an
11 interview during which return information will be
12 discussed or visible.

13 However, an officer may continue to record or resume
14 recording a victim or a witness, if exigent circumstances
15 exist, or if the officer has reasonable articulable
16 suspicion that a victim or witness, or confidential
17 informant has committed or is in the process of committing
18 a crime. Under these circumstances, and unless impractical
19 or impossible, the officer must indicate on the recording
20 the reason for continuing to record despite the request of
21 the victim or witness.

22 (4.5) Cameras may be turned off when the officer is
23 engaged in community caretaking functions. However, the
24 camera must be turned on when the officer has reason to
25 believe that the person on whose behalf the officer is
26 performing a community caretaking function has committed

1 or is in the process of committing a crime. If exigent
2 circumstances exist which prevent the camera from being
3 turned on, the camera must be turned on as soon as
4 practicable.

5 (5) The officer must provide notice of recording to
6 any person if the person has a reasonable expectation of
7 privacy and proof of notice must be evident in the
8 recording. If exigent circumstances exist which prevent
9 the officer from providing notice, notice must be provided
10 as soon as practicable.

11 (6) (A) For the purposes of redaction or duplicating
12 recordings, access to camera recordings shall be
13 restricted to only those personnel responsible for those
14 purposes. The recording officer or his or her supervisor
15 may not redact, duplicate, or otherwise alter the
16 recording officer's camera recordings. Except as otherwise
17 provided in this Section, the recording officer and his or
18 her supervisor may access and review recordings prior to
19 completing incident reports or other documentation,
20 provided that the supervisor discloses that fact in the
21 report or documentation.

22 (i) A law enforcement officer shall not have
23 access to or review his or her body-worn camera
24 recordings or the body-worn camera recordings of
25 another officer prior to completing incident reports
26 or other documentation when the officer:

1 (a) has been involved in or is a witness to an
2 officer-involved shooting, use of deadly force
3 incident, or use of force incidents resulting in
4 great bodily harm;

5 (b) is ordered to write a report in response
6 to or during the investigation of a misconduct
7 complaint against the officer.

8 (ii) If the officer subject to subparagraph (i)
9 prepares a report, any report shall be prepared
10 without viewing body-worn camera recordings, and
11 subject to supervisor's approval, officers may file
12 amendatory reports after viewing body-worn camera
13 recordings. Supplemental reports under this provision
14 shall also contain documentation regarding access to
15 the video footage.

16 (B) The recording officer's assigned field
17 training officer may access and review recordings for
18 training purposes. Any detective or investigator
19 directly involved in the investigation of a matter may
20 access and review recordings which pertain to that
21 investigation but may not have access to delete or
22 alter such recordings.

23 (7) Recordings made on officer-worn cameras must be
24 retained by the law enforcement agency or by the camera
25 vendor used by the agency, on a recording medium for a
26 period of 90 days.

1 (A) Under no circumstances shall any recording,
2 except for a non-law enforcement related activity or
3 encounter, made with an officer-worn body camera be
4 altered, erased, or destroyed prior to the expiration
5 of the 90-day storage period. In the event any
6 recording made with an officer-worn body camera is
7 altered, erased, or destroyed prior to the expiration
8 of the 90-day storage period, the law enforcement
9 agency shall maintain, for a period of one year, a
10 written record including (i) the name of the
11 individual who made such alteration, erasure, or
12 destruction, and (ii) the reason for any such
13 alteration, erasure, or destruction.

14 (B) Following the 90-day storage period, any and
15 all recordings made with an officer-worn body camera
16 must be destroyed, unless any encounter captured on
17 the recording has been flagged. An encounter is deemed
18 to be flagged when:

19 (i) a formal or informal complaint has been
20 filed;

21 (ii) the officer discharged his or her firearm
22 or used force during the encounter;

23 (iii) death or great bodily harm occurred to
24 any person in the recording;

25 (iv) the encounter resulted in a detention or
26 an arrest, excluding traffic stops which resulted

1 in only a minor traffic offense or business
2 offense;

3 (v) the officer is the subject of an internal
4 investigation or otherwise being investigated for
5 possible misconduct;

6 (vi) the supervisor of the officer,
7 prosecutor, defendant, or court determines that
8 the encounter has evidentiary value in a criminal
9 prosecution; or

10 (vii) the recording officer requests that the
11 video be flagged for official purposes related to
12 his or her official duties or believes it may have
13 evidentiary value in a criminal prosecution.

14 (C) Under no circumstances shall any recording
15 made with an officer-worn body camera relating to a
16 flagged encounter be altered or destroyed prior to 2
17 years after the recording was flagged. If the flagged
18 recording was used in a criminal, civil, or
19 administrative proceeding, the recording shall not be
20 destroyed except upon a final disposition and order
21 from the court.

22 (D) Nothing in this Act prohibits law enforcement
23 agencies from labeling officer-worn body camera video
24 within the recording medium; provided that the
25 labeling does not alter the actual recording of the
26 incident captured on the officer-worn body camera. The

1 labels, titles, and tags shall not be construed as
2 altering the officer-worn body camera video in any
3 way.

4 (8) Following the 90-day storage period, recordings
5 may be retained if a supervisor at the law enforcement
6 agency designates the recording for training purposes. If
7 the recording is designated for training purposes, the
8 recordings may be viewed by officers, in the presence of a
9 supervisor or training instructor, for the purposes of
10 instruction, training, or ensuring compliance with agency
11 policies.

12 (9) Recordings shall not be used to discipline law
13 enforcement officers unless:

14 (A) a formal or informal complaint of misconduct
15 has been made;

16 (B) a use of force incident has occurred;

17 (C) the encounter on the recording could result in
18 a formal investigation under the Uniform Peace
19 Officers' Disciplinary Act; or

20 (D) as corroboration of other evidence of
21 misconduct.

22 Nothing in this paragraph (9) shall be construed to
23 limit or prohibit a law enforcement officer from being
24 subject to an action that does not amount to discipline.

25 (10) The law enforcement agency shall ensure proper
26 care and maintenance of officer-worn body cameras. Upon

1 becoming aware, officers must as soon as practical
2 document and notify the appropriate supervisor of any
3 technical difficulties, failures, or problems with the
4 officer-worn body camera or associated equipment. Upon
5 receiving notice, the appropriate supervisor shall make
6 every reasonable effort to correct and repair any of the
7 officer-worn body camera equipment.

8 (11) No officer may hinder or prohibit any person, not
9 a law enforcement officer, from recording a law
10 enforcement officer in the performance of his or her
11 duties in a public place or when the officer has no
12 reasonable expectation of privacy. The law enforcement
13 agency's written policy shall indicate the potential
14 criminal penalties, as well as any departmental
15 discipline, which may result from unlawful confiscation or
16 destruction of the recording medium of a person who is not
17 a law enforcement officer. However, an officer may take
18 reasonable action to maintain safety and control, secure
19 crime scenes and accident sites, protect the integrity and
20 confidentiality of investigations, and protect the public
21 safety and order.

22 (b) Recordings made with the use of an officer-worn body
23 camera are not subject to disclosure under the Freedom of
24 Information Act, except that:

25 (1) if the subject of the encounter has a reasonable
26 expectation of privacy, at the time of the recording, any

1 recording which is flagged, due to the filing of a
2 complaint, discharge of a firearm, use of force, arrest or
3 detention, or resulting death or bodily harm, shall be
4 disclosed in accordance with the Freedom of Information
5 Act if:

6 (A) the subject of the encounter captured on the
7 recording is a victim or witness; and

8 (B) the law enforcement agency obtains written
9 permission of the subject or the subject's legal
10 representative;

11 (2) except as provided in paragraph (1) of this
12 subsection (b), upon request, any recording which is
13 flagged due to the filing of a complaint, discharge of a
14 firearm, use of force, arrest or detention, or resulting
15 death or bodily harm shall be disclosed in accordance with
16 the Freedom of Information Act if the request is made by:

17 (A) court order;

18 (B) a person involved in the encounter that
19 resulted in the recording being flagged;

20 (C) a legal representative of a person involved in
21 the encounter that resulted in the recording being
22 flagged;

23 (D) a witness of the encounter that resulted in
24 the recording being flagged;

25 (E) a legal representative of a witness of the
26 encounter that resulted in the recording being

1 flagged;

2 (F) a representative of news media, as defined in
3 subsection (f) of Section 2 of the Freedom of
4 Information Act; or

5 (G) a representative of a non-profit, scientific,
6 or academic organization; and

7 (3) upon request, the law enforcement agency shall
8 disclose, in accordance with the Freedom of Information
9 Act, the recording to the subject of the encounter
10 captured on the recording or to the subject's attorney, or
11 the officer or his or her legal representative.

12 For the purposes of paragraph (1) of this subsection (b),
13 the subject of the encounter does not have a reasonable
14 expectation of privacy if the subject was arrested as a result
15 of the encounter. For purposes of subparagraph (A) of
16 paragraph (1) of this subsection (b), "witness" does not
17 include a person who is a victim or who was arrested as a
18 result of the encounter.

19 Only recordings or portions of recordings responsive to
20 the request shall be available for inspection or reproduction.
21 Any recording disclosed under the Freedom of Information Act
22 shall be redacted to remove identification of any person that
23 appears on the recording and is not the officer, a subject of
24 the encounter, or directly involved in the encounter. Nothing
25 in this subsection (b) shall require the disclosure of any
26 recording or portion of any recording which would be exempt

1 from disclosure under the Freedom of Information Act.

2 (c) Nothing in this Section shall limit access to a camera
3 recording for the purposes of complying with Supreme Court
4 rules or the rules of evidence.

5 (Source: P.A. 101-652, eff. 7-1-21; 102-28, eff. 6-25-21;
6 102-687, eff. 12-17-21; 102-694, eff. 1-7-22; 102-1104, eff.
7 12-6-22.)".