



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB5133

Introduced 1/27/2022, by Rep. Anne Stava-Murray

SYNOPSIS AS INTRODUCED:

50 ILCS 706/10-20

Amends the Law Enforcement Officer-Worn Body Camera Act. Provides that notwithstanding any provisions of the Act to the contrary, the law enforcement agency: (1) shall within 5 business days after an officer-involved death or the officer's use of force likely to cause death or great bodily harm, publicly release the names and officer-worn body camera recordings of all officers who committed the officer-involved death or force likely to cause death or great bodily harm; and (2) shall publicly release the names and officer-worn body camera recordings of all officers who have committed an officer-involved death since January 1, 2014; and (3) may, on a case-by-case basis in matters of significant public interest and after consultation with the chief of police of the law enforcement agency whose officer's recorded the officer-worn body camera recordings and the Attorney General, publicly release any other officer-worn body camera recordings that may not otherwise be releasable under a Freedom of Information Act request. Provides that the law enforcement agency shall not release an officer-worn body camera recording under if the following persons inform the chief of police, orally or in writing, that they do not consent to its release: (1) for an officer-worn body camera recording of an officer-involved death, the decedent's next of kin; and (2) for an officer-worn body camera recording of the officer's use of force likely to cause death or great bodily harm, the individual against whom the force likely to cause death or great bodily harm was used, or if the individual is a minor or unable to consent, the individual's next of kin.

LRB102 23189 RLC 32351 b

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

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

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

1 (3) Cameras must be turned on at all times when the
2 officer is in uniform and is responding to calls for
3 service or engaged in any law enforcement-related
4 encounter or activity~~r~~ that occurs while the officer is on
5 duty.

6 (A) If exigent circumstances exist which prevent
7 the camera from being turned on, the camera must be
8 turned on as soon as practicable.

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

14 (C) Officer-worn body cameras may be turned off
15 when the officer is inside a correctional facility or
16 courthouse which is equipped with a functioning camera
17 system.

18 (4) Cameras must be turned off when:

19 (A) the victim of a crime requests that the camera
20 be turned off, and unless impractical or impossible,
21 that request is made on the recording;

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

26 (C) the officer is interacting with a confidential

1 informant used by the law enforcement agency; or

2 (D) an officer of the Department of Revenue enters
3 a Department of Revenue facility or conducts an
4 interview during which return information will be
5 discussed or visible.

6 However, an officer may continue to record or resume
7 recording a victim or a witness, if exigent circumstances
8 exist, or if the officer has reasonable articulable
9 suspicion that a victim or witness, or confidential
10 informant has committed or is in the process of committing
11 a crime. Under these circumstances, and unless impractical
12 or impossible, the officer must indicate on the recording
13 the reason for continuing to record despite the request of
14 the victim or witness.

15 (4.5) Cameras may be turned off when the officer is
16 engaged in community caretaking functions. However, the
17 camera must be turned on when the officer has reason to
18 believe that the person on whose behalf the officer is
19 performing a community caretaking function has committed
20 or is in the process of committing a crime. If exigent
21 circumstances exist which prevent the camera from being
22 turned on, the camera must be turned on as soon as
23 practicable.

24 (5) The officer must provide notice of recording to
25 any person if the person has a reasonable expectation of
26 privacy and proof of notice must be evident in the

1 recording. If exigent circumstances exist which prevent
2 the officer from providing notice, notice must be provided
3 as soon as practicable.

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

15 (i) A law enforcement officer shall not have
16 access to or review his or her body-worn camera
17 recordings or the body-worn camera recordings of
18 another officer prior to completing incident reports
19 or other documentation when the officer:

20 (a) has been involved in or is a witness to an
21 officer-involved shooting, use of deadly force
22 incident, or use of force incidents resulting in
23 great bodily harm;

24 (b) is ordered to write a report in response
25 to or during the investigation of a misconduct
26 complaint against the officer.

1 (ii) If the officer subject to subparagraph (i)
2 prepares a report, any report shall be prepared
3 without viewing body-worn camera recordings, and
4 subject to supervisor's approval, officers may file
5 amendatory reports after viewing body-worn camera
6 recordings. Supplemental reports under this provision
7 shall also contain documentation regarding access to
8 the video footage.

9 (B) The recording officer's assigned field
10 training officer may access and review recordings for
11 training purposes. Any detective or investigator
12 directly involved in the investigation of a matter may
13 access and review recordings which pertain to that
14 investigation but may not have access to delete or
15 alter such recordings.

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

20 (A) Under no circumstances shall any recording,
21 except for a non-law enforcement related activity or
22 encounter, made with an officer-worn body camera be
23 altered, erased, or destroyed prior to the expiration
24 of the 90-day storage period. In the event any
25 recording made with an officer-worn body camera is
26 altered, erased, or destroyed prior to the expiration

1 of the 90-day storage period, the law enforcement
2 agency shall maintain, for a period of one year, a
3 written record including (i) the name of the
4 individual who made such alteration, erasure, or
5 destruction, and (ii) the reason for any such
6 alteration, erasure, or destruction.

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

12 (i) a formal or informal complaint has been
13 filed;

14 (ii) the officer discharged his or her firearm
15 or used force during the encounter;

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

18 (iv) the encounter resulted in a detention or
19 an arrest, excluding traffic stops which resulted
20 in only a minor traffic offense or business
21 offense;

22 (v) the officer is the subject of an internal
23 investigation or otherwise being investigated for
24 possible misconduct;

25 (vi) the supervisor of the officer,
26 prosecutor, defendant, or court determines that

1 the encounter has evidentiary value in a criminal
2 prosecution; or

3 (vii) the recording officer requests that the
4 video be flagged for official purposes related to
5 his or her official duties.

6 (C) Under no circumstances shall any recording
7 made with an officer-worn body camera relating to a
8 flagged encounter be altered or destroyed prior to 2
9 years after the recording was flagged. If the flagged
10 recording was used in a criminal, civil, or
11 administrative proceeding, the recording shall not be
12 destroyed except upon a final disposition and order
13 from the court.

14 (8) Following the 90-day storage period, recordings
15 may be retained if a supervisor at the law enforcement
16 agency designates the recording for training purposes. If
17 the recording is designated for training purposes, the
18 recordings may be viewed by officers, in the presence of a
19 supervisor or training instructor, for the purposes of
20 instruction, training, or ensuring compliance with agency
21 policies.

22 (9) Recordings shall not be used to discipline law
23 enforcement officers unless:

24 (A) a formal or informal complaint of misconduct
25 has been made;

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

1 (C) the encounter on the recording could result in
2 a formal investigation under the Uniform Peace
3 Officers' Disciplinary Act; or

4 (D) as corroboration of other evidence of
5 misconduct.

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

9 (10) The law enforcement agency shall ensure proper
10 care and maintenance of officer-worn body cameras. Upon
11 becoming aware, officers must as soon as practical
12 document and notify the appropriate supervisor of any
13 technical difficulties, failures, or problems with the
14 officer-worn body camera or associated equipment. Upon
15 receiving notice, the appropriate supervisor shall make
16 every reasonable effort to correct and repair any of the
17 officer-worn body camera equipment.

18 (11) No officer may hinder or prohibit any person, not
19 a law enforcement officer, from recording a law
20 enforcement officer in the performance of his or her
21 duties in a public place or when the officer has no
22 reasonable expectation of privacy. The law enforcement
23 agency's written policy shall indicate the potential
24 criminal penalties, as well as any departmental
25 discipline, which may result from unlawful confiscation or
26 destruction of the recording medium of a person who is not

1 a law enforcement officer. However, an officer may take
2 reasonable action to maintain safety and control, secure
3 crime scenes and accident sites, protect the integrity and
4 confidentiality of investigations, and protect the public
5 safety and order.

6 (b) Recordings made with the use of an officer-worn body
7 camera are not subject to disclosure under the Freedom of
8 Information Act, except as provided in subsection (b-5) and
9 except that:

10 (1) if the subject of the encounter has a reasonable
11 expectation of privacy, at the time of the recording, any
12 recording which is flagged, due to the filing of a
13 complaint, discharge of a firearm, use of force, arrest or
14 detention, or resulting death or bodily harm, shall be
15 disclosed in accordance with the Freedom of Information
16 Act if:

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

19 (B) the law enforcement agency obtains written
20 permission of the subject or the subject's legal
21 representative;

22 (2) except as provided in paragraph (1) of this
23 subsection (b), any recording which is flagged due to the
24 filing of a complaint, discharge of a firearm, use of
25 force, arrest or detention, or resulting death or bodily
26 harm shall be disclosed in accordance with the Freedom of

1 Information Act; and

2 (3) upon request, the law enforcement agency shall
3 disclose, in accordance with the Freedom of Information
4 Act, the recording to the subject of the encounter
5 captured on the recording or to the subject's attorney, or
6 the officer or his or her legal representative.

7 For the purposes of paragraph (1) of this subsection (b),
8 the subject of the encounter does not have a reasonable
9 expectation of privacy if the subject was arrested as a result
10 of the encounter. For purposes of subparagraph (A) of
11 paragraph (1) of this subsection (b), "witness" does not
12 include a person who is a victim or who was arrested as a
13 result of the encounter.

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

23 (b-5) (1) Notwithstanding any provisions of subsection (b)
24 to the contrary, the law enforcement agency, except as
25 provided in subparagraph (2) of this subsection:

26 (A) shall within 5 business days after an

1 officer-involved death or the officer's use of force
2 likely to cause death or great bodily harm, publicly
3 release the names and officer-worn body camera recordings
4 of all officers who committed the officer-involved death
5 or force likely to cause death or great bodily harm; and

6 (B) shall publicly release the names and officer-worn
7 body camera recordings of all officers who have committed
8 an officer-involved death since January 1, 2014; and

9 (2) may, on a case-by-case basis in matters of significant
10 public interest and after consultation with the chief of
11 police of the law enforcement agency whose officer's recorded
12 the officer-worn body camera recordings and the Attorney
13 General, publicly release any other officer-worn body camera
14 recordings that may not otherwise be releasable under a
15 Freedom of Information Act request.

16 (3) The law enforcement agency shall not release an
17 officer-worn body camera recording under paragraph (1) of this
18 subsection if the following persons inform the chief of
19 police, orally or in writing, that they do not consent to its
20 release:

21 (A) for an officer-worn body camera recording of an
22 officer-involved death, the decedent's next of kin; and

23 (B) for an officer-worn body camera recording of the
24 officer's use of force likely to cause death or great
25 bodily harm, the individual against whom the force likely
26 to cause death or great bodily harm was used, or if the

1 individual is a minor or unable to consent, the
2 individual's next of kin.

3 In the event of a disagreement between the persons who
4 must consent to the release of an officer-worn body camera
5 recording under subparagraph (A) of this paragraph (3), the
6 law enforcement agency shall seek a resolution in the circuit
7 court of the county in which the law enforcement agency is
8 located. The circuit court of that county shall order the
9 release of the officer-worn body camera recording if it finds
10 that the release is in the interests of justice.

11 (4) Before publicly releasing an officer-worn body camera
12 recording of an officer-involved death, the law enforcement
13 agency shall:

14 (A) consult with an organization with expertise in
15 trauma and grief on best practices for creating an
16 opportunity for the decedent's next of kin to view the
17 officer-worn body camera recording in advance of its
18 release;

19 (B) notify the decedent's next of kin of its impending
20 release, including the date when it will be released; and

21 (C) offer the decedent's next of kin the opportunity
22 to view the officer-worn body camera recording privately
23 in a non-law enforcement setting in advance of its
24 release, and if the next of kin wish to so view the
25 officer-worn body camera recording, facilitate its
26 viewing.

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

4 (Source: P.A. 101-652, eff. 7-1-21; 102-28, eff. 6-25-21;
5 revised 7-30-21.)