

SB1877



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB1877

Introduced 2/26/2021, by Sen. Brian W. Stewart

SYNOPSIS AS INTRODUCED:

50 ILCS 706/10-10
50 ILCS 706/10-20
50 ILCS 706/10-25

Amends the Law Enforcement Officer-Worn Body Camera Act concerning procedures for the use of officer-worn body cameras. Effective January 1, 2022.

LRB102 14020 RLC 19372 b

A BILL FOR

1 AN ACT concerning law enforcement.

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 Sections 10-10, 10-20, and 10-25 as
6 follows:

7 (50 ILCS 706/10-10)

8 Sec. 10-10. Definitions. As used in this Act:

9 "Badge" means an officer's department issued
10 identification number associated with his or her position as a
11 police officer with that department.

12 "Board" means the Illinois Law Enforcement Training
13 Standards Board created by the Illinois Police Training Act.

14 "Business offense" means a petty offense for which the
15 fine is in excess of \$1,000.

16 "Community engagement ~~caretaking~~ function" means a task
17 undertaken by a law enforcement officer in which the officer
18 is performing an articulable act unrelated to the
19 investigation of a crime. "Community engagement ~~caretaking~~
20 function" may include ~~includes~~, but is not limited to,
21 participating in town halls or other community outreach
22 programs, helping a child find his or her parents, providing
23 death notifications, and performing in-home or hospital

1 well-being checks on the sick, elderly, or persons presumed
2 missing.

3 "Fund" means the Law Enforcement Camera Grant Fund.

4 "In uniform" means a law enforcement officer who is
5 wearing any officially authorized uniform designated by a law
6 enforcement agency, or a law enforcement officer who is
7 visibly wearing articles of clothing, a badge, tactical gear,
8 gun belt, a patch, or other insignia that he or she is a law
9 enforcement officer acting in the course of his or her duties.

10 "Law enforcement officer" or "officer" means any person
11 employed by a State, county, municipality, special district,
12 college, unit of government, or any other entity authorized by
13 law to employ peace officers or exercise police authority and
14 who is primarily responsible for the prevention or detection
15 of crime and the enforcement of the laws of this State.

16 "Law enforcement agency" means all State agencies with law
17 enforcement officers, county sheriff's offices, municipal,
18 special district, college, or unit of local government police
19 departments.

20 "Law enforcement-related encounters or activities"
21 include, but are not limited to, traffic stops, pedestrian
22 stops, arrests, searches, interrogations, investigations,
23 pursuits, crowd control, traffic control, non-community
24 engagement ~~caretaking~~ interactions with an individual while on
25 patrol, or any other instance in which the officer is
26 enforcing the laws of the municipality, county, or State. "Law

1 enforcement-related encounter or activities" does not include
2 when the officer is completing paperwork alone or only in the
3 presence of another law enforcement officer.

4 "Minor traffic offense" means a petty offense, business
5 offense, or Class C misdemeanor under the Illinois Vehicle
6 Code or a similar provision of a municipal or local ordinance.

7 "Officer-worn body camera" means an electronic camera
8 system for creating, generating, sending, receiving, storing,
9 displaying, and processing audiovisual recordings that may be
10 worn about the person of a law enforcement officer.

11 "Peace officer" has the meaning provided in Section 2-13
12 of the Criminal Code of 2012.

13 "Petty offense" means any offense for which a sentence of
14 imprisonment is not an authorized disposition.

15 "Recording" means the process of capturing data or
16 information stored on a recording medium as required under
17 this Act.

18 "Recording medium" means any recording medium authorized
19 by the Board for the retention and playback of recorded audio
20 and video including, but not limited to, VHS, DVD, hard drive,
21 cloud storage, solid state, digital, flash memory technology,
22 or any other electronic medium.

23 (Source: P.A. 99-352, eff. 1-1-16; 99-642, eff. 7-28-16.)

24 (50 ILCS 706/10-20)

25 Sec. 10-20. Requirements.

1 (a) The Board shall develop basic guidelines for the use
2 of officer-worn body cameras by law enforcement agencies. The
3 guidelines developed by the Board shall be the basis for the
4 written policy which must be adopted by each law enforcement
5 agency which employs the use of officer-worn body cameras. The
6 written policy adopted by the law enforcement agency must
7 include, at a minimum, all of the following:

8 (1) Cameras must be equipped with pre-event recording,
9 capable of recording at least the 30 seconds prior to
10 camera activation, unless the officer-worn body camera was
11 purchased and acquired by the law enforcement agency prior
12 to July 1, 2015.

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

17 (3) If deploying a camera, the camera ~~Cameras~~ must be
18 turned on at all times when the officer is in uniform and
19 is responding to calls for service or engaged in any law
20 enforcement-related encounter or activity, that occurs
21 while the officer is on duty.

22 (A) If exigent circumstances exist which prevent
23 the camera from being turned on, the camera must be
24 turned on as soon as practicable.

25 (B) Officer-worn body cameras may be turned off
26 when the officer is inside of a patrol car which is

1 equipped with a functioning in-car camera; however,
2 the officer must turn on the camera upon exiting the
3 patrol vehicle for law enforcement-related encounters.

4 (C) Officer-worn body cameras may be turned off
5 when the officer is inside a correctional facility
6 which is equipped with a functioning camera system.

7 (4) Cameras must be turned off when:

8 (A) (blank); the victim of a crime requests that
9 the camera be turned off, and unless impractical or
10 impossible, that request is made on the recording;

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

15 (C) the officer is interacting with a confidential
16 informant used by the law enforcement agency.

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

26 (4.5) Cameras may be turned off when the officer is

1 engaged in community engagement ~~caretaking~~ functions.
2 However, the camera must be turned on when the officer has
3 reason to believe that the person on whose behalf the
4 officer is performing a community engagement ~~caretaking~~
5 function has committed or is in the process of committing
6 a crime. If exigent circumstances exist which prevent the
7 camera from being turned on, the camera must be turned on
8 as soon as practicable.

9 (5) The officer, if not in uniform, must provide
10 notice of recording to any person if the person has a
11 reasonable expectation of privacy and proof of notice must
12 be evident in the recording. If exigent circumstances
13 exist which prevent the officer from providing notice,
14 notice must be provided as soon as practicable.

15 (6) For the purposes of redaction, labeling, or
16 duplicating recordings, access to camera recordings shall
17 be restricted to only those personnel responsible for
18 those purposes. The recording officer and his or her
19 supervisor may access and review recordings prior to
20 completing incident reports or other documentation,
21 provided that the officer or his or her supervisor
22 discloses that fact in the report or documentation. The
23 recording officer's assigned field training officer may
24 access and review recordings for training purposes. Any
25 law enforcement officer directly involved in the
26 investigation of a matter may access and review recordings

1 which pertain to that investigation.

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

6 (A) Under no circumstances shall any recording
7 made with an officer-worn body camera be altered,
8 erased, or destroyed prior to the expiration of the
9 90-day storage period, except in incidents where the
10 recordings are clearly not of a law enforcement action
11 or event.

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

17 (i) a formal investigation or informal inquiry
18 has commenced, as defined in the Uniform Peace
19 Officers' Disciplinary Act ~~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.

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

21 (8) Following the 90-day storage period, recordings
22 may be retained if a supervisor at the law enforcement
23 agency designates the recording for training purposes. If
24 the recording is designated for training purposes, the
25 recordings may be viewed by officers, in the presence of a
26 supervisor or training instructor, for the purposes of

1 instruction, training, or ensuring compliance with agency
2 policies.

3 (9) Recordings shall not be used to discipline law
4 enforcement officers unless:

5 (A) a formal or informal complaint of misconduct
6 has been made;

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

8 (C) the encounter on the recording could result in
9 a formal investigation under the Uniform Peace
10 Officers' Disciplinary Act; or

11 (D) as corroboration of other evidence of
12 misconduct.

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

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

25 (11) No officer may hinder or prohibit any person, not
26 a law enforcement officer, from recording a law

1 enforcement officer in the performance of his or her
2 duties in a public place or when the officer has no
3 reasonable expectation of privacy. The law enforcement
4 agency's written policy shall indicate the potential
5 criminal penalties, as well as any departmental
6 discipline, which may result from unlawful confiscation or
7 destruction of the recording medium of a person who is not
8 a law enforcement officer. However, an officer may take
9 reasonable action to maintain safety and control, secure
10 crime scenes and accident sites, protect the integrity and
11 confidentiality of investigations, and protect the public
12 safety and order.

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

16 (1) if the subject of the encounter has a reasonable
17 expectation of privacy, at the time of the recording, any
18 recording which is flagged, due to the filing of a
19 complaint, discharge of a firearm, use of force, arrest or
20 detention, or resulting death or great bodily harm, shall
21 be disclosed in accordance with the Freedom of Information
22 Act if:

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

25 (B) the law enforcement agency obtains written
26 permission of the subject or the subject's legal

1 representative;

2 (2) except as provided in paragraph (1) of this
3 subsection (b), any recording which is flagged due to the
4 filing of a complaint, discharge of a firearm, use of
5 force, arrest or detention, or resulting death or bodily
6 harm shall be disclosed in accordance with the Freedom of
7 Information Act; and

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

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

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

1 recording or portion of any recording which would be exempt
2 from disclosure under the Freedom of Information Act.

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

6 (Source: P.A. 99-352, eff. 1-1-16; 99-642, eff. 7-28-16.)

7 (50 ILCS 706/10-25)

8 Sec. 10-25. Reporting.

9 (a) Each law enforcement agency which employs the use of
10 officer-worn body cameras must provide an annual report to the
11 Board, on or before May 1 of the year. The report shall
12 include:

13 (1) a brief overview of the makeup of the agency,
14 including the number of officers utilizing officer-worn
15 body cameras;

16 (2) the number of officer-worn body cameras utilized
17 by the law enforcement agency;

18 (3) any technical issues with the equipment and how
19 those issues were remedied;

20 (4) a brief description of the review process used by
21 supervisors within the law enforcement agency;

22 (a-5) Each prosecuting agency which uses recordings
23 provided by officer-worn body cameras must provide an annual
24 report to the board, on or before May 1 of the year. The report
25 shall include for each recording used in prosecutions of

1 conservation, criminal, or traffic offenses or municipal
2 ordinance violations:

3 ~~(5) for each recording used in prosecutions of conservation,~~
4 ~~eriminal, or traffic offenses or municipal ordinance~~
5 ~~violations:~~

6 (1) ~~(A)~~ the time, date, location, and precinct of the
7 incident;

8 (2) ~~(B)~~ the offense charged and the date charges were
9 filed; and

10 (3) ~~(6)~~ any other information relevant to the
11 administration of the program.

12 (b) On or before July 30 of each year, the Board must
13 analyze the ~~law enforcement agency~~ reports and provide an
14 annual report to the General Assembly and the Governor.

15 (Source: P.A. 99-352, eff. 1-1-16.)

16 Section 99. Effective date. This Act takes effect January
17 1, 2022.