

HB5775



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB5775

Introduced 11/16/2022, by Rep. La Shawn K. Ford

SYNOPSIS AS INTRODUCED:

50 ILCS 706/10-20

Amends the Law Enforcement Officer-Worn Body Camera Act. Provides that, notwithstanding any other provision of law, if a law enforcement agency has in its possession a recording from an officer-worn body camera which shows an individual under 18 years of age being shot or tased by an officer, then the law enforcement agency must release the recording, in its entirety, to that individual's parent or legal guardian not later than 7 calendar days after receiving a written demand for that material from the parent or legal guardian. A demand under this subsection is not a request for a public record under the Freedom of Information Act.

LRB102 28305 AWJ 40176 b

A BILL FOR

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 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 (D) Nothing in this Act prohibits law enforcement
15 agencies from labeling officer-worn body camera video
16 within the recording medium; provided that the
17 labeling does not alter the actual recording of the
18 incident captured on the officer-worn body camera. The
19 labels, titles, and tags shall not be construed as
20 altering the officer-worn body camera video in any
21 way.

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

1 supervisor or training instructor, for the purposes of
2 instruction, training, or ensuring compliance with agency
3 policies.

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

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

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

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

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

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

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

26 (11) No officer may hinder or prohibit any person, not

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

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

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

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

26 (B) the law enforcement agency obtains written

1 permission of the subject or the subject's legal
2 representative;

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

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

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

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

1 in this subsection (b) shall require the disclosure of any
2 recording or portion of any recording which would be exempt
3 from disclosure under the Freedom of Information Act.

4 (b-5) Notwithstanding any other provision of law, if a law
5 enforcement agency has in its possession a recording from an
6 officer-worn body camera which shows an individual under 18
7 years of age being shot or tased by an officer, then the law
8 enforcement agency must release the recording, in its
9 entirety, to that individual's parent or legal guardian not
10 later than 7 calendar days after receiving a written demand
11 for that material from the parent or legal guardian. A demand
12 under this subsection is not a request for a public record
13 under the Freedom of Information Act.

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

17 (Source: P.A. 101-652, eff. 7-1-21; 102-28, eff. 6-25-21;
18 102-687, eff. 12-17-21; 102-694, eff. 1-7-22.)