

JAN 20 2017

A BILL FOR AN ACT

RELATING TO BODY-WORN VIDEO CAMERAS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that an increasing number
2 of states are using body-worn video cameras as a means to
3 protect civilians and law enforcement officers. A body-worn
4 video camera worn by a law enforcement officer acts as a third-
5 party, like an independent witness in disputes by clarifying
6 testimony obtained in the field.

7 The legislature further finds that people who are aware
8 that they are being videotaped are more inclined to alter their
9 behavior, since they know that they will likely be held
10 accountable for their actions. The use of a body-worn video
11 camera can provide law enforcement officers and civilians with
12 the security of knowing that their statements can be
13 corroborated by the video or audio recordings obtained through
14 the body-worn video camera.

15 The use of body-worn video cameras may reduce complaints
16 against law enforcement officers and allow complaints to be



1 resolved more quickly, thus freeing up valuable resources and
2 reducing financial losses.

3 The legislature also finds that the use of body-worn video
4 cameras can assist law enforcement agencies with training,
5 assessment, and disciplinary decisions.

6 The purpose of this Act is to promote transparency,
7 accountability, and protection for both civilians and law
8 enforcement officers by establishing requirements for the use of
9 body-worn video cameras.

10 SECTION 2. Chapter 52D, Hawaii Revised Statutes, is
11 amended by adding a new part to be appropriately designated and
12 to read as follows:

13 "PART . LAW ENFORCEMENT BODY-WORN VIDEO CAMERAS

14 §52D-A Definitions. As used in this part:

15 "Body-worn video camera" means a recording device that is:

16 (1) Capable of recording video and audio, or transmitting
17 video and audio to be recorded remotely; and

18 (2) Worn on the person of a law enforcement officer, which
19 shall include being attached to the officer's clothing
20 or worn as glasses.



1 "Subject of the video footage" means any law enforcement
2 officer or any suspect, victim, detainee, conversant, injured
3 party, or other similarly situated person who appears on a body-
4 worn video camera recording, and shall not include individuals
5 who only incidentally appear on a recording.

6 **§52D-B Use of body-worn video cameras for law enforcement**
7 **officers.** While on duty, law enforcement officers shall wear
8 and use body-worn video cameras only in accordance with
9 departmental directives. Body-worn video cameras shall be worn
10 in a location and manner that maximizes the camera's ability to
11 capture video footage of the officer's activities.

12 **§52D-C Body-worn video cameras; police department**
13 **policies.** A law enforcement agency that uses a body-worn video
14 camera program shall establish policies and procedures for the
15 use of the body-worn video cameras that shall specify:

- 16 (1) When a law enforcement officer may activate the body-
17 worn video camera;
- 18 (2) When a recording that is currently in progress should
19 be discontinued;
- 20 (3) The length of time that data should be retained;



1 (4) The procedures for supervisory or internal review of
2 the body-worn video cameras to include that body-worn
3 video camera footage shall not be viewed by any
4 supervisor of a law enforcement officer for the sole
5 purpose of searching for violations of department
6 policy or law not related to a specific complaint or
7 investigation; and

8 (5) The handling and documenting of equipment and
9 malfunctions of equipment.

10 **§52D-D Protecting the privacy of persons.** (a) Pursuant
11 to the United States Constitution and the Hawaii state
12 constitution, officers are not required to activate and record
13 investigative or enforcement encounters with the public when:

14 (1) In a private space defined as any location in which a
15 person has a reasonable expectation of privacy,
16 including a person's home;

17 (2) In situations where the recording would risk the
18 safety of confidential information, citizen informant,
19 or undercover officer;

20 (3) In situations where it may be inappropriate because of
21 the victim's or witnesses' emotional state, age, or



1 other sensitive circumstance such as rape, incest, or
2 other form of sexual assault;

3 (4) In patient care areas of a hospital, rape treatment
4 center, or other health care facility unless an
5 enforcement action is taking place in these areas; or

6 (5) In situations where tactical planning, peer-to-peer
7 discussions, or non-law enforcement discussions are
8 occurring.

9 (b) Body-worn video camera videos under subsection (a)
10 shall be exempt from the public inspection requirements of
11 chapter 92F.

12 **§52D-E Training.** (a) No law enforcement officer shall
13 use a body-worn video camera without being trained by the
14 applicable law enforcement agency on the proper use of the body-
15 worn video camera.

16 (b) No law enforcement personnel shall come into contact
17 with data obtained from the use of a body-worn video camera
18 without first being trained by the applicable law enforcement
19 agency on the proper handling of the data.

20 **§52D-F Handling of recordings as evidence.** (a) Except as
21 provided by subsection (b), a recording created with a body-worn



1 video camera and documenting an incident that involves the use
2 of deadly force by a law enforcement officer or that is
3 otherwise related to an administrative or criminal investigation
4 of an officer may not be deleted, destroyed, or released to the
5 public until all criminal matters have been finally adjudicated
6 and all related administrative investigations have concluded.

7 (b) A law enforcement agency may release to the public a
8 recording described by subsection (a) if the law enforcement
9 agency determines that the release furthers a law enforcement
10 purpose.

11 (c) This section does not affect the authority of a law
12 enforcement agency to withhold information related to a closed
13 criminal investigation that did not result in a conviction or a
14 grant of deferred adjudication community supervision.

15 **§52D-G Release of information recorded by a body-worn**
16 **video camera.** (a) A member of the public shall provide the
17 following information when submitting a written request to a law
18 enforcement agency for information recorded by a body-worn video
19 camera:

20 (1) The date and approximate time of the recording;



1 (2) The specific location where the recording occurred;
2 and

3 (3) The name of one or more persons known to be a subject
4 of the video footage.

5 (b) A failure to provide all of the information required
6 by subsection (a) as part of a request for recorded information
7 does not preclude the requestor from making a future request for
8 the same recorded information.

9 (c) A law enforcement agency may release information
10 requested in accordance with subsection (a) after the agency
11 redacts any information made confidential.

12 (d) The department shall set a proposed fee to be charged
13 to members of the public who seek to obtain a copy of a
14 recording under this section. The fee shall be sufficient to
15 cover the cost of reviewing and making the recording. A law
16 enforcement agency may provide a copy without charge or at a
17 reduced charge if the agency determines that a waiver or
18 reduction of the charge is in the public interest.

19 (d) A recording is confidential and exempt from the
20 requirements, if the recording:



1 (1) Was not required to be made under this chapter,
2 another law, or under a policy adopted by the
3 appropriate law enforcement agency; and

4 (2) It does not relate to a law enforcement purpose.

5 §52D-H Production of body-worn video camera recording in
6 response to voluminous public information requests. (a) An
7 officer who is employed by a governmental body and who receives
8 a voluminous request is considered to have promptly produced the
9 information if the officer releases the recording before the
10 twenty-first business day after the date of receipt of the
11 written request.

12 (b) For purposes of this section, "voluminous request"
13 includes:

14 (1) A request for body-worn video camera recordings from
15 more than five separate incidents;

16 (2) More than five separate requests for body-worn video
17 camera recordings from the same person in a twenty-
18 four hour period, regardless of the number of
19 incidents included in each request; or

20 (3) A request or multiple requests from the same person in
21 a twenty-four hour period for body-worn video camera



S.B. NO. 331

1 recordings that, taken together, constitute more than
2 five total hours of video."

3 SECTION 3. In codifying the new sections added by section
4 2 of this Act, the revisor of statutes shall substitute
5 appropriate section numbers for the letters used in designating
6 the new sections in this Act.

7 SECTION 4. This Act shall take effect upon its approval.
8

INTRODUCED BY:

~~Don Scardino~~
Karl Rhoads
Tina Hubbard
Jenna Mercado



S.B. NO. 331

Report Title:

Law Enforcement; Body-Worn Video Cameras

Description:

Regulates the use of body-worn video cameras by law enforcement officers and body-worn video camera footage.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

