

GENERAL ASSEMBLY OF NORTH CAROLINA
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH10477-NDa-126A

Short Title: Body-Worn Camera Recordings. (Public)

Sponsors: Representative Brockman.

Referred to:

A BILL TO BE ENTITLED
AN ACT TO REQUIRE MOST LAW ENFORCEMENT OFFICERS TO WEAR AND
ACTIVATE BODY-WORN CAMERAS DURING CERTAIN INTERACTIONS WITH
THE PUBLIC, TO ESTABLISH A USE POLICY FOR BODY-WORN CAMERAS AND
DASHBOARD CAMERAS, TO MODIFY ACCESS POLICIES FOR RECORDINGS
CAPTURED BY BODY-WORN CAMERAS AND DASHBOARD CAMERAS, AND TO
APPROPRIATE FUNDS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 15A of the General Statutes is amended by adding a new
Article to read:

"Article 7.

"Body-Worn Cameras and Dashboard Cameras.

"§ 15A-201. Definitions.

The following definitions apply in this Article:

- (1) Body-worn camera. – An operational video camera provided by a law enforcement agency and affixed to a law enforcement officer's uniform and positioned in a way that allows the video camera to capture interactions the law enforcement officer has with the public. The video camera shall include a microphone or other mechanism for allowing audio capture. This term does not include cameras privately owned and provided by a law enforcement officer.
- (2) Dashboard camera. – A device or system installed or used in a law enforcement vehicle that electronically records images depicting activities that take place during a traffic stop, vehicle pursuit, vehicle search, and other interaction with the public that is within the range of the camera. This term does not include body-worn cameras.
- (3) Law enforcement agency. – Any duly accredited State or local government agency possessing authority to enforce the criminal laws of the State. For purposes of this Article, this term does not include local law enforcement agencies located in a county with a population of less than 200,000, as determined by the most recent decennial federal census.
- (4) Law enforcement officer. – Any employee of a law enforcement agency who (i) is actively serving in a position with primary duties and responsibilities for the prevention and detection of crime or the general enforcement of the criminal laws of the State, (ii) possesses the power of arrest by virtue of an oath administered under the authority of the State, and (iii) is primarily



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assigned to patrol duties. For purposes of this Article, this term also includes on-duty State correctional officers.

(5) Law enforcement vehicle. – A motor vehicle owned, operated, or otherwise controlled by a law enforcement agency, the State, or a political subdivision of the State and used primarily for traffic stops. This term does not include law enforcement vehicles used primarily for surveillance or undercover operations.

(6) Recordable interaction. – An interaction between a law enforcement officer, in his or her official capacity, and a member or members of the public, including an inmate or inmates of a State correctional facility. This term includes traffic stops, arrests, searches, interrogations not covered under G.S. 15A-211, interviews with victims and witnesses, and pursuits.

(7) Recording. – A visual and audio recording captured by a body-worn camera or dashboard camera.

"§ 15A-202. Body-worn cameras required for law enforcement officers.

(a) Requirement. – Except as otherwise provided in subsection (b) of this section, a law enforcement officer shall wear and activate a body-worn camera during any recordable interaction. Except when doing so would be unsafe, impracticable, or impossible, a law enforcement officer shall inform the person or people the law enforcement officer is interacting with that the interaction is being recorded. A law enforcement officer shall not deactivate a body-worn camera until (i) the conclusion of the recordable interaction, (ii) the law enforcement officer has left the scene, (iii) a supervisor, while being recorded, authorizes the law enforcement officer to deactivate the body-worn camera, or (iv) an exception listed in subsection (b) of this section authorizes deactivation. Prior to deactivating a body-worn camera, a law enforcement officer shall announce that the officer is deactivating the body-worn camera and the reason why the officer is deactivating the body-worn camera. A law enforcement officer shall note in any incident report prepared after a recordable interaction that a recording was made.

(b) Exceptions. – A law enforcement officer shall not be required to activate a body-worn camera in any of the following places or situations:

(1) Interactions with confidential informants and undercover officers.

(2) During routine, non-law enforcement related activities, including when a law enforcement officer is engaged in a personal conversation, when a law enforcement officer is using a restroom or bathroom, or when a law enforcement officer is dressing or undressing in a locker room or dressing room.

(3) When a law enforcement officer is providing training or making a presentation to the public.

(4) When entering a private residence under nonexigent circumstances, unless written or on-camera consent is given by the owner or the occupier of the residence.

(5) When a law enforcement officer is conducting a strip search, unless written or on-camera consent is given by the person being strip searched.

(6) Interactions with a victim or witness, unless written or on-camera consent is given by the victim or witness.

(c) Waiver. – A law enforcement officer shall read, agree to, and sign a written waiver that consists of consent by the law enforcement officer to be recorded by a body-worn camera and an acknowledgment of the requirements of this section and the related policies established under subsection (i) of this section by the law enforcement agency employing the law enforcement officer.

1 (d) Evidence. – If otherwise admissible, a recording captured by a body-worn camera
2 pursuant to this section may be used as evidence in any relevant administrative, civil, or criminal
3 proceeding.

4 (e) Access to Recordings. – Access to recordings shall be provided in accordance with
5 the provisions of G.S. 132-1.4A.

6 (f) Retention. – A law enforcement agency shall retain an original, unredacted recording
7 captured by a body-worn camera pursuant to this section for the later of (i) 60 days from the date
8 of the recording, (ii) the period specified in a court order, or (iii) 10 days from the date an
9 administrative, civil, or criminal proceeding in which the recording was used as evidence
10 concludes.

11 (g) Remedies for Noncompliance. – Failure to comply with subsection (a) or (f) of this
12 section shall be admissible as evidence to support claims made by a defendant in a criminal action
13 or a party opposing the law enforcement officer or law enforcement agency in a civil action.

14 (h) Training. – A law enforcement agency shall provide training to a law enforcement
15 officer on how to operate a body-worn camera prior to the law enforcement officer wearing and
16 activating a body-worn camera.

17 (i) Policy. – The Department of Justice shall develop a model policy or policies for law
18 enforcement agencies to use in implementing the provisions of this section. A policy developed
19 pursuant to this subsection shall include disciplinary action for failing to activate a body-worn
20 camera as required by subsection (a) of this section, up to and including immediate dismissal
21 from employment. A policy developed pursuant to this subsection may include standards more
22 stringent than the standards required under this section.

23 **"§ 15A-203. Use of dashboard cameras in law enforcement vehicles.**

24 (a) Requirement. – If a law enforcement vehicle is equipped with a dashboard camera,
25 and except as provided in subsection (b) of this section, a law enforcement officer shall activate
26 the dashboard camera when engaging in a traffic stop, vehicle pursuit, vehicle search, or other
27 interaction with the public that is within the range of the camera. Except when doing so would
28 be unsafe, impracticable, or impossible, a law enforcement officer shall inform the person or
29 people the law enforcement officer is interacting with that the interaction is being recorded. A
30 law enforcement officer shall not deactivate a dashboard camera until (i) the conclusion of the
31 traffic stop, vehicle pursuit, vehicle search, or other interaction with the public, (ii) the law
32 enforcement officer has left the scene, (iii) a supervisor, while being recorded, authorizes the law
33 enforcement officer to deactivate the dashboard camera, or (iv) an exception listed in subsection
34 (b) of this section authorizes deactivation. Prior to deactivating a dashboard camera, a law
35 enforcement officer shall announce that the officer is deactivating the dashboard camera and the
36 reason why the officer is deactivating the dashboard camera. A law enforcement officer shall
37 note in any incident report prepared after an interaction with the public that a recording was made
38 using a dashboard camera.

39 (b) Exceptions. – To the extent that they are applicable, a law enforcement officer shall
40 not be required to activate a dashboard camera in any of the places or situations listed in
41 subsection (b) of G.S. 15A-202.

42 (c) Other Requirements. – The requirements listed in subsections (c) through (h) of
43 G.S. 15A-202 shall apply to the use of dashboard cameras under this section. Any reference to
44 body-worn cameras in subsections (c) through (i) of G.S. 15A-202 shall be deemed to be a
45 reference to dashboard cameras for purposes of this subsection.

46 (d) Construction. – Nothing in this section shall be construed to require the installation
47 of a dashboard camera in a law enforcement vehicle."

48 **SECTION 2.** G.S. 132-1.4A reads as rewritten:

49 **"§ 132-1.4A. Law enforcement agency recordings.**

50 ...

(b) Public Record and Personnel Record Classification. – Recordings are not public records as defined by ~~G.S. 132-1~~. G.S. 132.1, except as provided in subsection (b1) of this section. Recordings are not personnel records as defined in Part 7 of Chapter 126 of the General Statutes, G.S. 160A-168, or G.S. 153A-98.

(b1) Release as a Public Record. – Except as otherwise provided in this section, recordings in the custody of a law enforcement agency shall not be released as a public record, as defined in G.S. 132-1, for 15 days following the date of the recorded occurrence. Upon the expiration of 15 days, the recording shall be automatically released as a public record, unless a custodial law enforcement agency or a person authorized to receive disclosure pursuant to subsection (c) of this section has filed an action in superior court requesting the court to order that the recording not be released as a public record. The court may order that the recording not be released as a public record for up to 30 days following the date of the recorded occurrence. At the expiration of the court's order or after 30 days following the date of the recorded occurrence, whichever occurs first, the recording shall be automatically released as a public record. There shall be no fee for filing the petition, which shall be filed on a form approved by the Administrative Office of the Courts and shall state the date and approximate time of the activity captured in the recording, or otherwise identify the activity with reasonable particularity sufficient to identify the recording. Petitions filed pursuant to this subsection shall be set down for hearing as soon as practicable and shall be accorded priority by the court. In addition to any other standards the court deems relevant, the court shall consider the standards listed in subsection (g) of this section in determining whether the recording shall not be released as a public record.

(c) Disclosure; ~~General Requests.~~ – ~~Recordings in the custody of a law enforcement agency shall be disclosed only as provided by this section.~~ A person requesting disclosure of a recording in the custody of a law enforcement agency must make a written request to the head of the custodial law enforcement agency that states the date and approximate time of the activity captured in the recording or otherwise identifies the activity with reasonable particularity sufficient to identify the recording to which the request refers.

The head of the custodial law enforcement agency may only disclose a recording to the following:

...

When disclosing the recording, the law enforcement agency shall disclose only those portions of the recording that are relevant to the person's request. A person who receives disclosure pursuant to this subsection shall not record or copy the recording.

...

(e) Appeal of Disclosure Denial. – If a law enforcement agency denies disclosure pursuant to subsection (d) of this section, or has failed to provide disclosure more than three business days after the request for disclosure, the person seeking disclosure may apply to the superior court in any county where any portion of the recording was made for a review of the denial of disclosure. The court may conduct an in-camera review of the recording. The court may order the disclosure of the recording only if the court finds that the law enforcement agency abused its discretion in denying the request for disclosure. The court may only order disclosure of those portions of the recording that are relevant to the person's request. A person who receives disclosure pursuant to this subsection shall not record or copy the recording. An order issued pursuant to this subsection may not order the release of the recording.

In any proceeding pursuant to this subsection, the following persons shall be notified and those persons, or their designated representative, shall be given an opportunity to be heard at any proceeding: (i) the head of the custodial law enforcement agency, (ii) any law enforcement agency personnel whose image or voice is in the recording and the head of that person's employing law enforcement agency, ~~and~~ (iii) the District Attorney. ~~Attorney~~, (iv) any person whose image or voice is in the recording and is a criminal defendant or is the subject of a criminal investigation related to the recording, and (v) the immediate family members of any person

1 whose image or voice is in the recording and is a criminal defendant or is the subject of a criminal
2 investigation related to the recording. Actions brought pursuant to this subsection shall be set
3 down for hearing as soon as practicable, and subsequent proceedings in such actions shall be
4 accorded priority by the trial and appellate courts.

5 (f) Release of Recordings to Certain Persons; Expedited Process. – Notwithstanding the
6 provisions of ~~subsection~~ subsections (b1) and (g) of this section, a person authorized to receive
7 disclosure pursuant to subsection (c) of this section, or the custodial law enforcement agency,
8 may petition the superior court in any county where any portion of the recording was made for
9 an order releasing the recording to a person authorized to receive disclosure. There shall be no
10 fee for filing the petition which shall be filed on a form approved by the Administrative Office
11 of the Courts and shall state the date and approximate time of the activity captured in the
12 recording, or otherwise identify the activity with reasonable particularity sufficient to identify
13 the recording. If the petitioner is a person authorized to receive disclosure, notice and an
14 opportunity to be heard shall be given to the head of the custodial law enforcement agency.
15 Petitions filed pursuant to this subsection shall be set down for hearing as soon as practicable and
16 shall be accorded priority by the court.

17 The court shall first determine if the person to whom release of the recording is requested is
18 a person authorized to receive disclosure pursuant to subsection (c) of this section. In making this
19 determination, the court may conduct an in-camera review of the recording and may, in its
20 discretion, allow the petitioner to be present to assist in identifying the image or voice in the
21 recording that authorizes disclosure to the person to whom release is requested. If the court
22 determines that the person is not authorized to receive disclosure pursuant to subsection (c) of
23 this section, there shall be no right of appeal and the petitioner may file an action for release
24 pursuant to subsection (g) of this section.

25 If the court determines that the person to whom release of the recording is requested is a
26 person authorized to receive disclosure pursuant to subsection (c) of this section, the court shall
27 consider the standards set out in subsection (g) of this section and any other standards the court
28 deems relevant in determining whether to order the release of all or a portion of the recording.
29 The court may conduct an in-camera review of the recording. The court shall release only those
30 portions of the recording that are relevant to the person's request and may place any conditions
31 or restrictions on the release of the recording that the court, in its discretion, deems appropriate.

32"

33 **SECTION 3.(a)** Grant Program. – There is appropriated from the General Fund to
34 the Governor's Crime Commission within the Department of Public Safety the sum of five
35 million dollars (\$5,000,000) in nonrecurring funds for the 2021-2022 fiscal year and the sum of
36 five million dollars (\$5,000,000) in nonrecurring funds for the 2022-2023 fiscal year to provide
37 grants to law enforcement agencies for the purposes of purchasing and maintaining body-worn
38 cameras, as required by Section 2 of this act.

39 **SECTION 3.(b)** Match Required. – A grant provided pursuant to this section shall
40 be matched on the basis of one dollar (\$1.00) in grant funds for every five dollars (\$5.00) in
41 nongrant funds. Matching funds shall not include other State funds. The Governor's Crime
42 Commission shall not provide a grant under this section until the grantee provides evidence
43 satisfactory to the Commission that the grantee has sufficient nongrant funds to match.

44 **SECTION 3.(c)** Maximum Amount. – A grant provided under this section shall not
45 exceed one hundred thousand dollars (\$100,000).

46 **SECTION 3.(d)** Guidelines. – The Governor's Crime Commission shall develop
47 guidelines and procedures for the administration and distribution of grants under this section.

48 **SECTION 4.** G.S. 15A-220 reads as rewritten:

49 **"§ 15A-220. SBI and State Crime Laboratory access to view and analyze recordings.**

50 Any State or local law enforcement agency that uses the services of the State Bureau of
51 Investigation or the North Carolina State Crime Laboratory to analyze a recording covered by

1 G.S. 132-1.4A or Article 7 of Chapter 15A of the General Statutes shall, at no cost, provide
2 access to a method to view and analyze the recording upon request of the State Bureau of
3 Investigation or the North Carolina State Crime Laboratory."

4 **SECTION 5.** G.S. 114-64 reads as rewritten:

5 **"§ 114-64. SBI and State Crime Laboratory access to view and analyze recordings.**

6 Any State or local law enforcement agency that uses the services of the State Bureau of
7 Investigation or the North Carolina State Crime Laboratory to analyze a recording covered by
8 G.S. 132-1.4A or Article 7 of Chapter 15A of the General Statutes shall, at no cost, provide
9 access to a method to view and analyze the recording upon request of the State Bureau of
10 Investigation or the North Carolina State Crime Laboratory."

11 **SECTION 6.** G.S. 143-318.11(a) reads as rewritten:

12 "(a) Permitted Purposes. – It is the policy of this State that closed sessions shall be held
13 only when required to permit a public body to act in the public interest as permitted in this section.
14 A public body may hold a closed session and exclude the public only when a closed session is
15 required:

16 ...

17 (10) To view a recording released pursuant to ~~G.S. 132-1.4A~~, G.S. 132-1.4A or
18 Article 7 of Chapter 15A of the General Statutes."

19 **SECTION 7.** G.S. 153A-436.1 reads as rewritten:

20 **"§ 153A-436.1. SBI and State Crime Laboratory access to view and analyze recordings.**

21 The local law enforcement agency of any county that uses the services of the State Bureau of
22 Investigation or the North Carolina State Crime Laboratory to analyze a recording covered by
23 G.S. 132-1.4A or Article 7 of Chapter 15A of the General Statutes shall, at no cost, provide
24 access to a method to view and analyze the recording upon request of the State Bureau of
25 Investigation or the North Carolina State Crime Laboratory."

26 **SECTION 8.** G.S. 160A-490.1 reads as rewritten:

27 **"§ 160A-490.1. SBI and State Crime Laboratory access to view and analyze recordings.**

28 The local law enforcement agency of any city that uses the services of the State Bureau of
29 Investigation or the North Carolina State Crime Laboratory to analyze a recording covered by
30 G.S. 132-1.4A or Article 7 of Chapter 15A of the General Statutes shall, at no cost, provide
31 access to a method to view and analyze the recording upon request of the State Bureau of
32 Investigation or the North Carolina State Crime Laboratory."

33 **SECTION 9.** Sections 1, 4, 5, 6, 7, and 8 of this act become effective January 1,
34 2023. Section 2 of this act becomes effective December 1, 2021, and applies to body-worn
35 camera recordings recorded on or after that date. Section 3 of this act becomes effective July 1,
36 2021. The remainder of this act is effective when it becomes law.