

GENERAL ASSEMBLY OF NORTH CAROLINA
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40206-MS-77 (03/01)

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

Sponsors: Representative Brockman.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE MOST LAW ENFORCEMENT OFFICERS TO WEAR AND
3 ACTIVATE BODY-WORN CAMERAS DURING CERTAIN INTERACTIONS WITH
4 THE PUBLIC, TO ESTABLISH A USE POLICY FOR BODY-WORN CAMERAS AND
5 DASHBOARD CAMERAS, AND TO ESTABLISH AN ACCESS POLICY FOR
6 RECORDINGS CAPTURED BY BODY-WORN CAMERAS AND DASHBOARD
7 CAMERAS.

8 The General Assembly of North Carolina enacts:

9 SECTION 1. G.S. 132-1.4A is repealed.

10 SECTION 2. Chapter 15A of the General Statutes is amended by adding a new
11 Article to read:

12 "Article 7.

13 "Body-Worn Cameras and Dashboard Cameras.

14 "§ 15A-201. Definitions.

15 The following definitions apply in this Article:

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



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1 oath administered under the authority of the State, and (iii) is primarily
2 assigned to patrol duties. For purposes of this Article, this term also includes
3 on-duty State correctional officers.

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

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

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

16 **§ 15A-202. Body-worn cameras required for law enforcement officers.**

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

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

32 (1) Interactions with confidential informants and undercover officers.

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

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

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

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

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

47 (c) Waiver. – A law enforcement officer shall read, agree to, and sign a written waiver
48 that consists of consent by the law enforcement officer to be recorded by a body-worn camera
49 and an acknowledgment of the requirements of this section and the related policies established
50 under subsection (i) of this section by the law enforcement agency employing the law
51 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
3 criminal proceeding.

4 (e) Public Access. – Notwithstanding G.S. 132-1.4, 153A-98, 160A-168, or any other
5 provision of law to the contrary, a law enforcement agency may disclose or provide a copy of
6 any recording captured by a body-worn camera under this section to any person who submits a
7 written request to the law enforcement agency. Prior to disclosing or providing a copy of a
8 recording captured by a body-worn camera under this section, a law enforcement agency may
9 redact any portion of the recording that (i) a law enforcement officer is not required to record
10 under subsection (b) of this section or (ii) is otherwise prohibited by law from being disclosed.
11 A law enforcement agency shall provide a written statement to the person who requested access
12 to the recording explaining why portions of a recording are redacted or why the law
13 enforcement agency is declining to disclose or provide a copy of the recording. Nothing in this
14 subsection shall be construed to alter or supersede the requirement in subsection (f) of this
15 section that a law enforcement agency retain an original, unredacted recording.

16 Any person who is denied access to a recording under this subsection, or an unredacted
17 recording under this subsection, may apply to the appropriate division of the General Court of
18 Justice for an order compelling disclosure or copying, and the court shall have jurisdiction to
19 issue the order. An action brought pursuant to this subsection shall be set down for immediate
20 hearing, and subsequent proceedings in the action shall be accorded priority by the trial and
21 appellate courts. Unless otherwise prohibited by law, and upon a showing of good cause by the
22 person seeking access, the court may issue an order compelling disclosure or copying of
23 portions or all of a recording captured by a body-worn camera under this section.

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

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

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

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

42 **"§ 15A-203. Use of dashboard cameras in law enforcement vehicles.**

43 (a) Requirement. – If a law enforcement vehicle is equipped with a dashboard camera,
44 and except as provided in subsection (b) of this section, a law enforcement officer shall activate
45 the dashboard camera when engaging in a traffic stop, vehicle pursuit, vehicle search, or other
46 interaction with the public that is within the range of the camera. Except when doing so would
47 be unsafe, impracticable, or impossible, a law enforcement officer shall inform the person or
48 people the law enforcement officer is interacting with that the interaction is being recorded. A
49 law enforcement officer shall not deactivate a dashboard camera until (i) the conclusion of the
50 traffic stop, vehicle pursuit, vehicle search, or other interaction with the public; (ii) the law
51 enforcement officer has left the scene; (iii) a supervisor, while being recorded, authorizes the

1 law enforcement officer to deactivate the dashboard camera; or (iv) an exception listed in
2 subsection (b) of this section authorizes deactivation. Prior to deactivating a dashboard camera,
3 a law enforcement officer shall announce that he or she is deactivating the dashboard camera
4 and the reason why he or she is deactivating the dashboard camera. A law enforcement officer
5 shall note in any incident report prepared after an interaction with the public that a recording
6 was made using a dashboard camera.

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

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

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

16 **SECTION 3.(a) Grant Program. –** Notwithstanding G.S. 143C-5-2, there is
17 appropriated from the General Fund to the Governor's Crime Commission within the
18 Department of Public Safety the sum of five million dollars (\$5,000,000) in nonrecurring funds
19 for the 2017-2018 fiscal year and the sum of five million dollars (\$5,000,000) in nonrecurring
20 funds for the 2018-2019 fiscal year to provide grants to law enforcement agencies for the
21 purposes of purchasing and maintaining body-worn cameras, as required by Section 1 of this
22 act.

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

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

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

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

33 **"§ 15A-220. SBI and State Crime Laboratory access to view and analyze recordings.**

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

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

40 **"§ 114-64. SBI and State Crime Laboratory access to view and analyze recordings.**

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

46 **SECTION 6.** G.S. 143-318.11 reads as rewritten:

47 **"§ 143-318.11. Closed sessions.**

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

- 1 (1) To prevent the disclosure of information that is privileged or confidential
2 pursuant to the law of this State or of the United States, or not considered a
3 public record within the meaning of Chapter 132 of the General Statutes.
- 4 (2) To prevent the premature disclosure of an honorary degree, scholarship,
5 prize, or similar award.
- 6 (3) To consult with an attorney employed or retained by the public body in order
7 to preserve the attorney-client privilege between the attorney and the public
8 body, which privilege is hereby acknowledged. General policy matters may
9 not be discussed in a closed session and nothing herein shall be construed to
10 permit a public body to close a meeting that otherwise would be open merely
11 because an attorney employed or retained by the public body is a participant.
12 The public body may consider and give instructions to an attorney
13 concerning the handling or settlement of a claim, judicial action, mediation,
14 arbitration, or administrative procedure. If the public body has approved or
15 considered a settlement, other than a malpractice settlement by or on behalf
16 of a hospital, in closed session, the terms of that settlement shall be reported
17 to the public body and entered into its minutes as soon as possible within a
18 reasonable time after the settlement is concluded.
- 19 (4) To discuss matters relating to the location or expansion of industries or other
20 businesses in the area served by the public body, including agreement on a
21 tentative list of economic development incentives that may be offered by the
22 public body in negotiations, or to discuss matters relating to military
23 installation closure or realignment. Any action approving the signing of an
24 economic development contract or commitment, or the action authorizing
25 the payment of economic development expenditures, shall be taken in an
26 open session.
- 27 (5) To establish, or to instruct the public body's staff or negotiating agents
28 concerning the position to be taken by or on behalf of the public body in
29 negotiating (i) the price and other material terms of a contract or proposed
30 contract for the acquisition of real property by purchase, option, exchange,
31 or lease; or (ii) the amount of compensation and other material terms of an
32 employment contract or proposed employment contract.
- 33 (6) To consider the qualifications, competence, performance, character, fitness,
34 conditions of appointment, or conditions of initial employment of an
35 individual public officer or employee or prospective public officer or
36 employee; or to hear or investigate a complaint, charge, or grievance by or
37 against an individual public officer or employee. General personnel policy
38 issues may not be considered in a closed session. A public body may not
39 consider the qualifications, competence, performance, character, fitness,
40 appointment, or removal of a member of the public body or another body
41 and may not consider or fill a vacancy among its own membership except in
42 an open meeting. Final action making an appointment or discharge or
43 removal by a public body having final authority for the appointment or
44 discharge or removal shall be taken in an open meeting.
- 45 (7) To plan, conduct, or hear reports concerning investigations of alleged
46 criminal misconduct.
- 47 (8) To formulate plans by a local board of education relating to emergency
48 response to incidents of school violence or to formulate and adopt the school
49 safety components of school improvement plans by a local board of
50 education or a school improvement team.

1 (9) To discuss and take action regarding plans to protect public safety as it
2 relates to existing or potential terrorist activity and to receive briefings by
3 staff members, legal counsel, or law enforcement or emergency service
4 officials concerning actions taken or to be taken to respond to such activity.

5 (10) To view a recording released pursuant to ~~G.S. 132-1.4A~~ Article 7 of Chapter
6 15A of the General Statutes.

7 (b) Repealed by Session Laws 1991, c. 694, s. 4.

8 (c) Calling a Closed Session. – A public body may hold a closed session only upon a
9 motion duly made and adopted at an open meeting. Every motion to close a meeting shall cite
10 one or more of the permissible purposes listed in subsection (a) of this section. A motion based
11 on subdivision (a)(1) of this section shall also state the name or citation of the law that renders
12 the information to be discussed privileged or confidential. A motion based on subdivision (a)(3)
13 of this section shall identify the parties in each existing lawsuit concerning which the public
14 body expects to receive advice during the closed session.

15 (d) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 570, s. 2."

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

17 "**§ 153A-436.1. SBI and State Crime Laboratory access to view and analyze recordings.**

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

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

24 "**§ 160A-490.1. SBI and State Crime Laboratory access to view and analyze recordings.**

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

30 **SECTION 9.** Section 1 of this act is effective when it becomes law. Section 2 of
31 this act becomes effective January 1, 2018, for members and officers of the State Highway
32 Patrol and county law enforcement officers. Section 2 of this act becomes effective January 1,
33 2019, for the remaining law enforcement officers subject to this act. Section 3 of this act
34 becomes effective July 1, 2017. The remainder of this act becomes effective January 1, 2018.