

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

H.B. 902
May 6, 2021
HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40459-MWa-50

Short Title: Funds to Record & Store Highway Camera Video. (Public)

Sponsors: Representative Logan.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO FUND THE RECORDING AND STORAGE OF VIDEO FROM DEPARTMENT
3 OF TRANSPORTATION HIGHWAY CAMERAS.

4 Whereas, the General Assembly is committed to ensuring the roads are safe for use
5 by North Carolina citizens and visitors; and

6 Whereas, the recording and storage of video from Department of Transportation
7 highway cameras can assist in the investigation of crimes such as theft and assaults on motorists
8 and officers; and

9 Whereas, the recording and storage of video can deter unsafe driving, street racing,
10 and other reckless driving; and

11 Whereas, the recording and storage of video can assist in locating missing persons
12 and children; and

13 Whereas, the recording and storage of video can provide added safety to the motoring
14 public in helping with motor vehicle collisions; Now, therefore,
15 The General Assembly of North Carolina enacts:

16 **SECTION 1.** Of the funds appropriated from the General Fund for the 2021-2022
17 fiscal year, the sum of ten million dollars (\$10,000,000) in recurring funds is allocated to the
18 Department of Transportation to be used by the Department to record and store video from the
19 Department's highway cameras.

20 **SECTION 2.** G.S. 132-1.1 is amended by adding a new subsection to read:

21 "(i) Highway camera video records stored by the Department of Transportation may not
22 be disclosed except as provided in G.S. 132-1.7B."

23 **SECTION 3.** Chapter 132 of the General Statutes is amended by adding a new
24 section to read:

25 "**§ 132-1.7B. Highway camera video records.**

26 (a) Definitions. – The following definitions apply in this section:

27 (1) Disclose or disclosure. – To make a recording available for viewing or
28 listening to by the person requesting disclosure, at a time and location chosen
29 by the custodial law enforcement agency. This term does not include the
30 release of a recording.

31 (2) Highway camera. – A Department of Transportation video or digital camera,
32 located on highway right-of-way, for the purpose of monitoring vehicle
33 traffic.

34 (3) Personal representative. – A parent, court-appointed guardian, spouse, or
35 attorney of a person whose image or voice is in the recording. If a person
36 whose image or voice is in the recording is deceased, the term also means the



1 personal representative of the estate of the deceased person; the deceased
2 person's surviving spouse, parent, or adult child; the deceased person's
3 attorney; or the parent or guardian of a surviving minor child of the deceased.

4 (4) Recording. – A visual, or visual and audio, recording captured by a highway
5 camera.

6 (5) Release. – To provide a copy of a recording.

7 (b) Public Record Classification. – Recordings under this section are not public records
8 as defined by G.S. 132-1.

9 (c) Disclosure; General. – Recordings shall be disclosed only as provided by this section.
10 A person requesting disclosure of a recording must make a written request to the Department of
11 Transportation. The request shall include the name of the person making the request, date and
12 approximate time of the activity captured in the recording, or otherwise identify the activity with
13 reasonable particularity sufficient to identify the recording to which the request refers. The
14 Department may only disclose a recording to the following:

15 (1) A person whose image or voice is in the recording.

16 (2) A personal representative of an adult person whose image or voice is in the
17 recording, if the adult person has consented to the disclosure.

18 (3) A personal representative of a minor or of an adult person under lawful
19 guardianship whose image or voice is in the recording.

20 (4) A personal representative of a deceased person whose image or voice is in the
21 recording.

22 (5) A personal representative of an adult person who is incapacitated and unable
23 to provide consent to disclosure.

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

27 (d) Disclosure; Factors for Consideration. – Upon receipt of the written request for
28 disclosure, as promptly as possible, the Department must either disclose the portion of the
29 recording relevant to the person's request or notify the requestor of the decision not to disclose
30 the recording to the requestor. The Department may consider any of the following factors in
31 determining if a recording is disclosed:

32 (1) If the person requesting disclosure of the recording is a person authorized to
33 receive disclosure pursuant to subsection (c) of this section.

34 (2) If the recording contains information that is otherwise confidential or exempt
35 from disclosure or release under State or federal law.

36 (3) If disclosure would reveal information regarding a person that is of a highly
37 sensitive personal nature.

38 (4) If disclosure may harm the reputation or jeopardize the safety of a person.

39 (5) If disclosure would create a serious threat to the fair, impartial, and orderly
40 administration of justice.

41 (6) If confidentiality is necessary to protect either an active or inactive internal or
42 criminal investigation or potential internal or criminal investigation.

43 (e) Appeal of Disclosure Denial. – If a law enforcement agency denies disclosure
44 pursuant to subsection (d) of this section, or has failed to provide disclosure more than three
45 business days after the request for disclosure, the person seeking disclosure may apply to the
46 superior court in any county where any portion of the recording was made for a review of the
47 denial of disclosure. The court may conduct an in-camera review of the recording. The court may
48 order the disclosure of the recording only if the court finds that the Department abused its
49 discretion in denying the request for disclosure. The court may only order disclosure of those
50 portions of the recording that are relevant to the person's request. A person who receives

1 disclosure pursuant to this subsection shall not record or copy the recording. An order issued
2 pursuant to this subsection may not order the release of the recording.

3 In any proceeding pursuant to this subsection, the following persons shall be notified and
4 those persons, or their designated representative, shall be given an opportunity to be heard at any
5 proceeding: (i) the head of the Department, (ii) any law enforcement agency personnel whose
6 image or voice is in the recording and the head of that person's employing law enforcement
7 agency, and (iii) the district attorney. Actions brought pursuant to this subsection shall be set
8 down for hearing as soon as practicable, and subsequent proceedings in such actions shall be
9 accorded priority by the trial and appellate courts.

10 (f) Release of Recordings; General; Court Order Required. – Recordings shall only be
11 released pursuant to court order. Any person requesting release of a recording may file an action
12 in the superior court in any county where any portion of the recording was made for an order
13 releasing the recording. The request for release must state the date and approximate time of the
14 activity captured in the recording or otherwise identify the activity with reasonable particularity
15 sufficient to identify the recording to which the action refers. The court may conduct an in-camera
16 review of the recording. In determining whether to order the release of all or a portion of the
17 recording, in addition to any other standards the court deems relevant, the court shall consider
18 the applicability of all of the following standards:

- 19 (1) Release is necessary to advance a compelling public interest.
- 20 (2) The recording contains information that is otherwise confidential or exempt
21 from disclosure or release under State or federal law.
- 22 (3) The person requesting release is seeking to obtain evidence to determine legal
23 issues in a current or potential court proceeding.
- 24 (4) Release would reveal information regarding a person that is of a highly
25 sensitive personal nature.
- 26 (5) Release may harm the reputation or jeopardize the safety of a person.
- 27 (6) Release would create a serious threat to the fair, impartial, and orderly
28 administration of justice.
- 29 (7) Confidentiality is necessary to protect either an active or inactive internal or
30 criminal investigation or potential internal or criminal investigation.
- 31 (8) There is good cause shown to release all portions of a recording.

32 The court shall release only those portions of the recording that are relevant to the person's
33 request and may place any conditions or restrictions on the release of the recording that the court,
34 in its discretion, deems appropriate.

35 In any proceeding pursuant to this subsection, the following persons shall be notified and
36 those persons, or their designated representative, shall be given an opportunity to be heard at any
37 proceeding: (i) the head of the Department, (ii) any law enforcement agency personnel whose
38 image or voice is in the recording and the head of that person's employing law enforcement
39 agency, and (iii) the district attorney. Actions brought pursuant to this subsection shall be set
40 down for hearing as soon as practicable, and subsequent proceedings in such actions shall be
41 accorded priority by the trial and appellate courts.

42 (g) Release of Recordings; Law Enforcement Purposes. – Notwithstanding the
43 requirements of subsections (c), (f), and (g) of this section, the Department shall disclose or
44 release a recording to a district attorney (i) for review of potential criminal charges, (ii) in order
45 to comply with discovery requirements in a criminal prosecution, (iii) for use in criminal
46 proceedings in district court, or (iv) for any other law enforcement purpose and may disclose or
47 release a recording for suspect identification or apprehension or to locate a missing or abducted
48 person.

49 (h) Retention of Recordings. – The Department shall not be required to retain any
50 recording subject to the provisions of this section for more than 30 days, unless a court of
51 competent jurisdiction orders otherwise.

1 (i) No civil liability shall arise from compliance with the provisions of this section,
2 provided that the acts or omissions are made in good faith and do not constitute gross negligence,
3 willful or wanton misconduct, or intentional wrongdoing.

4 (j) Fee for Copies. – The Department may charge a fee to offset the cost incurred by it
5 to make a copy of a recording for release. The fee shall not exceed the actual cost of making the
6 copy.

7 (k) Attorneys' Fees. – The court may not award attorneys' fees to any party in any action
8 brought pursuant to this section.

9 (l) Use of Recordings. – Recordings subject to this section may not be used for fines or
10 private investigation.

11 (m) Elected Official. – No elected official may review recordings subject to this section,
12 unless they meet the criteria in subsection (c) of this section. This subsection does not apply to a
13 county sheriff or district attorney if review of the recordings is within the scope of a criminal
14 investigation."

15 **SECTION 4.** This act becomes effective July 1, 2021.