



Body-Worn Cameras

HOW SOUTH CAROLINA PLANS TO EMBRACE NEW TECHNOLOGY TO
INCREASE OFFICER ACCOUNTABILITY AND PUBLIC TRUST

Prepared by the South Carolina Sheriffs' Association

HISTORY

- ▶ In December of 2014, S. 47 was pre-filed in the South Carolina Legislature. Originally, this bill required EVERY officer to wear a body-worn camera on EVERY contact and the officer would have to tell the individual he or she was wearing a camera.
- ▶ This plan generated a very wide variety of concerns – not only from law enforcement agencies, but also from groups such as the ACLU.
- ▶ Law enforcement agencies voiced concerns over issues such as cost of implementation, cost of data storage, ability to determine one's own policies and procedures, privacy, being inundated with FOIA requests, etc.
- ▶ It is important to note that law enforcement agencies did not oppose the use of body-worn cameras. In fact, many agencies had already implemented the technology on their own. Instead, law enforcement agencies resisted an unfunded mandate that could create a number of burdens on the agency and delay the pursuit of justice.

HISTORY

- ▶ Three subcommittee meetings were held on this bill before April 2015. The Senate Judiciary Subcommittee had essentially agreed to study the topic over the coming year instead of passing a bill that was not supported by law enforcement.
- ▶ THEN, on April 4, 2015, Mr. Walter Scott was fatally shot by a North Charleston Police Officer. The officer's statements did not align with a private video that was later produced of the shooting. Officer Slagger's actions created a tremendous wave of support behind mandated use of body-worn cameras.
- ▶ Following the death of Walter Scott, legislators acknowledged the validity of the concerns the law enforcement community expressed and agreed to address their concerns in the bill in an effort to further implement body-worn cameras throughout the state.

HISTORY

- ▶ Representatives from the SC Sheriffs' Association, the SCLEOA, the SC Fraternal Order of Police, the SC Police Chiefs Association, SLED, SCDPS, the Prosecution Commission, the SC Attorney General's Office and others worked hand in hand with Senate Judiciary Members and Staff to create a bill that would enhance our pursuit of justice while simultaneously increasing officer accountability and public trust in law enforcement officials.
- ▶ Ultimately, Senate and House Members were able to agree upon a compromise in a Conference Committee that made South Carolina the first state in the nation to require body cameras for all law enforcement agencies. This requirement, however, comes with conditions.

HISTORY

- ▶ Governor Haley signed S. 47 (Act 71) in to law on June 10, 2015.



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EXPLANATION OF THE BILL

- ▶ The Law Enforcement Training Council (LETC) has 180 days from the effective date of this bill to, “study of the use, implementation procedures, costs, and other related aspects associated with body-worn cameras in jurisdictions with body-worn cameras currently in use or which begin their use during this period.”
- ▶ The LETC must also develop guidelines for the use of body-worn cameras by state and local law enforcement agencies within 180 days of the effective date of this bill. The guidelines must include, but are not limited to,
 - ▶ specifying which law enforcement officers must wear body-worn cameras
 - ▶ when body-worn cameras must be worn and activated,
 - ▶ restrictions on the use of body-worn cameras,
 - ▶ the process to obtain consent of victims and witnesses before using body-worn cameras during an interview,
 - ▶ the retention and release of data recorded by body-worn cameras, and
 - ▶ access to the data recorded by body-worn cameras pursuant to subsection (G).

EXPLANATION OF THE BILL

- ▶ Once the LETC completes their guidelines, they must make them available to all state and local law enforcement agencies in South Carolina.
- ▶ State and local law enforcement agencies must then submit their own policies and procedures to the LETC for approval within two hundred seventy days of the effective date of this act.
- ▶ These policies will be similar to accreditation standards in that they will set a minimum standard. Agencies have the flexibility to require more than the minimum standard, but not less.

EXPLANATION OF THE BILL

- ▶ “Upon approval of a state or local law enforcement agency's policies and procedures by the Law Enforcement Training Council, the agency may apply to the Public Safety Coordinating Council for funding to implement the agency's use of body-worn cameras pursuant to this section, including, but not limited to, the initial purchase, maintenance, and replacement of body-worn cameras and ongoing costs related to the maintenance and storage of data recorded by body-worn cameras.”
- ▶ “A state or local law enforcement agency is not required to implement the use of body-worn cameras pursuant to this section until the agency has received **FULL FUNDING**.” (Emphasis added.)

FUNDING

- ▶ A 'Body-Worn Cameras Fund' has been established within the Department of Public Safety for the purpose of assisting state and local law enforcement agencies, the Attorney General's office, solicitors' offices, and public defenders' offices in implementing the provisions of S. 47, including, but not limited to, the initial purchase, maintenance, and replacement of body-worn cameras and ongoing costs related to the maintenance and storage of data recorded by body-worn cameras.
- ▶ This fund can also reimburse agencies who have already implemented body-worn cameras for expenses, "including, but not limited to, the initial purchase, maintenance, and replacement of body-worn cameras and ongoing costs related to maintenance and storage of data recorded by body-worn cameras."
- ▶ The 2015-2016 General Appropriations Act of South Carolina includes a total of \$3.4 million for the Body-Worn Cameras Fund. \$1 million is allocated for the initial purchase of cameras, while \$2.4 million is allocated for data storage. \$2.4 million is recurring.

NOT A PUBLIC DOCUMENT

- ▶ Out of an abundance of caution, the General Assembly decided to err on the side of privacy and declared, “Data recorded by a body-worn camera is not a public record subject to disclosure under the Freedom of Information Act.”
- ▶ A law enforcement agency, SLED, the Attorney General, or a circuit solicitor may release data recorded by a body-worn camera in its discretion.
- ▶ A law enforcement agency may request and must receive data recorded by a body-worn camera if the recording is relevant to an internal investigation regarding misconduct or disciplinary action of a law enforcement officer.

NOT A PUBLIC DOCUMENT

- ▶ In addition to the persons who may request and must receive data recorded by a body-worn camera provided in item (2), the following are also entitled to request and receive such data pursuant to the South Carolina Rules of Criminal Procedure, the South Carolina Rules of Civil Procedure, or a court order:
 - ▶ (a) a person who is the subject of the recording;
 - ▶ (b) a criminal defendant if the recording is relevant to a pending criminal action;
 - ▶ (c) a civil litigant if the recording is relevant to a pending civil action;
 - ▶ (d) a person whose property has been seized or damaged in relation to, or is otherwise involved with, a crime to which the recording is related;
 - ▶ (e) a parent or legal guardian of a minor or incapacitated person described in subitem (a) or (b); and
 - ▶ (f) an attorney for a person described in subitems (a) through (e)."

IMPORTANT DATES

- ▶ As of today, August 3, 2015, the LETC has 126 days to complete the minimum standards or “guidelines”. Likewise, the PSCC has 126 days to establish a process for the application for and disbursement of monies to state and local law enforcement agencies.
 - ▶ 180 days from the effective date of S. 47 is December 7, 2015.
- ▶ As of today, August 3, 2015, state and local law enforcement agencies have 216 days to create a policy on body-worn cameras, submit it to the LETC, and have it approved.
 - ▶ 270 days from the effective date of S. 47 is March 6, 2016.

THINGS TO CONSIDER

- ▶ As funding allows, all law enforcement agencies and prosecutors will be implementing body-worn cameras. Therefore, it is important to consider several important factors:
 - ▶ What system are you currently using for dash cameras or RMS? It may be cheaper overall to purchase a more expensive camera and expand an existing storage solution than to purchase a completely separate storage solution and a slightly cheaper camera.
 - ▶ Who is using which system? (Will agencies be able to view/share data with each other and the prosecution?)
 - ▶ How will you store data? If body-worn camera footage is used as evidence, certain evidentiary rules will apply and can require data to be stored for years. Will agencies use a cloud based storage solution or purchase your own secure servers? Whatever you decide, be sure to include CJIS requirements in making your decision.
 - ▶ Who owns the data? Companies may be willing to store data for agencies, but who ultimately owns that data? Several companies have taken ownership of the data and tried to sell the data (or evidence) back to the law enforcement or prosecuting agency.

MANAGING EXPECTATIONS

What this bill **DOES** do:

- ▶ Requires each law enforcement **AGENCY** to implement body-worn cameras when funding has been provided **IN FULL**.
- ▶ Creates a method to appropriate funds over time to law enforcement agencies and prosecutors to implement body-worn cameras.
- ▶ Increase officer accountability
- ▶ Reduce complaints from the public
- ▶ Vindicate officers of abusive complaints
- ▶ Increase public trust in law enforcement officials
- ▶ Enhance law enforcement's pursuit of justice.

What this bill **DOES NOT** do:

- ▶ Require each law enforcement **OFFICER** to wear a body-worn camera.
- ▶ Require a body-worn camera to be activated on every police action.
- ▶ Provide adequate funding to outfit each officer or even each agency with body worn cameras.
- ▶ Automatically improve community relations.
- ▶ Provide psychological testing for law enforcement officers or advanced training.

MANAGING EXPECTATIONS

“We also should be careful not to put too much trust in this technology. While sheriffs fully recognize the benefits of body-worn cameras, they won’t magically mend community relations. Technology, no matter how far it advances, will never accomplish what can be gained when people take the time to sit down, talk, listen and attempt to understand a different perspective.

It is often said that public safety is a core function of government. While I believe that is true, it is also true that far too many law enforcement agencies in this state are barely making ends meet. A constant cry for smaller government has resulted in a government that provides less.

Law enforcement agencies are in desperate need of advanced training in cultural diversity, use of force and de-escalation. If we truly want to increase protection for law enforcement officers and the public, then we need to provide the funds necessary to attract, recruit and retain the best and brightest officers. Those officers should be psychologically tested and equipped with the best training available to ensure they serve and protect our communities with equality, fairness and justice.”

- Jarrod M. Bruder

The State, Letters to the Editor, July 1, 2015



QUESTIONS?

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