

HOUSE BILL No. 2137

By Committee on Corrections and Juvenile Justice

1-27

1 AN ACT enacting the police and citizen protection act; relating to use of
2 body cameras by law enforcement officers.

3
4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. (a) Sections 1 through 6, and amendments thereto, shall be
6 known and may be cited as the police and citizen protection act.

7 (b) As used in this act:

8 (1) "Body camera" means a device that is worn by a law enforcement
9 officer that electronically records audio and video of such officer's
10 activities;

11 (2) "law enforcement officer" means a uniformed law enforcement
12 officer in this state who is required to use a body camera pursuant to
13 section 2, and amendments thereto; and

14 (3) "person" means an individual, public or private corporation,
15 government, partnership or unincorporated association.

16 Sec. 2. (a) Every state, county and municipal law enforcement officer
17 who is primarily assigned to patrol duties shall be equipped with a body
18 camera while performing such duties. The camera shall be used by the
19 officer to record activities that take place during motor vehicle stops or
20 other law enforcement actions taken during the course of such officer's
21 official duties.

22 (b) (1) Except as provided in subsections (b)(3) and (b)(4), a law
23 enforcement officer shall activate the recording function of the body
24 camera whenever such officer is on duty, continuously record with the
25 camera and make an effort to record interactions with others with the
26 camera.

27 (2) As practicable, a law enforcement officer shall notify another
28 person if the person is being recorded by the body camera.

29 (3) A law enforcement officer may temporarily stop recording with
30 the body camera when such officer is engaged in a personal matter, such as
31 a personal conversation or using the bathroom.

32 (4) When entering a residence under nonexigent circumstances, a law
33 enforcement officer shall ask the residents whether they want the officer to
34 stop recording with the body camera while in the residence. The officer
35 shall record the exchange to document the wishes of the residents.

36 (c) A law enforcement officer shall read, agree to and sign a written

1 waiver that consists of a consent to be filmed by a body camera and an
2 acknowledgment of the requirements of the police and citizen protection
3 act and the related policies of the law enforcement agency by which the
4 law enforcement officer is employed.

5 (d) The provisions of K.S.A. 22-2514 through 22-2519, and
6 amendments thereto, relating to the authorized interception of wire, oral or
7 electronic communications, shall not apply to recordings made by a body
8 camera as required by the police and citizen protection act.

9 Sec. 3. A law enforcement agency or law enforcement officer shall
10 not allow a computerized facial recognition program or application to be
11 used with a body camera or a recording made by a body camera unless the
12 use has been authorized by a warrant issued by a court.

13 Sec. 4. (a) Except as otherwise provided in this section, a law
14 enforcement agency shall retain video and audio recorded by a body
15 camera for two weeks.

16 (b) A law enforcement agency shall retain video and audio recorded
17 by a body camera for three years if any of the following apply:

18 (1) The recording is of an incident involving the use of force;

19 (2) the recording is of an incident that leads to detention or arrest of a
20 person;

21 (3) the recording is relevant to a formal or informal complaint against
22 a law enforcement officer or the law enforcement agency;

23 (4) a request regarding the recording has been made pursuant to
24 subsection (e); or

25 (5) a request for a copy of the recording has been made pursuant to
26 subsection (f).

27 (c) If evidence that may be useful in a criminal prosecution is
28 obtained from a recording made by a body camera, the law enforcement
29 agency shall retain the recording for any time in addition to the time period
30 in subsection (a) or (b) and in the same manner as is required by law for
31 other evidence that may be useful in a criminal prosecution.

32 (d) A law enforcement agency shall post on the law enforcement
33 agency's public website its policies relating to the retention of recordings
34 made by body cameras, requests for the retention of the recordings and
35 requests for copies of the recordings.

36 (e) A person described in subsection (h) may request that a recording
37 made by a body camera be retained for three years pursuant to subsection
38 (b). It is not necessary for the person to file a complaint or for there to be a
39 related open investigation for the person to make a request under this
40 subsection.

41 (f) A person described in subsection (h) may request a copy of a
42 recording made by a body camera. The law enforcement agency shall
43 provide the person with a copy of the requested recording.

1 (g) A person who is not the subject of a recording made by a body
2 camera may request a copy of the recording. If each person who is the
3 subject of the recording consents, the law enforcement agency shall
4 provide the requesting person with a copy of the requested recording.

5 (h) Any of the following may make a request under subsection (e) or
6 subsection (f):

7 (1) A person who is a subject of the recording;

8 (2) a person whose property has been seized or damaged in relation
9 to, or is otherwise involved with, a crime to which the recording is related;

10 (3) a parent or legal guardian of a person described in subsection (h)
11 (1) or (h)(2);

12 (4) an attorney for a person described in subsection (h)(1) or (h)(2);
13 or

14 (5) any other person that a person described in subsection (h)(1) or
15 (h)(2) has given written authority to make the request.

16 (i) Before deleting or otherwise disposing of a recording made by a
17 body camera, a person who has the responsibility on behalf of the law
18 enforcement agency of deleting or disposing of the recording shall review
19 all applicable and available records, files and databases to ascertain
20 whether there is any reason why the recording cannot be deleted or
21 disposed of under this section or the policies of the law enforcement
22 agency. The person shall not delete or dispose of the recording if such
23 person ascertains that there is any such reason.

24 (j) Every recording made by a body camera as required by the police
25 and citizen protection act shall be confidential and exempt from the
26 Kansas open records act in accordance with K.S.A. 45-221, and
27 amendments thereto. The provisions of this subsection shall expire on July
28 1, 2020, unless the legislature reviews and reenacts this provision pursuant
29 to K.S.A. 45-229, and amendments thereto, prior to July 1, 2020.

30 Sec. 5. If, in connection with a criminal prosecution or civil action, a
31 law enforcement agency is unable to produce a recording that is required
32 to be made and retained under the police and citizen protection act, there
33 shall be a presumption that the recording would corroborate the version of
34 the facts advanced by the defendant in a criminal action or the party
35 opposing the law enforcement officer or law enforcement agency in a civil
36 action.

37 Sec. 6. Law enforcement agencies shall seek and accept grants and
38 other financial assistance that the federal government and other public or
39 private sources make available to implement the provisions of the police
40 and citizen protection act.

41 Sec. 7. This act shall take effect and be in force from and after its
42 publication in the statute book.