

HOUSE BILL No. 4229

February 24, 2015, Introduced by Reps. Robinson, Durhal, Byrd, Irwin, Gay-Dagnogo, Cochran, Banks, Love, Santana and Talabi and referred to the Committee on Criminal Justice.

A bill to provide for the use by law enforcement officers of cameras worn on the body; to require the retention and provide for the production by law enforcement agencies of recordings made using the cameras; to create certain presumptions in a court proceeding; to provide for the reimbursement of certain costs to local law enforcement agencies; and to prescribe the powers and duties of certain public officials and public employees.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the "law
2 enforcement body-worn camera act".

3 Sec. 2. As used in this act:

4 (a) "A device that uses electro-muscular disruption
5 technology" means that term as defined in section 224a of the
6 Michigan penal code, 1931 PA 328, MCL 750.224a.

1 (b) "Law enforcement officer" means that term as defined in
2 section 2 of the commission on law enforcement standards act, 1965
3 PA 203, MCL 28.602.

4 (c) "Person" means an individual, partnership, corporation,
5 association, governmental entity, or other legal entity.

6 Sec. 3. (1) A law enforcement officer who, as part of his or
7 her duties, is required to carry a firearm or a device that uses
8 electro-muscular disruption technology and is required to wear a
9 uniform shall wear a body-worn camera and record the events that
10 occur while he or she is on duty with the body-worn camera.

11 (2) Subject to subsections (3) and (6), a law enforcement
12 officer required to wear a body-worn camera under subsection (1)
13 shall activate the recording function of the camera whenever the
14 officer is on duty, continuously record with the camera, and make
15 his or her best effort to record interactions with other
16 individuals with the camera.

17 (3) A law enforcement officer may temporarily stop recording
18 with a body-worn camera when the officer is engaged in a personal
19 matter, such as a personal conversation or using the bathroom.

20 (4) A law enforcement officer shall read, agree to, and sign a
21 written waiver that consists of a consent to be filmed by a body-
22 worn camera and an acknowledgment of the requirements of this act
23 and the related policies of the law enforcement agency by which the
24 law enforcement officer is employed.

25 (5) As practicable, a law enforcement officer required to wear
26 a body-worn camera under subsection (1) shall notify another
27 individual if the individual is being recorded by the camera.

1 (6) When entering a residence under nonexigent circumstances,
2 a law enforcement officer shall ask the residents whether they want
3 the officer to stop recording with the body-worn camera while in
4 the residence. The officer shall record the exchange to document
5 the wishes of the residents.

6 Sec. 4. A law enforcement agency or law enforcement officer
7 shall not allow a computerized facial recognition program or
8 application to be used with a body-worn camera or a recording made
9 by a body-worn camera unless the use has been authorized by a
10 warrant issued by a court.

11 Sec. 5. (1) A law enforcement agency shall retain video and
12 audio recorded by a body-worn camera under this act for 2 weeks,
13 unless subsection (2) applies.

14 (2) A law enforcement agency shall retain video and audio
15 recorded by a body-worn camera under this act for 3 years if any of
16 the following apply:

17 (a) The recording is of an incident involving the use of
18 force.

19 (b) The recording is of an incident that leads to detention or
20 arrest of an individual.

21 (c) The recording is relevant to a formal or informal
22 complaint against a law enforcement officer or the law enforcement
23 agency.

24 (d) A request regarding the recording has been made under
25 subsection (4).

26 (e) A request for a copy of the recording has been made under
27 section 6(1).

1 (3) A law enforcement agency shall post on the law enforcement
2 agency's public website its policies relating to the retention of
3 recordings made by body-worn cameras under this act, requests for
4 the retention of the recordings, and requests for copies of the
5 recordings.

6 (4) A person described in subsection (6) may request that a
7 recording made by a body-worn camera under this act be retained
8 under subsection (2). It is not necessary for the person to file a
9 complaint or for there to be a related open investigation for the
10 person to make a request under this subsection.

11 (5) If evidence that may be useful in a criminal prosecution
12 is obtained from a recording made by a body-worn camera under this
13 act, the law enforcement agency shall retain the recording for any
14 time in addition to the time periods under subsections (1) and (2)
15 and in the same manner as is required by law for other evidence
16 that may be useful in a criminal prosecution.

17 (6) Any of the following may make a request under subsection
18 (4) or section 6(1):

19 (a) An individual who is a subject of the recording.

20 (b) A person whose property has been seized or damaged in
21 relation to, or is otherwise involved with, a crime to which the
22 recording is related.

23 (c) A parent of an individual described in subdivision (a) or
24 (b).

25 (d) A legal guardian of an individual described in subdivision
26 (a) or (b).

27 (e) An attorney for a person described in subdivision (a) or

1 (b).

2 (f) A person not described in subdivisions (c) to (e) that a
3 person described in subdivision (a) or (b) has given the authority
4 in writing to make the request.

5 Sec. 6. (1) A person described in section 5(6) may request a
6 copy of a recording made by a body-worn camera under this act. The
7 law enforcement agency shall provide the individual with a copy of
8 the requested recording.

9 (2) An individual who is not the subject of a recording made
10 by a body-worn camera under this act may request a copy of the
11 recording. If the individuals who are the subjects of the recording
12 consent, the law enforcement agency shall provide the individual
13 with a copy of the requested recording. If the individuals who are
14 the subjects of the recording do not consent, the recording is not
15 a public record and is not subject to disclosure under the freedom
16 of information act, 1976 PA 442, MCL 15.231 to 15.246.

17 Sec. 7. Before deleting or otherwise disposing of a recording
18 made by a body-worn camera under this act, an individual who has
19 the responsibility on behalf of the law enforcement agency of
20 deleting or disposing of the recording shall review all applicable
21 and available records, files, and databases to ascertain whether
22 there is any reason why the recording cannot be deleted or disposed
23 of under this act or the policies of the law enforcement agency.
24 The individual shall not delete or dispose of the recording if he
25 or she ascertains that there is any such reason.

26 Sec. 8. If, in connection with a criminal prosecution or civil
27 action, a law enforcement agency is unable to produce a recording

1 that is required to be made and retained under this act, there is a
2 presumption that the recording would corroborate the version of the
3 facts advanced by the defendant in a criminal action or the party
4 opposing the law enforcement officer or law enforcement agency in a
5 civil action.

6 Sec. 9. (1) A local or county law enforcement agency may
7 request that the department of state police reimburse the agency
8 for the cost of purchasing equipment, or any other expense
9 incurred, to implement this act.

10 (2) The department of state police shall reimburse a local or
11 county law enforcement agency for reasonable costs contained in a
12 request for reimbursement under subsection (1).

13 (3) The department of state police may adopt guidelines under
14 the administrative procedures act of 1969, 1969 PA 306, MCL 24.201
15 to 24.328, covering the submission and payment of requests for
16 reimbursement under this section.

17 Enacting section 1. This act takes effect 90 days after the
18 date it is enacted into law.