

By: Representative Espy

To: Judiciary B;
Appropriations

HOUSE BILL NO. 1279

1 AN ACT TO CREATE THE LAW ENFORCEMENT BODY-WORN CAMERA ACT; TO
2 PROVIDE THE PROCEDURES FOR USE OF BODY-WORN CAMERAS BY LAW
3 ENFORCEMENT OFFICERS; TO DESCRIBE HOW VIDEO FROM THE CAMERAS SHALL
4 BE RETAINED BY LAW ENFORCEMENT AGENCIES; TO DESCRIBE THE LIST OF
5 PERSONS WHO MAY OBTAIN A COPY OF A RECORDING; TO PROVIDE REMEDIES
6 FOR VIOLATIONS OF THIS ACT; AND FOR RELATED PURPOSES.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

8 **SECTION 1.** This act shall be known and referred to as the
9 "Law Enforcement Body-Worn Camera Act."

10 **SECTION 2.** The following words shall have the following
11 meanings, unless the content clearly indicates otherwise:

12 (a) "Law enforcement officer" means the same as the
13 term is defined in Section 45-6-3.

14 (b) "Body-worn camera" means a device that is worn by a
15 law enforcement officer that electronically records audio and
16 video of his or her activities.

17 (c) "Person" means an individual, partnership,
18 corporation, association, governmental entity, or other legal
19 entity.



20 **SECTION 3.** The following are the procedures for use of body
21 worn cameras by a law enforcement officer:

22 (a) A law enforcement officer who is primarily assigned
23 to patrol duties and is required to wear a uniform shall wear a
24 body-worn camera to record the events that occur while he or she
25 is on duty with the body-worn camera. Personal recording devices
26 shall not be used to capture interactions with citizens.

27 (b) A law enforcement officer who is required to wear a
28 body-worn camera under paragraph (a) of this section shall
29 activate the recording function of the camera whenever the officer
30 is on duty and continuously record all contacts with citizens in
31 the performance of official duties, subject to exceptions in
32 paragraphs (d) and (f) of this section.

33 (c) The body-worn camera shall remain activated at all
34 times until either the event is completed, the officer has left
35 the scene, a supervisor has authorized on camera that a recording
36 may cease, or the contact moves into an area exempted under
37 paragraph (d) or (f). Before turning off a body-worn camera, the
38 officer shall announce on camera the reason for the deactivation
39 of the camera.

40 (d) A law enforcement officer may temporarily stop
41 recording under the following limited circumstances:

42 (i) Encounters or communications with other law
43 enforcement personnel, unless recording is required by a court



44 order or is authorized as part of an administrative or criminal
45 investigation;

46 (ii) Encounters or communications with undercover
47 officers or confidential informants;

48 (iii) Strip searches;

49 (iv) When on break or otherwise engaged in
50 personal activities; or

51 (v) In any location an officer has a reasonable
52 expectation of privacy, such as a restroom or locker room.

53 (e) A law enforcement officer required to wear a
54 body-worn camera under paragraph (a) of this section shall notify
55 individuals that they are being recorded.

56 (f) When entering a residence under nonexigent
57 circumstances, a law enforcement officer shall ask the residents
58 whether they want the officer to stop recording with the body-worn
59 camera while in the residence. The officer shall record the
60 exchange to document the wishes of the residents.

61 (g) A law enforcement officer shall read, agree to, and
62 sign a written waiver that consists of a consent to be filmed by a
63 body-worn camera and an acknowledgement of the requirements of
64 this act and the related policies of the law enforcement agency by
65 which the law enforcement officer is employed.

66 (h) All recorded files shall be securely downloaded by
67 the officer operating the body-worn camera, no later than the end
68 of each shift. In circumstances resulting in a person's bodily



69 harm or death, the operating officers' supervisor shall
70 immediately take custody of the camera and assume responsibility
71 for downloading the data. Each file shall contain information
72 related to the type of incident, the date, the body-worn camera
73 identifier, and the assigned officer.

74 (i) Body-worn camera recordings are not a replacement
75 for written reports. Officers may not view a body-worn camera
76 recording of an incident prior to writing a relevant report.
77 Neither officers nor civilians are permitted to view recordings at
78 the scene.

79 **SECTION 4.** A law enforcement agency shall not allow a
80 computerized facial recognition program or application to be used
81 with a body-worn camera or a recording made by a body-worn camera
82 unless the use has been authorized by order of a court.

83 **SECTION 5.** (1) A law enforcement agency shall retain video
84 and audio recorded by a body-worn camera under this act for one
85 hundred twenty (120) days, unless subsection (2) or (5) applies.

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

89 (a) The recording is of an incident involving the use
90 of force.

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



93 (c) The recording is relevant to a formal or informal
94 complaint against a law enforcement officer or the law enforcement
95 agency.

96 (d) A request regarding the recording has been made as
97 provided in this act.

98 (e) A request for a copy of the recording has been made
99 under subsection (1) of Section 6 of this act.

100 (3) Any subject of a recording may make a request for
101 retention under subsection (2) of this section. Police
102 departments and third parties may make a request to extend the
103 time period for retention under subsection (2) of this section, if
104 there is some basis to believe that police misconduct has
105 occurred, or if there is a reasonable suspicion that the video
106 contains evidence of a crime. It is not necessary for a person to
107 file a complaint or for there to be a related open investigation
108 for a person to make a request under this subsection.

109 (4) A law enforcement agency shall post on the law
110 enforcement agency's public website its policies relating to the
111 retention of recordings made by body-worn cameras under this act,
112 procedures for requesting retention of a recording, and procedures
113 for requesting copies of a recording.

114 (5) If evidence, which may be useful in a criminal
115 prosecution, is obtained from a recording made by a body-worn
116 camera under this act, the law enforcement agency shall retain the
117 recording for any time period necessary and be exempt from the



118 restrictions for retention provided by subsections (1) and (2) of
119 this section, and in the same manner as is required by law for
120 other evidence that may be useful in a criminal prosecution.

121 **SECTION 6.** (1) All data, images, video and metadata
122 captured, recorded, or otherwise produced by the equipment shall
123 be under the exclusive control of the law enforcement agency.

124 (2) Access to and use of recordings is only permitted during
125 an investigation of misconduct or when there is reasonable
126 suspicion that a file contains evidence of a crime. All access
127 and use must be authorized by the sheriff or chief, or a designee.

128 (3) Officers shall not edit, alter, erase, duplicate, copy,
129 share, or otherwise distribute body-worn camera recordings in any
130 manner without the approval of the sheriff or chief, or his or her
131 designee.

132 (4) All access to body-worn camera files is to be audited to
133 ensure that only authorized users are accessing the data for
134 legitimate and authorized purposes. The agency must keep records
135 of who has accessed recorded data, when, and for what purpose.

136 (5) Un-redacted recordings retained under subsection 5(2) of
137 should not be publicly disclosed without the consent of the
138 subject. Recordings retained under subsection (2) of Section 5 of
139 this act may be publicly disclosed, but shall be redacted if
140 feasible.

141 (6) A person described in subsection (7) of this section,
142 may request a copy of a recording made by a body-worn camera under



143 this act. The law enforcement agency shall provide the individual
144 with a copy of the recording.

145 (7) Any of the following persons may make a request for
146 un-redacted recordings:

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

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

151 (c) A parent of an individual described in paragraph
152 (a) or (b) of this subsection.

153 (d) A legal guardian of an individual described in
154 paragraph (a) or (b) of this subsection.

155 (e) An attorney for a person described in paragraph (a)
156 or (b) of this subsection.

157 (f) A person not described in paragraphs (c) or (e) of
158 this subsection, if a person described in paragraph (a) or (b) of
159 this subsection has given authority in writing to request a copy
160 of the recording, and the individuals who are the subjects of the
161 recording consent.

162 **SECTION 7.** If, in connection with an investigation of
163 misconduct, a law enforcement agency is unable to produce a
164 recording that is required to be made and retained under this act,
165 there is a presumption that the recording would corroborate the
166 version of the facts advanced by the party opposing the law



167 enforcement officer or law enforcement agency. A failure to
168 record should also be noted in the officer's disciplinary record.

169 **SECTION 8.** Each law enforcement agency shall collect
170 statistical data concerning body-worn camera usage, including when
171 video footage is used in criminal prosecutions and Internal
172 Affairs matters. The statistics shall be released upon receipt of
173 a public information request.

174 **SECTION 9.** The Office of Internal Affairs or any division of
175 a law enforcement agency whose purpose is to investigate the acts
176 of its officers shall conduct a random audit of body-worn cameras
177 to ensure that the equipment is operating properly and that
178 officers are using the devices appropriately and in accordance
179 with policy and to identify any areas in which additional training
180 or guidelines may be required.

181 **SECTION 10.** (1) Training is required for officers assigned
182 to wear cameras, supervisors whose officers wear cameras,
183 records/evidence management personnel, training personnel, and
184 Internal Affairs officers. Personnel must receive all mandated
185 training prior to involvement with any body-worn camera required
186 by this act.

187 (2) The training shall include practices and protocols
188 covered by this act; an overview of relevant state laws governing
189 consent, evidence, privacy, and public disclosure; procedures for
190 operating the equipment safely and effectively; scenario-based
191 exercises that replicate situations an officer might encounter in



192 the field; procedures for downloading and tagging recorded data;
193 procedures for accessing and reviewing recorded data (only for
194 personnel authorized to access the data); procedures for preparing
195 and presenting digital evidence for court; and procedures for
196 documenting and reporting any malfunctioning device or supporting
197 system. Annual refresher courses on body-worn camera usage and
198 protocols shall be required.

199 **SECTION 11.** This act shall take effect and be in force from
200 and after July 1, 2015.

