

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1000

Introduced by Mello, 5; Cook, 13; Ebke, 32; Harr, 8; Krist, 10; Morfeld,
46; Seiler, 33; Williams, 36.

Read first time January 15, 2016

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to law enforcement; to define terms; to
- 2 require certain law enforcement agencies to adopt policies on the
- 3 use of body-worn cameras; to exempt recordings from body-worn
- 4 cameras from disclosure under the public records statutes; to
- 5 prohibit the unauthorized release or intentional destruction of such
- 6 recordings; and to provide a penalty.
- 7 Be it enacted by the people of the State of Nebraska,

1 Section 1. For purposes of sections 1 to 8 of this act, unless the
2 context otherwise requires:

3 (1) Body-worn camera means a device worn by a peace officer in
4 uniform which has the capability to record both audio and video of an
5 interaction between a peace officer and a member of the public but does
6 not include any device used by an undercover officer;

7 (2) Commission means the Nebraska Commission on Law Enforcement and
8 Criminal Justice;

9 (3) Member of the public means any person who is not an on-duty
10 peace officer;

11 (4) Peace officer or officer has the same meaning as in section
12 28-109; and

13 (5) Subject means any individual who appears on video footage or can
14 be heard in the audio recorded by a body-worn camera, except those who
15 appear or can be heard only incidentally.

16 Sec. 2. (1)(a) On or before January 1, 2017, any law enforcement
17 agency in this state which uses body-worn cameras, including the Nebraska
18 State Patrol, the county sheriffs, and all city and village police
19 departments, shall adopt and provide a copy to the commission of a
20 written policy that provides for the implementation and use of body-worn
21 cameras by such agency's officers.

22 (b) Any such law enforcement agency which commences the use of body-
23 worn cameras on or after January 1, 2017, shall, within three months of
24 such commencement, adopt and provide a copy to the commission of a
25 written policy that provides for the implementation and use of body-worn
26 cameras by such agency's officers.

27 (2) A policy described in subsection (1) of this section shall
28 include the procedures and provisions required by sections 3 to 6 of this
29 act.

30 (3) On or before January 1, 2018, and each January 1 thereafter, a
31 law enforcement agency required to adopt a policy under this section

1 shall provide an updated copy of such policy to the commission.

2 Sec. 3. A policy described in section 2 of this act shall include
3 provisions which govern the use of body-worn cameras by peace officers.

4 Such policy shall include requirements that:

5 (1) Before a law enforcement agency may operate a body-worn camera
6 program, the agency shall provide training to peace officers who will use
7 the body-worn cameras and to any other person who will come into contact
8 with video or audio data obtained from the use of body-worn cameras;

9 (2) An officer shall notify his or her supervisor of any problems
10 with the recording capabilities of his or her body-worn camera;

11 (3) A body-worn camera shall be worn openly in a prominent location
12 on the peace officer's body, uniform, or clothing and in a manner that
13 maximizes the camera's ability to capture video footage and audio of the
14 officer's activities; and

15 (4) As close to the inception of the encounter as is reasonably
16 practicable, a peace officer who is using a body-worn camera shall notify
17 the subject of the recording that he or she is being recorded by a body-
18 worn camera.

19 Sec. 4. A policy described in section 2 of this act shall include:

20 (1) Requirements designed to ensure that a body-worn camera is
21 activated only for a law enforcement purpose and shall provide for
22 instances in which a peace officer should not record or may discontinue a
23 recording currently in progress, considering the need for privacy in
24 certain situations and at certain locations; and

25 (2) Procedures governing the activation and deactivation of body-
26 worn cameras based upon the circumstances confronting the officer and the
27 person with which he or she is interacting.

28 Sec. 5. A policy described in section 2 of this act shall include
29 provisions governing the storage and access of any recordings. Such
30 policy shall include guidelines which provide that:

31 (1) All recordings shall be available for supervisory or internal

1 review consistent with any collective bargaining agreement; and

2 (2) All recordings shall be retained for a minimum period of six
3 months from the date of recording, except that if a recording becomes
4 part of a criminal or civil court proceeding or a proceeding involving
5 disciplinary action against an employee or employees, the recording shall
6 be retained indefinitely.

7 Sec. 6. A policy described in section 2 of this act shall include
8 policies and procedures designed to ensure that:

9 (1) Each officer's body-worn camera is working properly and capable
10 of recording; and

11 (2) All recordings created by body-worn cameras are automatically
12 preserved and transmitted to a database maintained by the agency or its
13 designated agent during, at the end, or as soon as practicable following
14 each peace officer's shift.

15 Sec. 7. Beginning January 1, 2017, recordings created with a body-
16 worn camera of a law enforcement agency subject to section 2 of this act
17 shall be considered records under subdivision (5) of section 84-712.05.

18 Sec. 8. (1)(a) Beginning January 1, 2017, a peace officer or other
19 employee of a law enforcement agency subject to section 2 of this act,
20 its designated agent, or an employee of its agent shall not release a
21 recording created with a body-worn camera without the permission of the
22 applicable law enforcement agency.

23 (b) A person who intentionally and knowingly violates subdivision
24 (1)(a) of this section shall be guilty of a Class V misdemeanor.

25 (2)(a) Beginning January 1, 2017, a peace officer or other employee
26 of a law enforcement agency subject to section 2 of this act, its
27 designated agent, or an employee of its agent shall not intentionally
28 destroy or delete, or intentionally attempt to destroy or delete, a
29 recording created with a body-worn camera, except as otherwise permitted
30 by law.

31 (b) A person who intentionally and knowingly violates subdivision

1 (2)(a) of this section shall be guilty of a Class V misdemeanor.