



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB3447

by Rep. John M. Cabello

SYNOPSIS AS INTRODUCED:

New Act
5 ILCS 140/7.5

Creates the Public Official Body Camera Act. Provides that the State Board of Elections shall develop rules for the use of body cameras by public officials of the State. Specifies requirements concerning the use of body cameras. Provides that recordings made with the use of a body camera worn by a public official are not subject to disclosure under the Freedom of Information Act. Provides that the recordings may be used as evidence in any administrative, judicial, legislative, or disciplinary proceeding. Provides that if a court or other finder of fact finds by a preponderance of the evidence that a recording was intentionally not captured, destroyed, altered, or intermittently captured in violation of the Act, then the court or other finder of fact shall consider or be instructed to consider that violation in weighing the evidence, unless the State provides a reasonable justification. Makes conforming changes to the Freedom of Information Act.

LRB101 10873 RJF 56016 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Public
5 Official Body Camera Act.

6 Section 5. Definitions. In this Act:

7 "Body camera" means an electronic camera system for
8 creating, generating, sending, receiving, storing, displaying,
9 and processing audiovisual recordings that may be worn about
10 the person wearing the device.

11 "Official duties" means the duties and responsibilities of
12 the public official that may vary depending on the role of the
13 public official.

14 "Public official" means any person who is elected or
15 appointed to public office.

16 Section 10. Requirements; body cameras.

17 (a) The State Board of Elections shall develop rules for
18 the use of body cameras by public officials of this State. The
19 policy adopted must include, at a minimum, all of the
20 following:

21 (1) Cameras must be equipped with pre-event recording,
22 capable of recording at least the 30 seconds prior to

1 camera activation.

2 (2) Cameras must be capable of recording for a period
3 of 10 hours or more.

4 (3) Cameras must be turned on at all times when the
5 public official is engaged in his or her official duties.
6 The State Board of Elections shall prescribe when a public
7 official needs to wear a body camera to be in compliance
8 with this Act.

9 (4) The public official must provide notice of
10 recording to any person if the person has a reasonable
11 expectation of privacy and proof of notice must be evident
12 in the recording.

13 (5) Recordings made on a body camera worn by a public
14 official must be retained on a recording medium for a
15 period of 90 days. Under no circumstances shall any
16 recording made with an body camera worn by a public
17 official be altered, erased, or destroyed prior to the
18 expiration of the 90-day storage period.

19 (6) For the purposes of redaction, labeling, or
20 duplicating recordings, access to camera recordings shall
21 be restricted to only those personnel responsible for those
22 purposes.

23 (b) Recordings made with the use of a body camera worn by a
24 public official are not subject to disclosure under the Freedom
25 of Information Act. Only recordings or portions of recordings
26 responsive to the request shall be available for inspection or

1 reproduction. Nothing in this subsection (b) shall require the
2 disclosure of any recording or portion of any recording which
3 would be exempt from disclosure under the Freedom of
4 Information Act. Nothing in this Section shall limit access to
5 a camera recording for the purposes of complying with Supreme
6 Court rules or the rules of evidence.

7 Section 15. Evidence. The recordings may be used as
8 evidence in any administrative, judicial, legislative, or
9 disciplinary proceeding. If a court or other finder of fact
10 finds by a preponderance of the evidence that a recording was
11 intentionally not captured, destroyed, altered, or
12 intermittently captured in violation of this Act, then the
13 court or other finder of fact shall consider or be instructed
14 to consider that violation in weighing the evidence, unless the
15 State provides a reasonable justification.

16 Section 105. The Freedom of Information Act is amended by
17 changing Section 7.5 as follows:

18 (5 ILCS 140/7.5)

19 Sec. 7.5. Statutory exemptions. To the extent provided for
20 by the statutes referenced below, the following shall be exempt
21 from inspection and copying:

22 (a) All information determined to be confidential
23 under Section 4002 of the Technology Advancement and

1 Development Act.

2 (b) Library circulation and order records identifying
3 library users with specific materials under the Library
4 Records Confidentiality Act.

5 (c) Applications, related documents, and medical
6 records received by the Experimental Organ Transplantation
7 Procedures Board and any and all documents or other records
8 prepared by the Experimental Organ Transplantation
9 Procedures Board or its staff relating to applications it
10 has received.

11 (d) Information and records held by the Department of
12 Public Health and its authorized representatives relating
13 to known or suspected cases of sexually transmissible
14 disease or any information the disclosure of which is
15 restricted under the Illinois Sexually Transmissible
16 Disease Control Act.

17 (e) Information the disclosure of which is exempted
18 under Section 30 of the Radon Industry Licensing Act.

19 (f) Firm performance evaluations under Section 55 of
20 the Architectural, Engineering, and Land Surveying
21 Qualifications Based Selection Act.

22 (g) Information the disclosure of which is restricted
23 and exempted under Section 50 of the Illinois Prepaid
24 Tuition Act.

25 (h) Information the disclosure of which is exempted
26 under the State Officials and Employees Ethics Act, and

1 records of any lawfully created State or local inspector
2 general's office that would be exempt if created or
3 obtained by an Executive Inspector General's office under
4 that Act.

5 (i) Information contained in a local emergency energy
6 plan submitted to a municipality in accordance with a local
7 emergency energy plan ordinance that is adopted under
8 Section 11-21.5-5 of the Illinois Municipal Code.

9 (j) Information and data concerning the distribution
10 of surcharge moneys collected and remitted by carriers
11 under the Emergency Telephone System Act.

12 (k) Law enforcement officer identification information
13 or driver identification information compiled by a law
14 enforcement agency or the Department of Transportation
15 under Section 11-212 of the Illinois Vehicle Code.

16 (l) Records and information provided to a residential
17 health care facility resident sexual assault and death
18 review team or the Executive Council under the Abuse
19 Prevention Review Team Act.

20 (m) Information provided to the predatory lending
21 database created pursuant to Article 3 of the Residential
22 Real Property Disclosure Act, except to the extent
23 authorized under that Article.

24 (n) Defense budgets and petitions for certification of
25 compensation and expenses for court appointed trial
26 counsel as provided under Sections 10 and 15 of the Capital

1 Crimes Litigation Act. This subsection (n) shall apply
2 until the conclusion of the trial of the case, even if the
3 prosecution chooses not to pursue the death penalty prior
4 to trial or sentencing.

5 (o) Information that is prohibited from being
6 disclosed under Section 4 of the Illinois Health and
7 Hazardous Substances Registry Act.

8 (p) Security portions of system safety program plans,
9 investigation reports, surveys, schedules, lists, data, or
10 information compiled, collected, or prepared by or for the
11 Regional Transportation Authority under Section 2.11 of
12 the Regional Transportation Authority Act or the St. Clair
13 County Transit District under the Bi-State Transit Safety
14 Act.

15 (q) Information prohibited from being disclosed by the
16 Personnel ~~Record~~ Records Review Act.

17 (r) Information prohibited from being disclosed by the
18 Illinois School Student Records Act.

19 (s) Information the disclosure of which is restricted
20 under Section 5-108 of the Public Utilities Act.

21 (t) All identified or deidentified health information
22 in the form of health data or medical records contained in,
23 stored in, submitted to, transferred by, or released from
24 the Illinois Health Information Exchange, and identified
25 or deidentified health information in the form of health
26 data and medical records of the Illinois Health Information

1 Exchange in the possession of the Illinois Health
2 Information Exchange Authority due to its administration
3 of the Illinois Health Information Exchange. The terms
4 "identified" and "deidentified" shall be given the same
5 meaning as in the Health Insurance Portability and
6 Accountability Act of 1996, Public Law 104-191, or any
7 subsequent amendments thereto, and any regulations
8 promulgated thereunder.

9 (u) Records and information provided to an independent
10 team of experts under the Developmental Disability and
11 Mental Health Safety Act (also known as Brian's Law).

12 (v) Names and information of people who have applied
13 for or received Firearm Owner's Identification Cards under
14 the Firearm Owners Identification Card Act or applied for
15 or received a concealed carry license under the Firearm
16 Concealed Carry Act, unless otherwise authorized by the
17 Firearm Concealed Carry Act; and databases under the
18 Firearm Concealed Carry Act, records of the Concealed Carry
19 Licensing Review Board under the Firearm Concealed Carry
20 Act, and law enforcement agency objections under the
21 Firearm Concealed Carry Act.

22 (w) Personally identifiable information which is
23 exempted from disclosure under subsection (g) of Section
24 19.1 of the Toll Highway Act.

25 (x) Information which is exempted from disclosure
26 under Section 5-1014.3 of the Counties Code or Section

1 8-11-21 of the Illinois Municipal Code.

2 (y) Confidential information under the Adult
3 Protective Services Act and its predecessor enabling
4 statute, the Elder Abuse and Neglect Act, including
5 information about the identity and administrative finding
6 against any caregiver of a verified and substantiated
7 decision of abuse, neglect, or financial exploitation of an
8 eligible adult maintained in the Registry established
9 under Section 7.5 of the Adult Protective Services Act.

10 (z) Records and information provided to a fatality
11 review team or the Illinois Fatality Review Team Advisory
12 Council under Section 15 of the Adult Protective Services
13 Act.

14 (aa) Information which is exempted from disclosure
15 under Section 2.37 of the Wildlife Code.

16 (bb) Information which is or was prohibited from
17 disclosure by the Juvenile Court Act of 1987.

18 (cc) Recordings made under the Law Enforcement
19 Officer-Worn Body Camera Act, except to the extent
20 authorized under that Act.

21 (dd) Information that is prohibited from being
22 disclosed under Section 45 of the Condominium and Common
23 Interest Community Ombudsperson Act.

24 (ee) Information that is exempted from disclosure
25 under Section 30.1 of the Pharmacy Practice Act.

26 (ff) Information that is exempted from disclosure

1 under the Revised Uniform Unclaimed Property Act.

2 (gg) Information that is prohibited from being
3 disclosed under Section 7-603.5 of the Illinois Vehicle
4 Code.

5 (hh) Records that are exempt from disclosure under
6 Section 1A-16.7 of the Election Code.

7 (ii) Information which is exempted from disclosure
8 under Section 2505-800 of the Department of Revenue Law of
9 the Civil Administrative Code of Illinois.

10 (jj) Information and reports that are required to be
11 submitted to the Department of Labor by registering day and
12 temporary labor service agencies but are exempt from
13 disclosure under subsection (a-1) of Section 45 of the Day
14 and Temporary Labor Services Act.

15 (kk) Information prohibited from disclosure under the
16 Seizure and Forfeiture Reporting Act.

17 (ll) Information the disclosure of which is restricted
18 and exempted under Section 5-30.8 of the Illinois Public
19 Aid Code.

20 (mm) ~~(ll)~~ Records that are exempt from disclosure under
21 Section 4.2 of the Crime Victims Compensation Act.

22 (nn) ~~(ll)~~ Information that is exempt from disclosure
23 under Section 70 of the Higher Education Student Assistance
24 Act.

25 (oo) Recordings made under the Public Official Body
26 Camera Act, except to the extent authorized under that Act.

1 (Source: P.A. 99-78, eff. 7-20-15; 99-298, eff. 8-6-15; 99-352,
2 eff. 1-1-16; 99-642, eff. 7-28-16; 99-776, eff. 8-12-16;
3 99-863, eff. 8-19-16; 100-20, eff. 7-1-17; 100-22, eff. 1-1-18;
4 100-201, eff. 8-18-17; 100-373, eff. 1-1-18; 100-464, eff.
5 8-28-17; 100-465, eff. 8-31-17; 100-512, eff. 7-1-18; 100-517,
6 eff. 6-1-18; 100-646, eff. 7-27-18; 100-690, eff. 1-1-19;
7 100-863, eff. 8-14-18; 100-887, eff. 8-14-18; revised
8 10-12-18.)