



Sen. John G. Mulroe

Filed: 3/19/2019

10100SB1385sam001

LRB101 08916 SLF 57357 a

1 AMENDMENT TO SENATE BILL 1385

2 AMENDMENT NO. _____. Amend Senate Bill 1385 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Law Enforcement Officer-Worn Body Camera
5 Act is amended by changing Section 10-20 as follows:

6 (50 ILCS 706/10-20)

7 Sec. 10-20. Requirements.

8 (a) The Board shall develop basic guidelines for the use of
9 officer-worn body cameras by law enforcement agencies. The
10 guidelines developed by the Board shall be the basis for the
11 written policy which must be adopted by each law enforcement
12 agency which employs the use of officer-worn body cameras. The
13 written policy adopted by the law enforcement agency must
14 include, at a minimum, all of the following:

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

1 camera activation, unless the officer-worn body camera was
2 purchased and acquired by the law enforcement agency prior
3 to July 1, 2015.

4 (2) Cameras must be capable of recording for a period
5 of 10 hours or more, unless the officer-worn body camera
6 was purchased and acquired by the law enforcement agency
7 prior to July 1, 2015.

8 (3) Cameras must be turned on at all times when the
9 officer is in uniform and is responding to calls for
10 service or engaged in any law enforcement-related
11 encounter or activity, that occurs while the officer is on
12 duty.

13 (A) If exigent circumstances exist which prevent
14 the camera from being turned on, the camera must be
15 turned on as soon as practicable.

16 (B) Officer-worn body cameras may be turned off
17 when the officer is inside of a patrol car which is
18 equipped with a functioning in-car camera; however,
19 the officer must turn on the camera upon exiting the
20 patrol vehicle for law enforcement-related encounters.

21 (4) Cameras must be turned off when:

22 (A) the victim of a crime requests that the camera
23 be turned off, and unless impractical or impossible,
24 that request is made on the recording;

25 (B) a witness of a crime or a community member who
26 wishes to report a crime requests that the camera be

1 turned off, and unless impractical or impossible that
2 request is made on the recording; or

3 (C) the officer is interacting with a confidential
4 informant used by the law enforcement agency.

5 However, an officer may continue to record or resume
6 recording a victim or a witness, if exigent circumstances
7 exist, or if the officer has reasonable articulable
8 suspicion that a victim or witness, or confidential
9 informant has committed or is in the process of committing
10 a crime. Under these circumstances, and unless impractical
11 or impossible, the officer must indicate on the recording
12 the reason for continuing to record despite the request of
13 the victim or witness.

14 (4.5) Cameras may be turned off when the officer is
15 engaged in community caretaking functions. However, the
16 camera must be turned on when the officer has reason to
17 believe that the person on whose behalf the officer is
18 performing a community caretaking function has committed
19 or is in the process of committing a crime. If exigent
20 circumstances exist which prevent the camera from being
21 turned on, the camera must be turned on as soon as
22 practicable.

23 (5) The officer must provide notice of recording to any
24 person if the person has a reasonable expectation of
25 privacy and proof of notice must be evident in the
26 recording. If exigent circumstances exist which prevent

1 the officer from providing notice, notice must be provided
2 as soon as practicable.

3 (6) For the purposes of redaction, labeling, or
4 duplicating recordings, access to camera recordings shall
5 be restricted to only those personnel responsible for those
6 purposes. The recording officer and his or her supervisor
7 may access and review recordings prior to completing
8 incident reports or other documentation, provided that the
9 officer or his or her supervisor discloses that fact in the
10 report or documentation.

11 (7) Recordings made on officer-worn cameras must be
12 retained by the law enforcement agency or by the camera
13 vendor used by the agency, on a recording medium for a
14 period of 90 days.

15 (A) Under no circumstances shall any recording
16 made with an officer-worn body camera be altered,
17 erased, or destroyed prior to the expiration of the
18 90-day storage period.

19 (B) Following the 90-day storage period, any and
20 all recordings made with an officer-worn body camera
21 must be destroyed, unless any encounter captured on the
22 recording has been flagged. An encounter is deemed to
23 be flagged when:

24 (i) a formal or informal complaint has been
25 filed;

26 (ii) the officer discharged his or her firearm

1 or used force during the encounter;

2 (iii) death or great bodily harm occurred to
3 any person in the recording;

4 (iv) the encounter resulted in a detention or
5 an arrest, excluding traffic stops which resulted
6 in only a minor traffic offense or business
7 offense;

8 (v) the officer is the subject of an internal
9 investigation or otherwise being investigated for
10 possible misconduct;

11 (vi) the supervisor of the officer,
12 prosecutor, defendant, or court determines that
13 the encounter has evidentiary value in a criminal
14 prosecution; or

15 (vii) the recording officer requests that the
16 video be flagged for official purposes related to
17 his or her official duties.

18 (C) Under no circumstances shall any recording
19 made with an officer-worn body camera relating to a
20 flagged encounter be altered or destroyed prior to 2
21 years after the recording was flagged. If the flagged
22 recording was used in a criminal, civil, or
23 administrative proceeding, the recording shall not be
24 destroyed except upon a final disposition and order
25 from the court.

26 (8) Following the 90-day storage period, recordings

1 may be retained if a supervisor at the law enforcement
2 agency designates the recording for training purposes. If
3 the recording is designated for training purposes, the
4 recordings may be viewed by officers, in the presence of a
5 supervisor or training instructor, for the purposes of
6 instruction, training, or ensuring compliance with agency
7 policies.

8 (9) Recordings shall not be used to discipline law
9 enforcement officers unless:

10 (A) a formal or informal complaint of misconduct
11 has been made;

12 (B) a use of force incident has occurred;

13 (C) the encounter on the recording could result in
14 a formal investigation under the Uniform Peace
15 Officers' Disciplinary Act; or

16 (D) as corroboration of other evidence of
17 misconduct.

18 Nothing in this paragraph (9) shall be construed to
19 limit or prohibit a law enforcement officer from being
20 subject to an action that does not amount to discipline.

21 (10) The law enforcement agency shall ensure proper
22 care and maintenance of officer-worn body cameras. Upon
23 becoming aware, officers must as soon as practical document
24 and notify the appropriate supervisor of any technical
25 difficulties, failures, or problems with the officer-worn
26 body camera or associated equipment. Upon receiving

1 notice, the appropriate supervisor shall make every
2 reasonable effort to correct and repair any of the
3 officer-worn body camera equipment.

4 (11) No officer may hinder or prohibit any person, not
5 a law enforcement officer, from recording a law enforcement
6 officer in the performance of his or her duties in a public
7 place or when the officer has no reasonable expectation of
8 privacy. The law enforcement agency's written policy shall
9 indicate the potential criminal penalties, as well as any
10 departmental discipline, which may result from unlawful
11 confiscation or destruction of the recording medium of a
12 person who is not a law enforcement officer. However, an
13 officer may take reasonable action to maintain safety and
14 control, secure crime scenes and accident sites, protect
15 the integrity and confidentiality of investigations, and
16 protect the public safety and order.

17 (b) Recordings made with the use of an officer-worn body
18 camera are not subject to disclosure under the Freedom of
19 Information Act, except that:

20 (1) if the subject of the encounter has a reasonable
21 expectation of privacy, at the time of the recording, any
22 recording which is flagged, due to the filing of a
23 complaint, discharge of a firearm, use of force, arrest or
24 detention, or resulting death or bodily harm, shall be
25 disclosed in accordance with the Freedom of Information Act
26 if:

1 (A) the subject of the encounter captured on the
2 recording is a victim or witness; and

3 (B) the law enforcement agency obtains written
4 permission of the subject or the subject's legal
5 representative;

6 (2) except as provided in paragraph (1) of this
7 subsection (b), any recording which is flagged due to the
8 filing of a complaint, discharge of a firearm, use of
9 force, arrest or detention, or resulting death or bodily
10 harm shall be disclosed in accordance with the Freedom of
11 Information Act; and

12 (3) upon request, the law enforcement agency shall
13 disclose, in accordance with the Freedom of Information
14 Act, the recording to the subject of the encounter captured
15 on the recording or to the subject's attorney, or the
16 officer or his or her legal representative.

17 For the purposes of paragraph (1) of this subsection (b),
18 the subject of the encounter does not have a reasonable
19 expectation of privacy if the subject was arrested as a result
20 of the encounter. For purposes of subparagraph (A) of paragraph
21 (1) of this subsection (b), "witness" does not include a person
22 who is a victim or who was arrested as a result of the
23 encounter.

24 Only recordings or portions of recordings responsive to the
25 request shall be available for inspection or reproduction. Any
26 recording disclosed under the Freedom of Information Act shall

1 be redacted to remove identification of any person that appears
2 on the recording and is not ~~the officer,~~ a subject of the
3 encounter, ~~or~~ directly involved in the encounter, and all law
4 enforcement officer identifiers if the recordings are made
5 available from any law enforcement or government agency to the
6 media or public unless that law enforcement officer has been
7 criminally charged relative to the recorded incident. Nothing
8 in this subsection (b) shall require the disclosure of any
9 recording or portion of any recording which would be exempt
10 from disclosure under the Freedom of Information Act.

11 (c) Nothing in this Section shall limit access to a camera
12 recording for the purposes of complying with Supreme Court
13 rules or the rules of evidence.

14 (Source: P.A. 99-352, eff. 1-1-16; 99-642, eff. 7-28-16.)".