



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB6174

Introduced 2/11/2016, by Rep. Luis Arroyo

SYNOPSIS AS INTRODUCED:

5 ILCS 140/7.5
20 ILCS 2610/35
50 ILCS 706/10-1
50 ILCS 706/10-5
50 ILCS 706/10-10
50 ILCS 706/10-15
50 ILCS 706/10-17 new
50 ILCS 706/10-20

Amends the Law Enforcement Officer-Worn Body Camera Act. Requires that on or before 180 days after the effective date of this amendatory Act, each law enforcement agency in this State shall equip every motor vehicle, including unmarked, tactical, and surveillance motor vehicles, owned or operated by the agency with an in-car camera and in-car camera recording equipment with both audio and video recording capability, whether or not the agency receives or has received monies from the Law Enforcement Camera Grant Fund. Requires that: (1) the video recording must provide audio of the officer when the officer is outside of the vehicle; (2) access to an in-car camera and in-car camera recording equipment must be restricted to the supervisors of the officer in the vehicle; (3) the camera and in-car camera recording equipment must be turned on continuously throughout the officer's shift; and (4) a copy of the video record must be made available upon request to personnel of the law enforcement agency, the local State's Attorney, and any persons depicted in the video. Defines "in-car camera" and "in-car camera recording equipment". Amends various Acts to make conforming changes. Effective immediately.

LRB099 19190 MRW 43582 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

A BILL FOR

1 AN ACT concerning law enforcement.

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

4 Section 5. The Freedom of Information Act is amended by
5 changing Section 7.5 as follows:

6 (5 ILCS 140/7.5)

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

10 (a) All information determined to be confidential
11 under Section 4002 of the Technology Advancement and
12 Development Act.

13 (b) Library circulation and order records identifying
14 library users with specific materials under the Library
15 Records Confidentiality Act.

16 (c) Applications, related documents, and medical
17 records received by the Experimental Organ Transplantation
18 Procedures Board and any and all documents or other records
19 prepared by the Experimental Organ Transplantation
20 Procedures Board or its staff relating to applications it
21 has received.

22 (d) Information and records held by the Department of
23 Public Health and its authorized representatives relating

1 to known or suspected cases of sexually transmissible
2 disease or any information the disclosure of which is
3 restricted under the Illinois Sexually Transmissible
4 Disease Control Act.

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

7 (f) Firm performance evaluations under Section 55 of
8 the Architectural, Engineering, and Land Surveying
9 Qualifications Based Selection Act.

10 (g) Information the disclosure of which is restricted
11 and exempted under Section 50 of the Illinois Prepaid
12 Tuition Act.

13 (h) Information the disclosure of which is exempted
14 under the State Officials and Employees Ethics Act, and
15 records of any lawfully created State or local inspector
16 general's office that would be exempt if created or
17 obtained by an Executive Inspector General's office under
18 that Act.

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

23 (j) Information and data concerning the distribution
24 of surcharge moneys collected and remitted by wireless
25 carriers under the Wireless Emergency Telephone Safety
26 Act.

1 (k) Law enforcement officer identification information
2 or driver identification information compiled by a law
3 enforcement agency or the Department of Transportation
4 under Section 11-212 of the Illinois Vehicle Code.

5 (l) Records and information provided to a residential
6 health care facility resident sexual assault and death
7 review team or the Executive Council under the Abuse
8 Prevention Review Team Act.

9 (m) Information provided to the predatory lending
10 database created pursuant to Article 3 of the Residential
11 Real Property Disclosure Act, except to the extent
12 authorized under that Article.

13 (n) Defense budgets and petitions for certification of
14 compensation and expenses for court appointed trial
15 counsel as provided under Sections 10 and 15 of the Capital
16 Crimes Litigation Act. This subsection (n) shall apply
17 until the conclusion of the trial of the case, even if the
18 prosecution chooses not to pursue the death penalty prior
19 to trial or sentencing.

20 (o) Information that is prohibited from being
21 disclosed under Section 4 of the Illinois Health and
22 Hazardous Substances Registry Act.

23 (p) Security portions of system safety program plans,
24 investigation reports, surveys, schedules, lists, data, or
25 information compiled, collected, or prepared by or for the
26 Regional Transportation Authority under Section 2.11 of

1 the Regional Transportation Authority Act or the St. Clair
2 County Transit District under the Bi-State Transit Safety
3 Act.

4 (q) Information prohibited from being disclosed by the
5 Personnel Records Review Act.

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

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

10 (t) All identified or deidentified health information
11 in the form of health data or medical records contained in,
12 stored in, submitted to, transferred by, or released from
13 the Illinois Health Information Exchange, and identified
14 or deidentified health information in the form of health
15 data and medical records of the Illinois Health Information
16 Exchange in the possession of the Illinois Health
17 Information Exchange Authority due to its administration
18 of the Illinois Health Information Exchange. The terms
19 "identified" and "deidentified" shall be given the same
20 meaning as in the Health Insurance Portability and
21 Accountability and Portability Act of 1996, Public Law
22 104-191, or any subsequent amendments thereto, and any
23 regulations promulgated thereunder.

24 (u) Records and information provided to an independent
25 team of experts under Brian's Law.

26 (v) Names and information of people who have applied

1 for or received Firearm Owner's Identification Cards under
2 the Firearm Owners Identification Card Act or applied for
3 or received a concealed carry license under the Firearm
4 Concealed Carry Act, unless otherwise authorized by the
5 Firearm Concealed Carry Act; and databases under the
6 Firearm Concealed Carry Act, records of the Concealed Carry
7 Licensing Review Board under the Firearm Concealed Carry
8 Act, and law enforcement agency objections under the
9 Firearm Concealed Carry Act.

10 (w) Personally identifiable information which is
11 exempted from disclosure under subsection (g) of Section
12 19.1 of the Toll Highway Act.

13 (x) Information which is exempted from disclosure
14 under Section 5-1014.3 of the Counties Code or Section
15 8-11-21 of the Illinois Municipal Code.

16 (y) Confidential information under the Adult
17 Protective Services Act and its predecessor enabling
18 statute, the Elder Abuse and Neglect Act, including
19 information about the identity and administrative finding
20 against any caregiver of a verified and substantiated
21 decision of abuse, neglect, or financial exploitation of an
22 eligible adult maintained in the Registry established
23 under Section 7.5 of the Adult Protective Services Act.

24 (z) Records and information provided to a fatality
25 review team or the Illinois Fatality Review Team Advisory
26 Council under Section 15 of the Adult Protective Services

1 Act.

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

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

6 (cc) ~~(bb)~~ Recordings made with an officer-worn body
7 camera under the Law Enforcement Officer-Worn Body Camera
8 and In-Car Camera Act, except to the extent authorized
9 under that Act.

10 (Source: P.A. 98-49, eff. 7-1-13; 98-63, eff. 7-9-13; 98-756,
11 eff. 7-16-14; 98-1039, eff. 8-25-14; 98-1045, eff. 8-25-14;
12 99-78, eff. 7-20-15; 99-298, eff. 8-6-15; 99-352, eff. 1-1-16;
13 revised 10-14-15.)

14 Section 10. The State Police Act is amended by changing
15 Section 35 as follows:

16 (20 ILCS 2610/35)

17 Sec. 35. Officer-worn body cameras; policy; training.

18 (a) For the purposes of this Section, "officer-worn body
19 camera" shall have the same meaning as defined in Section 10 of
20 the Law Enforcement Officer-Worn Body Camera and In-Car Camera
21 Act.

22 (b) If the Department employs the use of officer-worn body
23 cameras, the Department shall develop a written policy which
24 must include, at a minimum, the guidelines established by the

1 Law Enforcement Officer-Worn Body Camera and In-Car Camera Act.

2 (c) The Department shall provide training to those officers
3 who utilize officer-worn body cameras.

4 (Source: P.A. 99-352, eff. 1-1-16.)

5 Section 15. The Law Enforcement Officer-Worn Body Camera
6 Act is amended by changing Sections 10-1, 10-5, 10-10, 10-15,
7 and 10-20 and by adding Section 10-17 as follows:

8 (50 ILCS 706/10-1)

9 Sec. 10-1. Short title. This Act may be cited as the Law
10 Enforcement Officer-Worn Body Camera and In-Car Camera Act.
11 References in this Article to "this Act" mean this Article.

12 (Source: P.A. 99-352, eff. 1-1-16.)

13 (50 ILCS 706/10-5)

14 Sec. 10-5. Purpose. The General Assembly recognizes that
15 trust and mutual respect between law enforcement agencies and
16 the communities they protect and serve are essential to
17 effective policing and the integrity of our criminal justice
18 system. The General Assembly recognizes that officer-worn body
19 cameras and in-car cameras have developed as a technology that
20 has been used and experimented with by police departments.
21 Officer-worn body cameras and in-car cameras will provide
22 state-of-the-art evidence collection and additional
23 opportunities for training and instruction. Further,

1 officer-worn body cameras and in-car cameras may provide
2 impartial evidence and documentation to settle disputes and
3 allegations of officer misconduct. Ultimately, the uses of
4 officer-worn body cameras and in-car cameras will help collect
5 evidence while improving transparency and accountability, and
6 strengthening public trust. The General Assembly mandates the
7 use of in-car cameras and in-car camera recording equipment in
8 all law enforcement motor vehicles to ensure that this
9 technology is used in furtherance of these goals while
10 protecting individual privacy and providing consistency in its
11 use across this State. The General Assembly creates ~~these~~
12 standardized protocols and procedures for the use of
13 officer-worn body cameras to ensure that this technology is
14 used in furtherance of these goals while protecting individual
15 privacy and providing consistency in its use across this State.
16 (Source: P.A. 99-352, eff. 1-1-16.)

17 (50 ILCS 706/10-10)

18 Sec. 10-10. Definitions. As used in ~~is~~ this Act:

19 "Badge" means an officer's department issued
20 identification number associated with his or her position as a
21 police officer with that department.

22 "Board" means the Illinois Law Enforcement Training
23 Standards Board created by the Illinois Police Training Act.

24 "Business offense" means a petty offense for which the fine
25 is in excess of \$1,000.

1 "Community caretaking function" means a task undertaken by
2 a law enforcement officer in which the officer is performing an
3 articulable act unrelated to the investigation of a crime.

4 "Community caretaking function" includes, but is not limited
5 to, participating in town halls or other community outreach,
6 helping a child find his or her parents, providing death
7 notifications, and performing in-home or hospital well-being
8 checks on the sick, elderly, or persons presumed missing.

9 "Fund" means the Law Enforcement Camera Grant Fund.

10 "In-car camera" means a video camera located in a law
11 enforcement vehicle.

12 "In-car camera recording equipment" means a video camera
13 recording system located in a law enforcement vehicle
14 consisting of a camera assembly, recording mechanism, and an
15 in-car video recording medium.

16 "In uniform" means a law enforcement officer who is wearing
17 any officially authorized uniform designated by a law
18 enforcement agency, or a law enforcement officer who is visibly
19 wearing articles of clothing, a badge, tactical gear, gun belt,
20 a patch, or other insignia that he or she is a law enforcement
21 officer acting in the course of his or her duties.

22 "Law enforcement officer" or "officer" means any person
23 employed by a State, county, municipality, special district,
24 college, unit of government, or any other entity authorized by
25 law to employ peace officers or exercise police authority and
26 who is primarily responsible for the prevention or detection of

1 crime and the enforcement of the laws of this State.

2 "Law enforcement agency" means all State agencies with law
3 enforcement officers, county sheriff's offices, municipal,
4 special district, college, or unit of local government police
5 departments.

6 "Law enforcement-related encounters or activities"
7 include, but are not limited to, traffic stops, pedestrian
8 stops, arrests, searches, interrogations, investigations,
9 pursuits, crowd control, traffic control, non-community
10 caretaking interactions with an individual while on patrol, or
11 any other instance in which the officer is enforcing the laws
12 of the municipality, county, or State. "Law
13 enforcement-related encounter or activities" does not include
14 when the officer is completing paperwork alone or only in the
15 presence of another law enforcement officer.

16 "Minor traffic offense" means a petty offense, business
17 offense, or Class C misdemeanor under the Illinois Vehicle Code
18 or a similar provision of a municipal or local ordinance.

19 "Officer-worn body camera" means an electronic camera
20 system for creating, generating, sending, receiving, storing,
21 displaying, and processing audiovisual recordings that may be
22 worn about the person of a law enforcement officer.

23 "Peace officer" has the meaning provided in Section 2-13 of
24 the Criminal Code of 2012.

25 "Petty offense" means any offense for which a sentence of
26 imprisonment is not an authorized disposition.

1 "Recording" means the process of capturing data or
2 information stored on a recording medium as required under this
3 Act.

4 "Recording medium" means any recording medium authorized
5 by the Board for the retention and playback of recorded audio
6 and video including, but not limited to, VHS, DVD, hard drive,
7 cloud storage, solid state, digital, flash memory technology,
8 or any other electronic medium.

9 (Source: P.A. 99-352, eff. 1-1-16; revised 10-20-15.)

10 (50 ILCS 706/10-15)

11 Sec. 10-15. Applicability.

12 (a) Any law enforcement agency which employs the use of
13 officer-worn body cameras is subject to the provisions of this
14 Act, whether or not the agency receives or has received monies
15 from the Law Enforcement Camera Grant Fund.

16 (b) Any law enforcement agency which owns or operates motor
17 vehicles is subject to the provisions of this Act with respect
18 to in-car cameras and in-car camera recording equipment,
19 whether or not the agency receives or has received monies from
20 the Law Enforcement Camera Grant Fund.

21 (Source: P.A. 99-352, eff. 1-1-16.)

22 (50 ILCS 706/10-17 new)

23 Sec. 10-17. In-car camera requirements.

24 (a) On or before 180 days after the effective date of this

1 amendatory Act of the 99th General Assembly, each law
2 enforcement agency in this State shall equip every motor
3 vehicle, including unmarked, tactical, and surveillance motor
4 vehicles, owned or operated by the agency with an in-car camera
5 and in-car camera recording equipment with both audio and video
6 recording capability, whether or not the agency receives or has
7 received monies from the Law Enforcement Camera Grant Fund. The
8 following requirements apply to in-car cameras and in-car
9 camera recording equipment:

10 (1) the video recording must provide audio of the
11 officer when the officer is outside of the vehicle;

12 (2) access to an in-car camera and in-car camera
13 recording equipment must be restricted to the supervisors of
14 the officer in the vehicle;

15 (3) the camera and in-car camera recording equipment
16 must be turned on continuously throughout the officer's shift;
17 and

18 (4) a copy of the video record must be made available
19 upon request to personnel of the law enforcement agency, the
20 local State's Attorney, and any persons depicted in the video.

21 (b) Procedures for distribution of the video record of an
22 in-car camera and in-car camera recording equipment must
23 include safeguards to protect the identities of persons who are
24 not a party to the requested stop.

1 Sec. 10-20. Officer-worn body camera requirements
2 Requirements.

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

10 (1) Cameras must be equipped with pre-event recording,
11 capable of recording at least the 30 seconds prior to
12 camera activation, unless the officer-worn body camera was
13 purchased and acquired by the law enforcement agency prior
14 to July 1, 2015.

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

19 (3) Cameras must be turned on at all times when the
20 officer is in uniform and is responding to calls for
21 service or engaged in any law enforcement-related
22 encounter or activity, that occurs while the officer is on
23 duty ~~on-duty~~.

24 (A) If exigent circumstances exist which prevent
25 the camera from being turned on, the camera must be
26 turned on as soon as practicable.

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

6 (4) Cameras must be turned off when:

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

10 (B) a witness of a crime or a community member who
11 wishes to report a crime requests that the camera be
12 turned off, and unless impractical or impossible that
13 request is made on the recording; or

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

16 However, an officer may continue to record or resume
17 recording a victim or a witness, if exigent circumstances
18 exist, or if the officer has reasonable articulable
19 suspicion that a victim or witness, or confidential
20 informant has committed or is in the process of committing
21 a crime. Under these circumstances, and unless impractical
22 or impossible, the officer must indicate on the recording
23 the reason for continuing to record despite the request of
24 the victim or witness.

25 (4.5) Cameras may be turned off when the officer is
26 engaged in community caretaking functions. However, the

1 camera must be turned on when the officer has reason to
2 believe that the person on whose behalf the officer is
3 performing a community caretaking function has committed
4 or is in the process of committing a crime. If exigent
5 circumstances exist which prevent the camera from being
6 turned on, the camera must be turned on as soon as
7 practicable.

8 (5) The officer must provide notice of recording to any
9 person if the person has a reasonable expectation of
10 privacy and proof of notice must be evident in the
11 recording. If exigent circumstances exist which prevent
12 the officer from providing notice, notice must be provided
13 as soon as practicable.

14 (6) For the purposes of redaction, labeling, or
15 duplicating recordings, access to camera recordings shall
16 be restricted to only those personnel responsible for those
17 purposes. The recording officer and his or her supervisor
18 may access and review recordings prior to completing
19 incident reports or other documentation, provided that the
20 officer or his or her supervisor discloses that fact in the
21 report or documentation.

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

26 (A) Under no circumstances shall any recording

1 made with an officer-worn body camera be altered,
2 erased, or destroyed prior to the expiration of the
3 90-day storage period.

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

9 (i) a formal or informal complaint has been
10 filed;

11 (ii) the officer discharged his or her firearm
12 or used force during the encounter;

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

15 (iv) the encounter resulted in a detention or
16 an arrest, excluding traffic stops which resulted
17 in only a minor traffic offense or business
18 offense;

19 (v) the officer is the subject of an internal
20 investigation or otherwise being investigated for
21 possible misconduct;

22 (vi) the supervisor of the officer,
23 prosecutor, defendant, or court determines that
24 the encounter has evidentiary value in a criminal
25 prosecution; or

26 (vii) the recording officer requests that the

1 video be flagged for official purposes related to
2 his or her official duties.

3 (C) Under no circumstances shall any recording
4 made with an officer-worn body camera relating to a
5 flagged encounter be altered or destroyed prior to 2
6 years after the recording was flagged. If the flagged
7 recording was used in a criminal, civil, or
8 administrative proceeding, the recording shall not be
9 destroyed except upon a final disposition and order
10 from the court.

11 (8) Following the 90-day storage period, recordings
12 may be retained if a supervisor at the law enforcement
13 agency designates the recording for training purposes. If
14 the recording is designated for training purposes, the
15 recordings may be viewed by officers, in the presence of a
16 supervisor or training instructor, for the purposes of
17 instruction, training, or ensuring compliance with agency
18 policies.

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

21 (A) a formal or informal complaint of misconduct
22 has been made;

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

24 (C) the encounter on the recording could result in
25 a formal investigation under the Uniform Peace
26 Officers' Disciplinary Act; or

1 (D) as corroboration of other evidence of
2 misconduct.

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

6 (10) The law enforcement agency shall ensure proper
7 care and maintenance of officer-worn body cameras. Upon
8 becoming aware, officers must as soon as practical document
9 and notify the appropriate supervisor of any technical
10 difficulties, failures, or problems with the officer-worn
11 body camera or associated equipment. Upon receiving
12 notice, the appropriate supervisor shall make every
13 reasonable effort to correct and repair any of the
14 officer-worn body camera equipment.

15 (11) No officer may hinder or prohibit any person, not
16 a law enforcement officer, from recording a law enforcement
17 officer in the performance of his or her duties in a public
18 place or when the officer has no reasonable expectation of
19 privacy. The law enforcement agency's written policy shall
20 indicate the potential criminal penalties, as well as any
21 departmental discipline, which may result from unlawful
22 confiscation or destruction of the recording medium of a
23 person who is not a law enforcement officer. However, an
24 officer may take reasonable action to maintain safety and
25 control, secure crime scenes and accident sites, protect
26 the integrity and confidentiality of investigations, and

1 protect the public safety and order.

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

5 (1) if the subject of the encounter has a reasonable
6 expectation of privacy, at the time of the recording, any
7 recording which is flagged, due to the filing of a
8 complaint, discharge of a firearm, use of force, arrest or
9 detention, or resulting death or bodily harm, shall be
10 disclosed in accordance with the Freedom of Information Act
11 if:

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

14 (B) the law enforcement agency obtains written
15 permission of the subject or the subject's legal
16 representative;

17 (2) except as provided in paragraph (1) of this
18 subsection (b), any recording which is flagged due to the
19 filing of a complaint, discharge of a firearm, use of
20 force, arrest or detention, or resulting death or bodily
21 harm shall be disclosed in accordance with the Freedom of
22 Information Act; and

23 (3) upon request, the law enforcement agency shall
24 disclose, in accordance with the Freedom of Information
25 Act, the recording to the subject of the encounter captured
26 on the recording or to the subject's attorney, or the

1 officer or his or her legal representative.

2 For the purposes of paragraph (1) of this subsection (b),
3 the subject of the encounter does not have a reasonable
4 expectation of privacy if the subject was arrested as a result
5 of the encounter. For purposes of subparagraph (A) of paragraph
6 (1) of this subsection (b), "witness" does not include a person
7 who is a victim or who was arrested as a result of the
8 encounter.

9 Only recordings or portions of recordings responsive to the
10 request shall be available for inspection or reproduction. Any
11 recording disclosed under the Freedom of Information Act shall
12 be redacted to remove identification of any person that appears
13 on the recording and is not the officer, a subject of the
14 encounter, or directly involved in the encounter. Nothing in
15 this subsection (b) shall require the disclosure of any
16 recording or portion of any recording which would be exempt
17 from disclosure under the Freedom of Information Act.

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

21 (Source: P.A. 99-352, eff. 1-1-16; revised 10-20-15.)

22 Section 99. Effective date. This Act takes effect upon
23 becoming law.