

House File 77 - Introduced

HOUSE FILE 77

BY HUNTER, KEARNS, KACENA, and
BENNETT

A BILL FOR

1 An Act requiring certain peace officers, including tribal law
2 enforcement officers, to wear and use a body camera and
3 providing remedies.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 22.7, subsection 5, Code 2017, is amended
2 to read as follows:

3 5. Peace officers' investigative reports, and specific
4 portions of electronic mail and telephone billing records of
5 law enforcement agencies if that information is part of an
6 ongoing investigation, except where disclosure is authorized
7 elsewhere in this Code. However, the date, time, specific
8 location, and immediate facts and circumstances surrounding a
9 crime or incident shall not be kept confidential under this
10 section, except in those unusual circumstances where disclosure
11 would plainly and seriously jeopardize an investigation or pose
12 a clear and present danger to the safety of an individual.
13 Specific portions of electronic mail and telephone billing
14 records may only be kept confidential under **this subsection** if
15 the length of time prescribed for commencement of prosecution
16 or the finding of an indictment or information under the
17 statute of limitations applicable to the crime that is under
18 investigation has not expired. The contents of a peace officer
19 body camera recording shall be a public record. However, the
20 release of the contents of such a recording shall be governed
21 by section 80C.1.

22 Sec. 2. **NEW SECTION. 80C.1 Peace officer body cameras —**
23 **requirement — confidentiality — disclosure — retention.**

24 1. As used in this section, unless the context otherwise
25 requires:

26 a. "Agency" means a law enforcement agency.

27 b. "Body camera" means an electronic device that is capable
28 of recording video and audio data or capable of transmitting
29 video and audio data to be recorded remotely, and is worn on
30 the person of a peace officer, which includes being attached to
31 the officer's clothing or worn on eyeglasses.

32 c. "Peace officer" means a peace officer defined in section
33 801.4, subsection 11, paragraph "a", "b", "c", "f", "g", "h",
34 or "i", or a certified law enforcement officer under section
35 80B.18.

1 2. A peace officer shall wear a body camera at all times
2 while on duty and in uniform and shall record using the body
3 camera all interactions with people in the performance of the
4 official duties of the peace officer from the beginning to the
5 end of those interactions.

6 3. A body camera shall be worn on the chest or at the eye
7 level of the peace officer.

8 4. A body camera shall not contain facial recognition
9 technology unless the use of such technology has been
10 authorized by the court pursuant to an arrest warrant or a
11 search warrant.

12 5. A peace officer shall inform a person when that person
13 is being recorded by a body camera unless informing the person
14 would be unsafe, impractical, or impossible.

15 *a.* If a peace officer wearing a body camera enters a
16 residence without a warrant or where no exigent circumstances
17 exist, the peace officer shall immediately ask whether a
18 resident desires the peace officer to stop the body camera
19 recording while the peace officer is in the residence. If the
20 resident responds in the affirmative, the peace officer shall
21 stop the body camera recording. The peace officer shall record
22 the question required to be asked by this paragraph and any
23 answer to the question.

24 *b.* If a peace officer wearing a body camera interacts with
25 a person reporting a crime, providing information regarding
26 a crime or ongoing investigation, or claiming to be a victim
27 of a crime, the peace officer shall immediately ask whether
28 the person desires the peace officer to stop the body camera
29 recording of the interaction. If the person responds in the
30 affirmative, the peace officer shall stop the body camera
31 recording. The peace officer shall record the question
32 required to be asked by this paragraph and any answer to the
33 question.

34 6. *a.* Except as otherwise provided in this subsection, an
35 agency shall retain the contents of a recording created by a

1 body camera for thirty days.

2 *b.* An agency shall retain the contents of a recording
3 created by a body camera for a period of three years beginning
4 on the date of the recording if any of the following apply:

5 (1) The recording depicts an incident involving the use of
6 force.

7 (2) The recording depicts an incident that leads to
8 detention or arrest of a person.

9 (3) The recording is relevant to a formal or informal
10 complaint against a peace officer or agency.

11 (4) A request regarding the recording has been made pursuant
12 to paragraph "e".

13 *c.* If the contents of a recording created by a body camera
14 may be used in a criminal prosecution, the agency shall retain
15 the contents of such recording in the same manner as other
16 evidence in the criminal prosecution and the time period to
17 retain the contents of the recording under paragraph "a" or "b"
18 shall be extended to equal the time period for the retention of
19 other evidence that may be use in the criminal prosecution.

20 *d.* An agency shall post on the public internet site of the
21 agency its policies relating to the retention of recordings
22 created by body cameras, requests for the retention of the
23 recordings, and requests for copies of such recordings.

24 *e.* (1) Any of the following persons may make a request
25 that the contents of a recording created by a body camera be
26 retained by the agency for the period of time set out under
27 paragraph "b":

28 (a) A person who is part of the contents of the recording.

29 (b) A person whose property has been seized or damaged in
30 relation to, or is otherwise involved with, a crime that is
31 related to the recording.

32 (c) A parent or legal guardian of a person described in
33 subparagraph division (a) or (b).

34 (d) An attorney for a person described in subparagraph
35 division (a) or (b).

1 (e) Any other person if the person described in subparagraph
2 division (a) or (b) has given written authority to the agency
3 to disclose the contents of the recording to the other person.

4 (2) Such person making such a request is not required to
5 file a complaint and the contents of the recording are not
6 required to be part of an investigation in order for a person
7 to make such a request.

8 (3) A person making such a request may view and make or
9 request a copy of the contents of a recording created by a body
10 camera. The agency retaining the contents of the recording
11 shall provide such a person with a copy of the requested
12 recording.

13 *f.* A person, who is not a part of the contents of a
14 recording created by a body camera, may request a copy of such
15 recording. Before the request is granted, each person who is
16 part of the contents of the recording shall be notified of
17 the request and may object to the request. If no objection
18 is made, the agency shall make available to the requesting
19 party a copy of the contents of the recording. If an objection
20 is made, the objecting party has thirty days to petition the
21 district court to order that the contents of the recording not
22 be released, otherwise the contents of the recording shall be
23 released.

24 *g.* Prior to deleting or disposing of the contents of a
25 recording created by a body camera, the person who has the
26 responsibility of deleting or disposing of such a recording on
27 behalf of the agency, shall review all applicable and available
28 records, files, and databases to ascertain whether any reason
29 exists that the recording should not be deleted or disposed of
30 under this section or under the policies of the agency. The
31 contents of such a recording shall not be deleted or disposed
32 of if such a reason exists.

33 7. A peace officer who fails to record any interaction as
34 required by this section or who fails to stop recording an
35 interaction as required by this section shall be considered

1 to have committed a violation of this section. For a first
2 violation a peace officer shall be given a written reprimand.
3 For a second or subsequent violation the peace officer shall
4 be suspended until an investigation into the cause of the
5 violation has been completed.

6 8. If during a criminal prosecution or civil action an
7 agency is unable to produce a body camera recording required
8 to be made and retained pursuant to this section, a rebuttable
9 presumption arises that the recording would corroborate the
10 version of the facts advanced by the defendant in the criminal
11 action or the party opposing the peace officer or agency in the
12 civil action.

13 9. An agency shall participate in any existing state or
14 federal programs that fund or supplement the costs to purchase
15 and maintain body cameras worn by peace officers.

16 Sec. 3. IMPLEMENTATION OF ACT. Section 25B.2, subsection
17 3, shall not apply to this Act.

18 EXPLANATION

19 The inclusion of this explanation does not constitute agreement with
20 the explanation's substance by the members of the general assembly.

21 This bill requires certain peace officers, including tribal
22 law enforcement officers, to wear and use a body camera.

23 The bill defines "agency" to mean a law enforcement agency.

24 The bill defines "body camera" to mean an electronic device
25 that is capable of recording video and audio data or capable of
26 transmitting video and audio data to be recorded remotely, and
27 is worn on the person of a peace officer.

28 The contents of the body camera recording shall be a public
29 record and the release of the contents of such a recording
30 shall be governed by new Code section 801C.1 which is created
31 in the bill.

32 The body camera requirement applies to a county sheriff
33 or deputy sheriff, city peace officer, peace officer member
34 of the department of public safety, peace officer at a
35 regents institution, conservation officer, an employee of the

1 department of transportation designated as a peace officer,
2 an employee of an aviation authority designated as a peace
3 officer, and a certified tribal law enforcement officer.

4 The bill requires a peace officer to wear a body camera
5 at all times while on duty and in uniform. The bill further
6 requires that the peace officer record all interactions with
7 people in the performance of the official duties of the peace
8 officer from the beginning to the end of those interactions.

9 The bill specifies that a body camera must be worn on the
10 chest or at the eye level of the peace officer.

11 The bill prohibits a body camera from containing facial
12 recognition technology unless the use of such technology has
13 been authorized by the court pursuant to an arrest or search
14 warrant.

15 The bill requires a peace officer to inform a person when
16 that person is being recorded by a body camera unless informing
17 the person would be unsafe, impractical, or impossible.

18 If a peace officer who is wearing a body camera enters a
19 residence without a warrant or where no exigent circumstances
20 exist, the bill requires that the peace officer immediately ask
21 a resident whether the resident desires the peace officer to
22 stop the body camera recording while the peace officer is in
23 the residence. If the resident responds in the affirmative,
24 the bill requires the peace officer to stop the body camera
25 recording. The bill also requires the peace officer to record
26 the question and any answer to the question.

27 If a peace officer wearing a body camera interacts with a
28 person reporting a crime, providing information regarding a
29 crime or ongoing investigation, or claiming to be a victim of a
30 crime, the bill requires the peace officer to immediately ask
31 whether the person desires the peace officer to stop the body
32 camera recording of the interaction. If the person responds in
33 the affirmative, the bill requires the peace officer to stop
34 the body camera recording. The bill also requires the peace
35 officer to record the question and any answer to the question.

1 The bill requires that an agency shall retain the contents of
2 a recording created by a body camera for 30 days. However, an
3 agency shall retain the contents of a recording created by a
4 body camera for three years if any of the following apply: the
5 recording depicts an incident involving the use of force; the
6 recording depicts an incident that leads to detention or arrest
7 of a person; the recording is relevant to a formal or informal
8 complaint against a peace officer or agency; or a request by
9 an interested or authorized person has been made to retain the
10 recording. Under the bill, the contents of the recording may
11 be retained even longer than three years if the contents may be
12 relevant to a criminal prosecution.

13 Any of the following persons may make a request that the
14 contents of a recording created by a body camera be retained
15 for three years: a person who is a part of the contents of
16 the recording; a person whose property has been seized or
17 damaged in relation to, or is otherwise involved with, a crime
18 that is related to the recording; a parent or guardian of a
19 person who is part of the contents of the recording or whose
20 property was seized, damaged, or involved with a crime that
21 is related to the recording; the attorney for a person who is
22 part of the contents of the recording or whose property was
23 seized, damaged, or involved with a crime that is related to
24 the recording; any other person if such person has been given
25 written authority to disclose the contents of the recording
26 by the person who is part of the contents of the recording or
27 whose property was seized or damaged.

28 The bill provides that a person, who is not a part of the
29 contents of a recording created by a body camera, may request a
30 copy of such recording. Before the request is granted, each
31 person who is part of the contents of the recording shall be
32 notified of the request and may object to the request. If
33 no objection is made, the bill requires the agency to make
34 available to the requesting party a copy of the contents of
35 the recording. If an objection is made, the bill allows the

1 objecting party 30 days to petition the district court to order
2 that the contents not be released, otherwise the contents of
3 the recording shall be released.

4 Prior to deleting or disposing of the contents of a recording
5 created by a body camera, the bill requires the person who has
6 the responsibility of deleting or disposing of such a recording
7 on behalf of the agency to review all applicable and available
8 records, files, and databases to ascertain whether any reason
9 exists that the recording should not be disposed of or deleted.

10 A peace officer who fails to record any interaction with
11 a person or who fails to stop recording such interaction
12 as required by the bill commits a violation. For a first
13 violation of the bill a peace officer shall be given a written
14 reprimand. For a second or subsequent violation of the bill
15 the peace officer shall be suspended until an investigation
16 into the cause of the violation has been completed.

17 The bill also provides that if during a criminal prosecution
18 or civil action an agency is unable to produce a body camera
19 recording, a rebuttable presumption arises that the recording
20 would corroborate the version of the facts advanced by the
21 defendant in the criminal action or the party opposing the
22 peace officer or agency in the civil action.

23 The bill specifies that an agency shall participate in any
24 existing state or federal programs that fund or supplement
25 the costs to purchase and maintain body cameras worn by peace
26 officers.

27 The bill may include a state mandate as defined in Code
28 section 25B.3. The bill makes inapplicable Code section 25B.2,
29 subsection 3, which would relieve a political subdivision from
30 complying with a state mandate if funding for the cost of
31 the state mandate is not provided or specified. Therefore,
32 political subdivisions are required to comply with any state
33 mandate included in the bill.