

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

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A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- BODY-WORN CAMERA
REGULATION ACT

Introduced By: Representatives Batista, Alzate, Potter, and Giraldo

Date Introduced: March 07, 2022

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 42 of the General Laws entitled "STATE AFFAIRS AND
2 GOVERNMENT" is hereby amended by adding thereto the following chapter:

3 CHAPTER 162

4 BODY-WORN CAMERA REGULATION ACT

5 **42-162-1. Short title.**

6 This chapter shall be known and may be cited as the "Body-Worn Camera Regulation Act".

7 **42-162-2. Definitions.**

8 As used in this chapter, the following words, terms and phrases have the meanings
9 indicated:

10 (1) "Contacts" means an interaction with an individual, whether or not the person is in a
11 motor vehicle, initiated by a peace officer, whether consensual or nonconsensual, for the purpose
12 of enforcing the law or investigating possible violations of the law. "Contacts" do not include
13 routine interactions with the public at the point of entry or exit from a controlled area.

14 (2) "Demographic information" means race, ethnicity, sex, and approximate age.

15 (3) "Peace officer" has the same meaning as defined in § 12-7-21.

16 (4) "Physical force" means the application of physical techniques or tactics, chemical
17 agents, or weapons to another person.

18 (5) "Serious bodily injury" means physical injury that creates a substantial risk of death or

1 causes serious permanent disfigurement or protracted loss or impairment of the function of any
2 bodily member or organ.

3 (6) "Tamper" means to intentionally damage, disable, dislodge, or obstruct the sight or
4 sound or otherwise impair functionality of the body-worn camera or to intentionally damage, delete,
5 or fail to upload some or all portions of the video and audio.

6 **42-162-3. Camera use.**

7 (a) Except as provided in subsections (b) through (d) of this section, a peace officer shall
8 wear and activate a body-worn camera or dash camera, if the peace officer's vehicle is equipped
9 with a dash camera, when responding to a call for service or during any interaction with the public
10 initiated by the peace officer, whether consensual or nonconsensual, for the purpose of enforcing
11 the law or investigating possible violations of the law.

12 (b) A peace officer may turn off a body-worn camera to avoid recording personal
13 information that is not case related; when working on an unrelated assignment; when there is a long
14 break in the incident or contact that is not related to the initial incident; and in administrative,
15 tactical, and management discussions.

16 (c) A peace officer does not need to wear or activate a body-worn camera if the peace
17 officer is working undercover.

18 (d) The provisions of this section shall not apply to jail peace officers or staff of a local law
19 enforcement agency if the jail has video cameras; however, the provisions of subsection (a) of this
20 section, shall apply to jail peace officers when performing a task that requires an anticipated use of
21 force, including cell extractions and restraint chairs. The provisions of this section shall also not
22 apply to the civilian or administrative staff of the Rhode Island state police or a local law
23 enforcement agency, the executive detail of the Rhode Island state police, and peace officers
24 working in a courtroom.

25 (e) If a peace officer fails to activate a body-worn camera or dash camera as required by
26 this section or tampers with body-worn or dash-camera footage or operation when required to
27 activate the camera, there exists a permissive inference in any investigation or legal proceeding,
28 excluding criminal proceedings against the peace officer, that the missing footage would have
29 reflected misconduct by the peace officer. If a peace officer fails to activate or reactivate his or her
30 body-worn camera as required by this section or tampers with body-worn or dash-camera footage
31 or operation when required to activate the camera, any statements sought to be introduced in a
32 prosecution through the peace officer related to the incident that were not recorded due to the peace
33 officer's failure to activate or reactivate the body-worn camera as required by this section or if the
34 statement was not recorded by other means, creates a rebuttable presumption of inadmissibility.

1 Notwithstanding any other provision of law, this subsection does not apply if the body-worn camera
2 was not activated due to a malfunction of the body-worn camera and the peace officer was not
3 aware of the malfunction, or was unable to rectify it, prior to the incident; provided, that the law
4 enforcement agency's documentation shows the peace officer checked the functionality of the body-
5 worn camera at the beginning of his or her shift.

6 **42-162-4. Discipline for violation.**

7 In addition to any criminal liability and penalty under the law, if a court, administrative
8 law judge, hearing officer, or a final decision in an internal investigation finds that a peace officer
9 intentionally failed to activate a body-worn camera or dash-camera or tampered with any body-
10 worn or dash-camera, except as permitted in this section, the peace officer's employer shall impose
11 discipline up to and including termination, to the extent permitted by the provisions of chapter 28.6
12 of title 42.

13 **42-162-5. Retention of recordings.**

14 A local law enforcement agency and the Rhode Island state police shall establish and
15 follow a retention schedule for body-worn camera recordings.

16 **42-162-6. Release of recordings.**

17 (a) For all incidents in which there is a complaint of peace officer misconduct by another
18 peace officer, a civilian, or nonprofit organization, through notice to the law enforcement agency
19 involved in the alleged misconduct, the local law enforcement agency or the Rhode Island state
20 police shall release all unedited video and audio recordings of the incident, including those from
21 body-worn cameras, dash-cameras, or otherwise collected through investigation, to the public
22 within twenty-one (21) days after the local law enforcement agency or the Rhode Island state police
23 received the complaint of misconduct, except as provided in subsections (b) through (g) of this
24 section.

25 (b) All video and audio recordings depicting a death shall be provided upon request to the
26 victim's spouse, parent, legal guardian, child, sibling, grandparent, grandchild, significant other, or
27 other lawful representative, and such person shall be notified of his or her right, to receive and
28 review the recording at least seventy-two (72) hours prior to any public disclosure. This subsection
29 shall not apply to a person seventeen (17) years of age and under, unless legally emancipated.

30 (c) Notwithstanding any other provision of this section, any video that raises substantial
31 privacy concerns for criminal defendants, victims, witnesses, juveniles, or informants, including
32 video depicting nudity; a sexual assault; a medical emergency; private medical information; a
33 mental health crisis; a victim interview; a minor, including any images or information that might
34 undermine the requirement to keep certain juvenile records confidential; any personal information

1 other than the name of any person not arrested, cited, charged, or issued a written warning,
2 including a government-issued identification number, date of birth, address, or financial
3 information; significantly explicit and gruesome bodily injury, unless the injury was caused by a
4 peace officer; or the interior of a home or treatment facility, shall be redacted or blurred to protect
5 the substantial privacy interest while still allowing public release. Unredacted footage shall not be
6 released without the written authorization of the victim or, if the victim is deceased or incapacitated,
7 the written authorization of the victim's next of kin. Unredacted footage shall not be released to a
8 person seventeen (17) years of age and under, unless legally emancipated.

9 (d) If redaction or blurring is insufficient to protect the substantial privacy interest, the local
10 law enforcement agency or the Rhode Island state police shall, upon request, release the video to
11 the victim or, if the victim is deceased or incapacitated, to the victim's spouse, parent, legal
12 guardian, child, sibling, grandparent, grandchild, significant other, or other lawful representative
13 within twenty (20) days after receipt of the complaint of misconduct. In cases in which the
14 recording is not released to the public pursuant to this section, the local law enforcement agency
15 shall notify the person whose privacy interest is implicated, if contact information is known, within
16 twenty (20) days after receipt of the complaint of misconduct, and inform the person of his or her
17 right to waive the privacy interest.

18 (e) A witness, victim, or criminal defendant may waive in writing the individual privacy
19 interest that may be implicated by public release. Upon receipt of a written waiver of the applicable
20 privacy interest, accompanied by a request for release, the law enforcement agency may not redact
21 or withhold release to protect that privacy interest.

22 (f) Any video that would substantially interfere with or jeopardize an active or ongoing
23 investigation may be withheld from the public; except that the video shall be released no later than
24 forty-five (45) days from the date of the allegation of misconduct. In all cases when release of a
25 video is delayed in reliance on this subsection, the attorney general shall prepare a written
26 explanation of the interference or jeopardy that justifies the delayed release, contemporaneous with
27 the refusal to release the video. Upon release of the video, the attorney general shall release the
28 written explanation to the public.

29 (g) If criminal charges have been filed against any party to the incident, that party shall file
30 any constitutional objection to the release of the recording in the pending criminal case before the
31 twenty-one (21) day period expires. In cases in which there is a pending criminal investigation or
32 prosecution of a party to the incident, the twenty-one (21) day period shall begin from the earliest
33 of:

34 (1) The date of appointment of counsel;

1 (2) The filing of an entry of appearance by counsel; or

2 (3) The election to proceed pro se by the defendant in the criminal prosecution made on
3 the record before a judge. If the defendant elects to proceed pro se in the criminal case, the court
4 shall advise the defendant of the twenty-one (21) day deadline provided in subsection (a) of this
5 section, for the defendant to file any constitutional objection to tge release of the recording in the
6 pending criminal case as part of the court's advisement. The court shall hold a hearing on any
7 objection no later than seven (7) days after it is filed and issue a ruling no later than three (3) days
8 after the hearing.

9 **42-162-7. Annual reports.**

10 (a) Beginning July 1, 2024, and on or before every July 1 thereafter, the attorney general
11 shall create an annual report including all of the information that is reported to the attorney general
12 pursuant to subsection (b) of this section, aggregated and broken down by the law enforcement
13 agency that employs peace officers, along with the underlying data.

14 (b) Beginning January 1, 2024, and on or before every January 1 thereafter, the Rhode
15 Island state police and each local law enforcement agency that employs peace officers shall provide
16 an annual report to the attorney general containing the following information:

17 (1) All use of force by its peace officers that results in death or serious bodily injury,
18 including:

19 (i) The date, time, and location of the use of force;

20 (ii) The perceived demographic information of the person contacted; provided, that the
21 identification of these characteristics is based on the observation and perception of the peace officer
22 making the contact and other available data;

23 (iii) The names of all peace officers who were at the scene, identified by whether the peace
24 officer was involved in the use of force or not; except that the identity of other peace officers at the
25 scene not directly involved in the use of force shall be identified by the officer's identification
26 number unless the peace officer is charged criminally or is a defendant to a civil suit arising from
27 the use of force;

28 (iv) The type of force used, the severity and nature of the injury, whether the peace officer
29 suffered physical injury, and the severity of the peace officer's injury;

30 (v) Whether the peace officer was on duty at the time of the use of force;

31 (vi) Whether a peace officer unholstered a weapon during the incident;

32 (vii) Whether a peace officer discharged a firearm during the incident;

33 (viii) Whether the use of force resulted in a law enforcement agency investigation and the
34 result of the investigation; and

1 (ix) Whether the use of force resulted in a citizen complaint and the resolution of that
2 complaint;

3 (2) All instances when a peace officer resigned while under investigation for violating
4 department policy;

5 (3) All data relating to contacts conducted by its peace officers, including:

6 (i) The perceived demographic information of the person contacted; provided, that the
7 identification of these characteristics is based on the observation and perception of the peace officer
8 making the contact and other available data;

9 (ii) Whether the contact was a traffic stop;

10 (iii) The time, date, and location of the contact;

11 (iv) The duration of the contact;

12 (v) The reason for the contact;

13 (vi) The suspected crime;

14 (vii) The result of the contact, such as:

15 (A) No action, warning, citation, property seizure, or arrest;

16 (B) If a warning or citation was issued, the warning provided or violation cited;

17 (C) If an arrest was made, the offense charged; and

18 (D) If the contact was a traffic stop, the information collected, which is limited to the driver;

19 (viii) The actions taken by the peace officer during the contact, including, but not limited
20 to, whether:

21 (A) The peace officer asked for consent to search the person, and, if so, whether consent
22 was provided;

23 (B) The peace officer searched the person or any property, and, if so, the basis for the
24 search and the type of contraband or evidence discovered, if any;

25 (C) The peace officer seized any property and, if so, the type of property that was seized
26 and the basis for seizing the property;

27 (D) A peace officer unholstered a weapon during the contact; and

28 (E) A peace officer discharged a firearm during the contact;

29 (4) All instances of unannounced entry into a residence, with or without a warrant,
30 including:

31 (i) The date, time, and location of the use of unannounced entry;

32 (ii) The perceived demographic information of the subject of the unannounced entry;
33 provided, that the identification of these characteristics is based on the observation and perception
34 of the peace officer making the entry and other available data;

1 (iii) Whether a peace officer unholstered a weapon during the unannounced entry; and

2 (iv) Whether a peace officer discharged a firearm during the unannounced entry.

3 (c) The Rhode Island state police and local law enforcement agencies shall not report the
4 name, address, social security number, or other unique personal identifying information of the
5 subject of the use of force, victim of the official misconduct, or persons contacted, searched, or
6 subjected to a property seizure. Notwithstanding any provision of law to the contrary, the data
7 reported pursuant to this section shall be available to the public.

8 (d) The attorney general shall maintain a statewide database with data collected pursuant
9 to this section, in a searchable format, and publish the database on its website.

10 (e) The Rhode Island state police and any local law enforcement agency that fails to meet
11 its reporting requirements pursuant to this section is subject to the suspension of its funding by its
12 appropriating authority.

13 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- BODY-WORN CAMERA
REGULATION ACT

- 1 This act would require that all peace officers use body cameras with certain specified
- 2 limited exceptions. Wrongful failure to use the camera would subject the peace officer to discipline.
- 3 The act would also specify circumstances when camera recordings shall be released.
- 4 This act would take effect upon passage.

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