

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 804

Short Title: Body-Worn Camera Recordings. (Public)

Sponsors: Representatives Brockman, Hawkins, and Gill (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Rules, Calendar, and Operations of the House

April 19, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE MOST LAW ENFORCEMENT OFFICERS TO WEAR AND
3 ACTIVATE BODY-WORN CAMERAS DURING CERTAIN INTERACTIONS WITH
4 THE PUBLIC, TO ESTABLISH A USE POLICY FOR BODY-WORN CAMERAS AND
5 DASHBOARD CAMERAS, TO MODIFY ACCESS POLICIES FOR RECORDINGS
6 CAPTURED BY BODY-WORN CAMERAS AND DASHBOARD CAMERAS, AND TO
7 APPROPRIATE FUNDS.

8 The General Assembly of North Carolina enacts:

9 SECTION 1. Chapter 15A of the General Statutes is amended by adding a new
10 Article to read:

11 "Article 7.

12 "Body-Worn Cameras and Dashboard Cameras.

13 "§ 15A-201. Definitions.

14 The following definitions apply in this Article:

- 15 (1) Body-worn camera. – An operational video camera provided by a law
16 enforcement agency and affixed to a law enforcement officer's uniform and
17 positioned in a way that allows the video camera to capture interactions the
18 law enforcement officer has with the public. The video camera shall include a
19 microphone or other mechanism for allowing audio capture. This term does
20 not include cameras privately owned and provided by a law enforcement
21 officer.
- 22 (2) Dashboard camera. – A device or system installed or used in a law
23 enforcement vehicle that electronically records images depicting activities
24 that take place during a traffic stop, vehicle pursuit, vehicle search, and other
25 interaction with the public that is within the range of the camera. This term
26 does not include body-worn cameras.
- 27 (3) Law enforcement agency. – Any duly accredited State or local government
28 agency possessing authority to enforce the criminal laws of the State. For
29 purposes of this Article, this term does not include local law enforcement
30 agencies located in a county with a population of less than 200,000, as
31 determined by the most recent decennial federal census.
- 32 (4) Law enforcement officer. – Any employee of a law enforcement agency who
33 (i) is actively serving in a position with primary duties and responsibilities for
34 the prevention and detection of crime or the general enforcement of the
35 criminal laws of the State, (ii) possesses the power of arrest by virtue of an



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1 oath administered under the authority of the State, and (iii) is primarily
2 assigned to patrol duties. For purposes of this Article, this term also includes
3 on-duty State correctional officers.

4 (5) Law enforcement vehicle. – A motor vehicle owned, operated, or otherwise
5 controlled by a law enforcement agency, the State, or a political subdivision
6 of the State and used primarily for traffic stops. This term does not include
7 law enforcement vehicles used primarily for surveillance or undercover
8 operations.

9 (6) Recordable interaction. – An interaction between a law enforcement officer,
10 in his or her official capacity, and a member or members of the public,
11 including an inmate or inmates of a State correctional facility. This term
12 includes traffic stops, arrests, searches, interrogations not covered under
13 G.S. 15A-211, interviews with victims and witnesses, and pursuits.

14 (7) Recording. – A visual and audio recording captured by a body-worn camera
15 or dashboard camera.

16 **"§ 15A-202. Body-worn cameras required for law enforcement officers.**

17 (a) Requirement. – Except as otherwise provided in subsection (b) of this section, a law
18 enforcement officer shall wear and activate a body-worn camera during any recordable
19 interaction. Except when doing so would be unsafe, impracticable, or impossible, a law
20 enforcement officer shall inform the person or people the law enforcement officer is interacting
21 with that the interaction is being recorded. A law enforcement officer shall not deactivate a
22 body-worn camera until (i) the conclusion of the recordable interaction, (ii) the law enforcement
23 officer has left the scene, (iii) a supervisor, while being recorded, authorizes the law enforcement
24 officer to deactivate the body-worn camera, or (iv) an exception listed in subsection (b) of this
25 section authorizes deactivation. Prior to deactivating a body-worn camera, a law enforcement
26 officer shall announce that the officer is deactivating the body-worn camera and the reason why
27 the officer is deactivating the body-worn camera. A law enforcement officer shall note in any
28 incident report prepared after a recordable interaction that a recording was made.

29 (b) Exceptions. – A law enforcement officer shall not be required to activate a body-worn
30 camera in any of the following places or situations:

31 (1) Interactions with confidential informants and undercover officers.

32 (2) During routine, non-law enforcement related activities, including when a law
33 enforcement officer is engaged in a personal conversation, when a law
34 enforcement officer is using a restroom or bathroom, or when a law
35 enforcement officer is dressing or undressing in a locker room or dressing
36 room.

37 (3) When a law enforcement officer is providing training or making a presentation
38 to the public.

39 (4) When entering a private residence under nonexigent circumstances, unless
40 written or on-camera consent is given by the owner or the occupier of the
41 residence.

42 (5) When a law enforcement officer is conducting a strip search, unless written or
43 on-camera consent is given by the person being strip searched.

44 (6) Interactions with a victim or witness, unless written or on-camera consent is
45 given by the victim or witness.

46 (c) Waiver. – A law enforcement officer shall read, agree to, and sign a written waiver
47 that consists of consent by the law enforcement officer to be recorded by a body-worn camera
48 and an acknowledgment of the requirements of this section and the related policies established
49 under subsection (i) of this section by the law enforcement agency employing the law
50 enforcement officer.

1 (d) Evidence. – If otherwise admissible, a recording captured by a body-worn camera
2 pursuant to this section may be used as evidence in any relevant administrative, civil, or criminal
3 proceeding.

4 (e) Access to Recordings. – Access to recordings shall be provided in accordance with
5 the provisions of G.S. 132-1.4A.

6 (f) Retention. – A law enforcement agency shall retain an original, unredacted recording
7 captured by a body-worn camera pursuant to this section for the later of (i) 60 days from the date
8 of the recording, (ii) the period specified in a court order, or (iii) 10 days from the date an
9 administrative, civil, or criminal proceeding in which the recording was used as evidence
10 concludes.

11 (g) Remedies for Noncompliance. – Failure to comply with subsection (a) or (f) of this
12 section shall be admissible as evidence to support claims made by a defendant in a criminal action
13 or a party opposing the law enforcement officer or law enforcement agency in a civil action.

14 (h) Training. – A law enforcement agency shall provide training to a law enforcement
15 officer on how to operate a body-worn camera prior to the law enforcement officer wearing and
16 activating a body-worn camera.

17 (i) Policy. – The Department of Justice shall develop a model policy or policies for law
18 enforcement agencies to use in implementing the provisions of this section. A policy developed
19 pursuant to this subsection shall include disciplinary action for failing to activate a body-worn
20 camera as required by subsection (a) of this section, up to and including immediate dismissal
21 from employment. A policy developed pursuant to this subsection may include standards more
22 stringent than the standards required under this section.

23 **"§ 15A-203. Use of dashboard cameras in law enforcement vehicles.**

24 (a) Requirement. – If a law enforcement vehicle is equipped with a dashboard camera,
25 and except as provided in subsection (b) of this section, a law enforcement officer shall activate
26 the dashboard camera when engaging in a traffic stop, vehicle pursuit, vehicle search, or other
27 interaction with the public that is within the range of the camera. Except when doing so would
28 be unsafe, impracticable, or impossible, a law enforcement officer shall inform the person or
29 people the law enforcement officer is interacting with that the interaction is being recorded. A
30 law enforcement officer shall not deactivate a dashboard camera until (i) the conclusion of the
31 traffic stop, vehicle pursuit, vehicle search, or other interaction with the public, (ii) the law
32 enforcement officer has left the scene, (iii) a supervisor, while being recorded, authorizes the law
33 enforcement officer to deactivate the dashboard camera, or (iv) an exception listed in subsection
34 (b) of this section authorizes deactivation. Prior to deactivating a dashboard camera, a law
35 enforcement officer shall announce that the officer is deactivating the dashboard camera and the
36 reason why the officer is deactivating the dashboard camera. A law enforcement officer shall
37 note in any incident report prepared after an interaction with the public that a recording was made
38 using a dashboard camera.

39 (b) Exceptions. – To the extent that they are applicable, a law enforcement officer shall
40 not be required to activate a dashboard camera in any of the places or situations listed in
41 subsection (b) of G.S. 15A-202.

42 (c) Other Requirements. – The requirements listed in subsections (c) through (h) of
43 G.S. 15A-202 shall apply to the use of dashboard cameras under this section. Any reference to
44 body-worn cameras in subsections (c) through (i) of G.S. 15A-202 shall be deemed to be a
45 reference to dashboard cameras for purposes of this subsection.

46 (d) Construction. – Nothing in this section shall be construed to require the installation
47 of a dashboard camera in a law enforcement vehicle."

48 **SECTION 2.** G.S. 132-1.4A reads as rewritten:

49 **"§ 132-1.4A. Law enforcement agency recordings.**

50 ...

1 (b3) Immediate Disclosure Review. – No later than three business days from receipt of the
2 notarized form requesting immediate disclosure pursuant to subsection (b1) of this section, a law
3 enforcement agency shall file a petition in the superior court in any county where any portion of
4 the recording was made for issuance of a court order regarding disclosure of the recording
5 requested pursuant to subsection (b1) of this section and shall also deliver a copy of the petition
6 and a copy of the recording, which shall remain confidential unless the court issues an order of
7 disclosure pursuant to this section, to the senior resident superior court judge for that superior
8 court district or their designee. There shall be no fee for filing the petition. The court shall conduct
9 an in-camera review of the recording and shall enter an order within seven business days of the
10 filing of the petition instructing that the recording be (i) immediately disclosed without editing
11 or redaction; (ii) immediately disclosed with editing or redaction; (iii) disclosed at a later date,
12 with or without editing or redaction; or (iv) not disclosed to the person or persons seeking
13 disclosure. In determining whether the recording may be disclosed pursuant to this section, the
14 court shall consider the following factors:

15 ...

16 In any proceeding pursuant to this subsection, the following persons shall be notified and
17 those persons, or their designated representative, shall be given an opportunity to be heard at any
18 proceeding: (i) the head of the custodial law enforcement agency, (ii) any law enforcement
19 agency personnel whose image or voice is in the portion of the recording requested to be
20 disclosed and the head of that person's employing law enforcement agency, (iii) the District
21 Attorney, (iv) the investigating law enforcement agency, and (v) the party requesting the
22 disclosure. The court may order any conditions or restrictions on the disclosure that the court
23 deems appropriate.

24 Petitions filed pursuant to this subsection shall be scheduled for hearing as soon as
25 practicable, and the court shall issue an order pursuant to the provisions of this subsection no
26 later than seven business days after the filing of the petition. Any subsequent proceedings in such
27 actions shall be accorded priority by the trial and appellate courts.

28 If disclosure of a recording is denied based on subdivision (6) of this subsection, the court
29 shall schedule a subsequent hearing, to be held no more than 20 business days after the issuance
30 of the order, to reconsider whether the recording should be disclosed.

31 Notwithstanding any other provision of this subsection to the contrary, if the person
32 requesting disclosure of the recording is an immediate family member of a person whose death
33 or serious bodily injury is depicted in the recording, a licensed attorney of an immediate family
34 member of a person whose death or serious bodily injury is depicted in the recording, or a
35 licensed attorney of a person whose serious bodily injury is depicted in the recording, the court
36 shall order the disclosure of the recording to that person.

37 ...

38 (g) Release of Recordings; General; Court Order Required. – ~~Recordings~~ Except as
39 provided in subsection (g1) of this section, recordings in the custody of a law enforcement agency
40 shall only be released pursuant to court order. Any custodial law enforcement agency or any
41 person requesting release of a recording may file an action in the superior court in any county
42 where any portion of the recording was made for an order releasing the recording. The request
43 for release must state the date and approximate time of the activity captured in the recording, or
44 otherwise identify the activity with reasonable particularity sufficient to identify the recording to
45 which the action refers. The court may conduct an in-camera review of the recording. In
46 determining whether to order the release of all or a portion of the recording, in addition to any
47 other standards the court deems relevant, the court shall consider the applicability of all of the
48 following standards:

49 ...

1 The court shall release only those portions of the recording that are relevant to the person's
2 request, and may place any conditions or restrictions on the release of the recording that the court,
3 in its discretion, deems appropriate.

4 In any proceeding pursuant to this subsection, the following persons shall be notified and
5 those persons, or their designated representative, shall be given an opportunity to be heard at any
6 proceeding: (i) the head of the custodial law enforcement agency, (ii) any law enforcement
7 agency personnel whose image or voice is in the recording and the head of that person's
8 employing law enforcement agency, and (iii) the District Attorney. Actions brought pursuant to
9 this subsection shall be set down for hearing as soon as practicable, and subsequent proceedings
10 in such actions shall be accorded priority by the trial and appellate courts.

11 (g1) Release, Disclosure, or Review of Recordings; Local Review. – Notwithstanding any
12 provision of this section to the contrary, beginning 30 days after the date of the creation of a
13 recording, the following entities may, upon a public and lawful vote, order the release, disclosure,
14 or review, in whole or in part, of a recording:

15 (1) A city or town council, if the custodial law enforcement agency is a municipal
16 police department under the authority of a city or town council.

17 (2) A county board of commissioners, if the custodial law enforcement agency is
18 a county sheriff's office or any other law enforcement agency within the
19 county to which subdivision (1) of this subsection does not apply, provided
20 that this subdivision shall not apply to recordings held in the custody of the
21 State Highway Patrol or the State Bureau of Investigation.

22 In making a determination under this subsection, the relevant entity may conduct an
23 in-camera review of the recording and may consider the factors found in subdivisions (2) through
24 (6) of subsection (d) of this section, along with any other factors deemed relevant by the entity.

25 A determination made under this subsection shall not abate or affect in any manner the ability
26 for recordings to be released, disclosed, or made available for review under this section by any
27 other method authorized by this section.

28"

29 **SECTION 3.(a) Grant Program. –** There is appropriated from the General Fund to
30 the Governor's Crime Commission within the Department of Public Safety the sum of five
31 million dollars (\$5,000,000) in nonrecurring funds for the 2023-2024 fiscal year and the sum of
32 five million dollars (\$5,000,000) in nonrecurring funds for the 2024-2025 fiscal year to provide
33 grants to law enforcement agencies for the purposes of purchasing and maintaining body-worn
34 cameras, as required by Section 1 of this act.

35 **SECTION 3.(b) Match Required. –** A grant provided pursuant to this section shall
36 be matched on the basis of one dollar (\$1.00) in grant funds for every five dollars (\$5.00) in
37 nongrant funds. Matching funds shall not include other State funds. The Governor's Crime
38 Commission shall not provide a grant under this section until the grantee provides evidence
39 satisfactory to the Commission that the grantee has sufficient nongrant funds to match.

40 **SECTION 3.(c) Maximum Amount. –** A grant provided under this section shall not
41 exceed one hundred thousand dollars (\$100,000).

42 **SECTION 3.(d) Guidelines. –** The Governor's Crime Commission shall develop
43 guidelines and procedures for the administration and distribution of grants under this section.

44 **SECTION 4. G.S. 15A-220 reads as rewritten:**

45 **"§ 15A-220. SBI and State Crime Laboratory access to view and analyze recordings.**

46 Any State or local law enforcement agency that uses the services of the State Bureau of
47 Investigation or the North Carolina State Crime Laboratory to analyze a recording covered by
48 G.S. 132-1.4A or Article 7 of Chapter 15A of the General Statutes shall, at no cost, provide
49 access to a method to view and analyze the recording upon request of the State Bureau of
50 Investigation or the North Carolina State Crime Laboratory."

51 **SECTION 5. G.S. 114-64 reads as rewritten:**

1 **"§ 114-64. SBI and State Crime Laboratory access to view and analyze recordings.**

2 Any State or local law enforcement agency that uses the services of the State Bureau of
3 Investigation or the North Carolina State Crime Laboratory to analyze a recording covered by
4 G.S. 132-1.4A or Article 7 of Chapter 15A of the General Statutes shall, at no cost, provide
5 access to a method to view and analyze the recording upon request of the State Bureau of
6 Investigation or the North Carolina State Crime Laboratory."

7 **SECTION 6.** G.S. 143-318.11(a) reads as rewritten:

8 "(a) Permitted Purposes. – It is the policy of this State that closed sessions shall be held
9 only when required to permit a public body to act in the public interest as permitted in this section.
10 A public body may hold a closed session and exclude the public only when a closed session is
11 required:

12 ...

13 (10) To view a recording released pursuant to ~~G.S. 132-1.4A~~ G.S. 132-1.4A or
14 Article 7 of Chapter 15A of the General Statutes."

15 **SECTION 7.** G.S. 153A-436.1 reads as rewritten:

16 **"§ 153A-436.1. SBI and State Crime Laboratory access to view and analyze recordings.**

17 The local law enforcement agency of any county that uses the services of the State Bureau of
18 Investigation or the North Carolina State Crime Laboratory to analyze a recording covered by
19 G.S. 132-1.4A or Article 7 of Chapter 15A of the General Statutes shall, at no cost, provide
20 access to a method to view and analyze the recording upon request of the State Bureau of
21 Investigation or the North Carolina State Crime Laboratory."

22 **SECTION 8.** G.S. 160A-490.1 reads as rewritten:

23 **"§ 160A-490.1. SBI and State Crime Laboratory access to view and analyze recordings.**

24 The local law enforcement agency of any city that uses the services of the State Bureau of
25 Investigation or the North Carolina State Crime Laboratory to analyze a recording covered by
26 G.S. 132-1.4A or Article 7 of Chapter 15A of the General Statutes shall, at no cost, provide
27 access to a method to view and analyze the recording upon request of the State Bureau of
28 Investigation or the North Carolina State Crime Laboratory."

29 **SECTION 9.** Sections 1, 4, 5, 6, 7, and 8 of this act become effective January 1,
30 2025. Section 2 of this act becomes effective December 1, 2023, and applies to recordings made
31 on or after that date. Section 3 of this act becomes effective July 1, 2023. The remainder of this
32 act is effective when it becomes law.