

**Iowa Comprehensive Body Camera Legislation, With Requirement to Use**

HOUSE FILE \_\_\_\_\_

BY [SPONSOR]

**A BILL FOR**

An Act relating to use of body cameras by law enforcement officers, designating certain records as confidential.

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

Section 1. NEW SUBSECTION. Section 22.7, Code 2015, is amended by adding the following new subsection:

68. The contents of a law enforcement body camera recording, except as governed by section 80C.1.

Section 2. NEW SECTION. **80C.1 Law enforcement officer body cameras.**

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

- a. "Agency" means a law enforcement agency.
- b. "Body camera" mean an device that is capable of electronically recording video and audio data or capable of transmitting video and audio data to be recorded remotely, and is worn on the person of a peace officer.
- c. "Law enforcement officer" means a law enforcement officer in this state who is authorized to use a body camera pursuant to section 2 and who is employed by the state, county, or municipality.
- d. "Subject of the video footage" means any member of the public who is a suspect, victim, detainee, conversant, injured party or other similarly situated person who appears on the body camera recording, and shall not include people who only incidentally appear on the recording.

2. a. Except as otherwise provided in this section, a law enforcement officer with the authority to conduct searches and make arrests shall wear a body camera at all times while on duty and in uniform, and shall activate both the video and audio recording functions of a body camera whenever an officer is responding to a call for service or at the initiation of any other law enforcement or investigative encounter between a police officer and a member of the public, except that when an immediate threat to the officer's life or safety makes activating the camera impossible or dangerous, the officer shall activate the camera at the first reasonable opportunity to do so. The body camera shall not be deactivated until the conclusion of the entire encounter and the officer leaves the scene.

b. Prior to entering a private residence without a warrant or when no exigent circumstances exist, a law enforcement officer shall immediately ask the occupant if the occupant wants the officer to discontinue use of the officer's body camera while the law enforcement officer is inside the private residence. If the occupant responds affirmatively, the law enforcement officer shall immediately discontinue use of the body camera.

c. When interacting with an apparent crime victim, including any person reporting a crime, a law enforcement officer shall, as soon as practicable, ask the apparent crime victim if the apparent crime victim wants the officer to discontinue use of the officer's body camera. If the apparent crime victim responds affirmatively, the law enforcement officer shall immediately discontinue use of the body camera.

d. When interacting with a person seeking to anonymously report a crime, or assist in an ongoing law enforcement investigation, a law enforcement officer shall, as soon as practicable, ask the person

seeking to remain anonymous, if the person seeking to remain anonymous wants the officer to discontinue use of the officer's body camera. If the person seeking to remain anonymous responds affirmatively, the law enforcement officer shall immediately discontinue use of the body camera.

e. All law enforcement offers to discontinue the use of a body camera made pursuant to this section, and the responses thereto, shall be recorded by the body camera prior to discontinuing use of the body camera.

4. Body cameras shall not be used surreptitiously.

5. Body cameras shall not be used to gather intelligence information based on First Amendment protected speech, associations, or religion, or to record activity that is unrelated to a response to a call for service or a law enforcement or investigative encounter between a law enforcement officer and a member of the public.

6. Law enforcement officers shall not activate a body camera while on the grounds of any public, private, or parochial elementary or secondary school, except when responding to an imminent threat to life or health.

7. a. Except as otherwise provided in this subsection, body camera footage shall be retained by the law enforcement agency that employs the officer whose camera captured the footage, or an authorized agent thereof, for six (6) months from the date it was recorded, after which time such footage shall be permanently deleted.

b. Video footage shall be automatically retained for no less than two (2) years if any of the following apply:

(1) The video footage captures images involving any use of force.

(2) The video footage captures images involving events leading up to and including an arrest or detention of a person.

(3) The video footage captures images involving an encounter about which a formal or informal complaint has been registered by a subject of the video footage.

(4) The law enforcement officer whose body camera recorded the video footage voluntarily requests retention, if that officer reasonably asserts the video footage has evidentiary or exculpatory value.

(5) Any law enforcement officer who is depicted in the video footage captured by another law enforcement officer voluntarily requests retention, if that officer reasonably asserts that the video footage has evidentiary or exculpatory value.

(6) Any superior officer requests retention of video footage, if that superior officer reasonably asserts that the video footage has evidentiary or exculpatory value.

(7) Any law enforcement officer voluntarily requests retention, if the video footage is being retained solely and exclusively for law enforcement training purposes.

(8) Any member of the public who is a subject of the video footage voluntarily requests retention.

(9) Any parent or legal guardian of a minor who is a subject of the video footage voluntarily requests retention.

(10) A deceased subject's next of kin or legally authorized designee voluntarily requests retention.

8. To effectuate this section, any member of the public who is a subject of video footage, the parent or legal guardian of a minor who is a subject of the video footage, or a deceased subject's next of kin or legally authorized designee, shall be permitted to review that specific video footage in order to make a determination as to whether they will voluntarily request it be subject to a two (2) year retention period.

9. Notwithstanding section 22, subsection 7, video footage capturing images involving any use of force by a law enforcement officer shall be public record and shall not be exempt from the public inspection.

10. Notwithstanding section 22, subsection 7, any of the following persons may access, view, obtain a copy, and release body camera footage:

(1) A natural person who is a subject of the video footage, or the natural person's attorney.

(2) A parent or legal guardian of a natural person who is a minor who is a subject of the video footage, or the attorney for the parent or legal guardian.

(3) The next of kin or legally authorized designee of a deceased natural person who is a subject of the video footage, or the attorney for the next of kin or legally authorized designee.

(4) Any other person, so long as a person who is a subject of the video footage, or the attorney for the subject of the video footage, has given written authority to the law enforcement agency to disclose the recording to the person, unless the subject of the recording is a minor.

(5) Any other person, so long as the parent or legal guardian of a minor who is a subject of the video footage, or the attorney for the parent or legal guardian, has given written authority to the law enforcement agency to disclose the recording of the minor person.

(6) Any other person seeking video footage of a deceased subject of the video footage, so long as the next of kin or legally authorized designee of a deceased natural person who is a subject of the video footage, or the attorney for the next of kin or legally authorized designee, has given written authority to the law enforcement agency to disclose the recording to the person.

11. Any video footage retained beyond six (6) months solely and exclusively for police training purposes pursuant to subsection 8(b)(7) shall not be admissible as evidence in any criminal or civil legal or administrative proceeding.

12. No law enforcement officer shall review or receive an accounting of any body camera video footage that that is subject to a minimum two (2) year retention period because the footage captures images involving any use of force prior to completing any required initial reports, statements, and interviews regarding the recorded event.

13. Video footage not subject to a minimum two (2) year retention period shall not be viewed by any superior officer of a law enforcement officer whose body camera recorded the footage absent a specific allegation of misconduct, nor shall it be subject to automated analysis or analytics of any kind.

14. Video footage shall not be divulged or used by any law enforcement agency for any commercial or other non-law enforcement purpose.

15. A law enforcement agency may authorize a third-party to act as its agent in maintaining body camera footage, provided that the agent shall not be permitted to independently access, view or alter any video footage, except to delete videos as required by law or agency retention policies.

16. A law enforcement officer, employee or agent that fails to adhere to the recording or retention requirements contained in this section, or that intentionally interferes with a body camera's ability to accurately capture video footage, shall be subject to appropriate disciplinary action, unless the law enforcement officer, employee, or agent provides contrary evidence or proof of exigent circumstances that made compliance impossible.

17. A rebuttable evidentiary presumption shall be adopted in favor of a criminal defendant who reasonably asserts that exculpatory evidence was destroyed or not captured, if the criminal defendant can show by a preponderance of the evidence that a law enforcement officer, employee or agent failed to adhere to the recording or retention requirements contained in this section, or intentionally interfered with a body camera's ability to accurately capture video footage, unless the law enforcement officer, employee, or agent provides contrary evidence or proof of exigent circumstances that made compliance impossible.

18. A rebuttable evidentiary presumption shall be adopted on behalf of a civil plaintiff suing the government, a law enforcement agency, and/or law enforcement officers for damages based on police misconduct who reasonably assert that evidence supporting their claim was destroyed or not captured, if the civil plaintiff can show by a preponderance of the evidence that a law enforcement officer, employee or agent failed to adhere to the recording or retention requirements contained in this section, or intentionally interfered with a body camera's ability to accurately capture video footage, unless the law enforcement officer, employee, or agent provides contrary evidence or proof of exigent circumstances that made compliance impossible.

19. Any body camera video footage recorded in contravention of this or any other applicable law shall be immediately destroyed and shall not be admissible as evidence in any criminal or civil legal or administrative proceeding.

20. Nothing in this chapter shall be read to contravene any laws governing the maintenance and destruction of evidence in criminal investigations and prosecutions.

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