

HOUSE BILL No. 5970

November 13, 2014, Introduced by Reps. McMillin, Robinson, Irwin, Geiss and Callton and referred to the Committee on Criminal Justice.

A bill to provide for the use by law enforcement officers of cameras worn on the body; to require the retention and provide for the production by law enforcement agencies of recordings made using the cameras; and to provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the "law
2 enforcement body-worn camera act".

3 Sec. 2. As used in this act:

4 (a) "A device that uses electro-muscular disruption
5 technology" means that term as defined in section 224a of the
6 Michigan penal code, 1931 PA 328, MCL 750.224a.

7 (b) "Law enforcement officer" means that term as defined in
8 section 2 of the commission on law enforcement standards act, 1965
9 PA 203, MCL 28.602.

1 (c) "Person" means an individual, partnership, corporation,
2 association, governmental entity, or other legal entity.

3 Sec. 3. (1) A law enforcement officer who, as part of his or
4 her duties, is required to carry a firearm or a device that uses
5 electro-muscular disruption technology and is required to wear a
6 uniform shall wear a body-worn camera and record the events that
7 occur while he or she is on duty with the body-worn camera.

8 (2) Subject to subsections (3) and (6), a law enforcement
9 officer required to wear a body-worn camera under subsection (1)
10 shall activate the recording function of the camera whenever the
11 officer is on duty, continuously record with the camera, and make
12 his or her best effort to record interactions with other
13 individuals with the camera.

14 (3) A law enforcement officer may temporarily stop recording
15 with a body-worn camera when the officer is engaged in a personal
16 matter, such as a personal conversation or using the bathroom.

17 (4) A law enforcement officer shall read, agree to, and sign a
18 written waiver that consists of a consent to be filmed by a body-
19 worn camera and an acknowledgment of the requirements of this act
20 and the related policies of the law enforcement agency by which the
21 law enforcement officer is employed.

22 (5) As practicable, a law enforcement officer required to wear
23 a body-worn camera under subsection (1) shall notify another
24 individual if the individual is being recorded by the camera.

25 (6) When entering a residence under nonexigent circumstances,
26 a law enforcement officer shall ask the residents whether they want
27 the officer to stop recording with the body-worn camera while in

1 the residence. The officer shall record the exchange to document
2 the wishes of the residents.

3 Sec. 4. A law enforcement agency or law enforcement officer
4 shall not allow a computerized facial recognition program or
5 application to be used with a body-worn camera or a recording made
6 by a body-worn camera unless the use has been authorized by a
7 warrant issued by a court.

8 Sec. 5. (1) A law enforcement agency shall retain video and
9 audio recorded by a body-worn camera under this act for 2 weeks,
10 unless subsection (2) applies.

11 (2) A law enforcement agency shall retain video and audio
12 recorded by a body-worn camera under this act for 3 years if any of
13 the following apply:

14 (a) The recording is of an incident involving the use of
15 force.

16 (b) The recording is of an incident that leads to detention or
17 arrest of an individual.

18 (c) The recording is relevant to a formal or informal
19 complaint against a law enforcement officer or the law enforcement
20 agency.

21 (d) A request regarding the recording has been made under
22 subsection (4).

23 (e) A request for a copy of the recording has been made under
24 section 6(1).

25 (3) A law enforcement agency shall post on the law enforcement
26 agency's public website its policies relating to the retention of
27 recordings made by body-worn cameras under this act, requests for

1 the retention of the recordings, and requests for copies of the
2 recordings.

3 (4) A person described in subsection (6) may request that a
4 recording made by a body-worn camera under this act be retained
5 under subsection (2). It is not necessary for the person to file a
6 complaint or for there to be a related open investigation for the
7 person to make a request under this subsection.

8 (5) If evidence that may be useful in a criminal prosecution
9 is obtained from a recording made by a body-worn camera under this
10 act, the law enforcement agency shall retain the recording for any
11 time in addition to the time periods under subsections (1) and (2)
12 and in the same manner as is required by law for other evidence
13 that may be useful in a criminal prosecution.

14 (6) Any of the following may make a request under subsection
15 (4) or section 6(1):

16 (a) An individual who is a subject of the recording.

17 (b) A person whose property has been seized or damaged in
18 relation to, or is otherwise involved with, a crime to which the
19 recording is related.

20 (c) A parent of an individual described in subdivision (a) or
21 (b).

22 (d) A legal guardian of an individual described in subdivision
23 (a) or (b).

24 (e) An attorney for a person described in subdivision (a) or
25 (b).

26 (f) A person not described in subdivisions (c) to (e) that a
27 person described in subdivision (a) or (b) has given the authority

1 in writing to make the request.

2 Sec. 6. (1) A person described in section 5(6) may request a
3 copy of a recording made by a body-worn camera under this act. The
4 law enforcement agency shall provide the individual with a copy of
5 the requested recording.

6 (2) An individual who is not the subject of a recording made
7 by a body-worn camera under this act may request a copy of the
8 recording. If the individuals who are the subjects of the recording
9 consent, the law enforcement agency shall provide the individual
10 with a copy of the requested recording.

11 Sec. 7. Before deleting or otherwise disposing of a recording
12 made by a body-worn camera under this act, an individual who has
13 the responsibility on behalf of the law enforcement agency of
14 deleting or disposing of the recording shall review all applicable
15 and available records, files, and databases to ascertain whether
16 there is any reason why the recording cannot be deleted or disposed
17 of under this act or the policies of the law enforcement agency.
18 The individual shall not delete or dispose of the recording if he
19 or she ascertains that there is any such reason.

20 Sec. 8. If, in connection with a criminal prosecution or civil
21 action, a law enforcement agency is unable to produce a recording
22 that is required to be made and retained under this act, there is a
23 presumption that the recording would corroborate the version of the
24 facts advanced by the defendant in a criminal action or the party
25 opposing the law enforcement officer or law enforcement agency in a
26 civil action.

27 Sec. 9. (1) A local or county law enforcement agency may

1 request that the department of state police reimburse the agency
2 for the cost of purchasing equipment, or any other expense
3 incurred, to implement this act.

4 (2) The department of state police shall reimburse a local or
5 county law enforcement agency for reasonable costs contained in a
6 request for reimbursement under subsection (1).

7 (3) The department of state police may adopt guidelines under
8 the administrative procedures act of 1969, 1969 PA 306, MCL 24.201
9 to 24.328, covering the submission and payment of requests for
10 reimbursement under this section.