

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 66

Introduced by Assembly Member Weber

December 17, 2014

An act to amend Section 830.105 of the Penal Code, relating to peace officers.

LEGISLATIVE COUNSEL'S DIGEST

AB 66, as amended, Weber. Peace officers: *body-worn* cameras.

Existing law makes it a crime to intentionally record a confidential communication without the consent of all parties to the communication. Existing law exempts specified peace officers from that provision if they are acting within the scope of their authority.

~~This bill would state the intent of the Legislature to enact legislation to require local police departments that utilize police body-worn cameras to follow policies and procedures that will streamline best practices to better enhance the quality of the services that those departments provide to Californians. The bill would state the intent of the Legislature to enact legislation to create a task force to study the effectiveness of body-worn cameras and make policy recommendations. The bill would state the intent of the Legislature to enact legislation that best fits the recommendations of this task force.~~

This bill would establish requirements if a law enforcement agency requires its officers to wear body-worn cameras. The bill would require officers to, among other things, activate the camera when responding to calls for assistance and performing law enforcement activities in the field, and prohibit deactivating the cameras during encounters with a member of the public until the conclusion of that encounter. The bill

would prohibit officers from using a body-worn camera in a hospital emergency room when it would violate the privacy expectations of patients, during an ambulance response to an accident or illness when victims are not involved in criminal activity, when it would risk the safety of a confidential informant or undercover peace officer, or during a protest or demonstration. The bill would require officers to give notice of the camera and provide an opportunity for persons to request that the camera be turned off when the subject of the recording is a victim of rape, incest, domestic violence, and other forms of domestic and sexual harm, or when an officer is at a private residence without a warrant and in a nonemergency situation.

The bill would require officers to only use body-worn cameras approved by the law enforcement agency that employs them, and would prohibit removing, dismantling, or tampering with any components or parts of the body-worn cameras. The bill would prohibit peace officers from using body-worn cameras to record any personal conversation with another member of the law enforcement agency without the consent of that member. The bill would prohibit, among other things, officers from using body-worn cameras to record in a place where a reasonable expectation of privacy exists. The bill would require law enforcement agencies to retain videos for a minimum of one year, unless specified conditions apply. The bill would specify that requests for files from body-worn cameras are to be processed in accordance with the California Public Records Act.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares:
- 2 (a) Twenty-first century policing demands more transparency
- 3 in everyday interactions with the public. In light of a number of
- 4 high profile use of force incidents involving law enforcement,
- 5 body-worn cameras are seen as an important means toward
- 6 achieving this goal.
- 7 (b) Several law enforcement agencies in California are already
- 8 implementing body-worn camera programs. Because of the
- 9 potential of this technology to document law enforcement
- 10 interactions, we must be cognizant in protecting citizen privacy
- 11 and not violate civil liberties.

1 (c) *The development of statewide guidelines and compilation*
2 *of best practices will be necessary to ensure the public's trust in*
3 *law enforcement. The use of the portable video recording system*
4 *provides documentary evidence for criminal investigations, internal*
5 *or administrative investigations, and civil litigation.*

6 (d) *The Legislature intends for officers to utilize body-worn*
7 *cameras in accordance with the provisions in this act to maximize*
8 *the effectiveness of the audio and video documentation to achieve*
9 *operational objectives and to ensure evidence integrity.*

10 SEC. 2. *Section 830.105 is added to the Penal Code,*
11 *immediately following Section 830.10, to read:*

12 830.105. (a) *If a law enforcement agency requires a body-worn*
13 *camera to be worn by a peace officer that the agency employs, the*
14 *agency shall comply with the requirements of this section.*

15 (b) (1) *A peace officer equipped with a body-worn camera shall*
16 *activate the camera when responding to calls for assistance and*
17 *when performing law enforcement activities in the field, including,*
18 *but not limited to, traffic or pedestrian stops, pursuits, arrests,*
19 *searches, seizures, interrogations, and any other investigative or*
20 *enforcement encounters in the field.*

21 (2) *Peace officers shall test body-worn cameras prior to going*
22 *in to field activities and ensure the unit is properly charged.*

23 (3) *Peace officers wearing a body-worn camera shall position*
24 *the camera on their uniform to facilitate optimum recording field*
25 *of view.*

26 (c) (1) *Both video and audio recording functions of body-worn*
27 *cameras shall be activated when an officer is responding to a call*
28 *for service or at the initiation of any other law enforcement or*
29 *investigative encounter between a police officer and a member of*
30 *the public. During encounters with a member of the public, the*
31 *body-worn camera shall not be deactivated until the conclusion*
32 *of the encounter.*

33 (2) *Officers may stop recording when an arrestee is secured*
34 *inside a fixed place of detention, as defined in paragraph (3) of*
35 *subdivision (g) of Section 859.5.*

36 (3) *The following shall apply during any interview of a suspect*
37 *or witness:*

38 (A) *Peace officers shall record any interview of a suspect or*
39 *witness in its entirety, unless subdivision (d) applies.*

1 (B) When recording interviews of a suspect or witness, peace
2 officers shall, prior to the interview, record any notification of
3 rights, including, but not limited to, rights under *Miranda v.*
4 *Arizona* (1966) 384 U.S. 436.

5 (d) (1) A peace officer shall not operate a body-worn camera
6 under the following circumstances:

7 (A) In a hospital emergency room, when it would violate the
8 expectation of privacy of patients.

9 (B) During an ambulance response to an accident or illness
10 where victims are not involved in any criminal activity.

11 (C) Situations where recording would risk the safety of a
12 confidential informant or undercover peace officer.

13 (D) During protests or demonstrations.

14 (2) Under the following circumstances, operation of a
15 body-worn camera shall begin with the officer providing on camera
16 notice to persons recorded that a body-worn camera is recording
17 video, and provide the persons with the option to request that the
18 body-worn camera be turned off:

19 (A) When the subject of the recording is a victim of rape, incest,
20 domestic violence, and other forms of domestic or sexual harm.

21 (B) (i) When an officer is at a private residence without a
22 warrant and in a nonemergency situation.

23 (ii) In the event of contradicting requests made by a homeowner
24 or renter, the contradicting requests shall be recorded on video
25 and the peace officer shall continue to operate and record the
26 encounter.

27 (e) (1) Peace officer shall only use the body-worn camera
28 systems issued and approved by the law enforcement agency that
29 employs him or her for official police duties.

30 (2) Unauthorized use, duplication, or distribution of body-worn
31 camera files are prohibited. Peace officers shall not make copies
32 of any body-worn camera file for their personal use and are
33 prohibited from using a recording device such as a phone camera
34 or secondary video camera to record body-worn camera files.

35 (3) All recorded media, images, and audio from body-worn
36 cameras are property of their respective law enforcement agency,
37 and shall not be copied, released, or disseminated in any form or
38 manner outside the parameters of this section without the written
39 consent of the head of the agency, unless otherwise authorized by
40 law.

1 (4) Peace officers shall not remove, dismantle, or tamper with
2 any hardware or software components or parts of body
3 worn-cameras.

4 (5) Peace officers shall not use body-worn camera functions,
5 when there is no investigatory interaction with a member of the
6 public, to record any personal conversation of or with another
7 agency member or employee without the permission of the recorded
8 member or employee.

9 (f) (1) Peace officers shall not use body-worn cameras to record
10 non-work related activity or to record in places where a reasonable
11 expectation of privacy exists.

12 (2) A law enforcement agency or law enforcement officer shall
13 not allow a computerized facial recognition program or application
14 to be used with a body-worn camera or a recording made by a
15 body-worn camera unless the use has been authorized by a warrant
16 issued by a court.

17 (3) Nothing in this section shall require a peace officer, in a
18 public venue, to cease recording an event, situation, or
19 circumstance solely at the demand of the citizen.

20 (g) (1) Unless paragraph (2) or (3) applies, a law enforcement
21 agency shall retain video and audio recorded by a body-worn
22 camera for a minimum of one year, after which it will be erased,
23 destroyed, or recycled pursuant to Section 34090.6 of the
24 Government Code.

25 (2) A law enforcement agency shall retain video and audio
26 recorded by a body-worn camera under this section for 3 years
27 under any of the following situations:

28 (A) The recording is of an incident involving the use of force
29 by a peace officer.

30 (B) The recording is of an incident that leads to the detention
31 or arrest of an individual.

32 (C) The recording is relevant to a formal or informal complaint
33 against a law enforcement officer or a law enforcement agency.

34 (3) If evidence that may be relevant to a criminal prosecution
35 is obtained from a recording made by a body-worn camera under
36 this section, the law enforcement agency shall retain the recording
37 for any time in addition to that specified in paragraphs (1) and
38 (2), and in the same manner as is required by law for other
39 evidence that may be relevant to a criminal prosecution.

1 (h) Each law enforcement agency shall conspicuously post its
2 policies and procedures regarding body-worn cameras on its
3 Internet Web site.

4 (i) (1) Peace officers may only review their body-worn camera
5 video after making their initial statement and report in an
6 administrative or criminal inquiry or investigation.

7 (2) When safe and practical, an on-scene supervisor may
8 retrieve a body-worn camera from an officer. The supervisor shall
9 be responsible for assuring the camera data is uploaded into the
10 desired data processing and collection method.

11 (j) (1) Any request from within a law enforcement agency for
12 recordings from a body-worn camera from that agency shall be
13 completed by the system administrator with the approval of the
14 head of the agency.

15 (2) All other requests shall be processed in accordance with
16 the California Public Records Act (Chapter 3.5 (commencing with
17 Section 6250) of Division 7 of Title 1 of the Government Code).

18 ~~SECTION 1. (a) It is the intent of the Legislature to enact~~
19 ~~legislation to require local police departments that utilize police~~
20 ~~body-worn cameras to follow policies and procedures that will~~
21 ~~streamline best practices to better enhance the quality of the~~
22 ~~services that those departments provide to Californians.~~

23 ~~(b) It is further the intent of the legislature to enact legislation~~
24 ~~to create a task force to study the effectiveness of body-worn~~
25 ~~cameras for peace officers, and for this task force to create a~~
26 ~~comprehensive policy and best practices manual to be used by~~
27 ~~state and local law enforcement agencies. It is further the intent~~
28 ~~of the legislature to enact legislation that best fits the~~
29 ~~recommendations of this task force.~~

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