

AMENDED IN ASSEMBLY APRIL 9, 2015
AMENDED IN ASSEMBLY MARCH 26, 2015
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 66

Introduced by Assembly Member Weber
(Principal coauthor: Assembly Member Bonta)
(Coauthor: Assembly Member Rodriguez)

December 17, 2014

An act to ~~amend~~ *add* Section ~~830.105~~ of *830.16* to 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 ~~establish~~ *impose specified* requirements ~~if on~~ a law enforcement agency *that requires its officers a peace officer employed by the agency to wear body-worn cameras: use a body-worn camera.* The bill would require ~~officers a peace officer~~ to, among other things, activate the camera when responding to calls for assistance and performing law enforcement activities in the field, and *would* prohibit deactivating the ~~cameras camera~~ during ~~encounters an encounter~~ with a member of the public until the conclusion of that encounter. *The bill would also require a peace officer to ensure that the body-worn camera is fully functional, as provided, prior to going into the field.* The bill would prohibit ~~officers a peace officer~~ from using a body-worn camera

in a hospital emergency room when it would violate the privacy expectations of ~~patients, a patient,~~ during an ambulance response to an accident or illness when ~~victims are~~ *the victim* is not involved in criminal activity, *or* when it would risk the safety of a confidential informant or undercover peace officer, ~~or during a protest or demonstration.~~ *officer.* The bill would require ~~officers~~ *a peace officer* 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~~ *a peace officer* is at a private residence without a warrant and in a nonemergency situation.

The bill would require ~~officers~~ *a peace officer* to only use *a* body-worn ~~cameras~~ *camera* issued and approved by the law enforcement agency that employs ~~them,~~ *the officer,* and would prohibit removing, dismantling, or tampering with any components or parts of ~~the a~~ body-worn ~~cameras.~~ *camera.* The bill would prohibit *a* peace ~~officers~~ *officer* from using *a* body-worn ~~cameras~~ *camera* 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~~ *a peace officer* from using *a* body-worn ~~cameras~~ *camera* 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 authorize a peace officer to review his or her body-worn camera video only after making his or her initial statement and report in an administrative or criminal inquiry or investigation. Except as provided, the bill would* ~~specify specifically require that requests~~ *a request* for ~~files a file~~ from *a* body-worn ~~cameras~~ *are to camera* be processed in accordance with the California Public Records Act.

Vote: majority. Appropriation: no. Fiscal committee: 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.

1 (b) Several law enforcement agencies in California are already
2 implementing body-worn camera programs. Because of the
3 potential of this technology to document law enforcement
4 interactions, we must be cognizant in protecting citizen privacy
5 and not violate civil liberties.

6 ~~(c) The development of statewide guidelines and compilation~~
7 ~~of best practices will be necessary to ensure the public's trust in~~
8 law enforcement. The use of the portable video recording system
9 provides documentary evidence for criminal investigations, internal
10 or administrative investigations, and civil litigation.

11 (d) The Legislature intends for officers to utilize body-worn
12 cameras in accordance with the provisions in this act to maximize
13 the effectiveness of the audio and video documentation to achieve
14 operational objectives and to ensure evidence integrity.

15 SEC. 2. Section ~~830.105~~ 830.16 is added to the Penal Code,
16 immediately following Section 830.10, to read:

17 ~~830.105.~~

18 830.16. (a) ~~If a~~ A law enforcement agency *that* requires a
19 body-worn camera to be ~~worn~~ *used* by a peace officer that the
20 agency ~~employs, the agency~~ *employs* shall comply with the
21 requirements of this section.

22 (b) (1) A peace officer equipped with a body-worn camera shall
23 activate the camera when responding to calls for assistance and
24 when performing law enforcement activities in the field, including,
25 but not limited to, traffic or pedestrian stops, pursuits, arrests,
26 searches, seizures, interrogations, and any other investigative or
27 enforcement encounters in the field.

28 ~~(2) Peace officers~~ A *peace officer* shall ~~test~~ *ensure that a*
29 ~~body-worn cameras~~ *camera is fully functional, including, but not*
30 *limited to, ensuring that the camera can be turned on and off and*
31 *record video and audio, and that the camera is properly charged,*
32 *prior to going in to field activities and ensure the unit is properly*
33 ~~charged.~~ *charged into the field. A peace officer shall not violate a person's*
34 *reasonable expectation of privacy when ensuring that a body-worn*
35 *camera is fully functional pursuant to this paragraph.*

36 ~~(3) Peace officers~~ A *peace officer* wearing a body-worn camera
37 shall position the camera on ~~their~~ *his or her chest, head, shoulder,*
38 *collar, or any area above the mid-torso of his or her uniform to*
39 *facilitate optimum recording field of view.*

1 (c) (1) Both video and audio recording functions of *a* body-worn
 2 ~~cameras~~ *camera* shall be activated when an officer is responding
 3 to a call for service or at the initiation of any other law enforcement
 4 or investigative encounter between a police officer and a member
 5 of the public. During ~~encounters~~ *an encounter* with a member of
 6 the public, the *officer shall notify the member of the public that*
 7 *the body-worn camera is recording, and shall not deactivate the*
 8 ~~body-worn camera shall not be deactivated~~ until the conclusion of
 9 the encounter.

10 (2) ~~Officers~~ *An officer* may stop recording when an arrestee is
 11 secured inside a fixed place of detention, as defined in paragraph
 12 (3) of subdivision (g) of Section 859.5.

13 (3) The following shall apply during any interview of a suspect
 14 or witness:

15 (A) ~~Peace officers~~ *A peace officer* shall record any interview of
 16 a suspect or witness in its entirety, unless subdivision (d) applies.

17 (B) When recording interviews of a suspect or witness, ~~peace~~
 18 ~~officers~~ *a peace officer* shall, ~~prior to the interview, record any~~
 19 ~~notification of rights, including, but not limited to, where~~
 20 ~~applicable, inform the suspect or witness of his or her rights under~~
 21 *Miranda v. Arizona (1966) 384 U.S. 436.*

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

24 (A) In a hospital emergency room, when it would violate the
 25 expectation of privacy of ~~patients~~ *a patient*.

26 (B) During an ambulance response to an accident or illness
 27 where ~~victims are~~ *the victim is* not involved in any criminal activity.

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

30 ~~(D) During protests or demonstrations.~~

31 (2) ~~Under the following circumstances, operation~~ *Operation* of
 32 a body-worn camera shall begin with the officer providing on
 33 camera notice to ~~persons~~ *a person being* recorded that a body-worn
 34 camera is recording video, and provide the ~~persons~~ *person* with
 35 the option to request that the body-worn camera be turned ~~off~~ *off*
 36 *under the following circumstances:*

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

39 (B) ~~(i)~~ When an officer is at a private residence without a
 40 warrant and in a nonemergency situation.

1 (ii)

2 (3) In the event of contradicting requests made by a ~~homeowner~~
3 *homeowner, occupant*, or renter, the contradicting requests shall
4 be recorded on video and the peace officer shall continue to operate
5 and record the encounter.

6 (e) (1) ~~Peace~~*A peace* officer shall only use the body-worn
7 camera systems issued and approved by the law enforcement
8 agency that employs him or her for official police duties.

9 (2) ~~Unauthorized use, duplication, or distribution of body-worn~~
10 ~~camera files are prohibited. Peace officers~~*A peace officer* shall
11 not make copies of any body-worn camera file for ~~their~~ *his or her*
12 personal use ~~and are prohibited from using or use~~ a recording
13 device such as a phone camera or secondary video camera to record
14 ~~a body-worn camera files.~~ *file.*

15 (3) ~~All recorded media, images, and audio from body-worn~~
16 ~~cameras are property of their respective law enforcement agency,~~
17 ~~and shall not be copied, released, or disseminated in any form or~~
18 ~~manner outside the parameters of this section without the written~~
19 ~~consent of the head of the agency, unless otherwise authorized by~~
20 ~~law.~~

21 (4) ~~Peace officers~~

22 (3) *A Peace officer* shall not remove, dismantle, or tamper with
23 any hardware or software components or parts of ~~body~~
24 ~~worn cameras.~~ *a body-worn camera.*

25 (5) ~~Peace officers~~

26 (4) *A peace officer* shall not use body-worn camera functions,
27 when there is no investigatory interaction with a member of the
28 public, to record any personal conversation of or with another
29 agency member or employee without the permission of the
30 recorded member or employee.

31 (f) (1) ~~Peace officers~~*A peace officer* shall not use ~~a body-worn~~
32 ~~cameras~~ *camera* to record non-work related activity or to record
33 in places where a reasonable expectation of privacy exists.

34 (2) A law enforcement agency or law enforcement officer shall
35 not allow a computerized facial recognition program or application
36 to be used with a body-worn camera or a recording made by a
37 body-worn camera unless the use has been authorized by a warrant
38 issued by a court.

1 (3) ~~Nothing in this section shall~~ *This section does not* require a
2 peace officer, in a public venue, to cease recording an event,
3 situation, or circumstance solely at the demand of ~~the~~ *a* citizen.

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

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

12 (A) ~~The recording is of an incident involving the use of force~~
13 ~~by a peace officer.~~

14 (B) ~~The recording is of an incident that leads to the detention~~
15 ~~or arrest of an individual.~~

16 (C) ~~The recording is relevant to a formal or informal complaint~~
17 ~~against a law enforcement officer or a law enforcement agency.~~

18 (3) ~~If evidence that may be relevant to a criminal prosecution~~
19 ~~is obtained from a recording made by a body-worn camera under~~
20 ~~this section, the law enforcement agency shall retain the recording~~
21 ~~for any time in addition to that specified in paragraphs (1) and (2),~~
22 ~~and in the same manner as is required by law for other evidence~~
23 ~~that may be relevant to a criminal prosecution.~~

24 (h)

25 (g) Each law enforcement ~~agency~~ *agency*, *subject to the*
26 *requirements of this section*, shall conspicuously post its policies
27 and procedures regarding body-worn cameras on its Internet Web
28 site.

29 (i)

30 (h) (1) ~~Peace officers~~ *A peace officer* may ~~only~~ review ~~their~~ *his*
31 *or her* body-worn camera video *only* after making ~~their~~ *his or her*
32 initial statement and report in an administrative or criminal inquiry
33 or investigation.

34 (2) When safe and practical, an on-scene supervisor may retrieve
35 a body-worn camera from an officer. The supervisor shall be
36 responsible for ~~assuring~~ *ensuring that* the camera ~~date~~ *data* is
37 uploaded into the desired data processing and collection method.

38 (j)

39 (i) (1) Any request from within a law enforcement agency for
40 recordings from a body-worn camera from that agency shall be

1 completed by the system administrator with the approval of the
2 head of the agency.
3 (2) All other requests *for recordings from a body-worn camera*
4 shall be processed in accordance with the California Public Records
5 Act (Chapter 3.5 (commencing with Section 6250) of Division 7
6 of Title 1 of the Government Code).

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