

AMENDED IN ASSEMBLY APRIL 20, 2015

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 add Section 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 impose specified requirements *and prohibitions* on a law enforcement agency that requires a peace officer employed by the agency to use a body-worn camera. ~~The bill would require 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 camera during 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 a peace officer from using a body-worn camera~~

~~in a hospital emergency room when it would violate the privacy expectations of a patient, during an ambulance response to an accident or illness when the victim is not involved in criminal activity, or when it would risk the safety of a confidential informant or undercover peace officer. The bill would require 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 a peace officer is at a private residence without a warrant and in a nonemergency situation. camera, including, among other things, a requirement that the agency conspicuously post its policies and procedures regarding body-worn cameras on its Internet Web site, and a prohibition on a peace officer operating a body-worn camera under certain circumstances. The bill would also require those law enforcement agencies to consider specified guidelines when adopting a body-worn camera policy, including, among others, a requirement that a peace officer equipped with a body worn camera activate the camera when responding to calls for assistance and when performing law enforcement activities in the field.~~

The bill would require a peace officer to only use a body-worn camera issued and approved by the law enforcement agency that employs the officer, and would prohibit removing, dismantling, or tampering with any components or parts of a body-worn camera. The bill would prohibit a peace officer from using a body-worn 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, a peace officer from using a body-worn camera to record in a place where a reasonable expectation of privacy exists. The bill would 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 specifically require that a request for a file from a body-worn 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:

1 (a) Twenty-first century policing demands more transparency
2 in everyday interactions with the public. In light of a number of
3 high profile use of force incidents involving law enforcement,
4 body-worn cameras are seen as an important means toward
5 achieving this goal.

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

11 (c) The development of best practices will be necessary to ensure
12 the public's trust in law enforcement. The use of the portable video
13 recording system provides documentary evidence for criminal
14 investigations, internal or administrative investigations, and civil
15 litigation.

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

20 SEC. 2. Section 830.16 is added to the Penal Code, to read:

21 830.16. (a) A law enforcement agency that requires a
22 body-worn camera to be used by a peace officer that the agency
23 employs shall comply with the ~~requirements of this section.~~
24 *following requirements:*

25 (1) *A law enforcement agency shall conspicuously post its*
26 *policies and procedures regarding body-worn cameras on its*
27 *Internet Web site.*

28 (2) *A peace officer shall only use the body-worn camera systems*
29 *issued and approved by the law enforcement agency that employs*
30 *him or her for official police duties.*

31 (3) *A peace officer shall not make copies of any body-worn*
32 *camera files for his or her personal use or use a recording device*
33 *such as a telephone camera or secondary video camera to record*
34 *a body-worn camera file.*

35 (4) *A peace officer shall not operate a body-worn camera under*
36 *any of the following circumstances:*

37 (A) *In a health facility or medical office when patients may be*
38 *in view of the body-worn camera or when a health care practitioner*
39 *is providing care to an individual.*

1 (B) During an ambulance response to an accident or illness
 2 where the victim is not involved in any criminal activity.

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

5 (5) Operation of a body-worn camera shall begin with the officer
 6 providing on-camera notice to a person being recorded that a
 7 body-worn camera is recording video, and provide the person with
 8 the option to request that the body-worn camera be turned off
 9 under both of the following circumstances:

10 (A) When the subject of the video is a victim of rape, incest,
 11 domestic violence, or other forms of domestic or sexual harm.

12 (B) When an officer is at a private residence without a warrant
 13 and in a nonemergency situation.

14 (6) Where a peace officer is involved in an incident involving
 15 use of force or an incident resulting in injury or death, a peace
 16 officer may only review his or her body-worn camera video only
 17 after making his or her initial statement and report in an
 18 administrative or criminal inquiry or investigation. Once a peace
 19 officer's initial report has been submitted and approved and the
 20 officer has been interviewed by the appropriate investigator, the
 21 investigator shall show the officer the body-worn camera video.
 22 The peace officer may be given the opportunity to provide
 23 additional information to supplement his or her statement and may
 24 be asked additional questions by the investigators. If the review
 25 results in a modified report, both of the reports shall be provided
 26 to all parties to a civil, criminal, or administrative investigation.

27 (b) In addition to subdivision (a), a law enforcement agency
 28 shall consider the following guidelines when adopting a body-worn
 29 camera policy:

30 ~~(b)(1) A~~

31 (1) A peace officer equipped with a body-worn camera shall
 32 activate the camera when responding to calls for assistance and
 33 when performing law enforcement activities in the field, including,
 34 but not limited to, traffic or pedestrian stops, pursuits, arrests,
 35 searches, seizures, interrogations, and any other investigative or
 36 enforcement encounters in the field.

37 (2) A peace officer shall ensure that a body-worn camera is fully
 38 functional, including, but not limited to, ensuring that the camera
 39 can be turned on and off and record video and audio, and that the
 40 camera is properly charged, prior to going into the field. A peace

1 officer shall not violate a person’s reasonable expectation of
2 privacy when ensuring that a body-worn camera is fully functional
3 pursuant to this paragraph.

4 (3) A peace officer wearing a body-worn camera shall position
5 the camera on his or her chest, head, shoulder, collar, or any area
6 above the mid-torso of his or her uniform to facilitate optimum
7 recording field of view.

8 ~~(e) (1)~~

9 (4) Both video and audio recording functions of a body-worn
10 camera shall be activated when an officer is responding to a call
11 for service or at the initiation of any other law enforcement or
12 investigative encounter between a police officer and a member of
13 the public. During an encounter with a member of the public, the
14 officer shall notify the member of the public that the body-worn
15 camera is recording, and shall not deactivate the body-worn camera
16 until the conclusion of the encounter.

17 ~~(2) An~~

18 (5) A *peace* officer may stop recording when an arrestee is
19 secured inside a fixed place of detention, as defined in paragraph
20 (3) of subdivision (g) of Section 859.5.

21 ~~(3) The following shall apply during any interview of a suspect
22 or witness:~~

23 ~~(A)~~

24 (6) A peace officer shall record any interview of a suspect or
25 witness in its entirety, unless ~~subdivision (d) applies.~~ *paragraphs*
26 *(4) and (5) of subdivision (a) apply.*

27 ~~(B)~~

28 (7) When recording interviews of a suspect or witness, a peace
29 officer shall, where applicable, inform the suspect or witness of
30 his or her rights under *Miranda v. Arizona* (1966) 384 U.S. 436.

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

33 ~~(A) In a hospital emergency room, when it would violate the
34 expectation of privacy of a patient.~~

35 ~~(B) During an ambulance response to an accident or illness
36 where the victim is not involved in any criminal activity.~~

37 ~~(C) Situations where recording would risk the safety of a
38 confidential informant or undercover peace officer.~~

39 ~~(2) Operation of a body-worn camera shall begin with the officer
40 providing on-camera notice to a person being recorded that a~~

1 body-worn camera is recording video, and provide the person with
 2 the option to request that the body-worn camera be turned off under
 3 the following circumstances:

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

6 (B) When an officer is at a private residence without a warrant
 7 and in a nonemergency situation.

8 ~~(3)~~

9 (8) In the event of contradicting requests made by a homeowner,
 10 occupant, or ~~renter~~, *renter to stop recording the encounter*, the
 11 contradicting requests shall be recorded on video and the peace
 12 officer shall continue to operate and record the encounter.

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

16 (2) A peace officer shall not make copies of any body-worn
 17 camera file for his or her personal use or use a recording device
 18 such as a phone camera or secondary video camera to record a
 19 body-worn camera file.

20 ~~(3)~~

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

24 ~~(4)~~

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

30 ~~(f) (1)~~

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

34 ~~(2)~~

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

1 (13) When safe and practical, an on-scene supervisor may
2 retrieve a body-worn camera from an officer. The supervisor shall
3 be responsible for ensuring the camera data is uploaded into the
4 desired data processing and collection method.

5 ~~(3)~~

6 (c) This section does not require a peace officer, in a public
7 venue, to cease recording an event, situation, or circumstance
8 solely at the demand of a citizen.

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

12 ~~(h) (1) A peace officer may review his or her body-worn camera~~
13 ~~video only after making his or her initial statement and report in~~
14 ~~an administrative or criminal inquiry or investigation.~~

15 ~~(2) When safe and practical, an on-scene supervisor may retrieve~~
16 ~~a body-worn camera from an officer. The supervisor shall be~~
17 ~~responsible for ensuring that the camera data is uploaded into the~~
18 ~~desired data processing and collection method.~~

19 ~~(i)~~

20 (d) (1) Any request from within a law enforcement agency for
21 recordings from a body-worn camera from that agency shall be
22 completed by the system administrator with the approval of the
23 head of the agency.

24 (2) All other requests for recordings from a body-worn camera
25 shall be processed in accordance with the California Public Records
26 Act (Chapter 3.5 (commencing with Section 6250) of Division 7
27 of Title 1 of the Government Code).

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