

# HOUSE BILL NO. 2354

## 98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ELLINGTON.

5984H.011

D. ADAM CRUMBLISS, Chief Clerk

### AN ACT

To repeal section 610.100, RSMo, and to enact in lieu thereof four new sections relating to video recorders used by law enforcement agencies.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 610.100, RSMo, is repealed and four new sections enacted in lieu thereof, to be known as sections 488.500, 590.1025, 590.1027, and 610.100, to read as follows:

**488.500. 1. If approved by a majority of the voters voting on the proposal, the governing body of any county or municipality may, by order or ordinance, provide for an additional surcharge in an amount of up to one dollar per case for each criminal case, including violations of any county or municipal ordinance.**

**2. The ballot of submission shall be in substantially the following form:**

**For the purpose of purchasing and maintaining video cameras worn by peace officers and storing information collected by such cameras, shall ..... (city, town, village, county) be authorized to impose a court surcharge not to exceed one dollar on each criminal case, including municipal and county ordinance violations?**

YES  NO

11

**If a majority of voters voting thereon approve the proposal, the governing body of the county or municipality may enact an order or ordinance for the collection of the surcharge.**

**If the proposal is not approved by a majority of the voters voting thereon, the governing body shall not enact such order or ordinance.**

**3. No surcharge imposed under this section shall be collected when the case has been dismissed by the court. The judge may waive the assessment of the surcharge in those**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 cases in which the defendant is found by the judge to be indigent and unable to pay the  
19 costs.

20 4. Such surcharges collected by municipal clerks in municipalities electing or  
21 required to have violations of municipal ordinances tried before a municipal judge under  
22 section 479.020, or to employ judicial personnel under section 479.060, shall be disbursed  
23 to the city at least monthly, and such surcharges collected by circuit court clerks shall be  
24 collected and disbursed as provided by sections 488.010 to 488.020. Such surcharges shall  
25 be payable to the county or municipality in which such surcharges originated. The county  
26 or municipality shall only use the surcharge for the initial purchase, maintenance, and  
27 replacement of video cameras worn by peace officers and costs relating to the maintenance  
28 and storage of data collected by such video cameras.

590.1025. 1. Beginning January 1, 2018, all uniformed peace officers in this state  
2 shall wear video cameras affixed to the peace officer's uniform while on duty. The officer-  
3 worn body camera shall record any interaction between a peace officer and a member of  
4 the public and shall include both audio and video. The provisions of this section shall not  
5 apply to detectives or other peace officers while they are working in an undercover  
6 capacity, or to any peace officer in any situation if the wearing of such a video camera  
7 would endanger the safety of the officer or the public.

8 2. In order to facilitate uniformity throughout the state, the department of public  
9 safety shall develop guidelines for the use of officer-worn body cameras by state and local  
10 law enforcement agencies. The guidelines shall include, but not be limited to, specifications  
11 as to which peace officers must wear body cameras, when body cameras must be worn and  
12 activated, restrictions on the use of body cameras, the process to obtain consent of victims  
13 and witnesses before using officer-worn body cameras during an interview, the retention  
14 and release of data recorded by body cameras, and access to the data recording by body  
15 cameras.

16 3. State and local law enforcement agencies shall develop policies and procedures  
17 for the use of officer-worn body cameras under the guidelines adopted by the department  
18 of public safety under subsection 2 of this section. All recorded data shall be maintained  
19 by the law enforcement agency for a minimum of sixty days.

20 4. State and local law enforcement agencies shall provide comprehensive training  
21 for all peace officers regarding the use of officer-worn body cameras. Such training shall  
22 include, but not be limited to, the following:

23 (1) Discussion of department policy regarding the use of officer-worn body cameras  
24 and the distribution of a written copy of the official department policy on officer-worn  
25 body cameras;

26           (2) Review of all relevant state laws governing consent, evidence, privacy, and  
27 public disclosure of recordings;

28           (3) Procedure for camera use; and

29           (4) Scenario-based exercises intended to replicate situations an officer could  
30 encounter when using an officer-worn body camera.

31           5. The provisions of this section requiring the use of officer-worn body cameras  
32 shall apply even if funding for cameras is not provided under the grant program  
33 established in section 590.1027.

          590.1027. 1. The department of public safety shall develop and implement a grant  
2 program to assist state and local law enforcement agencies in implementing the provisions  
3 of section 590.1025 including, but not limited to, the initial purchase, maintenance, and  
4 replacement of officer-worn body cameras and ongoing costs relating to the maintenance  
5 and storage of data recorded by officer-worn body cameras. The department shall develop  
6 guidelines for grant applications and establish priorities for grant distribution.

7           2. There is hereby established in the state treasury a fund to be known as the "Law  
8 Enforcement Officer-worn Body Camera Fund", which shall consist of all moneys that  
9 may be appropriated to it by the general assembly and, in addition, may include any gifts,  
10 contributions, grants, or bequests received from federal, state, private, or other sources.  
11 The fund shall be administered by the department of public safety. The state treasurer  
12 shall be custodian of the fund and may approve disbursements from the fund in  
13 accordance with sections 30.170 and 30.180. The fund shall be a dedicated fund and, upon  
14 appropriation, moneys in the fund shall be used solely to fund the purchase of officer-worn  
15 body cameras.

16           3. Notwithstanding the provisions of section 33.080 to the contrary, any moneys  
17 remaining in the fund at the end of the biennium shall not revert to the credit of the  
18 general revenue fund. The state treasurer shall invest moneys in the fund in the same  
19 manner as other funds are invested. Any interest and moneys earned on such investments  
20 shall be credited to the fund.

21           4. State and local law enforcement agencies may apply to the department of public  
22 safety for funding to implement the law enforcement agencies' use of officer-worn body  
23 cameras under this section and section 590.1025 including, but not limited to, the initial  
24 purchase, maintenance, and replacement of officer-worn cameras and ongoing costs  
25 relating to the maintenance and storage of data recorded by officer-worn body cameras.

          610.100. 1. As used in sections 610.100 to 610.150, the following words and phrases  
2 shall mean:

3 (1) "Arrest", an actual restraint of the person of the defendant, or by his or her  
4 submission to the custody of the officer, under authority of a warrant or otherwise for a criminal  
5 violation which results in the issuance of a summons or the person being booked;

6 (2) "Arrest report", a record of a law enforcement agency of an arrest and of any  
7 detention or confinement incident thereto together with the charge therefor;

8 (3) "Inactive", an investigation in which no further action will be taken by a law  
9 enforcement agency or officer for any of the following reasons:

10 (a) A decision by the law enforcement agency not to pursue the case;

11 (b) Expiration of the time to file criminal charges pursuant to the applicable statute of  
12 limitations, or ten years after the commission of the offense; whichever date earliest occurs;

13 (c) Finality of the convictions of all persons convicted on the basis of the information  
14 contained in the investigative report, by exhaustion of or expiration of all rights of appeal of such  
15 persons;

16 (4) "Incident report", a record of a law enforcement agency consisting of the date, time,  
17 specific location, name of the victim and immediate facts and circumstances surrounding the  
18 initial report of a crime or incident, including any logs of reported crimes, accidents and  
19 complaints maintained by that agency;

20 (5) "Investigative report", a record, other than an arrest or incident report, prepared by  
21 personnel of a law enforcement agency, inquiring into a crime or suspected crime, either in  
22 response to an incident report or in response to evidence developed by law enforcement officers  
23 in the course of their duties;

24 **(6) "Mobile video recorder", any system or device that captures visual signals that**  
25 **is capable of installation in a vehicle, vessel, or aircraft, or being worn or carried by**  
26 **personnel of a law enforcement agency and that includes, at a minimum, a camera and**  
27 **recording capabilities.**

28 2. Each law enforcement agency of this state, of any county, and of any municipality  
29 shall maintain records of all incidents reported to the agency, investigations and arrests made by  
30 such law enforcement agency. All incident reports and arrest reports shall be open records.  
31 Notwithstanding any other provision of law other than the provisions of subsections 4, 5 and 6  
32 of this section or section 320.083, investigative reports of all law enforcement agencies are  
33 closed records until the investigation becomes inactive. If any person is arrested and not charged  
34 with an offense against the law within thirty days of the person's arrest, the arrest report shall  
35 thereafter be a closed record except that the disposition portion of the record may be accessed  
36 and except as provided in section 610.120. **Notwithstanding any other provision of law to the**  
37 **contrary, other than the provisions of subsections 4, 5, and 6 of this section or section**

38 **320.083, data from mobile video recorders in the possession of law enforcement agencies**  
39 **are closed records.**

40           3. Except as provided in subsections 4, 5, 6 and 7 of this section, if any portion of a  
41 record or document of a law enforcement officer or agency, other than an arrest report, which  
42 would otherwise be open, contains information that is reasonably likely to pose a clear and  
43 present danger to the safety of any victim, witness, undercover officer, or other person; or  
44 jeopardize a criminal investigation, including records which would disclose the identity of a  
45 source wishing to remain confidential or a suspect not in custody; or which would disclose  
46 techniques, procedures or guidelines for law enforcement investigations or prosecutions, that  
47 portion of the record shall be closed and shall be redacted from any record made available  
48 pursuant to this chapter.

49           4. Any person, including a family member of such person within the first degree of  
50 consanguinity if such person is deceased or incompetent, attorney for a person, or insurer of a  
51 person involved in any incident or whose property is involved in an incident, may obtain any  
52 records closed pursuant to this section or section 610.150 for purposes of investigation of any  
53 civil claim or defense, as provided by this subsection. Any individual, his or her family member  
54 within the first degree of consanguinity if such individual is deceased or incompetent, his or her  
55 attorney or insurer, involved in an incident or whose property is involved in an incident, upon  
56 written request, may obtain a complete unaltered and unedited incident report concerning the  
57 incident, and may obtain access to other records closed by a law enforcement agency pursuant  
58 to this section. Within thirty days of such request, the agency shall provide the requested  
59 material or file a motion pursuant to this subsection with the circuit court having jurisdiction  
60 over the law enforcement agency stating that the safety of the victim, witness or other individual  
61 cannot be reasonably ensured, or that a criminal investigation is likely to be jeopardized. If,  
62 based on such motion, the court finds for the law enforcement agency, the court shall either order  
63 the record closed or order such portion of the record that should be closed to be redacted from  
64 any record made available pursuant to this subsection.

65           5. Any person may bring an action pursuant to this section in the circuit court having  
66 jurisdiction to authorize disclosure of the information contained in an investigative report of any  
67 law enforcement agency **or data in the possession of a law enforcement agency from a mobile**  
68 **video recorder**, which would otherwise be closed pursuant to this section. The court may order  
69 that all or part of the information contained in an investigative report **or the data from a mobile**  
70 **video recorder** be released to the person bringing the action. In making the determination as  
71 to whether information contained in an investigative report **or data from a mobile video**  
72 **recorder** shall be disclosed, the court shall consider whether the benefit to the person bringing  
73 the action or to the public outweighs any harm to the public, to the law enforcement agency or

74 any of its officers, or to any person identified in the investigative report **or captured in the data**  
75 **from the mobile video recorder** in regard to the need for law enforcement agencies to  
76 effectively investigate and prosecute criminal activity. The investigative report **or data from**  
77 **a mobile video recorder** in question may be examined by the court in camera. The court may  
78 find that the party seeking disclosure of the investigative report **or data from a mobile video**  
79 **recorder** shall bear the reasonable and necessary costs and attorneys' fees of both parties, unless  
80 the court finds that the decision of the law enforcement agency not to open the investigative  
81 report **or data from a mobile video recorder** was substantially unjustified under all relevant  
82 circumstances, and in that event, the court may assess such reasonable and necessary costs and  
83 attorneys' fees to the law enforcement agency.

84           6. Any person may apply pursuant to this subsection to the circuit court having  
85 jurisdiction for an order requiring a law enforcement agency to open incident reports, **data from**  
86 **mobile video recorders**, and arrest reports being unlawfully closed pursuant to this section. If  
87 the court finds by a preponderance of the evidence that the law enforcement officer or agency  
88 has knowingly violated this section, the officer or agency shall be subject to a civil penalty in an  
89 amount up to one thousand dollars. If the court finds that there is a knowing violation of this  
90 section, the court may order payment by such officer or agency of all costs and attorneys' fees,  
91 as provided by section 610.027. If the court finds by a preponderance of the evidence that the law  
92 enforcement officer or agency has purposely violated this section, the officer or agency shall be  
93 subject to a civil penalty in an amount up to five thousand dollars and the court shall order  
94 payment by such officer or agency of all costs and attorney fees, as provided in section 610.027.  
95 The court shall determine the amount of the penalty by taking into account the size of the  
96 jurisdiction, the seriousness of the offense, and whether the law enforcement officer or agency  
97 has violated this section previously.

98           7. The victim of an offense as provided in chapter 566 may request that his or her  
99 identity be kept confidential until a charge relating to such incident is filed.

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