

LAW ENFORCEMENT USE OF BODY CAMERAS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel W. Thatcher

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Utah Code of Criminal Procedure to address the use of body cameras by law enforcement officers.

Highlighted Provisions:

This bill provides that:

- ▶ any law enforcement agency that uses body-worn cameras for its law enforcement officers shall have a written policy governing the use of the body-worn cameras and the storage and retention of the video or audio captured;
- ▶ the policies governing the use of body-worn cameras shall meet the minimum standards established by the Peace Officer Standards and Training Division; and
- ▶ specified audio or video recordings made by a body-worn camera are considered a private record.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-6-103, as last amended by Laws of Utah 1995, Chapter 134

63G-2-302, as last amended by Laws of Utah 2015, Chapters 43 and 130



28 ENACTS:

29 **77-23e-101**, Utah Code Annotated 1953

30 **77-23e-102**, Utah Code Annotated 1953

31 **77-23e-103**, Utah Code Annotated 1953



33 *Be it enacted by the Legislature of the state of Utah:*

34 Section 1. Section **53-6-103** is amended to read:

35 **53-6-103. Peace Officer Standards and Training Division -- Creation --**

36 **Administration -- Duties.**

37 (1) There is created within the department the Peace Officer Standards and Training
38 Division.

39 (2) The division shall be administered by a director acting under the supervision and
40 control of the commissioner.

41 (3) The division shall promote and ensure the safety and welfare of the citizens of this
42 state in their respective communities and provide for efficient and professional law
43 enforcement by establishing minimum standards and training for peace officers and dispatchers
44 throughout the state.

45 (4) The division shall establish minimum standards for the use of body-worn cameras
46 by the law enforcement agencies in Utah that choose to use body-worn cameras.

47 Section 2. Section **63G-2-302** is amended to read:

48 **63G-2-302. Private records.**

49 (1) The following records are private:

50 (a) records concerning an individual's eligibility for unemployment insurance benefits,
51 social services, welfare benefits, or the determination of benefit levels;

52 (b) records containing data on individuals describing medical history, diagnosis,
53 condition, treatment, evaluation, or similar medical data;

54 (c) records of publicly funded libraries that when examined alone or with other records
55 identify a patron;

56 (d) records received by or generated by or for:

57 (i) the Independent Legislative Ethics Commission, except for:

58 (A) the commission's summary data report that is required under legislative rule; and

- 59 (B) any other document that is classified as public under legislative rule; or
- 60 (ii) a Senate or House Ethics Committee in relation to the review of ethics complaints,
- 61 unless the record is classified as public under legislative rule;
- 62 (e) records received by, or generated by or for, the Independent Executive Branch
- 63 Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review
- 64 of Executive Branch Ethics Complaints;
- 65 (f) records received or generated for a Senate confirmation committee concerning
- 66 character, professional competence, or physical or mental health of an individual:
- 67 (i) if, prior to the meeting, the chair of the committee determines release of the records:
- 68 (A) reasonably could be expected to interfere with the investigation undertaken by the
- 69 committee; or
- 70 (B) would create a danger of depriving a person of a right to a fair proceeding or
- 71 impartial hearing; and
- 72 (ii) after the meeting, if the meeting was closed to the public;
- 73 (g) employment records concerning a current or former employee of, or applicant for
- 74 employment with, a governmental entity that would disclose that individual's home address,
- 75 home telephone number, social security number, insurance coverage, marital status, or payroll
- 76 deductions;
- 77 (h) records or parts of records under Section 63G-2-303 that a current or former
- 78 employee identifies as private according to the requirements of that section;
- 79 (i) that part of a record indicating a person's social security number or federal employer
- 80 identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202,
- 81 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;
- 82 (j) that part of a voter registration record identifying a voter's:
- 83 (i) driver license or identification card number;
- 84 (ii) social security number, or last four digits of the social security number;
- 85 (iii) email address; or
- 86 (iv) date of birth;
- 87 (k) a voter registration record that is classified as a private record by the lieutenant
- 88 governor or a county clerk under Subsection 20A-2-104(4)(f) or 20A-2-101.1(5)(a);
- 89 (l) a record that:

- 90 (i) contains information about an individual;
- 91 (ii) is voluntarily provided by the individual; and
- 92 (iii) goes into an electronic database that:
 - 93 (A) is designated by and administered under the authority of the chief information
 - 94 officer; and
 - 95 (B) acts as a repository of information about the individual that can be electronically
 - 96 retrieved and used to facilitate the individual's online interaction with a state agency;
 - 97 (m) information provided to the commissioner of insurance under:
 - 98 (i) Subsection [31A-23a-115\(2\)\(a\)](#);
 - 99 (ii) Subsection [31A-23a-302\(3\)](#); or
 - 100 (iii) Subsection [31A-26-210\(3\)](#);
 - 101 (n) information obtained through a criminal background check under Title 11, Chapter
 - 102 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;
 - 103 (o) information provided by an offender that is:
 - 104 (i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap
 - 105 Offender Registry; and
 - 106 (ii) not required to be made available to the public under Subsection [77-41-110\(4\)](#);
 - 107 (p) a statement and any supporting documentation filed with the attorney general in
 - 108 accordance with Section [34-45-107](#), if the federal law or action supporting the filing involves
 - 109 homeland security;
 - 110 (q) electronic toll collection customer account information received or collected under
 - 111 Section [72-6-118](#) and customer information described in Section [17B-2a-815](#) received or
 - 112 collected by a public transit district, including contact and payment information and customer
 - 113 travel data;
 - 114 (r) an email address provided by a military or overseas voter under Section
 - 115 [20A-16-501](#);
 - 116 (s) a completed military-overseas ballot that is electronically transmitted under Title
 - 117 20A, Chapter 16, Uniform Military and Overseas Voters Act;
 - 118 (t) records received by or generated by or for the Political Subdivisions Ethics Review
 - 119 Commission established in Section [11-49-201](#), except for:
 - 120 (i) the commission's summary data report that is required in Section [11-49-202](#); and

121 (ii) any other document that is classified as public in accordance with Title 11, Chapter
122 49, Political Subdivisions Ethics Review Commission;

123 (u) a record described in Subsection 53A-11a-203(3) that verifies that a parent was
124 notified of an incident or threat; and

125 (v) a criminal background check or credit history report conducted in accordance with
126 Section 63A-3-201.

127 (2) The following records are private if properly classified by a governmental entity:

128 (a) records concerning a current or former employee of, or applicant for employment
129 with a governmental entity, including performance evaluations and personal status information
130 such as race, religion, or disabilities, but not including records that are public under Subsection
131 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);

132 (b) records describing an individual's finances, except that the following are public:

133 (i) records described in Subsection 63G-2-301(2);

134 (ii) information provided to the governmental entity for the purpose of complying with
135 a financial assurance requirement; or

136 (iii) records that must be disclosed in accordance with another statute;

137 (c) records of independent state agencies if the disclosure of those records would
138 conflict with the fiduciary obligations of the agency;

139 (d) other records containing data on individuals the disclosure of which constitutes a
140 clearly unwarranted invasion of personal privacy;

141 (e) records provided by the United States or by a government entity outside the state
142 that are given with the requirement that the records be managed as private records, if the
143 providing entity states in writing that the record would not be subject to public disclosure if
144 retained by it; ~~and~~

145 (f) any portion of a record in the custody of the Division of Aging and Adult Services,
146 created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a
147 person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult[-]; and

148 (g) audio and video recordings created by a body-worn camera, as defined in Section
149 77-23e-102:

150 (i) if the body-worn camera was operated by a law enforcement officer while serving a
151 warrant;

- 152 (ii) if the recording was obtained:
- 153 (A) under exigent circumstances, if the law enforcement officer did not have a warrant;
- 154 or
- 155 (B) by a law enforcement officer who has obtained and documented permission from
- 156 the subject of a recording to be in the location where the recording was obtained; or
- 157 (iii) if the record contains images of nudity, death, or gruesome events involving an
- 158 individual or individuals.

159 (3) (a) As used in this Subsection (3), "medical records" means medical reports,
 160 records, statements, history, diagnosis, condition, treatment, and evaluation.

161 (b) Medical records in the possession of the University of Utah Hospital, its clinics,
 162 doctors, or affiliated entities are not private records or controlled records under Section
 163 63G-2-304 when the records are sought:

- 164 (i) in connection with any legal or administrative proceeding in which the patient's
- 165 physical, mental, or emotional condition is an element of any claim or defense; or
- 166 (ii) after a patient's death, in any legal or administrative proceeding in which any party
- 167 relies upon the condition as an element of the claim or defense.
- 168 (c) Medical records are subject to production in a legal or administrative proceeding
- 169 according to state or federal statutes or rules of procedure and evidence as if the medical
- 170 records were in the possession of a nongovernmental medical care provider.

171 Section 3. Section 77-23e-101 is enacted to read:

172 **CHAPTER 23e. LAW ENFORCEMENT USE OF BODY-WORN CAMERAS**
 173 **77-23e-101. Title.**

174 This chapter is known as "Law Enforcement Use of Body-Worn Cameras."

175 Section 4. Section 77-23e-102 is enacted to read:

176 **77-23e-102. Definitions.**

177 As used in this chapter:

- 178 (1) (a) "Body-worn camera" means a video recording device that is carried by, or worn
- 179 on the body of, a law enforcement officer and that is capable of recording the operations of the
- 180 officer.
- 181 (b) "Body-worn camera" does not include a dashboard mounted camera in a law
- 182 enforcement vehicle.

183 (2) "Law enforcement agency" means an entity of the state, or a political subdivision of
184 the state, including a state institution of higher education, that exists primarily to prevent and
185 detect crime and enforce criminal laws, statutes, and ordinances.

186 Section 5. Section **77-23e-103** is enacted to read:

187 **77-23e-103. Body-worn cameras -- Written policies and procedures.**

188 (1) Any law enforcement agency that uses body-worn cameras shall have a written
189 policy for the use of body-worn cameras and the storage and retention of video and audio
190 recordings from body-worn cameras.

191 (2) The written policies and procedures shall address:

192 (a) when a law enforcement officer is required to wear a body-worn camera;

193 (b) when a law enforcement officer is required to activate a body-worn camera and
194 when the body-worn camera may be inactive;

195 (c) the retention schedule of video and audio recordings captured by a body-worn
196 camera;

197 (d) under what circumstances the video and audio from a body-worn camera may be
198 reviewed and who is authorized to review and have access to the video and audio;

199 (e) how and when video and audio from a body-worn camera may be released to third
200 parties; and

201 (f) the disciplinary procedures for failing to record, in violation of the policies of the
202 law enforcement agency.

203 (3) Any policy shall meet the minimum standards for the use of body-worn cameras
204 established by the Peace Officer Standards and Training Division pursuant to Section [53-6-103](#).

205 (4) This chapter does not prohibit a law enforcement agency from having a written
206 policy regarding the use of body-worn cameras that includes provisions in addition to those in
207 Subsection (2).