

JAN 20 2017

A BILL FOR AN ACT

RELATING TO LAW ENFORCEMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that an increasing number
2 of states are addressing the issue of law enforcement agencies'
3 use of body-worn video cameras and vehicle cameras as a means to
4 protect civilians and law enforcement officers. A body-worn
5 video camera worn by a law enforcement officer or mounted on a
6 law enforcement vehicle's dashboard can act as a third-party,
7 independent witness by recording events that occur while in the
8 field.

9 The legislature further finds that people who are aware
10 that they are being videotaped are more inclined to alter their
11 behavior, as they know that they will likely be held accountable
12 for their actions. In light of the recent incidents involving
13 law enforcement officers and the alleged use of unnecessary
14 force, body-worn video cameras and vehicle cameras can provide
15 law enforcement officers and civilians the security of knowing
16 that a law enforcement officer's or civilian's statements about



1 an incident may be corroborated by the video or audio recording
2 obtained through the body-worn video camera or vehicle camera.

3 The legislature also finds that there is a strong public
4 interest in certain types of video footage recorded by the use
5 of body-worn cameras and vehicle cameras, particularly in events
6 that involve the use of force or events leading up to an arrest
7 for a felony offense. However, at the same time, there is a
8 privacy interest held by the individuals recorded in the video
9 footage. As a result, determining whether video footage is
10 subject to public disclosure requirements may be difficult.

11 The purpose of this Act is to promote transparency and
12 accountability with regard to video footage obtained by body-
13 worn or vehicle cameras used by law enforcement agencies and
14 protect the significant privacy interests of individuals who are
15 captured in the video footage by establishing public disclosure
16 requirements for video footage obtained by law enforcement body-
17 worn or vehicle cameras.

18 SECTION 2. Chapter 92F, Hawaii Revised Statutes, is
19 amended by adding a new section to part II to be appropriately
20 designated and to read as follows:



1 "§92F- Disclosure of video footage records; law
2 enforcement agencies. (a) Notwithstanding any other law to the
3 contrary, a law enforcement agency shall make available for
4 public inspection and duplication video footage if:

5 (1) The video footage captures images involving any use of
6 force;

7 (2) The video footage captures images involving events
8 leading up to and including an arrest for a felony
9 offense or events that involve a felony offense;

10 (3) The video footage captures images involving an
11 encounter about a complaint that has been registered
12 by the subject of video footage unless the subject of
13 video footage objects in writing to the disclosure; or

14 (4) All subjects of video footage, except for law
15 enforcement officers, consent in writing to the
16 disclosure; provided that:

17 (A) The parent or legal guardian of a minor who is
18 the subject of video footage, or a deceased
19 subject's next of kin or legally authorized
20 designee, may provide consent on behalf of the
21 subject of video footage; and

1 (B) The subject of video footage or the subject's
2 legal representative shall be permitted to review
3 the relevant video footage before deciding
4 whether to consent to its disclosure.

5 (b) Except as otherwise provided in this section, video
6 footage captured on body-worn or vehicle cameras may not be
7 subject to disclosure and may constitute a clearly unwarranted
8 invasion of personal privacy unless the public interest in
9 disclosure outweighs the privacy interest of the individual in
10 accordance with section 92F-14.

11 (c) A law enforcement agency shall not delete or destroy
12 without a court order any body-worn or vehicle camera video
13 footage that documents an incident involving the use of deadly
14 force by a law enforcement officer, or is otherwise related to
15 an administrative or criminal investigation of a law enforcement
16 officer.

17 (d) As used in this section:

18 "Body-worn camera" means a recording device that is:

19 (1) Capable of recording video and audio or transmitting
20 video and audio to be recorded remotely; and



1 (2) Worn on the person of a law enforcement officer, which
2 shall include being attached to the law enforcement
3 officer's clothing or worn as glasses.

4 "Law enforcement agency" means any county police
5 department, the department of public safety, and any state or
6 county public body that employs law enforcement officers.

7 "Law enforcement officer" means a sheriff, deputy sheriff,
8 police officer, enforcement officer within the department of
9 land and natural resources conservation and resources
10 enforcement program, enforcement officer within the department
11 of transportation harbors division, and any other employee of a
12 state or county public body who carries a badge and firearm and
13 has powers of arrest.

14 "Subject of video footage" means any law enforcement
15 officer or any suspect, victim, detainee, conversant, injured
16 party, or other similarly situated person who appears on body-
17 worn or vehicle camera, and shall not include individuals who
18 only incidentally appear on a recording.

19 "Vehicle camera" means a recording device that is:

20 (1) Capable of recording video or audio or transmitting
21 video or audio to be recorded remotely; and



1 (2) Mounted in or on a law enforcement vehicle.

2 "Video footage" means video or audio recording that is
3 recorded by using a body-worn or vehicle camera."

4 SECTION 3. New statutory material is underscored.

5 SECTION 4. This Act shall take effect upon its approval.

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S.B. NO. 569

Report Title:

Law Enforcement; Body-worn Cameras; Vehicle Cameras; Video Footage; Records; Public Disclosure

Description:

Establishes public disclosure requirements for video footage obtained by law enforcement body-worn or vehicle cameras.

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