

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 797
Committee Substitute Favorable 4/26/17
Third Edition Engrossed 4/27/17

Short Title: Changes to Current BWC Law.

(Public)

Sponsors:

Referred to:

April 13, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE BODY-WORN CAMERA LEGISLATION TO CLARIFY THE
3 DEFINITION OF A DECEASED PERSON AND TO PROVIDE FOR DISCLOSURE TO
4 CITIZEN REVIEW BOARDS.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 132-1.4A reads as rewritten:

7 "§ 132-1.4A. Law enforcement agency recordings.

8 (a) Definitions. – The following definitions apply in this section:

9 (1) Body-worn camera. – An operational video or digital camera or other
10 electronic device, including a microphone or other mechanism for allowing
11 audio capture, affixed to the uniform or person of law enforcement agency
12 personnel and positioned in a way that allows the camera or device to
13 capture interactions the law enforcement agency personnel has with others.

14 (2) Custodial law enforcement agency. – The law enforcement agency that owns
15 or leases or whose personnel operates the equipment that created the
16 recording at the time the recording was made.

17 (3) Dashboard camera. – A device or system installed or used in a law
18 enforcement agency vehicle that electronically records images or audio
19 depicting interaction with others by law enforcement agency personnel. This
20 term does not include body-worn cameras.

21 (3a) Deceased person. – A person whose image or voice is captured in a
22 recording, was living at the time the recording began, and died during or
23 subsequent to the event captured on the recording.

24 (4) Disclose or disclosure. – To make a recording available for viewing or
25 listening to by the person requesting disclosure, at a time and location
26 chosen by the custodial law enforcement agency. This term does not include
27 the release of a recording.

28 (5) Personal representative. – A parent, court-appointed guardian, spouse, or
29 attorney of a person whose image or voice is in the recording. If a person
30 whose image or voice is in the recording is deceased, the term also means
31 the personal representative of the estate of the deceased person; the deceased
32 person's surviving spouse, parent, or adult child; the deceased person's
33 attorney; or the parent or guardian of a surviving minor child of the
34 deceased.



- 1 (6) Recording. – A visual, audio, or visual and audio recording captured by a
2 body-worn camera, a dashboard camera, or any other video or audio
3 recording device operated by or on behalf of a law enforcement agency or
4 law enforcement agency personnel when carrying out law enforcement
5 responsibilities. This term does not include any video or audio recordings of
6 interviews regarding agency internal investigations or interviews or
7 interrogations of suspects or witnesses.
- 8 (7) Release. – To provide a copy of a recording.

9 ...
10 (e) Appeal of Disclosure Denial. – If a law enforcement agency denies disclosure
11 pursuant to subsection (d) of this section, or has failed to provide disclosure more than ~~three~~
12 five business days after the request for disclosure, the person seeking disclosure may apply to
13 the superior court in any county where any portion of the recording was made for a review of
14 the denial of disclosure. The court may conduct an in-camera review of the recording. The
15 court may order the disclosure of the recording only if the court finds that the law enforcement
16 agency abused its discretion in denying the request for disclosure. The court may only order
17 disclosure of those portions of the recording that are relevant to the person's request. A person
18 who receives disclosure pursuant to this subsection shall not record or copy the recording. An
19 order issued pursuant to this subsection may not order the release of the recording.

20 In any proceeding pursuant to this subsection, the following persons shall be notified and
21 those persons, or their designated representative, shall be given an opportunity to be heard at
22 any proceeding: (i) the head of the custodial law enforcement agency, (ii) any law enforcement
23 agency personnel whose image or voice is in the recording and the head of that person's
24 employing law enforcement agency, and (iii) the District Attorney. Actions brought pursuant to
25 this subsection shall be set down for hearing as soon as practicable, and subsequent
26 proceedings in such actions shall be accorded priority by the trial and appellate courts.

27 ...
28 (h) Release of Recordings; Law Enforcement Purposes. – Notwithstanding the
29 requirements of subsections (c), (f), and (g) of this section, a custodial law enforcement agency
30 shall disclose or release a recording to a district attorney (i) for review of potential criminal
31 charges, (ii) in order to comply with discovery requirements in a criminal prosecution, (iii) for
32 use in criminal proceedings in district court, or (iv) any other law enforcement or prosecutorial
33 purpose, and may disclose or release a recording for any of the following purposes:may:

- 34 ~~(1) For law enforcement training purposes.~~
35 ~~(2) Within the custodial law enforcement agency for any administrative,~~
36 ~~training, or law enforcement purpose.~~
37 ~~(3) To another law enforcement agency for law enforcement purposes.~~
38 (1) Disclose or release a recording within the custodial law enforcement agency
39 for agency administrative and training purposes.
40 (2) Disclose or release a recording to another law enforcement agency for
41 mutual law enforcement investigative purposes.
42 (3) Disclose or release a single or limited number of randomly selected still
43 images extracted from a recording, as deemed necessary, to identify or
44 locate a potential criminal suspect. The images shall only depict the face or
45 other identifying characteristics of the criminal suspect.
46 (4) Disclose a recording to the municipal manager or county manager, upon the
47 manager's request, for management and administrative purposes including
48 police operational review if the custodial law enforcement agency is a
49 municipal police agency or a combined city-and-county police agency
50 headed by a chief officer other than a county sheriff. Prior to viewing the
51 recording, the manager shall execute a confidentiality statement agreeing to

1 maintain the confidentiality of the recording. Recording images can be
2 released publicly only upon court order.

3 "

4 **SECTION 2.** G.S. 143-318.11(a) reads as rewritten:

5 "**§ 143-318.11. Closed sessions.**

6 (a) Permitted Purposes. – It is the policy of this State that closed sessions shall be held
7 only when required to permit a public body to act in the public interest as permitted in this
8 section. A public body may hold a closed session and exclude the public only when a closed
9 session is required:

10 ...

11 (10) To view a recording ~~released~~regulated pursuant to G.S. 132-1.4A."

12 **SECTION 3.** This act is effective when it becomes law.