

2016 SESSION

LEGISLATION NOT PREPARED BY DLS
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16104109D

HOUSE BILL NO. 1143

Offered January 13, 2016

Prefiled January 13, 2016

A BILL to define policies required of state or local law enforcement or regulatory agencies before purchase or deployment of body-worn cameras.

Patron—Lindsey

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

§ 1. Notwithstanding any other provision of law, no state or local government department, agency, or instrumentality having jurisdiction over criminal law enforcement or regulatory violations, including but not limited to the Department of State Police and any school division, and no department of law enforcement as defined in § 15.2-836 of the Code of Virginia of any county, city, or town shall purchase or deploy body-worn cameras before the department, agency or instrumentality has adopted and made available for public comment and review a policy for the deployment of such cameras that includes provisions implementing the following requirements:

The policy requires officers wearing such cameras are required to inform people they are interacting with that they are being recorded, including when entering a home or office.

The policy expressly states, and individuals are informed, that they are permitted to request that the camera be turned off when an official enters their home, office or other private space, unless it is an emergency situation or the officer is making an entry pursuant to a lawfully issued search warrant for the premises.

The policy states that body-worn cameras shall be turned on during all police interactions with members of the public, except that body-worn cameras shall not be used to conduct general surveillance of members of the public participating in political or other gatherings at which people are exercising their constitutional rights to speak, assemble or petition the government.

The policy includes a clearly defined list of exceptions for when a body-worn camera may or shall be turned off once it is activated, requires documentation and justification each time an exception is exercised, and specifies that violations of the policy will result in disciplinary action, up to and including termination.

The policy specifies where video captured by the body-worn cameras is stored, how long it is stored and who has access to it. All videos with appropriate redactions should be available to the public for review unless they are related to an open and active criminal investigation.

The policy states that individuals filmed by body-worn cameras have a right to review videos in which they appear.

The policy states that the agency deploying the body-worn cameras will review the videos on an ongoing basis to determine whether the videos provide information that suggests that law enforcement officers are acting inappropriately or exhibiting bias. The policy provides that appropriate disciplinary action will be taken to address issues where they are identified, subject to proper procedural protections for the officers involved.

The policy states that any videos that are captured by body-worn cameras will be destroyed within thirty days unless the video is determined to be evidence in an open and active criminal investigation or concerns any incident involving use of force or other conduct by an officer in violation of policy, or where a subject of the video requests that a video in which they appear be maintained.

The policy expressly prohibits officers involved in a use of force or other serious incident from reviewing the body-camera video prior to writing a report of the incident.

2. That the Department of Criminal Justice Services develop, review and revise model protocols for the deployment of body-worn cameras that meet these standards, in consultation with the Office of the Attorney General and representatives of affected agencies and departments, citizens groups and civil rights and civil liberties organizations.

3. That, regardless of whether a police officer or other law or regulatory enforcement officer is wearing a body-worn camera, any individual has the right to tape, film or record such officer in the performance of the officer's public duties so long as the person is not obstructing justice or otherwise unlawfully impeding the officer in the performance of such duties.

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