



Republic of the Philippines
House of Representatives
Quezon City



EIGHTEENTH CONGRESS
Second Regular Session

House Bill No. 9648

Introduced by REPRESENTATIVE ERIC L. OLIVAREZ

EXPLANATORY NOTE

What actually transpires in a police operation will always be something that none of us will ever know. Imagine having a relative being subjected to a police operation or being the actual person conducting the police operation and things do not go well as planned. What will be relied on these kinds of situations are only statements and pieces of evidence, if any, that will never provide the actual veracity of the occurrence. There will be victims of police officers who exceed their authority and there will also be police officers who are victims of those who resist arrest.

Currently, our country has been having numerous day-to-day police operations. These police operations have been subjected to so much controversy as to what actually occur in said operations. Many have been crying foul against police officers in their conduct of these operations. However, without the machinery to capture these occurrences, there will always be a certain amount of doubt as to truth behind these police operations.

As such, this Bill is intended to address this important matter by mandating law enforcement personnel to wear a body camera that will be able to capture footages of an actual police operation in order to protect those who are arrested and those who arrest. Through these captured footages, what actually transpires in a police operation will now be known to those involved. This will also serve as a measure to deter police officers from exceeding their power against the citizens thereby restoring public trust to the government and the law enforcement personnel.

In view of the foregoing, the passage of this Bill is earnestly sought.

Eric C. Olivarez
ERIC OLIVAREZ



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1
2 **“AN ACT MANDATING THE USE OF BODY CAMERA BY LAW**
3 **ENFORCEMENT OFFICERS AND FOR OTHER PURPOSES”**
4

5 *Be it enacted in the Senate and the House of Representatives of the Republic of the*
6 *Philippines in Congress assembled:*

7 **SECTION 1. Short Title.** – This Act shall be known as the “Body Camera Act
8 of 2021”

9 **SECTION 2. Declaration of Policy.** – It shall be the policy of the State to:

- 10 a. Value the dignity of every human person and guaranty full respect for human
11 rights;
- 12 b. Protect the right of every person not to be deprived of life, liberty, or property
13 without due process of law or be denied the equal protection laws;
- 14 c. Protect the inviolability of the right of the people to be secure in their persons,
15 houses, papers and effects against unreasonable searches and seizures of
16 whatever nature and for any purpose;
- 17 d. Protect the accused’s right to be presumed innocent until proven otherwise.

18 **SECTION 3. Definition of Terms.** – For purposes of this Act, the following
19 terms shall be defined as:

- 1 a. **Body camera** shall refer to any electronic recording device that is worn by a
2 person nor law enforcement officer that records and stores audio and video
3 data;
- 4 b. **Law enforcement officer** shall refer to any person authorized by law to
5 conduct searches and effectuate arrests who is employed by the government,
6 whether national, local or any subdivision or agency of government;
- 7 c. **Subject of the video footage** shall refer to any identifiable law enforcement
8 officer or any identifiable suspect, victim, detainee, conversant, injured party,
9 or other similarly situated person who appears on the body camera recording,
10 and shall not include people who only incidentally appear on the recording;
- 11 d. **Use of force** shall refer to any action by a law enforcement officer that:
- 12 i. Results in death, injury, complaint of injury, or complaint of pain that
13 persists beyond the use of physical control;
- 14 ii. Involves the use of a weapon including a personal body weapon,
15 chemical agent, impact weapon, extend range impact weapon, sonic
16 weapon, sensory weapon, conducted energy device, or firearm, against
17 a member of the public; or
- 18 iii. Involves any intentional pointing of a firearm at a member of the public;
- 19 e. **Video footage** shall refer to any moving images recorded by a body camera
20 with or without audio.

21 **SECTION 4 Mandatory Use of Body Camera by Law Enforcement**
22 **Officers.**- Law enforcement officers with the authority to conduct searches and make
23 arrests shall wear a body camera. Such body cameras shall be worn in a location and
24 manner that maximizes the ability of the body camera to capture video footage of the
25 officer's activities.

26 Both the video and audio recording functions of the body camera shall be
27 activated whenever a law enforcement officer is responding to a call for service or at
28 the initiation of any other law enforcement or investigative encounter between a law
29 enforcement officer and a member of the public. The body camera shall not be
30 deactivated until the encounter has fully concluded and the law enforcement officer
31 leaves the scene.

32 A law enforcement officer who is wearing a body camera shall notify the
33 subject/s of the recording that they are being recorded by a body camera as close to
34 the inception of the encounter as is reasonably possible.

35 **SECTION 5. Retention of Video Footages.** – Body camera footages shall be
36 retained by the law enforcement agency that employs the officer whose camera
37 captured the footage, or an authorized agent thereof for six (6) months from the date
38 it was recorded. After such period, the footage shall be deleted permanently.

1 During the six (6) month retention period, the following persons shall have the
2 right to inspect the body camera footage of:

- 3 a. Any person who is a subject of body camera video footage, and/or their
4 designated legal counsel;
- 5 b. A parent of a minor subject of body camera video footage, and/or their
6 designated legal counsel;
- 7 c. The spouse, next of kin or legally authorized appointee of a deceased
8 subject of body camera video footage, and/or their designated legal
9 counsel;
- 10 d. A law enforcement officer whose body camera recorded the video footage
11 and/or their designated legal counsel, subject to the limitations and
12 restrictions in this Act;
- 13 e. The superior officer of the law enforcement officer whose body camera
14 recorded the video footage, subject to the limitations and restrictions in
15 this Act; and
- 16 f. Any defense counsel who claims, pursuant to a written affidavit, to have a
17 reasonable basis for believing a video may contain evidence that
18 exculpates a client.

19 The right to inspect, subject to the preceding subsection, shall not include the
20 right to possess a copy of the body camera video footage, unless the release of the
21 body camera footage is otherwise authorized by this Act or by another applicable law.

22 When a body camera fails to capture some or all of the audio or video of an
23 incident due to malfunction, displacement, or any other cause that renders the camera
24 incapable to record a footage, any audio or video footage that is captured by a different
25 camera shall be treated the same as any other body camera audio or video footage
26 under the law.

27 Notwithstanding the retention and deletion requirements, a video footage shall
28 be automatically retained for a period not less than three (3) years if the video footage
29 captures an interaction or event involving any use of force or an encounter about which
30 a complainant has been registered by a subject of the video footage.

31 Likewise, body camera footage shall be retained for a period not less than three
32 (3) years if a longer retention period is requested by any of the following:

- 33 a. The law enforcement officer whose body camera recorded the video
34 footage, if that officer reasonably asserts the video footage has evidentiary
35 or exculpatory value;
- 36 b. Any law enforcement officer who is a subject of the video footage, if that
37 officer reasonably asserts the video footage has evidentiary or exculpatory
38 value;

- 1 c. Any superior officer of a law enforcement officer whose body camera
2 recorded by the video footage or who is a subject of the video footage, if
3 that superior officer reasonably asserts the video footage has evidentiary
4 or exculpatory value;
- 5 d. Any law enforcement officer, if the video footage is being retained solely
6 and exclusively for police training purposes;
- 7 e. Any member of the public who is a subject of the video footage;
- 8 f. Any parent or legal guardian of a minor who is a subject of the video
9 footage;
- 10 g. A deceased subject's spouse, next of kin, or legally authorized designee;
11 or
- 12 h. Any competent court.

13 **SECTION 6. *Right to Inspect the Videos.*** – Any member of the public who is
14 a subject of a video footage recorded by the body camera or a parent or legal guardian
15 of a minor who is subject of the video footage, or a deceased subject's next of kin or
16 legally authorized appointee, shall be permitted to review the specific video footage in
17 question in order to make a determination as to whether they will voluntarily request it
18 subject to the three (3) year retention period.

19 All video footage of an interaction or event captured by a body camera, if that
20 interaction or event is identified with reasonable specificity and requested by a
21 member of the public, shall be provided to the person or entity making the request in
22 accordance with laws and regulations of the agency.

23 Where a subject of the video footage is recorded being killed, shot by a firearm,
24 or grievously injured requests for the review of the recorded video footage, such shall
25 be prioritized and the requested video footage shall be provided as expeditiously as
26 possible, but in no circumstances later than five (5) days following receipt of the
27 request. The provisions governing the production of body camera video footage to the
28 public in this Act shall take precedence over all other laws, rules, and regulations to
29 the contrary.

30 Body camera video footage may not be withheld from the public on the basis
31 that it is an investigatory record or was compiled for law enforcement purposes where
32 any person under investigation or whose conduct is under review is a police officer or
33 other law enforcement employee and the video footage relates to that person's on-
34 the-job conduct.

35 **SECTION 7. *Prohibited Acts.*** – The following shall be considered as
36 prohibited acts:

- 37 a. The surreptitious use of body cameras;

- 1 b. The use of body cameras for the purpose of gathering intelligence
2 information;
- 3 c. Activation of body cameras by law enforcement officers while on the
4 grounds of any public, private or parochial elementary or secondary school,
5 except when responding to an actual or imminent threat to life or death;
- 6 d. Public disclosure or release of body camera footages by any government
7 agency, officer, law enforcement agency, officer or official except:
- 8 i. When expressly authorized by law;
- 9 ii. Said video footage is subject to public release and not
10 exempted from public release.
- 11 e. Review or receipt of an accounting by a law enforcement officer of any body
12 camera video footage that is subject to a minimum three (3) year retention
13 prior to the completion of any required initial reports, statements, and
14 interviews regarding the recorded event unless the review or receipt of an
15 accounting is necessary, while in the field, to address an immediate threat
16 to life or safety;
- 17 f. The viewing of a video footage that is not subject to a minimum three (3)
18 year retention period by any superior officer whose body camera recorded
19 the footage absent a specific allegation of misconduct; and
- 20 g. Subjecting a video footage to facial recognition or any other form of
21 automated analysis or analytics of any kind, unless
- 22 i. Authorized through a judicial warrant;
- 23 ii. Said judicial warrant specifies the precise video recording to
24 which the authorization applies; and
- 25 iii. The authorizing court finds probable cause to believe that the
26 video footage contains evidence that is relevant to an ongoing
27 criminal investigation.
- 28 h. Use of video footage for any commercial or other non-law enforcement
29 purpose;
- 30 i. Independent access, viewing or altering of any video footage by a third party
31 authorized by a law enforcement agency as its agent in maintaining body
32 camera footage except to delete videos as required by law or agency
33 retention policies.

34 Should any law enforcement officer, employee, or agent fail to adhere to the
35 recording requirements contained in this section or intentionally interfere with a body
36 camera's ability to accurately capture video footage or otherwise manipulate the video
37 footage captured by a body camera during or after its operation, the appropriate
38 disciplinary action shall be taken against the individual officer, employee or agent.
39 Likewise, a rebuttable evidentiary presumption shall be adopted in favor of criminal

1 defendants who reasonably asset that exculpatory evidence was destroyed or
2 captured. Lastly, a rebuttable evidentiary presumption shall be adopted on behalf of
3 civil plaintiffs suing the government, a law enforcement agency and/or law
4 enforcement officers for damages based on police misconduct who reasonably assert
5 that evidence supporting their claim was destroyed or not captured.

6 **SECTION 8. *Penalties.*** – Any law enforcer in violation of any provision under
7 Section 7, shall be placed under preventive suspension for ninety (90) days, subject
8 to further investigation and preparation of filing of administrative and criminal cases
9 pursuant to R.S. 10173 or the Data Privacy Act and other applicable laws.

10 **SECTION 9. *Implementing Rules and Regulations*** – Within sixty (60) days
11 from the promulgation of this Act, the implementing rules and regulations for the
12 proper implementation of its provisions shall be formulated by the appropriate
13 government offices or agencies coordination with all the stakeholders and covered
14 establishments and institutions.

15 **SECTION 10. *Separability Clause.*** - If any provision of this Act is declared
16 unconstitutional or otherwise invalid, the validity of the other provisions shall not be
17 affected thereby.

18 **SECTION 11. *Repealing Clause.*** - All laws, decrees, orders, rules and
19 regulations or parts thereof inconsistent with this Act are hereby repealed or modified
20 accordingly.

21 **SECTION. 12. *Effectivity.*** - This Act shall take effect fifteen (15) days after its
22 publication in the Official Gazette or in a newspaper of general circulation.

23 **APPROVED.**