

# HOUSE BILL NO. 5019

June 15, 2021, Introduced by Reps. Whitsett, Yancey, Aiyash, Morse, Brabec, Sowerby, Hertel, Brixie, O'Neal, Rogers, Stone, Bolden, Brenda Carter, Thanedar, Cynthia Johnson, Rabhi, Young, Kuppa and Jones and referred to the Committee on Government Operations.

A bill to provide for the use by law enforcement officers of cameras worn on the body; to require the retention and provide for the production by law enforcement agencies of recordings made using the cameras; to create certain presumptions in a court proceeding; to provide for the reimbursement of certain costs to local law enforcement agencies; and to provide for the powers and duties of certain state and local governmental officers and entities.

## **THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

**1**           Sec. 1. This act shall be known and may be cited as the "law

1 enforcement body-worn camera act".

2 Sec. 2. As used in this act:

3 (a) "A device that uses electro-muscular disruption  
4 technology" means that term as defined in section 224a of the  
5 Michigan penal code, 1931 PA 328, MCL 750.224a.

6 (b) "Department" means the department of state police.

7 (c) "Law enforcement agency" means an entity that is  
8 established and maintained in accordance with the laws of this  
9 state and is authorized by the laws of this state to appoint or  
10 employ law enforcement officers.

11 (d) "Law enforcement officer" means that term as defined in  
12 section 2 of the Michigan commission on law enforcement standards  
13 act, 1965 PA 203, MCL 28.602.

14 (e) "Person" means an individual, partnership, corporation,  
15 association, governmental entity, or other legal entity.

16 Sec. 3. (1) A law enforcement officer who, as part of his or  
17 her duties, is required to carry a firearm or a device that uses  
18 electro-muscular disruption technology and is required to wear a  
19 uniform shall wear a body-worn camera and record the events that  
20 occur while he or she is on duty with the body-worn camera.

21 (2) Subject to subsections (3) and (6), a law enforcement  
22 officer required to wear a body-worn camera under subsection (1)  
23 shall activate the recording function of the body-worn camera  
24 whenever the officer is on duty, continuously record with the body-  
25 worn camera, and make his or her best effort to record interactions  
26 with other individuals with the body-worn camera.

27 (3) A law enforcement officer may temporarily stop recording  
28 with a body-worn camera when the officer is engaged in a personal  
29 matter, such as a personal conversation or using the bathroom.

1 (4) A law enforcement officer shall read, agree to, and sign a  
2 written waiver that consists of a consent to be filmed by a body-  
3 worn camera and an acknowledgment of the requirements of this act  
4 and the related policies of the law enforcement agency by which the  
5 law enforcement officer is employed.

6 (5) As practicable, a law enforcement officer required to wear  
7 a body-worn camera under subsection (1) shall notify another  
8 individual if the individual is being recorded by the camera.

9 (6) When entering a residence under nonexigent circumstances,  
10 a law enforcement officer shall ask the residents whether they want  
11 the officer to stop recording with the body-worn camera while in  
12 the residence. The officer shall record the exchange to document  
13 the wishes of the residents.

14 Sec. 4. A law enforcement agency or law enforcement officer  
15 shall not allow a computerized facial recognition program or  
16 application to be used with a body-worn camera or a recording made  
17 by a body-worn camera unless the use has been authorized by a  
18 warrant issued by a court.

19 Sec. 5. (1) A law enforcement agency shall retain video and  
20 audio recorded by a body-worn camera under this act for 2 weeks,  
21 unless subsection (2) applies.

22 (2) A law enforcement agency shall retain video and audio  
23 recorded by a body-worn camera under this act for 3 years if any of  
24 the following apply:

25 (a) The recording is of an incident involving the use of  
26 force.

27 (b) The recording is of an incident that leads to detention or  
28 arrest of an individual.

29 (c) The recording is relevant to a formal or informal

1 complaint against a law enforcement officer or the law enforcement  
2 agency.

3 (d) A request regarding the recording has been made under  
4 subsection (4).

5 (e) A request for a copy of the recording has been made under  
6 section 6(1).

7 (3) A law enforcement agency shall post on the law enforcement  
8 agency's public website its policies relating to the retention of  
9 recordings made by body-worn cameras under this act, requests for  
10 the retention of the recordings, and requests for copies of the  
11 recordings.

12 (4) A person described in subsection (6) may request that a  
13 recording made by a body-worn camera under this act be retained  
14 under subsection (2). It is not necessary for the person to file a  
15 complaint or for there to be a related open investigation for the  
16 person to make a request under this subsection.

17 (5) If evidence that may be useful in a criminal prosecution  
18 is obtained from a recording made by a body-worn camera under this  
19 act, the law enforcement agency shall retain the recording for any  
20 time in addition to the time periods under subsections (1) and (2)  
21 and in the same manner as is required by law for other evidence  
22 that may be useful in a criminal prosecution.

23 (6) Any of the following may make a request under subsection  
24 (4) or section 6(1):

25 (a) An individual who is a subject of the recording.

26 (b) A person whose property has been seized or damaged in  
27 relation to, or is otherwise involved with, a crime to which the  
28 recording is related.

29 (c) A parent of an individual described in subdivision (a) or

1 (b) .

2 (d) A legal guardian of an individual described in subdivision  
3 (a) or (b) .

4 (e) An attorney for a person described in subdivision (a) or  
5 (b) .

6 (f) A person not described in subdivisions (c) to (e) that a  
7 person described in subdivision (a) or (b) has given the authority  
8 in writing to make the request.

9 Sec. 6. (1) A person described in section 5(6) may request a  
10 copy of a recording made by a body-worn camera under this act. The  
11 law enforcement agency shall provide the individual with a copy of  
12 the requested recording.

13 (2) An individual who is not the subject of a recording made  
14 by a body-worn camera under this act may request a copy of the  
15 recording. If the individuals who are the subjects of the recording  
16 consent, the law enforcement agency shall provide the individual  
17 who is not the subject of the recording but who made the request  
18 under this subsection with a copy of the requested recording. If  
19 the individuals who are the subjects of the recording do not  
20 consent, the recording is not a public record and is not subject to  
21 disclosure under the freedom of information act, 1976 PA 442, MCL  
22 15.231 to 15.246.

23 Sec. 7. Before deleting or otherwise disposing of a recording  
24 made by a body-worn camera under this act, an individual who has  
25 the responsibility on behalf of the law enforcement agency of  
26 deleting or disposing of the recording shall review all applicable  
27 and available records, files, and databases to ascertain whether  
28 there is any reason why the recording cannot be deleted or disposed  
29 of under this act or the policies of the law enforcement agency.

1 The individual shall not delete or dispose of the recording if he  
2 or she ascertains that there is any such reason.

3 Sec. 8. If, in connection with a criminal prosecution or civil  
4 action, a law enforcement agency is unable to produce a recording  
5 that is required to be made and retained under this act, there is a  
6 presumption that the recording would corroborate the version of the  
7 facts advanced by the defendant in a criminal action or the party  
8 opposing the law enforcement officer or law enforcement agency in a  
9 civil action.

10 Sec. 9. (1) A local or county law enforcement agency may  
11 request that the department reimburse the agency for the cost of  
12 purchasing equipment, or any other expense incurred, to implement  
13 this act.

14 (2) The department shall reimburse a local or county law  
15 enforcement agency for reasonable costs contained in a request for  
16 reimbursement under subsection (1).

17 (3) The department may adopt guidelines under the  
18 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
19 24.328, to cover the submission and payment of requests for  
20 reimbursement under this section.