

1 AN ACT relating to body cameras.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 61.168 is amended to read as follows:

4 (1) As used in this section:

5 (a) "Body-worn camera" means a video or audio electronic recording device that  
6 is carried by or worn on the body of a public safety officer. This definition  
7 does not include a dashboard mounted camera or recording device used in the  
8 course of clandestine investigations;

9 (b) "Body-worn camera recording" or "recording" means a video or audio  
10 recording, or both, that is made by a body-worn camera during the course of a  
11 public safety officer's official duties;

12 (c) "Personal representative" means a court-appointed guardian, attorney, or agent  
13 possessing written authorization to act on behalf of a person that is involved in  
14 an incident contained in a body-worn camera recording, a person holding a  
15 power of attorney for a person that is involved in an incident contained in a  
16 body-worn camera recording, or the parent or guardian of a minor child  
17 depicted in a body-worn camera recording. If a person depicted in the  
18 recording is deceased, the term also means the personal representative of the  
19 estate of the deceased person, the deceased person's surviving spouse, parent,  
20 or adult child, the deceased person's attorney, or the parent or guardian of a  
21 surviving minor child of the deceased;

22 (d) "Public agency" has the same meaning as in KRS 61.870(1);

23 (e) "Public safety officer" means any individual that is an employee of a public  
24 agency who is certified as a first responder under KRS Chapter 311A or  
25 whose employment duties include law enforcement or firefighting activities;  
26 and

27 (f) "Use of force" means any action by a public safety officer that results in death,

1 physical injury as defined in KRS 500.080(13), discharge of a personal body  
2 weapon, chemical agent, impact weapon, extended range impact weapon,  
3 sonic weapon, sensory weapon, conducted energy weapon, or a firearm, or  
4 involves the intentional pointing of a public safety officer's firearm at a  
5 member of the public.

6 (2) Except as provided in this section, the disclosure of body-worn camera recordings  
7 shall be governed by the Kentucky Open Records Act, as set forth in KRS 61.870 to  
8 61.884.

9 (3) The retention of body-worn camera video recordings shall be governed by KRS  
10 171.410 to 171.740, and the administrative regulations promulgated by the  
11 Kentucky Department of Libraries and Archives.

12 (4) Notwithstanding KRS 61.878(4), unless the request meets the criteria provided  
13 under subsection (5) of this section, a public agency may elect not to disclose body-  
14 worn camera recordings containing video or audio footage that:

15 (a) Includes the interior of a place of a private residence where there is a  
16 reasonable expectation of privacy, unless the legal owner or lessee with legal  
17 possession of the residence requests in writing that the release be governed  
18 solely under the provisions of KRS 61.870 to 61.884;

19 (b) Includes the areas inside of a medical facility, counseling, or therapeutic  
20 program office where a patient is registered to receive treatment, receiving  
21 treatment, waiting for treatment, or being transported in the course of  
22 treatment;

23 (c) Would disclose health care information shared with patients, their families, or  
24 with a patient's care team or that is considered protected health information  
25 under the Health Insurance Portability and Accountability Act of 1996;

26 (d) Includes the areas inside of a correctional facility when disclosure would  
27 reveal details of the facility that would jeopardize the safety, security, or well-

- 1           being of those in custody, the staff of the correctional facility, or law  
2           enforcement officers;
- 3           (e) Is of a sexual nature or video footage that contains nude images of an  
4           individual's genitals, pubic area, anus, or the female nipple;
- 5           (f) Is of a minor child, including but not limited to footage involving juvenile  
6           custody matters;
- 7           (g) Includes the body of a deceased individual;
- 8           (h) Would reveal the identity of witnesses, confidential law enforcement  
9           informants, or undercover law enforcement officers, or if the release could  
10          jeopardize the safety, security, or well-being of a witness or confidential  
11          informant;
- 12          (i) Would reveal the location information of a domestic violence program or  
13          emergency shelter;
- 14          (j) Would reveal information related to schools, colleges, and universities that is  
15          protected by the federal Family Educational Rights and Privacy Act;
- 16          (k) Would result in the disclosure of nonpublic or confidential data classified as  
17          Criminal Justice Information Services data by the Federal Bureau of  
18          Investigation;
- 19          (l) Includes a public safety officer carrying out duties directly related to the  
20          hospitalization of persons considered mentally ill;
- 21          (m) Includes the depiction of the serious injury or death of a public safety officer;  
22          or
- 23          (n) Includes footage made in conjunction with a law enforcement exercise that  
24          includes special response team actions, hostage negotiations, or training  
25          events, but only where the public release of tactics, operational protocol, or  
26          methodology would disadvantage the capability of public safety officers to  
27          successfully respond in emergency or other dangerous situations.

- 1 (5) If the recording contains video or audio footage that:
- 2 (a) Depicts an encounter between a public safety officer where there is a use of  
3 force, the disclosure of the record shall be governed solely by the provisions  
4 of KRS 61.870 to 61.884, including all of the exceptions contained therein;
- 5 (b) Depicts an incident which leads to the detention or arrest of an individual or  
6 individuals, the disclosure of the record shall be governed solely by the  
7 provisions of KRS 61.870 to 61.884, including all of the exceptions contained  
8 therein;
- 9 (c) Depicts an incident which is the subject of a formal complaint submitted  
10 against a public safety officer under KRS 15.520, 67C.326, or 95.450, or  
11 depicts an incident which is the subject of a formal legal or administrative  
12 complaint against the agency employing the public safety officer, the release  
13 of the record shall be governed by the provisions of KRS 61.870 to 61.884,  
14 including all of the exceptions contained therein; or
- 15 (d) Is requested by a person or other entity or the personal representative of a  
16 person or entity that is directly involved in the incident contained in the body-  
17 worn camera recording, it shall be made available by the public agency to the  
18 requesting party for viewing on the premises of the public agency, but the  
19 public agency shall not be required to make a copy of the recording except as  
20 provided in KRS 61.169. The requesting parties shall not be limited in the  
21 number of times they may view the recording under this paragraph.
- 22 (6) Nothing in this section or KRS 61.169 shall be interpreted to override any provision  
23 related to:
- 24 (a) Reports by law enforcement officers and criminal justice agencies under KRS  
25 17.150;
- 26 (b) The law and rules governing discovery or the submission and display of  
27 evidence in any court proceeding, whether criminal or civil, or any

1 administrative proceeding; or

2 (c) The provisions of KRS 189A.100.

3 **(7) Notwithstanding the provisions of this section, it shall be a Class D felony for a**  
4 **law enforcement officer to operate a body-worn camera in a manner intended to**  
5 **prevent the creation of evidence with the intent to obstruct justice.**