

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SB 248

INTRODUCER: Senators Smith and Thompson

SUBJECT: Recording of Law Enforcement Activities

DATE: February 13, 2015 REVISED: 02/16/15

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Cannon	CJ	Pre-meeting
2.			CA	
3.			ACJ	
4.			AP	

I. Summary:

SB 248 requires every uniformed officer in this state who is primarily assigned to patrol duties to be equipped with a body camera while performing those duties. The camera must be used by the officer to record activities that take place during motor vehicle stops or other law enforcement actions taken during the course of the officer’s duties.

The bill also provides that ch. 934, F.S., which addresses interception of communications (i.e. “wiretapping”), does not apply to these body camera recordings.¹

II. Present Situation:

Body-Worn Cameras (BWCs) or “body cameras” are currently being used or considered for use by many law enforcement agencies. “BWCs are mobile audio and video capture devices that allow officers to record what they see and hear. Devices can be attached to various body areas, including the head, by helmet, glasses or other means, or to the body by pocket, badge, or other means of attachment (such as in-car on the dash). They have the capability to record officer interactions that previously could only be captured by in-car or interrogation room camera systems.”²

¹ Section 934.03(2)(f), F.S., provides that it is lawful under s. 934.03-934.09, F.S., for an investigative or law enforcement officer or a person acting under the direction of an investigative or law enforcement officer to intercept a wire, oral, or electronic communication when such person is a party to the communication or one of the parties to the communication has given prior consent to such interception and the purpose of such interception is to obtain evidence of a criminal act.

² Sensor, Surveillance, and Biometric Technologies Center of Excellence. September 2012. *A Primer on Body-Worn Cameras for Law Enforcement*. National Institute of Justice. The quoted text is from page 5 of the report, which is available at <https://www.justnet.org/pdf/00-Body-Worn-Cameras-508.pdf>.

The Florida Police Chiefs Association is aware of 13 Florida police departments that currently use BWCs³ and 9 Florida police departments that have implemented pilot programs to test the use of BWCs.⁴ The media have reported that the Flagler County Sheriff's Office is using BWCs⁵ and the Pasco County Sheriff has indicated an intent to purchase BWCs.⁶ Other Florida sheriffs' offices may be considering whether to use BWCs.

On December 1, 2014, the White House announced that President Barack Obama was proposing "a three-year \$263 million investment package that will increase use of body-worn cameras, expand training for law enforcement agencies (LEAs), add more resources for police department reform, and multiply the number of cities where DOJ facilitates community and local LEA engagement. As part of this initiative, a new Body Worn Camera Partnership Program would provide a 50 percent match to States/localities who purchase body worn cameras and requisite storage. Overall, the proposed \$75 million investment over three years could help purchase 50,000 body worn cameras."⁷

Some police agencies that use BWCs have stated that BWCs are "useful for documenting evidence; officer training; preventing and resolving complaints brought by members of the public; and strengthening police transparency, performance, and accountability."⁸ However, the use of BWCs "also raises important questions about privacy⁹ and trust" and "many practical policy issues, including the significant financial costs of deploying cameras and storing recording data, training requirements, and rules and systems that must be adopted to ensure that body-worn camera video cannot be accessed for improper reasons."¹⁰ "The technology also impacts other stakeholders outside the law enforcement agency, including the prosecutor's office, defense attorneys, and the courts."¹¹

³ Police departments: Eustis; City of Miami; Cocoa; Daytona Beach; Daytona Beach Shores; Florida State University (motorcycle officers); Gulfport; Palm Bay (SWAT Officers); Pensacola; West Melbourne; Windermere; Miami Beach; and Rockledge.

⁴ Police departments: Clearwater; Ft. Myers; Marianna; Orlando (University of South Florida study); Plant City; Sarasota; St. Petersburg; Tampa; and West Palm Beach.

⁵ Metz, Claire. "Flagler County deputies fitted with new body cameras." WESH.com (Orlando). August 28, 2014. The news broadcast video is available at <http://www.wesh.com/flagler-county-deputies-fitted-with-new-body-cameras/27779830>.

⁶ Behrman, Elizabeth. "Local law enforcement split on body cameras." *The Tampa Tribune*. December 14, 2014. The article is available at <http://tbo.com/news/crime/-20141226/>.

⁷ "FACT SHEET: Strengthening Community Policing," Office of the Press Secretary, The White House. December 1, 2014. The document is available at <http://www.whitehouse.gov/the-press-office/2014/12/01/fact-sheet-strengthening-community-policing>.

⁸ Miller, Lindsay, Jessica Toliver, and Police Executive Research Forum. 2014. *Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned*. Washington, DC: Office of Community Oriented Policing Services. The quoted text is from page 1 of the report, which is available at <http://www.justice.gov/iso/opa/resources/472014912134715246869.pdf>.

⁹ *Id.* Questions about privacy are especially important in Florida, which has broad public records laws. While some information in BWC recordings may be exempt under existing laws (e.g., information in the recordings that is active criminal intelligence information or active criminal investigative information) other information in the recordings may be subject to public disclosure.

¹⁰ See footnote 8.

¹¹ White, Michael D. 2014. *Police Officer Body-Worn Cameras: Assessing the Evidence*. Washington, D.C.: Office of Community Oriented Policing Services. The quoted text is from page 9 of the report, which is available at <https://ojpdiagnosticcenter.org/sites/default/files/spotlight/download/Police%20Officer%20Body-Worn%20Cameras.pdf>.

III. Effect of Proposed Changes:

The bill provides that the act may cited as the “Police and Citizen Protection Act.”

The bill requires every uniformed officer in this state who is primarily assigned to patrol duties to be equipped with a body camera while performing those duties. The camera must be used by the officer to record activities that take place during motor vehicle stops or other law enforcement actions taken during the course of the officer’s duties.

The bill also provides that ch. 934, F.S., which addresses interception of communications (i.e. “wiretapping”), does not apply to these body camera recordings.¹²

The bill takes effect July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, Section 18 of the Florida Constitution (the “mandates” provision) restricts the state’s ability to: (1) require local governments to spend money; (2) reduce local government authority to raise revenues; and (3) reduce local governments’ share of state taxes. Subsection (d) of Section 18 provides a “criminal law” exemption from the requirements of Section 18. The bill would effectively require all local law enforcement agencies (and any state law enforcement agency that has officers who perform patrol duties) to purchase BWCs. BWCs are useful in obtaining and documenting evidence of criminal activity. This evidence might be used to establish probable cause to make an arrest. If a charge results from the arrest, this evidence might be used in prosecution of the charged violation.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

¹² Section 934.03(2)(f), F.S., provides that it is lawful under s. 934.03-934.09, F.S., for an investigative or law enforcement officer or a person acting under the direction of an investigative or law enforcement officer to intercept a wire, oral, or electronic communication when such person is a party to the communication or one of the parties to the communication has given prior consent to such interception and the purpose of such interception is to obtain evidence of a criminal act.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill would have a fiscal impact on local enforcement agencies (and any state law enforcement agency that has officers who perform patrol duties) because the bill requires every uniformed officer in this state who is primarily assigned to patrol duties to be equipped with a body camera while performing those duties. This fiscal impact has not been determined. To the extent federal funding is available to an agency, this funding would offset some of the costs of implementing a BWC program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 943.1718 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.