

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: CS/SB 624

INTRODUCER: Criminal Justice Committee and Senator Steube

SUBJECT: Body Cameras

DATE: March 7, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Hrdlicka	CJ	Fav/CS
2.			JU	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 624 requires a law enforcement agency to include a provision in its body camera policies and procedures for a law enforcement officer using a body camera to review the body camera footage.

Section 943.1718, F.S., requires a law enforcement agency using body cameras to establish certain policies and procedures. However, Florida law does not require agencies to use body cameras or address whether a law enforcement officer may review body camera footage prior to writing a report or making a statement about the incident.

Specifically, the bill provides a law enforcement officer using a body camera with the ability to review the body camera footage before:

- Writing a report; or
- Providing a statement regarding an event arising within the scope of his or her official duties.

The bill prohibits a law enforcement officer using a body camera to review the body camera footage before providing information at the scene of an incident for the sole purposes of identifying and preserving the crime scene and identifying witnesses and suspects.

The bill is effective July 1, 2017.

II. Present Situation:

Body Cameras

A body camera is a portable electronic recording device that is worn on a law enforcement officer's person that records audio and video data of the officer's law-enforcement-related encounters and activities.¹ Body cameras are currently being used or considered for use by many law enforcement agencies.

Annually, the Criminal Justice Standards and Training Commission compiles the Criminal Justice Agency Profile Report, which provides compensation and benefit information for the 399 criminal justice agencies in Florida.² The 2015 report shows 91 of the 382 responding agencies reported using body cameras and the 2016 preliminary report shows that 107 of the 368 responding agencies reported using body cameras.³

Officer Review of Body Camera Footage

The use of body cameras has raised numerous policy questions within the law enforcement community. A 2014 report from the Police Executive Research Forum explored these policy concerns and made specific recommendations. One recommendation was to allow a law enforcement officer to review the body camera footage of an incident before making a statement about the incident. The report found that allowing officers to review the body camera footage provides the best evidence of the incident in question.⁴

Lexipol provides state specific training to public safety organizations and hosted a webinar on the issue of whether an officer should be allowed to view the body camera footage before making a statement.⁵ The webinar featured a PowerPoint presentation of the opposing views of an officer viewing body camera footage prior to making a statement.⁶

The presentation noted that a video is not always an accurate representation of the incident because it does not always show the fear of the officer or the force that occurred during the incident.⁷ However, viewing the video after the incident can assist the officer with memory recall of what occurred.⁸ The webinar also opined that an officer who views body camera footage

¹ Section 943.1718(1)(a), F.S.

² Florida Department of Law Enforcement, *Criminal Justice Agency Profile Survey Results*, available at <http://www.fdle.state.fl.us/cms/CJSTC/Publications/CJAP/CJAP.aspx> (last visited February 27, 2017).

³ Email from Ronald Draa, Director of External Affairs, Florida Department of Law Enforcement, to Senate Criminal Justice Committee staff, (February 28, 2017) (on file with the Senate Criminal Justice Committee).

⁴ Community Oriented Policing Services, U.S. Department of Justice, Police Executive Research Forum, *Implementing a Body-Worn Camera Program, Recommendations and Lessons Learned*, pp. v. and 29, (2014), available at <https://ric-zai-inc.com/Publications/cops-p296-pub.pdf> (last visited February 27, 2017).

⁵ Lexipol, *About Lexipol, Public Safety Organization Policies and Resources*, available at <http://www.lexipol.com/about-us/> (last visited February 27, 2017) and Lexipol, *Officer Viewing of Body Worn Camera Footage*, available at <http://www.lexipol.com/body-worn-camera-webinar/> (last visited February 27, 2017).

⁶ Ken Wallentine, Laura Scarry, and Grant Federicks, Lexipol, *Point/Counterpoint: The Debate Over Officer Viewing of BWC Video*, December 12, 2016, available at <http://www.lexipol.com/wp-content/uploads/2016/11/BWC-Video-Viewing.pdf> (last visited February 27, 2017).

⁷ *Id.* at p. 5-6.

⁸ *Id.* at 17.

before writing a report could make themselves more susceptible to scrutiny because there could be a perception that the officer changed his account.⁹

Other States

Thirty states and the District of Columbia have created laws governing body cameras.¹⁰ Some states have laws addressing whether a law enforcement officer can view body camera footage prior to writing a report or making a statement.¹¹ For example, in Texas a law enforcement agency that uses body cameras must have policies that ensure an officer access to any recording of the incident prior to making a statement.¹²

In Connecticut, an officer may view the body camera footage when writing his or her police report. If an officer has to give a formal statement about his or her use of force or is the subject of a disciplinary investigation, the officer may view the body camera footage. The officer also has the right to view the body camera footage with an attorney or labor representative present and to review recordings of the incident from other body cameras that captured the officer's image or voice.¹³

Section 943.1718, F.S., requires a law enforcement agency using body cameras to establish certain policies and procedures. However, Florida law does not require agencies to use body cameras or address whether a law enforcement officer may review body camera footage prior to writing a report or making a statement about the incident.

Section 943.1718, F.S., Body Camera Policies and Procedure

Section 943.1718, F.S., requires a law enforcement agency using body cameras to establish policies and procedures addressing the proper use, maintenance, and storage of body cameras and the data recorded by body cameras. The policies and procedures must include:

- General guidelines for the proper use, maintenance, and storage of body cameras;
- Any limitations on which law enforcement officers are permitted to wear body cameras;
- Any limitations on law-enforcement-related encounters and activities in which law enforcement officers are permitted to wear body cameras; and
- General guidelines for the proper storage, retention, and release of audio and video data recorded by body cameras.

III. Effect of Proposed Changes:

The bill requires a law enforcement agency to include a provision in its body camera policies and procedures for a law enforcement officer to review body camera footage. Specifically, the bill

⁹ *Id.* at 19.

¹⁰ National Conference of State Legislatures, BODY-WORN CAMERAS INTERACTIVE GRAPHIC, *State Body-Worn Camera Laws*, August 20, 2016, available at <http://www.ncsl.org/research/civil-and-criminal-justice/body-worn-cameras-interactive-graphic.aspx> (last visited February 27, 2017).

¹¹ National Conference of State Legislatures, BODY-WORN CAMERAS INTERACTIVE GRAPHIC, *Body Camera Laws, Search by State, Select a specific state to view its body camera laws*, available at <http://www.ncsl.org/research/civil-and-criminal-justice/body-worn-cameras-interactive-graphic.aspx#/> (last visited February 27, 2017).

¹² Tex. Occ. Code s. 1701.655(b)(5).

¹³ Conn. Gen. Stat. Ann. s. 29-6d(e) and (f).

provides a law enforcement officer using a body camera with the ability to review the body camera footage before:

- Writing a report; or
- Providing a statement regarding an event arising within the scope of his or her official duties.

The bill prohibits a law enforcement officer using a body camera to review the body camera footage before providing information at the scene of an incident for the sole purposes of identifying and preserving the crime scene and identifying witnesses and suspects.

The bill is effective July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill allows *a law enforcement officer using a body camera* to review *the body camera footage*. This excludes officers not wearing body cameras from reviewing body camera footage. It is also unclear if a law enforcement officer using a body camera can review the body camera footage from other officers wearing body cameras.

VIII. Statutes Affected:

This bill substantially amends section 943.1718 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Criminal Justice on March 6, 2017:

The committee substitute:

- Requires a “provision” instead of “general guidelines” by law enforcement using body cameras;
- Limits the review of footage to law enforcement officers using body cameras;
- Allows the law enforcement officer to view the body camera footage instead of “relevant audio and video recordings”;
- Specifies that the law enforcement officer can review the body camera footage for incidents within the scope of the officer’s official duties instead of incidents in which the officer was involved; and
- Prohibits a law enforcement officer using a body camera to review the body camera footage before providing information at the scene of an incident for the sole purposes of identifying and preserving the crime scene and identifying witnesses and suspects.

- B. **Amendments:**

None.