



Ohio Legislative Service Commission

Bill Analysis

Jeff Hobday

H.B. 585

131st General Assembly
(As Introduced)

Rep. Antani

BILL SUMMARY

- Provides that any record created by a body camera worn by a law enforcement officer is a public record, subject to certain exceptions.
- Generally exempts from disclosure under the Public Records Law any record created by a body camera in a residence or an area of nonresidential private property that is inaccessible or closed to the public.
- Permits the person who resides at a residence where a body camera record was created to obtain a copy of the record, provided the person was a party to the record.
- Generally exempts from disclosure any body camera record that involves a minor or victim of a violent sex offense, menacing by stalking, human trafficking, or domestic violence.
- Exempts from disclosure any audio or video recording of a rape or an officer's conversation with a rape victim while at a medical facility for evidence collection.
- Specifies circumstances in which a body camera record that is not a public record may become public after a conviction or juvenile delinquency adjudication.
- Permits redaction of any portion of a body camera record that contains private information or information that is not relevant to the offense or delinquent act.
- Requires the local record commission to retain body camera records for at least one year and longer if required by the law enforcement agency's retention schedule.

CONTENT AND OPERATION

Application of Public Records Law to body camera records

Ohio's Public Records Law requires a public office or person responsible for public records, upon request, to promptly prepare the public record and make it available to the requester for inspection or copying. The bill provides that a record created by a body camera is generally a public record, subject to the exceptions described below.¹

A "body camera" is defined in the bill as a portable electronic device that is worn or carried by a law enforcement officer while on duty and that records audio and video data. The term "body camera" does not include a recording device attached to a motor vehicle used by a law enforcement officer or agency. As used in the bill, "law enforcement officer" means a sheriff, deputy sheriff, constable, police officer of a township or joint police district or township police force, marshal, deputy marshal, municipal police officer, state university law enforcement officer, or state highway patrol trooper.²

Exemptions from public disclosure

Records involving private property

The bill provides that a record created by a body camera in a residence where the subject of the record has a reasonable expectation of privacy is generally not a public record. As used in the bill, "residence" means a structure or part of a structure used as an individual's permanent or temporary dwelling, including a private home, condominium, apartment, mobile home, public housing, or a room in a dormitory, hotel, hospital, or nursing home. Also, a record created by a body camera in an area of nonresidential private property that is not publicly accessible, or to which access is restricted, is generally not a public record.³

Under the bill, a body camera record that is not public due to the property on which it was recorded, as described in the preceding paragraph, becomes a public record after a person's conviction or guilty plea to an offense, or a child's adjudication as a delinquent child for an act that would be an offense if committed by an adult, if the record is relevant to the offense or act. However, the record does not become public if it

¹ R.C. 149.43, not in the bill, and 149.436(B).

² R.C. 149.436(A)(1) and (4).

³ R.C. 149.436(A)(7) and (C)(1)(a) and (b).



is a confidential law enforcement investigatory record, which is defined in existing Public Records Law.⁴

If the body camera record contains personal information or information that is not relevant to the offense or act, then any information to which a person has a reasonable expectation of privacy or that could compromise the privacy of the property owner, lessee, or occupant is exempt from public disclosure and must be redacted if the record is released. "Personal information" includes an individual's social security number, federal tax identification number, financial account numbers, medical records, and personal identification numbers, passwords, or usernames. Under existing law, unchanged by the bill, the public office or person responsible for the public record must notify the requester of a public record of any redaction or make the redaction plainly visible.⁵

If a record was created by body camera in a residence, the law enforcement agency must provide a copy of the record to the owner of the residence, if the owner resides there, or to a lessee or occupant of the residence, upon request, but only if that person or the person's dependent was a party to the record.⁶

Records involving a minor or crime victim

The bill states that a body camera record is generally not a public record if it contains audio or video data of a person under age 18 or a victim of a violent sex offense, menacing by stalking, human trafficking, or domestic violence. The record becomes a public record after a person's conviction or guilty plea to an offense, or a child's adjudication as a delinquent child for an act that would be an offense if committed by an adult, if the record is relevant to the offense or act, unless it is a confidential law enforcement investigatory record. If the record contains personal information or information that is not relevant to the offense or act, then any information to which a person has a reasonable expectation of privacy or that could compromise the privacy of the victim or minor is exempt from public disclosure and must be redacted if the record is released.⁷

For purposes of the bill, "violent sex offense" means rape, sexual battery, unlawful sexual conduct with a minor, gross sexual imposition that involves compelled

⁴ R.C. 149.43(A)(2), not in the bill, and 149.436(C)(2).

⁵ R.C. 149.43(B)(1), not in the bill, and 149.436(A)(6) and (C)(2).

⁶ R.C. 149.436(C)(3).

⁷ R.C. 149.436(D).



sexual contact or a victim who is less than 13 years old, or sexual imposition that involves a victim between ages 13 and 16.⁸

Records involving rape

The bill provides that an audio or video recording of a rape that is in the possession of a county, municipal corporation, or township records commission or law enforcement agency is not a public record. In addition, a recording of a law enforcement officer's conversation with a rape victim that is recorded while the victim is at a medical facility for evidence collection is exempt from public disclosure.⁹

Record retention

The bill requires the records commission of a county, municipality, or township to retain body camera records. The records commission must develop a policy or rules for record retention and submit the policy or rules to the Attorney General. Body camera records must be retained for at least one year. If the law enforcement agency that provided the records is subject to a records retention schedule requiring a longer period of retention, the records commission must comply with that schedule.¹⁰

HISTORY

ACTION	DATE
Introduced	07-11-16

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⁸ R.C. 149.436(A)(8).

⁹ R.C. 149.436(E).

¹⁰ R.C. 149.436(F).

