

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 797

Short Title: Changes to Current BWC Law. (Public)

Sponsors: Representatives Faircloth and McNeill (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary I

April 13, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE BODY-WORN CAMERA LEGISLATION TO CLARIFY THE
3 DEFINITION OF A DECEASED PERSON AND TO PROVIDE FOR DISCLOSURE TO
4 CITIZEN REVIEW BOARDS.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 132-1.4A reads as rewritten:

7 **"§ 132-1.4A. Law enforcement agency recordings.**

8 (a) Definitions. – The following definitions apply in this section:

- 9 (1) Body-worn camera. – An operational video or digital camera or other
10 electronic device, including a microphone or other mechanism for allowing
11 audio capture, affixed to the uniform or person of law enforcement agency
12 personnel and positioned in a way that allows the camera or device to
13 capture interactions the law enforcement agency personnel has with others.
- 14 (2) Custodial law enforcement agency. – The law enforcement agency that owns
15 or leases or whose personnel operates the equipment that created the
16 recording at the time the recording was made.
- 17 (3) Dashboard camera. – A device or system installed or used in a law
18 enforcement agency vehicle that electronically records images or audio
19 depicting interaction with others by law enforcement agency personnel. This
20 term does not include body-worn cameras.
- 21 (4) Disclose or disclosure. – To make a recording available for viewing or
22 listening to by the person requesting disclosure, at a time and location
23 chosen by the custodial law enforcement agency. This term does not include
24 the release of a recording.
- 25 (5) Personal representative. – A parent, court-appointed guardian, spouse, or
26 attorney of a person whose image or voice is in the recording. If a person
27 whose image or voice is in the recording is deceased, the term also means
28 the personal representative of the estate of the deceased person; the deceased
29 person's surviving spouse, parent, or adult child; the deceased person's
30 attorney; or the parent or guardian of a surviving minor child of the
31 deceased. Deceased person is defined as a person whose image or voice is
32 captured in a recording and was living at the time the recording began and
33 died during or subsequent to the event captured on the recording.
- 34 (6) Recording. – A visual, audio, or visual and audio recording captured by a
35 body-worn camera, a dashboard camera, or any other video or audio



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1 recording device operated by or on behalf of a law enforcement agency or
2 law enforcement agency personnel when carrying out law enforcement
3 responsibilities. This term does not include any video or audio recordings of
4 interviews regarding agency internal investigations or interviews or
5 interrogations of suspects or witnesses.

6 (7) Release. – To provide a copy of a recording.

7 ...

8 (e) Appeal of Disclosure Denial. – If a law enforcement agency denies disclosure
9 pursuant to subsection (d) of this section, or has failed to provide disclosure more than ~~three~~five
10 business days after the request for disclosure, the person seeking disclosure may apply to the
11 superior court in any county where any portion of the recording was made for a review of the
12 denial of disclosure. The court may conduct an in-camera review of the recording. The court
13 may order the disclosure of the recording only if the court finds that the law enforcement
14 agency abused its discretion in denying the request for disclosure. The court may only order
15 disclosure of those portions of the recording that are relevant to the person's request. A person
16 who receives disclosure pursuant to this subsection shall not record or copy the recording. An
17 order issued pursuant to this subsection may not order the release of the recording.

18 In any proceeding pursuant to this subsection, the following persons shall be notified and
19 those persons, or their designated representative, shall be given an opportunity to be heard at
20 any proceeding: (i) the head of the custodial law enforcement agency, (ii) any law enforcement
21 agency personnel whose image or voice is in the recording and the head of that person's
22 employing law enforcement agency, and (iii) the District Attorney. Actions brought pursuant to
23 this subsection shall be set down for hearing as soon as practicable, and subsequent
24 proceedings in such actions shall be accorded priority by the trial and appellate courts.

25 ...

26 (h) Release of Recordings; Law Enforcement Purposes. – Notwithstanding the
27 requirements of subsections (c), (f), and (g) of this section, a custodial law enforcement agency
28 shall disclose or release a recording to a district attorney (i) for review of potential criminal
29 charges, (ii) in order to comply with discovery requirements in a criminal prosecution, (iii) for
30 use in criminal proceedings in district court, or (iv) any other law enforcement purpose, and
31 may disclose or release a recording for any of the following purposes:

32 (1) For law enforcement training purposes.

33 (2) Within the custodial law enforcement agency for any administrative,
34 training, or law enforcement ~~purpose~~purpose, which includes disclosing the
35 recording to the city manager, city council, and any other city board or
36 commission designated by city council to review police matters or
37 complaints against the police offices such as a citizen police review board,
38 provided that the city manager and all members of city council or the city
39 board or commission reviewing the recording have executed, in advance of
40 the disclosure, a confidential statement agreeing to maintain the
41 confidentiality of the recording.

42 (3) To another law enforcement agency for law enforcement purposes.

43 (4) To any person, a limited number of still images, not to exceed 10 images,
44 extracted from a recording for the purpose of identifying a potential criminal
45 suspect. The still images shall depict only the face and/or identifying
46 characteristics of the criminal suspect.

47"

48 **SECTION 2.** G.S. 143-318.11(a) reads as rewritten:

49 **"§ 143-318.11. Closed sessions.**

50 (a) Permitted Purposes. – It is the policy of this State that closed sessions shall be held
51 only when required to permit a public body to act in the public interest as permitted in this

1 section. A public body may hold a closed session and exclude the public only when a closed
2 session is required:

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...

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(10) To view a recording ~~released~~regulated pursuant to G.S. 132-1.4A."

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SECTION 3. This act is effective when it becomes law.