

CHAPTER 214

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 15-1285

BY REPRESENTATIVE(S) Kagan and Williams, Danielson, Foote, Tate, Buckner, Duran, Esgar, Fields, Garnett, Ginal, Kraft-Tharp, Lebsack, Melton, Moreno, Pettersen, Rosenthal, Ryden, Salazar, Young, Hulinghorst; also SENATOR(S) Cooke and Ulibarri, Aguilar, Balmer, Carroll, Heath, Roberts, Steadman.

AN ACT

CONCERNING USE OF BODY-WORN CAMERAS BY LAW ENFORCEMENT OFFICERS, AND, IN CONNECTION THEREWITH, ESTABLISHING A GRANT PROGRAM AND A STUDY GROUP TO RECOMMEND POLICIES ON THE USE OF BODY-WORN CAMERAS AND MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. The general assembly finds and declares that:

(1) The recent emergence of the use of body-worn cameras by law enforcement has had a positive impact on policing throughout the state, and this impact will increase as more law enforcement agencies adopt this technology;

(2) The use of body-worn cameras by law enforcement officers conveys the message to the public that the actions of law officers are a matter of public record and concern;

(3) The use of body-worn cameras can improve evidence collection, strengthen individual officer performance and accountability, enhance the overall transparency of a law enforcement agency, and document encounters between the police and the public to assist in investigation and resolution of complaints and officer-involved incidents;

(4) However, the use of body-worn cameras by law enforcement officers raises important issues about privacy of persons and their personal property and requires consistent answers to questions about their use, including:

(a) When to allow public access to recordings;

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

- (b) When disclosure of recordings can and should be made;
- (c) Whether there should be appropriate limits on use of the publicly disclosed recordings; and
- (d) How, where, and for how long recordings should be stored to maintain the integrity and security of the data;
- (5) Carefully crafted policies on the use of body-worn cameras by law enforcement officers should be developed to address the use of this technology throughout the state;
- (6) The widespread deployment of body-worn cameras by law enforcement without well-designed policies, practices, and training of officers creates the potential for difficult public battles over their use that could undermine public trust in law enforcement rather than increasing support for law enforcement;
- (7) The ability of the public to know and be assured that policies for the use of body-worn cameras by law enforcement officers are well-designed and consistent with the best practices in law enforcement and are fairly implemented is essential to develop community support for their use; and
- (8) Establishing a fund and a grant program within the state to access federal funding and other nongovernmental sources of funding will increase the ability of law enforcement agencies to purchase body-worn cameras for more law enforcement officers.

SECTION 2. In Colorado Revised Statutes, **add 24-33.5-519** as follows:

24-33.5-519. Body-worn cameras for law enforcement officers - grant program - study group - fund - repeal. (1) (a) THERE IS CREATED IN THE DIVISION THE BODY-WORN CAMERA GRANT PROGRAM, REFERRED TO IN THIS SECTION AS THE "GRANT PROGRAM", TO AWARD GRANTS TO LAW ENFORCEMENT AGENCIES TO PURCHASE BODY-WORN CAMERAS, FOR ASSOCIATED DATA RETENTION AND MANAGEMENT COSTS, AND TO TRAIN LAW ENFORCEMENT OFFICERS ON THE USE OF BODY-WORN CAMERAS. THE DIVISION SHALL ADMINISTER THE GRANT PROGRAM PURSUANT TO THIS SECTION. THE DIVISION MAY APPLY FOR GIFTS, GRANTS, OR DONATIONS FROM THE FEDERAL GOVERNMENT AND ANY PUBLIC OR PRIVATE SOURCE. THE DIVISION SHALL TRANSMIT ANY MONEYS RECEIVED TO THE STATE TREASURER FOR DEPOSIT IN THE FUND CREATED PURSUANT TO SUBSECTION (2) OF THIS SECTION. THE DIVISION SHALL MAKE GRANT PAYMENTS FROM GENERAL FUND MONEYS APPROPRIATED TO THE DIVISION BY THE GENERAL ASSEMBLY FOR THE PROGRAM AND MONEYS APPROPRIATED FROM THE FUND.

(b) THE DIVISION SHALL:

(I) SOLICIT AND REVIEW APPLICATIONS FOR GRANTS FROM LAW ENFORCEMENT AGENCIES; AND

(II) SELECT LAW ENFORCEMENT AGENCIES TO RECEIVE GRANTS FROM AGENCIES

THAT HAVE ADOPTED POLICIES, GIVING PREFERENCE TO AGENCIES THAT OTHERWISE LACK MONEYS TO PAY FOR BODY-WORN CAMERAS, FOR ASSOCIATED DATA RETENTION AND MANAGEMENT COSTS, AND TO TRAIN LAW ENFORCEMENT OFFICERS ON THE USE OF BODY-WORN CAMERAS, AND DETERMINE THE AMOUNT OF EACH GRANT.

(2) (a) THERE IS CREATED IN THE STATE TREASURY THE BODY-WORN CAMERA FUND, REFERRED TO IN THIS SECTION AS THE "FUND", CONSISTING OF ANY MONEYS RECEIVED BY THE DIVISION FROM GIFTS, GRANTS, OR DONATIONS FOR THE GRANT PROGRAM. THE MONEYS IN THE FUND ARE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY TO THE DIVISION FOR THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH IMPLEMENTING THE GRANT PROGRAM.

(b) THE STATE TREASURER MAY INVEST ANY MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSE OF THIS SECTION AS PROVIDED BY LAW. THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF A FISCAL YEAR REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANOTHER FUND.

(3) (a) THERE IS CREATED IN THE DIVISION THE BODY-WORN CAMERA STUDY GROUP, REFERRED TO IN THIS SECTION AS THE "STUDY GROUP", TO STUDY POLICIES AND BEST PRACTICES CONCERNING THE USE OF BODY-WORN CAMERAS BY LAW ENFORCEMENT OFFICERS THROUGHOUT THE NATION.

(b) (I) THE STUDY GROUP CONSISTS OF AT LEAST FIFTEEN MEMBERS APPOINTED BY THE EXECUTIVE DIRECTOR, INCLUDING AND LIMITED TO:

- (A) TWO REPRESENTATIVES OF CHIEFS OF POLICE;
- (B) TWO REPRESENTATIVES OF COUNTY SHERIFFS;
- (C) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION OF POLICE OFFICERS;
- (D) A REPRESENTATIVE OF THE DEPARTMENT OF CORRECTIONS;
- (E) A REPRESENTATIVE OF DISTRICT ATTORNEYS;
- (F) THE ATTORNEY GENERAL OR HIS OR HER DESIGNEE;
- (G) THE STATE PUBLIC DEFENDER OR HIS OR HER DESIGNEE;
- (H) A REPRESENTATIVE OF THE PRIVATE CRIMINAL DEFENSE BAR;
- (I) TWO REPRESENTATIVES OF INTERESTED COMMUNITY GROUPS;
- (J) A REPRESENTATIVE OF AN ORGANIZATION THAT ADVOCATES FOR GOVERNMENT TRANSPARENCY;
- (K) A REPRESENTATIVE OF A LEGAL ORGANIZATION SUPPORTING PRIVACY

CONCERNS; AND

(L) UP TO THREE OTHER INTERESTED CITIZENS AT THE DISCRETION OF THE EXECUTIVE DIRECTOR.

(II) THE EXECUTIVE DIRECTOR SHALL CONSIDER RACIAL, CULTURAL, INCOME, AND GEOGRAPHIC DIVERSITY WHEN MAKING APPOINTMENTS TO THE STUDY GROUP.

(III) IF A VACANCY ARISES ON THE STUDY GROUP, THE EXECUTIVE DIRECTOR SHALL APPOINT AN APPROPRIATE REPLACEMENT.

(IV) THE EXECUTIVE DIRECTOR SHALL APPOINT THE MEMBERS OF THE STUDY GROUP ON OR BEFORE AUGUST 1, 2015. THE EXECUTIVE DIRECTOR SHALL APPOINT A CHAIRPERSON OF THE STUDY GROUP WHO SHALL PRESIDE OVER THE STUDY GROUP'S MEETINGS.

(V) MEMBERS OF THE STUDY GROUP SERVE WITHOUT COMPENSATION BUT MAY BE REIMBURSED FOR ACTUAL TRAVEL EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES.

(c) THE STUDY GROUP SHALL:

(I) COLLECT POLICIES AND STUDIES CONCERNING BODY-WORN CAMERAS BY LAW ENFORCEMENT OFFICERS;

(II) STUDY POLICIES AND BEST PRACTICES FOR BODY-WORN CAMERAS BY LAW ENFORCEMENT OFFICERS;

(III) RECOMMEND POLICIES ON THE USE OF BODY-WORN CAMERAS BY LAW ENFORCEMENT OFFICERS FOR ADOPTION BY LAW ENFORCEMENT AGENCIES, INCLUDING:

(A) WHEN CAMERAS ARE REQUIRED TO BE TURNED ON;

(B) WHEN CAMERAS MUST BE TURNED OFF;

(C) WHEN CAMERAS MAY BE TURNED OFF;

(D) WHEN NOTIFICATION MUST BE GIVEN THAT A CAMERA IS IN USE; AND

(E) WHEN CONSENT OF ANOTHER PERSON IS REQUIRED FOR THE CONTINUED USE OF A CAMERA;

(IV) CONSIDER ENFORCEMENT MECHANISMS AND LEGAL REMEDIES AVAILABLE TO THE PUBLIC WHEN A POLICY ADOPTED BY A LAW ENFORCEMENT AGENCY IS NOT FOLLOWED OR WHEN AN AGENCY THAT USES BODY-WORN CAMERAS FAILS TO ADOPT A POLICY ON THE USE OF BODY-WORN CAMERAS BY ITS OFFICERS; AND

(V) SUBMIT A WRITTEN REPORT ON ITS RECOMMENDATIONS TO THE JUDICIARY COMMITTEES OF THE SENATE AND HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, ON OR BEFORE MARCH 1, 2016.

(d) THIS SUBSECTION (3) IS REPEALED, EFFECTIVE JULY 1, 2016.

SECTION 3. Appropriation. For the 2015-16 state fiscal year, \$89,893 is appropriated to the department of public safety for use by the division of criminal justice. This appropriation is from the general fund and is based on an assumption that the division will require an additional 1.0 FTE. To implement this act, the division may use this appropriation for DCJ administrative services.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 20, 2015