

**SENATE BILL No. 361**

By Committee on Judiciary

2-1

1 AN ACT concerning law enforcement; enacting the police and citizen  
2 protection act; relating to use of body cameras by law enforcement  
3 officers; disclosure of recordings; amending K.S.A. 2017 Supp. 45-254  
4 and repealing the existing section.

5  
6 *Be it enacted by the Legislature of the State of Kansas:*

7 New Section 1. (a) Sections 1 through 6, and amendments thereto,  
8 shall be known and may be cited as the police and citizen protection act.

9 (b) As used in this act:

10 (1) "Body camera" means the same as in K.S.A. 2017 Supp. 45-254,  
11 and amendments thereto;

12 (2) "law enforcement officer" means a uniformed law enforcement  
13 officer in this state who is required to use a body camera pursuant to  
14 section 2, and amendments thereto; and

15 (3) "person" means an individual, public or private corporation,  
16 government, partnership or unincorporated association.

17 New Sec. 2. (a) (1) On and after July 1, 2020, every state, county and  
18 municipal law enforcement officer who is primarily assigned to patrol  
19 duties shall be equipped with a body camera while performing such duties.

20 (2) On and after July 1, 2018, if any state, county or municipal law  
21 enforcement officer is equipped with a body camera, the camera shall be  
22 used by the officer to record activities that take place during motor vehicle  
23 stops or other law enforcement actions taken during the course of such  
24 officer's official duties as provided in this section.

25 (b) (1) Except as provided in subsections (b)(3) and (b)(4), a law  
26 enforcement officer shall activate the recording function of the body  
27 camera whenever such officer responds to a call for service or initiates any  
28 other law enforcement encounter and shall make an effort to record  
29 interactions with others with the camera.

30 (2) As practicable, a law enforcement officer shall notify another  
31 person if the person is being recorded by the body camera.

32 (3) A law enforcement officer may choose not to record conversations  
33 with crime witnesses and members of the community who are reporting or  
34 discussing criminal activity and may choose not to record when entering a  
35 residence under nonexigent circumstances.

36 (4) A law enforcement officer shall not record the following: (A)

1 Conversations with confidential informants and undercover officers; (B)  
2 strip searches; (C) conversations with other agency personnel that involve  
3 case tactics or strategies; and (D) interactions in places where a reasonable  
4 expectation of privacy exists, including, but not limited to, bathrooms and  
5 locker rooms.

6 (c) A law enforcement officer shall read, agree to and sign a written  
7 waiver that consists of a consent to be filmed by a body camera and an  
8 acknowledgment of the requirements of the police and citizen protection  
9 act and the related policies of the law enforcement agency by which the  
10 law enforcement officer is employed.

11 (d) The provisions of K.S.A. 22-2514 through 22-2519, and  
12 amendments thereto, relating to the authorized interception of wire, oral or  
13 electronic communications, shall not apply to recordings made by a body  
14 camera as required by the police and citizen protection act.

15 New Sec. 3. A law enforcement agency or law enforcement officer  
16 shall not allow a computerized facial recognition program or application to  
17 be used with a body camera or a recording made by a body camera unless  
18 the use has been authorized by a warrant issued by a court.

19 New Sec. 4. (a) Except as otherwise provided in this section or when  
20 a longer retention period is otherwise required by law, a law enforcement  
21 agency shall retain video and audio recorded by a body camera for four  
22 weeks.

23 (b) Except when a longer retention period is otherwise required by  
24 law, a law enforcement agency shall retain video and audio recorded by a  
25 body camera for three years if any of the following apply:

26 (1) The recording is of an incident involving the use of force;

27 (2) the recording is of an incident that leads to detention or arrest of a  
28 person;

29 (3) the recording is relevant to a formal or informal complaint against  
30 a law enforcement officer or the law enforcement agency; or

31 (4) a request regarding the recording has been made pursuant to the  
32 Kansas open records act.

33 (c) If evidence that may be useful in a criminal prosecution is  
34 obtained from a recording made by a body camera, the law enforcement  
35 agency shall retain the recording for any time in addition to the time period  
36 in subsection (a) or (b) and in the same manner as is required by law for  
37 other evidence that may be useful in a criminal prosecution.

38 (d) A law enforcement agency shall post on the law enforcement  
39 agency's public website its policies and procedures relating to the retention  
40 of recordings made by body cameras, requests for the retention of the  
41 recordings and requests for copies of the recordings.

42 (e) Before deleting or otherwise disposing of a recording made by a  
43 body camera, a person who has the responsibility on behalf of the law

1 enforcement agency of deleting or disposing of the recording shall review  
2 all applicable and available records, files and databases to ascertain  
3 whether there is any reason why the recording cannot be deleted or  
4 disposed of under this section or the policies of the law enforcement  
5 agency. The person shall not delete or dispose of the recording if such  
6 person ascertains that there is any such reason.

7 New Sec. 5. If, in connection with a criminal prosecution or civil  
8 action, a law enforcement agency is unable to produce a recording that is  
9 required to be made and retained under the police and citizen protection  
10 act, there shall be a presumption that the recording would corroborate the  
11 version of the facts advanced by the defendant in a criminal action or the  
12 party opposing the law enforcement officer or law enforcement agency in  
13 a civil action.

14 New Sec. 6. Law enforcement agencies shall seek and accept grants  
15 and other financial assistance that the federal government and other public  
16 or private sources make available to implement the provisions of the police  
17 and citizen protection act.

18 Sec. 7. K.S.A. 2017 Supp. 45-254 is hereby amended to read as  
19 follows: 45-254. (a) Every audio or video recording made and retained by  
20 law enforcement using a body camera or a vehicle camera shall be  
21 considered a criminal investigation record as defined in K.S.A. 45-217,  
22 and amendments thereto. The provisions of this subsection shall expire on  
23 July 1, 2021, unless the legislature reviews and reenacts this provision  
24 pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2021.

25 (b) In addition to any disclosure authorized pursuant to the open  
26 records act, K.S.A. 45-215 et seq., and amendments thereto, a person  
27 described in subsection (c) may request to listen to an audio recording or  
28 to view a video recording made by a body camera or a vehicle camera. The  
29 law enforcement agency shall allow the person to listen to the requested  
30 audio recording or to view the requested video recording *within 24 hours*  
31 *after making the request*, and may charge a reasonable fee for such  
32 services provided by the law enforcement agency.

33 (c) Any of the following may make a request under subsection (b):

34 (1) A person who is a subject of the recording;

35 (2) a parent or legal guardian of a person under 18 years of age who  
36 is a subject of the recording;

37 (3) an attorney for a person described in subsection (c)(1) or (c)(2);  
38 and

39 (4) an heir at law, an executor or an administrator of a decedent, *or*  
40 *an individual who has secured a written release from the next of kin of a*  
41 *decedent*, when the decedent is a subject of the recording.

42 (d) *A law enforcement agency shall disclose any audio or video*  
43 *recording made and retained by the agency using a body camera or a*

1 vehicle camera within five business days after a request is made by any  
2 person, if the recording depicts or describes:

3 (1) The discharge of a firearm by a law enforcement officer in the  
4 course of duty, other than the discharge of a firearm for training purposes,  
5 or the killing of an animal that is sick, injured or dangerous; or

6 (2) the use of force by a law enforcement officer that results in great  
7 bodily harm or death.

8 (e) (1) A law enforcement agency shall redact or obscure specific  
9 portions of any audio or video recording before disclosure that:

10 (A) Depicts the death of a person, a dead body, or clearly visible acts  
11 of severe violence or great bodily harm against a person, unless the death  
12 or act was caused by a law enforcement officer;

13 (B) depicts nudity or sexual conduct as defined in K.S.A. 2017 Supp.  
14 21-6402, and amendments thereto;

15 (C) reveals the identity of any confidential source or undercover  
16 agent;

17 (D) reveals confidential investigative techniques or procedures not  
18 known to the general public;

19 (E) endangers the life or physical safety of any person;

20 (F) reveals the name, address, phone number or any other  
21 information that specifically and individually identifies the victim of any  
22 sexual offense in article 35 of chapter 21 of the Kansas Statutes  
23 Annotated, prior to their repeal, or article 55 of chapter 21 of the Kansas  
24 Statutes Annotated, and amendments thereto;

25 (G) identifies a minor under the age of 16 or undermines the  
26 confidentiality requirements for juvenile records as provided in chapter 38  
27 of the Kansas Statutes Annotated, and amendments thereto;

28 (H) includes confidential medical information or personal  
29 information as defined in K.S.A. 2017 Supp. 50-7a01, and amendments  
30 thereto; or

31 (I) reveals the name or license plate number of a person not arrested,  
32 cited, charged or issued a written warning.

33 (2) This subsection shall not apply to requests made by a person  
34 described in subsection (c).

35 (f) (1) A law enforcement agency may redact or obscure specific  
36 portions of any audio or video recording before disclosure that reveals the  
37 identify of a law enforcement officer who is subject to an internal  
38 investigation as a result of an event depicted in the recording, except as  
39 provided in subsection (f)(2).

40 (2) (A) A law enforcement agency shall not redact the identity of a  
41 law enforcement officer after the agency has concluded the investigation  
42 or rendered a decision as to final disciplinary action, and the records  
43 previously withheld, redacted or obscured under this section shall be made

1 *available for public inspection and copying.*

2 *(B) If such investigation lasts for longer than 270 days, video and*  
3 *audio recordings not disclosed, redacted or obscured under this section*  
4 *shall be made available for public inspection and copying.*

5 (g) As used in this section:

6 (1) "Body camera" means a device that is worn by a law enforcement  
7 officer that electronically records audio or video of such officer's activities.

8 (2) "Heir at law" means: (A) *The spouse of the decedent, if living; (B)*  
9 *if there is no living spouse of the decedent, an adult child of the decedent,*  
10 *if living; or (C) if there is no living spouse or adult child, a parent of the*  
11 *decedent, if living. It shall be the responsibility of the heir at law to show*  
12 *proof of the familial relationship.*

13 (3) "Vehicle camera" means a device that is attached to a law  
14 enforcement vehicle that electronically records audio or video of law  
15 enforcement officers' activities.

16 Sec. 8. K.S.A. 2017 Supp. 45-254 is hereby repealed.

17 Sec. 9. This act shall take effect and be in force from and after its  
18 publication in the statute book.