

HOUSE No. 2120

The Commonwealth of Massachusetts

PRESENTED BY:

Denise Provost

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to establish a taskforce to develop a uniform code for police body-worn cameras and their recordings.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>
<i>Nika C. Elugardo</i>	<i>15th Suffolk</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>
<i>Carlos Gonzalez</i>	<i>10th Hampden</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Bristol and Middlesex</i>
<i>David Allen Robertson</i>	<i>19th Middlesex</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>
<i>José F. Tosado</i>	<i>9th Hampden</i>

HOUSE No. 2120

By Ms. Provost of Somerville, a petition (accompanied by bill, House, No. 2120) of Denise Provost and others for legislation to establish a taskforce on a uniform code for police body-worn cameras and recordings. Public Safety and Homeland Security.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act to establish a taskforce to develop a uniform code for police body-worn cameras and their recordings.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 The General Laws are hereby amended in chapter 6A (2016 official edition) by adding,
2 after section 18C, a new section 18D, as follows:

3 SECTION 1. The Executive Office of Public Safety and Security, in conjunction with
4 the Executive Office of Technology Services and Security, shall, upon passage of this act,
5 establish the Massachusetts Law Enforcement Body Camera Taskforce, as provided herein. The
6 Taskforce shall develop regulations establishing a uniform code for the use of body-worn
7 cameras by Massachusetts law enforcement officers, to provide consistency throughout the
8 Commonwealth. The Taskforce shall adopt minimum requirements for the procurement of, and
9 regulations for the use of, body-worn cameras by law enforcement officers, and for the storage
10 and transfer of audio and video recordings collected through use of this technology.

11 The Taskforce shall conduct a minimum of five public hearings in various parts of the
12 Commonwealth to hear testimony and comments from the public in the course of preparing these
13 regulations. The Taskforce shall prepare for promulgation regulations for standard protocols and
14 procedures for the use of officer body-worn cameras, to ensure that this technology is used in a
15 manner which furthers law enforcement goals while protecting individual privacy and providing
16 uniformity throughout the Commonwealth.

17 SECTION 2. Definitions.

18 As used in this act:

19 (a) “Biometric Data” means any computerized data relating to the physical,
20 physiological or behavioral characteristics of a natural person, which allow or confirm the unique
21 identification of that natural person, including, but not limited to, such techniques as facial
22 recognition; fingerprints; palm veins; DNA; palm prints; hand geometry; or iris recognition.

23 (b) “Body-Worn Camera” means a portable electronic recording device worn on a
24 law enforcement officer’s person, which creates, generates, sends, receives, stores, displays, and
25 processes audiovisual recordings, and/or records audio and video data of law enforcement-
26 related encounters and activities.

27 (c) “Facial Recognition Software” means a category of biometric software that maps
28 an individual’s facial features mathematically and stores the date as a faceprint.

29 (d) “Law Enforcement Agency” means all agencies in Massachusetts with law
30 enforcement officers, including county sheriff’s departments, municipal, special district, hospital
31 or institution of higher education police departments, which have as a primary mission

32 preventing and detecting crime, assuring public safety and security, and enforcing the penal,
33 criminal, traffic and motor vehicle laws of the Commonwealth of Massachusetts.

34 (e) “Law Enforcement Officer” means any sworn officer employed by a Law
35 Enforcement Agency, as defined herein, to exercise police authority, primarily preventing and
36 detecting crime, assuring public safety and security.

37 (f) “Law Enforcement-Related Activities” includes, but are not limited to, traffic
38 stops, pedestrian stops, arrests, searches, interrogations, investigations, pursuits, crowd control,
39 traffic control, non-community caretaking interactions with an individual while on patrol, “Law
40 Enforcement-Related Activities” does not include when the officer is completing paperwork
41 alone or only in the presence of one or more other law enforcement officers or civilian law
42 enforcement personnel.

43 (g) “Recording” means the process of capturing data or information stored on a
44 recording medium.

45 SECTION 3. Composition of Task Force

46 (a) The Massachusetts Law Enforcement Body Camera Taskforce shall consist of the
47 following seventeen members:

48 The Secretary of The Executive Office of Public Safety and Security, or designee;

49 The Secretary of The Executive Office of Technology Services and Security, or designee;

50 (a) The Chair of the House Committee on Judiciary, or designee;

51 (b) The Chair of the Senate Committee on Judiciary, or designee;

- 52 (c) The Attorney General, or designee;
- 53 (d) A representative of the Committee for Public Counsel Services;
- 54 (e) The President of the Massachusetts District Attorney Association, or designee;
- 55 (f) The President of the Massachusetts Chiefs of Police, or designee;
- 56 (g) The President of the Massachusetts Fraternal Order of Police, or designee;
- 57 (h) A district court judge designated by the Chief Justice of the Massachusetts
58 Supreme Judicial Court;
- 59 (i) A representative of the American Civil Liberties Union of Massachusetts,
60 appointed by the Executive Director of the American Civil Liberties Union of Massachusetts;
- 61 (j) A representative of the National Association of the Advancement of Colored
62 People; appointed by the Massachusetts Chapter President;
- 63 (k) A representative of the University of Massachusetts Police Department, appointed
64 by the president of the university;
- 65 (l) The City of the Boston Police Commissioner, or designee;
- 66 (m) The Executive Director of the Massachusetts Municipal Association, or designee;
- 67 (n) The Superintendent of Massachusetts State Police, or designee;
- 68 (o) The Secretary of State of the Commonwealth or designee.

69 (b)The members of the Taskforce shall elect a Chairperson and Vice Chairperson. A
70 meeting of the taskforce may be called by its chairperson, the vice chairperson or 3 of its

71 members. A quorum for the transaction of business shall consist of 7 members. All members of
72 the Taskforce shall serve without compensation. The executive agencies convening the
73 Taskforce shall assign administrative personnel to assist the work of the Taskforce. The
74 Taskforce shall meet at least 12 times during its 18 months of service. In addition to taking
75 public testimony, the Taskforce shall seek the advice of such experts specializing in the fields of
76 criminology, educations, criminal or family law, or other related fields, as deemed appropriate by
77 the membership of the Taskforce. The Taskforce shall consult with legal counsel to determine a
78 retention schedule for recordings which ensures that storage policies and practices are in
79 compliance with all relevant laws and adequately preserve evidentiary chains of custody, and
80 identify potential discovery issues.

81 Section 4: Duties of Taskforce

82 Within 18 months of its creation, the Taskforce shall by majority vote adopt
83 recommended regulations and protocols, to be promulgated by the appropriate executive
84 agencies. The regulations promulgated by the Taskforce shall include at the minimum:

85 (a) standards for the procurement of body-worn cameras and vehicle dashboard
86 cameras by law enforcement agencies including a requirement that such cameras include
87 technology for redacting the images and voices of victims and bystanders, and provide that no
88 technology may be procured which allows for the collection of facial recognition or biometric
89 data; and enter into state procurement contracts through which qualified law enforcement
90 agencies may purchase;

91 (b) prohibitions regarding the collection or use of facial recognition or other
92 biometric matching software or other technology to analyze recordings obtained through the use
93 of these cameras;

94 (c) basic standards for training law enforcement officers in the use of these cameras;

95 (d) specification of which kinds of law enforcement encounters and interactions shall
96 be recorded and what notice, if any, is to be given to those being recorded; when the camera
97 should be activated and when to discontinue recording; require that the camera worn upon a law
98 enforcement officer's person be set to record continuously, beginning when the officer develops
99 reasonable suspicion or probable cause to believe that a crime or violation has occurred, is
100 occurring or will occur, and the law enforcement officer begins to make contact with the person
101 suspected of committing the offense; require that the camera be equipped with pre-event
102 recording, capable of recording at least the 30 seconds prior to camera activation; require that the
103 camera cease recording no sooner than the termination of the officers participation in the contact;
104 provisions preventing officer access to or viewing of any recording of an incident involving that
105 officer before the officer is required to make a statement about the incident;

106 (e) standards for the identification, retention, storage, maintenance and handling of
107 recordings from body cameras, including a requirement that recordings be retained for at least
108 180 days, but no more than 30 months for a recording not relating to a court proceeding or
109 ongoing criminal investigation, or for the same period of time that evidence is retained in the
110 normal course of the court's business for a recording related to a court proceeding;

111 (f) standards pertaining to the recordings of police contacts involving the use of
112 force, detention or arrest, or pertaining to ongoing investigations and prosecutions, to assure that

113 these be retained for a period sufficient to ensure that the needs of all parties with an interest in
114 the recordings are met;

115 (g) guidelines for the security of facilities in which such recordings are kept;

116 (h) requirements for state procurement of contracts for body-worn cameras and for
117 data storage, through which qualified law enforcement agencies may purchase goods and
118 services;

119 (i) best-practice language for contracts with third party vendors for data storage,
120 which shall provide that recordings from such cameras are the property of the law enforcement
121 agency, are not owned by the vendor, and cannot be used by the vendor for any purpose
122 inconsistent with the policies and procedures of the law enforcement agency;

123 (j) procedures for supervisory internal review and audit;

124 (k) sanctions for improper use of cameras, including provision that a law enforcement
125 agent not activating a body-worn camera in response to a call for assistance must include that
126 fact in the incident report, and note in the case file or record the reason for not activating the
127 camera; as well as sanctions for tampering with camera or recordings, and for any improper
128 destruction of recordings;

129 (l) regulations pertaining to handling requests for the release of information recorded
130 by a body-body worn camera to the public;

131 (m) requirements for reporting by law enforcement agencies utilizing body-worn
132 cameras;

133 (n) Consultation with legal counsel to: determine a retention schedule to ensure that
134 storage policies and practices are in compliance with all relevant laws and adequately preserve
135 evidentiary chains of custody; identify potential discovery issues.

136 SECTION 5. Legislative Recommendations

137 The Taskforce shall determine if any additional legislation is needed to effectuate its
138 recommended regulations for the use of body-worn cameras by law enforcement agencies, and
139 shall provide a report to the legislature on its work product, setting forth any legislative
140 action recommended by the Taskforce, for consideration by the legislature.

141 SECTION 6. Scope of Discretion for Additional Policies and Procedures

142 Any law enforcement agency which makes the decision to adopt the use of body camera
143 technology may establish additional policies and procedures for the use of such devices, and the
144 storage and retention of video and audio recordings made through their operation, provided that
145 such policies and procedures shall be consistent with the regulations adopted by the Executive
146 Office of Public Safety and Security and the Executive Office of Technology Services and
147 Security, and all applicable statutes.

148 SECTION 7. Exemption of Body Camera Recordings from the Definition of “Public
149 Record”

150 The General Laws, in chapter 4, section 7, clause 26, are hereby amended by adding,
151 after subsection (u), the following new subsection: (v) any recordings made by a body camera,
152 dashboard camera, or any similar device by a law enforcement officer.