

As Introduced

**131st General Assembly
Regular Session
2015-2016**

H. B. No. 585

Representative Antani

A BILL

To enact section 149.436 of the Revised Code to 1
provide that a record created by a body camera 2
that is worn or carried by a law enforcement 3
officer who is engaged in the performance of the 4
officer's official duties generally is a public 5
record, to provide in the specified 6
circumstances in which such a record is not a 7
public record that there are conditions under 8
which the record becomes a public record, to 9
provide that the portions of a record that 10
contain personal information or information that 11
is not relevant to the offense or delinquent act 12
are exempt from inspection and copying under the 13
Public Records Law and are subject to redaction, 14
and to require a local records commission to 15
maintain records from a body camera for a 16
minimum of one year unless the law enforcement 17
agency is subject to a records retention 18
schedule that establishes a longer period of 19
time. 20

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 149.436 of the Revised Code be enacted to read as follows:

Sec. 149.436. (A) As used in this section:

(1) "Body camera" means a portable electronic recording device that is worn or carried by a law enforcement officer while engaged in the performance of the officer's official duties and that records audio and video data. "Body camera" does not include an electronic recording device that is attached to a motor vehicle that is used by a law enforcement officer or law enforcement agency.

(2) "Confidential law enforcement investigatory record" has the same meaning as in section 149.43 of the Revised Code.

(3) "Law enforcement agency" means a government entity that employs law enforcement officers to perform law enforcement duties.

(4) "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 appointed under section 3345.04 of the Revised Code, or state highway patrol trooper.

(5) "Minor" means a person under the age of eighteen.

(6) "Personal information" includes the following:

(a) An individual's social security number;

(b) An individual's federal tax identification number;

(c) An individual's checking account number, savings account number, money market account number, mutual fund account

number, credit card number, or other financial account number; 48

(d) An individual's medical records; 49

(e) An individual's personal identification numbers, 50
passwords, and user names, that the individual uses in person, 51
on the internet, or to access a web site, computer, automated 52
teller machine, or other electronic device. 53

(7) "Residence" means a structure or part of a structure 54
used as an individual's permanent or temporary dwelling, 55
including, but not limited to, a private home, condominium, 56
apartment, mobile home, public housing, or a room in a 57
dormitory, hotel, hospital, or nursing home. 58

(8) "Violent sex offense" means a violation of section 59
2907.02, 2907.03, 2907.04, division (A)(1), (A)(4), or (B) of 60
section 2907.05, or division (A)(4) of section 2907.06 of the 61
Revised Code. 62

(B) Except as provided by divisions (C) and (D) of this 63
section, any record created by a body camera is a public record 64
for purposes of section 149.43 of the Revised Code. 65

(C)(1)(a) Except as provided by division (C)(2) of this 66
section, a record created by a body camera in a residence in 67
which the subject of the record has a reasonable expectation of 68
privacy, is not a public record for purposes of section 149.43 69
of the Revised Code. 70

(b) Except as provided by division (C)(2) of this section, 71
a record created by a body camera in an area of nonresidential 72
private property that is not publicly accessible, or to which 73
access is restricted, is not a public record for purposes of 74
section 149.43 of the Revised Code. 75

(2) A record created by a body camera in a residence in 76
which the subject of the record has a reasonable expectation of 77
privacy, or an area of nonresidential private property that is 78
not publicly accessible or to which access is restricted, and 79
that is not a confidential law enforcement investigatory record, 80
becomes a public record subsequent to a person's conviction of 81
or plea of guilty to an offense, or a child's adjudication as a 82
delinquent child for an act that would be an offense if 83
committed by an adult, if the record is relevant to the offense 84
or act. If the record contains personal information or 85
information that is not relevant to the offense or act, then 86
information to which a person has a reasonable expectation of 87
privacy or that could compromise the privacy of the property 88
owner, lessee, or occupant is exempt from the duty to permit 89
public inspection or copying and is subject to redaction 90
pursuant to division (B) of section 149.43 of the Revised Code. 91

(3) Notwithstanding division (C) (1) or (2) of this 92
section, a law enforcement agency shall provide a copy of a 93
record created by a body camera in a residence to the owner of 94
the residence, if the owner resides at the residence, or to a 95
lessee or occupant of the residence, upon the owner's, lessee's, 96
or occupant's request, if the owner, lessee, or occupant, or a 97
dependent of the owner, lessee, or occupant, is a party to the 98
record. 99

(D) (1) Except as provided by divisions (D) (2) and (E) of 100
this section, a record created by a body camera that contains 101
audio or video data of a minor, the victim of a violent sex 102
offense, or the victim of a violation of section 2903.211, 103
2905.32, or 2919.25 of the Revised Code, is not a public record 104
for purposes of section 149.43 of the Revised Code. 105

(2) A record created by a body camera that contains audio 106
or video data of a minor, the victim of a violent sex offense, 107
or the victim of a violation of section 2903.211, 2905.32, or 108
2919.25 of the Revised Code, and that is not a confidential law 109
enforcement investigatory record, becomes a public record 110
subsequent to a person's conviction of or plea of guilty to an 111
offense, or a child's adjudication as a delinquent child for an 112
act that would be an offense if committed by an adult, if the 113
record is relevant to the offense or delinquent act. If the 114
record contains personal information or information that is not 115
relevant to the offense or delinquent act, then information to 116
which a person has a reasonable expectation of privacy, or 117
information that could compromise the privacy of the victim or 118
minor is exempt from the duty to permit public inspection or 119
copying and is subject to redaction pursuant to division (B) of 120
section 149.43 of the Revised Code. 121

(E) (1) An audio or video recording of a violation of 122
section 2907.02 of the Revised Code that is in the possession of 123
a county, municipal corporation, or township records commission 124
or law enforcement agency is not a public record for purposes of 125
section 149.43 of the Revised Code. 126

(2) An audio or video recording of a law enforcement 127
officer's conversation with a victim of a violation of section 128
2907.02 of the Revised Code that is recorded while the victim is 129
at a hospital or other medical facility for evidence collection 130
and that is in the possession of a county, municipal 131
corporation, or township records commission or law enforcement 132
agency is not a public record for purposes of section 149.43 of 133
the Revised Code. 134

(F) A record created by a body camera of a county, 135

municipal, or township law enforcement agency shall be retained 136
by the records commission of the county, municipal corporation, 137
or township in accordance with a policy or rules established by 138
the records commission. The records commission shall submit the 139
policy or rules to the attorney general. The records commission 140
shall retain a record created by a body camera for a minimum of 141
one year. If the law enforcement agency is subject to a records 142
retention schedule approved under sections 149.331, 149.333, 143
149.34, 149.38, 149.39, and 149.42 of the Revised Code that 144
establishes a longer period of time for the retention of records 145
created by a body camera, the records commission shall retain 146
the record for the period set forth in the records retention 147
schedule. 148