

HOUSE BILL 2936

By Love

AN ACT to amend Tennessee Code Annotated, Title 38,
relative to law enforcement.

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

SECTION 1. Tennessee Code Annotated, Title 38, Chapter 3, is amended by adding
the following new sections:

38-3-124. Definitions for §§ 38-3-124—38-3-128.

As used in §§ 38-3-124—38-3-128:

- (1) "Demographic information" means race, national origin, sex, age, disability status, mental health status, housing status, and veteran status;
- (2) "Officer" means a law enforcement officer employed by this state or a local law enforcement agency; and
- (3) "Serious bodily injury" means bodily injury that involves:
 - (A) A substantial risk of death;
 - (B) Protracted unconsciousness;
 - (C) Extreme physical pain;
 - (D) Protracted or obvious disfigurement; or
 - (E) Protracted loss or substantial impairment of a function of a bodily member, organ, or mental faculty.

38-3-125. Incident recordings - Release - Tampering.

(a)

(1)

(A) On and after July 1, 2021, all local law enforcement agencies in this state shall provide body-worn cameras for each member of the law enforcement agency who interacts with members of the public.

(B) An officer shall wear and activate a body-worn camera at any time the officer is interacting with a member of the public.

(C) If an officer fails to activate or tampers with body-worn or dash camera footage or operation, there is a rebuttable presumption in any investigation and legal proceeding, whether criminal or civil, that the missing footage would have reflected misconduct by the officer.

(2) A department that is unable to comply with subdivision (a)(1) may apply to the attorney general and reporter for a single one-year waiver to comply with subdivision (a)(1).

(b) All unedited video and audio recordings of an incident, including those from body-worn cameras, dash cameras, or otherwise collected through investigation, must be released to the public within fourteen (14) days after the incident.

38-3-126. Attorney General report.

(a) The attorney general and reporter shall create an annual report, including all of the information that is reported to the attorney general pursuant to subsection (b), aggregated and broken down by the state or local law enforcement agency, along with the underlying data. The attorney general and reporter shall publish the annual report on or before July 1 each year, beginning in 2021.

(b) Each state and local law enforcement agency shall report to the attorney general:

(1) All use of force by its officers that results in death or serious bodily injury, including:

(A) The date, time, and location of the use of force;

(B) The perceived demographic information of the subject based on the observation and perception of the officer;

(C) The names of all officers who were at the scene, identified by whether the officer was involved in the use of force or not;

(D) The type of force used, the severity and nature of the injury, whether the officer suffered physical injury, and the severity of the officer's injury;

(E) Whether the officer was on duty at the time of the use of force;

(F) Whether the use of force resulted in a law enforcement agency investigation and the result of the investigation; and

(G) Whether the use of force resulted in a citizen complaint and the resolution of that complaint;

(2) All instances when an officer resigned while under investigation for violating department policy;

(3) All data relating to stops conducted by the agency's officers, including:

(A) The perceived demographic information of the person stopped based on the observation and perception of the officer making the stop;

(B) Whether the stop was a traffic stop;

(C) The time, date, and location of the stop;

(D) The duration of the stop;

(E) The reason for the stop;

(F) The suspected crime;

(G) The result of the stop, such as:

(i) No action, warning, citation, property seizure, or arrest;

(ii) If a warning or citation was issued, the warning provided or violation cited;

(iii) If an arrest was made, the offense charged; or

(iv) If the stop was a traffic stop, the information collected, which is limited to the driver;

(H) The actions taken by the officer during the stop, including, but not limited to, whether:

(i) The officer asked for consent to search the person, and, if so, whether consent was provided;

(ii) The officer searched the person or any property, and, if so, the basis for the search and the type of contraband or evidence discovered, if any; and

(iii) The officer seized any property and, if so, the type of property that was seized and the basis for seizing the property; and

(4) All instances of unannounced entry into a residence, with or without a warrant, including:

(A) The date, time, and location of the unannounced entry; and

(B) The perceived demographic information of the subject of the unannounced entry based on the observation and perception of the officer and the name of the officer.

(c) State and local law enforcement agencies shall not report the name, address, social security number, or other unique personal identifying information of the subject of

the use of force, victim of the official misconduct, or persons stopped, searched, or subjected to a property seizure. Notwithstanding any law to the contrary, the data reported pursuant to this section is available to the public pursuant to subsection (d).

(d) The attorney general and reporter shall maintain a statewide database with data collected pursuant to this section, in a searchable format, and publish the database on its website.

(e) A state or local law enforcement agency that fails to meet the reporting requirements pursuant to this section is subject to the suspension of the agency's funding by the agency's appropriating authority.

38-3-127. Terminate officer employment after conviction.

Notwithstanding any other law, if an officer is convicted of or pleads guilty or nolo contendere to any inappropriate use of physical force, or a crime involving the unlawful use or threatened use of physical force, or for failing to intervene to prevent inappropriate use of physical force, or is found civilly liable for using excessive force, the officer's employing agency shall immediately terminate the officer's employment and the POST commission shall permanently revoke the officer's certification. The POST commission shall not, under any circumstances, reinstate the officer's certification or grant new certification to the officer. The POST commission shall record each decertified officer in a searchable database on its website.

38-3-128. Profiling - officer identification.

(a) A law enforcement officer shall have an objective justification for making a stop. After making a stop, a law enforcement officer shall report to the officer's employing agency:

(1) The perceived demographic information of the person stopped based on the observation and perception of the officer making the stop;

- (2) Whether the stop was a traffic stop;
- (3) The time, date, and location of the stop;
- (4) The duration of the stop;
- (5) The reason for the stop;
- (6) The suspected crime;
- (7) The result of the stop, such as:
 - (A) No action, warning, citation, property seizure, or arrest;
 - (B) If a warning or citation was issued, the warning provided or violation cited;
 - (C) If an arrest was made, the offense charged; and
 - (D) If the stop was a traffic stop, the information collected, which is limited to the driver; and
- (8) The actions taken by the officer during the stop, including, but not limited to, whether:
 - (A) The officer asked for consent to search the person, and, if so, whether consent was provided;
 - (B) The officer searched the person or any property, and, if so, the basis for the search and the type of contraband or evidence discovered, if any; and
 - (C) The officer seized any property, and, if so, the type of property that was seized and the basis for seizing the property.

(b)

(1) A law enforcement officer shall provide, without being asked, the officer's business card to any person whom the peace officer has detained in a traffic stop but has not cited or arrested. The business card must include

identifying information about the officer, including, but not limited to, the officer's name, division, precinct, and badge or other identification number; a telephone number that may be used, if necessary, to report any comments, positive or negative, regarding the traffic stop; and information about how to file a complaint related to the stop.

(2) The identity of the reporting person and the report of any such comments made under subdivision (b)(1) that constitute a complaint must initially be kept confidential by the receiving law enforcement agency, to the extent permitted by law. The receiving law enforcement agency may obtain some identifying information regarding the complaint to allow initial processing of the complaint. If it becomes necessary for the further processing of the complaint for the complainant to disclose the complainant's identity, the complainant shall do so or, at the option of the receiving law enforcement agency, the complaint may be dismissed.

SECTION 2. Tennessee Code Annotated, Section 38-3-121, is amended by deleting the section and substituting instead the following:

No law enforcement officer shall use a choke hold or other similar respiratory restraining maneuver, including the lateral vascular maneuver with or without the use of a police baton, on any suspect, defendant, or other person.

SECTION 3. Tennessee Code Annotated, Section 38-8-113, is amended by deleting the section.

SECTION 4. The headings to sections, chapters, and parts in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 5. This act shall take effect upon becoming a law, the public welfare requiring it.