~~Indicates Matter Stricken~~

Indicates New Matter

AS PASSED BY THE SENATE

April 29, 2015

**S. 47**

Introduced by Senators Malloy, Kimpson, Johnson, Pinckney, Thurmond, Setzler, Grooms, Lourie, McElveen, Allen, Shealy, Coleman, Campsen and Scott

S. Printed 4/29/15--S.

Read the first time January 13, 2015.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 23‑1‑240, SO AS TO PROVIDE THAT ALL STATE AND LOCAL LAW ENFORCEMENT OFFICERS MUST BE EQUIPPED WITH BODY‑WORN CAMERAS.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 1, Title 23 of the 1976 Code is amended by adding:

“Section 23‑1‑240. (A) For purposes of this section ‘body-worn camera’ means an electronic device worn on a person’s body that records both audio and video data.

(B) State and local law enforcement agencies shall implement the use of body-worn cameras pursuant to guidelines established by the Law Enforcement Training Council.

(C) The Law Enforcement Training Council shall develop guidelines for the use of body-worn cameras by state and local law enforcement agencies within one hundred eighty days of the effective date of this act. The guidelines must include, but are not limited to, specifying which law enforcement officers must wear body-worn cameras, when body-worn cameras must be worn and activated, restrictions on the use of body-worn cameras, the retention and release of data recorded by body-worn cameras, and access to the data recorded by body-worn cameras by prosecutors' offices. The Law Enforcement Training Council shall provide the guidelines to state and local law enforcement agencies. The General Assembly may terminate all or part of the guidelines by concurrent resolution.

(D) State and local law enforcement agencies shall develop policies and procedures for the use of body-worn cameras pursuant to the guidelines established by the Law Enforcement Training Council. The agencies shall submit the policies and procedures to the Law Enforcement Training Council within two hundred seventy days of the effective date of this act. The Law Enforcement Training Council shall review and approve or disapprove of the policies and procedures. If the Law Enforcement Training Council disapproves of the policies and procedures, the law enforcement agency shall modify and resubmit the policies and procedures.

(E)(1) A ‘Body-Worn Cameras Fund’ is established within the Department of Public Safety for the purpose of assisting state and local law enforcement agencies, the Attorney General’s office, solicitors’ offices, and public defenders’ offices in implementing the provisions of this section, including, but not limited to, the initial purchase, maintenance, and replacement of body-worn cameras and ongoing costs related to the maintenance and storage of data recorded by body-worn cameras. The Public Safety Coordinating Council shall oversee the fund, and shall, within one hundred eighty days of the effective date of this act, establish a process for the application for and disbursement of monies to state and local law enforcement agencies, the Attorney General’s office, solicitors’ offices, and public defenders’ offices. The Public Safety Coordinating Council shall disburse the funds in a fair and equitable manner, taking into consideration priorities in funding.

(2) Upon approval of a state or local law enforcement agency’s policies and procedures by the Law Enforcement Training Council, the agency may apply to the Public Safety Coordinating Council for funding to implement the agency’s use of body-worn cameras pursuant to this section, including, but not limited to, the initial purchase, maintenance, and replacement of body-worn cameras and ongoing costs related to the maintenance and storage of data recorded by body-worn cameras. A state or local law enforcement agency is not required to implement the use of body-worn cameras pursuant to this section until the agency has received full funding.

(F) Nothing in this section prohibits a state or local law enforcement agency’s use of body-worn cameras pursuant to the agency’s existing policies and procedures and funding while the agency is awaiting receipt of the Law Enforcement Training Council’s guidelines, approval of the agency’s policies and procedures by the Law Enforcement Training Council, and funding from the Public Safety Coordinating Council. Such an agency is eligible to apply to the Public Safety Coordinating Council for reimbursement, including, but not limited to, the initial purchase, maintenance, and replacement of body-worn cameras and ongoing costs related to maintenance and storage of data recorded by body-worn cameras.

(G)(1) Except as otherwise provided in this subsection, a law enforcement agency or prosecutor shall not release data recorded by a body‑worn camera.

(2) A law enforcement agency or prosecutor shall release data recorded by a body‑worn camera pursuant to the South Carolina Rules of Civil Procedure, the South Carolina Rules of Criminal Procedure, or a court order.

(3) A law enforcement agency or prosecutor shall release data recorded by a body‑worn camera pursuant to the Freedom of Information Act if a request is made to release the data pursuant to the Freedom of Information Act by:

(a) a person who is the subject of the recording and the person has not been charged with a criminal offense related to the recording;

(b) a person who is the victim of a criminal act related to the recording;

(c) a person who has brought or is contemplating bringing a civil action with standing to bring such an action and the recording is relevant;

(d) a parent or legal guardian of a minor or incapacitated person described in item (a), (b), or (c); or

(e) an attorney for a person described in item (a), (b), or (c).

(4) A law enforcement agency or prosecutor shall release data recorded by a body‑worn camera pursuant to the Freedom of Information Act if a request is made to release the data pursuant to the Freedom of Information Act and the following conditions are all met:

(a) the data is retained by the law enforcement agency or prosecutor in connection with an ongoing criminal investigation, internal investigation, or prosecution;

(b) the recorded interaction involved the unlawful use of force by a law enforcement officer or resulted in a formal complaint for unlawful conduct by a law enforcement officer; and

(c) the heightened public interest requires disclosure of the data.

(5) A law enforcement agency or prosecutor may release data recorded by a body‑worn camera if the recorded interaction involved the use of force by a law enforcement officer or resulted in a formal complaint against a law enforcement officer.

(6) Nothing in this subsection is intended to abrogate any constitutional or statutory exemption, restriction, or prohibition concerning the release of otherwise protected information.

SECTION 2. This act takes effect upon approval by the Governor.

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