

TECHNICAL BULLETIN

June 19, 2015

TO: Chief Administrative Officers
County Council Chairmen

FROM: SCAC Staff

RE: Body Cameras - Law Enforcement
Act No. ___ of 2015 (R. 100, S. 47)

This Technical Bulletin outlines legislation relating to body camera requirements for law enforcement officers and the funding and implementation process. The Governor signed this legislation into law June 10, 2015, and an act number will be assigned. A copy of this Act is linked for your convenience.

Section 23-1-240(A) defines body-worn cameras as an electronic device worn on a person's body that records both audio and video data.

Section 23-1-240(C) requires the Law Enforcement Training Council ("LETC") to conduct a study of agencies that currently use or are in the process of implementing body cameras. By December 5, 2015, the LETC must establish guidelines for body camera use and issue them to state and local law enforcement agencies.

Section 23-1-240(D) requires state and local law enforcement agencies to develop policies and procedures for body camera use pursuant to the LETC guidelines. These agencies will have until March 6, 2016, to submit their policies and procedures to LETC for approval. This provides the agencies, at a minimum, 90 days to develop their policies and procedures. The LETC has until June 4, 2016, to submit a report to the General Assembly with any recommendations for statutory changes relating to body camera use.

Section 23-1-240(E) establishes the Body-Worn Cameras Fund ("Fund") within the Department of Public Safety to assist government agencies required to implement body cameras. The Fund and its disbursements to agencies will be managed by the Public Safety Coordinating Council. Once LETC approves a law enforcement agency's policies and procedures, the agency may apply to the Public Safety Coordinating Council for funding. At a minimum, the disbursement must fund the initial purchase, maintenance, and replacement of body cameras and the ongoing costs

associated with maintenance and data storage. **No law enforcement agency will be required to implement the use of body cameras until the agency has received full funding.** The statute requires Fund disbursements to be fair and equitable.

It is estimated that the first-year costs for full implementation, at the state and local level, will be \$21.5M and with recurring costs of \$12.2M. As of the date of this bulletin, the Senate's version of the FY 15-16 budget only appropriates \$2.4M in recurring funds and \$1.0M in nonrecurring funds for body cameras. This amount is still being debated in conference committee.

Section 23-1-240(F) provides that a law enforcement agency may implement and purchase body cameras even before its policies and procedures have been approved or before funding is received. The agency may later apply for reimbursement so long as its body camera policies and procedures have received LETC approval.

Section 23-1-240(G) makes clear that data recorded by a body camera is not public record under the Freedom of Information Act. Release and request of data is restricted to the following circumstances:

- SLED, the Attorney General, and solicitors may request and must receive data for criminal justice purposes;
- All law state and local law enforcement agencies, the Attorney General, or solicitors may release data in their discretion;
- Law enforcement agencies may request and must receive data if relevant to an internal investigation regarding misconduct or disciplinary action of an officer;
- In addition to the persons listed above, the following persons are entitled to request and receive data pursuant to the South Carolina Rules of Criminal and Civil Procedure or court order:
 - A person who is the subject of the recording;
 - A criminal defendant if the recording is relevant to a pending criminal action;
 - A civil litigant if the recording is relevant to the civil action;
 - A person whose property has been seized or damaged in relation to a crime which the recording is related;
 - A parent or legal guardian of a minor or incapacitated person listed in the first 2 subitems above; and
 - An attorney for a person described in all the subitems above.

If you would like to provide input to the Law Enforcement Training Council while it is conducting its study, please reference this link to the LETC's membership and contact information.

This *Technical Bulletin* does not constitute legal advice. It is intended for general information on this topic. Please consult your county attorney for specific issues affecting your county.