

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
Second Regular Session

House Bill No. **7471**



Introduced by HON. MARIANO MICHAEL M. VELARDE, JR. (BUHAY Party List)

EXPLANATORY NOTE

Quis custodiet ipsos custodes?, “who will guard the guardians?” to borrow from the ancient Greeks, is the question that comes to mind whenever we hear of law enforcement agents or elements were reportedly involved in cases of abuses or violations of standard operating procedures in the conduct of law enforcement operations or implementation of lawful orders.

We asked this question especially last year when several teenagers were allegedly killed in the course of the anti-drug campaign of the Philippine National Police (PNP). There is the case of the 17 years old Kian Loyd de los Santos, a Grade 11 student allegedly resisted arrest by Caloocan City police officers but disputed by witnesses and by the cctv monitors of the Barangay. Carl Angelo Arnaiz, 19 years old and Reynaldo de Guzman, 14 years old were also killed or found dead which allegedly bore bodily marks contrary to the reports by police elements. There is also the case of Jefferson Bunuan, a 20 year old criminology student and a student-beneficiary of Kaibigan Foundation was alleged by policemen to had a shoot-out with law enforcement agents during an anti-drug operation which was denied by the family of the slain student.

These are just a few of several cases involving law enforcers accused of violating the rights of the victims or suspects, and not following the standard operating procedures and protocols during operations. These accusations are not helping the anti-criminality campaigns and law enforcement operations by our law enforcers and agencies. In fact, it puts our law enforcement agencies in a bad light and discredits the government’s anti-criminality campaigns, including the anti-drug war.

On the other hand, it is not only the civilians that are victimized by scalawag law enforcers. Honest and diligent law enforcement agents also fall victim to deceitful civilians and cunning criminals. A case in point is the encounter between enforcers of Metro Manila Development Authority (MMDA) and a motorcycle riding couple not using their helmets on their heads and instead used it as a food carrier.

If not for the body cam and its recording of the said encounter, our diligent and honest MMDA enforcers will again be subject to bashing and negative comments from the netizens and the public at large. Body cams such as in this encounter, our law enforcers are protected from malicious publicity or social media posts and from possible harassments through filing of legal cases and unnecessary complaints.

The video and audio recordings of these body cameras can be used as evidence in litigations to prosecute criminals or suspects and also to protect our law enforcers from malicious and disruptive legal cases.

The audio and video recordings are also materials for evaluation to improve the conduct of law enforcement operations and its standard operating procedures or protocols.

Let us mandate the use of modern technology to protect not only our people and also our law enforcers.

With these, the timely passage of this measure is highly sought.



REP. MARIANO MICHAEL M. VELARDE, JR.

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**“ AN ACT MANDATING THE USE OF BODY CAMERA BY LAW
ENFORCEMENT OFFICERS AND FOR OTHER PURPOSES”**

Be it enacted by the Senate and the House of Representatives assembled:

Section 1. Short Title. – This Act shall be known as the “Body Camera Act of 2018”

Section 2. Declaration of Policy. – It shall be the policy of the State:

- a) That the State shall value the dignity of every human person and guarantees full respect for human rights.
- b) That no person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.
- c) That the right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable.
- d) That the accused shall be presumed innocent until proven otherwise.

Section 3. Definition of Terms. –For purposes of this Act, the following terms shall be defined as:

- a) “Body Camera” – any electronic recording device that is worn by a person or law enforcement officer that records and store audio and video data.
- b) “Law enforcement officer” – any person authorized by law to conduct searches and effectuate arrests and who is employed by the government, whether national, local or any subdivision or agency of government.
- c) “Subject of the video footage” – any identifiable law enforcement officer or any identifiable suspect, victim, detainee, conversant, injured party, or other similarly situated person who appears on the body camera recording, and shall not include people who only incidentally appear on the recording.
- d) “Use of force” – any action by a law enforcement officer that:
 - i. results in death, injury, complaint of injury, or complaint of pain that persists beyond the use of a physical control hold, or

- ii. involves the use of a weapon, including a personal body weapon, chemical agent, impact weapon, extended range impact weapon, sonic weapon, sensory weapon, conducted energy device, or firearm, against a member of the public, or
 - iii. involves any intentional pointing of a firearm at a member of the public.
- e) "Video footage" – shall mean any images or audio recorded by a body camera.

Section 4. Mandatory use of body camera by law enforcement officers. - (a) Law enforcement officers with the authority to conduct searches and make arrests shall wear a body camera. Such body cameras shall be worn in a location and manner that maximizes the camera's ability to capture video footage of the officer's activities.

(b) Both the video and audio recording functions of the body camera shall be activated whenever a law enforcement officer is responding to a call for service or at the initiation of any other law enforcement or investigative encounter between a law enforcement officer and a member of the public. The body camera shall not be deactivated until the encounter has fully concluded and the law enforcement officer leaves the scene.

(c) A law enforcement officer who is wearing a body camera shall notify the subject(s) of the recording that they are being recorded by a body camera as close to the inception of the encounter as is reasonably possible.

Section 5. Retention of Video Footages. – (a) Body camera video footage shall be retained by the law enforcement agency that employs the officer whose camera captured the footage, or an authorized agent thereof, for six (6) months from the date it was recorded, after which time such footage shall be permanently deleted.

(b) During the six(6) month retention period, the following persons shall have the right to inspect the body camera footage:

- i. Any person who is a subject of body camera video footage, and/or their designated legal counsel;
- ii. A parent of a minor subject of body camera video footage, and/or their designated legal counsel;
- iii. The spouse, next of kin or legally authorized designee of a deceased subject of body camera video footage, and/or their designated legal counsel;
- iv. A law enforcement officer whose body camera recorded the video footage, and/or their designated legal counsel, subject to the limitations and restrictions in this Act;
- v. The superior officer of the law enforcement officer whose body camera recorded the video footage, subject to the limitations and restrictions in this Act; and

- vi. Any defense counsel who claims, pursuant to a written affidavit, to have a reasonable basis for believing a video may contain evidence that exculpates a client.
- (c) The right to inspect subject to the preceding subsection shall not include the right to possess a copy of the body camera video footage, unless the release of the body camera footage is otherwise authorized by this Act or by another applicable law.
- (d) When a body camera fails to capture some or all of the audio or video of an incident due to malfunction, displacement of camera, or any other cause, any audio or video footage that is captured shall be treated the same as any other body camera audio or video footage under the law.
- (e) Notwithstanding the retention and deletion requirements:
 - i. Video footage shall be automatically retained for no less than three (3) years if the video footage captures an interaction or event involving:
 - (A) Any use of force; or
 - (B) An encounter about which a complaint has been registered by a subject of the video footage.
 - ii. Body camera video footage shall also be retained for no less than three (3) years if a longer retention period is voluntarily requested by:
 - (A) The law enforcement officer whose body camera recorded the video footage, if that officer reasonably asserts the video footage has evidentiary or exculpatory value;
 - (B) Any law enforcement officer who is a subject of the video footage, if that officer reasonably asserts the video footage has evidentiary or exculpatory value;
 - (C) Any superior officer of a law enforcement officer whose body camera recorded the video footage or who is a subject of the video footage, if that superior officer reasonably asserts the video footage has evidentiary or exculpatory value;
 - (D) Any law enforcement officer, if the video footage is being retained solely and exclusively for police training purposes;
 - (E) Any member of the public who is a subject of the video footage;
 - (F) Any parent or legal guardian of a minor who is a subject of the video footage;
 - (G) A deceased subject's spouse, next of kin, or legally authorized designee; or
 - (H) Any competent court.

Section 6. Right to Inspect the Videos. – (a) Any member of the public who is a subject of video footage, the parent or legal guardian of a minor who is a subject of the video footage, or a deceased subject's next of kin or legally authorized designee, shall be permitted to review the specific video footage in question in order to make a determination as to whether they will voluntarily request it be subjected to a three (3) year retention period.

(b) All video footage of an interaction or event captured by a body camera, if that interaction or event is identified with reasonable specificity and requested by a member of the public, shall be provided to the person or entity making the request in accordance with laws and regulations of the agency.

i. Where a subject of the video footage is recorded being killed, shot by a firearm, or grievously injured, shall be prioritized and the requested video footage shall be provided as expeditiously as possible, but in no circumstances later than five (5) days following receipt of the request.

ii. The provisions governing the production of body camera video footage to the public in this Act shall take precedence over all other laws, rules, and regulations to the contrary.

(c) Body camera video footage may not be withheld from the public on the basis that it is an investigatory record or was compiled for law enforcement purposes where any person under investigation or whose conduct is under review is a police officer or other law enforcement employee and the video footage relates to that person's on-the-job conduct.

Section 7. Prohibited Acts. – The following shall be prohibited:

- a) Body cameras shall not be used surreptitiously.
- b) Body cameras shall not be used to gather intelligence information.
- c) Law enforcement officers shall not activate a body camera while on the grounds of any public, private or parochial elementary or secondary school, except when responding to an imminent threat to life or health.
- d) No government agency or official, or law enforcement agency, officer, or official may publicly disclose, release, or share body camera video footage unless:
 - i. Doing so is expressly authorized pursuant to this Act or another applicable law; or
 - ii. The video footage is subject to public release and not exempted from public release.
- e) No law enforcement officer shall review or receive an accounting of any body camera video footage that is subject to a minimum three (3) year retention period prior to completing any required initial reports, statements, and interviews regarding the recorded event, unless doing so is necessary, while in the field, to address an immediate threat to life or safety.
- f) Video footage that is not subject to a minimum three (3) year retention period shall not be:

- i. Viewed by any superior officer of a law enforcement officer whose body camera recorded the footage absent a specific allegation of misconduct; or
- ii. Subjected to facial recognition or any other form of automated analysis or analytics of any kind, unless:
 - (A) A judicial warrant providing authorization is obtained;
 - (B) The judicial warrant specifies the precise video recording to which the authorization applies; and
 - (C) The authorizing court finds there is probable cause to believe the video footage contains evidence that is relevant to an ongoing criminal investigation.
- g) Video footage shall not be divulged or used by any law enforcement agency for any commercial or other non-law enforcement purpose.
- h) Where a law enforcement agency authorizes a third-party to act as its agent in maintaining body camera footage, the agent shall not be permitted to independently access, view, or alter any video footage, except to delete videos as required by law or agency retention policies.
- i) Should any law enforcement officer, employee, or agent fail to adhere to the recording or retention requirements contained in this chapter, intentionally interfere with a body camera's ability to accurately capture video footage, or otherwise manipulate the video footage captured by a body camera during or after its operation:
 - i. Appropriate disciplinary action shall be taken against the individual officer, employee or agent;
 - ii. A rebuttable evidentiary presumption shall be adopted in favor of criminal defendants who reasonably assert that exculpatory evidence was destroyed or not captured; and
 - iii. A rebuttable evidentiary presumption shall be adopted on behalf of civil plaintiffs suing the government, a law enforcement agency and/or law enforcement officers for damages based on police misconduct who reasonably assert that evidence supporting their claim was destroyed or not captured.

Section 8. Penalties. – (a) Any law enforcer in violation of any provision under Section 8, shall be placed under preventive suspension for ninety (90) days, subject to further investigation and preparation of filing of administrative and criminal cases pursuant to R.A. 10173 or the Data Privacy Act and other applicable laws.

Section 9. Implementing Rules and Regulations. – Within sixty (60) days from the effectivity of this Act, the Department of Interior and Local Government, as the lead agency, with the Philippine National Police, Bureau of Fire Protection, LTO, Metro Manila

Development Authority, non-governmental organizations and other stakeholders shall promulgate the necessary rules and regulations for the effective implementation of this Act.

Section 10. Separability Clause. – If any provision, or part hereof, is held invalid or unconstitutional, the remainder of the law or provision not otherwise affected shall remain valid and subsisting.

Section. 11. Repealing Clause. – All other laws, decrees, executive orders, rules and regulations, issuances or parts thereof inconsistent with this Act are hereby repealed or amended accordingly.

Section. 12. Effectivity. – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a national newspaper of general circulation.

Approved,