

NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



23 MAY 16 P2 :43

SENATE
S. No. 2199

RECEIVED BY: _____

Introduced by: Senator Raffy T. Tulfo

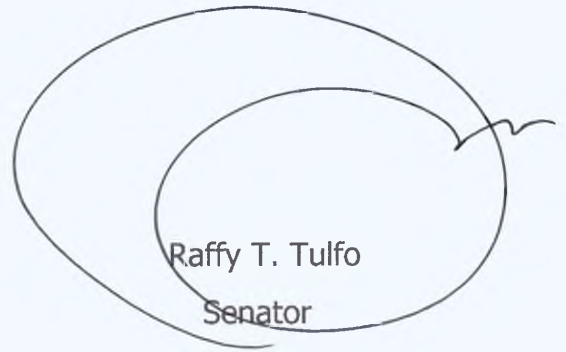
AN ACT
MANDATING LAW ENFORCEMENT OFFICERS TO USE BODY-WORN
CAMERAS DURING LAW ENFORCEMENT AND SPECIAL POLICE
OPERATIONS, PROVIDING FUNDS THEREFOR AND FOR OTHER PURPOSES

EXPLANATORY NOTE

Body-worn cameras play an important role in the transparency and legitimacy of the operations conducted by law enforcement agencies. It can also be advantageous for the citizens as it addresses the fear of the public in alarming reports of abuses committed by some law enforcers. Furthermore, the use of body-worn cameras can speed up the resolution of crimes in the country by providing evidence of the circumstances surrounding the operation conducted. It strengthens accountability and establishes presumption of regularity in the conduct of operations.

This bill seeks to provide comprehensive policy on body-worn cameras of all law enforcement agencies, particularly but not limited to the Philippine National Police (PNP), the National Bureau of Investigation (NBI), and the Philippine Drug Enforcement Agency (PDEA) granting that it will not be used in situations such as gathering intelligence information based on protected speeches, associations, or religion, to record activity that is unrelated to a response to a call or service or a law enforcement or investigative encounter between a law enforcement officer and the member of the public, and if it would pose a serious threat to national security, among others.

With enough safeguards to protect the rights of our citizens, the passage of this bill is earnestly sought.

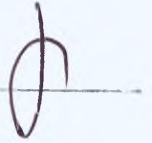


Raffy T. Tulfo
Senator

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

1 Section 1. *Short Title.* – This Act shall be known as "Body-worn Camera Act".

2 Sec. 2. *Declaration of Policy.* – It is declared the policy of the State to
3 strengthen public trust in our law enforcement officers, to protect them from wrongful
4 accusations of abuse in the lawful discharge of their functions, and to provide a
5 deterrent for actual abuse from occurring. This law will provide for an effective law
6 enforcement operation – from investigation, apprehension, detention, and prosecution
7 by utilizing sound and modern procedure in crime investigation.

8 Sec. 3. *Definition of Terms.* - As used in this act:

9 (a) *Alternative Recording Device* refers to an electronic camera system which is not
10 a body-worn camera, that is capable of creating, generating, sending,
11 receiving, storing, displaying, and processing audio-visual recordings, and may
12 be worn during law enforcement activities. It may be used as a substitute for
13 body-worn cameras in case of unavailability. To be used as a functional
14 equivalent, it shall comply with the minimum requirements set forth by the law

1 enforcement agencies in accordance with this Act: *Provided*, That the
2 alternative recording device shall be capable of capturing with reasonable
3 clarity the events that transpire during the law enforcement activity or
4 operations;

5 (b) *Body-worn Camera* refers to an electronic camera system designated to law
6 enforcement units for creating, generating, sending, receiving, storing,
7 displaying, and processing audio-visual recordings that may be worn during
8 operations;

9 (c) *Data Custodian* refers to a designated officer of the law enforcement agency
10 for the conduct of law enforcement operation, who has the sole responsibility
11 of storing and safekeeping data recorded from body-worn cameras;

12 (d) *Law Enforcement Officer* means any person authorized by law to conduct law
13 enforcement or special police operations including prevent, investigate,
14 apprehend, or detain individuals suspected or convicted of offenses punishable
15 under Philippine laws;

16 (e) *Operation* refers to both Law Enforcement Operation and Special Police
17 Operation;

18 (f) *Metadata* refers to information within the recording file containing any digital
19 identifiers that are captured as part of the actual recording, such as the
20 recording date, time, GPS coordinates, and other relevant information; and

21 (g) *Recording* refers to digital material generated as a result of using body-worn
22 cameras or alternative recording devices, which contains images and audio-
23 video footages. It shall include the copies of the material created by way of
24 copying to portable media storage and other data repositories.

25 *Sec. 4. Scope and Applicability.* – This law shall apply to Law Enforcement
26 Operations including service of warrants of arrest, implementation of search warrants,
27 enforcement of visitorial powers of the Chief Philippine National Police and unit
28 commanders, anti-illegal drugs operation, anti-illegal gambling operations, anti-illegal

1 logging operations, anti-illegal fishing operations, anti-carnapping operations, anti-
2 kidnapping operations, anti-cybercrime operations, anti-smuggling operations and
3 similar operations that are conducted to enforce penal laws; and to Special Police
4 Operations including checkpoint operations; roadblock operations; civil disturbance
5 management operations; police assistance in the enforcement of demolition, eviction,
6 injunction and similar orders; police assistance in the implementation of final court
7 orders and orders from quasi-judicial bodies; hostage situation; visit, board, search
8 and seizure of on-board marine vessels; and similar police operations that are
9 conducted by police units with specialized training on the peculiarity of the mission or
10 purpose.

11 *Sec. 5. Minimum Standards for Body-worn Camera.* - Body-worn cameras shall
12 meet the following minimum standard requirement:

- 13 (a) Video resolution : 720p or higher
- 14 (b) Frame rate : Built-in
- 15 (c) Audio : Built-in
- 16 (d) Date and time stamping : Built-in
- 17 (e) GPS : Built-in
- 18 (f) Battery life : eight (8) hours continuous
- 19 (g) Storage : capable of storing eight (8) hours
20 continuous audio-video footage
- 21 (h) Low-light recording : with a night mode built in, a low lux
22 rating, and/or and infrared (IR) Illuminator

23 *Sec. 6. Mandatory Use of Body-worn Camera.* - Law enforcement officers are
24 mandated to wear and activate body-worn camera to capture and record the entire
25 conduct of operation during its execution: *Provided,* That in case of unavailability of
26 body-worn cameras, the law enforcement officers shall secure a written authorization

1 from the head of the agency to use alternative recording devices: *Provided, further,*
2 That the written authorization shall require the use of at least two alternative recording
3 devices activated and recording during the operation.

4 A body-worn camera shall also be activated whenever a law enforcement officer
5 is responding to a call for service or at the initiation of any other operation or
6 investigative encounter between a law enforcement officer and a member of the
7 public: *Provided, however,* except that when an immediate threat to the officer's life
8 or safety makes activating the camera impossible or dangerous, the officer shall
9 activate the camera at the first reasonable opportunity.

10 *Sec. 7. Guidelines for the Use of Body-worn Camera.* - Law enforcement officers
11 mandated to wear body-worn camera under this Act shall ensure that:

12 (a) Body-worn cameras shall be worn in a location and manner that maximizes the
13 camera's ability to capture video footage of the operation;

14 (b) Body-worn camera shall record in full all the activities incidental to the conduct
15 of the operation. It shall not be deactivated until the operation has concluded
16 and the law enforcement officers leave the venue of the operation;

17 (c) Both video and audio recording functions of the body-worn camera shall be
18 activated during operations;

19 (d) It shall not be used surreptitiously in order to obtain data or information that is
20 unrelated to the purpose of the operation;

21 *Sec. 8. Prohibition on the Use of Body-worn Cameras.* - The use of body-worn
22 camera shall not be allowed in the following instances:

23 (a) It shall not be used to gather intelligence information based on protected
24 speeches, associations, or religion, or to record activity that it unrelated to a
25 response to a call or service or a law enforcement or investigative encounter
26 between a law enforcement officer and the member of the public;

1 (b) In locations where individuals have a reasonable expectation of privacy such as
2 residences, unless the recording is being made pursuant to a valid arrest or
3 search warrant of the individuals or location, or pursuant to a valid warrantless
4 arrest and search in accordance with established rules;

5 (c) During privileged communications between the subject of recordings and other
6 individuals, such as attorneys, members of the clergy, peer support counselors,
7 and medical professionals; or those otherwise considered privileged under laws.

8 (d) Such other circumstances as may be provided in the implementing rules and
9 regulations of this Act, which is part of constitutional privilege and where the
10 dignity of an individual may outweigh the public necessity for recording; and

11 (e) The recording would pose a serious threat to national security.

12 *Sec. 9. Notification to Person to be Arrested and Other Subjects.* – When
13 conducting an operation, the officers wearing the body-worn cameras or alternative
14 recording devices shall, as early as practicable, notify the persons subject of the
15 operation and the recording that the execution of the warrant of arrest is being
16 recorded and that they are making an arrest pursuant to a warrant issued by a court.

17 *Sec. 10. Presumption of Regularity.* – In any search, seizure, and arrest
18 conducted by the PNP, NBI, or PDEA, and other law enforcement officers, it is
19 presumed that the standard process of regularity in wearing a body-worn camera
20 during the operation was followed.

21 *Sec. 11. Right of the Subject of the Operation.* – Anyone present during a
22 search, seizure, or arrest has the right to record a video footage using their own
23 cameras or any other video recording device. The recording may be used as evidence
24 against the law enforcement officer suspected to have committed an offense during
25 the operations.

26 *Sec. 12. Custody and Period of Retention of the Footage.* – All recordings from
27 the body-worn camera or alternative recording devices used during the operation shall
28 be stored in an external media storage device and shall be under the custody of the

1 law enforcement agency that employs the officer whose camera captured the footage,
2 or an authorized agent thereof, for six (6) months after the date it was recorded.

3 The period of retention, however, may be extended up to one year provided
4 that there is an order from a judicial, administrative, or quasi-judicial body requesting
5 for a copy of the footage. In such a case, the footage shall be under judicial custody
6 and will be permanently deleted only after the termination of the case. Any violation
7 thereof will be treated as destruction of evidence or obstruction of justice.

8 *Sec. 13. Access and Disclosure of Recordings.* - Subject to the provisions of
9 Republic Act No. 10173, otherwise known as the "Data Privacy Act of 2012", only
10 persons duly authorized by the court shall have access to images and recordings from
11 body-worn cameras. The court shall, in its discretion, grant the use, viewing, copying
12 or disclosure of images and recording under the following circumstances:

13 (a) Upon request by law enforcement officers in connection with the subject of the
14 operation or incidental to the occurrence of the operation;

15 (b) Any person who is a subject of the recording or his or her counsel: *Provided,*
16 That in case of a minor, his or her parent, guardian or counsel;

17 (c) The spouse, next of kin, or legally authorized designee of a deceased subject
18 of the recording, or his or her counsel;

19 (d) Any interested person in connection with a pending criminal or civil proceeding
20 to prevent a serious threat to the fair administration of justice;

21 (e) For determination of administrative or criminal violation of a law enforcement
22 officer during the course of law enforcement operation;

23 *Sec. 14. Effect of Failure to Observe the Requirements for Body-Worn Cameras*
24 *during Operations.* – Failure to observe the requirements of using body-worn cameras
25 or alternative recording devices shall not render the operation unlawful or render the
26 evidence inadmissible. Facts surrounding the operation may be proven by the
27 testimonies of the law enforcement officers, those involved in the operations, the
28 subjects of the operations, and other witnesses to the operations.

1 The law enforcement officer who, however, fails without reasonable grounds
2 to use the body-worn camera or alternative recording devices, or intentionally
3 interferes with the body-worn cameras' ability to accurately capture audio and video
4 recordings of the arrest, or otherwise manipulates such recording during or after the
5 operation may be liable for contempt of court. Liability for contempt of court shall not
6 apply if body-worn cameras were not activated due to their malfunction or when
7 allowed under this act. This is without prejudice to any administrative, civil or criminal
8 proceedings that may be initiated against him or her for the same acts or omissions.

9 *Sec. 15. Effect of Failure to Observe the Requirements for Body-Worn Cameras*
10 *on Search Conducted.* – Failure to observe the requirement of using body-worn
11 cameras or alternative recording devices, without reasonable grounds, during the
12 execution of the search warrant shall render the evidence obtained inadmissible for
13 the persecution of the offense for which the search warrant was applied.

14 A law enforcement officer who fails to adhere to the requirements during the
15 execution of a search warrant, or intentionally interferes with the body-worn cameras'
16 ability to accurately capture audio and video recordings of the search, or otherwise
17 manipulates such recording during or after the search may be liable for contempt of
18 court. Liability for contempt of court shall not apply if the body-worn cameras were
19 not activated due to their malfunction prior to the incident. This is without prejudice
20 to any administrative, civil, or criminal proceedings that may be initiated against him
21 or her for the same acts or omission.

22 *Sec 16. Recordings Not a Substitute for Witnesses.* - For evidentiary purposes,
23 the recordings captured by body-worn cameras or alternative recording devices are
24 suppletory to the testimonies of the persons subject of the recording or the law
25 enforcer officer. The recordings shall not be deemed as substitutes for the
26 presentation of witnesses.

27 *Sec. 17. Funding.* - The initial amount necessary for the implementation of this
28 Act shall be charged against the current fiscal year's appropriations of the law
29 enforcement agency involved. Thereafter, such sums as may be necessary for the

1 continued implementation of this Act shall be included in the annual General
2 Appropriations Act.

3 Sec. 18. *Applicability to Pending Cases.* – After their effectivity, these Rules
4 shall apply to pending applications for search warrants or warrants of arrest and to
5 those warrants issued that have not yet been implemented or executed.

6 Sec. 19. *Implementing Rules and Regulations.* - Within sixty (60) days from the
7 effectivity of this Act, the Department of Interior and Local Government and the
8 Department of Justice, in consultation with the PNP, NBI, PDEA, and other law
9 enforcement agencies and concerned stakeholders, shall promulgate rules and
10 regulations implementing this Act.

11 Sec. 20. *Separability Clause.* - If any provision of this Act is held invalid or
12 unconstitutional, the same shall not affect the validity and effectivity of the other
13 provisions hereof.

14 Sec. 21. *Repealing Clause.* – All laws, executive orders, rules and regulations
15 inconsistent with, or contrary to this Act, are hereby repealed or amended accordingly.

16 Sec. 22. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its
17 publication in the Official Gazette or in a newspaper of general circulation.

Approved,