

REFERENCE TITLE: **peace officers; cameras; disclosures; recordings**

State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

SB 1640

Introduced by
Senators Gonzales: Diaz

AN ACT

AMENDING TITLE 38, CHAPTER 8, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 4; RELATING TO LAW ENFORCEMENT OFFICERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 38, chapter 8, Arizona Revised Statutes, is
3 amended by adding article 4, to read:

4 ARTICLE 4. LAW ENFORCEMENT OFFICER CAMERAS AND RECORDINGS

5 38-1171. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "CONTACT":

8 (a) MEANS AN INTERACTION THAT IS WITH AN INDIVIDUAL WHO IS EITHER
9 INSIDE OR OUTSIDE OF A MOTOR VEHICLE AND THAT IS INITIATED BY A PEACE
10 OFFICER, WHETHER CONSENSUAL OR NONCONSENSUAL, TO ENFORCE A LAW OR FOR
11 INVESTIGATING A POSSIBLE VIOLATION OF A LAW.

12 (b) DOES NOT INCLUDE ROUTINE INTERACTIONS WITH THE PUBLIC AT THE
13 POINT OF ENTRY OR EXIT FROM A CONTROLLED AREA.

14 2. "PHYSICAL FORCE" MEANS USING PHYSICAL TECHNIQUES ON OR TACTICS,
15 CHEMICAL AGENTS OR WEAPONS AGAINST ANOTHER INDIVIDUAL.

16 3. "TAMPER" MEANS TO INTENTIONALLY DAMAGE, DISABLE, DISLODGE OR
17 OBSTRUCT THE SIGHT OR SOUND OR OTHERWISE IMPAIR FUNCTIONALITY OF A
18 BODY-WORN CAMERA OR TO INTENTIONALLY DAMAGE, DELETE OR FAIL TO UPLOAD SOME
19 OR ALL PORTIONS OF THE VIDEO AND AUDIO OF A BODY-WORN CAMERA.

20 38-1172. Peace officers; cameras; incident recording
21 requirements; exceptions; presumptions;
22 certification suspension or revocation; retention
23 schedule; privacy interests; filing deadlines;
24 notice

25 A. ON OR BEFORE JULY 1, 2025, EVERY LOCAL LAW ENFORCEMENT AGENCY IN
26 THIS STATE AND THE DEPARTMENT OF PUBLIC SAFETY SHALL PROVIDE A BODY-WORN
27 CAMERA FOR EACH PEACE OFFICER WHO IS EMPLOYED BY THE LAW ENFORCEMENT
28 AGENCY OR THE DEPARTMENT OF PUBLIC SAFETY AND WHO HAS CONTACT WITH THE
29 PUBLIC.

30 B. EXCEPT AS PROVIDED IN SUBSECTION C, D OR E OF THIS SECTION, A
31 PEACE OFFICER MUST WEAR AND ACTIVATE A BODY-WORN CAMERA, OR ACTIVATE A
32 DASH CAMERA IF THE PEACE OFFICER'S VEHICLE IS EQUIPPED WITH A DASH CAMERA,
33 WHEN RESPONDING TO A CALL FOR SERVICE OR DURING ANY CONTACT WITH THE
34 PUBLIC THAT IS INITIATED BY THE PEACE OFFICER, WHETHER CONSENSUAL OR
35 NONCONSENSUAL, TO ENFORCE A LAW OR INVESTIGATE THE POSSIBLE VIOLATION OF A
36 LAW.

37 C. A PEACE OFFICER MAY TURN OFF A BODY-WORN OR DASH CAMERA:

38 1. TO AVOID RECORDING PERSONAL INFORMATION THAT IS NOT RELATED TO A
39 CASE.

40 2. WHEN WORKING ON AN UNRELATED ASSIGNMENT.

41 3. WHEN THERE IS A LONG BREAK IN THE INCIDENT OR CONTACT THAT IS
42 NOT RELATED TO THE INITIAL INCIDENT.

43 4. IN AN ADMINISTRATIVE, TACTICAL OR MANAGEMENT DISCUSSION THAT IS
44 NOT RELATED TO THE INITIAL INCIDENT.

1 D. A PEACE OFFICER DOES NOT NEED TO WEAR OR ACTIVATE A BODY-WORN
2 CAMERA IF THE PEACE OFFICER IS WORKING UNDERCOVER OR IN A COURT ROOM.

3 E. THIS SECTION DOES NOT APPLY TO A PEACE OFFICER OR THE STAFF WHO
4 WORK IN THE JAIL OF A LOCAL LAW ENFORCEMENT AGENCY IF THE JAIL HAS VIDEO
5 CAMERAS EXCEPT IF PERFORMING A TASK THAT REQUIRES THE ANTICIPATED USE OF
6 PHYSICAL FORCE, INCLUDING DURING A CELL EXTRACTION OR IF USING A RESTRAINT
7 CHAIR.

8 F. IF A PEACE OFFICER FAILS TO ACTIVATE A BODY-WORN CAMERA OR DASH
9 CAMERA WHEN REQUIRED TO BY THIS SECTION, OR TAMPERS WITH BODY-WORN OR DASH
10 CAMERA FOOTAGE OR OPERATION WHEN REQUIRED TO ACTIVATE THE CAMERA, THERE IS
11 A PERMISSIVE INFERENCE AGAINST THE PEACE OFFICER IN ANY INVESTIGATION OR
12 LEGAL PROCEEDING, EXCLUDING CRIMINAL PROCEEDINGS, THAT THE MISSING FOOTAGE
13 WOULD HAVE REFLECTED MISCONDUCT BY THE PEACE OFFICER. IF A PEACE OFFICER
14 FAILS TO ACTIVATE OR REACTIVATE THE OFFICER'S BODY-WORN CAMERA WHEN
15 REQUIRED TO BY THIS SECTION, OR TAMPERS WITH BODY-WORN CAMERA OR DASH
16 CAMERA FOOTAGE OR OPERATION WHEN REQUIRED TO ACTIVATE THE CAMERA, ANY
17 STATEMENT THAT IS SOUGHT TO BE INTRODUCED IN A PROSECUTION THROUGH THE
18 PEACE OFFICER THAT IS RELATED TO THE INCIDENT AND THAT WAS NOT RECORDED
19 BECAUSE THE PEACE OFFICER FAILED TO ACTIVATE OR REACTIVATE THE BODY-WORN
20 CAMERA AS REQUIRED BY THIS SECTION, OR IF THE STATEMENT WAS NOT RECORDED
21 BY OTHER MEANS, CREATES A REBUTTABLE PRESUMPTION OF INADMISSIBILITY.
22 NOTWITHSTANDING ANY OTHER LAW, THIS SUBSECTION DOES NOT APPLY IF THE
23 BODY-WORN CAMERA OR DASH CAMERA WAS NOT ACTIVATED DUE TO A MALFUNCTION OF
24 THE BODY-WORN CAMERA OR DASH CAMERA AND THE PEACE OFFICER WAS NOT AWARE OF
25 THE MALFUNCTION, OR WAS UNABLE TO RECTIFY IT, BEFORE THE INCIDENT, IF THE
26 LAW ENFORCEMENT AGENCY'S DOCUMENTATION SHOWS THE PEACE OFFICER CHECKED THE
27 FUNCTIONALITY OF THE BODY-WORN CAMERA OR DASH CAMERA AT THE BEGINNING OF
28 THE PEACE OFFICER'S SHIFT.

29 G. IN ADDITION TO ANY CRIMINAL LIABILITY OR OTHER PENALTY UNDER THE
30 LAW, IF A COURT, ADMINISTRATIVE LAW JUDGE, HEARING OFFICER OR FINAL
31 DECISION IN AN INTERNAL INVESTIGATION FINDS THAT A PEACE OFFICER
32 INTENTIONALLY FAILED TO ACTIVATE A BODY-WORN CAMERA OR DASH CAMERA OR
33 TAMPERS WITH A BODY-WORN CAMERA OR DASH CAMERA, EXCEPT AS ALLOWED IN THIS
34 SECTION, THE PEACE OFFICER'S EMPLOYER SHALL IMPOSE DISCIPLINE UP TO AND
35 INCLUDING TERMINATION TO THE EXTENT ALLOWED BY THE APPLICABLE
36 CONSTITUTIONAL AND STATUTORY PERSONNEL LAWS AND CASE LAW.

37 H. IN ADDITION TO ANY CRIMINAL LIABILITY OR OTHER PENALTY UNDER THE
38 LAW, IF A COURT, ADMINISTRATIVE LAW JUDGE, HEARING OFFICER OR FINAL
39 DECISION IN AN INTERNAL INVESTIGATION FINDS THAT A PEACE OFFICER
40 INTENTIONALLY FAILED TO ACTIVATE A BODY-WORN CAMERA OR DASH CAMERA OR
41 TAMPERS WITH A BODY-WORN CAMERA OR DASH CAMERA, EXCEPT AS ALLOWED IN THIS
42 SECTION, WITH THE INTENT TO CONCEAL UNLAWFUL OR INAPPROPRIATE ACTIONS OR
43 OBSTRUCT JUSTICE, THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD
44 SHALL SUSPEND THE PEACE OFFICER'S CERTIFICATION FOR AT LEAST ONE YEAR. A

1 SUSPENSION PURSUANT TO THIS SUBSECTION MAY BE LIFTED WITHIN THE PERIOD OF
2 THE SUSPENSION ONLY IF THE PEACE OFFICER IS EXONERATED BY A COURT.

3 I. IN ADDITION TO ANY CRIMINAL LIABILITY OR OTHER PENALTY UNDER THE
4 LAW, IF A COURT, ADMINISTRATIVE LAW JUDGE, HEARING OFFICER OR FINAL
5 DECISION IN AN INTERNAL INVESTIGATION FINDS THAT A PEACE OFFICER
6 INTENTIONALLY FAILED TO ACTIVATE A BODY-WORN CAMERA OR DASH CAMERA OR
7 TAMPERED WITH A BODY-WORN CAMERA OR DASH CAMERA, EXCEPT AS ALLOWED IN THIS
8 SECTION, WITH THE INTENT TO CONCEAL UNLAWFUL OR INAPPROPRIATE ACTIONS OR
9 OBSTRUCT JUSTICE IN AN INCIDENT THAT RESULTS IN A CIVILIAN DEATH, THE
10 ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD SHALL PERMANENTLY
11 REVOKE THE PEACE OFFICER'S CERTIFICATION. A REVOCATION PURSUANT TO THIS
12 SUBSECTION MAY BE OVERTURNED ONLY IF THE PEACE OFFICER IS EXONERATED BY A
13 COURT.

14 J. A LOCAL LAW ENFORCEMENT AGENCY AND THE DEPARTMENT OF PUBLIC
15 SAFETY SHALL ESTABLISH AND FOLLOW A RETENTION SCHEDULE FOR BODY-WORN
16 CAMERA AND DASH CAMERA RECORDINGS THAT COMPLIES WITH THE RULES AND
17 DIRECTIONS ADOPTED BY THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC
18 RECORDS.

19 K. FOR ANY INCIDENT THAT INVOLVES A COMPLAINT OF PEACE OFFICER
20 MISCONDUCT BY ANOTHER PEACE OFFICER, A CIVILIAN OR A NONPROFIT
21 ORGANIZATION, THROUGH NOTICE TO THE LAW ENFORCEMENT AGENCY INVOLVED IN THE
22 ALLEGED MISCONDUCT, THE LOCAL LAW ENFORCEMENT AGENCY OR THE DEPARTMENT OF
23 PUBLIC SAFETY SHALL RELEASE ALL UNEDITED VIDEO AND AUDIO RECORDINGS OF THE
24 INCIDENT, INCLUDING RECORDINGS MADE FROM BODY-WORN CAMERAS, DASH CAMERAS
25 OR OTHERWISE COLLECTED THROUGH INVESTIGATION, TO THE PUBLIC WITHIN
26 TWENTY-ONE DAYS AFTER THE LOCAL LAW ENFORCEMENT AGENCY OR THE DEPARTMENT
27 OF PUBLIC SAFETY RECEIVED THE COMPLAINT OF MISCONDUCT.

28 L. ALL VIDEO AND AUDIO RECORDINGS THAT DEPICT A DEATH CAUSED BY A
29 PEACE OFFICER MUST BE PROVIDED ON REQUEST TO THE VICTIM'S SPOUSE, PARENT,
30 LEGAL GUARDIAN, CHILD, SIBLING, GRANDPARENT, GRANDCHILD, SIGNIFICANT OTHER
31 OR OTHER LAWFUL REPRESENTATIVE AND THE REQUESTING PERSON SHALL BE NOTIFIED
32 OF THE PERSON'S RIGHT TO RECEIVE AND REVIEW THE RECORDING AT LEAST
33 SEVENTY-TWO HOURS BEFORE PUBLIC DISCLOSURE OF THE VIDEO OR AUDIO
34 RECORDING.

35 M. NOTWITHSTANDING ANY OTHER PROVISION IN THIS SECTION, ANY VIDEO
36 RECORDING THAT RAISES A SUBSTANTIAL PRIVACY INTEREST FOR A CRIMINAL
37 DEFENDANT, A VICTIM, A WITNESS, A JUVENILE OR AN INFORMANT, INCLUDING A
38 VIDEO RECORDING THAT DEPICTS ANY OF THE FOLLOWING SHALL BE REDACTED OR
39 BLURRED TO PROTECT THE SUBSTANTIAL PRIVACY INTEREST WHILE STILL ALLOWING
40 PUBLIC RELEASE:

- 41 1. NUDITY.
- 42 2. A SEXUAL ASSAULT.
- 43 3. A MEDICAL EMERGENCY.
- 44 4. ANY PRIVATE MEDICAL INFORMATION.
- 45 5. A MENTAL HEALTH CRISIS.

1 6. A VICTIM INTERVIEW.

2 7. A MINOR, INCLUDING ANY IMAGES OR INFORMATION THAT MIGHT
3 UNDERMINE THE REQUIREMENT TO KEEP CERTAIN JUVENILE RECORDS CONFIDENTIAL.

4 8. ANY PERSONAL INFORMATION OTHER THAN THE NAME OF ANY PERSON NOT
5 ARRESTED, CITED, CHARGED OR ISSUED A WRITTEN WARNING, INCLUDING A
6 GOVERNMENT-ISSUED IDENTIFICATION NUMBER, DATE OF BIRTH, ADDRESS OR
7 FINANCIAL INFORMATION.

8 9. SIGNIFICANTLY EXPLICIT AND GRUESOME BODILY INJURY, UNLESS THE
9 INJURY WAS CAUSED BY A PEACE OFFICER.

10 10. THE INTERIOR OF A HOME OR TREATMENT FACILITY.

11 N. UNREDACTED FOOTAGE MAY NOT BE RELEASED WITHOUT THE WRITTEN
12 AUTHORIZATION OF THE VICTIM OR, IF THE VICTIM IS DECEASED OR
13 INCAPACITATED, THE WRITTEN AUTHORIZATION OF THE VICTIM'S NEXT OF KIN. A
14 PERSON WHO IS SEVENTEEN YEARS OF AGE OR YOUNGER IS CONSIDERED
15 INCAPACITATED UNLESS LEGALLY EMANCIPATED.

16 O. IF REDACTION OR BLURRING IS INSUFFICIENT TO PROTECT THE
17 SUBSTANTIAL PRIVACY INTEREST, THE LOCAL LAW ENFORCEMENT AGENCY OR THE
18 DEPARTMENT OF PUBLIC SAFETY, ON REQUEST, SHALL RELEASE THE VIDEO TO THE
19 VICTIM OR, IF THE VICTIM IS DECEASED OR INCAPACITATED, TO THE VICTIM'S
20 SPOUSE, PARENT, LEGAL GUARDIAN, CHILD, SIBLING, GRANDPARENT, GRANDCHILD OR
21 SIGNIFICANT OTHER OR OTHER LAWFUL REPRESENTATIVE WITHIN TWENTY DAYS AFTER
22 RECEIPT OF THE COMPLAINT OF MISCONDUCT. IN CASES IN WHICH THE RECORDING
23 IS NOT RELEASED TO THE PUBLIC PURSUANT TO THIS SUBSECTION, THE LOCAL LAW
24 ENFORCEMENT AGENCY SHALL NOTIFY THE PERSON WHOSE PRIVACY INTEREST IS
25 IMPLICATED, IF CONTACT INFORMATION IS KNOWN, WITHIN TWENTY DAYS AFTER
26 RECEIPT OF THE COMPLAINT OF MISCONDUCT AND INFORM THE PERSON OF THE
27 PERSON'S RIGHT TO WAIVE THE PRIVACY INTEREST.

28 P. A WITNESS, VICTIM OR CRIMINAL DEFENDANT MAY WAIVE IN WRITING THE
29 INDIVIDUAL PRIVACY INTEREST THAT MAY BE IMPLICATED BY A PUBLIC RELEASE OF
30 THE RECORDING. ON RECEIPT OF A WRITTEN WAIVER OF THE APPLICABLE PRIVACY
31 INTEREST, ACCOMPANIED BY A REQUEST FOR RELEASE, THE LAW ENFORCEMENT AGENCY
32 MAY NOT REDACT OR WITHHOLD RELEASE TO PROTECT THAT PRIVACY INTEREST.

33 Q. ANY VIDEO RECORDING THAT WOULD SUBSTANTIALLY INTERFERE WITH OR
34 JEOPARDIZE AN ACTIVE OR ONGOING INVESTIGATION MAY BE WITHHELD FROM THE
35 PUBLIC, EXCEPT THAT THE VIDEO RECORDING SHALL BE RELEASED NOT LATER THAN
36 FORTY-FIVE DAYS AFTER THE DATE OF THE MISCONDUCT ALLEGATION. IF RELEASE
37 OF A VIDEO RECORDING IS DELAYED PURSUANT TO THIS SUBSECTION, THE
38 PROSECUTING ATTORNEY SHALL PREPARE A WRITTEN EXPLANATION OF THE
39 INTERFERENCE OR JEOPARDY THAT JUSTIFIES THE DELAYED RELEASE,
40 CONTEMPORANEOUS WITH THE REFUSAL TO RELEASE THE VIDEO RECORDING. ON
41 RELEASE OF THE VIDEO RECORDING, THE PROSECUTING ATTORNEY SHALL RELEASE THE
42 WRITTEN EXPLANATION TO THE PUBLIC.

43 R. IF CRIMINAL CHARGES HAVE BEEN FILED AGAINST A PARTY TO THE
44 INCIDENT AND THAT PARTY WISHES TO FILE A CONSTITUTIONAL OBJECTION TO THE
45 RELEASE OF THE VIDEO RECORDING IN THE PENDING CRIMINAL CASE, THAT PARTY

1 MUST FILE THE OBJECTION BEFORE THE TWENTY-ONE-DAY PERIOD EXPIRES. ONLY IN
2 CASES IN WHICH THERE IS A PENDING CRIMINAL INVESTIGATION OR PROSECUTION OF
3 A PARTY TO THE INCIDENT, THE TWENTY-ONE-DAY PERIOD BEGINS FROM THE DATE OF
4 APPOINTMENT OF COUNSEL, THE FILING OF AN ENTRY OF APPEARANCE BY COUNSEL OR
5 THE ELECTION TO PROCEED PRO SE BY THE DEFENDANT IN THE CRIMINAL
6 PROSECUTION MADE ON THE RECORD BEFORE A JUDGE. IF THE DEFENDANT ELECTS TO
7 PROCEED PRO SE IN THE CRIMINAL CASE, THE COURT SHALL ADVISE THE DEFENDANT
8 OF THE TWENTY-ONE-DAY DEADLINE FOR THE DEFENDANT TO FILE ANY
9 CONSTITUTIONAL OBJECTION TO THE RELEASE OF THE VIDEO RECORDING IN THE
10 PENDING CRIMINAL CASE AS PART OF THE COURT'S ADVISEMENT. THE COURT SHALL
11 HOLD A HEARING ON ANY OBJECTION NOT LATER THAN SEVEN DAYS AFTER IT IS
12 FILED AND ISSUE A RULING NOT LATER THAN THREE DAYS AFTER THE HEARING.

13 Sec. 2. Effective date

14 This act is effective from and after December 31, 2023.