

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

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HOUSE BILL 797  
Committee Substitute Favorable 4/26/17

Short Title: Changes to Current BWC Law.

(Public)

Sponsors:

Referred to:

April 13, 2017

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE BODY-WORN CAMERA LEGISLATION TO CLARIFY THE  
3 DEFINITION OF A DECEASED PERSON AND TO PROVIDE FOR DISCLOSURE TO  
4 CITIZEN REVIEW BOARDS.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 132-1.4A reads as rewritten:

7 "§ 132-1.4A. Law enforcement agency recordings.

8 (a) Definitions. – The following definitions apply in this section:

9 (1) Body-worn camera. – An operational video or digital camera or other  
10 electronic device, including a microphone or other mechanism for allowing  
11 audio capture, affixed to the uniform or person of law enforcement agency  
12 personnel and positioned in a way that allows the camera or device to  
13 capture interactions the law enforcement agency personnel has with others.

14 (1a) Citizen review board. – A board or commission, by whatever name, legally  
15 designed by a city council to review police matters or complaints against a  
16 police agency and individual officers.

17 (2) Custodial law enforcement agency. – The law enforcement agency that owns  
18 or leases or whose personnel operates the equipment that created the  
19 recording at the time the recording was made.

20 (3) Dashboard camera. – A device or system installed or used in a law  
21 enforcement agency vehicle that electronically records images or audio  
22 depicting interaction with others by law enforcement agency personnel. This  
23 term does not include body-worn cameras.

24 (3a) Deceased person. – A person whose image or voice is captured in a  
25 recording, was living at the time the recording began, and died during or  
26 subsequent to the event captured on the recording.

27 (4) Disclose or disclosure. – To make a recording available for viewing or  
28 listening to by the person requesting disclosure, at a time and location  
29 chosen by the custodial law enforcement agency. This term does not include  
30 the release of a recording.

31 (5) Personal representative. – A parent, court-appointed guardian, spouse, or  
32 attorney of a person whose image or voice is in the recording. If a person  
33 whose image or voice is in the recording is deceased, the term also means  
34 the personal representative of the estate of the deceased person; the deceased  
35 person's surviving spouse, parent, or adult child; the deceased person's



1 attorney; or the parent or guardian of a surviving minor child of the  
2 deceased.

- 3 (6) Recording. – A visual, audio, or visual and audio recording captured by a  
4 body-worn camera, a dashboard camera, or any other video or audio  
5 recording device operated by or on behalf of a law enforcement agency or  
6 law enforcement agency personnel when carrying out law enforcement  
7 responsibilities. This term does not include any video or audio recordings of  
8 interviews regarding agency internal investigations or interviews or  
9 interrogations of suspects or witnesses.

- 10 (7) Release. – To provide a copy of a recording.

11 ...

12 (e) Appeal of Disclosure Denial. – If a law enforcement agency denies disclosure  
13 pursuant to subsection (d) of this section, or has failed to provide disclosure more than ~~three~~  
14 five business days after the request for disclosure, the person seeking disclosure may apply to  
15 the superior court in any county where any portion of the recording was made for a review of  
16 the denial of disclosure. The court may conduct an in-camera review of the recording. The  
17 court may order the disclosure of the recording only if the court finds that the law enforcement  
18 agency abused its discretion in denying the request for disclosure. The court may only order  
19 disclosure of those portions of the recording that are relevant to the person's request. A person  
20 who receives disclosure pursuant to this subsection shall not record or copy the recording. An  
21 order issued pursuant to this subsection may not order the release of the recording.

22 In any proceeding pursuant to this subsection, the following persons shall be notified and  
23 those persons, or their designated representative, shall be given an opportunity to be heard at  
24 any proceeding: (i) the head of the custodial law enforcement agency, (ii) any law enforcement  
25 agency personnel whose image or voice is in the recording and the head of that person's  
26 employing law enforcement agency, and (iii) the District Attorney. Actions brought pursuant to  
27 this subsection shall be set down for hearing as soon as practicable, and subsequent  
28 proceedings in such actions shall be accorded priority by the trial and appellate courts.

29 ...

30 (h) Release of Recordings; Law Enforcement Purposes. – Notwithstanding the  
31 requirements of subsections (c), (f), and (g) of this section, a custodial law enforcement agency  
32 shall disclose or release a recording to a district attorney (i) for review of potential criminal  
33 charges, (ii) in order to comply with discovery requirements in a criminal prosecution, (iii) for  
34 use in criminal proceedings in district court, or (iv) any other law enforcement or prosecutorial  
35 purpose, and may disclose or release a recording for any of the following purposes:~~may:~~

- 36 ~~(1) For law enforcement training purposes.~~

- 37 ~~(2) Within the custodial law enforcement agency for any administrative,~~  
38 ~~training, or law enforcement purpose.~~

- 39 ~~(3) To another law enforcement agency for law enforcement purposes.~~

- 40 (1) Disclose or release a recording within the custodial law enforcement agency  
41 for agency administrative and training purposes.

- 42 (2) Disclose or release a recording to another law enforcement agency for  
43 mutual law enforcement investigative purposes.

- 44 (3) Disclose or release a single or limited number of randomly selected still  
45 images extracted from a recording, as deemed necessary, to identify or  
46 locate a potential criminal suspect. The images shall only depict the face or  
47 other identifying characteristics of the criminal suspect.

- 48 (4) Disclose a recording to the municipal manager or county manager, upon the  
49 manager's request, for management and administrative purposes including  
50 police operational review if the custodial law enforcement agency is a  
51 municipal police agency or a combined city-and-county police agency

headed by a chief officer other than a county sheriff. Prior to viewing the recording, the manager shall execute a confidentiality statement agreeing to maintain the confidentiality of the recording. Recording images can be released publicly only upon court order.

(5) Disclose a recording, in a closed session, to the city or town council or citizen review board upon recommendation of the city or town manager and majority vote of the city or town council. In advance of the disclosure, council, board, or commission members shall execute a confidentiality statement agreeing to maintain the confidentiality of the recording prior to viewing the recording. Recording images may be released publicly only upon court order.

...."

**SECTION 2.** G.S. 143-318.11(a) reads as rewritten:

**"§ 143-318.11. Closed sessions.**

(a) Permitted Purposes. – It is the policy of this State that closed sessions shall be held only when required to permit a public body to act in the public interest as permitted in this section. A public body may hold a closed session and exclude the public only when a closed session is required:

...  
(10) To view a recording ~~released~~regulated pursuant to G.S. 132-1.4A."

**SECTION 3.** This act is effective when it becomes law.