

STATE OF KANSAS

SENATE CHAMBER

MADAM PRESIDENT:

I move to amend **Substitute for SB 18**, on page 1, by striking all in lines 5 through 28 and inserting:

"Section 1. (a) Sections 1 through 6, and amendments thereto, shall be known and may be cited as the police and citizen protection act.

(b) As used in this act:

(1) "Body camera" means a device that is worn by a law enforcement officer that electronically records audio and video of such officer's activities;

(2) "law enforcement officer" means a uniformed law enforcement officer in this state who is required to use a body camera pursuant to section 2, and amendments thereto;

(3) "person" means an individual, public or private corporation, government, partnership or unincorporated association; and

(4) "vehicle camera" means a device that is attached to a law enforcement vehicle that electronically records audio and video of law enforcement officers' activities.

Sec. 2. (a) Every state, county and municipal law enforcement officer who is primarily assigned to patrol duties shall be equipped with a body camera while performing such duties. The camera shall be used by the officer to record activities that take place during motor vehicle stops or other law enforcement actions taken during the course of such officer's official duties.

(b) (1) Except as provided in subsections (b)(3) and (b)(4), a law enforcement officer shall activate the recording function of the body camera whenever such officer is on duty, continuously record with the camera and make an effort to record interactions with others with the camera.

(2) As practicable, a law enforcement officer shall notify another person if the person is being recorded by the body camera.

(3) A law enforcement officer may temporarily stop recording with the body camera when such officer is engaged in a personal matter, such as a personal conversation or using the bathroom.

(4) When entering a residence under nonexigent circumstances, a law enforcement officer shall ask the residents whether they want the officer to stop recording with the body camera while in the residence. The officer shall record the exchange to document the wishes of the residents.

(c) A law enforcement officer shall read, agree to and sign a written waiver that consists of a consent to be filmed by a body camera and an acknowledgment of the requirements of the police and citizen protection act and the related policies of the law enforcement agency by which the law enforcement officer is employed.

(d) The provisions of K.S.A. 22-2514 through 22-2519, and amendments thereto, relating to the authorized interception of wire, oral or electronic communications, shall not apply to recordings made by a body camera as required by the police and citizen protection act.

Sec. 3. A law enforcement agency or law enforcement officer shall not allow a computerized facial recognition program or application to be used with a body camera or a recording made by a body camera unless the use has been authorized by a warrant issued by a court.

Sec. 4. (a) Except as otherwise provided in this section, a law enforcement agency shall retain video and audio recorded by a body camera for two weeks.

(b) A law enforcement agency shall retain video and audio recorded by a body camera for three years if any of the following apply:

- (1) The recording is of an incident involving the use of force;
- (2) the recording is of an incident that leads to detention or arrest of a person;
- (3) the recording is relevant to a formal or informal complaint against a law enforcement

officer or the law enforcement agency;

(4) a request regarding the recording has been made pursuant to subsection (e); or

(5) a request for a copy of the recording has been made pursuant to subsection (f).

(c) If evidence that may be useful in a criminal prosecution is obtained from a recording made by a body camera, the law enforcement agency shall retain the recording for any time in addition to the time period in subsection (a) or (b) and in the same manner as is required by law for other evidence that may be useful in a criminal prosecution.

(d) A law enforcement agency shall post on the law enforcement agency's public website its policies relating to the retention of recordings made by body cameras, requests for the retention of the recordings and requests for copies of the recordings.

(e) A person described in subsection (f) may request that a recording made by a body camera be retained for three years pursuant to subsection (b). It is not necessary for the person to file a complaint or for there to be a related open investigation for the person to make a request under this subsection.

(f) Any of the following may make a request under subsection (e):

(1) A person who is a subject of the recording;

(2) a person whose property has been seized or damaged in relation to, or is otherwise involved with, a crime to which the recording is related;

(3) a parent or legal guardian of a person described in subsection (f)(1) or (f)(2);

(4) an attorney for a person described in subsection (f)(1) or (f)(2); or

(5) any other person that a person described in subsection (f)(1) or (f)(2) has given written authority to make the request.

(g) Before deleting or otherwise disposing of a recording made by a body camera, a person who has the responsibility on behalf of the law enforcement agency of deleting or disposing of the

recording shall review all applicable and available records, files and databases to ascertain whether there is any reason why the recording cannot be deleted or disposed of under this section or the policies of the law enforcement agency. The person shall not delete or dispose of the recording if such person ascertains that there is any such reason.

Sec. 5. (a) Every audio and video recording made and retained by law enforcement using a body camera or vehicle camera shall be confidential and exempt from the open records act in accordance with K.S.A. 45-221, and amendments thereto. The provisions of this subsection shall expire on July 1, 2020, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2020.

(b) A person described in subsection (c) may request to listen to an audio recording or to view a video recording made by a body camera or vehicle camera. The law enforcement agency shall provide the person a viewing of the requested recording and may charge a reasonable fee for the viewing services provided by the law enforcement agency.

(c) Any of the following may make a request under subsection (b):

- (1) A person who is a subject of the recording;
- (2) a parent or legal guardian of a person under 18 years of age who is a subject of the recording; and
- (3) an attorney for a person described in subsection (c)(1) or (c)(2).

Sec. 6. Law enforcement agencies shall seek and accept grants and other financial assistance that the federal government and other public or private sources make available to implement the provisions of the police and citizen protection act.";

Any by renumbering sections accordingly;

On page 1, in the title, by striking all after "ACT"; in line 2, by striking "recordings" and inserting "enacting the police and citizen protection act; relating to use of body cameras by law

enforcement officers"

Senator _____