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# A BILL FOR AN ACT

RELATING TO LAW ENFORCEMENT RECORDS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that an increasing number  
2 of states have reviewed the use of body-worn and vehicle cameras  
3 by law enforcement agencies to provide another means of  
4 protection for civilians and law enforcement officers. A video  
5 camera worn by a law enforcement officer or mounted on a law  
6 enforcement vehicle's dashboard can act like a third-party,  
7 independent witness by recording events that occurred in the  
8 field. The knowledge that a recording is in progress restrains  
9 an individual's behavior, because the individual is aware the  
10 recording may be used to hold the individual responsible for the  
11 recorded actions. Recent incidents involving law enforcement  
12 officers and the alleged use of unnecessary force demonstrate  
13 that body-worn and vehicle camera recordings can be used to  
14 corroborate or refute statements that are made by law  
15 enforcement officers and civilians.

16           The legislature also finds that weighing the arguments of  
17 advocates and opponents on the disclosure of the recordings from



1 body-worn and vehicle cameras is difficult and time-consuming.  
2 There is a strong public interest to use the recordings of the  
3 body-worn and vehicle cameras, especially in situations where  
4 force is used or when recorded events conclude with a felony  
5 arrest. On the other hand, the privacy interest of the  
6 individuals whose actions are recorded weigh against disclosure.  
7 The final determination of this balance shall be done pursuant  
8 to part II of chapter 92F, Hawaii Revised Statutes.

9 Accordingly, the purpose of this Act is to promote  
10 transparency, accountability, and protection for law enforcement  
11 officers and civilians, while protecting individual privacy, by:

- 12 (1) Establishing standards for the public disclosure of  
13 recordings from body-worn and vehicle cameras; and
- 14 (2) Appropriating funds to the office of information  
15 practices for the equipment necessary to review  
16 recordings and for one full-time position to assist  
17 with requests relating to recordings from body-worn  
18 and vehicle cameras and to perform other related  
19 duties.



1 SECTION 2. The Hawaii Revised Statutes is amended by  
2 adding a new chapter to be appropriately designated and to read  
3 as follows:

4 "CHAPTER

5 LAW ENFORCEMENT BODY-WORN CAMERAS AND VEHICLE CAMERAS

6 § -A Definitions. As used in this chapter:

7 "Body-worn camera" means a recording device that is:

- 8 (1) Capable of recording video or audio, or transmitting  
9 video or audio to be recorded remotely; and
- 10 (2) Worn on the person of a law enforcement officer, which  
11 shall include being attached to the law enforcement  
12 officer's clothing or worn as glasses.

13 "Law enforcement" means an agency or its employees under  
14 chapters 28, 52D, 121, 199, or 353C.

15 "Recording" means the images or audio, or both that have  
16 been captured by a body-worn or vehicle camera.

17 "Subject of the recording" means any law enforcement  
18 officer, suspect, victim, detainee, conversant, injured party,  
19 or similarly situated person whose images or audio are captured  
20 on a body-worn or vehicle camera, but shall not include the  
21 incidental images or audio of individuals.



- 1 "Vehicle camera" means a recording device that is:
- 2 (1) Capable of recording, or transmitting to be recorded
- 3 remotely, video or audio, or both; and
- 4 (2) Mounted in or on a law enforcement vehicle.
- 5 **§ -B Disclosure of recording.** (a) Except as otherwise
- 6 provided in this section, recordings captured on body-worn
- 7 cameras and vehicle cameras may be withheld from disclosure
- 8 under part II of chapter 92F.
- 9 (b) Recordings shall be disclosed upon request to the
- 10 extent required under part II of chapter 92F when:
- 11 (1) The recording captures images or audio involving any
- 12 use of force;
- 13 (2) The recording captures images or audio involving
- 14 events leading up to and including an arrest for a
- 15 felony-level offense, or events that constitute a
- 16 felony-level offense;
- 17 (3) The recording captures images or audio involving an
- 18 encounter about which a complaint has been registered
- 19 by a subject of the recording, unless the subject of
- 20 the recording objects in writing to the disclosure; or



1           (4) All subjects of the recording, except for law  
 2 enforcement officers, have consented in writing to the  
 3 disclosure; provided that:

4           (A) The parent or legal guardian of a minor who is a  
 5 subject of the recording, or a deceased subject's  
 6 next of kin or legally authorized designee, may  
 7 provide consent on behalf of the subject of the  
 8 recording; and

9           (B) The subject of the recording or the subject's  
 10 legal representative shall be permitted to review  
 11 the relevant recording before consenting to its  
 12 disclosure.

13           § -C **Personal privacy.** Consistent with sections 92F-13  
 14 and 92F-14, disclosure of the recording described in section

15 -B shall be deemed to constitute a clearly unwarranted  
 16 invasion of personal privacy unless the public interest in  
 17 disclosure outweighs the privacy interests of the subject of the  
 18 recording.

19           § -D **Retention of recordings.** No recording that:

20           (1) Documents an incident involving the use of deadly  
 21 force by law enforcement; or



1           (2) Is related to an administrative or criminal  
 2                    investigation of law enforcement,  
 3 shall be deleted or destroyed without court order."

4           SECTION 3. There is appropriated out of the general  
 5 revenues of the State of Hawaii the sum of \$            or so much  
 6 thereof as may be necessary for fiscal year 2017-2018 and the  
 7 same sum or so much thereof as may be necessary for fiscal year  
 8 2018-2019:

9           (1) For the purchase of equipment and software to review  
 10                   the recordings made by body-worn cameras and vehicle  
 11                   cameras; and

12           (2) To establish one full-time equivalent (1.00 FTE)  
 13                   permanent position to provide support for the office  
 14                   of information practices,  
 15 to carry out the purposes of this Act.

16           The sums appropriated shall be expended by the office of  
 17 information practices for the purposes of this Act.

18           SECTION 4. In codifying the new sections added by section  
 19 2 of this Act, the revisor of statutes shall substitute  
 20 appropriate section numbers for the letters used in designating  
 21 the new sections in this Act.



# H.B. NO. 1380

1 SECTION 5. This Act shall take effect on July 1, 2017.

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INTRODUCED BY: *Gregg Takam*

JAN 24 2017



# H.B. NO. 1380

**Report Title:**

Law Enforcement; Body-worn and Vehicle Cameras; Uniform Information Practices Act; Appropriation

**Description:**

Provides that disclosure of recordings made by law enforcement with body-worn and vehicle cameras shall be made pursuant to the Uniform Information Practices Act. Makes an appropriation.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

