

## LAW ENFORCEMENT BODY-WORN CAMERA PRIVACY ACT

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<http://www.house.mi.gov/hfa>

**House Bill 4234 as introduced**  
**Sponsor: Rep. Jim Runestad**  
**Committee: Judiciary**  
**Complete to 4-10-15**

Analysis available at  
<http://www.legislature.mi.gov>

### SUMMARY:

The bill creates the Law Enforcement Body-Worn Camera Privacy Act to do the following:

- ❖ With some exceptions, prohibit a recording taken in a private place from disclosure under FOIA.
- ❖ Specify the circumstances under which a recording would be subject to FOIA.
- ❖ With some exceptions, prohibit a video or audio recording to be retained for more than 30 days.
- ❖ If a complaint against a law enforcement officer was made after the retention period expired, specify there would be no presumption that the recording would have provided corroboration of the defendant's or plaintiff's version of events.

Under the bill, a recording taken by a law enforcement officer with a body-worn camera or similar device that is taken in a private place is exempt from disclosure under the Freedom of Information Act (FOIA). "Private place" is defined as a place where an individual may reasonably expect to be safe from casual or hostile intrusion or surveillance but does not include a place to which the public or a substantial group of the public has access.

However, the following individuals may request a copy of an audio or video recording taken by a law enforcement officer with a body-worn camera that was taken in a private place **if** the recording is relevant to the criminal prosecution of the individual or a civil action brought by the individual:

- ❖ An individual who is the subject of the audio or video recording.
- ❖ An individual whose property has been seized or damaged in relation to, or is otherwise involved with, a crime to which the recording is related.
- ❖ A parent of, a legal guardian of, or an attorney for an individual described above.

An audio or video recording from a body-worn camera that is retained by a law enforcement agency in connection with an ongoing criminal investigation or an ongoing internal investigation is not a public record and would be exempt from disclosure under FOIA.

In general, a law enforcement agency must retain the audio and video recordings for no longer than 30 days. The recording must be retained for three years if the recording is relevant to a complaint against a law enforcement officer or agency **or** if a request

regarding the recording has been made under one of the exceptions allowing FOIA disclosure.

If a complaint against a law enforcement officer or law enforcement agency is made after the expiration of the 30-day retention period and a law enforcement agency is unable to produce a recording in any subsequent criminal prosecution or civil action, the bill states that there would be no presumption that the recording would corroborate the defendant's version of events in a criminal prosecution or the plaintiff's version in a civil action.

The bill would take effect 90 days after enactment.

**FISCAL IMPACT:**

There would be no significant fiscal impact on the Michigan State Police or local law enforcement agencies.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.