



State of Wisconsin  
2017 - 2018 LEGISLATURE

LRB-1100/1  
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## 2017 ASSEMBLY BILL 351

May 31, 2017 - Introduced by Representatives KREMER, R. BROOKS, HORLACHER, KERKMAN, KULP, MURSAU, SANFELIPPO, SKOWRONSKI and THIESFELDT, cosponsored by Senators TESTIN, OLSEN, STROEBEL and WANGGAARD. Referred to Committee on Criminal Justice and Public Safety.

1     **AN ACT** *to create* 165.87 of the statutes; **relating to:** body cameras on law  
2           enforcement officers.

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***Analysis by the Legislative Reference Bureau***

This bill creates requirements for law enforcement agencies that use body cameras on law enforcement officers, including requirements for agency policies and training and for the retention and confidentiality of data recorded by the body cameras.

The bill also provides that if a public authority has custody of data from a body camera used by a law enforcement agency, that authority is not considered to be the custodian of that data. For purposes of requests for access to such data, the bill provides that the law enforcement agency is considered to be the custodian of that data and the bill directs any other authority that has custody of any such data to deny access to that data.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

3           **SECTION 1.** 165.87 of the statutes is created to read:

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1           **165.87 Body cameras on law enforcement.** (1) (a) If a law enforcement  
2 agency uses a body camera on a law enforcement officer, the law enforcement agency  
3 shall administer a policy regarding all of the following:

4           1. The use, maintenance, and storage of body cameras and data recorded by the  
5 body cameras.

6           2. Any limitations the law enforcement agency imposes on which law  
7 enforcement officers may wear a body camera.

8           3. Any limitations the law enforcement agency imposes on situations, persons,  
9 or encounters that may be recorded by a body camera.

10           (b) If a law enforcement agency uses a body camera on a law enforcement  
11 officer, the law enforcement agency shall do all of the following:

12           1. Train all law enforcement officers wearing a body camera on the policy under  
13 par. (a) and on the requirements under sub. (2).

14           2. Train all employees that use, maintain, store, or release data from a body  
15 camera on the policy under par. (a) and on the requirements under subs. (2) and (3).

16           3. Periodically review practices regarding the body cameras and data from body  
17 cameras to ensure compliance with the policy under par. (a) and the requirements  
18 under subs. (2) and (3).

19           (2) (a) Except as provided in pars. (b), (c), and (d), all data from a body camera  
20 shall be retained for a minimum of 120 days after the date of recording and may be  
21 destroyed after that time.

22           (b) Data recording any of the following shall be retained until disposition of the  
23 case or complaint:

24           1. An encounter that resulted in the death of any individual or actual or alleged  
25 physical injury to an individual.

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1           2. An encounter that resulted in a custodial arrest.

2           3. A search during an authorized temporary questioning as provided in s.  
3 968.25.

4           (c) Retention beyond 120 days may be directed by a law enforcement officer or  
5 law enforcement agency, a prosecutor, a defendant, or a court that determines that  
6 the data have evidentiary value in a prosecution. An entity making the directive  
7 shall submit a preservation order within 120 days after the incident.

8           (d) Data retained under par. (a), (b), or (c) that are used in a criminal, civil, or  
9 administrative hearing may not be destroyed except upon final disposition, a  
10 determination from the court or hearing examiner that the data are no longer  
11 needed, and an order from the court or hearing examiner. Data retained in internal  
12 investigations that are not subject to any such jurisdiction may be disposed of by the  
13 law enforcement agency.

14           **(3)** (a) In this subsection:

15           1. “Known victim or witness” means an individual to whom all of the following  
16 apply:

17           a. The individual was present at the location during the recording.

18           b. The individual’s identity is known to the law enforcement agency.

19           c. The individual is not suspected of committing a crime or other violation of  
20 law in connection with the law enforcement officer’s presence in the location that was  
21 recorded.

22           2. “Owner” means an individual to whom all of the following apply:

23           a. The individual owns or otherwise controls the property at the location that  
24 was recorded.

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1           b. The individual is not suspected of committing a crime or other violation of  
2 law in connection with the law enforcement officer's presence in the location that was  
3 recorded.

4           (b) Data from a body camera are confidential and not open to inspection and  
5 copying under s. 19.35 (1) unless sub. (2) (b) applies to the data. If sub. (2) (b) applies  
6 to the data, the data are subject to the right of inspection and copying under s. 19.35  
7 (1), except as provided in par. (c).

8           (c) 1. If the data record a location where an individual may have a reasonable  
9 expectation of privacy, the data recording the location are not subject to the right of  
10 inspection and copying under s. 19.35 (1) unless each individual who is a known  
11 victim or witness or an owner, or a person authorized by each such individual as  
12 described under s. 19.32 (1m), provides the law enforcement agency with written  
13 permission for the release.

14           2. Upon receipt of a request under s. 19.35 (1) for data to which this paragraph  
15 applies, the law enforcement agency shall, subject to subd. 3., mail a request for such  
16 permission to the last-known address of each individual who is a known victim or  
17 witness or an owner. If the law enforcement agency has not received the requisite  
18 permission to release the data within 14 business days after the law enforcement  
19 agency mails the requests, the law enforcement agency may deny the request, but  
20 any written permission for the release received after that 14-day period shall be  
21 valid as to any subsequent requests for the same data.

22           3. a. A law enforcement agency is not required to mail requests for permission  
23 to release data under subd. 2. if the law enforcement agency denies the request on  
24 other grounds.

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1           b. After a law enforcement agency mails requests for permission under subd.  
2           2., the law enforcement agency is not required to mail such requests for any  
3           subsequent request under s. 19.35 (1) for the same data.

4           4. A law enforcement agency shall retain any correspondence related to data  
5           to which this paragraph applies for at least as long as the law enforcement agency  
6           retains the data to which the correspondence relates.

7           (d) 1. In this paragraph, "authority" has the meaning given in s. 19.32 (1).

8           2. For purposes of requests under s. 19.35 (1) for access to data from a body  
9           camera used by a law enforcement agency, the law enforcement agency is the legal  
10          custodian of the record, and if any other authority has custody of any such data, that  
11          authority is not the legal custodian of that data. If any other authority receives a  
12          request under s. 19.35 (1) for that data, that authority shall deny any portion of the  
13          request that relates to that data.

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(END)