

REFERENCE TITLE: peace officers; cameras; recordings; disclosures..

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

SB 1386

Introduced by
Senator Quezada

AN ACT

AMENDING TITLE 38, CHAPTER 8, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 4; RELATING TO LAW ENFORCEMENT OFFICERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 38, chapter 8, Arizona Revised Statutes, is
3 amended by adding article 4, to read:

4 ARTICLE 4. LAW ENFORCEMENT OFFICER CAMERAS AND RECORDINGS

5 38-1171. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "CONTACT":

8 (a) MEANS AN INTERACTION THAT IS WITH AN INDIVIDUAL WHO IS EITHER
9 INSIDE OR OUTSIDE OF A MOTOR VEHICLE AND THAT IS INITIATED BY A PEACE
10 OFFICER, WHETHER CONSENSUAL OR NONCONSENSUAL, TO ENFORCE A LAW OR FOR
11 INVESTIGATING A POSSIBLE VIOLATION OF A LAW.

12 (b) DOES NOT INCLUDE ROUTINE INTERACTIONS WITH THE PUBLIC AT THE
13 POINT OF ENTRY OR EXIT FROM A CONTROLLED AREA.

14 2. "PEACE OFFICER" HAS THE SAME MEANING PRESCRIBED IN SECTION
15 1-215.

16 3. "PHYSICAL FORCE" MEANS USING PHYSICAL TECHNIQUES ON OR TACTICS,
17 CHEMICAL AGENTS OR WEAPONS AGAINST ANOTHER INDIVIDUAL.

18 4. "TAMPER" MEANS TO INTENTIONALLY DAMAGE, DISABLE, DISLODGE OR
19 OBSTRUCT THE SIGHT OR SOUND OR OTHERWISE IMPAIR FUNCTIONALITY OF A
20 BODY-WORN CAMERA OR TO INTENTIONALLY DAMAGE, DELETE OR FAIL TO UPLOAD SOME
21 OR ALL PORTIONS OF THE VIDEO AND AUDIO OF A BODY-WORN CAMERA.

22 38-1172. Peace officers; cameras; incident recording
23 requirements; exceptions; presumptions;
24 certification suspension or revocation; retention
25 schedule; privacy interests; filing deadlines;
26 notice

27 A. ON OR BEFORE JULY 1, 2024, EVERY LOCAL LAW ENFORCEMENT AGENCY IN
28 THIS STATE AND THE DEPARTMENT OF PUBLIC SAFETY SHALL PROVIDE A BODY-WORN
29 CAMERA FOR EACH PEACE OFFICER WHO IS EMPLOYED BY THE LAW ENFORCEMENT
30 AGENCY OR THE DEPARTMENT OF PUBLIC SAFETY AND WHO HAS CONTACT WITH THE
31 PUBLIC.

32 B. EXCEPT AS PROVIDED IN SUBSECTION C, D OR E OF THIS SECTION, A
33 PEACE OFFICER MUST WEAR AND ACTIVATE A BODY-WORN CAMERA, OR ACTIVATE A
34 DASH CAMERA IF THE PEACE OFFICER'S VEHICLE IS EQUIPPED WITH A DASH CAMERA,
35 WHEN RESPONDING TO A CALL FOR SERVICE OR DURING ANY CONTACT WITH THE
36 PUBLIC THAT IS INITIATED BY THE PEACE OFFICER, WHETHER CONSENSUAL OR
37 NONCONSENSUAL, TO ENFORCE A LAW OR INVESTIGATE THE POSSIBLE VIOLATION OF A
38 LAW.

39 C. A PEACE OFFICER MAY TURN OFF A BODY-WORN OR DASH CAMERA:

40 1. TO AVOID RECORDING PERSONAL INFORMATION THAT IS NOT RELATED TO A
41 CASE.

42 2. WHEN WORKING ON AN UNRELATED ASSIGNMENT.

43 3. WHEN THERE IS A LONG BREAK IN THE INCIDENT OR CONTACT THAT IS
44 NOT RELATED TO THE INITIAL INCIDENT.

1 4. IN AN ADMINISTRATIVE, TACTICAL OR MANAGEMENT DISCUSSION THAT IS
2 NOT RELATED TO THE INITIAL INCIDENT.

3 D. A PEACE OFFICER DOES NOT NEED TO WEAR OR ACTIVATE A BODY-WORN
4 CAMERA IF THE PEACE OFFICER IS WORKING UNDERCOVER OR IN A COURT ROOM.

5 E. THIS SECTION DOES NOT APPLY TO A PEACE OFFICER OR THE STAFF WHO
6 WORK IN THE JAIL OF A LOCAL LAW ENFORCEMENT AGENCY IF THE JAIL HAS VIDEO
7 CAMERAS EXCEPT IF PERFORMING A TASK THAT REQUIRES THE ANTICIPATED USE OF
8 PHYSICAL FORCE, INCLUDING DURING A CELL EXTRACTION OR IF USING A RESTRAINT
9 CHAIR.

10 F. IF A PEACE OFFICER FAILS TO ACTIVATE A BODY-WORN CAMERA OR DASH
11 CAMERA WHEN REQUIRED TO BY THIS SECTION OR TAMPERS WITH BODY-WORN OR DASH
12 CAMERA FOOTAGE OR OPERATION WHEN REQUIRED TO ACTIVATE THE CAMERA, THERE IS
13 A PERMISSIVE INFERENCE AGAINST THE PEACE OFFICER IN ANY INVESTIGATION OR
14 LEGAL PROCEEDING, EXCLUDING CRIMINAL PROCEEDINGS, THAT THE MISSING FOOTAGE
15 WOULD HAVE REFLECTED MISCONDUCT BY THE PEACE OFFICER. IF A PEACE OFFICER
16 FAILS TO ACTIVATE OR REACTIVATE THE OFFICER'S BODY-WORN CAMERA WHEN
17 REQUIRED TO BY THIS SECTION OR TAMPERS WITH BODY-WORN OR DASH CAMERA
18 FOOTAGE OR OPERATION WHEN REQUIRED TO ACTIVATE THE CAMERA, ANY STATEMENT
19 THAT IS SOUGHT TO BE INTRODUCED IN A PROSECUTION THROUGH THE PEACE OFFICER
20 THAT IS RELATED TO THE INCIDENT AND THAT WAS NOT RECORDED BECAUSE THE
21 PEACE OFFICER FAILED TO ACTIVATE OR REACTIVATE THE BODY-WORN CAMERA AS
22 REQUIRED TO BY THIS SECTION OR IF THE STATEMENT WAS NOT RECORDED BY OTHER
23 MEANS CREATES A REBUTTABLE PRESUMPTION OF INADMISSIBILITY.
24 NOTWITHSTANDING ANY OTHER LAW, THIS SUBSECTION DOES NOT APPLY IF THE
25 BODY-WORN OR DASH CAMERA WAS NOT ACTIVATED DUE TO A MALFUNCTION OF THE
26 BODY-WORN OR DASH CAMERA AND THE PEACE OFFICER WAS NOT AWARE OF THE
27 MALFUNCTION, OR WAS UNABLE TO RECTIFY IT, BEFORE THE INCIDENT, PROVIDED
28 THAT THE LAW ENFORCEMENT AGENCY'S DOCUMENTATION SHOWS THE PEACE OFFICER
29 CHECKED THE FUNCTIONALITY OF THE BODY-WORN OR DASH CAMERA AT THE BEGINNING
30 OF THE PEACE OFFICER'S SHIFT.

31 G. IN ADDITION TO ANY CRIMINAL LIABILITY OR OTHER PENALTY UNDER THE
32 LAW, IF A COURT, ADMINISTRATIVE LAW JUDGE, HEARING OFFICER OR FINAL
33 DECISION IN AN INTERNAL INVESTIGATION FINDS THAT A PEACE OFFICER
34 INTENTIONALLY FAILED TO ACTIVATE A BODY-WORN OR DASH CAMERA OR TAMPED
35 WITH A BODY-WORN OR DASH CAMERA, EXCEPT AS ALLOWED IN THIS SECTION, THE
36 PEACE OFFICER'S EMPLOYER SHALL IMPOSE DISCIPLINE UP TO AND INCLUDING
37 TERMINATION TO THE EXTENT ALLOWED BY THE APPLICABLE CONSTITUTIONAL AND
38 STATUTORY PERSONNEL LAWS AND CASE LAW.

39 H. IN ADDITION TO ANY CRIMINAL LIABILITY OR OTHER PENALTY UNDER THE
40 LAW, IF A COURT, ADMINISTRATIVE LAW JUDGE, HEARING OFFICER OR FINAL
41 DECISION IN AN INTERNAL INVESTIGATION FINDS THAT A PEACE OFFICER
42 INTENTIONALLY FAILED TO ACTIVATE A BODY-WORN OR DASH CAMERA OR TAMPED
43 WITH A BODY-WORN OR DASH CAMERA, EXCEPT AS ALLOWED IN THIS SECTION, WITH
44 THE INTENT TO CONCEAL UNLAWFUL OR INAPPROPRIATE ACTIONS OR OBSTRUCT
45 JUSTICE, THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD SHALL

1 SUSPEND THE PEACE OFFICER'S CERTIFICATION AT LEAST ONE YEAR. A SUSPENSION
2 PURSUANT TO THIS SUBSECTION MAY BE LIFTED WITHIN THE PERIOD OF THE
3 SUSPENSION ONLY IF THE PEACE OFFICER IS EXONERATED BY A COURT.

4 I. IN ADDITION TO ANY CRIMINAL LIABILITY OR OTHER PENALTY UNDER THE
5 LAW, IF A COURT, ADMINISTRATIVE LAW JUDGE, HEARING OFFICER OR FINAL
6 DECISION IN AN INTERNAL INVESTIGATION FINDS THAT A PEACE OFFICER
7 INTENTIONALLY FAILED TO ACTIVATE A BODY-WORN OR DASH CAMERA OR TAMPERED
8 WITH A BODY-WORN OR DASH CAMERA, EXCEPT AS ALLOWED IN THIS SECTION, WITH
9 THE INTENT TO CONCEAL UNLAWFUL OR INAPPROPRIATE ACTIONS OR OBSTRUCT
10 JUSTICE, IN AN INCIDENT THAT RESULTS IN A CIVILIAN DEATH, THE ARIZONA
11 PEACE OFFICER STANDARDS AND TRAINING BOARD SHALL PERMANENTLY REVOKE THE
12 PEACE OFFICER'S CERTIFICATION. A REVOCATION PURSUANT TO THIS SUBSECTION
13 MAY BE OVERTURNED ONLY IF THE PEACE OFFICER IS EXONERATED BY A COURT.

14 J. A LOCAL LAW ENFORCEMENT AGENCY AND THE DEPARTMENT OF PUBLIC
15 SAFETY SHALL ESTABLISH AND FOLLOW A RETENTION SCHEDULE FOR BODY-WORN AND
16 DASH CAMERA RECORDINGS THAT COMPLIES WITH THE RULES AND DIRECTIONS ADOPTED
17 BY THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS.

18 K. FOR ANY INCIDENT THAT INVOLVES A COMPLAINT OF PEACE OFFICER
19 MISCONDUCT BY ANOTHER PEACE OFFICER, A CIVILIAN, OR A NONPROFIT
20 ORGANIZATION, THROUGH NOTICE TO THE LAW ENFORCEMENT AGENCY INVOLVED IN THE
21 ALLEGED MISCONDUCT, THE LOCAL LAW ENFORCEMENT AGENCY OR THE DEPARTMENT OF
22 PUBLIC SAFETY SHALL RELEASE ALL UNEDITED VIDEO AND AUDIO RECORDINGS OF THE
23 INCIDENT, INCLUDING RECORDINGS MADE FROM BODY-WORN CAMERAS, DASH CAMERAS,
24 OR OTHERWISE COLLECTED THROUGH INVESTIGATION, TO THE PUBLIC WITHIN
25 TWENTY-ONE DAYS AFTER THE LOCAL LAW ENFORCEMENT AGENCY OR THE DEPARTMENT
26 OF PUBLIC SAFETY RECEIVED THE COMPLAINT OF MISCONDUCT.

27 L. ALL VIDEO AND AUDIO RECORDINGS THAT DEPICT A DEATH CAUSED BY A
28 PEACE OFFICER MUST BE PROVIDED ON REQUEST TO THE VICTIM'S SPOUSE, PARENT,
29 LEGAL GUARDIAN, CHILD, SIBLING, GRANDPARENT, GRANDCHILD OR SIGNIFICANT
30 OTHER OR OTHER LAWFUL REPRESENTATIVE AND THE REQUESTING PERSON SHALL BE
31 NOTIFIED OF THE PERSON'S RIGHT TO RECEIVE AND REVIEW THE RECORDING AT
32 LEAST SEVENTY-TWO HOURS BEFORE PUBLIC DISCLOSURE OF THE VIDEO OR AUDIO
33 RECORDING.

34 M. NOTWITHSTANDING ANY OTHER PROVISION IN THIS SECTION, ANY VIDEO
35 RECORDING THAT RAISES A SUBSTANTIAL PRIVACY INTEREST FOR A CRIMINAL
36 DEFENDANT, A VICTIM, A WITNESS, A JUVENILE OR AN INFORMANT, INCLUDING A
37 VIDEO RECORDING THAT DEPICTS ANY OF THE FOLLOWING SHALL BE REDACTED OR
38 BLURRED TO PROTECT THE SUBSTANTIAL PRIVACY INTEREST WHILE STILL ALLOWING
39 PUBLIC RELEASE:

- 40 1. NUDITY.
- 41 2. A SEXUAL ASSAULT.
- 42 3. A MEDICAL EMERGENCY.
- 43 4. ANY PRIVATE MEDICAL INFORMATION.
- 44 5. A MENTAL HEALTH CRISIS.
- 45 6. A VICTIM INTERVIEW.

1 7. A MINOR, INCLUDING ANY IMAGES OR INFORMATION THAT MIGHT
2 UNDERMINE THE REQUIREMENT TO KEEP CERTAIN JUVENILE RECORDS CONFIDENTIAL.

3 8. ANY PERSONAL INFORMATION OTHER THAN THE NAME OF ANY PERSON NOT
4 ARRESTED, CITED, CHARGED OR ISSUED A WRITTEN WARNING, INCLUDING A
5 GOVERNMENT-ISSUED IDENTIFICATION NUMBER, DATE OF BIRTH, ADDRESS OR
6 FINANCIAL INFORMATION.

7 9. SIGNIFICANTLY EXPLICIT AND GRUESOME BODILY INJURY, UNLESS THE
8 INJURY WAS CAUSED BY A PEACE OFFICER.

9 10. THE INTERIOR OF A HOME OR TREATMENT FACILITY.

10 N. UNREDACTED FOOTAGE MAY NOT BE RELEASED WITHOUT THE WRITTEN
11 AUTHORIZATION OF THE VICTIM OR, IF THE VICTIM IS DECEASED OR
12 INCAPACITATED, THE WRITTEN AUTHORIZATION OF THE VICTIM'S NEXT OF KIN. A
13 PERSON WHO IS SEVENTEEN YEARS OF AGE OR YOUNGER IS CONSIDERED
14 INCAPACITATED UNLESS LEGALLY EMANCIPATED.

15 O. IF REDACTION OR BLURRING IS INSUFFICIENT TO PROTECT THE
16 SUBSTANTIAL PRIVACY INTEREST, THE LOCAL LAW ENFORCEMENT AGENCY OR THE
17 DEPARTMENT OF PUBLIC SAFETY, ON REQUEST, SHALL RELEASE THE VIDEO TO THE
18 VICTIM OR, IF THE VICTIM IS DECEASED OR INCAPACITATED, TO THE VICTIM'S
19 SPOUSE, PARENT, LEGAL GUARDIAN, CHILD, SIBLING, GRANDPARENT, GRANDCHILD OR
20 SIGNIFICANT OTHER OR OTHER LAWFUL REPRESENTATIVE WITHIN TWENTY DAYS AFTER
21 RECEIPT OF THE COMPLAINT OF MISCONDUCT. IN CASES IN WHICH THE RECORDING
22 IS NOT RELEASED TO THE PUBLIC PURSUANT TO THIS SUBSECTION, THE LOCAL LAW
23 ENFORCEMENT AGENCY SHALL NOTIFY THE PERSON WHOSE PRIVACY INTEREST IS
24 IMPLICATED, IF CONTACT INFORMATION IS KNOWN, WITHIN TWENTY DAYS AFTER
25 RECEIPT OF THE COMPLAINT OF MISCONDUCT AND INFORM THE PERSON OF THE
26 PERSON'S RIGHT TO WAIVE THE PRIVACY INTEREST.

27 P. A WITNESS, VICTIM OR CRIMINAL DEFENDANT MAY WAIVE IN WRITING THE
28 INDIVIDUAL PRIVACY INTEREST THAT MAY BE IMPLICATED BY A PUBLIC RELEASE OF
29 THE RECORDING. ON RECEIPT OF A WRITTEN WAIVER OF THE APPLICABLE PRIVACY
30 INTEREST, ACCOMPANIED BY A REQUEST FOR RELEASE, THE LAW ENFORCEMENT AGENCY
31 MAY NOT REDACT OR WITHHOLD RELEASE TO PROTECT THAT PRIVACY INTEREST.

32 Q. ANY VIDEO RECORDING THAT WOULD SUBSTANTIALLY INTERFERE WITH OR
33 JEOPARDIZE AN ACTIVE OR ONGOING INVESTIGATION MAY BE WITHHELD FROM THE
34 PUBLIC, EXCEPT THAT THE VIDEO RECORDING SHALL BE RELEASED NOT LATER THAN
35 FORTY-FIVE DAYS AFTER THE DATE OF THE MISCONDUCT ALLEGATION. IF RELEASE
36 OF A VIDEO RECORDING IS DELAYED PURSUANT TO THIS SUBSECTION, THE
37 PROSECUTING ATTORNEY SHALL PREPARE A WRITTEN EXPLANATION OF THE
38 INTERFERENCE OR JEOPARDY THAT JUSTIFIES THE DELAYED RELEASE,
39 CONTEMPORANEOUS WITH THE REFUSAL TO RELEASE THE VIDEO RECORDING. ON
40 RELEASE OF THE VIDEO RECORDING, THE PROSECUTING ATTORNEY SHALL RELEASE THE
41 WRITTEN EXPLANATION TO THE PUBLIC.

42 R. IF CRIMINAL CHARGES HAVE BEEN FILED AGAINST A PARTY TO THE
43 INCIDENT AND THAT PARTY WISHES TO FILE A CONSTITUTIONAL OBJECTION TO THE
44 RELEASE OF THE VIDEO RECORDING IN THE PENDING CRIMINAL CASE, THAT PARTY
45 MUST FILE THE OBJECTION BEFORE THE TWENTY-ONE-DAY PERIOD EXPIRES. ONLY IN

1 CASES IN WHICH THERE IS A PENDING CRIMINAL INVESTIGATION OR PROSECUTION OF
2 A PARTY TO THE INCIDENT, THE TWENTY-ONE-DAY PERIOD BEGINS FROM THE DATE OF
3 APPOINTMENT OF COUNSEL, THE FILING OF AN ENTRY OF APPEARANCE BY COUNSEL OR
4 THE ELECTION TO PROCEED PRO SE BY THE DEFENDANT IN THE CRIMINAL
5 PROSECUTION MADE ON THE RECORD BEFORE A JUDGE. IF THE DEFENDANT ELECTS TO
6 PROCEED PRO SE IN THE CRIMINAL CASE, THE COURT SHALL ADVISE THE DEFENDANT
7 OF THE TWENTY-ONE-DAY DEADLINE FOR THE DEFENDANT TO FILE ANY
8 CONSTITUTIONAL OBJECTION TO THE RELEASE OF THE VIDEO RECORDING IN THE
9 PENDING CRIMINAL CASE AS PART OF THE COURT'S ADVISEMENT. THE COURT SHALL
10 HOLD A HEARING ON ANY OBJECTION NOT LATER THAN SEVEN DAYS AFTER IT IS
11 FILED AND ISSUE A RULING NOT LATER THAN THREE DAYS AFTER THE HEARING.

12 Sec. 2. Effective date

13 This act is effective from and after December 31, 2022.