



State of Wisconsin
2017 - 2018 LEGISLATURE

LRBs0153/1
CMH&MED:amn

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 351**

October 27, 2017 - Offered by Representative KREMER.

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

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:

4 **165.87 Body cameras on law enforcement.** (1) (a) If a law enforcement
5 agency uses a body camera on a law enforcement officer, the law enforcement agency
6 shall administer a policy regarding all of the following:

7 1. The use, maintenance, and storage of body cameras and data recorded by the
8 body cameras.

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

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

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

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

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

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

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

13 (b) Data recording any of the following shall be retained until final disposition
14 of any case or complaint to which the data pertains, except as provided in pars. (c)
15 and (d):

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

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

19 3. A search during an authorized temporary questioning as provided in s.
20 968.25.

21 (c) Retention beyond the period determined under par. (a) or (b) may be directed
22 by a law enforcement officer or law enforcement agency, a board of police and fire
23 commissioners, a prosecutor, a defendant, or a court that determines that the data
24 have evidentiary value in a prosecution. A person making a preservation directive

1 under this paragraph shall submit the directive to the law enforcement agency
2 having custody of the record within 120 days after the date of recording.

3 (d) Data that are used in a criminal, civil, or administrative proceeding may
4 not be destroyed except upon final disposition, a determination from the court or
5 hearing examiner that the data are no longer needed, and an order from the court
6 or hearing examiner.

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

8 1. "Known victim or witness" means an individual to whom all of the following
9 apply:

10 a. The individual is depicted in the recording, or the individual's voice is audible
11 in the recording.

12 b. The individual's identity is known to the law enforcement agency.

13 c. The individual is not suspected of committing a crime or other violation of
14 law in connection with the law enforcement officer's presence in the location that was
15 recorded.

16 2. "Owner" means an individual to whom all of the following apply:

17 a. The individual owns or otherwise controls the property at the location that
18 was recorded.

19 b. 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 (b) Data from a body camera are confidential and not open to inspection and
23 copying under s. 19.35 (1) unless the data record anything specified in sub. (2) (b) 1.,
24 2., or 3. If the data record anything specified in sub. (2) (b) 1., 2., or 3., the data are

1 subject to the right of inspection and copying under s. 19.35 (1), except as provided
2 in par. (c).

3 (c) 1. If a law enforcement agency has otherwise decided under s. 19.35 to
4 permit access to data from a body camera that is subject to disclosure under par. (b)
5 and the data record a location where an individual may have a reasonable
6 expectation of privacy, the law enforcement agency shall, before permitting access
7 and subject to subd. 3., serve notice of the request for the data on each individual who
8 is a known victim or witness or an owner, or a person authorized by each such
9 individual as described under s. 19.32 (1m), either by mail or by personally serving
10 the notice. The notice may be mailed to the individual's or person's last-known
11 address if his or her current address is not known. The notice shall briefly describe
12 the requested data and include a description of the rights of the individual or person
13 to deny permission to the law enforcement agency to release the data. The data
14 recording the location are confidential and not subject to the right of inspection and
15 copying under s. 19.35 (1) unless each individual who is a known victim or witness
16 or an owner, or a person authorized by each such individual as described under s.
17 19.32 (1m), provides the law enforcement agency with written permission for the
18 release.

19 2. If the law enforcement agency has not received the requisite permission to
20 release data under subd. 1. within 14 business days after the law enforcement agency
21 makes the request, or a longer period determined by the law enforcement agency, the
22 law enforcement agency shall deny the request, but any written permission for the
23 release received after that period shall be valid as to any subsequent request for the
24 same data.

