

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

NINETEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 3853



Introduced by **HON. GUSTAVO S. TAMBUNTING**

EXPLANATORY NOTE

This measure is proposed in light of the alarming reports of violation of rights by law enforcement personnel over the past few months. To date, there are numerous complaints lodged in the Commission on Human Rights over physical abuses committed against suspected criminals by police officers. These however are contradicted and justified due to the suspects' alleged violent resistance and attempts to overpower law enforcement personnel.

It is ultimately the responsibility of the state to protect the rights of its citizens and in the same end, it is upon the State to protect and ensure the welfare of its law enforcement personnel as they fulfill their duties. Considering the contradictory statements surrounding the alleged physical abuses and violation of rights by the police, it is incumbent that the State adopt a program to deter the occurrence of such allegations against law enforcement. This measure seeks to make body cameras standard equipment for all law enforcement officers conducting law enforcement and special police operations. The use of body cameras shall not only serve as a deterrent for law enforcers from abusing their powers, but it could also protect them from unfounded accusations of abuse of power and violation of rights by suspects.

On behalf of the people of Parañaque City's Second District, and for the common good of the Filipino people, the approval of the said measure is earnestly sought.

A handwritten signature in black ink, appearing to be 'GUSTAVO S. TAMBUNTING', written in a cursive style.

REP. GUSTAVO S. TAMBUNTING
2nd District, Parañaque City

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AN ACT
MANDATING LAW ENFORCEMENT PERSONNEL TO WEAR A BODY CAMERA DURING
LAW ENFORCEMENT AND SPECIAL POLICE OPERATIONS

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Short Title. – This Act shall be known as the "Body Camera Act".

Sec. 2. Definition of Terms. – As used in this Act:

- a. Law enforcement officer means any person authorized by law to prevent, investigate, apprehend or detain individuals suspected or convicted of offenses under Philippine laws.
- b. Law enforcement operation includes service of warrants of arrest, implementation of search warrants, enforcement of visitatorial powers of the Chief Philippine National Police and unit commanders, anti-illegal drugs operation, anti-illegal gambling operations, anti-illegal logging operations, anti-illegal fishing operations, anti-carnapping operations, anti-kidnapping operations, anti-cybercrime operations, and similar operations that are conducted to enforce laws, and statutes, executive orders and ordinances.
- c. Subject of the video footage means any law enforcement officer or any suspect, victim, detainee, conversant, the injured party, or another similarly situated person who appears on the body camera recording, and shall not include people who only incidentally appear on the recording.
- d. Special police operation includes checkpoint operation and roadblock operations, civil disturbance management operations, police assistance in the enforcement of demolition, eviction, injunction and similar orders, police assistance in the implementation of final court orders and orders from quasi-judicial bodies, hostage situations, visit board searches and seizures onboard marine vessels, and similar police operations that are conducted by police units with specialized training on the peculiarity of the mission or purpose.

Sec. 3. Body Camera as Standard Equipment for Law Enforcement Personnel. – Within two (2) years upon the effectivity of this Act, a body camera shall become standard equipment for all law enforcement officers conducting law enforcement and special police operations. The

heads of all law enforcement agencies shall ensure that the budgetary requirement for the implementation of this Act shall be incorporated in their respective budgets in the year following the passage of this Act.

A law enforcement officer authorized to wear a body camera shall ensure that:

- a. Such body cameras shall be worn in a location and manner that maximizes the camera's ability to capture video footage of the officer's activities.
- b. Both the video and audio recording functions of the body camera shall be activated whenever said law enforcement officer is responding to a call for service or at the initiation of any other law enforcement or investigative encounter between a law enforcement officer and a member of the public, except that when an immediate threat to the officer's life or safety makes activating the camera impossible or dangerous, the officer shall activate the camera at the first reasonable opportunity to do so. The body camera shall not be deactivated until the encounter has fully concluded and the law enforcement officer leaves the scene.
- c. The subjects of the recording are notified that they are being recorded by a body camera as close to the inception of the encounter as is reasonably possible.
- d. Notwithstanding the requirements of subsection (b):
 1. Before to entering a private residence without a warrant or in non-exigent circumstances, an occupant shall be asked if said occupant wants the officer to discontinue the use of the officer's body camera. If the occupant responds affirmatively, said law enforcement officer shall immediately discontinue the use of the body camera;
 2. When interacting with an apparent crime victim, as soon as practicable, ask the apparent crime victim, if the apparent crime victim wants to be said officer to discontinue the use of the body camera. If the apparent crime victim responds affirmatively, said law enforcement officer shall immediately discontinue the use of the body camera; and
 3. When interacting with a person seeking to anonymously report a crime or assist in an ongoing law enforcement investigation, said law enforcement officer shall, as soon as practicable, ask the person seeking to remain anonymous, if the person seeking to remain anonymous wants the officer to discontinue use of the officer's body camera. If the person seeking to remain anonymous responds affirmatively, the law enforcement officer shall immediately discontinue the use of the body camera.
- e. All law enforcement offers to discontinue the use of a body camera made under subsection (d), and the responses thereto, shall be recorded by the body camera before discontinuing the use of the body camera.
- f. Body cameras shall not be used surreptitiously.

- g. Body cameras shall not be used to gather intelligence information based on the right to free speech, freedom of association, or religion, or to record activity that is unrelated to a response to a call for service or law enforcement or investigative encounter between a law enforcement officer and a member of the public.
- h. Law enforcement officers shall not activate a body camera while on the grounds of any public, private, or parochial elementary or secondary school. except when responding to an imminent threat to life or health.
- i. Body camera video footage shall be retained by the law enforcement agency that employs the officer whose camera captured the footage, or an authorized agent thereof, for six (6) months from the date it was recorded. after which time such footage shall be permanently deleted.
- j. Notwithstanding the retention and deletion requirements in subsection (i):
 - 1. Video footage shall be automatically retained for no less than three (3) years if the video footage captures images involving:
 - i. Any use of force;
 - ii. Events leading up to and including an arrest for a felony-level offense. or events that constitute a felony-level offense; or
 - iii. An encounter about which a complaint has been registered by a subject of the video footage.
 - 2. Body camera video footage shall also be retained for no less than three (3) years if a longer retention period is voluntarily requested by:
 - i. The law enforcement officer whose body camera recorded the video footage. if that officer reasonably asserts the video footage has evidentiary or exculpatory value;
 - ii. Any law enforcement officer who is a subject of the video footage. if that officer reasonably asserts the video footage has evidentiary or exculpatory value;
 - iii. Any superior officer of a law enforcement officer whose body) the camera recorded the video footage or who is a subject of the video footage if that superior officer reasonably asserts the video footage has evidentiary or exculpatory value;
 - iv. Any law enforcement officer, if the video footage is being retained solely and exclusively for police training purposes;
 - v. Any member of the public who is a subject of the video footage;

- vi. Any parent or legal guardian of a minor who is a subject of the video footage; or
 - vii. A deceased subject's next of kin or legally authorized designee.
- k. To effectuate Section 3 (j)(2)(v), (j)(2)(vi), and (j)(2)(vii), any member of the public who is a subject of video footage, the parent or legal guardian of a minor who is a subject of the video footage, or a deceased subject's next of kin or legally authorized designee, shall be permitted to review that specific video footage to decide as to whether they will voluntarily request it be subject to a three (3) year retention period.
 - l. No review or receipt of accounting of any body camera video footage that is subject to a minimum three (3) year retention period under paragraph (j)(1) before completing any required initial reports, statements and interviews regarding the recorded event are undertaken.
 - m. Video footage not subject to a minimum three (3) year retention period shall not be viewed by any superior officer of a law enforcement officer whose body camera recorded the footage absent a specific allegation of misconduct. nor shall it be subject to automated analysis or analytics of any kind.
 - n. Video footage shall not be divulged or used by any law enforcement agency for any commercial or other non-law enforcement purpose.
 - o. Where a law enforcement agency authorizes a third party to act as its agent in maintaining the body camera footage, the agent shall not be permitted to independently access, view or alter any video footage, except to delete videos as required by law or agency retention policies.
 - p. Should any law enforcement officer, employee or agent fails to adhere to the recording or retention requirements contained in this section, or intentionally interferes with a body camera's ability to accurately capture video footage:
 - 1. Appropriate disciplinary action shall be taken against the individual officer, employee, or agent:
 - 2. A rebuttable evidentiary presumption shall be adopted in favor of criminal defendants who reasonably assert that exculpatory evidence was destroyed or not captured; and
 - 3. A rebuttable evidentiary presumption shall be adopted on behalf of civil plaintiffs suing the government, a law enforcement agency, and/or law enforcement officers for damages based on police misconduct who reasonably assert that evidence supporting their claim was destroyed or not captured.

- q. The disciplinary action requirement and rebuttable presumptions in subsection (r) may be overcome by contrary evidence or proof of exigent circumstances that made compliance impossible.
- r. Anybody camera video footage recorded in contravention of this or any other applicable law shall be immediately destroyed and shall not be admissible as evidence in any criminal or civil legal or administrative proceeding.

Nothing in this Section shall be read to contravene any laws governing the maintenance and destruction of evidence in criminal investigations and prosecutions.

Sec. 4. Exemptions to Public Inspection. – The following video footage shall be exempt from the public inspection requirements of this Act:

- a. Video footage not subject to a minimum three (3) year retention period under section 3 (j);
- b. Video footage that is subject to a minimum three (3) year retention period solely and exclusively under Section 3 U) (l)(iii). where the subject of the video footage making the complaint requests the video footage not be made available to the public;
- c. Video footage that is subject to a minimum three (3) year retention period solely and exclusively under Section 3 (j)(2)(i), (j)(2)(ii), (j)(2)(iii) or (j)(2)(iv):
- d. Video footage that is subject to a minimum three (3) year retention period solely and exclusively under Section 3 (j)(2)(v), (i)(2)(vi), or (j)(2)(vii). where the person making the voluntary request requests the video footage not be made available to the public; and
- e. Any video footage retained beyond six (6) months solely and exclusively under Section 3 (j)(2)(iv) shall not be admissible as evidence in any criminal or civil legal or administrative proceeding.

Sec. 5. Repealing Clause. – All laws, and executive orders, rules and regulations inconsistent with, or contrary to this Act, are hereby repealed or amended accordingly.

Sec. 6. Separability Clause. – If any provision of this Act or the application of the such provision is declared unconstitutional or invalid, the provisions not affected thereby shall remain in full force and effect.

Sec. 7. Effectivity. – This Act shall take effect after fifteen (15) days from its publication in at least two (2) newspapers of national circulation.

Approved,