

HEALTH CARE PATIENT PRIVACY AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Francis D. Gibson

Senate Sponsor: Brian E. Shiozawa

LONG TITLE

General Description:

This bill amends provisions related to the use of body worn cameras by law enforcement in health care settings.

Highlighted Provisions:

This bill:

▶ amends the Government Records Access and Management Act to classify an audio or video recording created by a body worn camera in a health care setting as a protected record under the Government Records Access and Management Act; and

▶ amends Title 77, Chapter 7a, Law Enforcement Use of Body-Worn Cameras, to:
• require certain notice to a health care provider if a body worn camera is activated in a health care setting ~~H→~~ **or in certain human service programs** ~~←H~~ ; and

• prohibits the activation of a body worn camera in a health care setting ~~H→~~ **or certain human service programs** ~~←H~~ unless the body worn camera is activated for a law enforcement encounter.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-2-305, as last amended by Laws of Utah 2015, Chapters 147, 283, and 411



338 an employee or head of a governmental entity for the person's response or information;

339 (d) records that would disclose an outline or part of any investigation, audit survey
340 plan, or audit program; or

341 (e) requests for an investigation or audit, if disclosure would risk circumvention of an
342 investigation or audit;

343 (61) records that reveal methods used by the Office of Inspector General of Medicaid
344 Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or
345 abuse;

346 (62) information provided to the Department of Health or the Division of Occupational
347 and Professional Licensing under Subsection 58-68-304(3) or (4);

348 (63) a record described in Section 63G-12-210;

349 (64) captured plate data that is obtained through an automatic license plate reader
350 system used by a governmental entity as authorized in Section 41-6a-2003; [~~and~~]

351 (65) any record in the custody of the Utah Office for Victims of Crime relating to a
352 victim, including:

353 (a) a victim's application or request for benefits;

354 (b) a victim's receipt or denial of benefits; and

355 (c) any administrative notes or records made or created for the purpose of, or used to,
356 evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim
357 Reparations Fund[-]; and

358 (66) an audio or video recording created by a body-worn camera, as that term is
359 defined in Section 77-7a-103, that records sound or images inside a hospital or health care
360 facility as those terms are defined in Section 78B-3-403, ~~H→~~ [~~or~~] ~~←H~~ inside a clinic of a
360a health care
361 provider, as that term is defined in Section 78B-3-403, ~~H→~~ or inside a human service program as
361a that term is defined in Subsection 62A-2-101(19)(a)(vi), ~~←H~~ except for recordings that:

362 (a) depict the commission of an alleged crime;

363 (b) record any encounter between a law enforcement officer and a person that results in
364 death or bodily injury, or includes an instance when an officer fires a weapon;

365 (c) record any encounter that is the subject of a complaint or a legal proceeding against
366 a law enforcement officer or law enforcement agency;

367 (d) contain an officer involved critical incident as defined in Subsection
368 76-2-408(1)(d); or

400 (5) An officer shall record in an uninterrupted manner until after the conclusion of a
 401 law enforcement encounter, except as an interruption of a recording is allowed under this
 402 section.

403 (6) When going on duty and off duty, an officer who is issued a body-worn camera
 404 shall record the officer's name, identification number, and the current time and date, unless the
 405 information is already available due to the functionality of the body-worn camera.

406 (7) If a body-worn camera was present during a law enforcement encounter, the officer
 407 shall document the presence of the body-worn camera in any report or other official record of a
 408 contact.

409 (8) When a body-worn camera has been activated, the officer may not deactivate the
 410 body-worn camera until the officer's direct participation in the law enforcement encounter is
 411 complete, except as provided in Subsection (9).

412 (9) An officer may deactivate a body-worn camera:

413 (a) to consult with a supervisor or another officer;

414 (b) during a significant period of inactivity; and

415 (c) during a conversation with a sensitive victim of crime, a witness of a crime, or an
 416 individual who wishes to report or discuss criminal activity if:

417 (i) the individual who is the subject of the recording requests that the officer deactivate
 418 the officer's body-worn camera; and

419 (ii) the officer believes that the value of the information outweighs the value of the
 420 potential recording and records the request by the individual to deactivate the body-worn
 421 camera.

422 (10) If an officer deactivates a body-worn camera, the officer shall document the
 423 reason for deactivating a body-worn camera in a written report.

424 (11) (a) For purposes of this Subsection (11):

425 (i) "Health care facility" means the same as that term is defined in Section 78B-3-403.

426 (ii) "Health care provider" means the same as that term is defined in Section
 427 78B-3-403.

428 (iii) "Hospital" means the same as that term is defined in Section 78B-3-403.

428a **Ĥ→ (iv) "Human service program" means the same as that term is defined in**
 428b **Subsection 62A-2-101(19)(a)(vi). ←Ĥ**

429 (b) An officer may not activate a body-worn camera in a hospital, health care facility,

429a **Ĥ→ human service program, ←Ĥ**

430 or the clinic of a health care provider, except during a law enforcement encounter, and with

431 notice under Section 77-7a-105.

432 Section 4. Section **77-7a-105** is amended to read:

433 **77-7a-105. Notice and privacy.**

434 (1) [~~When an~~ An officer with a body-worn camera [~~enters a private residence, the~~
435 ~~officer~~] shall give notice, when reasonable under the circumstances[;]:

436 (a) to:

437 (i) the occupants of [~~the~~ a private residence [~~that~~ in which the officer enters and in
438 which a body-worn camera is in use; or

439 (ii) a health care provider present at a hospital, a health care facility, ~~H~~→ **human service**
439a **program,** ←~~H~~ or a health care

440 provider's clinic in which the officer enters and in which a body-worn camera is in use; and

441 (b) either by:

442 [~~(a)~~] (i) wearing a body-worn camera in a clearly visible manner; or

443 [~~(b)~~] (ii) giving an audible notice that the officer is using a body-worn camera.

444 (2) An agency shall make the agency's policies regarding the use of body-worn cameras
445 available to the public, and shall place the policies on the agency's public website when
446 possible.

Legislative Review Note
Office of Legislative Research and General Counsel