

AMENDED IN ASSEMBLY MAY 3, 2016
AMENDED IN ASSEMBLY APRIL 14, 2016
AMENDED IN ASSEMBLY MARCH 17, 2016
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1940

Introduced by Assembly Member Cooper

February 12, 2016

An act to add Section 832.19 to the Penal Code, relating to peace officers.

LEGISLATIVE COUNSEL'S DIGEST

AB 1940, as amended, Cooper. Peace officers: body-worn cameras: policies and procedures.

Existing law requires law enforcement agencies, departments, or entities to consider specified best practices regarding the downloading and storage of body-worn camera data when establishing policies and procedures for the implementation and operation of a body-worn camera system, such as designating the person responsible for downloading the recorded data from the body-worn camera, and establishing when data should be downloaded to ensure the data is entered into the system in a timely manner and the cameras are properly maintained and ready for the next use.

This bill would require a law enforcement agency, department, or entity, if it employs peace officers and uses body-worn cameras for those officers, to develop a body-worn camera policy. The bill would require the policy to allow a peace officer to review his or her body-worn camera video and audio recordings before making a report, giving an internal affairs statement, or before any criminal or civil proceeding.

The bill would encourage the law enforcement agency, department, or entity to include specified considerations in the policy, including the time, place, circumstances, and duration in which the body-worn camera is operational and the availability of the policy to peace officers and members of the public. *operational. The bill would require the policy to be available to peace officers and to the public for viewing. The bill would prohibit a peace officer from using a personal device to make an unauthorized recording of the video or audio taken from a body-worn camera. The bill would also require a law enforcement agency to have an assigned independent investigator or a supervisor accompany a peace officer involved in an incident involving a serious use of force, as defined, when reviewing the peace officer’s body-worn camera recording. Because this bill would impose new duties on the conduct of local law enforcement, it would impose a state-mandated local program.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 832.19 is added to the Penal Code, to
- 2 read:
- 3 832.19. (a) (1) If a law enforcement agency, department, or
- 4 entity that employs peace officers uses body-worn cameras for
- 5 those officers, the agency, department, or entity shall develop a
- 6 policy relating to the use of body-worn cameras.
- 7 (2) The following definitions shall apply to this section:
- 8 (A) “Body-worn camera” means a device attached to the uniform
- 9 or body of a peace officer that records video, audio, or both, in a
- 10 digital or analog format.
- 11 (B) “Peace officer” means any person designated as a peace
- 12 officer pursuant to this chapter.

1 (C) “*Serious use of force*” means any of the following:

2 (i) *Force resulting in death.*

3 (ii) *Force resulting in a loss of consciousness.*

4 (iii) *Force resulting in protracted loss, impairment, serious*
5 *disfigurement, or function of any body part or organ.*

6 (iv) *A weapon strike to the head.*

7 (v) *Intentional firearm discharge at a person, regardless of*
8 *injury.*

9 (b) (1) The policy shall allow a peace officer to review his or
10 her body-worn camera video and audio recordings before he or
11 she makes a report, is ordered to give an internal affairs statement,
12 or before any criminal or civil proceeding.

13 (2) A peace officer is not required to review his or her
14 body-worn camera video and audio recordings before making a
15 report, giving an internal affairs statement, or before any criminal
16 or civil proceeding.

17 (3) *A peace officer involved in an incident involving a serious*
18 *use of force shall not review his or her body-worn camera*
19 *recording until accompanied by an assigned independent*
20 *investigator or a supervisor. The separating and monitoring of*
21 *the peace officer involved in a serious use of force shall be*
22 *maintained during the review of the body-worn camera video and*
23 *audio recordings and this review shall not occur jointly among*
24 *involved employees. Once the recordings are approved, as to the*
25 *validity of the body-worn camera recordings and any other relevant*
26 *recordings are also approved as their validity, an officer may have*
27 *a legal representative present during the review of the recordings*
28 *without the independently assigned investigator or supervisor*
29 *present, before the peace officer makes a report, is ordered to give*
30 *an internal affairs statement, or before any criminal or civil*
31 *proceeding.*

32 (4) *The policy shall be available to all peace officers in a written*
33 *form.*

34 (5) *The policy shall be available to the public for viewing.*

35 (c) The policy shall be developed in accordance with the
36 Meyers-Milias-Brown Act (Chapter 10 (commencing with Section
37 3500) of Division 4 of Title 1 of the Government Code) and the
38 Ralph C. Dills Act (Chapter 10.3 (commencing with Section 3512)
39 of Division 4 of Title 1 of the Government Code).

1 (d) In developing the policy, law enforcement agencies,
2 departments, or entities are encouraged to include the following
3 in the policy:

4 (1) The time, place, circumstances, and duration in which the
5 body-worn camera shall be operational.

6 (2) Which peace officers shall wear the body-worn camera and
7 when they shall wear it.

8 (3) Prohibitions against the use of body-worn camera equipment
9 and footage in specified circumstances, such as when the peace
10 officer is off-duty.

11 (4) The type of training and length of training required for
12 body-worn camera usage.

13 (5) Public notification of field use of body-worn cameras,
14 including the circumstances in which citizens are to be notified
15 that they are being recorded.

16 (6) The manner in which to document a citizen’s refusal from
17 being recorded under certain circumstances.

18 (7) The use of body-worn camera video and audio recordings
19 in internal affairs cases.

20 (8) The use of body-worn camera video and audio recordings
21 in criminal and civil case preparation and testimony.

22 (9) The transfer and use of body-worn camera video and audio
23 recordings to other law enforcement agencies, including
24 establishing what constitutes a need-to-know basis and what
25 constitutes a right-to-know basis.

26 ~~(10) The policy may be available to all peace officers in a written
27 form.~~

28 ~~(11) The policy may be available to the public for viewing.~~

29 (e) *A peace officer shall not use a personal device to make an
30 unauthorized recording of the video or audio taken from a
31 body-worn camera.*

32 *SEC. 2. If the Commission on State Mandates determines that
33 this act contains costs mandated by the state, reimbursement to
34 local agencies and school districts for those costs shall be made
35 pursuant to Part 7 (commencing with Section 17500) of Division
36 4 of Title 2 of the Government Code.*