

AMENDED IN ASSEMBLY MAY 31, 2016

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 also require the policy to prohibit a peace officer from making a video or audio recording in a health facility or medical office when a patient may be in view of the body-worn camera or when a health care practitioner is providing care to an individual.* 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. 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. *The bill would provide that its provisions do not apply to a law enforcement agency, department, or entity that has developed a body-worn camera policy, as specified, before January 1, 2017.* 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: 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.

1 (2) The following definitions shall apply to this section:

2 (A) “Body-worn camera” means a device attached to the uniform
3 or body of a peace officer that records video, audio, or both, in a
4 digital or analog format.

5 (B) “Peace officer” means any person designated as a peace
6 officer pursuant to this chapter.

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

8 (i) Force resulting in death.

9 (ii) Force resulting in a loss of consciousness.

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

12 (iv) A weapon strike to the head.

13 (v) Intentional firearm discharge at a person, regardless of injury.

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

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

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

37 (4) The policy shall be available to all peace officers in a written
38 form.

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

1 (6) *The policy shall prohibit a peace officer from making a video*
2 *or audio recording in a health facility or medical office when a*
3 *patient may be in view of the body-worn camera or when a health*
4 *care practitioner is providing care to an individual.*

5 (c) The policy shall be developed in accordance with the
6 Meyers-Milias-Brown Act (Chapter 10 (commencing with Section
7 3500) of Division 4 of Title 1 of the Government Code) and the
8 Ralph C. Dills Act (Chapter 10.3 (commencing with Section 3512)
9 of Division 4 of Title 1 of the Government Code).

10 (d) In developing the policy, law enforcement agencies,
11 departments, or entities are encouraged to include the following
12 in the policy:

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

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

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

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

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

25 (6) The manner in which to document a citizen's refusal from
26 being recorded under certain circumstances.

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

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

31 (9) The transfer and use of body-worn camera video and audio
32 recordings to other law enforcement agencies, including
33 establishing what constitutes a need-to-know basis and what
34 constitutes a right-to-know basis.

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

38 (f) *This section shall not apply to a law enforcement agency,*
39 *department, or entity that has developed a body-worn camera*
40 *policy in accordance with the Meyers-Milias-Brown Act (Chapter*

1 *10 (commencing with Section 3500) of Division 4 of Title 1 of the*
2 *Government Code) or the Ralph C. Dills Act (Chapter 10.3*
3 *(commencing with Section 3512) of Division 4 of Title 1 of the*
4 *Government Code) before January 1, 2017.*

5 SEC. 2. If the Commission on State Mandates determines that
6 this act contains costs mandated by the state, reimbursement to
7 local agencies and school districts for those costs shall be made
8 pursuant to Part 7 (commencing with Section 17500) of Division
9 4 of Title 2 of the Government Code.

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