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(Original Signature of Member)

119TH CONGRESS
2D SESSION

H. R. _____

To amend the Homeland Security Act of 2002 to require the use of body-worn cameras and dashboard cameras in the Department of Homeland Security, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M__. _____ introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Homeland Security Act of 2002 to require the use of body-worn cameras and dashboard cameras in the Department of Homeland Security, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''DHS Body-Worn Camera and Dashboard Camera Accountability Act''.

SEC. 2. BODY-WORN CAMERAS AND DASHBOARD CAMERAS.

(a) IN GENERAL.—Subtitle H of title VIII of the Homeland Security Act of 2002 (6 U.S.C. 451 et seq.) is amended by adding at the end the following new section:

"SEC. 890E. BODY-WORN CAMERAS AND DASHBOARD CAMERAS.

''(a) CAMERAS.—

''(1) IN GENERAL.—Not later than 30 days after the date of the dissemination of the Department-wide policy under subsection (b), the Secretary, in accordance with such policy, shall ensure the following:

''(A) Except as provided in paragraph (2), all law enforcement officers or agents of the Department are equipped with body-worn cameras that meet or exceed the requirements of subsection (c).

''(B) All Department vehicles engaged in patrol, emergency response, or the activities described in subsection (b)(1)(A) are equipped with dashboard cameras that meet or exceed the requirements of subsection (c).

''(2) EXCEPTION.—This section does not apply in the case of a law enforcement officer or agent of the Department who is actively engaged in a protec-

tive operation under section 3056(a) of title 18, United States Code.

''(b) DEPARTMENT-WIDE POLICY ON BODY-WORN CAMERAS AND DASHBOARD CAMERAS.—

''(1) IN GENERAL.—Notwithstanding any prior policy, not later than 30 days after the date of the enactment of this section, the Secretary shall disseminate a Department-wide policy regarding body-worn cameras and dashboard cameras, which shall be reviewed and updated, as necessary, not less frequently than annually, that includes the following:

''(A) Requirements for activation, including with respect to the following:

''(i) During a pre-planned attempt to execute an arrest warrant, including an administrative arrest warrant, or other pre-planned arrest, including the apprehension of a fugitive sought on a State or local warrant.

''(ii) During the execution or attempted execution of a search or seizure warrant or order.

''(iii) During the execution of a removal order.

''(iv) During any other circumstance during which a law enforcement officer or agent of the Department conducts patrol or is otherwise engaged with the public, including during a use of force incident, arrest, investigatory stop, protection of government facilities, and crowd control.

''(v) At the first reasonable opportunity at which activation is safe in cases in which an immediate threat to the life or safety of a law enforcement officer or agent of the Department makes activation impossible or dangerous.

''(B) Requirements prohibiting the deactivation of a body-worn camera or dashboard camera operated by a law enforcement officer or agent of the Department who is a participant in an activity described in subparagraph (A) until such participation in such activity has concluded.

''(C) Requirements and schedules for the use, retention, and release of body-worn camera data and dashboard camera data, notwithstanding any ongoing investigation, including the following:

''(i) Retention for not fewer than 75 years, if such data is related to any criminal, administrative, civil, or other legal proceeding.

''(ii) Retention for not fewer than three years, if such data is related to any use of force or brandishing of a deadly weapon or has been requested by a member of the public.

''(D) Clear, public-facing guidance regarding the public's right to request and access body-worn camera data and dashboard camera data from the Department, including the right of a member of the public who is the subject of such data (or the right of such person's legal representative) to so request and access such data, in accordance with Department privacy protocols or policies.

''(E) Expedited public release of such data in the event of an incident involving serious bodily injury or death, or brandishing of a deadly weapon.

''(F) Permanent deletion of such data one year after its creation unless required to be re-

tained for a longer period under subparagraph (C).

''(G) Prohibitions on the operation of body-worn cameras and dashboard cameras, including prohibitions on the following:

''(i) Use in a sensitive location unless activation is automatically triggered, or during any activity described in subparagraph (A).

''(ii) Recording of an individual or group of individuals, in whole or in part, on the basis of activities protected by the first amendment to the Constitution of the United States.

''(iii) Recording of an individual or group of individuals, in whole or in part, on the basis of race, color, religion, national origin, sex, age, disability, sexual orientation, marital status, parental status, gender identity or expression, or political affiliation.

''(iv) Recording of—

''(I) an individual known to be an undercover law enforcement officer or

agent, confidential informant, or confidential source,

''(II) a controlled delivery, or

''(III) a witness who expresses fear of potential retaliation,

unless activation is automatically triggered or triggered during any activity described in subparagraph (A).

''(v) Use in a private residence, without a warrant or in a non-exigent circumstance, without the consent of the residence's occupant, unless activation is automatically triggered or triggered during any activity described in subparagraph (A).

''(H) Restrictions on the use and public release of body-worn camera data and dashboard camera data, including relating to the following:

''(i) Department use or release for any commercial or other non-law enforcement purpose.

''(ii) Law enforcement officers or agents of the Department reviewing or receiving a description of any body-worn camera data or dashboard camera data prior to completion of any required initial

reports, statements, or interviews regarding the event that is the subject of such data, unless doing so is necessary, while in the field, to address an immediate threat to life or safety.

''(I) Requirements for training and technical support, including, for all law enforcement officers and agents of the Department, annual training on body-worn camera and dashboard camera operation and best practices.

''(J) Requirements for compliance with relevant Department civil rights, civil liberties, and privacy protocols or policies.

''(K) Standards of, and requirements for statistical collection for, performance measurements relating to the deployment of body-worn cameras and dashboard cameras, as well as the retention and release of associated underlying data.

''(L) Disciplinary measures for failure to comply with the Department-wide policy on body-worn cameras and dashboard cameras, including disciplinary action for manipulation of camera data or unauthorized release of camera data.

''(M) Any other information determined relevant by the Secretary.

''(2) ONGOING REVIEW OF CIVIL LIBERTIES AND CIVIL RIGHTS.—Not later than one year after the date of the enactment of this section and annually thereafter, the Officer for Civil Rights and Civil Liberties of the Department shall conduct an assessment of the Department-wide policy under subsection (b) and all Department component and office implementation plans under subsection (d) to ensure compliance with constitutional, statutory, regulatory, policy, and other requirements relating to the civil rights and civil liberties of individuals affected by the Department's operation of body-worn cameras and dashboard cameras, and the use, retention, and release of such camera data.

''(c) REQUIREMENTS FOR BODY-WORN CAMERAS AND DASHBOARD CAMERAS.—

''(1) IN GENERAL.—The Secretary shall ensure each body-worn camera or dashboard camera issued to a law enforcement officer or agent of the Department under subsection (a) satisfies the following minimum requirements:

''(A) A body-worn camera or dashboard camera shall continually record video and audio

in a manner that captures and retains such video and audio of the period 30 seconds prior to activation.

''(B) A body-worn camera or dashboard camera, as the case may be, shall have automated activation controls which trigger recording when—

''(i) emergency lights are engaged;

''(ii) a Department-issued firearm holster sensor detects a draw;

''(iii) in proximity to another activated body-worn camera; or

''(iv) in any other circumstance the Secretary determines appropriate, as technologically feasible.

''(2) PROHIBITION.—No body-worn camera or dashboard camera issued to a law enforcement officer or agent of the Department under subsection (a) may have real-time facial recognition or any other form of real-time biometric analysis.

''(d) COMPONENT AND OFFICE IMPLEMENTATION PLANS.—

''(1) IN GENERAL.—Not later than 30 days after the issuance of the Department-wide policy under subsection (b), the heads of relevant compo-

nents and offices of the Department shall publicly publish implementation plans for the body-worn camera and dashboard camera programs of such component or office, as the case may be, that comply with such policy.

''(2) DEPARTMENT COORDINATION.—

''(A) IN GENERAL.—Not less than 30 days before the publication of each component and office implementation plan described in paragraph (1), or any subsequent revision thereto—

''(i) the Secretary, acting through the Under Secretary for Strategy, Policy, and Plans of the Department shall—

''(I) review each such plan for alignment with the Department-wide policy under subsection (b); and

''(II) coordinate cross-component and cross-office standards for data, privacy, and performance measurement;

''(ii) the Secretary, acting through the Chief Privacy Officer of the Department, shall review, and, if appropriate, approve, for each such plan a privacy impact assessment in accordance with section 222 that

addresses data collection, minimization of personally identifiable information, data retention, access controls, redaction, and external sharing, and shall post each such assessment and relevant plan on a public-facing website; and

''(iii) the Secretary, acting through the Officer for Civil Rights and Civil Liberties of the Department, shall conduct an assessment of each such plan to ensure compliance with constitutional, statutory, regulatory, policy, and other requirements relating to the civil rights and civil liberties of individuals affected by the Department's operation of body-worn cameras and dashboard cameras, and the use, retention, and release of such camera data.

''(B) RESTRICTION.—Component and office implementation plans described in paragraph (1), or any subsequent revisions thereto, may not be carried out without the approval of the following:

''(i) The Chief Privacy Officer of the Department.

''(ii) The Officer for Civil Rights and Civil Liberties of the Department.

''(e) REPORT.—Not later than 180 days after the date of the enactment of this section and every 180 days thereafter, the Secretary shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the operation of body-worn cameras and dashboard cameras, and the use, retention, and release of camera data, including relating to the following for each reporting period:

''(1) The number of requests for body-worn camera or dashboard camera data, disaggregated by the component or office of the Department receiving each such request.

''(2) The average length of time to process such requests, disaggregated by the component or office of the Department receiving such requests.

''(3) The number of any refusals by a component or office of the Department, as the case may be, to release any body-worn or dashboard camera data, as the case may be, together with a justification for each such refusal.

''(4) Performance metrics, disaggregated by component and office of the Department, including relating to the following:

''(A) The number of law enforcement officers and agents of the Department required to wear body-worn cameras under subsection (a).

''(B) The number of Department vehicles required to be equipped with dashboard cameras under subsection (a).

''(C) The number of law enforcement officers and agents of the Department who have been so equipped with body-worn cameras under subsection (a).

''(D) The number of Department vehicles which have been so equipped with dashboard cameras under subsection (a).

''(E) The number of law enforcement officers and agents of the Department who have completed training required by the Department-wide policy under subsection (b).

''(F) The number of body-worn camera activations and dashboard camera activations, disaggregated by the following:

''(i) Type of activation.

''(ii) component or office of the Department.

''(G) The number of body-worn camera activations and dashboard camera activations related to any complaint or criminal, administrative, civil, or other legal proceeding, disaggregated by component or office of the Department.

''(H) The number of expedited public releases of camera data under subsection (b)(1)(E).

''(I) Any other performance metric described in the Department-wide policy under subsection (b) determined relevant by the Secretary.

''(5) A description of any updates or changes to the Department-wide policy under subsection (b) or a component or office implementation plan under subsection (d).

''(f) RULE OF CONSTRUCTION.—Nothing in this section, including any deadline, review, approval, or assessment, may be construed to require a component or office of the Department to suspend, delay, terminate, or reduce the deployment of body-worn cameras or dashboard cameras in effect on the date of the enactment of this section.

Any such deployment shall continue to operate under the policies and procedures in effect for such deployment on such date, except that the head of the relevant component or office shall modify such deployment as necessary to comply with the Department-wide policy issued under subsection (b) not later than the date specified in subsection (d)(1).

''(g) DEFINITIONS.—In this section:

''(1) BODY-WORN CAMERA.—The term 'body-worn camera' means a camera worn on the person of a law enforcement officer or agent of the Department, which camera records and stores camera data.

''(2) CAMERA DATA.—The term 'camera data' means any audio recording, video recording, photographic image, digital recording, or other information captured, generated, transmitted, stored, or maintained by a body-worn camera or dashboard camera system, including associated metadata.

''(3) DASHBOARD CAMERA.—The term 'dashboard camera' means an audio recording or video recording device affixed to a law enforcement vehicle.

''(4) METADATA.—The term 'metadata' means any date and time stamp, geolocation information, device identifier, activation and deactivation record, audit log, categorization information, chain-of-cus-

tody record, annotation, redaction, or any other information related to the creation, management, retention, retrieval, dissemination, or use of camera data.

''(5) SENSITIVE LOCATION.—The term 'sensitive location' includes any physical space located within 1,000 feet of any of the following:

''(A) Any medical or mental health care facility, including any hospital, health care practitioner's office, accredited health clinic, vaccination or testing site, emergent or urgent care facility, or community health center.

''(B) Any public or private school (including any preschool, primary school, secondary school, or postsecondary school (including any college or university)), any site of an early childhood education program, any other institution of learning (such as any vocational or trade school), or any other site at which an individual who is unemployed or underemployed may apply for or receive workforce training.

''(C) Any scholastic or education-related activity or event, including an field trip interscholastic event.

''(D) Any school bus or school bus stop during periods when school children are present on the bus or at the stop.

''(E) Any recreational facility for children, such as any playground or formal recreational facility.

''(F) Any child care focused facility, including any child care center, before or after school care center, foster care facility, or group home for children.

''(G) Any location at which disaster or emergency response and relief is being provided by a Federal, State, or local entity, such as with respect to the following:

''(i) The distribution of emergency supplies, food, or water.

''(ii) Any place of temporary shelter.

''(iii) Any place along an evacuation route.

''(iv) Any site at which registration for disaster-related assistance or family reunification is taking place.

''(H) Any location of any organization that—

''(i) assists children, pregnant women, victims of crime or abuse, or individuals with significant mental or physical disabilities, including any domestic violence shelter, child advocacy center, facility that serves disabled persons, drug or alcohol counseling or treatment facility, rape crisis center, supervised visitation center, family justice center, victims' services provider, or community-based organization providing social services; or

''(ii) provides disaster or emergency social services or assistance, or services for individuals experiencing homelessness, including any food bank, pantry, or other establishment distributing food, and any shelter.

''(I) Any church, synagogue, mosque, or other place of worship or religious study, such as any building rented for the purpose of religious services or a temporary facility or location at which such activities are taking place.

''(J) Any site of a funeral, graveside ceremony, or wedding, or any site at which other

religious or civil ceremonies or observances are occurring.

''(K) Any site during a public demonstration, such as a march, rally, or parade.

''(L) Any Federal, State, or local courthouse, including immigration courts operated by the Executive Office for Immigration Review, the office of an individual's legal counsel or representative, any probation office, or any facility at which programs or services are provided in relation to a court proceeding.

''(M) Any congressional district office.

''(N) Any office of the Social Security Administration.

''(O) Any public assistance office, including locations at which individuals may apply for or receive unemployment compensation or report violations of labor and employment laws.

''(P) The indoor or outdoor premises of a department of motor vehicles.

''(Q) Any polling place, including any building or infrastructure at which voting takes place during an election.

''(R) Any labor union hall or any other union-operated building or office at which reg-

istered applicants are referred in rotation to jobs.

''(S) Any public library.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended by inserting after the item relating to section 890D the following new item:

''Sec. 890E. Body-worn cameras and dashboard cameras.''.