

# Bodycam law will allow eventual public access to videos

The bulk of the legislative session in Jefferson City this year is over and probably the biggest change coming out of it for reporters is the new language that is contained in Senate Bill 732, which addresses video created by law enforcement. While we are waiting to see the response of the Governor's office to this bill, it might be a good time to pull a copy of it and begin to familiarize yourselves with what it says.

If the Governor signs it or if the Governor does not veto it, it will become law on Aug. 28. If the Governor vetoes it, then it will no doubt be addressed by the legislature this fall as that body considers any other bills which were vetoed by the Governor.

Your Missouri Press representatives in Jefferson City, including Executive Director Mark Maassen and Legislative Director Doug Crews, along with our lobbyists Harry Gallagher and Heath Clarkston, worked hard to stay on top of this bill as it went through many changes during the session. Our association worked with law enforcement organizations and other interested parties on proposed amendments. A lot of changes were circulated during this process and it took hard work and constant effort by these folks to ensure that language protecting the public's interest in these materials stayed in the bill.

Video recordings from devices either worn on or carried by law enforcement officers (let's call this "bodycam"

video) will be treated just the same as video recordings captured by devices fixed to a vehicle (let's call this "dashcam" video). In the past, while dashcam video may have been available as an incident report from some law enforcement agencies, it has not been uniformly treated as such and so this will possibly be a significant change for some law enforcement agencies. If you haven't gotten dashcam video in the past, you should be able to get it now once the investigation is "inactive."

Meanwhile, the creation of bodycam video in the state, according to reports I've had, has been limited at present and there's been no uniform policy regarding that video product up to now.

Under this new law, all such video, both dashcam and bodycam, will be considered an "investigative report" as that

term is used in the Sunshine Law, and will be a closed record until the investigation is "inactive" as that term is defined in the law. So once that point is reached in the case, not only can you access written investigative reports from law enforcement, but you will also be able to access video recordings, whether from dashcams or bodycams, in connection with the case, with potentially one exception.

The law further defines video taken in "nonpublic locations" and also sets out a specific exception for video recorded in nonpublic locations, stating that such video "is authorized to be closed." The language in the bill

that relates to this process is detailed and needs more careful reading by all of us. The bill also contains a provision for bringing a lawsuit requesting access to video recordings that are being lawfully closed but where the requester believes release of the video is in the public's interest and the benefit to the public outweighs any harm to the public interest, to law enforcement agents or law enforcement techniques, or to private third parties shown in the video.

Further, the bill creates a new section, Section 610.205, relating to accessibility of crime scene photos and videos that depict a dead person in graphic detail, particularly such items that show dismemberment or exposed sexual organs. This statute would forever close such records, except to kin of the deceased person, and except for a provision that one can go to court and ask a judge to find that disclosure of such material is in the public interest. And, oddly enough, at the end of that new statute is a provision that tasks the Department of Public Safety with promulgating rules and regulations governing viewing of these materials by the media, but doesn't clarify where any provision for this is included in the law.

We'll be watching the Governor's office in the next couple of months to determine what happens to this bill and we'll keep you informed.

One last thing on a totally unrelated subject: At the annual media law seminar held last month here in Kansas City, I became aware of the Coral Project. Many times all of you are way ahead of me on journalism trends and innovations. Perhaps you've heard of this. If not, do a web search for it and read up. This is really an exciting idea and shows the power of online resources in our industry today!

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