

Senate Judiciary Committee

Pete Mulvey 271-4063

HB 146-FN, relative to the use of body-worn cameras.

Hearing Date: April 8, 2025

Time Opened: 3:07 p.m.

Time Closed: 3:19 p.m.

Members of the Committee Present: Senators Gannon, Abbas, Altschiller and Reardon

Members of the Committee Absent : Senator McConkey

Bill Analysis: This bill modifies the scenarios requiring retention of body-worn camera recordings to include violation-level cases.

Sponsors:
Rep. Flanagan

Who supports the bill: Nine individuals signed in support of HB 146-FN. Contact peter.mulvey@gc.nh.gov for further details.

Who opposes the bill: five individuals signed in opposition to HB 146-FN. Contact peter.mulvey@gc.nh.gov for further details.

Who is neutral on the bill: N/A

Summary of testimony:

Representative Jack Flanagan

Hillsborough- District 45

- HB 146-FN is a bill relative to the use of body-worn cameras.
- Representative Flanagan explained that the bill originated by from a discussion with a constituent who received a speeding ticket which he contested.
 - The constituent requested copy of video tape to support his claims in court, but the prosecutor told him they only keep the tape for a period of 30 days.
- Representative Flanagan noted that keeping the tape for 30 days was not sufficient when an individual has 30 days to respond to the moving violation.
 - Evidence that the constituent requested wasn't available and, therefore, the case should have been thrown out.
- Representative Flanagan explained that the constituent went to trial and received a lesser penalty because the video was not available.
- When the information was presented to Representative Flanagan, he concluded it was wrong and legislation should be brought forward to address it.

- He explained that Chairman Roy amended the language to make it so video could not be destroyed while litigation was in process.
- Senator Altschiller asked how fast the constituent was going.
 - Representative Flanagan stated they accused him of driving 72 mph, but he doesn't believe he was driving that fast as he had a son with down syndrome in the vehicle with him.
 - He noted that the gentleman is a 67-year-old but allowed that it is not to say 67-year-old men can't violate the speed limit.

Aubrey Freedman

- Mr. Freedman stated he was speaking in support of the bill with the hope that a record can be available in the case of contentious claims.
- He explained this is a transparency issue so that data can be kept for the record.
 - This would also protect the interests of law enforcement.
 - It would make it so the courts do not have to rely on hearsay.
- Mr. Freedman explained that he initially believed this bill would be a financial burden because of storage costs.
 - However, he noted that the fiscal note shows the costs would be under \$10,000 per year to enact the bill.
 - He argued that the benefits exceed the costs in this case.

Major Brendan Davey

NH State Police

- Major Davey stated that the Department of Safety oppose the bill as written.
 - As the sponsor noted, cost is a factor.
- He stated that the bill would amount to an unfunded mandate and the costs would be borne by the State of NH.
- Major Davey explained that, should this requirement be made, it would put the program out of reach for small police departments.
- He noted that with the State Police alone, roughly 10,000 traffic stops are issued annually and because they are violation level offenses with no jail time attached, they are not tracked like misdemeanor cases in the report management system.
- Major Davey noted that as case management practices were concerned, this bill would require troopers to take hundreds if not thousands of traffic summonses and manage them, track them, and retain them like misdemeanor offenses.
- He stated that this would require departments to make sure that the risk of adjudication has been addressed prior to any action.
- He explained that such action would be difficult to do in the case of a person failing to appear for a summons and being found guilty, then reappearing years later seeking to relitigate the case against them.
- Major Davey argued that it would be far more effective to put a strict time limit on the retention of data rather than leave it open ended.
- He noted that often body worn video gives fantastic views of the steering wheel and an officer's hand while evincing nothing of the conduct of the driver.
- The case before a court comes down to whether a defendant violated the law which does not require that someone meant to do what they did, but that they did it.
- He explained that it would diminish the value of testimonial evidence offered at trial for law enforcement which would effectively raise the bar of proof for officers to clear to prove that someone broke the law.
- Major Davey noted that for all of those reasons, the Department of Safety opposes the bill as written.
- He concluded by stating that a defendant has 30 days to answer a complaint, and noted that it wouldn't take much more than that if the law were made to state that recordings should be held for 60 days.

PM
Date Hearing Report completed: April 10, 2025