

STATE OF OREGON
CITIZENS' INITIATIVE PETITION

PROPOSED MEASURE FOR THE 2028 GENERAL ELECTION

AN INITIATIVE MEASURE TO:

Require all Oregon Department of Human Services (ODHS) field staff to wear and activate body-worn cameras during all official contacts with the public; mandate continuous, uninterrupted recording during all involuntary removals of children; establish standards for camera activation, data retention, family access to recordings, and accountability; provide civil remedies for violations; create a recording exemption under ORS 165.540; and enact new provisions under Oregon law.

Be It Enacted by the People of the State of Oregon:

SECTION 1. FINDINGS AND PURPOSE

(1) The People of the State of Oregon find that:

- (a) The Oregon Department of Human Services (ODHS) exercises significant authority over Oregon families, including the power to take

children into protective custody without prior court order under ORS 419B.150.

- (b) Families subject to ODHS investigations, home visits, and child removal proceedings are among Oregon's most vulnerable populations and have a compelling interest in accurate, contemporaneous documentation of government conduct.
- (c) Body-worn cameras improve transparency, reduce misconduct, and protect both government employees and members of the public during official interactions.
- (d) Requiring ODHS field staff to wear body-worn cameras and ensuring that recordings are available to affected families promotes accountability, due process, and public trust in Oregon's child welfare system.
- (e) The privacy interests of children and families require that recordings be managed with strict safeguards consistent with applicable federal and state law, including the Child Abuse Prevention and Treatment Act, 42 U.S.C. § 5101 et seq., the Health Insurance Portability and Accountability Act, 45 C.F.R. Parts 160 and 164 (HIPAA), the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g (FERPA), the Federal Wiretap Act, 18 U.S.C. § 2510 et seq., and Oregon's Public Records Law, ORS Chapter 192.

(2) The purpose of this Act is to:

- (a) Require all ODHS field staff to wear and activate body-worn cameras during all field contacts with members of the public.
- (b) Mandate continuous, uninterrupted recording during all involuntary removals of children, including emergency protective custody actions under ORS 419B.150.

- (c) Establish enforceable standards for notice, camera activation and deactivation, data storage, retention periods, and family access to recordings.
- (d) Provide civil remedies to families whose rights under this Act are violated.
- (e) Protect the privacy of children and all persons present during recorded interactions, consistent with applicable state and federal law.

SECTION 2. DEFINITIONS

As used in this Act:

- (1) "Body-worn camera" or "BWC" means a video and audio recording device worn on the body of an ODHS field staff member that is capable of capturing the audio and video of the staff member's field interactions.
- (2) "Child" has the meaning given in ORS 419B.005(2).
- (3) "Department" means the Oregon Department of Human Services.
- (4) "Director" means the Director of the Oregon Department of Human Services appointed under ORS 409.040.
- (5) "Field contact" means any interaction between ODHS field staff and a member of the public occurring outside a secured ODHS administrative office, including interactions at a residence, school, hospital, medical facility, child care facility, foster home, court facility, or any other off-campus location.
- (6) "Field staff" means any ODHS employee whose job duties regularly include field contacts, including but not limited to child welfare caseworkers, child protective services workers, permanency workers, foster care licensing workers, support services workers, and supervisors who accompany such workers on field contacts.
- (7) "Involuntary removal" means any action by ODHS field staff to take or facilitate taking physical custody of a child without the voluntary, uncoerced

written consent of all parents or legal guardians of the child who are present, including:

- (a) Emergency protective custody under ORS 419B.150;
 - (b) Court-ordered removal executed by ODHS field staff; and
 - (c) Any other removal of a child from a home, placement, or facility in which the child is residing or present, where no signed, contemporaneous voluntary consent from a parent or legal guardian is obtained before removal is initiated.
- (8) "Parent or legal guardian" means a parent, guardian, or other person who has legal custody of or responsibility for a child, as used in ORS Chapter 419B.
- (9) "Recording" means any audio, video, or combined audio-video data captured by a body-worn camera under this Act.
- (10) "Rebuttable presumption" means a presumption of fact that may be rebutted by evidence to the contrary introduced by the Department in any administrative or judicial proceeding.

SECTION 3. BODY-WORN CAMERA REQUIREMENT — ALL FIELD STAFF

- (1) No later than 18 months after the effective date of this Act, the Department shall equip all field staff with body-worn cameras meeting technical standards adopted by the Director under Section 10 of this Act.
- (2) All field staff shall wear an activated body-worn camera during every field contact.
- (3) Recording shall begin no later than the moment a field staff member arrives at the location of a field contact and shall continue uninterrupted until the field contact is fully concluded, including the departure of all field staff from that location.
- (4) A field staff member may temporarily deactivate a body-worn camera only if:
- (a) Recording in a specific area would capture protected health information of a person who is not the subject of the ODHS matter and

disclosure is prohibited under 45 C.F.R. Parts 160 and 164 (HIPAA);
or

(b) Deactivation is required by a specific provision of federal law.

- (5) Before deactivating a camera under subsection (4) of this section, the field staff member shall verbally state on the recording the specific legal basis for the deactivation. The camera shall be reactivated immediately upon exiting the restricted area or upon the basis for deactivation no longer existing.
- (6) Deactivation of a body-worn camera during an involuntary removal is prohibited. See Section 4 of this Act.
- (7) Field staff shall not intentionally obstruct, cover, misdirect, disable, or otherwise interfere with the function or field of view of a body-worn camera during any field contact, except as expressly permitted under subsection (4) of this section.

SECTION 4. MANDATORY RECORDING DURING INVOLUNTARY REMOVALS

- (1) Body-worn cameras shall be activated before initial contact is made with any person at the location of an involuntary removal and shall record continuously and without interruption throughout the entire removal, from the time of first contact through the time the child is physically transferred to substitute care and all field staff depart the scene.
- (2) No deactivation, pause, or interruption of recording is permitted during an involuntary removal under any circumstances except as expressly required by a specific provision of federal law. A field staff member who deactivates a camera during an involuntary removal for any other reason commits a violation of this Act.
- (3) Where two or more ODHS field staff participate in an involuntary removal, each participating field staff member shall maintain an activated body-worn camera throughout the removal.

- (4) In the event a body-worn camera malfunctions, loses power, or fails to record during an involuntary removal, the field staff member shall:
- (a) Immediately notify a supervisor by the fastest available means;
 - (b) Prepare and submit a written incident report, signed under penalty of perjury, documenting: the equipment malfunction; the stage of the removal at which the malfunction occurred; and a complete narrative of all actions taken and statements made during any unrecorded period, within four (4) hours of the conclusion of the removal; and
 - (c) The written incident report shall be attached to the case record and provided to the parent or legal guardian and any attorney of record within 72 hours of the removal.
- (5) Failure to record an involuntary removal as required by this section creates a rebuttable presumption in any subsequent administrative or judicial proceeding, including dependency proceedings under ORS Chapter 419B, that material evidence favorable to the family was lost or destroyed.

SECTION 5. NOTICE TO PERSONS PRESENT

- (1) Before commencing a field contact, ODHS field staff shall verbally notify all adults present that the interaction is being recorded by a body-worn camera.
- (2) Notice shall be given in English and, to the extent practicable, in the primary language of any adult present who is not proficient in English, using available interpreter or translation services.
- (3) Activation of the camera shall not be delayed pending provision of notice. Notice shall be provided as soon as practicable after activation and before substantive discussion begins.
- (4) For purposes of ORS 165.540, this Act creates a specific statutory exemption authorizing ODHS field staff to record field contacts as required by this Act without the prior consent of all participants, provided the notice requirements of this section are met. This exemption does not authorize recordings

prohibited by the Federal Wiretap Act, 18 U.S.C. § 2510 et seq., or any other provision of federal law.

- (5) The Department shall post clear, conspicuous notice at all ODHS offices accessible to the public informing clients that field staff are required by law to use body-worn cameras during home visits, field contacts, and removals.

SECTION 6. DATA RETENTION, STORAGE, AND SECURITY

- (1) All recordings made under this Act shall be retained as follows:

- (a) Recordings of involuntary removals: not less than seven (7) years from the date of the removal, or until all related judicial, administrative, and appellate proceedings are final, whichever is later;
- (b) Recordings of field contacts not involving an involuntary removal: not less than three (3) years from the date of the field contact, or until all related judicial, administrative, and appellate proceedings are final, whichever is later;
- (c) Any recording that is the subject of a pending complaint, grievance, public records request, or judicial or administrative proceeding: retained until all such proceedings are final and all applicable appeal periods have expired.

- (2) The Department shall maintain recordings in a secure, access-controlled digital storage system that:

- (a) Logs all access to recordings, including the identity of each person accessing a recording, the date and time of access, and the stated purpose;
- (b) Prevents unauthorized deletion, alteration, or tampering with recordings;
- (c) Encrypts recordings both at rest and in transit using industry-standard encryption; and
- (d) Is subject to independent audit by the Oregon Secretary of State Audits Division under ORS Chapter 297 no less than every two years.

- (3) No recording may be altered, edited, erased, overwritten, or destroyed prior to the expiration of the applicable retention period, except pursuant to a court order issued after advance notice to the parent or legal guardian, any attorney of record, and the Body-Worn Camera Compliance Officer designated under Section 8 of this Act.
- (4) The Department shall designate a Body-Worn Camera Data Custodian who is responsible for maintaining the integrity, security, and accessibility of all recordings and storage systems required by this Act.

SECTION 7. FAMILY ACCESS TO RECORDINGS

- (1) A parent or legal guardian of a child involved in a field contact shall have the right to request and receive a copy of any recording involving that child. The Department shall provide the copy within ten (10) business days of receiving a written or oral request.
- (2) An attorney representing a parent, child, or legal guardian in any proceeding arising from a field contact shall have the right to request and receive a copy of any recording related to that proceeding within ten (10) business days of a written request.
- (3) The Department shall not charge a fee for the first copy of any recording provided under this section. Fees for additional copies shall not exceed the Department's actual reproduction costs.
- (4) Prior to releasing a recording, the Department shall:
 - (a) Apply targeted redactions to protect the identity of third parties who are not subjects of the ODHS action and whose identity is not relevant to any pending proceeding; and
 - (b) Redact content whose disclosure is prohibited by federal law, including protected health information under 45 C.F.R. Parts 160 and 164 (HIPAA) and education records under 20 U.S.C. § 1232g (FERPA). The Department shall issue a written log of every redaction made,

identifying the legal basis for each redaction, provided concurrently with the recording.

- (5) Except as provided in subsection (4) of this section, the Department shall not withhold a recording from a parent, legal guardian, or attorney of record on the basis that the recording constitutes a child welfare record under ORS 419B.035 or on any other grounds not expressly required by federal law.
- (6) Recordings produced under this section shall be admissible in all proceedings under ORS Chapter 419B, in any related administrative hearing, and in all appellate proceedings arising from those matters.
- (7) Nothing in this section shall be construed to expand or restrict the right of members of the general public to request recordings under ORS Chapter 192 (Public Records Law) beyond the rights that would otherwise apply.

SECTION 8. ACCOUNTABILITY, OVERSIGHT, AND ENFORCEMENT

- (1) The Department shall designate a Body-Worn Camera Compliance Officer (Compliance Officer) who shall be:
 - (a) Independent from ODHS field operations;
 - (b) Responsible for monitoring field staff compliance with this Act;
 - (c) Authorized to investigate complaints filed under subsection (2) of this section; and
 - (d) Required to prepare and publish an annual public report on body-worn camera usage, activation compliance rates, malfunction incidents, complaints received, and disciplinary actions taken. The report shall be submitted to the Governor, the President of the Oregon Senate, and the Speaker of the Oregon House of Representatives.
- (2) Any person who believes their rights under this Act have been violated may file a complaint with the Compliance Officer. The Department shall investigate all complaints within sixty (60) days and provide the complainant with a written determination of the findings.

(3) A parent, legal guardian, or child aggrieved by a violation of this Act may bring a civil action in the Oregon circuit court of competent jurisdiction.

Relief available shall include:

- (a) Injunctive relief;
 - (b) Actual damages sustained as a result of the violation;
 - (c) Statutory damages of five hundred dollars (\$500) per violation, or two thousand five hundred dollars (\$2,500) per violation occurring during an involuntary removal; and
 - (d) Reasonable attorney fees and costs as provided under ORS 20.107.
- (4) The Department's failure to record, preserve, or produce a recording as required by this Act shall be treated as a discovery violation subject to sanctions by the presiding court or administrative law judge in any related proceeding, including adverse inference instructions, suppression of ODHS testimony, and dismissal in appropriate cases.

SECTION 9. RETALIATION PROHIBITED

(1) No ODHS employee, supervisor, or official shall take, recommend, or threaten any adverse action against a family, parent, legal guardian, child, or other person as a result of:

- (a) A request made under Section 7 of this Act for access to a recording;
- (b) A complaint filed under Section 8(2) of this Act; or
- (c) Testimony or participation in any proceeding in which a recording obtained under this Act is introduced or offered in evidence.

(2) No ODHS employee shall be subject to adverse employment action, demotion, reduction in pay, termination, or other retaliation for:

- (a) Reporting in good faith a violation of this Act to a supervisor, the Compliance Officer, the Oregon Government Ethics Commission, or any other oversight body; or

- (b) Cooperating with a duly authorized investigation of a violation of this Act.
- (3) An ODHS employee who is subjected to retaliation prohibited by subsection (2) of this section may seek relief under ORS Chapter 659A and any other applicable provision of Oregon law.

SECTION 10. RULEMAKING

- (1) The Director shall adopt rules under ORS Chapter 183 (Oregon Administrative Procedures Act) necessary to implement this Act, including but not limited to:
 - (a) Technical and performance standards for body-worn cameras, including minimum video resolution, audio quality, battery life, storage capacity, and tamper-evidence requirements;
 - (b) Activation and deactivation protocols, including the verbal notice procedure required by Section 5;
 - (c) Malfunction reporting and incident report procedures under Section 4(4);
 - (d) Data security standards for recording storage systems under Section 6;
 - (e) Procedures and timelines for processing family access requests under Section 7;
 - (f) Training requirements for all field staff, which shall include at minimum: proper camera operation, notice requirements, prohibited deactivation during removals, and consequences for non-compliance; and
 - (g) Disciplinary consequences for field staff who fail to comply with this Act, which shall include progressive discipline up to and including termination for intentional deactivation during an involuntary removal.
- (2) The Director shall adopt initial rules no later than twelve (12) months after the effective date of this Act.

- (3) In adopting rules under this section, the Director shall provide meaningful opportunity for public comment and shall specifically consult with:
- (a) Individuals and families with lived experience of ODHS child welfare involvement;
 - (b) Attorneys practicing in Oregon juvenile and family courts;
 - (c) Child welfare advocacy organizations;
 - (d) Tribal governments and tribal child welfare programs; and
 - (e) ODHS field staff and their collective bargaining representatives.

SECTION 11. AMENDMENT TO ORS 165.540

- (1) ORS 165.540 is amended by adding the following new subsection:

"() A person does not violate this section by using a body-worn camera while acting as field staff of the Oregon Department of Human Services if the person is acting in compliance with [the new ORS sections created by this Act] and has provided the verbal notice required by Section 5 of this Act."

- (2) The Oregon Legislative Counsel shall designate the appropriate ORS numbering for the new statutory sections created by this Act.

SECTION 12. FUNDING AND FEDERAL PARTICIPATION

- (1) The Department shall seek funding for implementation of this Act through the biennial budget process beginning with the first legislative session following adoption of this Act by the voters.
- (2) The Director is authorized and directed to seek federal financial participation for allowable body-worn camera costs under Title IV-E of the Social Security Act, 42 U.S.C. § 670 et seq., to the fullest extent permitted by federal law and regulation, and to pursue available federal grants for justice and child welfare technology.
- (3) Nothing in this Act shall be construed to relieve the State of Oregon of its obligation to fund the requirements of this Act.

SECTION 13. SEVERABILITY

If any provision of this Act or the application of any provision to any person or circumstance is held invalid or unenforceable by a court of competent jurisdiction, the remainder of the Act and the application of its provisions to other persons or circumstances shall not be affected and shall continue in full force and effect.

SECTION 14. EFFECTIVE DATE

This Act takes effect on the 31st day after the date on which it is adopted by voters at the 2028 General Election, except that the Director may begin rulemaking under Section 10 immediately upon the effective date.

— END OF PROPOSED MEASURE TEXT —

Prepared by Chief Petitioner(s) for submission to the Oregon Secretary of State Elections Division
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