

AMENDMENT TO RULES COMMITTEE PRINT 119–3

OFFERED BY MR. ESPAILLAT

At the end of title VII, add the following new section:

SEC. 70106 Information Technology investments

- Immigration and Customs Enforcement (ICE) and the Commissioner of U.S. Customs and Border Protection (CBP) shall ensure that all immigration enforcement staff wear body cameras when such agents and officers are engaged in official operations

- IMPLEMENTATION — To carry out this section, the Director of ICE and the Commissioner of CBP shall establish –
 - policies, procedures, and best practices for the use of body cameras by all immigration enforcement staff, including training relating to the use of such cameras;

 - policies, procedures, and best practices for the use of artificial intelligence and facial recognition technology to record or review body camera footage by immigration enforcement staff, including policies that acknowledge the limitations and inaccuracies of artificial intelligence and facial recognition technology;

- USAGE -- Body cameras worn by immigration enforcement staff shall be turned on at the beginning of the shift of such staff and shall remain on for the duration of such shifts.

- AVAILABILITY OF BODY CAMERA FOOTAGE ---
 - Footage collected by such a body camera shall be made available to each party to any administrative proceeding, civil action, or criminal prosecution to which such footage pertains in accordance with such requirements as the Secretary of Homeland Security shall by rule require under subsection (e). If such footage is not made available, such a party may notify the Director of ICE or the Commissioner of CBP in writing for purposes of instigating an adverse action described in the following subsection

- ADVERSE ACTIONS FOR ABSENCE OF BODY CAMERA FOOTAGE.—
 - Any immigration enforcement staff member whose body camera does not record footage because of a violation of the Usage Subsection shall be subject to furlough, reduction in pay or grade, or a suspension of up to 30 days under subchapter II of chapter 75 of title 5, United States Code, as the Director of ICE or the Commissioner of CBP (as the case may be) determines appropriate. If a body camera does not record at a time when the camera is required to be active, the Secretary of Homeland Security may not determine that the camera

suffered a malfunction unless the member submits sufficient evidence to establish that a malfunction occurred.

- RULEMAKING.—
 - Not later than 60 days after the date of enactment of this Act, the Secretary of Homeland Security shall commence a rulemaking regarding the use of body cameras and the provision of footage in accordance with subsection (d) that is consistent with the “Civil Rights Principles for Body Worn Cameras” of the Leadership Conference on Civil and Human Rights, May 2015, and “Three Key Reforms for Facial Recognition and Body Cameras” of the Project on Government Oversight, April 2018. The proposed rule shall include a comparison with the American Civil Liberties Union’s July 2021 “Model Act for Regulating the Use of Wearable Body Cameras by Law Enforcement” and “An Act Relative to Body Worn Cameras for Law Enforcement Officers” (2016 N.H. Legis. Serv. 322 (codified at N.H. REV. STAT. ANN. § 105–D (2016))).

- ADVERSE ACTIONS FOR ABSENCE OF BODY CAMERA FOOTAGE.—
 - Any immigration enforcement staff member whose body camera does not record footage

because of a violation of this subsection shall be subject to furlough, reduction in pay or grade, or a suspension of up to 30 days under subchapter II of chapter 75 of title 5, United States Code, as the Director of ICE or the Commissioner of CBP (as the case may be) determines appropriate. If a body camera does not record at a time when the camera is required to be active, the Secretary of Homeland Security may not determine that the camera suffered a malfunction unless the member submits evidence sufficient to establish that a malfunction occurred.

- ANNUAL ASSESSMENTS –
 - The Inspector General of the Department of Homeland Security shall conduct an annual privacy impact assessment of how body camera footage is collected, maintained, stored, and disseminated

- PROHIBITION ON NEW FUNDING.—
 - No additional funding is authorized to be appropriated to carry out this section. This section shall be carried out using amounts otherwise made available for such purposes.

- DEFINITION.—In this section, the term “immigration enforcement staff” means the following:
 - All agents and officers of U.S. Customs and Border Protection
 - All agents and officers of U.S. Immigration and Customs Enforcement
 - All staff at any immigration detention facility who interact with detain