

By: West, et al.
(Fletcher, White of Tyler)

S.B. No. 158

Substitute the following for S.B. No. 158:

By: White of Tyler

C.S.S.B. No. 158

A BILL TO BE ENTITLED

AN ACT

relating to a body worn camera program for certain law enforcement agencies in this state; creating a criminal offense; authorizing a fee.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 1701, Occupations Code, is amended by adding Subchapter N to read as follows:

SUBCHAPTER N. BODY WORN CAMERA PROGRAM

Sec. 1701.651. DEFINITIONS. In this subchapter:

(1) "Body worn camera" means a recording device that is:

(A) capable of recording, or transmitting to be recorded remotely, video or audio; and

(B) worn on the person of a peace officer, which includes being attached to the officer's clothing or worn as glasses.

(2) "Department" means the Department of Public Safety of the State of Texas.

(3) "Private space" means a location in which a person has a reasonable expectation of privacy, including a person's home.

Sec. 1701.652. GRANTS FOR BODY WORN CAMERAS. (a) A police department of a municipality in this state, a sheriff of a county in this state who has received the approval of the commissioners court for the purpose, or the department may apply to the office of the

1 governor for a grant to defray the cost of implementing this
2 subchapter and to equip peace officers with body worn cameras if
3 that law enforcement agency employs officers who:

4 (1) are engaged in traffic or highway patrol or
5 otherwise regularly detain or stop motor vehicles; or

6 (2) are primary responders who respond directly to
7 calls for assistance from the public.

8 (b) The office of the governor shall set deadlines for
9 applications for grants under this chapter.

10 (c) Except as provided by Subsection (d), the office of the
11 governor shall create and implement a matching grant program under
12 which matching funds from federal, state, local, and other funding
13 sources may be required as a condition of the grant. A law
14 enforcement agency that receives a grant under this section is
15 required to match 25 percent of the grant money.

16 (d) The department is eligible for grants under this
17 subchapter but may not be made subject to any requirement for
18 matching funds.

19 (e) The governor's office may conditionally award a grant to
20 a law enforcement agency that has not adopted and implemented the
21 policy under Section 1701.655 or implemented the training required
22 under Section 1701.656, but money may not be disbursed to a law
23 enforcement agency until the agency fully complies with those
24 sections.

25 Sec. 1701.653. REPORTING. (a) As a condition of receiving
26 a grant under this subchapter, a law enforcement agency annually
27 shall report to the commission regarding the costs of implementing

1 a body worn camera program, including all known equipment costs and
2 costs for data storage.

3 (b) The commission shall compile the information submitted
4 under Subsection (a) into a report and submit the report to the
5 office of the governor and the legislature not later than December 1
6 of each year.

7 Sec. 1701.654. INTERAGENCY OR INTERLOCAL CONTRACTS. A law
8 enforcement agency in this state may enter into an interagency or
9 interlocal contract to receive body worn camera services and have
10 the identified operations performed through a program established
11 by the Department of Information Resources.

12 Sec. 1701.655. BODY WORN CAMERA POLICY. (a) A law
13 enforcement agency that receives a grant to provide body worn
14 cameras to its peace officers or that otherwise operates a body worn
15 camera program shall adopt a policy for the use of body worn
16 cameras.

17 (b) A policy described by Subsection (a) must ensure that a
18 body worn camera is activated only for a law enforcement purpose and
19 must include:

20 (1) guidelines for when a peace officer should
21 activate a camera or discontinue a recording currently in progress,
22 considering the need for privacy in certain situations and at
23 certain locations;

24 (2) provisions relating to data retention, including a
25 provision requiring the retention of video for a minimum period of
26 90 days;

27 (3) provisions relating to storage of video and audio,

1 creation of backup copies of the video and audio, and maintenance of
2 data security;

3 (4) guidelines for public access, through open records
4 requests, to recordings that are public information;

5 (5) provisions entitling an officer to access any
6 recording of an incident involving the officer before the officer
7 is required to make a statement about the incident;

8 (6) procedures for supervisory or internal review; and

9 (7) the handling and documenting of equipment and
10 malfunctions of equipment.

11 (c) A policy described by Subsection (a) may not require a
12 peace officer to keep a body worn camera activated for the entire
13 period of the officer's shift.

14 (d) A policy adopted under this section must be consistent
15 with the Federal Rules of Evidence and Texas Rules of Evidence.

16 Sec. 1701.656. TRAINING. (a) Before a law enforcement
17 agency may operate a body worn camera program, the agency must
18 provide training to:

19 (1) peace officers who will wear the body worn
20 cameras; and

21 (2) any other personnel who will come into contact
22 with video and audio data obtained from the use of body worn
23 cameras.

24 (b) The commission, in consultation with the department,
25 the Bill Blackwood Law Enforcement Management Institute of Texas,
26 the W. W. Caruth Jr. Police Institute at Dallas, and the Texas
27 Police Chiefs Association, shall develop or approve a curriculum

1 for a training program under this section.

2 Sec. 1701.657. RECORDING INTERACTIONS WITH THE PUBLIC.

3 (a) A peace officer equipped with a body worn camera shall act in a
4 manner that is consistent with the policy of the law enforcement
5 agency that employs the officer with respect to when and under what
6 circumstances a body worn camera must be activated.

7 (b) A peace officer equipped with a body worn camera may
8 choose not to activate a camera or may choose to discontinue a
9 recording currently in progress for any nonconfrontational
10 encounter with a person, including an interview of a witness or
11 victim.

12 (c) A peace officer who does not activate a body worn camera
13 in response to a call for assistance must include in the officer's
14 incident report or otherwise note in the case file or record the
15 reason for not activating the camera.

16 (d) Any justification for failing to activate the body worn
17 camera because it is unsafe, unrealistic, or impracticable is based
18 on whether a reasonable officer under the same or similar
19 circumstances would have made the same decision.

20 Sec. 1701.658. USE OF PERSONAL EQUIPMENT. (a) If a law
21 enforcement agency receives a grant under this subchapter, a peace
22 officer who is employed by the agency and who is on duty may only use
23 a body worn camera that is issued and maintained by that agency.

24 (b) Notwithstanding any previous policies, an agency may
25 not allow its peace officers to use privately owned body worn
26 cameras after receiving a grant under this subchapter.

27 (c) A peace officer who is employed by a law enforcement

1 agency that has not received a grant or who has not otherwise been
2 provided with a body worn camera by the agency that employs the
3 officer may operate a body worn camera that is privately owned only
4 if permitted by the employing agency.

5 (d) An agency that authorizes the use of privately owned
6 body worn cameras under Subsection (c) must make provisions for the
7 security and compatibility of the recordings made by those cameras.

8 Sec. 1701.659. OFFENSE. (a) A peace officer or other
9 employee of a law enforcement agency commits an offense if the
10 officer or employee releases a recording created with a body worn
11 camera under this subchapter without permission of the applicable
12 law enforcement agency.

13 (b) An offense under this section is a Class A misdemeanor.

14 Sec. 1701.660. RECORDINGS AS EVIDENCE. (a) Except as
15 provided by Subsection (b), a recording created with a body worn
16 camera and documenting an incident that involves the use of deadly
17 force by a peace officer or that is otherwise related to an
18 administrative or criminal investigation of an officer may not be
19 deleted, destroyed, or released to the public until all criminal
20 matters have been finally adjudicated and all related
21 administrative investigations have concluded.

22 (b) A law enforcement agency may release to the public a
23 recording described by Subsection (a) if the law enforcement agency
24 determines that the release furthers a law enforcement purpose.

25 (c) This section does not affect the authority of a law
26 enforcement agency to withhold under Section 552.108, Government
27 Code, information related to a closed criminal investigation that

1 did not result in a conviction or a grant of deferred adjudication
2 community supervision.

3 Sec. 1701.661. RELEASE OF INFORMATION RECORDED BY BODY WORN
4 CAMERA. (a) A member of the public is required to provide the
5 following information when submitting a written request to a law
6 enforcement agency for information recorded by a body worn camera:

7 (1) the date and approximate time of the recording;

8 (2) the specific location where the recording
9 occurred; and

10 (3) the name of one or more persons known to be a
11 subject of the recording.

12 (b) A failure to provide all of the information required by
13 Subsection (a) to be part of a request for recorded information does
14 not preclude the requestor from making a future request for the same
15 recorded information.

16 (c) Except as provided by Subsection (d), information
17 recorded by a body worn camera and held by a law enforcement agency
18 under this subchapter is not subject to the requirements of Section
19 552.021, Government Code.

20 (d) Information that is or could be used as evidence in a
21 criminal prosecution is subject to the requirements of Section
22 552.021, Government Code.

23 (e) A law enforcement agency may:

24 (1) seek to withhold information subject to Subsection
25 (d) in accordance with procedures provided by Section 552.301,
26 Government Code;

27 (2) assert any exceptions to disclosure in Chapter

1 552, Government Code, or other law; or

2 (3) release information requested in accordance with
3 Subsection (a) after the agency redacts any information made
4 confidential under Chapter 552, Government Code, or other law.

5 (f) A law enforcement agency may not release any portion of
6 a recording made in a private space, or of a recording involving the
7 investigation of conduct that constitutes a misdemeanor punishable
8 by fine only and does not result in arrest, without written
9 authorization from the person who is the subject of that portion of
10 the recording or, if the person is deceased, from the person's
11 authorized representative.

12 (g) The attorney general shall set a proposed fee to be
13 charged to members of the public who seek to obtain a copy of a
14 recording under this section. The fee amount must be sufficient to
15 cover the cost of reviewing and making the recording. A law
16 enforcement agency may provide a copy without charge or at a reduced
17 charge if the agency determines that waiver or reduction of the
18 charge is in the public interest.

19 Sec. 1701.662. BODY WORN CAMERA RECORDINGS; REQUEST FOR
20 ATTORNEY GENERAL DECISION. (a) Notwithstanding Section
21 552.301(b), Government Code, a governmental body's request for a
22 decision from the attorney general about whether a requested body
23 worn camera recording falls within an exception to public
24 disclosure is considered timely if made not later than the 20th
25 business day after the date of receipt of the written request.

26 (b) Notwithstanding Section 552.301(d), Government Code, a
27 governmental body's response to a requestor regarding a requested

1 body worn camera recording is considered timely if made not later
2 than the 20th business day after the date of receipt of the written
3 request.

4 (c) Notwithstanding Section 552.301(e), Government Code, a
5 governmental body's submission to the attorney general of the
6 information required by that subsection regarding a requested body
7 worn camera recording is considered timely if made not later than
8 the 25th business day after the date of receipt of the written
9 request.

10 (d) Notwithstanding Section 552.301(e-1), Government Code,
11 a governmental body's submission to a requestor of the information
12 required by that subsection regarding a requested body worn camera
13 recording is considered timely if made not later than the 25th
14 business day after the date of receipt of the written request.

15 Sec. 1701.663. PRODUCTION OF BODY WORN CAMERA RECORDING IN
16 RESPONSE TO VOLUMINOUS PUBLIC INFORMATION REQUESTS.

17 (a) Notwithstanding Section 552.221(d), Government Code, an
18 officer for public information who is employed by a governmental
19 body and who receives a voluminous request in accordance with
20 Section 1701.661(a) is considered to have promptly produced the
21 information for purposes of Section 552.221, Government Code, if
22 the officer takes the actions required under Section 552.221 before
23 the 21st business day after the date of receipt of the written
24 request.

25 (b) For purposes of this section, "voluminous request"
26 includes:

27 (1) a request for body worn camera recordings from

1 more than five separate incidents;

2 (2) more than five separate requests for body worn
3 camera recordings from the same person in a 24-hour period,
4 regardless of the number of incidents included in each request; or

5 (3) a request or multiple requests from the same
6 person in a 24-hour period for body worn camera recordings that,
7 taken together, constitute more than five total hours of video
8 footage.

9 SECTION 2. (a) The Texas Commission on Law Enforcement, in
10 consultation with the Department of Public Safety, the Bill
11 Blackwood Law Enforcement Management Institute of Texas, the W. W.
12 Caruth Jr. Police Institute at Dallas, and the Texas Police Chiefs
13 Association, shall develop or approve a curriculum for the training
14 program required under Section 1701.656, Occupations Code, as added
15 by this Act, not later than January 1, 2016.

16 (b) A law enforcement agency operating a body worn camera
17 program on the effective date of this Act may submit any existing
18 policy of the agency regarding the use of body worn cameras to the
19 Texas Commission on Law Enforcement to determine whether the policy
20 complies with Section 1701.655, Occupations Code, as added by this
21 Act.

22 (c) Notwithstanding Sections 1701.655 and 1701.656,
23 Occupations Code, as added by this Act, a law enforcement agency
24 operating a body worn camera program on the effective date of this
25 Act is not required to adopt or implement a policy that complies
26 with Section 1701.655 or implement the training program required
27 under Section 1701.656 before September 1, 2016.

1 SECTION 3. This Act takes effect September 1, 2015.