

1-1 By: West S.B. No. 158
 1-2 (In the Senate - Filed November 10, 2014; January 27, 2015,
 1-3 read first time and referred to Committee on Criminal Justice;
 1-4 April 20, 2015, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 4, Nays 3; April 20, 2015,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

| | Yea | Nay | Absent | PNV |
|------|-----|-----|--------|-----|
| 1-8 | | | | |
| 1-9 | X | | | |
| 1-10 | | X | | |
| 1-11 | | X | | |
| 1-12 | | X | | |
| 1-13 | X | | | |
| 1-14 | X | | | |
| 1-15 | X | | | |

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 158 By: Whitmire

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to a body worn camera program for certain law enforcement
 1-20 agencies in this state; creating a criminal offense; authorizing a
 1-21 fee.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-23 SECTION 1. Chapter 1701, Occupations Code, is amended by
 1-24 adding Subchapter N to read as follows:

1-25 SUBCHAPTER N. BODY WORN CAMERA PROGRAM
 1-26 Sec. 1701.651. DEFINITIONS. In this subchapter:

1-27 (1) "Body worn camera" means a recording device that
 1-28 is:

1-29 (A) capable of recording, or transmitting to be
 1-30 recorded remotely, video or audio; and

1-31 (B) worn on the person of a peace officer, which
 1-32 includes being attached to the officer's clothing or worn as
 1-33 glasses.

1-34 (2) "Department" means the Department of Public Safety
 1-35 of the State of Texas.

1-36 (3) "Private space" means a location in which a person
 1-37 has a reasonable expectation of privacy, including a person's home.

1-38 Sec. 1701.652. GRANTS FOR BODY WORN CAMERAS. (a) A police
 1-39 department of a municipality in this state, a sheriff of a county in
 1-40 this state, or the department may apply to the office of the
 1-41 governor for a grant to equip peace officers with body worn cameras
 1-42 if that law enforcement agency employs officers who:

1-43 (1) are engaged in traffic or highway patrol or
 1-44 otherwise regularly detain or stop motor vehicles; or

1-45 (2) are primary responders who respond directly to
 1-46 calls for assistance from the public.

1-47 (b) The office of the governor shall set deadlines for
 1-48 applications for grants under this chapter.

1-49 (c) Except as provided by Subsection (d), the office of the
 1-50 governor shall create and implement a matching grant program under
 1-51 which matching funds from federal, state, local, and other funding
 1-52 sources may be required as a condition of the grant. A law
 1-53 enforcement agency that receives a grant under this section is
 1-54 required to match 25 percent of the grant money.

1-55 (d) The department is eligible for grants under this
 1-56 subchapter but may not be made subject to any requirement for
 1-57 matching funds.

1-58 (e) The governor's office may conditionally award a grant to
 1-59 a law enforcement agency that has not adopted and implemented the
 1-60 policy under Section 1701.655 or implemented the training required

2-1 under Section 1701.656, but money may not be disbursed to a law
 2-2 enforcement agency until the agency fully complies with those
 2-3 sections.

2-4 Sec. 1701.653. REPORTING. (a) As a condition of receiving
 2-5 a grant under this subchapter, a law enforcement agency annually
 2-6 shall report to the commission regarding the costs of implementing
 2-7 a body worn camera program, including all known equipment costs and
 2-8 costs for data storage.

2-9 (b) The commission shall compile the information submitted
 2-10 under Subsection (a) into a report and submit the report to the
 2-11 office of the governor and the legislature not later than December 1
 2-12 of each year.

2-13 Sec. 1701.654. INTERAGENCY OR INTERLOCAL CONTRACTS. A law
 2-14 enforcement agency in this state may enter into an interagency or
 2-15 interlocal contract to receive body worn camera services and have
 2-16 the identified operations performed through a program established
 2-17 by the Department of Information Resources.

2-18 Sec. 1701.655. BODY WORN CAMERA POLICY. (a) A law
 2-19 enforcement agency that receives a grant to provide body worn
 2-20 cameras to its peace officers or that otherwise operates a body worn
 2-21 camera program shall adopt a policy for the use of body worn
 2-22 cameras.

2-23 (b) A policy described by Subsection (a) must ensure that a
 2-24 body worn camera is activated only for a law enforcement purpose and
 2-25 must include:

2-26 (1) guidelines for when a peace officer should
 2-27 activate a camera or discontinue a recording currently in progress,
 2-28 considering the need for privacy in certain situations and at
 2-29 certain locations;

2-30 (2) provisions relating to data retention, including a
 2-31 provision requiring the retention of video for a minimum period of
 2-32 90 days;

2-33 (3) provisions relating to storage of video and audio,
 2-34 creation of backup copies of the video and audio, and maintenance of
 2-35 data security;

2-36 (4) guidelines for public access, through open records
 2-37 requests, to recordings that are public information;

2-38 (5) provisions entitling an officer to access any
 2-39 recording of an incident involving the officer before the officer
 2-40 is required to make a statement about the incident;

2-41 (6) procedures for supervisory or internal review; and
 2-42 (7) the handling and documenting of equipment and

2-43 malfunctions of equipment.

2-44 (c) A policy described by Subsection (a) may not require a
 2-45 peace officer to keep a body worn camera activated for the entire
 2-46 period of the officer's shift.

2-47 (d) A policy adopted under this section must be consistent
 2-48 with the Federal Rules of Evidence and Texas Rules of Evidence.

2-49 Sec. 1701.656. TRAINING. (a) Before a law enforcement
 2-50 agency may operate a body worn camera program, the agency must
 2-51 provide training to:

2-52 (1) peace officers who will wear the body worn
 2-53 cameras; and

2-54 (2) any other personnel who will come into contact
 2-55 with video and audio data obtained from the use of body worn
 2-56 cameras.

2-57 (b) The commission, in consultation with the department,
 2-58 the Bill Blackwood Law Enforcement Management Institute of Texas,
 2-59 the W. W. Caruth Jr. Police Institute at Dallas, and the Texas
 2-60 Police Chiefs Association, shall develop or approve a curriculum
 2-61 for a training program under this section.

2-62 Sec. 1701.657. RECORDING INTERACTIONS WITH THE PUBLIC.

2-63 (a) A peace officer equipped with a body worn camera shall act in a
 2-64 manner that is consistent with the policy of the law enforcement
 2-65 agency that employs the officer with respect to when and under what
 2-66 circumstances a body worn camera must be activated.

2-67 (b) A peace officer equipped with a body worn camera may
 2-68 choose not to activate a camera or may choose to discontinue a
 2-69 recording currently in progress for any nonconfrontational

3-1 encounter with a person, including an interview of a witness or
 3-2 victim.

3-3 (c) A peace officer who does not activate a body worn camera
 3-4 in response to a call for assistance must include in the officer's
 3-5 incident report or otherwise note in the case file or record the
 3-6 reason for not activating the camera.

3-7 (d) Any justification for failing to activate the body worn
 3-8 camera because it is unsafe, unrealistic, or impracticable is based
 3-9 on whether a reasonable officer under the same or similar
 3-10 circumstances would have made the same decision.

3-11 Sec. 1701.658. USE OF PERSONAL EQUIPMENT. (a) If a law
 3-12 enforcement agency receives a grant under this subchapter, a peace
 3-13 officer who is employed by the agency and who is on duty may only use
 3-14 a body worn camera that is issued and maintained by that agency.

3-15 (b) Notwithstanding any previous policies, an agency may
 3-16 not allow its peace officers to use privately owned body worn
 3-17 cameras after receiving a grant under this subchapter.

3-18 (c) A peace officer who is employed by a law enforcement
 3-19 agency that has not received a grant or who has not otherwise been
 3-20 provided with a body worn camera by the agency that employs the
 3-21 officer may operate a body worn camera that is privately owned only
 3-22 if permitted by the employing agency.

3-23 (d) An agency that authorizes the use of privately owned
 3-24 body worn cameras under Subsection (c) must make provisions for the
 3-25 security and compatibility of the recordings made by those cameras.

3-26 Sec. 1701.659. OFFENSE. (a) A peace officer or other
 3-27 employee of a law enforcement agency commits an offense if the
 3-28 officer or employee releases a recording created with a body worn
 3-29 camera under this subchapter without permission of the applicable
 3-30 law enforcement agency.

3-31 (b) An offense under this section is a Class A misdemeanor.

3-32 Sec. 1701.660. RECORDINGS AS EVIDENCE. (a) Except as
 3-33 provided by Subsection (b), a recording created with a body worn
 3-34 camera and documenting an incident that involves the use of deadly
 3-35 force by a peace officer or that is otherwise related to an
 3-36 administrative or criminal investigation of an officer may not be
 3-37 deleted, destroyed, or released to the public until all criminal
 3-38 matters have been finally adjudicated and all related
 3-39 administrative investigations have concluded.

3-40 (b) A law enforcement agency may release to the public a
 3-41 recording described by Subsection (a) if the law enforcement agency
 3-42 determines that the release furthers a law enforcement purpose.

3-43 (c) This section does not affect the authority of a law
 3-44 enforcement agency to withhold under Section 552.108, Government
 3-45 Code, information related to a closed criminal investigation that
 3-46 did not result in a conviction or a grant of deferred adjudication
 3-47 community supervision.

3-48 Sec. 1701.661. RELEASE OF INFORMATION RECORDED BY BODY WORN
 3-49 CAMERA. (a) Except as otherwise provided by this section and by
 3-50 Section 1701.660, information recorded by a body worn camera and
 3-51 held by a law enforcement agency under this subchapter is public
 3-52 information subject to Chapter 552, Government Code.

3-53 (b) A recording that concerns an incident under
 3-54 investigation is excepted from the requirements of Chapter 552,
 3-55 Government Code, and may be:

3-56 (1) used by the applicable law enforcement agency only
 3-57 for purposes of:

3-58 (A) detecting, investigating, or prosecuting
 3-59 crime; or

3-60 (B) investigating an allegation of misconduct by
 3-61 a peace officer; or

3-62 (2) released to the public if the law enforcement
 3-63 agency determines that the release furthers a law enforcement
 3-64 purpose.

3-65 (c) A recording made in a private space or during a
 3-66 pedestrian or traffic stop may not be released without written
 3-67 authorization from the person who is the subject of the recording
 3-68 or, if the person is deceased, from the person's authorized
 3-69 representative.

4-1 (d) A law enforcement agency shall release to a member of
 4-2 the public a recording that is not otherwise confidential or
 4-3 excepted from disclosure under this section on that person's
 4-4 written request and payment of any required fee. The written
 4-5 request must include all of the following:

4-6 (1) the date and approximate time of the recording;
 4-7 (2) the specific location where the recording
 4-8 occurred; and
 4-9 (3) the name of each person known to be a subject of
 4-10 the recording.

4-11 (e) Before releasing any information to a member of the
 4-12 public, a law enforcement agency shall redact any information made
 4-13 confidential under this subchapter or any other law or excepted
 4-14 from disclosure under Chapter 552, Government Code.

4-15 (f) The attorney general shall set a proposed fee to be
 4-16 charged to members of the public who seek to obtain a copy of a
 4-17 recording under this section. The fee amount must be sufficient to
 4-18 cover the cost of making the recording. A law enforcement agency
 4-19 may provide a copy without charge or at a reduced charge if the
 4-20 agency determines that waiver or reduction of the charge is in the
 4-21 public interest.

4-22 Sec. 1701.662. BODY WORN CAMERA RECORDINGS; REQUEST FOR
 4-23 ATTORNEY GENERAL DECISION. (a) Notwithstanding Section
 4-24 552.301(b), Government Code, a governmental body's request for a
 4-25 decision from the attorney general about whether a requested body
 4-26 worn camera recording falls within an exception to public
 4-27 disclosure is considered timely if made not later than the 20th
 4-28 business day after the date of receipt of the written request.

4-29 (b) Notwithstanding Section 552.301(d), Government Code, a
 4-30 governmental body's response to a requestor regarding a requested
 4-31 body worn camera recording is considered timely if made not later
 4-32 than the 20th business day after the date of receipt of the written
 4-33 request.

4-34 (c) Notwithstanding Section 552.301(e), Government Code, a
 4-35 governmental body's submission to the attorney general of the
 4-36 information required by that subsection regarding a requested body
 4-37 worn camera recording is considered timely if made not later than
 4-38 the 25th business day after the date of receipt of the written
 4-39 request.

4-40 (d) Notwithstanding Section 552.301(e-1), Government Code,
 4-41 a governmental body's submission to a requestor of the information
 4-42 required by that subsection regarding a requested body worn camera
 4-43 recording is considered timely if made not later than the 25th
 4-44 business day after the date of receipt of the written request.

4-45 Sec. 1701.663. PRODUCTION OF BODY WORN CAMERA RECORDING IN
 4-46 RESPONSE TO VOLUMINOUS PUBLIC INFORMATION REQUESTS.

4-47 (a) Notwithstanding Section 552.221(d), Government Code, an
 4-48 officer for public information who is employed by a governmental
 4-49 body and who receives a voluminous request for body worn camera
 4-50 recordings is considered to have promptly produced the information
 4-51 for purposes of Section 552.221, Government Code, if the officer
 4-52 takes the actions required under Section 552.221 before the 21st
 4-53 business day after the date of receipt of the written request.

4-54 (b) For purposes of this section, "voluminous request"
 4-55 includes:

4-56 (1) a request for body worn camera recordings from
 4-57 more than five separate incidents;

4-58 (2) more than five separate requests for body worn
 4-59 camera recordings from the same individual or entity in a 24-hour
 4-60 period, regardless of the number of incidents included in each
 4-61 request; or

4-62 (3) a request or multiple requests from the same
 4-63 person in a 24-hour period for body worn camera recordings that,
 4-64 taken together, constitute more than five total hours of video
 4-65 footage.

4-66 SECTION 2. (a) The Texas Commission on Law Enforcement, in
 4-67 consultation with the Department of Public Safety, the Bill
 4-68 Blackwood Law Enforcement Management Institute of Texas, the W. W.
 4-69 Caruth Jr. Police Institute at Dallas, and the Texas Police Chiefs

5-1 Association, shall develop or approve a curriculum for the training
5-2 program required under Section 1701.656, Occupations Code, as added
5-3 by this Act, not later than January 1, 2016.

5-4 (b) A law enforcement agency operating a body worn camera
5-5 program on the effective date of this Act may submit any existing
5-6 policy of the agency regarding the use of body worn cameras to the
5-7 Texas Commission on Law Enforcement to determine whether the policy
5-8 complies with Section 1701.655, Occupations Code, as added by this
5-9 Act.

5-10 (c) Notwithstanding Sections 1701.655 and 1701.656,
5-11 Occupations Code, as added by this Act, a law enforcement agency
5-12 operating a body worn camera program on the effective date of this
5-13 Act is not required to adopt or implement a policy that complies
5-14 with Section 1701.655 or implement the training program required
5-15 under Section 1701.656 before September 1, 2016.

5-16 SECTION 3. This Act takes effect September 1, 2015.

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