

By: Creighton

S.B. No. 1386

A BILL TO BE ENTITLED

AN ACT

relating to a body worn camera program for emergency medical personnel.

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

SECTION 1. Chapter 773, Health and Safety Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. BODY WORN CAMERA PROGRAM

Sec. 773.301. DEFINITION. In this subchapter, "body worn camera" means a recording device that is:

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

(2) worn on the person of emergency medical services personnel, which includes being worn as an attachment to the person's clothing or as glasses.

Sec. 773.302. BODY WORN CAMERA POLICY. (a) An emergency medical services provider that elects to operate a body worn camera program shall adopt a policy for the use of body worn cameras by emergency medical services personnel who provide emergency medical services for the provider.

(b) The policy must:

(1) comply with all state and federal laws governing video recordings, records retention, and protected health information, including Chapter 181 and the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191);

1 and

2 (2) ensure emergency medical services personnel
3 activate a body worn camera only for a legitimate emergency medical
4 services purpose.

5 (c) The policy must include:

6 (1) guidelines for the circumstances in which
7 emergency medical services personnel are authorized or required to
8 activate a camera or discontinue a recording in progress,
9 considering the need for privacy in certain situations and at
10 certain locations;

11 (2) provisions on data retention and automatic
12 expungements, including retention of recordings preserved for use
13 as part of the patient care record or quality improvement
14 processes;

15 (3) provisions on storage of video and audio
16 recordings, backup copies of the recordings, and maintenance of
17 data security;

18 (4) guidelines on use of and public access to
19 recordings, including on:

20 (A) maintaining confidentiality of recordings
21 that contain protected health information and the restricted use of
22 and prohibited public access to the portion of those recordings
23 that contains protected health information; and

24 (B) prohibiting public access to any portion of a
25 recording that portrays the inside of a home or personal motor
26 vehicle unless the owner of the home or motor vehicle consents to
27 the disclosure;

1 (5) provisions entitling personnel and persons
2 receiving emergency medical services to access a recording of an
3 incident involving the personnel or persons;

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

5 (7) provisions on handling equipment and documenting
6 malfunctions of equipment.

7 (d) A policy adopted under this section may not require
8 emergency medical services personnel to activate a body worn camera
9 during an entire work shift.

10 Sec. 773.303. TRAINING. Before an emergency medical
11 services provider may operate a body worn camera program, the
12 provider must provide training to:

13 (1) emergency medical services personnel who will wear
14 the body worn cameras while providing emergency medical services
15 for the provider; and

16 (2) any other personnel who will have any access to
17 video and audio recordings obtained by the provider from the use of
18 body worn cameras.

19 Sec. 773.304. RECORDING INTERACTIONS WITH PUBLIC.
20 Emergency medical services personnel providing emergency medical
21 services for an emergency medical services provider while equipped
22 with a body worn camera shall act in a manner consistent with the
23 provider's policy in circumstances in which activating a body worn
24 camera or discontinuing a recording in progress is authorized or
25 required.

26 Sec. 773.305. USE OF PERSONAL EQUIPMENT. On-duty emergency
27 medical services personnel who are providing emergency medical

1 services for an emergency medical services provider:

2 (1) may only use a body worn camera that is issued and
3 maintained by the provider; and

4 (2) may not use a privately owned body worn camera or
5 other recording device while providing those services.

6 Sec. 773.306. OPEN RECORDS EXCEPTION; REQUEST FOR ATTORNEY
7 GENERAL DECISION. (a) The following portions of a body worn camera
8 recording are not public information and are not subject to
9 disclosure under Chapter 552, Government Code:

10 (1) any portion of a recording that contains protected
11 health information; or

12 (2) any portion of a recording that portrays the
13 inside of a home or personal motor vehicle, unless the owner of the
14 home or motor vehicle consents to the disclosure.

15 (b) Notwithstanding Section 552.301(b), Government Code, a
16 request by a governmental entity that directly operates an
17 emergency medical services provider or by a private emergency
18 medical services provider that is subject to Chapter 552,
19 Government Code, for a decision from the attorney general about
20 whether a requested body worn camera recording that is not excepted
21 from public disclosure under Subsection (a) falls within another
22 exception to public disclosure is considered timely if made not
23 later than the 20th business day after the date of receipt of the
24 written request.

25 (c) Notwithstanding Section 552.301(d), Government Code,
26 the governmental entity's or private provider's response to a
27 requestor regarding a requested body worn camera recording is

1 considered timely if made not later than the 20th business day after
2 the date of receipt of the written request.

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

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

15 SECTION 2. This Act takes effect September 1, 2021.