

1-1 By: Creighton S.B. No. 1386
1-2 (In the Senate - Filed March 10, 2021; March 18, 2021, read
1-3 first time and referred to Committee on Health & Human Services;
1-4 May 10, 2021, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; May 10, 2021,
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Kolkhorst	X		
1-10	Perry	X		
1-11	Blanco	X		
1-12	Buckingham	X		
1-13	Campbell	X		
1-14	Hall	X		
1-15	Miles	X		
1-16	Powell	X		
1-17	Seliger	X		

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1386 By: Seliger

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to a body worn camera program for emergency medical
1-22 personnel.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Chapter 773, Health and Safety Code, is amended
1-25 by adding Subchapter J to read as follows:

1-26 SUBCHAPTER J. BODY WORN CAMERA PROGRAM

1-27 Sec. 773.301. DEFINITION. In this subchapter, "body worn
1-28 camera" means a recording device that is:

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

1-31 (2) worn on the person of emergency medical services
1-32 personnel, which includes being worn as an attachment to the
1-33 person's clothing or as glasses.

1-34 Sec. 773.302. BODY WORN CAMERA POLICY. (a) An emergency
1-35 medical services provider that elects to operate a body worn camera
1-36 program shall adopt a policy for the use of body worn cameras by
1-37 emergency medical services personnel who provide emergency medical
1-38 services for the provider.

1-39 (b) The policy must:

1-40 (1) comply with all state and federal laws governing
1-41 video recordings, records retention, and protected health
1-42 information, including Chapter 181 and the Health Insurance
1-43 Portability and Accountability Act of 1996 (Pub. L. No. 104-191);
1-44 and

1-45 (2) ensure emergency medical services personnel
1-46 activate a body worn camera only for a legitimate emergency medical
1-47 services purpose.

1-48 (c) The policy must include:

1-49 (1) guidelines for the circumstances in which
1-50 emergency medical services personnel are authorized or required to
1-51 activate a camera or discontinue a recording in progress,
1-52 considering the need for privacy in certain situations and at
1-53 certain locations;

1-54 (2) provisions on data retention and automatic
1-55 expungements, including retention of recordings preserved for use
1-56 as part of the patient care record or quality improvement
1-57 processes;

1-58 (3) provisions on storage of video and audio
1-59 recordings, backup copies of the recordings, and maintenance of
1-60 data security;

2-1 (4) guidelines on use of and public access to
2-2 recordings, including on:
2-3 (A) maintaining confidentiality of recordings
2-4 that contain protected health information and the restricted use of
2-5 and prohibited public access to the portion of those recordings
2-6 that contains protected health information; and
2-7 (B) prohibiting public access to any portion of a
2-8 recording that portrays the inside of a home or personal motor
2-9 vehicle unless the owner of the home or motor vehicle consents to
2-10 the disclosure;
2-11 (5) provisions entitling personnel and persons
2-12 receiving emergency medical services to access a recording of an
2-13 incident involving the personnel or persons;
2-14 (6) procedures for supervisory or internal review; and
2-15 (7) provisions on handling equipment and documenting
2-16 malfunctions of equipment.
2-17 (d) A policy adopted under this section may not require
2-18 emergency medical services personnel to activate a body worn camera
2-19 during an entire work shift.
2-20 Sec. 773.303. TRAINING. Before an emergency medical
2-21 services provider may operate a body worn camera program, the
2-22 provider must provide training to:
2-23 (1) emergency medical services personnel who will wear
2-24 the body worn cameras while providing emergency medical services
2-25 for the provider; and
2-26 (2) any other personnel who will have any access to
2-27 video and audio recordings obtained by the provider from the use of
2-28 body worn cameras.
2-29 Sec. 773.304. RECORDING INTERACTIONS WITH PUBLIC.
2-30 Emergency medical services personnel providing emergency medical
2-31 services for an emergency medical services provider while equipped
2-32 with a body worn camera shall act in a manner consistent with the
2-33 provider's policy in circumstances in which activating a body worn
2-34 camera or discontinuing a recording in progress is authorized or
2-35 required.
2-36 Sec. 773.305. USE OF PERSONAL EQUIPMENT. On-duty emergency
2-37 medical services personnel who are providing emergency medical
2-38 services for an emergency medical services provider:
2-39 (1) may only use a body worn camera that is issued and
2-40 maintained by the provider; and
2-41 (2) may not use a privately owned body worn camera or
2-42 other recording device while providing those services.
2-43 Sec. 773.306. OPEN RECORDS EXCEPTION; REQUEST FOR ATTORNEY
2-44 GENERAL DECISION. (a) The following portions of a body worn camera
2-45 recording are not public information and are not subject to
2-46 disclosure under Chapter 552, Government Code:
2-47 (1) any portion of a recording that contains protected
2-48 health information; or
2-49 (2) any portion of a recording that portrays the
2-50 inside of a home or personal motor vehicle, unless the owner of the
2-51 home or motor vehicle consents to the disclosure.
2-52 (b) Notwithstanding Section 552.301(b), Government Code, a
2-53 request by a governmental entity that directly operates an
2-54 emergency medical services provider or by a private emergency
2-55 medical services provider that is subject to Chapter 552,
2-56 Government Code, for a decision from the attorney general about
2-57 whether a requested body worn camera recording that is not excepted
2-58 from public disclosure under Subsection (a) falls within another
2-59 exception to public disclosure is considered timely if made not
2-60 later than the 20th business day after the date of receipt of the
2-61 written request.
2-62 (c) Notwithstanding Section 552.301(d), Government Code,
2-63 the governmental entity's or private provider's response to a
2-64 requestor regarding a requested body worn camera recording is
2-65 considered timely if made not later than the 20th business day after
2-66 the date of receipt of the written request.
2-67 (d) Notwithstanding Section 552.301(e), Government Code,
2-68 the governmental entity's or private provider's submission to the
2-69 attorney general of the information required by that subsection

3-1 regarding a requested body worn camera recording is considered
3-2 timely if made not later than the 25th business day after the date
3-3 of receipt of the written request.

3-4 (e) Notwithstanding Section 552.301(e-1), Government Code,
3-5 the governmental entity's or private provider's submission to a
3-6 requestor of the information required by that subsection regarding
3-7 a requested body worn camera recording is considered timely if made
3-8 not later than the 25th business day after the date of receipt of
3-9 the written request.

3-10 SECTION 2. This Act takes effect September 1, 2021.

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