

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, or the department may apply to the office of the governor for a grant to equip peace officers with body worn cameras

1 if that law enforcement agency employs officers who:

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

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

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

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

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

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

23 Sec. 1701.653. REPORTING. (a) As a condition of receiving
24 a grant under this subchapter, a law enforcement agency annually
25 shall report to the commission regarding the costs of implementing
26 a body worn camera program, including all known equipment costs and
27 costs for data storage.

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

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

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

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

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

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

25 (3) provisions relating to storage of video and audio,
26 creation of backup copies of the video and audio, and maintenance of
27 data security;

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

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

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

7 (7) the handling and documenting of equipment and
8 malfunctions of equipment.

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

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

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

17 (1) peace officers who will wear the body worn
18 cameras; and

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

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

27 Sec. 1701.657. RECORDING INTERACTIONS WITH THE PUBLIC.

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

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

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

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

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

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

25 (c) A peace officer who is employed by a law enforcement
26 agency that has not received a grant or who has not otherwise been
27 provided with a body worn camera by the agency that employs the

1 officer may operate a body worn camera that is privately owned only
2 if permitted by the employing agency.

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

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

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

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

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

23 (c) This section does not affect the authority of a law
24 enforcement agency to withhold under Section 552.108, Government
25 Code, information related to a closed criminal investigation that
26 did not result in a conviction or a grant of deferred adjudication
27 community supervision.

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

6 (b) A recording that concerns an incident under
7 investigation is excepted from the requirements of Chapter 552,
8 Government Code, and may be:

9 (1) used by the applicable law enforcement agency only
10 for purposes of:

11 (A) detecting, investigating, or prosecuting
12 crime; or

13 (B) investigating an allegation of misconduct by
14 a peace officer; or

15 (2) released to the public if the law enforcement
16 agency determines that the release furthers a law enforcement
17 purpose.

18 (c) A recording is confidential and excepted from the
19 requirements of Chapter 552, Government Code, if the recording:

20 (1) was not required to be made under this subchapter
21 or another law or under a policy adopted by the appropriate law
22 enforcement agency; and

23 (2) does not relate to a law enforcement purpose.

24 (d) A recording made in a private space or during a
25 pedestrian or traffic stop may not be released without written
26 authorization from the person who is the subject of the recording
27 or, if the person is deceased, from the person's authorized

1 representative.

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

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 each person known to be a subject of
11 the recording.

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

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

23 Sec. 1701.662. BODY WORN CAMERA RECORDINGS; REQUEST FOR
24 ATTORNEY GENERAL DECISION. (a) Notwithstanding Section
25 552.301(b), Government Code, a governmental body's request for a
26 decision from the attorney general about whether a requested body
27 worn camera recording falls within an exception to public

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

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

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

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

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

21 (a) Notwithstanding Section 552.221(d), Government Code, an
22 officer for public information who is employed by a governmental
23 body and who receives a voluminous request for body worn camera
24 recordings is considered to have promptly produced the information
25 for purposes of Section 552.221, Government Code, if the officer
26 takes the actions required under Section 552.221 before the 21st
27 business day after the date of receipt of the written request.

1 **(b) For purposes of this section, "voluminous request"**
2 **includes:**

3 **(1) a request for body worn camera recordings from**
4 **more than five separate incidents;**

5 **(2) more than five separate requests for body worn**
6 **camera recordings from the same individual or entity in a 24-hour**
7 **period, regardless of the number of incidents included in each**
8 **request; or**

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

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

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

26 (c) Notwithstanding Sections 1701.655 and 1701.656,
27 Occupations Code, as added by this Act, a law enforcement agency

1 operating a body worn camera program on the effective date of this
2 Act is not required to adopt or implement a policy that complies
3 with Section 1701.655 or implement the training program required
4 under Section 1701.656 before September 1, 2016.

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