

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				
1-8		Yea	Nay	Absent	PNV
1-9	Whitmire	X			
1-10	Huffman		X		
1-11	Burton		X		
1-12	Creighton		X		
1-13	Hinojosa	X			
1-14	Menéndez	X			
1-15	Perry	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

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

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

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

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

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

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

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

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

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

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

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

(6) procedures for supervisory or internal review; and

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

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

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

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

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

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

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

Sec. 1701.657. RECORDING INTERACTIONS WITH THE PUBLIC.

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

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

encounter with a person, including an interview of a witness or victim.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) a request for body worn camera recordings from more than five separate incidents;
- (2) more than five separate requests for body worn camera recordings from the same individual or entity in a 24-hour period, regardless of the number of incidents included in each request; or
- (3) a request or multiple requests from the same person in a 24-hour period for body worn camera recordings that, taken together, constitute more than five total hours of video footage.

SECTION 2. (a) The Texas Commission on Law Enforcement, in consultation with the Department of Public Safety, the Bill Blackwood Law Enforcement Management Institute of Texas, the W. W. 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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