

By: West

S.B. No. 1201

A BILL TO BE ENTITLED

AN ACT

relating to the release of a body worn camera recording to the subject of that recording.

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

SECTION 1. Section 1701.661(e), Occupations Code, is amended to read as follows:

(e) Except as provided by Section 1701.664(f), a [A] law enforcement agency may:

(1) seek to withhold information subject to Subsection (d) in accordance with procedures provided by Section 552.301, Government Code;

(2) assert any exceptions to disclosure in Chapter 552, Government Code, or other law; or

(3) release information requested in accordance with Subsection (a) or Section 1701.664 after the agency redacts any information made confidential under Chapter 552, Government Code, or other law.

SECTION 2. Subchapter N, Chapter 1701, Occupations Code, is amended by adding Section 1701.664 to read as follows:

Sec. 1701.664. RELEASE OF INFORMATION CAPTURED BY BODY WORN CAMERA TO SUBJECT OF RECORDING. (a) In this section, "family member" means a person related to another person within the third degree by consanguinity or affinity, as described by Subchapter B, Chapter 573, Government Code, except that the term does not include

1 a person who is considered to be related to another person by
2 affinity only as described by Section 573.024(b), Government Code.

3 (b) If a person is the subject of a recording captured by a
4 body worn camera, the person, the person's representative, or the
5 person's family member acting at the request or on behalf of the
6 person is entitled, on written request, to obtain a copy of that
7 recording.

8 (c) On receipt of the written request under Subsection (b),
9 the applicable law enforcement agency in possession of the original
10 recording, not later than the 30th day after the date the recording
11 is made, or the 10th day after the date the request is received,
12 whichever is later, shall:

- 13 (1) release the copy of the recording; or
14 (2) respond in writing with the reasons for declining
15 to release the recording.

16 (d) If the law enforcement agency notifies the requesting
17 party that the agency declines to release the recording, releases a
18 redacted recording, releases only a portion of the recording, or
19 fails to respond to the written request within the period specified
20 under Subsection (c), the person, the person's representative, or
21 the person's family member, as applicable, may file a petition for
22 the release of the recording.

23 (e) If a criminal action is pending and the recording
24 contains evidence relevant to that proceeding, the petition
25 described by Subsection (d) must be filed with the court in which
26 the case is pending. If a criminal action is not pending, the
27 petition may be filed in the district court in the county in which

1 the recording was made or the law enforcement agency is located.

2 (f) A law enforcement agency may not assert that the
3 requested recording is exempt under Section 552.108, Government
4 Code, because of an ongoing investigation into the incident
5 captured in the recording in which the person who is the subject of
6 the recording is the perpetrator or victim. The agency may perform
7 any action permitted by Section 1701.661(e) with respect to a
8 recording or part of a recording that is made confidential by law
9 for another reason.

10 (g) A court shall determine, after notice, hearing, and an
11 in camera review of the recording, whether to release the recording
12 or any part of the recording to the petitioner. The court shall make
13 a determination under this subsection not later than the 10th day
14 after the date the petition is filed.

15 (h) A recording or any part of a recording released under
16 this section may only be used or disclosed as evidence in a
17 criminal, civil, or administrative proceeding. A person who
18 discloses the recording or any part of the recording for purposes
19 other than those permitted under this subsection is subject to
20 punishment for contempt.

21 SECTION 3. The change in law made by this Act applies to a
22 request made on or after the effective date of this Act, regardless
23 of whether the applicable recording was created before, on, or
24 after that date.

25 SECTION 4. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

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1 Act does not receive the vote necessary for immediate effect, this

2 Act takes effect September 1, 2017.