By:  Creighton S.B. No. 1386

(In the Senate - Filed March 10, 2021; March 18, 2021, read first time and referred to Committee on Health & Human Services; May 10, 2021, reported adversely, with favorable Committee Substitute by the following vote: Yeas 9, Nays 0; May 10, 2021, sent to printer.)

COMMITTEE VOTE

                 Yea Nay Absent  PNV

Kolkhorst         X

Perry             X

Blanco            X

Buckingham        X

Campbell          X

Hall              X

Miles             X

Powell            X

Seliger           X

COMMITTEE SUBSTITUTE FOR S.B. No. 1386 By:  Seliger

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); and

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

(c)  The policy must include:

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

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

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

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

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

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

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

(6)  procedures for supervisory or internal review; and

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

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

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

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

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

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

Sec. 773.305.  USE OF PERSONAL EQUIPMENT. On-duty emergency medical services personnel who are providing emergency medical services for an emergency medical services provider:

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

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

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

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

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

(b)  Notwithstanding Section 552.301(b), Government Code, a request by a governmental entity that directly operates an emergency medical services provider or by a private emergency medical services provider that is subject to Chapter 552, Government Code, for a decision from the attorney general about whether a requested body worn camera recording that is not excepted from public disclosure under Subsection (a) falls within another 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.

(c)  Notwithstanding Section 552.301(d), Government Code, the governmental entity's or private provider'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.

(d)  Notwithstanding Section 552.301(e), Government Code, the governmental entity's or private provider'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.

(e)  Notwithstanding Section 552.301(e-1), Government Code, the governmental entity's or private provider'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.

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

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