

By: Creighton

S.B. No. 1386

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 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);

1 and

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

5 (c) The policy must include:

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

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

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

18 (4) guidelines on use of and public access to
19 recordings, including on maintaining confidentiality of recordings
20 that contain protected health information and the restricted use of
21 and prohibited public access to those recordings;

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

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

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

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

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

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

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

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

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

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

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

27 Sec. 773.306. OPEN RECORDS EXCEPTION; REQUEST FOR ATTORNEY

1 GENERAL DECISION. (a) A body worn camera recording that contains
2 protected health information is not public information and is not
3 subject to disclosure under Chapter 552, Government Code.

4 (b) Notwithstanding Section 552.301(b), Government Code, a
5 request by a governmental entity that directly operates an
6 emergency medical services provider or by a private emergency
7 medical services provider that is subject to Chapter 552,
8 Government Code, for a decision from the attorney general about
9 whether a requested body worn camera recording that does not
10 contain protected health information falls within another
11 exception to public disclosure is considered timely if made not
12 later than the 20th business day after the date of receipt of the
13 written request.

14 (c) Notwithstanding Section 552.301(d), Government Code,
15 the governmental entity's or private provider's response to a
16 requestor regarding a requested body worn camera recording is
17 considered timely if made not later than the 20th business day after
18 the date of receipt of the written request.

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

25 (e) Notwithstanding Section 552.301(e-1), Government Code,
26 the governmental entity's or private provider's submission to a
27 requestor of the information required by that subsection regarding

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

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