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 who has received the approval of the commissioners court for the purpose, or the department may apply to the office of the
governor for a grant to defray the cost of implementing this
subchapter and to equip peace officers with body worn cameras if
that law enforcement agency employs officers who:

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

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

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

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

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

(e) The governor's office may conditionally award a grant to
a law enforcement agency that has not adopted and implemented the
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

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) A member of the public is required to provide the following information when submitting a written request to a law enforcement agency for information recorded by a body worn camera:

(1) the date and approximate time of the recording;
(2) the specific location where the recording occurred; and
(3) the name of one or more persons known to be a subject of the recording.

(b) A failure to provide all of the information required by Subsection (a) to be part of a request for recorded information does not preclude the requestor from making a future request for the same recorded information.

(c) Except as provided by Subsection (d), information recorded by a body worn camera and held by a law enforcement agency under this subchapter is not subject to the requirements of Section 552.021, Government Code.

(d) Information that is or could be used as evidence in a criminal prosecution is subject to the requirements of Section 552.021, Government Code.

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

(f) A law enforcement agency may not release any portion of a recording made in a private space, or of a recording involving the investigation of conduct that constitutes a misdemeanor punishable by fine only and does not result in arrest, without written authorization from the person who is the subject of that portion of the recording or, if the person is deceased, from the person's authorized representative.

(g) 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 reviewing and 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.

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

1. was not required to be made under this subchapter or another law or under a policy adopted by the appropriate law enforcement agency; and

2. does not relate to a law enforcement purpose.
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 in accordance with
Section 1701.661(a) 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 person 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
Association, shall develop or approve a curriculum for the training
program required under Section 1701.656, Occupations Code, as added
by this Act, not later than January 1, 2016.

(b) A law enforcement agency operating a body worn camera
program on the effective date of this Act may submit any existing
policy of the agency regarding the use of body worn cameras to the
Texas Commission on Law Enforcement to determine whether the policy
complies with Section 1701.655, Occupations Code, as added by this
Act.
S.B. No. 158

(c) Notwithstanding Sections 1701.655 and 1701.656, Occupations Code, as added by this Act, a law enforcement agency operating a body worn camera program on the effective date of this Act is not required to adopt or implement a policy that complies with Section 1701.655 or implement the training program required under Section 1701.656 before September 1, 2016.

SECTION 3. This Act takes effect September 1, 2015.
I hereby certify that S.B. No. 158 passed the Senate on April 23, 2015, by the following vote: Yeas 22, Nays 8; and that the Senate concurred in House amendments on May 28, 2015, by the following vote: Yeas 24, Nays 7.

I hereby certify that S.B. No. 158 passed the House, with amendments, on May 25, 2015, by the following vote: Yeas 135, Nays 4, two present not voting.

Approved:

6-11-2015

Date

Governor

Secretary of State
TO: Honorable Dan Patrick, Lieutenant Governor, Senate

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB158 by West (Relating to a body worn camera program for certain law enforcement agencies in this state; creating a criminal offense; authorizing a fee.), As Passed 2nd House

No significant fiscal implication to the State is anticipated.

The bill would amend the Occupations Code to codify an existing grant program at the Office of the Governor to defray the cost of purchasing of body worn cameras for law enforcement agencies. Agencies who receive the grants would be required to provide a 25 percent match, with the exception of the Department of Public Safety.

The Office of the Governor reports receipt of $13.8 million in Justice Assistance Grant (JAG) federal funding in the current biennium for a variety of grant programs. Assuming a similar level of federal funding is received in 2016-17, the Governor's Office reports it could provide $2.0 million in JAG funding for these grants. The Governor's Office also reports that in fiscal year 2015, $1.5 million in grants was requested for the 2016-17 biennium from various law enforcement entities for this purpose and $0.1 million in grants has been awarded in fiscal year 2015. The analysis assumes that implementing the provisions of the bill could be accomplished within existing resources. However, to the extent that requests for grant awards from local and state entities increase from current demand and which state appropriations are made available for this purpose, there would be a cost to the State.

Local Government Impact

There may be costs relating to equipment, data storage, training, and open records requests to a local law enforcement agency; however, the fiscal impact would vary depending on the agency's resources and grant funding available.

The bill would also create a Class A misdemeanor. A Class A misdemeanor is punishable by a fine of not more than $4,000, confinement in jail for a term not to exceed one year, or both. Costs associated with enforcement, prosecution, and confinement could likely be absorbed with existing resources. Revenue from fines imposed and collected is not anticipated to have a significant fiscal impact.

The Texas Association of Counties anticipates a significant impact to counties due to ancillary costs not covered under the grant. Officers would have to properly tag, store, review, and edit the videos for court presentations, expunction orders, and release under the Public Information Act.
Thus, departments may incur significant training or hiring costs. There may also be costs to local courts and attorneys as each video would need to be reviewed and courts would require the technical ability to review and play video.


LBB Staff: UP, JAW, ESI, AI, KJo, KVe, TBo
TO: Honorable Allen Fletcher, Chair, House Committee on Emerging Issues In Texas Law Enforcement, Select

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB158 by West (Relating to a body worn camera program for certain law enforcement agencies in this state; creating a criminal offense; authorizing a fee.), Committee Report 2nd House, Substituted

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**Source Agencies:**
301 Office of the Governor, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 313 Department of Information Resources, 405 Department of Public Safety, 407 Commission on Law Enforcement

**LBB Staff:** UP, JAW, ESI, AI, KJo, KV, TBo
TO: Honorable Allen Fletcher, Chair, House Committee on Emerging Issues In Texas Law Enforcement, Select

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB158 by West (Relating to a body worn camera program for certain law enforcement agencies in this state; creating a criminal offense; authorizing a fee.), As Engrossed

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Thus, departments may incur significant training or hiring costs. There may also be cost to local courts and attorneys as each video would need to be reviewed and courts would require the technical ability to review and play video.

**Source Agencies:** 301 Office of the Governor, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 313 Department of Information Resources, 405 Department of Public Safety, 407 Commission on Law Enforcement

**LBB Staff:** UP, ESi, AI, JAW, KJo, KVe, TBo
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**Source Agencies:** 301 Office of the Governor, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 313 Department of Information Resources, 405 Department of Public Safety, 407 Commission on Law Enforcement

**LBB Staff:** UP, KJo, Al, KVe, TBo
TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB158 by West (Relating to a body worn camera program for certain law enforcement agencies in this state.), As Introduced

Based on the unavailability of data, the costs of equipping all the approximately 54,000 eligible law enforcement officers with body cameras and providing law enforcement agencies with associated data storage capacity cannot be determined. However, it is presumed the statewide costs in providing funding for body cameras and data storage capacity would likely be significant.

This bill would amend the Government Code to require all law enforcement agencies to apply for a grant from the Department of Public Safety (DPS) to equip their commissioned law enforcement officers with body cameras, if those police officers regularly stop or detain motor vehicles or respond to calls for assistance from the public. The law enforcement officers meeting the standards of the bill presumably would be employed among most of the state's 2,644 law enforcement agencies.

According to the Texas Commission on Law Enforcement (TCOLE), there are 76,157 licensed law enforcement officers in Texas. Although it is difficult to determine the how many of these 76,157 law enforcement officers meet the standard of the bill (i.e., are engaged in patrolling or directly assisting the public), TCOLE has estimated approximately 54,000, or about 71 percent, might meet this standard.

While most of these officers are employed by local law enforcement agencies, such as municipal police departments or sheriff's departments, many are also employed by state entities. The Department of Public Safety, for example, employs approximately 3,600 law enforcement officers. Law enforcement officers are also employed by the Parks and Wildlife Department, Alcoholic Beverage Commission and Department of Criminal Justice. Further, many institutions of higher education possess their own campus police departments; for example, The University of Texas at Austin employs over 60 commissioned peace officers.

However, due to the unavailability of data, the cost of funding body cameras and associated data storage requirements among those law enforcement agencies that currently have not implemented any transition to using body cameras is unknown. Also unknown is the degree to which local and state law enforcement agencies are already in the process of implementing a shift toward fielding their law enforcement officers with body cameras. In addition, among those law enforcement agencies who are currently equipping their law enforcement officers with body cameras, it is unknown what sort of equipment is being used, and what sort of data storage arrangements have been negotiated with providers, or the costs of such products.
Based on the unavailability of data, the cost to equip all the approximately 54,000 eligible law enforcement officers with body cameras and associated data storage cannot be determined. However, DPS has indicated that equipping 3,700 law enforcement officers with body cameras and securing data storage rights with vendors would cost $46,191,222 in fiscal year 2016 and $7,400,487 in fiscal year 2017. The fiscal year 2016 costs primarily are related to information technology, and include the following: $28,000,000 for a 3.25 petabyte video storage area network; $3,596,000 for data circuits; $1,500,000 for wide area network bandwidth; $3,600,000 for aggregated services router; $160,000 for network switches; $3,800,000 for routers; and $1,224,051 for IT contractors.

As such, while the costs of equipping all law enforcement personnel who meet the bill's standard cannot be determined, based on DPS' response, it is presumed the costs would likely be significant.

The bill would take effect September 1, 2015.

Local Government Impact

The bill would require a law enforcement agency to apply for grants to purchase body worn cameras, which must be worn during traffic stops, arrests, searches, and when responding to calls for service. According to the Texas Municipal League (TML), the cities of San Antonio, Houston, Lubbock, Denton, Sugar land, El Paso, Corpus Christi, Forth Worth, Tyler, New Boston, Diboll, and Ganado reported that they have some body worn cameras in use.

Currently, local police departments fund body worn cameras through a variety of sources, including grants from the County's District Attorney's office, the city's general fund, and police seizure accounts. Currently, Houston, Lubbock, El Paso, Corpus Christi fund body worn cameras, either in whole or in part, by using grants or loans from the County's District Attorney's office.

Cost for cameras can vary greatly. A body worn camera can vary from $200 to $7000, depending on the camera quality, network capabilities, data storage, quantity purchased, and maintenance agreement. According to TML, the City of Houston currently has purchased 100 body worn cameras for approximately $1,300 per device and estimates a total cost of $6,649,648 to outfit the full department. The City of Lubbock purchased 70 body worn cameras for approximately $59,000, not including data storage, whereas the City of Denton reported that costs for 80 body worn cameras, including hardware, software, data storage, and maintenance, was $98,905 for the first year and $76,080 for the second and third year. The City of Corpus Christi currently has 78 body worn cameras at a cost of $899 per unit, not including data storage. The department would require additional cameras to fully outfit its 250 uniformed officers. The City of Tyler has fully equipped all uniformed officers with 160 body cameras at cost of $399 per unit. The department currently stores data using existing resources, however, the department anticipates needing an additional $30,000 worth of storage.

According to the Texas Association of Counties (TAC), Tom Green County Sheriff Office estimates a cost of $45,000 to outfit 65 officers; data storage would cost approximately $20,000. The Randall County Sheriff's department anticipates $18,000 for 30 body worn cameras; $52,000 for hardware, software, and startup costs; $12,000 for training costs; and $1,000 for policy development and implementation for a total cost of $2,766.66 per deputy. Harris County estimates a cost of 3.3 million dollars to outfit the department. Bexar County estimates $1,073,600 in start-up costs and between $323,280 and $1,290,960 for data storage depending on usage. Additionally, Bexar County anticipates replacing the cameras every three years to maintain the
TAC anticipates a significant impact to counties due to ancillary costs not covered under the grant. Officers would have to properly tag, store, review, and edit the videos for court presentations, expunction orders, and release under the Public Information Act. Thus, sheriff departments may incur significant training or hiring costs. There may also be cost to local courts and attorneys as each video would need to be reviewed and courts would have to have the technical ability to review and play video.

**Source Agencies:** 405 Department of Public Safety

**LBB Staff:** UP, KJo, AI, JAW, KVe
TO: Honorable Dan Patrick, Lieutenant Governor, Senate

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB158 by West (Relating to a body worn camera program for certain law enforcement agencies in this state; creating a criminal offense; authorizing a fee.), As Passed 2nd House

As a result of this bill there will be a restriction upon the open records law and the access to government information.

The bill would exempt certain recordings from the requirements of Chapter 552, Government Code.

Source Agencies:
LBB Staff: UP, SD, KVe