

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1386
By: Creighton
Health & Human Services
5/6/2021
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, in some instances, police officers need to ride in the ambulance both to provide protection for the medical staff, and so that their body camera footage can be used in the case of an incident where the patient becomes hostile. This footage has proven to be effective in showing a more objective point of view when the patient, in many cases, is not in a good frame of mind.

S.B. 1386 dictates that an emergency medical services provider which 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, creating guidelines for when/how cameras shall be used, and the process for obtaining and storing recordings.

(Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 1386 amends current law relating to a body worn camera program for emergency medical personnel.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 773, Health and Safety Code, by adding Subchapter J, as follows:

SUBCHAPTER J. BODY WORN CAMERA PROGRAM

Sec. 773.301. DEFINITION. Defines "body worn camera."

Sec. 773.302. BODY WORN CAMERA POLICY. (a) Requires an emergency medical services provider that elects to operate a body worn camera program to adopt a policy for the use of body worn cameras by emergency medical services personnel who provide emergency medical services for the provider.

(b) Requires that the policy:

(1) comply with all state and federal laws governing video recordings, records retention, and protected health information, including Chapter 181 (Medical Records Privacy) 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) Requires that the policy 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 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 on 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) Prohibits a policy adopted under this section from requiring emergency medical services personnel to activate a body worn camera during an entire work shift.

Sec. 773.303. TRAINING. Provides that before an emergency medical services provider is authorized to operate a body worn camera program, the provider is required to 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. Requires emergency medical services personnel providing emergency medical services for an emergency medical services provider while equipped with a body worn camera to 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. Provides that on-duty emergency medical services personnel who are providing emergency medical services for an emergency medical services provider:

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

(2) are prohibited from using 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) Provides that the following portions of a body worn camera recording are not public information and are not subject to disclosure under Chapter 552 (Public Information), 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) Provides that, notwithstanding Section 552.301(b) (relating to the governmental body asking for an attorney general decision on exceptions under a certain time period), 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) Provides that, notwithstanding Section 552.301(d) (relating to certain requirements for a governmental body submitting a request to the attorney general), 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) Provides that, notwithstanding Section 552.301(e) (relating to certain required documentation by a governmental body for an attorney general request), 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) Provides that, notwithstanding Section 552.301(e-1) (relating to a governmental body submitting written comments to certain entities on a request to the attorney general), 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. Effective date: September 1, 2021.