

Committee on Criminal Justice

CS/CS/CS/SB 248 — Public Records/Body Camera Recording Made by a Law Enforcement Officer

by Rules Committee; Governmental Oversight and Accountability Committee; Criminal Justice Committee; and Senators Smith, Thompson, Soto, and Stargel

This bill creates a public records exemption for a body camera recording made by a law enforcement officer. By definition, the body camera records audio and video data in the course of the officer performing his or her official duties and responsibilities.

The bill makes a body camera recording, or a portion thereof, confidential and exempt from public disclosure if the recording is taken:

- Within the interior of a private residence;
- Within the interior of a facility that offers health care, mental health care, or social services; or
- In a place that a reasonable person would expect to be private.

A law enforcement agency may disclose a body camera recording in furtherance of its official duties and responsibilities and may also disclose the recording to another governmental agency in the furtherance of its official duties and responsibilities.

A law enforcement agency must disclose a body camera recording, or a portion thereof, to:

- A person recorded by a body camera (the agency must disclose those portions of the recording relevant to the person's presence in the recording);
- The personal representative of a person recorded by a body camera (the agency must disclose those portions of the recording relevant to the recorded person's presence in the recording);
- A person not depicted in a body camera recording if the recording depicts a place in which the person lawfully resided, dwelled, or lodged at the time of the recording (the agency must disclose those portions of the recording that disclose the interior of such place); and
- Pursuant to a court order.

The bill specifies grounds the court must consider in determining whether to order disclosure of the body camera recording. These grounds are in addition to any other grounds the court may choose to consider. In any proceeding regarding the disclosure of a body camera recording, the law enforcement agency that made the recording must be given reasonable notice of hearings and an opportunity to participate.

A law enforcement agency must retain a body camera recording for at least 90 days.

The exemption applies retroactively. It does not supersede any other exemption existing prior to or created after the effective date of this exemption. Those portions of a body camera recording

that are protected from disclosure by another exemption continue to be exempt or confidential and exempt.

The exemption is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2020, unless reviewed and saved from repeal through reenactment by the Legislature.

If approved by the Governor, these provisions take effect July 1, 2015.

Vote: Senate 36-2; House 112-2