

---

## OLR Bill Analysis

### sSB 1222

#### ***AN ACT CONCERNING FEES FOR COPYING, REVIEWING AND REDACTING RECORDS CREATED BY POLICE BODY-WORN RECORDING EQUIPMENT AND DASHBOARD CAMERAS.***

#### **SUMMARY**

This bill sets additional requirements for redacting and disclosing body and dashboard camera recordings. It expands the types of recordings that must be redacted to include certain recordings showing the inside of a private residence or an individual in a state of undress or nudity. However, it allows certain recordings that are otherwise generally confidential (e.g., those showing medical treatment) to be disclosed to requestors shown in the recording or involved in the incident that led to the recording.

The bill also allows public agencies to charge a fee for redacting (i.e., obscuring, pixelating, or muting) body and dashboard camera recordings and sets requirements for calculating the fee. Among other things, the agency may charge a rate up to the hourly wage of the lowest-paid employee with the training required for redacting the record but no more than \$100 per hour of the actual length of time of the requested record. However, it may not charge a fee for (1) the first four hours of labor for certain requestors or the first two hours of labor otherwise and (2) recordings showing certain incidents (e.g., a police officer-involved shooting). The bill requires the agency to maintain an original, unredacted copy of any requested record that is redacted for public dissemination.

Lastly, the bill makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2023

#### **DISCLOSURE OF BODY CAMERA RECORDINGS**

### ***Additional Disclosure Requirements***

Existing law generally subjects body and dashboard camera recordings to disclosure under the Freedom of Information Act (FOIA), with certain exceptions. Among other things, current law (1) prohibits officers from intentionally recording a person undergoing a medical or psychological evaluation, procedure, or treatment, unless the recording was made as part of an agreement between the law enforcement unit and the federal government; and (2) makes confidential any recording showing these events. The bill requires that recordings showing these events be disclosed to an “involved person” or requesting party if they show the involved person or requesting party.

Under the bill, an “involved person” is any (1) individual depicted in a body or dashboard camera recording; (2) individual directly involved in the incident that led to the police officer being called to respond; or (3) responding police officer, including the officer who created the recording.

With certain exceptions, existing law generally prohibits disclosing recordings of a minor. Under current law, a recording of a minor must be disclosed if, among other things, the minor and his or her parent or guardian consent to disclosure. The bill additionally requires disclosure if the (1) minor is an involved person and (2) parent or guardian is a requesting party or involved person.

### ***Additional Redaction Requirements***

The bill requires that body and dashboard camera recordings be redacted before being disclosed under FOIA if (1) they show the inside of a private residence or an individual in a state of undress or nudity and (2) the agency determines disclosure could reasonably be expected to constitute an invasion of privacy. Under the bill, these records may be disclosed (presumably, unredacted) to a requesting party or involved person if (1) his or her residence is shown in the recording or (2) he or she is shown in a state of undress or nudity.

## **REDACTION FEES**

### ***Fee Calculation***

Under existing law, fees for copies of public records (including body and dashboard camera recordings) are set by FOIA unless the law provides otherwise (see BACKGROUND). Generally, FOIA does not allow public agencies to charge requestors for the time spent redacting a record.

The bill allows public agencies to charge requestors a fee for redacting body camera or dashboard camera recordings. Under the bill, they may charge a rate up to the hourly wage (i.e., base salary excluding benefits) of the lowest-paid employee with the requisite training for redacting the record.

Under the bill, the redaction fee may not exceed \$100 per hour of the actual length of time of the requested record. The agency may round up the actual length of time to the nearest half-hour at the rate of \$50 per hour. Agencies (1) must inform the requestor if the fee is estimated to exceed \$250, (2) may require prepayment in these cases, and (3) must refund the portion of a prepayment that exceeds the actual labor costs. The bill allows the Freedom of Information Commission (FOIC) to order a refund of a payment or prepayment if it determines that a public agency violated the bill's fee provisions.

The bill prohibits agencies from charging for the following:

1. time spent searching for the requested records;
2. the first (a) four hours of labor costs if the requesting party is an involved person, an involved person's parent or legal guardian, or an attorney representing an involved person in a civil, criminal, or administrative matter, or (b) two hours of labor costs in other cases; or
3. the services of an attorney hired to conduct a second review of the record or for a digital management services company.

### ***Fee Prohibitions and Waivers***

The bill prohibits fees from being charged for records that depict a police officer involved in a shooting, an allegation of misconduct by the

police officer involved, or a police officer involved in a motor vehicle accident, where a police officer is giving a formal statement about the use of force or if an officer is the subject of a disciplinary investigation. The bill specifies that these records remain subject to the disclosure limitations under current law and the bill.

The bill also requires agencies to waive the redaction fee for the same reasons that FOIA requires for waiving copying fees. FOIA requires fee waivers for (1) political subdivisions' elected officials who obtain, for official business, records from an agency of the subdivision; (2) indigent individuals; (3) public defenders; (4) records exempt from disclosure; and (5) requests that benefit the general welfare, as determined by the agency.

## **BACKGROUND**

### ***Related Bill***

sHB 6840 (File 369), reported favorably by the Public Safety and Security Committee, requires the emergency services and public protection commissioner and Police Officer Standards and Training Council to jointly adopt guidelines on the exigent circumstances under which a police officer may interact with the public without using a body camera.

### ***FOIA Fees***

FOIA allows public agencies to charge the following for producing copies of computer-stored public records:

1. the hourly salary attributed to all agency employees engaged in providing the requested record, including their time performing necessary formatting or programming functions, but not including search or retrieval costs;
2. the cost of an outside professional electronic copying service, if needed;
3. the actual cost of the storage devices or media provided to the requestor; and

4. computer time charges if a contractor or another agency provides the storage and retrieval services (CGS §§ 1-211(a) & -212(b)).

***Related Case***

In a contested case decided in 2023, FOIC rejected a law enforcement agency's attempt to charge a requestor for labor costs to pixelate and mute a body camera recording. Specifically, FOIC ruled that these actions were not formatting or programming within the meaning of FOIA's fee provisions (because the agency used existing software and did not need to develop a program or contract with an outside entity to develop a program) (FIC 2022-0176 (2023)).

**COMMITTEE ACTION**

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 19 Nay 0 (03/27/2023)