



# Senate

General Assembly

**File No. 631**

January Session, 2023

Substitute Senate Bill No. 1222

*Senate, April 17, 2023*

The Committee on Government Administration and Elections reported through SEN. FLEXER of the 29th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

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

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 29-6d of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2023*):

3 (a) For purposes of this section, [and] section 2 of this act and section  
4 7-277b:

5 (1) "Law enforcement unit" has the same meaning as provided in  
6 section 7-294a;

7 (2) "Police officer" means a sworn member of a law enforcement unit  
8 or any member of a law enforcement unit who performs police duties;

9 (3) "Body-worn recording equipment" means an electronic recording  
10 device that is capable of recording audio and video;

11 (4) "Dashboard camera" means a dashboard camera with a remote  
12 recorder, as defined in section 7-277b;

13 (5) "Digital data storage device or service" means a device or service  
14 that retains the data from the recordings made by body-worn recording  
15 equipment using computer data storage; [and]

16 (6) "Police patrol vehicle" means any state or local police vehicle other  
17 than an administrative vehicle in which an occupant is wearing body-  
18 worn camera equipment, a bicycle, a motor scooter, an all-terrain  
19 vehicle, an electric personal assistive mobility device, as defined in  
20 subsection (a) of section 14-289h, or an animal control vehicle;

21 (7) "Freedom of Information Act" has the same meaning as provided  
22 in section 1-200;

23 (8) "Requesting party" means the person requesting a record created  
24 using body-worn recording equipment or a dashboard camera pursuant  
25 to the Freedom of Information Act;

26 (9) "Involved person" means (A) any individual depicted in the  
27 record created using body-worn recording equipment or a dashboard  
28 camera, (B) any individual directly involved in the incident that led to  
29 the police officer being called to respond, or (C) any police officer  
30 responding to such incident, including the police officer whose body-  
31 worn recording equipment or dashboard camera created the record; and

32 (10) "Redact" means to obscure, pixelate or mute any portion of a  
33 record created using body-worn recording equipment or a dashboard  
34 camera.

35 (b) The Commissioner of Emergency Services and Public Protection  
36 and the Police Officer Standards and Training Council shall jointly  
37 evaluate and approve the minimal technical specifications of body-worn  
38 recording equipment that shall be worn by police officers pursuant to  
39 this section, dashboard cameras that shall be used in each police patrol  
40 vehicle and digital data storage devices or services that shall be used by  
41 a law enforcement unit to retain the data from the recordings made by

42 such equipment. The commissioner and council shall make such  
43 minimal technical specifications available to each law enforcement unit  
44 in a manner determined by the commissioner and council. The  
45 commissioner and council may revise the minimal technical  
46 specifications when the commissioner and council determine that  
47 revisions to such specifications are necessary.

48 (c) (1) Each police officer shall use body-worn recording equipment  
49 while interacting with the public in such sworn member's law  
50 enforcement capacity, except as provided in subsection (g) of this  
51 section, or in the case of a municipal police department, in accordance  
52 with the department's policy adopted by the department and based on  
53 guidelines maintained pursuant to subsection (j) of this section,  
54 concerning the use of body-worn recording equipment.

55 (2) Each police officer shall wear body-worn recording equipment on  
56 such officer's outer-most garment and shall position such equipment  
57 above the midline of such officer's torso when using such equipment.

58 (3) Body-worn recording equipment used pursuant to this section  
59 shall conform to the minimal technical specifications approved  
60 pursuant to subsection (b) of this section, except that a police officer may  
61 use body-worn recording equipment that does not conform to the  
62 minimal technical specifications approved pursuant to subsection (b) of  
63 this section, if such equipment was purchased prior to January 1, 2016,  
64 by the law enforcement unit employing such officer.

65 (4) Each law enforcement unit shall require usage of a dashboard  
66 camera in each police patrol vehicle used by any police officer employed  
67 by such unit in accordance with the unit's policy adopted by the unit  
68 and based on guidelines maintained pursuant to subsection (j) of this  
69 section, concerning dashboard cameras.

70 (d) Except as required by state or federal law, no person employed by  
71 a law enforcement unit shall edit, erase, copy, share or otherwise alter  
72 or distribute in any manner any recording made by body-worn  
73 recording equipment or a dashboard camera or the data from such

74 recording.

75 (e) A police officer may review a recording from his or her body-worn  
76 recording equipment or a dashboard camera in order to assist such  
77 officer with the preparation of a report or otherwise in the performance  
78 of his or her duties.

79 (f) (1) If a police officer is giving a formal statement about the use of  
80 force or if a police officer is the subject of a disciplinary investigation in  
81 which a recording from body-worn recording equipment or a  
82 dashboard camera is being considered as part of a review of an incident,  
83 the officer shall have the right to review (A) such recording in the  
84 presence of the officer's attorney or labor representative, and (B)  
85 recordings from other body-worn recording equipment capturing the  
86 officer's image or voice during the incident. Not later than forty-eight  
87 hours following an officer's review of a recording under subparagraph  
88 (A) of this subdivision, or if the officer does not review the recording,  
89 not later than ninety-six hours following the initiation of such  
90 disciplinary investigation, whichever is earlier, such recording shall be  
91 disclosed, upon request, to the public, subject to the provisions of  
92 subsection (g) of this section.

93 (2) If a request is made for public disclosure of a recording from body-  
94 worn recording equipment or a dashboard camera of an incident about  
95 which (A) a police officer has not been asked to give a formal statement  
96 about the alleged use of force, or (B) a disciplinary investigation has not  
97 been initiated, any police officer whose image or voice is captured on  
98 the recording shall have the right to review such recording in the  
99 presence of the officer's attorney or labor representative. Not later than  
100 forty-eight hours following an officer's review of a recording under this  
101 subdivision, or if the officer does not review the recording, not later than  
102 ninety-six hours following the request for disclosure, whichever is  
103 earlier, such recording shall be disclosed to the public, subject to the  
104 provisions of subsection (g) of this section.

105 (g) (1) Except as otherwise provided by any agreement between a law  
106 enforcement unit and the federal government, no police officer shall use

107 body-worn recording equipment or a dashboard camera, if applicable,  
108 to intentionally record (A) a communication with other law enforcement  
109 unit personnel, except that which may be recorded as the officer  
110 performs his or her duties, (B) an encounter with an undercover officer  
111 or informant or an officer performing detective work described in  
112 guidelines developed pursuant to subsection (j) of this section, (C) when  
113 an officer is on break or is otherwise engaged in a personal activity, (D)  
114 a person undergoing a medical or psychological evaluation, procedure  
115 or treatment, (E) any person other than a suspect to a crime if an officer  
116 is wearing such equipment in a hospital or other medical facility setting,  
117 or (F) in a mental health facility, unless responding to a call involving a  
118 suspect to a crime who is thought to be present in the facility.

119 (2) No record created using body-worn recording equipment or a  
120 dashboard camera of (A) an occurrence or situation described in  
121 subparagraphs (A) to (F), inclusive, of subdivision (1) of this subsection,  
122 (B) a scene of an incident that involves (i) a victim of domestic or sexual  
123 abuse, (ii) a victim of homicide or suicide, or (iii) a deceased victim of an  
124 accident, if disclosure could reasonably be expected to constitute an  
125 unwarranted invasion of personal privacy in the case of any such victim  
126 described in this subparagraph, or (C) a minor, shall be subject to  
127 disclosure under the Freedom of Information Act, [as defined in section  
128 1-200,] and any such record shall be confidential and redacted in  
129 accordance with section 2 of this act, except that (i) a record of an  
130 involved person or the requesting party undergoing a medical or  
131 psychological evaluation, procedure or treatment shall be disclosed to  
132 such involved person or the requesting party, and (ii) a record of a minor  
133 shall be disclosed if [(i)] (I) the minor and the parent or guardian of such  
134 minor consent to the disclosure of such record, [(ii)] or, if the minor is  
135 an involved person, the minor's parent or guardian is the requesting  
136 party or an involved person, (II) a police officer is the subject of an  
137 allegation of misconduct made by such minor or the parent or guardian  
138 of such minor, and the person representing such officer in an  
139 investigation of such alleged misconduct requests disclosure of such  
140 record for the sole purpose of preparing a defense to such allegation, or  
141 [(iii)] (III) a person is charged with a crime and defense counsel for such

142 person requests disclosure of such record for the sole purpose of  
143 assisting in such person's defense and the discovery of such record as  
144 evidence is otherwise discoverable.

145 (3) Any record created using body-worn recording equipment or a  
146 dashboard camera that the public agency determines the disclosure of  
147 could reasonably be expected to constitute an invasion of personal  
148 privacy and that depicts the following shall be redacted prior to  
149 disclosure of such record under the Freedom of Information Act: (A) The  
150 inside of a private residence, except that a record showing the inside of  
151 a private residence of the requesting party or an involved person may  
152 be disclosed to such requesting party or involved person, as applicable,  
153 or (B) an individual in a state of undress or nudity, except that a record  
154 showing the requesting party or an involved party in a state of undress  
155 or nudity may be disclosed to such requesting party or involved person,  
156 as applicable.

157 (h) No police officer shall use body-worn recording equipment prior  
158 to being trained in accordance with section 7-294s in the use of such  
159 equipment and in the retention of data created by such equipment. A  
160 law enforcement unit shall ensure that each police officer such unit  
161 employs receives such training at least annually and is trained on the  
162 proper care and maintenance of such equipment.

163 (i) If a police officer is aware that any body-worn recording  
164 equipment or dashboard camera is lost, damaged or malfunctioning,  
165 such officer shall inform such officer's supervisor in writing as soon as  
166 is practicable. Upon receiving such information, the supervisor shall  
167 ensure that the body-worn recording equipment or dashboard camera  
168 is inspected and repaired or replaced, as necessary. Each police officer  
169 shall inspect and test body-worn recording equipment prior to each shift  
170 to verify proper functioning, and shall notify such officer's supervisor  
171 of any problems with such equipment.

172 (j) The Commissioner of Emergency Services and Public Protection  
173 and the Police Officer Standards and Training Council shall jointly  
174 maintain guidelines pertaining to the use of body-worn recording

175 equipment and dashboard cameras, including the type of detective  
176 work an officer might engage in that should not be recorded, retention  
177 of data created by such equipment and dashboard cameras and methods  
178 for safe and secure storage of such data. The guidelines shall not require  
179 a law enforcement unit to store such data for a period longer than one  
180 year, except in the case where the unit knows the data is pertinent to any  
181 ongoing civil, criminal or administrative matter. Each law enforcement  
182 unit and any police officer and any other employee of such unit who  
183 may have access to such data shall adhere to such guidelines. The  
184 commissioner and council may update and reissue such guidelines, as  
185 the commissioner and council determine necessary. The commissioner  
186 and council shall, upon issuance of such guidelines or any update to  
187 such guidelines, submit such guidelines in accordance with the  
188 provisions of section 11-4a to the joint standing committees of the  
189 General Assembly having cognizance of matters relating to the judiciary  
190 and public safety.

191       Sec. 2. (NEW) (*Effective October 1, 2023*) (a) Except as provided in  
192 subsections (b) and (c) of this section, any public agency, as defined in  
193 section 1-200 of the general statutes, that maintains a copy of a record  
194 created using body-worn recording equipment or a dashboard camera  
195 pursuant to section 29-6d of the general statutes, as amended by this act,  
196 may charge the requesting party a redaction fee for any such record that  
197 requires redaction in accordance with the provisions of this section.  
198 Such fee shall compensate the public agency for the time spent redacting  
199 any portion of the requested record as required or authorized by state  
200 or federal law, including, but not limited to, the provisions of subsection  
201 (g) of section 29-6d of the general statutes, as amended by this act. Such  
202 fee shall be calculated as follows:

203       (1) The public agency shall not charge the requesting party for the  
204 time spent searching for the applicable record that is responsive to the  
205 request.

206       (2) (A) Except as provided in subparagraph (B) of this subdivision,  
207 the first two hours of labor costs incurred by the public agency in

208 redacting the requested record shall not be charged to the requesting  
209 party.

210 (B) The first four hours of labor costs incurred by the public agency  
211 in redacting the requested record shall not be charged to the requesting  
212 party if the requesting party is (i) an involved person in the record  
213 requested, (ii) the parent or legal guardian of an involved person, or (iii)  
214 an attorney representing an involved person in any civil, criminal or  
215 administrative matter.

216 (3) Any additional labor costs associated with any time necessary to  
217 redact the requested record beyond the applicable time set forth in  
218 subdivision (2) of this subsection may be charged to the requesting party  
219 at a rate not to exceed the hourly wage of the lowest-paid employee with  
220 the requisite training for redacting the responsive record. For purposes  
221 of this subdivision, the hourly wage of an employee shall be based upon  
222 the employee's base salary and shall not include benefits. The  
223 responding agency shall not charge the requesting party for the services  
224 of any attorney hired by the responding agency to conduct a second  
225 review of the requested record or any company providing digital  
226 management services to the responding agency.

227 (4) Any fee charged to a requesting party under this subsection shall  
228 not exceed one hundred dollars per hour of the actual length of time of  
229 the record requested. In calculating the fee under this subsection, the  
230 public agency may round up the actual length of time of the record  
231 requested to the nearest half hour at a rate of fifty dollars per half hour.

232 (5) If the amount to be charged to the requesting party in accordance  
233 with subdivision (3) of this subsection is estimated to exceed two  
234 hundred fifty dollars, the public agency shall inform the requesting  
235 party of the estimated fee and may require prepayment of such fee prior  
236 to redacting the requested record. If the amount of prepaid fees exceeds  
237 the actual labor costs incurred by the public agency in redacting the  
238 requested record, the public agency shall reimburse the requesting  
239 party for any difference between the prepaid amount and actual cost.



240 (b) The public agency shall waive any fee authorized under this  
241 section if required under subsection (d) of section 1-212 of the general  
242 statutes.

243 (c) The public agency shall not charge a fee to any requesting party  
244 for any record that depicts a police officer involved in a shooting, an  
245 allegation of misconduct by the police officer involved or a police officer  
246 involved in a motor vehicle accident, where an officer is giving a formal  
247 statement about the use of force or if a police officer is the subject of a  
248 disciplinary investigation, subject to any limitations on disclosure set  
249 forth in subsection (g) of section 29-6d of the general statutes, as  
250 amended by this act.

251 (d) The public agency shall maintain an original, unredacted copy of  
252 any requested record that is redacted for public dissemination in  
253 accordance with the provisions of this section.

254 (e) If the Freedom of Information Commission determines that a  
255 public agency has violated any provision of this section, the Freedom of  
256 Information Commission may order the public agency to refund any  
257 payment made under this section.

258 Sec. 3. Subsections (a) and (b) of section 1-212 of the general statutes  
259 are repealed and the following is substituted in lieu thereof (*Effective*  
260 *October 1, 2023*):

261 (a) Any person applying in writing shall receive, promptly upon  
262 request, a plain, facsimile, electronic or certified copy of any public  
263 record. The type of copy provided shall be within the discretion of the  
264 public agency, except (1) the agency shall provide a certified copy  
265 whenever requested, and (2) if the applicant does not have access to a  
266 computer or facsimile machine, the public agency shall not send the  
267 applicant an electronic or facsimile copy. [The] Except as provided in  
268 section 2 of this act, the fee for any copy provided in accordance with  
269 the Freedom of Information Act:

270 (A) By an executive, administrative or legislative office of the state, a

271 state agency or a department, institution, bureau, board, commission,  
272 authority or official of the state, including a committee of, or created by,  
273 such an office, agency, department, institution, bureau, board,  
274 commission, authority or official, and also including any judicial office,  
275 official or body or committee thereof but only in respect to its or their  
276 administrative functions, shall not exceed twenty-five cents per page;  
277 and

278 (B) By all other public agencies, as defined in section 1-200, shall not  
279 exceed fifty cents per page. If any copy provided in accordance with said  
280 Freedom of Information Act requires a transcription, or if any person  
281 applies for a transcription of a public record, the fee for such  
282 transcription shall not exceed the cost thereof to the public agency.

283 (b) The fee for any copy provided in accordance with subsection (a)  
284 of section 1-211 shall not exceed the cost thereof to the public agency.  
285 [In] Except as provided in section 2 of this act, in determining such costs  
286 for a copy, other than for a printout which exists at the time that the  
287 agency responds to the request for such copy, an agency may include  
288 only:

289 (1) An amount equal to the hourly salary attributed to all agency  
290 employees engaged in providing the requested computer-stored public  
291 record, including their time performing the formatting or programming  
292 functions necessary to provide the copy as requested, but not including  
293 search or retrieval costs, except as provided in subdivision (4) of this  
294 subsection;

295 (2) An amount equal to the cost to the agency of engaging an outside  
296 professional electronic copying service to provide such copying  
297 services, if such service is necessary to provide the copying as requested;

298 (3) The actual cost of the storage devices or media provided to the  
299 person making the request in complying with such request; and

300 (4) The computer time charges incurred by the agency in providing  
301 the requested computer-stored public record where another agency or

302 contractor provides the agency with computer storage and retrieval  
 303 services. Notwithstanding any other provision of this section, the fee for  
 304 any copy of the names of registered voters shall not exceed three cents  
 305 per name delivered or the cost thereof to the public agency, as  
 306 determined pursuant to this subsection, whichever is less. The  
 307 Department of Administrative Services shall provide guidelines to  
 308 agencies regarding the calculation of the fees charged for copies of  
 309 computer-stored public records to ensure that such fees are reasonable  
 310 and consistent among agencies.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2023	29-6d
Sec. 2	October 1, 2023	New section
Sec. 3	October 1, 2023	1-212(a) and (b)

**Statement of Legislative Commissioners:**

Section 1(g)(3) was redrafted for clarity, Section 2 was reorganized for consistency with standard drafting conventions and in Section 2(a) an exception was added for accuracy.

**GAE**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 24 \$	FY 25 \$
Department of Emergency Services and Public Protection	GF - Cost	58,360	72,926
State Comptroller - Fringe Benefits <sup>1</sup>	GF - Cost	22,849	31,227
Various State Agencies	GF - Potential Cost	See Below	See Below
Resources of the General Fund	GF - Potential Revenue Gain	See Below	See Below

Note: GF=General Fund

**Municipal Impact:**

Municipalities	Effect	FY 24 \$	FY 25 \$
Municipal Police Departments	STATE MANDATE <sup>2</sup> - Potential Cost	See Below	See Below
Municipal Police Departments	Potential Revenue Gain	See Below	See Below

**Explanation**

The bill expands the types of body and dashboard camera recordings that must be redacted prior to disclosure under the Freedom of

<sup>1</sup>The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 42.82% of payroll in FY 24.

<sup>2</sup> State mandate is defined in Sec. 2-32b(2) of the Connecticut General Statutes, "state mandate" means any state initiated constitutional, statutory or executive action that requires a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

Information (FOI) Act, and allows public agencies to charge requestors fees for time spent redacting a record, resulting in a cost of \$81,209 in FY 24 and \$104,152 in FY 25 to the Department of Emergency Services and Public Protection (DESPP) and the Office of the State Comptroller, a potential cost to various state agencies<sup>3</sup> and municipal police departments, and a potential revenue gain to the state and municipalities.

To meet the bill's redaction requirements, DESPP will need to hire one paralegal specialist starting on October 1, 2023. The annual starting salary for this position is \$71,147, with associated fringe benefits costing \$30,465.<sup>4</sup> There is also a one-time cost of \$5,000 in FY 24 for training and equipment.

Any state agency that employs peace officers will face potential costs to the extent that the agency receives FOI requests for recordings subject to the bill's redaction requirements. These potential costs will depend on the number of FOI requests that the agency receives for such recordings, the size of each recording, and the capacity of existing staff to field such requests.

Similarly, the potential cost to any given municipal law enforcement agency will depend on the same factors. Some police departments may require additional staff or incur overtime expenses to meet the bill's requirements upon receiving a request.

The bill also allows public agencies to charge a fee for redacting body and dashboard camera recordings and sets requirements for calculating the fee, resulting in a potential revenue gain to the state and municipal police departments, depending on how many requests an agency receives and whether the request is eligible for fees. Generally, an agency may charge a rate up to the hourly salary of the employee

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<sup>3</sup> Affected agencies include the Office of Legislative Management (Capitol Police), Department of Energy and Environmental Protection, Higher Education Constituent Units, and the Division of Criminal Justice.

<sup>4</sup> The state impact accounts for nine months of employment in FY 24, reflecting the effective date of the bill.

redacting the record but may not charge more than \$100 per hour of the actual length of time of the requested record. Additionally, an agency may not charge a fee for the first two hours of labor or in some cases, the first four hours, and certain recordings are not subject to fees.

***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of FOI requests an agency receives subject to the bill's redaction requirements and fee structure.

*Sources: Department of Administrative Services website*

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**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

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## **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.



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## 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.

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**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)