



Senate

General Assembly

File No. 396

February Session, 2024

Substitute Senate Bill No. 431

Senate, April 10, 2024

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 2024 supplement to the general statutes
2 is repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2024*):

4 (a) For purposes of this section, [and] section 2 of this act and section
5 7-277b:

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

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

10 (3) "Body-worn recording equipment" means an electronic recording

11 device that is capable of recording audio and video;

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

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

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

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

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

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

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

36 (b) The Commissioner of Emergency Services and Public Protection
37 and the Police Officer Standards and Training Council shall jointly
38 evaluate and approve the minimal technical specifications of body-worn
39 recording equipment that shall be worn by police officers pursuant to
40 this section, dashboard cameras that shall be used in each police patrol

41 vehicle and digital data storage devices or services that shall be used by
42 a law enforcement unit to retain the data from the recordings made by
43 such equipment. The commissioner and council shall make such
44 minimal technical specifications available to each law enforcement unit
45 in a manner determined by the commissioner and council. The
46 commissioner and council may revise the minimal technical
47 specifications when the commissioner and council determine that
48 revisions to such specifications are necessary.

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

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

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

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

71 (d) Except as required by state or federal law, no person employed by
72 a law enforcement unit shall edit, erase, copy, share or otherwise alter

73 or distribute in any manner any recording made by body-worn
74 recording equipment or a dashboard camera or the data from such
75 recording.

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

80 (f) (1) If a police officer is giving a formal statement about the use of
81 force or if a police officer is the subject of a disciplinary investigation in
82 which a recording from body-worn recording equipment or a
83 dashboard camera is being considered as part of a review of an incident,
84 the officer shall have the right to review (A) such recording in the
85 presence of the officer's attorney or labor representative, and (B)
86 recordings from other body-worn recording equipment capturing the
87 officer's image or voice during the incident. Not later than forty-eight
88 hours following an officer's review of a recording under subparagraph
89 (A) of this subdivision, or if the officer does not review the recording,
90 not later than ninety-six hours following the initiation of such
91 disciplinary investigation, whichever is earlier, such recording shall be
92 disclosed, upon request, to the public, subject to the provisions of
93 subsection (g) of this section. Public disclosure may be delayed if the
94 officer, due to a medical or physical response or an acute psychological
95 stress response to the incident, is not reasonably able to review a
96 recording under this subdivision, but in no event shall disclosure be
97 delayed more than one hundred forty-four hours following the
98 recorded event.

99 (2) If a request is made for public disclosure of a recording from body-
100 worn recording equipment or a dashboard camera of an incident about
101 which (A) a police officer has not been asked to give a formal statement
102 about the alleged use of force, or (B) a disciplinary investigation has not
103 been initiated, any police officer whose image or voice is captured on
104 the recording shall have the right to review such recording in the
105 presence of the officer's attorney or labor representative. Not later than

106 forty-eight hours following an officer's review of a recording under this
107 subdivision, or if the officer does not review the recording, not later than
108 ninety-six hours following the request for disclosure, whichever is
109 earlier, such recording shall be disclosed to the public, subject to the
110 provisions of subsection (g) of this section. Public disclosure may be
111 delayed if the officer, due to a medical or physical response or an acute
112 psychological stress response to the incident, is not reasonably able to
113 review a recording under this subdivision, but in no event shall
114 disclosure be delayed more than one hundred forty-four hours
115 following the recorded event.

116 (g) (1) Except as otherwise provided by any agreement between a law
117 enforcement unit and the federal government, no police officer shall use
118 body-worn recording equipment or a dashboard camera, if applicable,
119 to intentionally record (A) a communication with other law enforcement
120 unit personnel, except that which may be recorded as the officer
121 performs his or her duties, (B) an encounter with an undercover officer
122 or informant or an officer performing detective work described in
123 guidelines developed pursuant to subsection (j) of this section, (C) when
124 an officer is on break or is otherwise engaged in a personal activity, (D)
125 a person undergoing a medical or psychological evaluation, procedure
126 or treatment, (E) any person other than a suspect to a crime if an officer
127 is wearing such equipment in a hospital or other medical facility setting,
128 or (F) in a mental health facility, unless responding to a call involving a
129 suspect to a crime who is thought to be present in the facility.

130 (2) No record created using body-worn recording equipment or a
131 dashboard camera of (A) an occurrence or situation described in
132 subparagraphs (A) to (F), inclusive, of subdivision (1) of this subsection,
133 (B) a scene of an incident that involves (i) a victim of domestic or sexual
134 abuse, (ii) a victim of homicide or suicide, or (iii) a deceased victim of an
135 accident, if disclosure could reasonably be expected to constitute an
136 unwarranted invasion of personal privacy in the case of any such victim
137 described in this subparagraph, or (C) a minor, shall be subject to
138 disclosure under the Freedom of Information Act, [as defined in section
139 1-200,] and any such record shall be confidential and redacted in

140 accordance with section 2 of this act, except that (i) a record of an
141 involved person or the requesting party undergoing a medical or
142 psychological evaluation, procedure or treatment shall be disclosed to
143 such involved person or the requesting party, and (ii) a record of a minor
144 shall be disclosed if [(i)] (I) the minor and the parent or guardian of such
145 minor consent to the disclosure of such record, [(ii)] or, if the minor is
146 an involved person, the minor's parent or guardian is the requesting
147 party or an involved person, (II) a police officer is the subject of an
148 allegation of misconduct made by such minor or the parent or guardian
149 of such minor, and the person representing such officer in an
150 investigation of such alleged misconduct requests disclosure of such
151 record for the sole purpose of preparing a defense to such allegation, or
152 [(iii)] (III) a person is charged with a crime and defense counsel for such
153 person requests disclosure of such record for the sole purpose of
154 assisting in such person's defense and the discovery of such record as
155 evidence is otherwise discoverable.

156 (3) Any record created using body-worn recording equipment or a
157 dashboard camera, the disclosure of which the public agency
158 determines could reasonably be expected to constitute an invasion of
159 personal privacy and that depicts the following shall be redacted prior
160 to disclosure of such record under the Freedom of Information Act: (A)
161 The inside of a private residence, except that a record showing the inside
162 of a private residence of the requesting party or an involved person may
163 be disclosed to such requesting party or involved person, as applicable,
164 or (B) an individual in a state of undress or nudity, except that a record
165 showing the requesting party or an involved party in a state of undress
166 or nudity may be disclosed to such requesting party or involved person,
167 as applicable.

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

174 (i) If a police officer is aware that any body-worn recording
175 equipment or dashboard camera is lost, damaged or malfunctioning,
176 such officer shall inform such officer's supervisor in writing as soon as
177 is practicable. Upon receiving such information, the supervisor shall
178 ensure that the body-worn recording equipment or dashboard camera
179 is inspected and repaired or replaced, as necessary. Each police officer
180 shall inspect and test body-worn recording equipment prior to each shift
181 to verify proper functioning, and shall notify such officer's supervisor
182 of any problems with such equipment.

183 (j) The Commissioner of Emergency Services and Public Protection
184 and the Police Officer Standards and Training Council shall jointly
185 maintain guidelines pertaining to the use of body-worn recording
186 equipment and dashboard cameras, including the type of detective
187 work an officer might engage in that should not be recorded, retention
188 of data created by such equipment and dashboard cameras and methods
189 for safe and secure storage of such data. The guidelines shall not require
190 a law enforcement unit to store such data for a period longer than one
191 year, except in the case where the unit knows the data is pertinent to any
192 ongoing civil, criminal or administrative matter. Each law enforcement
193 unit and any police officer and any other employee of such unit who
194 may have access to such data shall adhere to such guidelines. The
195 commissioner and council may update and reissue such guidelines, as
196 the commissioner and council determine necessary. The commissioner
197 and council shall, upon issuance of such guidelines or any update to
198 such guidelines, submit such guidelines in accordance with the
199 provisions of section 11-4a to the joint standing committees of the
200 General Assembly having cognizance of matters relating to the judiciary
201 and public safety.

202 (k) (1) Not later than October 1, 2023, the Police Officer Standards and
203 Training Council, in consultation with the Institute for Municipal and
204 Regional Policy at The University of Connecticut, shall prescribe a form
205 to be used by law enforcement units to report each unit's compliance
206 with the provisions of subsection (c) of this section. Such form shall
207 require the compilation of information including, but not limited to, (A)

208 the number of body-worn recording devices in operation in a law
209 enforcement unit, (B) the number of dashboard cameras in operation in
210 a law enforcement unit, (C) the number of police patrol vehicles not
211 equipped with a dashboard camera in a law enforcement unit and the
212 reasons such vehicles are not so equipped, (D) information regarding
213 any incidents in which a police officer of a law enforcement unit was
214 found in an internal investigation conducted by such unit to have
215 violated such unit's policy regarding the use of body-worn recording
216 equipment or dashboard cameras, and (E) any other information
217 deemed necessary.

218 (2) Not later than January 1, 2024, and annually thereafter, each law
219 enforcement unit shall submit a report on the form prescribed pursuant
220 to subdivision (1) of this subsection concerning the unit's compliance
221 with the provisions of subsection (c) of this section to the Institute for
222 Municipal and Regional Policy at The University of Connecticut. The
223 institute shall post such reports on the institute's Internet web site.

224 (3) Not later than July 1, 2024, and annually thereafter, the Institute
225 for Municipal and Regional Policy at The University of Connecticut
226 shall, within available appropriations, review the reports submitted
227 pursuant to subdivision (2) of this subsection, and report the results of
228 such review and any recommendations as a result of such review to the
229 Governor, the Police Officer Standards and Training Council, the
230 Criminal Justice Policy and Planning Division within the Office of Policy
231 and Management and, in accordance with the provisions of section 11-
232 4a, the joint standing committees of the General Assembly having
233 cognizance of matters relating to the judiciary and public safety and
234 security.

235 Sec. 2. (NEW) (*Effective October 1, 2024*) (a) Except as provided in
236 subsections (b) and (c) of this section, any public agency, as defined in
237 section 1-200 of the general statutes, that maintains a copy of a record
238 created using body-worn recording equipment or a dashboard camera
239 pursuant to section 29-6d of the general statutes, as amended by this act,
240 may charge the requesting party a redaction fee for any such record that

241 requires redaction in accordance with the provisions of this section.
242 Such fee shall compensate the public agency for the time spent redacting
243 any portion of the requested record as required or authorized by state
244 or federal law, including, but not limited to, the provisions of subsection
245 (g) of section 29-6d of the general statutes, as amended by this act. Such
246 fee shall be calculated as follows:

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

250 (2) (A) Except as provided in subparagraph (B) of this subdivision,
251 the first two hours of labor costs incurred by the public agency in
252 redacting the requested record shall not be charged to the requesting
253 party.

254 (B) The first four hours of labor costs incurred by the public agency
255 in redacting the requested record shall not be charged to the requesting
256 party if the requesting party is (i) the parent or legal guardian of an
257 involved person, or (ii) an attorney representing an involved person in
258 any civil, criminal or administrative matter.

259 (3) Except as provided in subsection (c) of this section, any additional
260 labor costs associated with any time necessary to redact the requested
261 record beyond the applicable time set forth in subdivision (2) of this
262 subsection may be charged to the requesting party at a rate not to exceed
263 the hourly wage of the lowest-paid employee with the requisite training
264 for redacting the responsive record. For purposes of this subdivision,
265 the hourly wage of an employee shall be based upon the employee's
266 base salary and shall not include benefits. The responding agency shall
267 not charge the requesting party for the services of any attorney hired by
268 the responding agency to conduct a second review of the requested
269 record or any company providing digital management services to the
270 responding agency.

271 (4) Any fee charged to a requesting party under this subsection shall
272 not exceed one hundred dollars per hour of the actual length of time of

273 the record requested. In calculating the fee under this subsection, the
274 public agency may round up the actual length of time of the record
275 requested to the nearest half hour at a rate of fifty dollars per half hour.

276 (5) If the amount to be charged to the requesting party in accordance
277 with subdivision (3) of this subsection is estimated to exceed two
278 hundred fifty dollars, the public agency shall inform the requesting
279 party of the estimated fee and may require prepayment of such fee prior
280 to redacting the requested record. If the amount of prepaid fees exceeds
281 the actual labor costs incurred by the public agency in redacting the
282 requested record, the public agency shall reimburse the requesting
283 party for any difference between the prepaid amount and actual cost.

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

287 (c) A public agency shall not charge a fee to any requesting party who
288 is an involved person in the record requested. A public agency shall not
289 charge a fee to any other requesting party if (1) the record depicts (A) a
290 police officer involved in a shooting, (B) a police officer involved in a
291 motor vehicle accident, or (C) a police officer giving a formal statement
292 about the use of force, or (2) (A) there is an allegation of misconduct
293 concerning the police officer involved, or (B) the police officer involved
294 is the subject of a disciplinary investigation, subject to any limitations
295 on disclosure set forth in subsection (g) of section 29-6d of the general
296 statutes, as amended by this act.

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

300 (e) If the Freedom of Information Commission determines that a
301 public agency has violated any provision of this section, the Freedom of
302 Information Commission may order the public agency to refund any
303 payment made under this section.

304 Sec. 3. Subsections (a) and (b) of section 1-212 of the general statutes
305 are repealed and the following is substituted in lieu thereof (*Effective*
306 *October 1, 2024*):

307 (a) Any person applying in writing shall receive, promptly upon
308 request, a plain, facsimile, electronic or certified copy of any public
309 record. The type of copy provided shall be within the discretion of the
310 public agency, except (1) the agency shall provide a certified copy
311 whenever requested, and (2) if the applicant does not have access to a
312 computer or facsimile machine, the public agency shall not send the
313 applicant an electronic or facsimile copy. [The] Except as provided in
314 section 2 of this act, the fee for any copy provided in accordance with
315 the Freedom of Information Act:

316 (A) By an executive, administrative or legislative office of the state, a
317 state agency or a department, institution, bureau, board, commission,
318 authority or official of the state, including a committee of, or created by,
319 such an office, agency, department, institution, bureau, board,
320 commission, authority or official, and also including any judicial office,
321 official or body or committee thereof but only in respect to its or their
322 administrative functions, shall not exceed twenty-five cents per page;
323 and

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

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

335 (1) An amount equal to the hourly salary attributed to all agency

336 employees engaged in providing the requested computer-stored public
337 record, including their time performing the formatting or programming
338 functions necessary to provide the copy as requested, but not including
339 search or retrieval costs except as provided in subdivision (4) of this
340 subsection;

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

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

346 (4) The computer time charges incurred by the agency in providing
347 the requested computer-stored public record where another agency or
348 contractor provides the agency with computer storage and retrieval
349 services. Notwithstanding any other provision of this section, the fee for
350 any copy of the names of registered voters shall not exceed three cents
351 per name delivered or the cost thereof to the public agency, as
352 determined pursuant to this subsection, whichever is less. The
353 Department of Administrative Services shall provide guidelines to
354 agencies regarding the calculation of the fees charged for copies of
355 computer-stored public records to ensure that such fees are reasonable
356 and consistent among agencies.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2024	29-6d
Sec. 2	October 1, 2024	New section
Sec. 3	October 1, 2024	1-212(a) and (b)

Statement of Legislative Commissioners:

In Section 2(a)(3), an exception was added for consistency.

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 25 \$	FY 26 \$
Department of Emergency Services and Public Protection	GF - Cost	58,000	73,000
State Comptroller - Fringe Benefits ¹	GF - Cost	23,000	30,000
Various State Agencies	Various - Potential Cost/Potential Revenue Gain	See Below	See Below

Note: GF=General Fund; Various=Various

Municipal Impact:

Municipalities	Effect	FY 25 \$	FY 26 \$
Municipal Police Departments	STATE MANDATE ² - 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

¹The 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 41.25% of payroll in FY 25.

²State 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 (1) a cost to the Department of Emergency Services and Public Protection (DESPP) and the State Comptroller, (2) a potential cost to various state agencies and municipal police departments, and (3) a potential revenue gain to the state and municipalities.

To meet the bill's redaction requirements, DESPP will need to hire one paralegal specialist for a salary and other expenses cost of \$58,000 in FY 25³ and \$73,000 in FY 26, along with associated fringe benefits costs of \$23,000 in FY 25 and \$30,000 in FY 26.

Any state agency with law enforcement units that use body and dashboard cameras will face potential costs to the extent that the agency receives FOI requests for recordings that are 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 unit 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.⁴

³FY 25 costs reflect 9 months of salary due to the bill's October 1, 2024 effective date.

⁴Generally, an agency may charge a rate up to the hourly salary of the lowest-paid employee qualified to redact 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 that are subject to the bill's provisions.

Sources: Department of Administrative Services website

OLR Bill Analysis**sSB 431*****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 for the actual length of time of the requested record.

However, an agency may not charge a fee when the requestor is an involved person in the requested record. 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. An agency also may not charge a redaction fee for (1) the first two hours of labor, or the first four hours for certain requestors, 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, 2024

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.

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 also an 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) the inside of his or her residence is shown in the recording or (2) he or she is shown in a state of undress or nudity.

The bill also requires redaction for body and dashboard camera recordings of any of the following, which by law, are confidential and generally exempt from disclosure under FOIA:

1. communications with other law enforcement unit personnel, except those that may be recorded as the officer performs his or her duties;
2. encounters with undercover officers, informants, or officers performing certain detective work;
3. officers on break or otherwise engaged in a personal activity;
4. someone undergoing a medical or psychological evaluation, procedure, or treatment;
5. anyone other than a criminal suspect if an officer is wearing the equipment in a hospital or other medical facility;
6. a mental health facility, unless responding to a call involving a criminal suspect thought to be present in the facility;
7. scenes of an incident that involves victims of domestic or sexual abuse, homicide or suicide, or a fatal accident, if disclosure could reasonably be expected to constitute an unwarranted invasion of the victim's personal privacy; or
8. a minor.

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 generally allows public agencies to charge requestors a fee

for their time spent redacting body camera or dashboard camera recordings if it takes more than two hours to do so. However, if the requesting party is an involved person's parent or legal guardian, or an attorney representing an involved person in a civil, criminal, or administrative matter, then the agency cannot charge a fee for the first four hours to do the redacting.

If the redacting takes longer than the applicable threshold, the bill allows an agency to 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. The bill prohibits agencies from charging for (1) time spent searching for the requested records, (2) an attorney hired to conduct a second review of the record, or (3) a digital management company's services.

Under the bill, the redaction fee may not exceed \$100 per hour for 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 any 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.

Fee Prohibitions and Waivers

The bill prohibits public agencies from charging a redaction fee to a requesting party who is an involved person in the requested record. It also prohibits fees from being charged:

1. for records that depict a police officer (a) involved in a shooting or motor vehicle accident or (b) giving a formal statement about the use of force or
2. if there is an allegation of misconduct by the police officer involved or the 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 people; (3) public defenders; (4) records exempt from disclosure; and (5) requests that benefit the general welfare, as determined by the agency.

BACKGROUND

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)).

Related Bill

sSB 234, favorably reported by the Public Safety and Security Committee, among other things, expands the FOIA disclosure exemption for law enforcement agency records created in detecting or investigating crime that are not otherwise available to the public when disclosure would not be in the public interest, to include (1) the identity of mandated reporters not otherwise known and (2) sworn witness statements.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 19 Nay 0 (03/22/2024)