

2016 Regular Session

SENATE BILL NO. 398

BY SENATOR JOHNS

PUBLIC RECORDS. Exempts video or audio recordings generated by law enforcement body-worn cameras from Public Records Law. (8/1/16)

1 AN ACT

2 To amend and reenact R.S. 44:32(C)(1)(a) and to enact R.S. 44:3(A)(8) and (I), relative to
3 public records; to provide for records of law enforcement agencies; to provide for
4 recordings of body-worn cameras; to provide for exceptions; to provide for
5 disclosure; to provide for costs; to provide for the contents of requests; and to
6 provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 44:32(C)(1)(a) is hereby amended and reenacted and R.S. 44:3(A)(8)
9 and (I) are hereby enacted to read as follows:

10 §3. Records of prosecutive, investigative, and law enforcement agencies, and
11 communications districts

12 A. Nothing in this Chapter shall be construed to require disclosures of
13 records, or the information contained therein, held by the offices of the attorney
14 general, district attorneys, sheriffs, police departments, Department of Public Safety
15 and Corrections, marshals, investigators, public health investigators, correctional
16 agencies, communications districts, intelligence agencies, or publicly owned water
17 districts of the state, which records are:

* * *

(8) Video or audio recordings generated by law enforcement officer body-worn cameras that are found by the custodian to violate an individual's reasonable expectation of privacy.

(a) A body-worn camera is a camera worn on an individual law enforcement officer's person that records and stores audio and video.

(b) Body-worn camera video or audio recordings that are determined by the custodian to violate an individual's reasonable expectation of privacy may be disclosed upon a determination and order from a court of competent jurisdiction pursuant to R.S. 44:35.

(c) All costs of production associated with a court ordered disclosure shall be set by the court.

(d) Notwithstanding any provision of law to the contrary, body-worn camera video or audio recordings generated by a law enforcement body-worn camera while the officer is working a private security detail that is not within the course and scope of his official duties with his employing department or agency shall not be subject to disclosure.

* * *

I. All requests for production of video or audio recordings generated by law enforcement officer body-worn cameras shall be incident specific and shall include reasonable specificity as to the date, time, location, or persons involved.

A request for multiple incidents shall include reasonable specificity as to the date, time, location, or persons involved in each incident requested. The custodian may deny a request not containing reasonable specificity.

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§32. Duty to permit examination; prevention of alteration; payment for overtime; copies provided; fees

* * *

C.(1)(a) For all public records, except public records of state agencies, it shall

1 be the duty of the custodian of such public records to provide copies to persons so
 2 requesting. The custodian may establish and collect reasonable fees for making
 3 copies of public records. **The custodian may request payment of fees in advance**
 4 **of production.** Copies of records may be furnished without charge or at a reduced
 5 charge to indigent citizens of this state.

6 * * *

The original instrument was prepared by Ashley Menou. The following digest, which does not constitute a part of the legislative instrument, was prepared by Tammy Crain-Waldrop.

DIGEST

SB 398 Reengrossed

2016 Regular Session

Johns

Present law excludes disclosure of certain records, of the offices of the attorney general, district attorneys, sheriffs, police departments, Department of Public Safety and Corrections, marshals, investigators, public health investigators, correctional agencies, communications districts, intelligence agencies, or publicly owned water districts of the state.

Proposed law retains present law and adds that video or audio recordings generated by law enforcement officer body-worn cameras that are found by the custodian to violate an individual's reasonable expectation of privacy are exempt from Public Records Law.

Proposed law defines body-worn camera as a camera worn on an individual law enforcement officer's person that records and stores audio and video.

Proposed law provides that body-worn camera recordings that are determined by the custodian to violate an individual's reasonable expectation may be disclosed upon a determination and order from a court of competent jurisdiction.

Proposed law provides that the costs of production associated with such court-ordered disclosures shall be set by the court.

Proposed law provides that body-worn camera video or audio recordings generated by a law enforcement body-worn camera while the officer is working a private security detail not within the course and scope of official duties with employing department or agency is not subject to disclosure.

Proposed law provides requests for production of recordings shall be incident specific and shall include reasonable specificity as to date, time, location, or persons involved and authorizes custodian to deny a request not containing reasonable specificity.

Present law allows a custodian of public records to establish and collect reasonable fees for making copies of public records.

Proposed law retains present law and allows the custodian to request payment of fees for making copies of public records in advance of production.

Effective August 1, 2016.

(Amends R.S. 44:32(C)(1)(a); adds R.S. 44:3(A)(8) and (I))

Summary of Amendments Adopted by SenateCommittee Amendments Proposed by Senate Committee on Judiciary B to the original bill

1. Changes what body-worn camera audio or video recordings are excluded from disclosure from recordings that are not subject of a pending criminal proceeding to recordings that are found by the custodian to violate an individual's reasonable expectation of privacy.
2. Allows body-worn camera recordings that are determined to violate an individual's reasonable expectation of privacy to be disclosed upon a determination and order from a court.
3. Changes the way fees associated with court ordered disclosure of body-worn camera recordings are set and provides the fees will be set by the court.
4. Adds requirement of reasonable specificity in all requests for production of recordings and allows a custodian to deny a request not containing reasonable specificity.
5. Changes from requesting party shall pay costs prior to disclosure to may pay costs in advance of production.

Senate Floor Amendments to engrossed bill

1. Adds that body-worn camera video or audio recordings while on private security detail not within the course and scope of official duties with employing department or agency is not subject to disclosure.