

SENATE SUMMARY OF HOUSE AMENDMENTS

SB 398

2016 Regular Session

Johns

KEYWORD AND SUMMARY AS RETURNED TO THE SENATE

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

SUMMARY OF HOUSE AMENDMENTS TO THE SENATE BILL

1. Provides that if a court orders recordings to be disclosed, the recordings shall, rather than may, be disclosed.
2. Removes provision that recordings generated while the officer is on a private security detail that is not within the course and scope of official duties is not subject to disclosure.
3. Provides that recordings generated while the officer is not acting in the scope of his official duties shall not be subject to disclosure when the disclosure would violate a reasonable expectation of privacy.

DIGEST OF THE SENATE BILL AS RETURNED TO THE SENATE

DIGEST

SB 398 Reengrossed

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Present law (R.S. 44:1, et. seq. – Public Records Law) provides that all books, records, writings, accounts, letters and letter books, maps, drawings, photographs, cards, tapes, recordings, memoranda, and papers, and all copies, duplicates, photographs, including microfilm, or other reproductions thereof, or any other documentary materials, regardless of physical form or characteristics, including information contained in electronic data processing equipment, having been used, being in use, or prepared, possessed, or retained for use in the conduct, transaction, or performance of any business, transaction, work, duty, or function which was conducted, transacted, or performed by or under the authority of the constitution or laws of the state, or by or under the authority of any ordinance, regulation, mandate, or order of any public body or concerning the receipt or payment of any money received or paid by or under the authority of the constitution or the laws of the state are "public records". Present law establishes a framework for the ready availability of public records to requesting persons and specifically provides that it is the duty of the custodian of the public records of a public entity or agency to provide copies to persons so requesting. Provides exceptions and exclusions.

Present law excludes from disclosure certain specified 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 disclosure.

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 shall 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 while the law enforcement officer is not acting in the scope of his official duties shall not be subject to disclosure when the disclosure would violate a reasonable expectation of privacy.

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.

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

Thomas L. Tyler
Deputy Chief of Staff