

## DIGEST

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SB 398 Reengrossed

2016 Regular Session

Johns

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))

Summary of Amendments Adopted by Senate

Committee 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.

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on House and Governmental Affairs to the reengrossed bill:

1. Provide that if a court orders recordings to be disclosed, the recordings shall, rather than may, be disclosed.
2. Remove 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. Provide 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.