

BILL ANALYSIS

C.S.H.B. 929
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Homeland Security & Public Safety
Committee Report (Substituted)

BACKGROUND AND PURPOSE

There are reports of police officers discontinuing the use of their body worn camera while engaging in an investigation. It is often considered inappropriate to discontinue a recording because of the possibility that any interaction between an officer and a potential perpetrator could go unrecorded, including confrontational interactions, thus leaving the officer's employing agency, prosecutors, defense attorneys, and courts without any objective evidence regarding whether the officer's actions were justified.

C.S.H.B. 929 seeks to address this issue by enacting the "Botham Jean Act," which requires that a law enforcement agency's body worn camera policy require officers equipped with body worn cameras keep the camera activated for the entirety of their active participation in an investigation, with a certain exception.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 929 amends the Occupations Code to require a law enforcement agency's body worn camera policy to include provisions relating to the collection of a body worn camera, including the applicable video and audio recorded by the camera, as evidence. Such a policy must also require a peace officer who is equipped with a body worn camera and actively participating in an investigation to keep the camera activated for the entirety of the officer's active participation in the investigation, unless the camera has been deactivated in compliance with the policy. The bill limits the encounters in which an officer may choose not to activate a body worn camera or to discontinue a recording currently in progress only to encounters not related to an investigation.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 929 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The original removed the provision prohibiting a body worn camera policy from requiring a peace officer to keep a body worn camera activated for the entire period of the officer's shift and required such a policy to require an officer who participates in an investigation, as defined by the bill, to keep a body worn camera activated for the entirety of the investigation unless the camera has been collected as evidence by another peace officer in accordance with the law enforcement agency's body worn camera policy, any other agency policy regarding evidence collection, and applicable law. The substitute retains the prohibition but revises the original's provisions as follows:

- limits the circumstances under which a body worn camera may be deactivated while an officer is actively participating in an investigation to only those prescribed in the agency's body worn camera policy; and
- omits a definition of investigation.

The substitute changes the circumstances under which a peace officer equipped with a body worn camera may choose not to activate the camera or may choose to discontinue a recording currently in progress to only during an encounter with a person who is not related to an investigation, rather than for any nonconfrontational encounter with a person as in current law. The original retained the current standard regarding nonconfrontational encounters but subjected an officer's actions to the bill's requirement to keep a body worn camera activated for the entirety of an investigation, unless otherwise authorized.

The substitute does not include the original's provisions respectively revising and providing statutory provisions related to the following:

- the release of information recorded by a body worn camera;
- the applicable defenses to prosecution provided by the original;
- the circumstances under which a person may claim self-defense for otherwise criminal use of force; and
- the circumstances under which deadly force is justified in the defense of a person.

The substitute removes from the bill a procedural provision titling certain portions of the bill "Bo's Law" to account for the fact that the corresponding provisions that were in the original were omitted in the substitute.

The substitute omits the original's provisions creating a third degree felony offense for a person who knows that an investigation is ongoing and intentionally or knowingly deactivates, orders the deactivation of, or causes to be deactivated a recording device being used by a peace officer in the investigation.