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AB-1957 Public records: body-worn cameras. (2015-2016)

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AMENDED IN ASSEMBLY MAY 18, 2016

AMENDED IN ASSEMBLY APRIL 25, 2016

AMENDED IN ASSEMBLY APRIL 14, 2016

AMENDED IN ASSEMBLY APRIL 06, 2016

AMENDED IN ASSEMBLY MARCH 17, 2016

CALIFORNIA LEGISLATURE— 2015–2016 REGULAR SESSION

ASSEMBLY BILL

NO. 1957

Introduced by Assembly Member Quirk

February 12, 2016

An act to add Section 6254.31 to the Government Code, relating to public records.

LEGISLATIVE COUNSEL'S DIGEST

AB 1957, as amended, Quirk. Public records: body-worn cameras.

The California Public Records Act requires that public records be open to inspection at all times during the office hours of a state or local agency and that every person has a right to inspect any public record, except as specifically provided. The act further requires that a reasonably segregable portion of a public record be available for inspection by any person requesting the public record after deletion of the portions that are exempted by law. Existing law exempts from the disclosure requirements records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, law enforcement agencies, including the Attorney General and state or local police agencies.

This bill would authorize the governing board of a law enforcement agency, in closed session, to review the footage from a body-worn camera when a peace officer who was wearing the camera is involved ~~in~~ *in, or was a witness to*, an incident that results in great bodily injury *to*, or death ~~of~~ *of*, a person other than the peace officer. The bill would ~~require the judge, if there is a prosecution of the peace officer after an investigation, require, if there is an investigation into an allegation of misconduct by the peace officer, and the investigation leads to criminal prosecution of the peace officer within 60 days after the commencement of the investigation, the judge~~ to determine the protocol for release of the footage from a body-worn camera. The bill would ~~require a require, if there is no investigation into an allegation of misconduct by the peace officer, or if there is an investigation, but the investigation does not lead to criminal prosecution of the peace officer within 60 days of the commencement of the investigation, the~~ state or local law enforcement agency *employing the peace officer* to make available, upon request, footage from a ~~law~~

~~enforcement~~ body-worn camera 60 days after the commencement of ~~an investigation into an allegation of misconduct by the peace officer based on use of force resulting in great bodily injury or death of a person other than the peace officer.~~ *the investigation.* The bill would also prohibit the public ~~release~~ *release, as specified,* of footage that relates to crimes of domestic violence, crimes that include minors, or that includes statements of a witness at the scene of a crime, subject to a specified exception.

By increasing the duties of local law enforcement, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 6254.31 is added to the Government Code, to read:

6254.31. (a) Before the end of the business day following the date on which the incident occurs, the governing body of the law enforcement agency, in closed session, may review the footage from a body-worn camera when the peace officer who was wearing the camera is involved ~~in~~ *in, or was a witness to,* an incident that results in great bodily injury *to,* or the death ~~of~~ *of,* a person other than the peace officer.

(b) ~~If, after reviewing the footage as authorized in subdivision (a), there is an investigation that leads to prosecution of the peace officer, the judge shall review the~~ *If there is an investigation into an allegation of misconduct by a peace officer based on the peace officer's use of force, which resulted in great bodily injury to, or the death of, a person other than the peace officer, and that investigation leads to criminal prosecution of the peace officer within 60 days after the commencement of the investigation, the judge shall review the footage from any* body-worn camera ~~footage~~ *worn by the peace officer involved, or by a peace officer who was a witness to the incident,* and determine the release protocol, including, but not limited to, whether the footage is released, to whom, and if redaction is required.

(c) Except as provided in subdivision (d), *and* notwithstanding Section 6254, ~~a~~ *if there is not an investigation into an allegation of misconduct by a peace officer based on the peace officer's use of force, which resulted in great bodily injury to, or the death of, a person other than the peace officer, or if there is an investigation, but the investigation does not lead to criminal prosecution of the peace officer within 60 days after the commencement of the investigation, the* state or local law enforcement agency *employing the peace officer* shall make available, upon request pursuant to this chapter, *the* footage from a ~~law enforcement~~ body-worn camera *worn by the peace officer involved, or by a peace officer who was a witness to the incident, within* 60 days after the commencement of ~~an investigation into an allegation of misconduct by the peace officer based on use of force resulting in great bodily injury or death of a person other than the peace officer depicted in the footage. This subdivision shall only apply where the investigation does not result in charges of misconduct against the officer.~~ *the investigation.*

(d) Footage of body-worn cameras that relates to crimes of domestic violence, crimes that include minors, or that includes statements of a witness at the scene of a crime shall not be released for public viewing *pursuant to subdivision (c)* if the public interest in nondisclosure, or the privacy interests of any person depicted in the footage clearly outweighs the public interest in disclosure and it is not feasible to redact the portion of the recording that shows domestic violence, minors, or statements of a witness from the footage.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs because, in that regard, the only costs that may be incurred by a local agency or school district under this act would result from a legislative mandate that is within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 3. The Legislature finds and declares that Section 1 of this act, which adds Section 6254.31 to the Government Code, furthers, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

By expanding public access to footage obtained from ~~a law enforcement body worn camera~~, *body-worn cameras*, this bill furthers the purpose of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution.