

Fiscal Estimate Narratives

DOJ 10/4/2017

LRB Number	17-3259/1	Introduction Number	SB-279	Estimate Type	Original
Description body cameras on law enforcement officers					

Assumptions Used in Arriving at Fiscal Estimate

This bill creates retention and confidentiality requirements for law enforcement agencies that use body cameras. Under the bill, law enforcement agencies that use body cameras must administer policies and periodically review practices related to the use, maintenance and storage of recorded data and limits imposed by the agency on which law enforcement officers will wear body cameras and the situations, individuals and encounters that may be recorded. The bill requires agencies to train law enforcement officers who will wear body cameras and other personnel who use, maintain, store or release body camera data on the required policies.

Under the bill, data recorded from body cameras must be retained by the agency for at least 120 days, or until disposition of the case or complaint in instances where data was recorded on encounters that resulted in death or actual or alleged physical injury to an individual, encounters resulting in custodial arrest, or of searches during authorized temporary questioning. The bill specifies that a law enforcement officer or agency, prosecutor, defendant or court may require retention of the body camera data beyond 120 days by submitting a preservation order within 120 days of the incident. Data that is required to be retained longer than 120 days may not be destroyed until final disposition of the case, or until receipt of an order from a court or hearing examiner if it is determined the data is no longer needed.

The bill also specifies that the law enforcement agency that recorded body camera data is the custodian. A public authority that may have custody of body camera data from a law enforcement agency is not a custodian of that data and is required under the bill to deny access to the data. Body camera data that is not required under the bill to be retained for longer than 120 days is confidential and not subject to inspection and copying under s. 19.35 (1). Body camera data that must be retained for longer than 120 days is subject to inspection and copying under s. 19.35 (1) unless the data is recorded in a location where an individual may have a reasonable expectation of privacy, in which case the law enforcement agency must request permission in writing from each known victim, witness and owner to release the data. If written permission is not received from each known victim, witness and owner within 14 business days of mailing the request for permission, the law enforcement agency may deny the request under s. 19.35 (1). Law enforcement agencies are required to retain correspondence related to requests for body camera data under s. 19.35 (1) as long as the body camera data is retained.

The Department of Justice Division of Criminal Investigation (DCI) investigates crimes that are statewide in nature and importance, including homicide, arson, financial crimes, multi-jurisdictional crimes, drug trafficking, computer crimes, homeland security, public integrity and officer-involved critical incidents, and collects and reviews recorded data from body cameras as part of those investigations. The use of body cameras and other recording devices by law enforcement agencies in Wisconsin has grown. DCI analysts and special agents recover an average 36 hours of video from each investigation of an officer-involved critical incident and spend approximately 72 hours preparing and 90 hours reviewing and reporting on the contents of the videos for each investigation.

Under the bill, the Department of Justice is not the custodian of body camera data that is collected during DCI investigations and must deny requests for the record under Wis. Stat. § 19.35 (1). Currently, the department will provide public access to case reports and other materials from a DCI investigation of an officer-involved critical incident if the prosecutor determines that there is no basis for prosecution of the law enforcement officer(s). The fiscal impact of this provision on the department is not expected to be significant because the department will continue to provide public access to other investigation records and data not recorded by body cameras.

For local law enforcement agencies, the bill will increase costs to the extent that their internal retention and training policies related to data recorded by body cameras differ from the requirements of the bill. The local law enforcement agencies will incur costs for retaining video data; obtaining and documenting permission to release

body camera data; and providing training to officers and other personnel. There is insufficient data on current practices to reasonably estimate the cost of these requirements and whether law enforcement agencies are currently meeting the requirements.

Long-Range Fiscal Implications