

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1246

Introduced by Assembly Member Quirk

February 27, 2015

An act to ~~amend Section 832.7 of the Penal Code, relating to peace officers.~~ *add Section 6254.32 to the Government Code, relating to public records.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1246, as amended, Quirk. ~~Peace officers. Body worn cameras: peace officers: limited disclosure.~~

(1) *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.*

This bill would, notwithstanding any other law, prohibit the disclosure of a recording made by a body worn camera, as defined, except for requiring disclosure to the person whose image is recorded by the body worn camera.

(2) *Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.*

This bill would make legislative findings to that effect.

(3) *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.

(4) *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 no reimbursement is required by this act for a specified reason.

~~Existing law provides that peace officer or custodial officer personnel records and records maintained by any state or local agency, or information obtained from these records, are confidential and shall not be disclosed in any criminal or civil proceeding except by discovery. Existing law describes exceptions to this policy, including data regarding the number, type, or disposition of complaints made against officers if that information is in a form that does not identify the individuals involved.~~

~~This bill would make technical, nonsubstantive changes to these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 6254.32 is added to the Government Code,
- 2 to read:
- 3 6254.32. (a) Notwithstanding any other law, including, but
- 4 not limited to, Chapter 4.5 (commencing with Section 830) of Title
- 5 3 of Part 2 of the Penal Code, a recording made by a body worn
- 6 camera is confidential and shall not be disclosed, except that the
- 7 recording shall be disclosed to the person whose image is recorded
- 8 by the body worn camera.
- 9 (b) The following definitions shall apply to this section:
- 10 (1) "Body worn camera" means a device attached to the uniform
- 11 or body of a peace officer that records video, audio, or both, in a
- 12 digital or analog format.

1 (2) “Peace officer” means any person designated as a peace
2 officer pursuant to Chapter 4.5 (commencing with Section 830) of
3 Title 3 of Part 2 of the Penal Code.

4 SEC. 2. The Legislature finds and declares that Section 1 of
5 this act, which adds Section 6254.32 to the Government Code,
6 imposes a limitation on the public’s right of access to the meetings
7 of public bodies or the writings of public officials and agencies
8 within the meaning of Section 3 of Article I of the California
9 Constitution. Pursuant to that constitutional provision, the
10 Legislature makes the following findings to demonstrate the interest
11 protected by this limitation and the need for protecting that
12 interest:

13 The need to protect individual privacy from the public disclosure
14 of images captured by a body worn camera outweighs the interest
15 in the public disclosure of that information.

16 SEC. 3. The Legislature finds and declares that Section 1 of
17 this act, which adds Section 6254.32 to the Government Code,
18 furthers, within the meaning of paragraph (7) of subdivision (b)
19 of Section 3 of Article I of the California Constitution, the purposes
20 of that constitutional section as it relates to the right of public
21 access to the meetings of local public bodies or the writings of
22 local public officials and local agencies. Pursuant to paragraph
23 (7) of subdivision (b) of Section 3 of Article I of the California
24 Constitution, the Legislature makes the following findings:

25 Protecting the privacy of a person whose image is captured by
26 body worn cameras on local peace officers enhances public safety
27 and the protection of individual rights, thereby furthering the
28 purposes of Section 3 of Article I of the California Constitution.

29 SEC. 4. No reimbursement is required by this act pursuant to
30 Section 6 of Article XIII B of the California Constitution because
31 the only costs that may be incurred by a local agency or school
32 district under this act would result from a legislative mandate that
33 is within the scope of paragraph (7) of subdivision (b) of Section
34 3 of Article I of the California Constitution.

35 ~~SECTION 1. Section 832.7 of the Penal Code is amended to~~
36 ~~read:~~

37 ~~832.7. (a) Peace officer or custodial officer personnel records~~
38 ~~and records maintained by any state or local agency pursuant to~~
39 ~~Section 832.5, or information obtained from these records, are~~
40 ~~confidential and shall not be disclosed in any criminal or civil~~

1 proceeding except by discovery pursuant to Sections 1043 and
2 1046 of the Evidence Code. This section shall not apply to
3 investigations or proceedings concerning the conduct of peace
4 officers or custodial officers, or an agency or department that
5 employs those officers, conducted by a grand jury, a district
6 attorney's office, or the Attorney General's office.

7 (b) Notwithstanding subdivision (a), a department or agency
8 shall release to the complaining party a copy of his or her own
9 statements at the time the complaint is filed.

10 (c) Notwithstanding subdivision (a), a department or agency
11 that employs peace or custodial officers may disseminate data
12 regarding the number, type, or disposition of complaints (sustained,
13 not sustained, exonerated, or unfounded) made against its officers
14 if that information is in a form that does not identify the individuals
15 involved.

16 (d) Notwithstanding subdivision (a), a department or agency
17 that employs peace or custodial officers may release factual
18 information concerning a disciplinary investigation if the officer
19 who is the subject of the disciplinary investigation, or the officer's
20 agent or representative, publicly makes a statement he or she knows
21 to be false concerning the investigation or the imposition of
22 disciplinary action. Information may not be disclosed by the peace
23 or custodial officer's employer unless the false statement was
24 published by an established medium of communication, including,
25 but not limited to, television, radio, or a newspaper. Disclosure of
26 factual information by the employing agency pursuant to this
27 subdivision is limited to facts contained in the officer's personnel
28 file concerning the disciplinary investigation or imposition of
29 disciplinary action that specifically refute the false statements
30 made public by the peace or custodial officer or his or her agent
31 or representative.

32 (e) (1) The department or agency shall provide written
33 notification to the complaining party of the disposition of the
34 complaint within 30 days of the disposition.

35 (2) The notification described in this subdivision shall not be
36 conclusive or binding or admissible as evidence in any separate
37 or subsequent action or proceeding brought before an arbitrator,
38 court, or judge of this state or the United States.

- 1 (f) ~~Nothing in this section shall affect the discovery or disclosure~~
- 2 ~~of information contained in a peace or custodial officer's personnel~~
- 3 ~~file pursuant to Section 1043 of the Evidence Code.~~