

HOUSE BILL REPORT

SHB 2903

As Passed Legislature

Title: An act relating to law enforcement sound recordings.

Brief Description: Authorizing sound recordings without prior consent that correspond to video recordings from cameras mounted in law enforcement vehicles.

Sponsors: By House Committee on Judiciary (originally sponsored by Representatives Delvin, Lovick, B. Chandler, Grant, Hankins, Lisk, Buck, Ballasiotes, O'Brien, Hurst, Talcott and Fortunato).

Brief History:

Committee Activity:

Judiciary: 2/3/00 [DPS].

Floor Activity:

Passed House: 2/8/00, 97-0.

Senate Amended.

Passed Senate: 3/2/00, 46-1.

Senate Receded.

Senate Amended.

Passed Senate: 3/7/00, 44-2.

House Concurred.

Passed House: 3/8/00, 96-2.

Passed Legislature.

Brief Summary of Substitute Bill

· Authorizes sound recordings, without the consent of all parties, that correspond to video recordings from cameras mounted in law enforcement vehicles.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Carrell, Republican Co-Chair; Constantine, Democratic Co-Chair; Hurst, Democratic Vice Chair; Lambert, Republican Vice Chair; Cox; Dickerson; Esser; Kastama; Lantz; Lovick; McDonald and Schindler.

Staff: Edie Adams (786-7180).

Background:

The state's Privacy Act generally prohibits the interception or recording of any private communication or conversation without the consent of all parties to the communication or conversation. There are several exceptions to this general prohibition, including exceptions allowing one-party consent in a variety of cases, and conditions under which a court may authorize the interception or recording.

In addition, there are many exceptions from the Privacy Act's provisions, including certain common carrier services; 911 services; police, fire, emergency medical service and poison centers when recording incoming calls; the Department of Corrections recording of inmate conversations; and video and sound recordings of arrested persons by police officers responsible for making arrests.

Communications or conversations that are intercepted or recorded without the consent of all parties are generally not admissible in court, except in limited circumstances.

Summary of Amended Bill:

The Privacy Act's provisions prohibiting the interception or recording of a private communication or conversation without the consent of all parties do not apply to sound recordings that correspond to video images recorded by video cameras mounted in law enforcement vehicles, as long as the following conditions are met:

- the officer wearing the recording device must be in uniform;
- the recording device may only be operated simultaneously with the video camera;
- the recording device may not be turned off by the officer during the operation of the video camera;
- any sound or video recording may not be duplicated and made available to the public until final disposition of criminal or civil litigation arising from the incident recorded;
- the sound recording may not be divulged or used by law enforcement for commercial purposes;
- the officer must inform the person being recorded that a sound recording is being made, unless the person is being recorded under exigent circumstances, and

the statement informing the person must be included in the recording. The officer is not required to inform the person of a video recording.

Any person who knowingly alters, erases, or wrongfully discloses any recording in violation of the above restrictions is guilty of a gross misdemeanor. Sound recordings made under this provision are not inadmissible in court under the Privacy Act.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Currently when an officer makes a traffic stop, the video recorder in the police car may only take video images of the encounter. This bill will allow a sound recording also to be made in this situation. The intent of this bill is not to invade privacy--it doesn't authorize recordings in homes, in businesses, or of phone conversations. People pulled over for a traffic stop have a lower expectation of privacy than situations involving wiretaps. Allowing sound recordings in this context will help ensure officer safety, provide an important evidentiary tool, and create a checks and balances system for officer conduct.

Testimony Against: None.

Testified: Representative Delvin, prime sponsor; Tim Schellberg, Washington Association of Sheriffs and Police Chiefs; Sheriff Larry Taylor, Benton County; and Captain Eric Robertson, Washington State Patrol.