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S.F. No. 498 - Police Body Cameras (First Engrossment)

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This bill classifies data collected by police body cameras (portable recording systems) and provides for the retention and destruction of the data. Requirements governing the use of these systems, audits of the data, and vendor practices and liability are also included.

Section 1 amends the provision authorizing law enforcement agencies to provide access to active investigative data under certain circumstances to include private or nonpublic portable recording system data.

Section 2, paragraph (a), defines the terms “portable recording system data,” “public place,” and “redact.”

Paragraph (b) provides that portable recording system data are private data on individuals or nonpublic data unless the recording occurred in a public place and involved the use of a dangerous weapon or physical coercion by a peace officer that causes at least substantial bodily harm.

Paragraph (c) provides that active criminal investigative data or public personnel data that document the basis for disciplinary action against an employee remain classified under the general law, except that portable recording system data that are part of an inactive investigation remain classified as provided in this subdivision (the general rule is that inactive investigative data are public).

Paragraph (d) establishes a procedure under which a person may bring an action in district

court to authorize the disclosure of portable recording system data that are private or nonpublic. This is based on current law that provides for disclosure of active investigative data.

Paragraph (e) requires a law enforcement agency that uses portable recording systems to maintain specified information regarding the use of those systems, which is public data.

Paragraph (f) contains the rules governing retention and destruction of data captured by a portable recording system that are not criminal investigative data. Unless the data are described in **paragraph (g)**, it must be maintained for at least 90 days and destroyed within one year.

Paragraph (g) contains a longer retention period for certain types of data. It would apply in cases where the incident involved the use of force by a peace officer or a formal complaint is made against a peace officer related to the incident. In these cases, the data must be maintained for at least one year and destroyed within three years.

Paragraph (h) allows the subject of the data to submit a written request that the recording be retained for additional 180-day periods for possible evidentiary or exculpatory use in a future proceeding relating to the circumstances under which the data were collected. In addition, a government entity may retain the recording for possible future use.

Paragraph (i) provides that an individual who is the subject of portable recording system data has access to the data, including data on other individuals who are subjects of the recording. However, if an individual requests a copy, data on other individuals who do not consent to its release must be redacted.

Paragraph (j) contains triennial audit requirements for data collected by a portable recording system.

Paragraph (k) prohibits a law enforcement agency from using a system unless it has adopted a policy governing its use and operation.

An immediate effective date is included for this section. Data collected before the effective date must be destroyed, if required by this section, no more than 90 days after it becomes effective.

Section 3 adds a new section dealing with portable recording system vendors. It makes it clear that a vendor would be subject to all of the requirements of chapter 13. In addition, in a civil action for a violation, the vendor would be liable for minimum damages of \$2,500 or actual damages, whichever is greater. In an action involving improper disclosure of data that are not public, minimum damages would be \$10,000.

Section 4 contains application provisions for **section 2, paragraph (k)**. The chief law enforcement officer must adopt a policy by January 15, 2016.

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