

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 6692

BILL NUMBER: HB 1142

NOTE PREPARED: Mar 28, 2023

BILL AMENDED: Mar 23, 2023

SUBJECT: Law Enforcement Recordings.

FIRST AUTHOR: Rep. Prescott

FIRST SPONSOR: Sen. Alexander

BILL STATUS: As Passed Senate

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: *Direct Costs* - This bill provides that the direct cost that a state or local agency may charge for providing a copy of a law enforcement recording (recording) includes labor costs incurred to: (1) obscure nondisclosable information in the recording; and (2) perform an administrative review of the recording to determine if all nondisclosable information has been obscured. It also specifies that the costs of reviewing and obscuring nondisclosable electronic data may not exceed reasonable attorney's fees if the actions are performed by an attorney.

Copy of Recording - The bill also provides that if a court issues an order for disclosure of a law enforcement recording, any copy of the recording must be made by the public agency.

The bill also makes a technical correction.

Effective Date: July 1, 2023.

Explanation of State Expenditures: *Copy of Recording:* This bill requires a public agency to make the copy of the recording to provide to the court if the court issues an order for disclosure. It could increase the workload and expenditures for the public agencies to the extent that copies are made and stored.

Explanation of State Revenues: *Direct Costs:* This bill could increase revenue for the public agency to the extent that copies of a law enforcement recording are made. The increase in revenue comes from adding the labor costs of obscuring the nondisclosable information and performing the administrative review of the obscuring nondisclosable information as a part of direct costs. Most of the increase in revenue will be offset by the costs associated with working on the law enforcement recording. Any increase in revenue is likely to

be minimal.

Under current law, direct costs are of 105% of the sum of the cost of initial development of a program, the labor to retrieve electronically stored data, and any medium used for electronic output. The bill specifies that if an attorney is providing the labor, then certain direct costs may not exceed reasonable attorney's fees. The fee for a copy of a law enforcement recording may not exceed \$150.

Civil Penalty: To the extent there are fewer violations for a copying fee that the individual knows exceeds the amount set by statute due to allowing direct costs to include labor for obscuring and administratively reviewing nondisclosable information, there could be a decrease in revenue. However, any decrease in revenue is likely to be minimal.

A civil penalty of \$100 is imposed for the first violation and \$500 for each additional violation. The penalty would be paid by the public agency's budget and deposited in the Education Fund.

Court Fee Revenue: A civil costs fee of \$100 would be assessed when a civil case is filed. If fewer civil actions occur and court fees are collected, revenue to the state General Fund may decrease. A portion of the fee revenue is deposited into the State User Fee Fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

Explanation of Local Expenditures: *Copy of Recording:* This bill requires a public agency to make the copy of the recording to provide to the court if the court issues an order for disclosure. It could increase the workload and expenditures for the public agencies to the extent that copies are made and stored.

Explanation of Local Revenues: *Direct Costs:* This bill could increase revenue for the public agency to the extent that copies of a law enforcement recording are made. The increase in revenue comes from adding the labor costs of obscuring the nondisclosable information and performing the administrative review of the obscuring nondisclosable information as a part of direct costs. Most of the increase in revenue will offset the costs associated with working on the law enforcement recording. Any increase in revenue is likely to be minimal.

Under current law, direct costs are of 105% of the sum of the cost of initial development of a program, the labor to retrieve electronically stored data, and any medium used for electronic output. The bill specifies that if an attorney is providing the labor, then certain direct costs may not exceed reasonable attorney's fees. The fee for a copy of a law enforcement recording may not exceed \$150. The money collected from the fee would be retained by the public agency and used to purchase cameras and other equipment for use in connection with the agency's law enforcement recording program, for training concerning law enforcement recording, and to defray the expenses of storing, producing, and copying law enforcement recordings.

Court Fee Revenue: If fewer civil actions occur and court fees are collected, local governments would receive less revenue from both a portion of the civil costs fee and other fees that would be collected.

State Agencies Affected: State law enforcement agencies such as Indiana State Police, State Excise Police, and Department of Natural Resources Conservation Officers.

Local Agencies Affected: Local law enforcement agencies, trial courts, city and town courts.

Information Sources:

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