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1 A bill to be entitled
2 An act relating to public records; amending s.
3 119.071, F.S.; defining the terms "body camera," "law
4 enforcement officer," and "personal representative";
5 providing that a body camera recording is confidential
6 and exempt from public records requirements under
7 certain circumstances; providing exceptions; requiring
8 a law enforcement agency to retain body camera
9 recordings for at least a specified period; providing
10 for retroactive application; providing for future
11 legislative review and repeal of the exemption;
12 providing a statement of public necessity; providing
13 an effective date.

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15 Be It Enacted by the Legislature of the State of Florida:

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17 Section 1. Paragraph (1) is added to subsection (2) of
18 section 119.071, Florida Statutes, to read:

19 119.071 General exemptions from inspection or copying of
20 public records.—

21 (2) AGENCY INVESTIGATIONS.—

22 (1)1. As used in this paragraph, the term:

23 a. "Body camera" means a portable electronic recording
24 device that is worn on a law enforcement officer's body and that
25 records audio and video data in the course of the officer
26 performing his or her official duties and responsibilities.

27 b. "Law enforcement officer" has the same meaning as
28 provided in s. 943.10.

29 c. "Personal representative" means a parent, a court-

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30 appointed guardian, an attorney, or an agent of, or a person
31 holding a power of attorney for, a person recorded by a body
32 camera. If a person depicted in the recording is deceased, the
33 term also means the personal representative of the estate of the
34 deceased person; the deceased person's surviving spouse, parent,
35 or adult child; the deceased person's attorney or agent; or the
36 parent or guardian of a surviving minor child of the deceased.
37 An agent must possess written authorization of the recorded
38 person to act on his or her behalf.

39 2. A body camera recording, or a portion thereof, is
40 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
41 of the State Constitution if the recording:

- 42 a. Is taken within the interior of a private residence;
43 b. Is taken within the interior of a facility that offers
44 health care, mental health care, or social services; or
45 c. Is taken in a place that a reasonable person would
46 expect to be private.

47 3. Notwithstanding subparagraph 2., a body camera recording
48 may be disclosed by a law enforcement agency:

- 49 a. In furtherance of its official duties and
50 responsibilities; or
51 b. To another governmental agency in the furtherance of its
52 official duties and responsibilities.

53 4. A body camera recording, or a portion thereof, shall be
54 disclosed by a law enforcement agency:

- 55 a. To a person recorded by a body camera; however, a law
56 enforcement agency may disclose only those portions that are
57 relevant to the person's presence in the recording;
58 b. To the personal representative of a person recorded by a

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59 body camera; however, a law enforcement agency may disclose only
60 those portions that are relevant to the represented person's
61 presence in the recording;

62 c. To a person not depicted in a body camera recording if
63 the recording depicts a place in which the person lawfully
64 resided, dwelled, or lodged at the time of the recording;
65 however, a law enforcement agency may disclose only those
66 portions that record the interior of such a place.

67 d. Pursuant to a court order.

68 (I) In addition to any other grounds the court may consider
69 in determining whether to order that a body camera recording be
70 disclosed, the court shall consider whether:

71 (A) Disclosure is necessary to advance a compelling
72 interest;

73 (B) The recording contains information that is otherwise
74 exempt or confidential and exempt under the law;

75 (C) The person requesting disclosure is seeking to obtain
76 evidence to determine legal issues in a case in which the person
77 is a party;

78 (D) Disclosure would reveal information regarding a person
79 that is of a highly sensitive personal nature;

80 (E) Disclosure may harm the reputation or jeopardize the
81 safety of a person depicted in the recording;

82 (F) Confidentiality is necessary to prevent a serious and
83 imminent threat to the fair, impartial, and orderly
84 administration of justice;

85 (G) The recording could be redacted to protect privacy
86 interests; and

87 (H) There is good cause to disclose all or portions of a

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88 recording.

89 (II) In any proceeding regarding the disclosure of a body
90 camera recording, the law enforcement agency that made the
91 recording shall be given reasonable notice of hearings and shall
92 be given an opportunity to participate.

93 5. A law enforcement agency must retain a body camera
94 recording for at least 90 days.

95 6. The exemption provided in subparagraph 2. applies
96 retroactively.

97 7. This exemption does not supersede any other public
98 records exemption that existed before or is created after the
99 effective date of this exemption. Those portions of a recording
100 which are protected from disclosure by another public records
101 exemption shall continue to be exempt or confidential and
102 exempt.

103 8. This paragraph is subject to the Open Government Sunset
104 Review Act in accordance with s. 119.15 and shall stand repealed
105 on October 2, 2020, unless reviewed and saved from repeal
106 through reenactment by the Legislature.

107 Section 2. (1) The Legislature finds that it is a public
108 necessity that the following types of body camera recordings are
109 made confidential and exempt from s. 119.07(1), Florida
110 Statutes, and s. 24(a), Article I of the State Constitution:
111 recordings taken within the interior of a private residence;
112 recordings taken within the interior of a facility that offers
113 health care, mental health care, or social services; and
114 recordings taken in a place that a reasonable person would
115 expect to be private.

116 (2) The Legislature recognizes the increased prevalence of

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117 body cameras being used by law enforcement officers. Body
118 cameras preserve information that has the potential to assist
119 both law enforcement officers' and the public's ability to
120 review the circumstances surrounding an event in which law
121 enforcement intervention occurs.

122 (3) However, the Legislature also finds that, in certain
123 instances, audio and video recorded by body cameras is
124 significantly more likely to capture highly sensitive personal
125 information than other types of law enforcement recordings or
126 documents. The Legislature finds that public disclosure of these
127 recordings could have an undesirable chilling effect. People who
128 know they are being recorded by a body camera may be unwilling
129 to cooperate fully with law enforcement officers if they know
130 that a body camera recording can be made publicly available to
131 anyone else. People may also be less likely to call a law
132 enforcement agency for services if their sensitive personal
133 information or the circumstances that necessitate a law
134 enforcement agency's involvement are subject to public
135 dissemination as a body camera recording. The Legislature also
136 finds that body camera recordings could be used for criminal
137 purposes if they were available upon request. This exemption
138 from public records requirements allows law enforcement officers
139 to more effectively and efficiently administer their duties,
140 which would otherwise be significantly impaired. The Legislature
141 finds that these concerns regarding the impact of the public
142 records requirements for body camera recordings not only
143 necessitate the exemption of the recordings from public records
144 requirements, but also outweigh any public benefit that may be
145 derived from their disclosure.

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Section 3. This act shall take effect July 1, 2015.