

By Senator Thurston

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1                                   A bill to be entitled  
 2           An act relating to public records; amending s.  
 3           119.071, F.S.; creating an exception to the amount of  
 4           time that a law enforcement agency is required to  
 5           retain body camera recordings if a specified complaint  
 6           is filed in a court of law or with the law enforcement  
 7           agency; providing an effective date.

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

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 11           Section 1. Paragraph (1) of subsection (2) of section  
 12           119.071, Florida Statutes, is amended to read:

13           119.071 General exemptions from inspection or copying of  
 14           public records.—

15           (2) AGENCY INVESTIGATIONS.—

16           (1)1. As used in this paragraph, the term:

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

21           b. "Law enforcement officer" has the same meaning as  
 22           provided in s. 943.10.

23           c. "Personal representative" means a parent, a court-  
 24           appointed guardian, an attorney, or an agent of, or a person  
 25           holding a power of attorney for, a person recorded by a body  
 26           camera. If a person depicted in the recording is deceased, the  
 27           term also means the personal representative of the estate of the  
 28           deceased person; the deceased person's surviving spouse, parent,  
 29           or adult child; the deceased person's attorney or agent; or the

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30 parent or guardian of a surviving minor child of the deceased.  
31 An agent must possess written authorization of the recorded  
32 person to act on his or her behalf.

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

- 36 a. Is taken within the interior of a private residence;  
37 b. Is taken within the interior of a facility that offers  
38 health care, mental health care, or social services; or  
39 c. Is taken in a place that a reasonable person would  
40 expect to be private.

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

- 43 a. In furtherance of its official duties and  
44 responsibilities; or  
45 b. To another governmental agency in the furtherance of its  
46 official duties and responsibilities.

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

- 49 a. To a person recorded by a body camera; however, a law  
50 enforcement agency may disclose only those portions that are  
51 relevant to the person's presence in the recording;  
52 b. To the personal representative of a person recorded by a  
53 body camera; however, a law enforcement agency may disclose only  
54 those portions that are relevant to the represented person's  
55 presence in the recording;  
56 c. To a person not depicted in a body camera recording if  
57 the recording depicts a place in which the person lawfully  
58 resided, dwelled, or lodged at the time of the recording;

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59 however, a law enforcement agency may disclose only those  
60 portions that record the interior of such a place.

61 d. Pursuant to a court order.

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

65 (A) Disclosure is necessary to advance a compelling  
66 interest;

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

69 (C) The person requesting disclosure is seeking to obtain  
70 evidence to determine legal issues in a case in which the person  
71 is a party;

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

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

76 (F) Confidentiality is necessary to prevent a serious and  
77 imminent threat to the fair, impartial, and orderly  
78 administration of justice;

79 (G) The recording could be redacted to protect privacy  
80 interests; and

81 (H) There is good cause to disclose all or portions of a  
82 recording.

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

87 5. A law enforcement agency must retain a body camera

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88 recording for at least 90 days unless a complaint for which  
89 there is a body camera recording is filed in a court of law or  
90 with the law enforcement agency. In such case, the law  
91 enforcement agency must retain the body camera recording for the  
92 length of time that the complaint is open.

93 6. The exemption provided in subparagraph 2. applies  
94 retroactively.

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

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

105 Section 2. This act shall take effect July 1, 2017.