

FOR CONSIDERATION By the Committee on Criminal Justice

591-02072-20

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1 A bill to be entitled

2 An act relating to a review under the Open Government
3 Sunset Review Act; amending s. 119.071, F.S., which
4 provides an exemption from public records requirements
5 for body camera recordings obtained by law enforcement
6 officers under certain circumstances; making editorial
7 changes; removing the scheduled repeal of the
8 exemption; providing an effective date.

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

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12 Section 1. Paragraph (1) of subsection (2) of section
13 119.071, Florida Statutes, is amended to read:

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

16 (2) AGENCY INVESTIGATIONS.—

17 (1)1. As used in this paragraph, the term:

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

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

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

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

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

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

42 3. Notwithstanding subparagraph 2., a body camera
43 recording, or a portion thereof, may be disclosed by a law
44 enforcement agency:

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

49 4. Notwithstanding subparagraph 2., a body camera
50 recording, or a portion thereof, shall be disclosed by a law
51 enforcement agency:

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

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

64 d. Pursuant to a court order.

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

68 (A) Disclosure is necessary to advance a compelling
69 interest;

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

72 (C) The person requesting disclosure is seeking to obtain
73 evidence to determine legal issues in a case in which the person
74 is a party;

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

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

79 (F) Confidentiality is necessary to prevent a serious and
80 imminent threat to the fair, impartial, and orderly
81 administration of justice;

82 (G) The recording could be redacted to protect privacy
83 interests; and

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

86 (II) In any proceeding regarding the disclosure of a body
87 camera recording, the law enforcement agency that made the

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88 recording shall be given reasonable notice of hearings and shall
89 be given an opportunity to participate.

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

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

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

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

104 Section 2. This act shall take effect October 1, 2020.