

By Senator Bracy

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1 A bill to be entitled
2 An act relating to body camera recordings by law
3 enforcement officers; amending s. 119.071, F.S.;
4 defining the term "critical incident"; requiring a law
5 enforcement agency to disclose a body camera
6 recording, or a portion thereof, which depicts a
7 critical incident as soon as the recording ceases to
8 be active criminal intelligence information or active
9 criminal investigative information; increasing the
10 minimum amount of time for which law enforcement
11 agencies must retain body camera recordings; providing
12 an effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:

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

18 119.071 General exemptions from inspection or copying of
19 public records.—

20 (2) AGENCY INVESTIGATIONS.—

21 (1)1. As used in this paragraph, the term:

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

26 b. "Critical incident" means a body camera recording of any
27 of the following circumstances:

28 (I) A law enforcement officer discharging a firearm at
29 another individual, regardless of whether the individual is

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30 injured; or

31 (II) A law enforcement officer's use of force resulting in
32 the death or great bodily injury of another individual.

33 c. "Law enforcement officer" has the same meaning as
34 ~~provided~~ in s. 943.10.

35 ~~d.e.~~ "Personal representative" means a parent, a court-
36 appointed guardian, an attorney, or an agent of, or a person
37 holding a power of attorney for, a person recorded by a body
38 camera. If a person depicted in the recording is deceased, the
39 term also means the personal representative of the estate of the
40 deceased person; the deceased person's surviving spouse, parent,
41 or adult child; the deceased person's attorney or agent; or the
42 parent or guardian of a surviving minor child of the deceased.
43 An agent must possess written authorization of the recorded
44 person to act on his or her behalf.

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

- 48 a. Is taken within the interior of a private residence;
49 b. Is taken within the interior of a facility that offers
50 health care, mental health care, or social services; or
51 c. Is taken in a place that a reasonable person would
52 expect to be private.

53 3. Notwithstanding subparagraph 2., a body camera
54 recording, or a portion thereof, may be disclosed by a law
55 enforcement agency:

- 56 a. In furtherance of its official duties and
57 responsibilities; or
58 b. To another governmental agency in the furtherance of its

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59 official duties and responsibilities.

60 4. Notwithstanding subparagraph 2., a body camera
61 recording, or a portion thereof, shall be disclosed by a law
62 enforcement agency:

63 a. As soon as the recording ceases to be active criminal
64 intelligence information or active criminal investigative
65 information if the recording depicts a critical incident;

66 b. To a person recorded by a body camera; however, a law
67 enforcement agency may disclose only those portions that are
68 relevant to the person's presence in the recording;

69 ~~c.~~ To the personal representative of a person recorded by
70 a body camera; however, a law enforcement agency may disclose
71 only those portions that are relevant to the represented
72 person's presence in the recording;

73 ~~d.~~ To a person not depicted in a body camera recording if
74 the recording depicts a place in which the person lawfully
75 resided, dwelled, or lodged at the time of the recording;
76 however, a law enforcement agency may disclose only those
77 portions that record the interior of such a place; or

78 ~~e.~~ Pursuant to a court order.

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

82 (A) Disclosure is necessary to advance a compelling
83 interest;

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

86 (C) The person requesting disclosure is seeking to obtain
87 evidence to determine legal issues in a case in which the person

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88 is a party;

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

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

93 (F) Confidentiality is necessary to prevent a serious and
94 imminent threat to the fair, impartial, and orderly
95 administration of justice;

96 (G) The recording could be redacted to protect privacy
97 interests; and

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

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

104 5. A law enforcement agency must retain a body camera
105 recording for at least 365 ~~90~~ days.

106 6. The exemption provided in subparagraph 2. applies
107 retroactively.

108 7. This exemption does not supersede any other public
109 records exemption that existed before or is created after the
110 effective date of this exemption. Those portions of a recording
111 which are protected from disclosure by another public records
112 exemption shall continue to be exempt or confidential and
113 exempt.

114 Section 2. This act shall take effect July 1, 2021.