



108082

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2015	.	
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The Committee on Rules (Gibson) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

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

(2) AGENCY INVESTIGATIONS.—

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

a. "Body camera" means a portable electronic recording



108082

12 device that is worn on a law enforcement officer's body and that
13 records audio and video data in the course of the officer
14 performing his or her official duties and responsibilities.

15 b. "Law enforcement officer" has the same meaning as
16 provided in s. 943.10.

17 c. "Personal representative" means a parent , a court-
18 appointed guardian, an attorney, or an agent of, or a person
19 holding a power of attorney for, a person recorded by a body
20 camera. If a person depicted in the recording is deceased, the
21 term also means the personal representative of the estate of the
22 deceased person; the deceased person's surviving spouse, parent,
23 or adult child; the deceased person's attorney or agent; or the
24 parent or guardian of a surviving minor child of the deceased.
25 An agent must possess written authorization of the recorded
26 person to act on his or her behalf.

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

30 a. Is taken within the interior of a private residence;

31 b. Is taken within the interior of a facility that offers
32 health care, mental health care, or social services;

33 c. Is taken at the scene of a medical emergency involving a
34 death or involving an injury that requires transport to a
35 medical facility; or

36 d. Is taken in a place that a reasonable person would
37 expect to be private.

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

40 a. In furtherance of its official duties and



108082

41 responsibilities; or

42 b. To another governmental agency in the furtherance of its
43 official duties and responsibilities.

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

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

49 b. To the personal representative of a person recorded by a
50 body camera; however, a law enforcement agency may disclose only
51 those portions that are relevant to the represented person's
52 presence in the recording;

53 c. To a person not depicted in a body camera recording if
54 the recording depicts a place in which the person lawfully
55 resided, dwelled, or lodged at the time of the recording;
56 however, a law enforcement agency may disclose only those
57 portions that record the interior of such a place.

58 d. Pursuant to a court order.

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

62 (A) Disclosure is necessary to advance a compelling
63 interest;

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

66 (C) The person requesting disclosure is seeking to obtain
67 evidence to determine legal issues in a case in which the person
68 is a party;

69 (D) Disclosure would reveal information regarding a person



70 that is of a highly sensitive personal nature;

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

73 (F) Confidentiality is necessary to prevent a serious and
74 imminent threat to the fair, impartial, and orderly
75 administration of justice;

76 (G) The recording could be redacted to protect privacy
77 interests; and

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

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

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

86 6. The exemption provided in subparagraph 2. applies
87 retroactively.

88 7. This exemption does not supersede any other public
89 records exemption that existed before or is created after the
90 effective date of this exemption. Those portions of a recording
91 which are protected from disclosure by another public records
92 exemption shall continue to be exempt or confidential and
93 exempt.

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

98 Section 2. (1) The Legislature finds that it is a public



108082

99 necessity that the following types of body camera recordings are
100 made confidential and exempt from s. 119.07(1), Florida
101 Statutes, and s. 24(a), Article I of the State Constitution:
102 recordings taken within the interior of a private residence;
103 recordings taken within the interior of a facility that offers
104 health care, mental health care, or social services; recordings
105 taken at the scene of a medical emergency involving a death or
106 involving an injury that requires transport to a medical
107 facility; and recordings taken in a place that a reasonable
108 person would expect to be private.

109 (2) The Legislature recognizes the increased prevalence of
110 body cameras being used by law enforcement officers. Body
111 cameras preserve information in an objective manner that
112 enhances the ability of both law enforcement officers and the
113 public to review the circumstances surrounding an event in which
114 law enforcement intervention occurs. The availability of readily
115 observable and candid recordings increases transparency and
116 public confidence in law enforcement officers.

117 (3) However, the Legislature also finds that, in certain
118 instances, audio and video recorded by body cameras is
119 significantly more likely to capture highly sensitive personal
120 information than other types of law enforcement recordings or
121 documents. The Legislature finds that public disclosure of these
122 recordings could have an undesirable chilling effect. People who
123 know they are being recorded by a body camera may be unwilling
124 to cooperate fully with law enforcement officers if they know
125 that a body camera recording can be made publicly available to
126 anyone else. People may also be less likely to call a law
127 enforcement agency for services if their sensitive personal



108082

128 information or the circumstances that necessitate a law
129 enforcement agency's involvement are subject to public
130 dissemination as a body camera recording. The Legislature also
131 finds that body camera recordings could be used for criminal
132 purposes if they were available upon request. This exemption
133 from public records requirements allows law enforcement officers
134 to more effectively and efficiently administer their duties,
135 which would otherwise be significantly impaired. The Legislature
136 finds that these concerns regarding the impact of the public
137 records requirements for body camera recordings not only
138 necessitate the exemption of the recordings from public records
139 requirements, but also outweigh any public benefit that may be
140 derived from their disclosure.

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

142
143 ===== T I T L E A M E N D M E N T =====

144 And the title is amended as follows:

145 Delete everything before the enacting clause
146 and insert:

147 A bill to be entitled
148 An act relating to public records; amending s.
149 119.071, F.S.; defining the terms "body camera," "law
150 enforcement officer," and "personal representative";
151 providing that a body camera recording is confidential
152 and exempt from public records requirements under
153 certain circumstances; providing exceptions; requiring
154 a law enforcement agency to retain body camera
155 recordings for at least a specified period; providing
156 for retroactive application; providing for future



108082

157 legislative review and repeal of the exemption;
158 providing a statement of public necessity; providing
159 an effective date.