By the Committees on Governmental Oversight and Accountability; and Criminal Justice; and Senators Smith and Thompson

585-02410-15 2015248c2

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

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

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 device that is worn on a law enforcement officer's body and that records audio and video data of the officer's activities.
- b. "Personal representative" means a parent of, a courtappointed guardian of, or a person holding a power of attorney for a person recorded by a body camera, or an attorney for such person. If a person depicted in the recording is deceased, the

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term also means the personal representative of the estate of the deceased person; the deceased person's surviving spouse, parent, or adult child; the parent or guardian of a surviving minor child of the deceased; or an attorney for such person.

- 2. A body camera recording is confidential and exempt from s. 119.07(1) and s. 24 (a), Art. I of the state constitution if the recording:
 - a. Is taken within the interior of a private residence;
- b. Is taken on the property of a facility that offers health care, mental health care, or social services;
 - c. Is taken at the scene of a medical emergency;
- d. Is taken in a place where a person recorded or depicted in the recording has a reasonable expectation of privacy.
- 3. A body camera recording, or a portion thereof, shall be disclosed by a law enforcement agency:
- <u>a. In furtherance of its official duties and</u> responsibilities;
- b. To another governmental agency in the furtherance of its official duties and responsibilities;
 - c. Pursuant to a court order;
- d. To a person recorded by a body camera; however, a law enforcement agency may disclose only those portions that are relevant to the person's presence in the recording; or
- e. To the personal representative of a person recorded by a body camera; however, a law enforcement agency may disclose only those portions that are relevant to the represented person's presence in the recording.
- 4. A law enforcement agency must retain a body camera recording for at least 90 days.

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5. The exemption provided in subparagraph 2. applies retroactively.

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

Section 2. The Legislature finds that it is a public necessity that body camera recordings are confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. The Legislature finds that information recorded by body cameras is significantly more likely to capture highly sensitive personal information than other law enforcement recordings or documents. The Legislature finds that public disclosure of these recordings could have an undesirable chilling effect. People who know that they are being recorded by a body camera may be unwilling to fully cooperate with law enforcement officers if they know that a body camera recording can be made available to anyone in the public. People may also be less likely to call a law enforcement agency for services if their sensitive personal information or the circumstances that necessitate a law enforcement agency's involvement are subject to public dissemination as a body camera recording. The Legislature also finds that body camera recordings could be used for criminal purposes if they were available upon request. This exemption from public records requirements allows law enforcement officers to more effectively and efficiently administer their duties, which would otherwise be significantly impaired. The Legislature finds that these concerns regarding the impact of the public records requirements

585-02410-15 2015248c2 for body camera recordings not only necessitate the exemption of 88 the recordings from public records requirements but also 89 90 outweigh any public benefit that may be derived from the 91 disclosure of the recordings. Section 3. This act shall take effect July 1, 2015. 92