

2015248e1

1                   A bill to be entitled  
2           An act relating to public records; amending s.  
3           119.071, F.S.; defining the terms "body camera," "law  
4           enforcement officer," and "personal representative";  
5           providing that a body camera recording is confidential  
6           and exempt from public records requirements under  
7           certain circumstances; providing exceptions; requiring  
8           a law enforcement agency to retain body camera  
9           recordings for at least a specified period; providing  
10          for retroactive application; providing for future  
11          legislative review and repeal of the exemption;  
12          providing a statement of public necessity; providing  
13          an effective date.

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

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

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

21           (2) AGENCY INVESTIGATIONS.—

22           (1)1. As used in this paragraph, the term:

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

27           b. "Law enforcement officer" has the same meaning as  
28          provided in s. 943.10.

29           c. "Personal representative" means a parent, a court-

2015248e1

30 appointed guardian, an attorney, or an agent of, or a person  
31 holding a power of attorney for, a person recorded by a body  
32 camera. If a person depicted in the recording is deceased, the  
33 term also means the personal representative of the estate of the  
34 deceased person; the deceased person's surviving spouse, parent,  
35 or adult child; the deceased person's attorney or agent; or the  
36 parent or guardian of a surviving minor child of the deceased.  
37 An agent must possess written authorization of the recorded  
38 person to act on his or her behalf.

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

42 a. Is taken within the interior of a private residence;  
43 b. Is taken within the interior of a facility that offers  
44 health care, mental health care, or social services; or  
45 c. Is taken in a place that a reasonable person would  
46 expect to be private.

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

49 a. In furtherance of its official duties and  
50 responsibilities; or  
51 b. To another governmental agency in the furtherance of its  
52 official duties and responsibilities.

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

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

58 b. To the personal representative of a person recorded by a

2015248e1

59 body camera; however, a law enforcement agency may disclose only  
60 those portions that are relevant to the represented person's  
61 presence in the recording;

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

67 d. Pursuant to a court order.

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

71 (A) Disclosure is necessary to advance a compelling  
72 interest;

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

75 (C) The person requesting disclosure is seeking to obtain  
76 evidence to determine legal issues in a case in which the person  
77 is a party;

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

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

82 (F) Confidentiality is necessary to prevent a serious and  
83 imminent threat to the fair, impartial, and orderly  
84 administration of justice;

85 (G) The recording could be redacted to protect privacy  
86 interests; and

87 (H) There is good cause to disclose all or portions of a

2015248e1

88 recording.

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

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

95 6. The exemption provided in subparagraph 2. applies  
96 retroactively.

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

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

107 Section 2. (1) The Legislature finds that it is a public  
108 necessity that the following types of body camera recordings are  
109 made confidential and exempt from s. 119.07(1), Florida  
110 Statutes, and s. 24(a), Article I of the State Constitution:  
111 recordings taken within the interior of a private residence;  
112 recordings taken within the interior of a facility that offers  
113 health care, mental health care, or social services; and  
114 recordings taken in a place that a reasonable person would  
115 expect to be private.

116 (2) The Legislature recognizes the increased prevalence of

2015248e1

117 body cameras being used by law enforcement officers. Body  
118 cameras preserve information that has the potential to assist  
119 both law enforcement officers' and the public's ability to  
120 review the circumstances surrounding an event in which law  
121 enforcement intervention occurs.

122 (3) However, the Legislature also finds that, in certain  
123 instances, audio and video recorded by body cameras is  
124 significantly more likely to capture highly sensitive personal  
125 information than other types of law enforcement recordings or  
126 documents. The Legislature finds that public disclosure of these  
127 recordings could have an undesirable chilling effect. People who  
128 know they are being recorded by a body camera may be unwilling  
129 to cooperate fully with law enforcement officers if they know  
130 that a body camera recording can be made publicly available to  
131 anyone else. People may also be less likely to call a law  
132 enforcement agency for services if their sensitive personal  
133 information or the circumstances that necessitate a law  
134 enforcement agency's involvement are subject to public  
135 dissemination as a body camera recording. The Legislature also  
136 finds that body camera recordings could be used for criminal  
137 purposes if they were available upon request. This exemption  
138 from public records requirements allows law enforcement officers  
139 to more effectively and efficiently administer their duties,  
140 which would otherwise be significantly impaired. The Legislature  
141 finds that these concerns regarding the impact of the public  
142 records requirements for body camera recordings not only  
143 necessitate the exemption of the recordings from public records  
144 requirements, but also outweigh any public benefit that may be  
145 derived from their disclosure.

2015248e1

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