

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; revising  
 7           provisions for consistency; removing the scheduled  
 8           repeal of the exemption; providing an effective date.

9  
 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,  
 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
- 48 its 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  
56 a body camera; however, a law enforcement agency may disclose  
57 only those portions that are relevant to the represented  
58 person's presence in the recording;

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  
66 consider in determining whether to order that a body camera  
67 recording be 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  
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~~

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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.