By Representatives Givan, Moore (M), Morris, Rogers, Bracy, Jones, Jackson, Clarke, Ensler, Boyd, Travis, Gray, Hollis, McC Campbell, Lawrence, Chestnut, Warren, Tillman, Plump, Hassell, McClammy

RFD: Public Safety and Homeland Security

First Read: 11-Apr-23
2023 Regular Session
HB289 Enrolled

Enrolled, An Act,

Relating to law enforcement agency recordings; to provide for circumstances and procedures to disclose or release recordings made by body-worn cameras or dashboard cameras used by law enforcement agencies; and to provide who may request disclosure or release and the procedure for requesting disclosure or release of recordings.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. As used in this act, the following terms have the following meanings:

(1) BODY-WORN CAMERA. An operational video or digital camera or other electronic device, including a microphone or other mechanism to capture audio, affixed to the uniform or person of law enforcement agency personnel and positioned in a way that allows the camera or device to capture interactions between law enforcement agency personnel and others.

(2) CUSTODIAL LAW ENFORCEMENT AGENCY. The law enforcement agency that owns or leases or whose personnel operates the equipment that created the recording at the time the recording was made. If another law enforcement agency takes over the investigation of the recorded incident, that agency becomes the custodial law enforcement agency for the purposes of this act.

(3) DASHBOARD CAMERA. A device or system installed or used in a law enforcement agency vehicle that electronically records images or audio of interactions between law enforcement agency personnel and others. This term does not
include a body-worn camera.

(4) DISCLOSE or DISCLOSURE. To make a recording available for viewing or listening at a time and location chosen by the custodial law enforcement agency. This term does not include the release of a recording.

(5) PERSONAL REPRESENTATIVE. A parent, court-appointed guardian, spouse, or attorney of an individual whose image or voice is the subject of the recording. If an individual whose image or voice is the subject of the recording is deceased, the term also means the personal representative of the estate of the deceased individual; the deceased individual's surviving spouse, parent, or adult child; the deceased individual's attorney; or the parent or guardian of a surviving minor child of the deceased.

(6) RECORDING. A visual, audio, or visual and audio recording captured by a body-worn camera, a dashboard camera, or any other video or audio recording device operated by or on behalf of a law enforcement agency or law enforcement agency personnel when carrying out law enforcement responsibilities. This term does not include any video or audio recordings of interviews regarding agency internal investigations or interviews or interrogations of suspects or witnesses.

(7) RELEASE. To provide a copy of a recording.

Section 2. Recordings are not personnel records of any individual employed as a law enforcement officer by a municipality, sheriff's department, or any agency of the state.

Section 3. (a) Recordings in the custody of a law
enforcement agency shall be disclosed to an individual or personal representative only as provided by this act. This act does not apply to the exchange of recordings between law enforcement or prosecuting agencies. An individual requesting disclosure of a recording must make a written request to the head of the custodial law enforcement agency that states the date and approximate time of the activity captured in the recording or otherwise identifies the activity with reasonable particularity sufficient to identify the recording to which the request refers.

(b) Nothing in this act shall limit or restrict the application of the Alabama Rules of Civil Procedure as they may be applied to the custodial law enforcement agency, including, but not limited to Rule 45, nor Chapter 21 of Title 12, Code of Alabama 1975.

(c) A custodial law enforcement agency may only disclose a recording to the following:

(1) An individual whose image or voice is the subject of the recording.

(2) A personal representative of an adult individual whose image or voice is the subject of the recording if the adult individual has consented to the disclosure.

(3) A personal representative of a minor whose image or voice is the subject of the recording.

(4) A personal representative of an adult individual under lawful guardianship whose image or voice is the subject of the recording.

(5) A personal representative of an adult individual
who is incapacitated and unable to provide consent to disclosure whose image or voice is the subject of the recording.

(6) A personal representative of a deceased individual whose image or voice is the subject of the recording.

(d) When disclosing a recording, the custodial law enforcement agency shall disclose only those portions of the recording that are relevant to the individual's request.

(e) An individual who receives disclosure pursuant to this section shall not record or copy the recording.

Section 4. (a) Upon receipt of the written request for disclosure, as promptly as possible, the custodial law enforcement agency must do either of the following:

(1) Disclose the portion of the recording relevant to the individual's request.

(2) Notify the requestor of the custodial law enforcement agency's decision not to disclose the recording. A custodial law enforcement agency may choose to not disclose the recording if the disclosure would affect an ongoing active law enforcement investigation or prosecution.

(b) A custodial law enforcement agency may charge a reasonable fee for redaction and editing of a recording.

Section 5. Any recording subject to this act shall be retained for at least the period of time required by the applicable records retention and disposition schedule.

Section 6. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.
HB289 Enrolled

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Speaker of the House of Representatives

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President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and was passed by the House 24-May-23, as amended.

John Treadwell
Clerk

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Senate 01-Jun-23 Passed