

61.169 Attorney representing person or entity involved in body-worn camera recording incident -- Right to view copy of recording -- Limitations -- Sanctions.

- (1) Subject to the provisions of KRS 61.870 to 61.884 and the following requirements, a copy of a recording that may be viewed under KRS 61.168(5)(d) shall, upon request, be made for and provided to an attorney that:
 - (a) Is licensed to practice law in the Commonwealth of Kentucky;
 - (b) Represents the person or entity that is directly involved in the incident contained in the body-worn camera recording;
 - (c) Has not been disqualified under subsection (3) of this section; and
 - (d) Executes an affidavit in support of limited release regarding the attorney's responsibility for the care and custody of the copy of the recording that specifically stipulates that he or she:
 1. Will only use the recording for the sole purposes of evaluating or preparing for an existing or potential court case or administrative proceeding or in consulting with insurance companies on matters related to insurance coverage of incidents that are depicted in the recording;
 2. Will not distribute duplicate copies of the recording except for the sole purpose of having an expert or other professional consultant provide analysis to the attorney for the purposes of evaluating or preparing for an existing or potential court case or administrative proceeding or with an insurance company for the purposes of accessing claims coverage, settlement, or other matters involving an insurance contract;
 3. Will execute a contract with any expert, professional consultant, or insurance company that is provided a duplicate copy of the recording pursuant to this paragraph that requires the expert or professional consultant to be bound by the same limitations and requirements as the attorney for the care and custody of the recording as required by this paragraph;
 4. Will not allow individuals or others that are not under the attorney's control or supervision the ability to view the contents of the recording in any form except for the sole purpose of preparation for an existing or potential court or administrative proceeding, communications regarding matters related to insurance, or for the purposes of displaying the recording as evidence in any court or administrative proceeding;
 5. Will destroy any copy of the recording when the recording is no longer used for the purposes of this section or the court or administrative proceeding has been finally adjudicated to its conclusion; and
 6. Acknowledges that as an officer of the court, he or she may be subject to professional discipline or other legal liability for a breach of an affidavit executed under this section.
- (2) If an attorney violates an affidavit executed under subsection (1) of this section, the public agency shall refer the matter to the Kentucky Bar Association for it to

consider any appropriate action under the Kentucky Rules of Professional Conduct. The public agency may take any additional legal action against an attorney for such a violation.

- (3) Any attorney who has been disciplined under the Rules of Professional Conduct or has otherwise been found by a court of law to have violated an affidavit executed under subsection (1) of this section shall be disqualified from making any subsequent requests for copies of recordings under the provisions of this section.
- (4) A public agency that produces a copy of a recording pursuant to this section may treat the request for the recording as a commercial request and charge a reasonable fee for the costs of production as authorized under KRS 61.874(4)(c).

Effective: July 14, 2018

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