

1 AN ACT relating to disclosure of body-worn camera recordings.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) As used in this section:*

6 *(a) "Body-worn camera" means a video or audio electronic recording device*
7 *that is carried by or worn on the body of a public safety officer. This*
8 *definition does not include a dashboard mounted camera or recording*
9 *device used in the course of clandestine investigations;*

10 *(b) "Body-worn camera recording" or "recording" means a video or audio*
11 *recording, or both, that is made by a body-worn camera during the course*
12 *of a public safety officer's official duties;*

13 *(c) "Personal representative" means a court-appointed guardian, attorney, or*
14 *agent possessing written authorization to act on behalf of a person that is*
15 *involved in an incident contained in a body-worn camera recording, a*
16 *person holding a power of attorney for a person that is involved in an*
17 *incident contained in a body-worn camera recording, or the parent or*
18 *guardian of a minor child depicted in a body-worn camera recording. If a*
19 *person depicted in the recording is deceased, the term also means the*
20 *personal representative of the estate of the deceased person, the deceased*
21 *person's surviving spouse, parent, or adult child, the deceased person's*
22 *attorney, or the parent or guardian of a surviving minor child of the*
23 *deceased;*

24 *(d) "Public agency" has the same meaning as in KRS 61.870(1);*

25 *(e) "Public safety officer" means any individual that is an employee of a public*
26 *agency who is certified as a first responder under KRS Chapter 311A or*
27 *whose employment duties include law enforcement or firefighting activities;*

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and

(f) "Use of force" means any action by a public safety officer that results in death, substantial bodily injury, discharge of a personal body weapon, chemical agent, impact weapon, extended range impact weapon, sonic weapon, sensory weapon, conducted energy weapon, or a firearm.

(2) Except as provided in this section, the disclosure of body-worn camera recordings shall be governed by the Kentucky Open Records Act, as set forth in KRS 61.870 to 61.884.

(3) The retention of body-worn camera video recordings shall be governed by KRS 171.410 to 171.740, and the administrative regulations promulgated by the Kentucky Department of Libraries and Archives.

(4) Notwithstanding KRS 61.878(4), unless the request meets the criteria provided under subsection (5) of this section, a public agency may elect not to disclose body-worn camera recordings containing video or audio footage that:

(a) Includes the interior of a place of a private residence where there is a reasonable expectation of privacy;

(b) Includes the areas inside of a medical facility, counseling, or therapeutic program office where a patient is registered to receive treatment, receiving treatment, waiting for treatment, or being transported in the course of treatment;

(c) Would disclose health care information shared with patients, their families, or with a patient's care team or that is considered protected health information under the Health Insurance Portability and Accountability Act of 1996;

(d) Includes the areas inside of a correctional facility when disclosure would reveal details of the facility that would jeopardize the safety, security, or well-being of those in custody, the staff of the correctional facility, or law

- 1 enforcement officers;
- 2 (e) Is of a sexual nature or video footage that contains nude images of an
- 3 individual's genitals, pubic area, anus, or the female nipple;
- 4 (f) Is of a minor child, including but not limited to footage involving juvenile
- 5 custody matters;
- 6 (g) Includes the body of a deceased individual;
- 7 (h) Would reveal the identity of witnesses, confidential law enforcement
- 8 informants, or undercover law enforcement officers, or if the release could
- 9 jeopardize the safety, security, or well-being of a witness or confidential
- 10 informant;
- 11 (i) Would reveal the location information of a domestic violence program or
- 12 emergency shelter;
- 13 (j) Would reveal information related to schools, colleges, and universities that
- 14 is protected by the federal Family Educational Rights and Privacy Act;
- 15 (k) Would result in the disclosure of nonpublic or confidential data classified
- 16 Criminal Justice Information Services data by the Federal Bureau of
- 17 Investigation;
- 18 (l) Includes a public safety officer carrying out duties directly related to the
- 19 hospitalization of persons considered mentally ill;
- 20 (m) Includes the depiction of the serious injury or death of a public safety
- 21 officer; or
- 22 (n) Includes footage made in conjunction with any law enforcement exercise,
- 23 including, but not limited to, special response team actions, hostage
- 24 negotiations, or training events, where the public release of tactics,
- 25 operational protocol, or methodology would disadvantage the capability of
- 26 public safety officers to successfully respond in emergency or other
- 27 dangerous situations.

1 (5) If the recording contains video or audio footage that:

2 (a) Depicts an encounter between a public safety officer where there is a use of
3 force, the disclosure of the record shall be governed solely by the provisions
4 of KRS 61.870 to 61.884;

5 (b) Depicts an incident which leads to the detention or arrest of an individual
6 or individuals, the disclosure of the record shall be governed solely by the
7 provisions of KRS 61.870 to 61.884;

8 (c) Depicts an incident which is the subject of a formal complaint submitted
9 against a public safety officer under KRS 15.520 or 95.450, or depicts an
10 incident which is the subject of a formal legal or administrative complaint
11 against the agency employing the public safety officer, the release of the
12 record shall be governed by the provisions of KRS 61.870 to 61.884;

13 (d) Is requested by a criminal defendant or an attorney representing the
14 criminal defendant, it shall be disclosed to the defendant or his or her
15 attorney if the recording is relevant to the defendant's pending criminal
16 action; or

17 (e) Is requested by a person or other entity or the personal representative of a
18 person or entity that is directly involved in the incident contained in the
19 body-worn camera recording, it shall be made available by the public
20 agency to the requesting party for viewing on the premises of the public
21 agency but no copies shall be made. The requesting parties shall not be
22 limited in the number of times they may view the recording under this
23 paragraph.

24 (6) Nothing in this section shall be interpreted to override any provision related to:

25 (a) Reports by law enforcement officers and criminal justice agencies under
26 KRS 17.150; or

27 (b) The law and rules governing discovery in either criminal or civil litigation,

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or in any administrative proceeding.