

**DRAFT DOCUMENT: NOT OFFICIAL LEGISLATION**

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SYNOPSIS:

Under existing law, a recording made by a body-worn camera or dashboard camera used by law enforcement agencies may only be disclosed to an individual or a personal representative of an individual whose image or voice is the subject of the recording.

This bill would allow a recording made by a body-worn camera or dashboard camera used by law enforcement to be considered a public record, making the recording subject to public inspection.

This bill would require the custodial law enforcement agency to release the recording within 30 days of the request.

This bill would also provide for an appeals process if a law enforcement agency fails to provide a requested recording.

A BILL  
TO BE ENTITLED  
AN ACT

Relating to law enforcement agency recordings; to amend Sections 36-21-210, 36-21-212, and 36-21-213, as created by

29 Act 2023-507, 2023 Regular Session, Code of Alabama 1975; to  
30 provide for circumstances to release recordings made by  
31 body-worn cameras or dashboard cameras used by law enforcement  
32 agencies; and to provide an appeal process if a law  
33 enforcement agency fails to release a recording.

34 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

35 Section 1. Sections 36-21-210, 36-21-212, and  
36 36-21-213, as created by Act 2023-507, 2023 Regular Session,  
37 Code of Alabama 1975, are amended to read as follows:

38 "§36-21-210

39 As used in this act, the following terms have the  
40 following meanings:

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

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

54 (3) DASHBOARD CAMERA. A device or system installed or  
55 used in a law enforcement agency vehicle that electronically  
56 records images or audio of interactions between law

57 enforcement agency personnel and others. This term does not  
58 include a body-worn camera.

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

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

72 (4) ~~(6)~~ RECORDING. A visual, audio, or visual and audio  
73 recording captured by a body-worn camera, a dashboard camera,  
74 or any other video or audio recording device operated by or on  
75 behalf of a law enforcement agency or law enforcement agency  
76 personnel when carrying out law enforcement responsibilities.  
77 This term does not include any video or audio recordings of  
78 interviews regarding agency internal investigations or  
79 interviews or interrogations of suspects or witnesses.

80 ~~(7) RELEASE. To provide a copy of a recording."~~

81 "§36-21-212

82 (a) Recordings in the custody of a law enforcement  
83 agency shall be ~~disclosed to an individual or personal~~  
84 ~~representative only as provided by this article. This article~~

85 ~~does not apply to the exchange of recordings between law~~  
86 ~~enforcement or prosecuting agencies~~ deemed a public record  
87 under Section 36-12-40, and subject to public inspection as  
88 otherwise provided by law. An individual requesting ~~disclosure~~  
89 release of a recording must make a written request to the head  
90 of the custodial law enforcement agency that states the date  
91 and approximate time of the activity captured in the recording  
92 or otherwise identifies the activity with reasonable  
93 particularity sufficient to identify the recording to which  
94 the request refers.

95 (b) Nothing in this article shall limit or restrict the  
96 application of the Alabama Rules of Civil Procedure as they  
97 may be applied to the custodial law enforcement agency,  
98 including, but not limited to Rule 45, nor Chapter 21 of Title  
99 12.

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

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

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

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

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

112 ~~(5) A personal representative of an adult individual~~

113 ~~who is incapacitated and unable to provide consent to~~  
114 ~~disclosure whose image or voice is the subject of the~~  
115 ~~recording.~~

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

118 (c) ~~(d)~~ When ~~disclosing~~ releasing a recording, the  
119 custodial law enforcement agency shall ~~disclose~~ release only  
120 those portions of the recording that are relevant to the  
121 individual's request.

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

124 (d) (1) An individual who requests the release of a  
125 recording which is denied by a law enforcement agency may file  
126 a petition in the circuit court of the county where the  
127 individual resides or where the law enforcement agency is  
128 located for judicial review.

129 (2) A circuit court may uphold a denial to release a  
130 recording only if the release would substantially interfere  
131 with an ongoing investigation, including, but not limited to,  
132 endangering the safety of a witness or a confidential source."

133 "§36-21-213

134 ~~(a) Upon~~ Within 30 days of receipt of the written  
135 request for ~~disclosure~~ release and payment of a reasonable  
136 fee, not to exceed the cost of producing the recording, ~~as~~  
137 ~~promptly as possible,~~ the custodial law enforcement agency  
138 shall ~~do either of the following:~~

139 ~~(1) Disclose~~ release the portion of the recording  
140 relevant to the individual's request.

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

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

148 Section 2. This act shall become effective on October  
149 1, 2024.