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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§36-21-210

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 article.

(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

Page 2
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.

(4)(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."

"§36-21-212
(a) Recordings in the custody of a law enforcement agency shall be disclosed to an individual or personal representative only as provided by this article. This article
does not apply to the exchange of recordings between law enforcement or prosecuting agencies deemed a public record under Section 36-12-40, and subject to public inspection as otherwise provided by law. An individual requesting disclosure release 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 article 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.

(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.

(c)(d) When disclosing releasing a recording, the custodial law enforcement agency shall disclose release 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.

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

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

"§36-21-213

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

(1) Disclose release 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 2. This act shall become effective on October 1, 2024.