

1           **LAW ENFORCEMENT RECORDING RELEASE AMENDMENTS**

2   2022 GENERAL SESSION

3   STATE OF UTAH

4                           **Chief Sponsor: Mark A. Wheatley**

5   Senate Sponsor: Todd D. Weiler

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7   **LONG TITLE**

8   **General Description:**

9           This bill mandates the release of law enforcement video recordings in certain situations.

10 **Highlighted Provisions:**

11          This bill:

12           ▶ requires in certain situations the release of the recording of a law enforcement  
13 incident that resulted in death or bodily injury, or when an officer fired a weapon;  
14 and

15           ▶ makes technical and conforming changes.

16 **Money Appropriated in this Bill:**

17          None

18 **Other Special Clauses:**

19          None

20 **Utah Code Sections Affected:**

21 AMENDS:

22           **77-7a-107**, as last amended by Laws of Utah 2018, Chapter 71

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24 *Be it enacted by the Legislature of the state of Utah:*

25          Section 1. Section **77-7a-107** is amended to read:

26          **77-7a-107. Retention and release of recordings.**

27           (1) (a) Any recording made by an officer while on duty or acting in the officer's official  
28 capacity as a law enforcement officer shall be retained in accordance with applicable federal,

29 state, and local laws.

30 (b) Any recording made by an officer while on duty or acting in the officer's official  
31 capacity as a law enforcement officer may not be retained, electronically or otherwise, by a  
32 private entity if the private entity has any authority to:

33 (i) withhold the recording; or

34 (ii) prevent the political subdivision from accessing or disclosing the recording.

35 (c) (i) Notwithstanding Subsection (1)(b), a political subdivision may continue to retain  
36 a recording in a manner prohibited under Subsection (1)(b) if the political subdivision is under  
37 contract with a private entity on May 7, 2018, and the contract includes terms prohibited by  
38 Subsection (1)(b).

39 (ii) A political subdivision may not renew a contract described in Subsection (1)(c)(i).

40 (d) This Subsection (1) does not prohibit a political subdivision from using a private  
41 entity's retention or redaction service if the private entity does not have authority to:

42 (i) withhold the recording; or

43 (ii) prevent the political subdivision from accessing or disclosing the recording.

44 (2) (a) ~~Any~~ Except as provided in Subsection (3)(e), a release of ~~recordings~~ a  
45 recording made by an officer while on duty or acting in the officer's official capacity as a law  
46 enforcement officer ~~shall be~~ is subject to Title 63G, Chapter 2, Government Records Access  
47 and Management Act.

48 (b) Notwithstanding any other provision in state or local law, a person who requests  
49 access to ~~the recordings~~ a recording may immediately appeal to a district court, as provided in  
50 Section 63G-2-404, any denial of access to a recording based solely on Subsection  
51 63G-2-305(10)(b) or (c) due to a pending criminal action that has been filed in a court of  
52 competent jurisdiction.

53 (3) (a) A person may request from a law enforcement agency the release of a recording  
54 of an incident between an officer and an individual that results in death or serious bodily injury,  
55 or during which an officer fires a weapon.

56 (b) A person shall make a request under Subsection (3)(a) to the law enforcement  
57 agency responsible for creating the recording described in Subsection (3)(a).

58 (c) The law enforcement agency described in Subsection (3)(b) shall direct a records  
59 custodian in possession of a recording described in Subsection (3)(a) to release the recording to  
60 the requesting party under Subsection (3)(a) within 10 days after the day on which one of the  
61 following occurs:

62 (i) the prosecuting agency declines to file a criminal action related to the incident;

63 (ii) (A) the prosecuting agency files a criminal action related to the incident;

64 (B) the judge adjudicating the criminal action is notified by the prosecutor or the  
65 defendant of the request to release the recording; and

66 (C) the judge determines that the release of the recording would not have a substantial  
67 likelihood of prejudicing a finder of fact in the criminal action; or

68 (iii) if more than 10 days have passed since the day on which the events described in  
69 Subsection (3)(c)(i) or (3)(c)(ii) occurred, the day on which the law enforcement agency  
70 described in Subsection (3)(b) receives the request under Subsection (3)(a).

71 (d) Notwithstanding Subsection (3)(a) or (c), a law enforcement agency may not, in  
72 response to a request under Subsection (3)(a), direct a records custodian in possession of a  
73 recording to release the recording if the law enforcement agency is notified that one of the  
74 following individuals has requested that the recording not be publicly distributed:

75 (i) an individual injured in the incident described in Subsection (3)(a); or

76 (ii) an immediate family member of an individual injured or killed in the incident  
77 described in Subsection (3)(a).

78 (e) The provisions of Title 63G, Chapter 2, Government Records Access and  
79 Management Act, do not apply to this Subsection (3).