

Representative Mark A. Wheatley proposes the following substitute bill:

LAW ENFORCEMENT RECORDING RELEASE AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mark A. Wheatley

Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

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

and

▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

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).