

HOUSE BILL 413

By Lamar

AN ACT to amend Tennessee Code Annotated, Title 10,
Chapter 7, Part 5, relative to open records.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 10-7-504(u), is amended by deleting the subsection and substituting instead the following:

(1) Video taken by a law enforcement body camera is open for personal inspection by any citizen of this state, and those in charge of the records must not refuse such right of inspection to any citizen, unless the video depicts the following, and then the video must be held as confidential:

(A) Minors, when taken within a school that serves any grades from kindergarten through grade twelve (K-12);

(B) The interior of a facility licensed under title 33 or title 68; or

(C) The interior of a private residence that is not being investigated as a crime scene.

(2) This subsection (u) does not prevent the district attorney general or attorney general and reporter and counsel for a defendant charged with a criminal offense from providing to each other in a pending criminal case or appeal, where the constitutional rights of the defendant require it, information that otherwise may be held confidential under this subsection (u).

(3) This subsection (u) does not limit or deny access to otherwise public information because a file, document, or data file contains some information made confidential by subdivision (u)(1); provided, that confidential information is redacted before any access is granted to a member of the public.

(4)

(A) This subsection (u) does not limit access to records by law enforcement agencies, courts, or other governmental agencies performing official functions.

(B) This subsection (u) does not limit access to recordings by an attorney licensed to practice law in this state who represents a person or entity that is directly involved in the incident contained in the law enforcement body camera recording.

(C) To obtain a copy of a law enforcement body camera recording held confidential under this subsection (u), an attorney must execute an affidavit in support of limited release regarding the attorney's responsibility for the care and custody of the copy of the recording that specifically stipulates that the attorney:

(i) Will only use the recording for the sole purposes of evaluating or preparing for an existing or potential court case, administrative proceeding, or in consulting with insurance companies on matters related to insurance coverage of incidents that are depicted in the recording;

(ii) Will not distribute duplicate copies of the recording except for the sole purpose of having an expert or other professional consultant provide analysis to the attorney for the purposes of evaluating or preparing for an existing or potential court case, administrative proceeding, or with an insurance company for the purposes of accessing claims coverage, settlement, or other matters involving an insurance contract;

(iii) Will execute a contract with any expert, professional consultant, or insurance company that is provided a duplicate copy of the recording that requires the expert, professional consultant, or insurance company to be bound by the same limitations and requirements as the

attorney for the care and custody of the recording as required by this subdivision (u)(4)(C);

(iv) Will not allow individuals or others that are not under the attorney's control or supervision the ability to view the contents of the recordings in any form except for the sole purpose of preparation for an existing or potential court or administrative proceeding, communications regarding matters related to insurance, or for the purposes of displaying the recording as evidence in any court or administrative proceeding;

(v) Will destroy any copy of the recording when the recording is no longer used for the purposes of this subdivision (u)(4)(C), or the court or administrative proceeding has been finally adjudicated; and

(vi) Acknowledges that as an officer of the court, the attorney may be subject to professional discipline or other legal liability for a breach of an affidavit executed under this subdivision (u)(4)(C).

(C) An attorney requesting a copy of a law enforcement body camera recording under this subdivision (u)(4)(C) may request that a digital copy of the recording be mailed or emailed to the attorney, at the expense of the requesting attorney.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.