

20200743D

HOUSE BILL NO. 5091

Offered August 19, 2020

A BILL to amend the Code of Virginia by adding in Chapter 6 of Title 9.1 a section numbered 9.1-601, relating to required release of video or audio recording; discharge of firearm or use of stun gun or chemical irritant by law-enforcement officer.

Patrons—Rasoul, Adams, D.M., Aird, Carr, Carroll Foy, Cole, J.G., Gooditis, Guzman, Hayes, Hope, Hurst, Jenkins, Kory, Levine, McQuinn, Murphy, Plum, Price and Samirah; Senator: Hashmi

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 6 of Title 9.1 a section numbered 9.1-601 as follows:

§ 9.1-601. Required release of video or audio recording; discharge of firearm or use of stun gun or chemical irritant by law-enforcement officer.

A. As used in this section, "chemical irritant" includes tear gas, mustard gas, phosgene gas, or other noxious or nauseating gases or mixtures of chemicals designed to produce, and capable of producing, vile or injurious or nauseating odors or gases.

B. Whenever a law-enforcement officer as defined in § 9.1-101 (i) discharges a firearm or (ii) uses a stun gun or chemical irritant on a person resulting in death or serious bodily injury, any video or audio recording that relates to such incident produced or obtained by a law-enforcement officer shall be open to inspection and available for release and posted on a website that is maintained by the law-enforcement agency or on any other website on which the law-enforcement agency generally posts information and that is available to the public or that clearly describes how the public may access such data within 15 days of the incident, unless:

1. The release of the video or audio recording is likely to jeopardize an ongoing investigation or prosecution or the safety of an individual, cause a suspect to flee or evade detection, or result in the destruction of evidence, in which case such video or audio recording may be withheld until such damage is no longer likely to occur from release of the video or audio recording.

2. The release of the video or audio recording would jeopardize the safety or privacy of any person depicted in the recording, in which case the law-enforcement agency shall, if possible, use redaction technology, including blurring or distorting images or audio, to obscure those specific portions of the recording that jeopardize any person's safety or privacy. However, the redaction shall not interfere with the viewer's ability to fully, completely, and accurately comprehend the events captured in the recording and the recording shall not otherwise be edited or altered. If the safety or privacy of a person depicted in the recording cannot adequately be protected through redaction and the interest in protecting such person's safety or privacy outweighs the public interest in release, such video or audio recording may be withheld.

3. The release of the video or audio recording would result in disclosure of information prohibited or restricted under § 19.2-11.2.

C. Any person denied the rights and privileges conferred by this section may proceed to enforce such rights and privileges by filing a petition for mandamus or injunction pursuant to § 2.2-3713 of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

INTRODUCED

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