



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-5546/1
CMH:skw&cde

2023 ASSEMBLY BILL 1224

April 11, 2024 - Introduced by Representatives CLANCY, STUBBS, HONG, BALDEH and MADISON, cosponsored by Senators LARSON and ROYS. Referred to Committee on Criminal Justice and Public Safety.

AN ACT *to amend* 165.87 (1) (c) and (d), 165.87 (3) (e) and 175.47 (5) (b); and *to create* 66.0511 (4) of the statutes; **relating to:** release of audio and video footage following officer-involved deaths or other critical incidents involving a law enforcement officer.

Analysis by the Legislative Reference Bureau

Current law provides what data from body camera footage a law enforcement agency must keep confidential in response to an open records request and provides when reports to the district attorney following an officer-involved death must be released to the public and what material may be deleted from those reports.

This bill creates a requirement for law enforcement agencies to release data to the public if the data relate to certain incidents. The incidents for which data must be released are an officer-involved death, any occurrence that results in great bodily harm or death in the presence or custody of a law enforcement officer regardless of whether it was caused by the law enforcement officer, or an incident involving a death if the incident also involves a discharge of a firearm by a law enforcement officer regardless of the cause of death. The bill defines "data" to include footage from a law enforcement body camera or car camera, audio recordings of emergency phone calls, video captured by a law enforcement agency, and other video or recordings from the public that the law enforcement agency possesses. The bill

ASSEMBLY BILL 1224**SECTION 1**

provides that the law enforcement agency must release the data within 15 days of the incident.

The bill exempts certain data from the requirement to be released. Under the bill, a law enforcement agency may redact, distort, edit, or withhold the exempted data in accordance with the exemption. Data that are exempted include data that are required to be kept confidential under law; data that are requested to be kept confidential by a crime victim; and data that are redacted or edited to protect privacy interests, to obscure nudity or disturbing images, or to protect the identity of confidential informants or other strategies for crime detection or investigation. Under the bill, if a law enforcement agency alters data as permitted by the bill, the agency must retain the unaltered data.

Under the bill, a law enforcement agency that is subject to the bill's requirement to release data must make reasonable attempts to notify others within 48 hours of the incident that creates the requirement to release the data. The persons who must be notified are an individual who is permitted to request that the data be altered, an employee of the law enforcement agency that can be identified in the data and any union representative of the employee, the office of the district attorney, and an individual who can be identified in the data if the individual is under 18 or a victim.

The bill does not change current law regarding data from body cameras that are not covered by this bill.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 66.0511 (4) of the statutes is created to read:

66.0511 (4) RELEASE OF DATA TO PUBLIC. (a) In this subsection:

1. "Critical incident" means any occurrence of great bodily harm, as defined in s. 939.22 (14), or death to an individual in the presence or custody of a law enforcement officer regardless of whether it was caused by the law enforcement officer.

2. "Data" includes all data from a body camera, data from a camera from a vehicle used by a law enforcement officer, audio recordings of emergency phone calls, video or other recordings captured by a law enforcement agency, and video or

ASSEMBLY BILL 1224**SECTION 1**

other recordings captured by members of the public that are in the possession of a law enforcement agency.

3. "Release" means to make viewable and printable to the public via a digital platform at no charge.

4. "Victim" has the meaning given in s. 950.02 (4) (a)

(b) A law enforcement agency shall release data relating to any of the following incidents within 15 days of the incident:

1. Subject to s. 175.47 (5) (b), an officer-involved death, as defined in s. 175.47 (1) (c), involving an officer employed by the law enforcement agency.

2. A critical incident involving a law enforcement officer employed by the law enforcement agency.

3. An incident involving the death of an individual if the incident involved the discharge of a firearm by a law enforcement officer employed by the law enforcement agency regardless of whether the death resulted from the firearm discharge.

(c) Data released under par. (b) shall include at a minimum data relating to the actions and events leading up to the incident, including video and audio if available. A law enforcement agency is not required to release duplicative or redundant data except that, if a member of the public requests a copy of data released under par. (b), the law enforcement agency shall provide the data in the form requested and may charge only for the actual cost of the materials needed to provide the data in that form.

(d) The following data are exempt from the requirement under par. (b) and the

ASSEMBLY BILL 1224**SECTION 1**

data may be redacted, distorted, or edited, or withheld completely, in accordance with the confidentiality afforded by the exemption:

1. Data that are covered by 18 USC 2721.
2. Records that are confidential under s. 48.396 (1), 165.68 (4) (d) 1., or 938.396 (1) (a).
3. Data that are requested to be kept confidential by an adult victim of a crime that is pertinent to the data if the victim is identifiable in the data; by a parent or legal guardian of a victim of a crime that is pertinent to the data if the victim is not an adult and is identifiable in the data; or by an adult family member or cohabitant of a deceased victim of a crime that is pertinent to the data if the victim is identifiable in the data.
4. Data that are redacted or edited for any of the following reasons:
 - a. To protect the privacy interests of individuals who are identifiable in the data.
 - b. To obscure images depicting nudity or great bodily injury or to obscure images or sounds that could be disturbing.
 - c. To protect confidential medical or mental health information.
 - d. To protect the identity of an informant.
 - e. To prevent the disclosure of confidential strategies for crime detection, prevention, and investigation.
 - f. To prevent the loss of state or federal aid.
 - g. To prevent a security risk at a secured facility.
 - h. To mitigate a particularized, specific risk to a specified person's safety.

ASSEMBLY BILL 1224**SECTION 1**

(e) A law enforcement agency may not alter data that are subject to the requirement under par. (b) except as provided in par. (d), and if a law enforcement agency alters data as provided in par. (d), the law enforcement agency must retain the unaltered data consistent with its records retention policy.

(f) 1. A law enforcement agency that has possession of data that may be subject to alteration under par. (d) at the request of another person shall make reasonable attempts to notify the person and provide the person an opportunity to review the data within 48 hours of the incident. This subdivision does not apply if there is reasonable suspicion that the person is a witness to or otherwise involved in the incident.

2. A law enforcement agency that has possession of data that are subject to the requirement under par. (b) shall notify the following persons, or an attorney representing the person, at least 48 hours before release and provide the following persons an opportunity to review the data before release:

a. An employee of the law enforcement agency who can be identified in the data or who is significantly involved in the incident that is the subject of the data and any union that represents the employee.

b. An individual who can be identified in the data if an employee of the law enforcement agency used force against him or her.

c. An individual who can be identified in the data if the individual is under 18 years of age.

d. An individual who can be identified in the data if the individual is a victim of a crime that is pertinent to the data.

ASSEMBLY BILL 1224**SECTION 1**

e. The office of the district attorney with jurisdiction.

SECTION 2. 165.87 (1) (c) and (d) of the statutes are amended to read:

165.87 (1) (c) Train all employees that use, maintain, store, or release data from a body camera on the policy under par. (a) and on the requirements under subs. (2) and (3) and s. 66.0511 (4).

(d) Periodically review practices regarding the body cameras and data from body cameras to ensure compliance with the policy under par. (a) and the requirements under subs. (2) and (3) and s. 66.0511 (4).

SECTION 3. 165.87 (3) (e) of the statutes is amended to read:

165.87 (3) (e) ~~Nothing~~ This subsection does not apply to data that are subject to s. 66.0511 (4) (b), and nothing in this subsection prohibits the release of data from a body camera under s. 175.47 (5) (b).

SECTION 4. 175.47 (5) (b) of the statutes is amended to read:

175.47 (5) (b) If the district attorney determines there is no basis to prosecute the law enforcement officer involved in the officer-involved death, the investigators conducting the investigation under sub. (3) (a) shall release the report, except that the investigators shall, before releasing the report, delete any information that would not be subject to ~~disclosure pursuant to a request~~ release under s. ~~19.35 (1)~~ 66.0511 (4) (d).

(END)