

FAILED



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 972

AMENDMENT NO. A5
(to be filled in by
Principal Clerk)

H972-ASA-199 [v.1]

Page 1 of 3

Amends Title [NO]
Third Edition

Date _____, 2016

Representative FISHER

1 moves to amend the bill on page 2, line 14 through page 3, line 47
2 by rewriting those lines to read:

3 "(c) Disclosure; General. – A custodial law enforcement agency shall disclose a recording
4 or portion of a recording to a person who is depicted in a recording or portion of a recording, or
5 that person's personal representative upon request. When disclosing the recording, the law
6 enforcement agency shall disclose only those portions of the recording that are relevant to the
7 person's presence in the recording. A law enforcement agency is not required to consider a request
8 for the disclosure of a recording unless the person requesting disclosure states the date and
9 approximate time of the incident or encounter captured by the recording or otherwise identifies the
10 incident or encounter with reasonable particularity.

11 (d) Release of Recordings; Compelling Public Interest. – There is a presumption that a
12 custodial law enforcement agency will release a recording or portion of a recording to any person
13 upon request, if it is determined that the recording depicts a compelling public interest such as an
14 encounter portraying use of force by a law enforcement officer that results in serious bodily injury
15 or death. A law enforcement agency is not required to consider a request of the release of a copy
16 of a recording unless the person requesting release states the date and approximate time of the
17 incident or encounter captured by the recording or otherwise identifies the incident or encounter
18 with reasonable particularity.

19 The head law enforcement officer of any law enforcement agency may overcome the
20 presumption in favor of releasing a recording that depicts a compelling public interest by applying
21 to the superior court in any county where any portion of the recording was made for an order
22 restricting the release of the recording based on substantial justification. The court shall have
23 jurisdiction to issue such orders. Actions brought pursuant to this subsection shall be set down for
24 immediate hearing and subsequent proceedings in such actions shall be accorded priority by the
25 trial and appellate courts. In any proceeding regarding restricting release of any recording
26 depicting a compelling public interest, the person seeking release or disclosure or that person's
27 personal representative shall be given an opportunity to participate in the proceeding. The court
28 shall release only those portions of the recording that are relevant to the person's request.

29 (e) Release of Recordings; General; Court Order Required. – Recordings in the custody of
30 a law enforcement agency that do not depict a matter of compelling public interest shall only be
31 released pursuant to a court order. Any custodial law enforcement agency or any person
32 requesting release of a recording may file an action in the superior court or any county where any



* H 9 7 2 - A S A - 1 9 9 - V - 1 *

NORTH CAROLINA GENERAL ASSEMBLY

^ AMENDMENT

House Bill 972

FAILED

AMENDMENT NO. A5

(to be filled in by
Principal Clerk)

H972-ASA-199 [v.1]

Page 2 of 3

1 portion of the recording was made for an order releasing the recording. A request for release must
2 state the date and approximate time of the activity captured in the recording, or otherwise identify
3 the activity with reasonable particularity sufficient to identify the recording to which the action
4 refers. The court may conduct an in camera review of the recording. In determining whether to
5 order the release of all or a portion of the recording, in addition to any other standards the court
6 deems relevant, the court shall consider the applicability of all of the following standards:

- 7 (1) The recording contains information that is otherwise confidential or exempt
8 from disclosure or release under State or federal law.
9 (2) The person requesting release is seeking to obtain evidence to determine legal
10 issues in a current or potential court proceeding.
11 (3) Release would reveal information regarding a person that is of a highly
12 sensitive personal nature.
13 (4) Release may harm the reputation or jeopardize the safety of a person.
14 (5) Release would create a serious threat to the fair, impartial, and orderly
15 administration of justice.
16 (6) Confidentiality is necessary to protect an internal or criminal investigation, or
17 potential internal or criminal investigation.
18 (7) There is good cause shown to release the recording.

19 The court shall release only those portions of the recording that are relevant to the person's
20 request.

21 In any proceeding pursuant to this subsection, the following persons shall be notified and those
22 persons, or their designated representative, shall be given an opportunity to be heard at any
23 proceeding: (i) the head of the custodial law enforcement agency, (ii) any law enforcement agency
24 personnel whose image or voice is in the recording and the head of that person's employing law
25 enforcement agency, and (iii) the District Attorney. Actions brought pursuant to this subsection
26 shall be set down for hearing as soon as practicable and subsequent proceedings in such actions
27 shall be accorded priority by the trial and appellate courts.";

28
29 And on page 3, line 48 by deleting "(g)" and inserting "(f)";

30
31 And on page 3, line 49 by deleting "(f)" and inserting "(e)";

32
33 And on page 4, line 7 by deleting "(h)" and inserting "(g)";

34
35 And on page 4, line 11 by deleting "(i)" and inserting "(h)";

36
37 And on page 4, line 13 by deleting "(j)" and inserting "(i)";

38
39 And on page 4, line 16 by deleting "(k)" and inserting "(j)";

40
41 And on page 4, line 19 by deleting "(l)" and inserting "(k)".

NORTH CAROLINA GENERAL ASSEMBLY

AMENDMENT

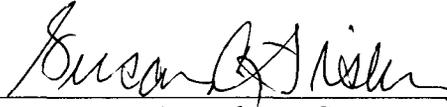
House Bill 972

FAILED

AMENDMENT NO. A5
(to be filled in by
Principal Clerk)

H972-ASA-199 [v.1]

Page 3 of 3

SIGNED 
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

**The official copy of this document, with signatures
and vote information, is available in the
House Principal Clerk's Office**