

# 40A:14-118.5

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2020                      **CHAPTER:** 129

**NJSA:** 40A:14-118.5 (Regulates use of body cameras worn by law enforcement officers.)

**BILL NO:** A4312                      (Substituted for S101)

**SPONSOR(S)** Verlina Reynolds-Jackson and others

**DATE INTRODUCED:** 6/25/2020

**COMMITTEE:**                      **ASSEMBLY:** Community Development & Affairs

**SENATE:** ---

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:**                      **ASSEMBLY:** 11/16/2020

**SENATE:** 11/16/2020

**DATE OF APPROVAL:** 11/24/2020

### FOLLOWING ARE ATTACHED IF AVAILABLE:

**FINAL TEXT OF BILL** (First Reprint enacted) Yes

#### A4312

**INTRODUCED BILL (INCLUDES SPONSOR'S STATEMENT):** Yes

**COMMITTEE STATEMENT:**                      **ASSEMBLY:** Yes

**SENATE:** No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** Yes      8/31/2020  
11/19/2020

#### S101

**INTRODUCED BILL (INCLUDES SPONSOR'S STATEMENT):** Yes

**COMMITTEE STATEMENT:**                      **ASSEMBLY:** No

**SENATE:** Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:**

No

**LEGISLATIVE FISCAL ESTIMATE:**

Yes 9/1/2020

**VETO MESSAGE:**

Yes  
(Conditional 10/19/2020)

**GOVERNOR'S PRESS RELEASE ON SIGNING:**

Yes

**FOLLOWING WERE PRINTED:**

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

**REPORTS:**

No

**HEARINGS:**

No

**NEWSPAPER ARTICLES:**

Yes

"MURPHY APPROVES POLICE BODY CAMS, BUT THERE'S NO MONEY," November 26, 2020, The Record, Page A4.

"Murphy mandates body cams - Gov. Phil Murphy signs bill requiring all law enforcement officers to wear body cameras," November 25, 2020, The Press of Atlantic City, Page 1A.

"NJ cops must wear body cameras under new laws," November 25, 2020, The Jersey Journal, Page 052.

"N.J. cops must wear body cameras under new laws Legislators create more protections for residents caught on camera," November 25, 2020, South Jersey Times, Page 001.

"N.J. cops must wear body cameras under new laws Legislators create more protections for residents caught on camera," November 25, 2020, The South Jersey Times, Page 001.

"N.J. cops must wear body cameras under new laws Legislators create more protections for residents caught on camera," November 25, 2020, The Star-Ledger, Page 001.

"New Jersey governor signs bill requiring police body cameras," November 24, 2020.

"Gov. signs laws to bring changes to the use of body worn cameras by law enforcement," November 24, 2020.

Also attached: Executive Order No. 201 (referenced on Governor Murphy's Press Release dated 11/24/2020).

RWH

P.L. 2020, CHAPTER 129, *approved November 24, 2020*  
Assembly, No. 4312 (*First Reprint*)

1 AN ACT concerning law enforcement mobile video recording  
2 systems and supplementing Title 40A of the New Jersey Statutes.

3  
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7 1. a. For the purposes of this section:

8 “Body worn camera” means a mobile <sup>1</sup>audio and<sup>1</sup> video  
9 recording system worn by a law enforcement officer <sup>1</sup>, but shall not  
10 include a recording device worn by a law enforcement officer while  
11 engaging in an undercover assignment or a recording device used  
12 during a custodial interrogation conducted in a place of detention in  
13 compliance with Rule 3:17 of the Rules Governing the Courts of the  
14 State of New Jersey.

15 “Constructive authority” means the use of the law enforcement  
16 officer’s authority to exert control over a person, directed against a  
17 person who is subject to an investigative detention or arrest or  
18 against any person if the officer has un-holstered a firearm or a  
19 conducted energy device.

20 “Force” shall include physical, mechanical, enhanced  
21 mechanical, and deadly force<sup>1</sup>.

22 “Law enforcement officer” means a person whose public duties  
23 include the power to act as an officer for the detection,  
24 apprehension, arrest, and conviction of offenders against the laws of  
25 this State.

26 “Mobile video recording system” shall have the same meaning as  
27 set forth in section 1 of P.L.2014, c.54 (C.40A:14-118.1).

28 “School” means a public or nonpublic elementary or secondary  
29 school within this State offering education in grades kindergarten  
30 through 12, or any combination of grades, at which a child may  
31 legally fulfill compulsory school attendance requirements.

32 “Subject of the video footage” means any law enforcement  
33 officer, suspect, victim, detainee, conversant, injured party, or other  
34 similarly situated person who appears on the body <sup>1</sup>worn<sup>1</sup> camera  
35 recording, and shall not include a person who only incidentally  
36 appears on the recording.

37 <sup>1</sup>“Youth facility” means a facility within this State used to house  
38 or provide services to children under P.L.1951, c.138 (C.30:4C-1 et

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined **thus** is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly amendments adopted in accordance with Governor's recommendations November 12, 2020.

1 seq.), including but not limited to group homes, residential  
2 facilities, day care centers, and day treatment centers.<sup>1</sup>

3 b. <sup>1</sup>**【Only a law enforcement officer shall be authorized to wear**  
4 **a body worn camera in this State.】**<sup>1</sup> A body worn camera <sup>1</sup>used by  
5 a law enforcement officer<sup>1</sup> shall be placed so that it maximizes the  
6 camera's ability to capture video footage of the officer's activities.

7 c. <sup>1</sup>**【The】** (1) Except as otherwise provided in this subsection  
8 or in subsection e. of this section, the<sup>1</sup> video and audio recording  
9 functions of a body worn camera shall be activated whenever the  
10 officer is responding to a call for service or at the initiation of any  
11 other law enforcement or investigative encounter between an officer  
12 and a member of the public <sup>1</sup>, in accordance with applicable  
13 guidelines or directives promulgated by the Attorney General<sup>1</sup> ;  
14 provided however, if an immediate threat to the officer's life or  
15 safety makes activating the body worn camera impossible or  
16 dangerous, the officer shall activate the body worn camera at the  
17 first reasonable opportunity to do so. The body worn camera shall  
18 remain activated until the encounter has fully concluded and the  
19 officer leaves the scene.

20 <sup>1</sup>(2) The video and audio recording functions of a body worn  
21 camera may be deactivated, consistent with directives or guidelines  
22 promulgated by the Attorney General, under the following  
23 circumstances:

24 (a) when a civilian conversing with the officer requests that the  
25 device be deactivated where it reasonably appears that the person  
26 will not provide information or otherwise cooperate with the officer  
27 unless that request is respected;

28 (b) when a person, other than an arrestee, is seeking emergency  
29 medical services for themselves or another person and requests that  
30 the device be deactivated;

31 (c) while the officer is participating in a discussion pertaining to  
32 criminal investigation strategy and planning, provided that the  
33 discussion is not conducted in the immediate presence of a civilian  
34 and further provided that the officer is not actively engaged in the  
35 collection of physical evidence; or

36 (d) when specifically authorized to do so by an assistant  
37 prosecutor or an assistant or deputy attorney general for good and  
38 sufficient cause as determined by the assistant prosecutor or  
39 assistant or deputy attorney general.

40 (3) Unless the officer is actively engaged in investigating the  
41 commission of a criminal offense, or is responding to an emergency  
42 or call for service, or reasonably believes that he or she will be  
43 required to use constructive authority or force, the officer shall not  
44 activate the video and audio recording functions of a body worn  
45 camera, or shall deactivate a device that has been activated, while  
46 the officer:

1       (a) is in a school or youth facility or on school or youth facility  
2 property under circumstances where minor children would be in  
3 view of the device;

4       (b) is in a patient care area of a healthcare facility, medical  
5 office, or substance abuse treatment facility under circumstances  
6 where patients would be in view of the device; or

7       (c) is in a place of worship under circumstances where  
8 worshippers would be in view of the device.

9       (4) The officer shall not activate the video and audio recording  
10 functions of a body worn camera, or shall deactivate a device that  
11 has been activated, if the officer knows or reasonably believes that  
12 the recording would risk revealing the identity of an individual as  
13 an undercover officer or confidential informant or otherwise would  
14 pose a risk to the safety of an undercover officer or confidential  
15 informant, unless such activation is expressly authorized by a  
16 supervisor, or unless the exigency of the situation and danger posed  
17 to an officer require that the encounter or incident be recorded, in  
18 which event the officer shall inform his or her supervisor that the  
19 recording risks revealing the identity of an individual as an  
20 undercover officer or confidential informant.

21       (5) An officer shall not activate a body worn camera while in a  
22 courtroom during court proceedings, unless the officer is  
23 responding to a call for service or is authorized to use constructive  
24 force or authority.

25       (6) If the body worn camera model selected by a law  
26 enforcement agency produces radio-frequency interference while  
27 activated or while in standby mode, the device shall be deactivated  
28 while in the area where an electronic alcohol breath testing device  
29 is being used, or, as necessary, shall be removed from the area  
30 where such device is being used. Nothing herein shall be construed  
31 to preclude the use of a body worn camera to record the behavior of  
32 a person arrested for driving while intoxicated other than while the  
33 person is in the breath-testing area while the electronic breath  
34 testing device is being operated. If this provision requires  
35 deactivation of a body worn camera, the officer shall narrate the  
36 reasons for deactivation, and the device shall be re-activated when  
37 safe and practicable to do so following the completion of the breath  
38 testing operation.<sup>1</sup>

39       d. A law enforcement officer who is wearing a body worn  
40 camera shall notify the subject of the recording that the subject is  
41 being recorded by the body worn camera <sup>1</sup>unless it is unsafe or  
42 infeasible to provide such notification. Such notification shall be  
43 made<sup>1</sup> as close to the inception of the encounter as is reasonably  
44 possible. <sup>1</sup>If the officer does not provide the required notification  
45 because it is unsafe or infeasible to do so, the officer shall  
46 document the reasons for that decision in a report or by narrating  
47 the reasons on the body worn camera recording, or both. The

1 failure to verbally notify a person pursuant to this section shall not  
2 affect the admissibility of any statement or evidence.<sup>1</sup>

3 e. Notwithstanding the requirements of subsection c. of this  
4 section:

5 (1) prior to entering a private residence <sup>1</sup>~~without a warrant or~~  
6 ~~in non-exigent circumstances~~<sup>1</sup> , a law enforcement officer shall  
7 <sup>1</sup>~~ask~~ notify<sup>1</sup> the occupant <sup>1</sup>~~whether~~ that<sup>1</sup> the occupant  
8 <sup>1</sup>~~wishes~~ is being recorded by the body worn camera and, if the  
9 occupant requests<sup>1</sup> the officer to discontinue use of the officer's  
10 body worn camera <sup>1</sup>~~;~~ if the occupant responds affirmatively<sup>1</sup>, the  
11 officer shall immediately discontinue use of the body worn camera  
12 unless the officer is actively engaged in investigating the  
13 commission of a criminal offense, or is responding to an  
14 emergency, or reasonably believes that the officer will be required  
15 to use constructive authority or force<sup>1</sup> ;

16 (2) when interacting with an apparent crime victim, a law  
17 enforcement officer shall, as soon as practicable, <sup>1</sup>~~ask~~ notify<sup>1</sup> the  
18 apparent crime<sup>1</sup> victim <sup>1</sup>~~whether the victim wants~~ that he or she  
19 is being recorded by the body worn camera and, if the apparent  
20 crime victim requests<sup>1</sup> the officer to discontinue use of the body  
21 worn camera <sup>1</sup>~~;~~ if the victim responds affirmatively<sup>1</sup> , the officer  
22 shall immediately discontinue use of the body worn camera; and

23 (3) when interacting with a person seeking to anonymously  
24 report a crime or assist in an ongoing law enforcement  
25 investigation, a law enforcement officer <sup>1</sup>, if the person requests  
26 that the officer discontinue use of the body worn camera,<sup>1</sup> shall,  
27 <sup>1</sup>~~as soon as practicable, ask the person seeking to remain~~  
28 anonymous whether the person wants the officer to discontinue use  
29 of the body worn camera; if the person responds affirmatively, the  
30 officer shall immediately evaluate the circumstances and, if  
31 appropriate,<sup>1</sup> discontinue use of the body worn camera.

32 f. <sup>1</sup>~~An offer~~ A request<sup>1</sup> to discontinue the use of a body  
33 worn camera made <sup>1</sup>~~by~~ to<sup>1</sup> a law enforcement officer pursuant to  
34 subsection e. of this section and the response to the <sup>1</sup>~~offer~~  
35 request<sup>1</sup> shall be recorded by the recording system prior to  
36 discontinuing use of the recording system.

37 g. A body worn camera shall not be used surreptitiously.

38 h. A body worn camera shall not be used to gather intelligence  
39 information based on First Amendment protected speech,  
40 associations, or religion, or to record activity that is unrelated to a  
41 response to a call for service or a law enforcement or investigative  
42 encounter between a law enforcement officer and a member of the  
43 public <sup>1</sup>, provided that nothing in this subsection shall be construed  
44 to prohibit activation of video and audio recording functions of a  
45 body worn camera as authorized under this law and in accordance

1 with any applicable guidelines or directives promulgated by the  
2 Attorney General<sup>1</sup> .

3 i. <sup>1</sup>~~["A law enforcement officer shall not activate a body worn~~  
4 ~~camera while on school grounds, except when the officer is~~  
5 ~~responding to an imminent threat to life or health.] Every law~~  
6 ~~enforcement agency shall promulgate and adhere to a policy,~~  
7 ~~standing operating procedure, directive, or order which meets the~~  
8 ~~requirements of subsection j. of this act and any applicable~~  
9 ~~guideline or directive promulgated by the Attorney General that~~  
10 ~~specifies the period of time during which a body worn camera~~  
11 ~~recording shall be retained.~~<sup>1</sup>

12 j. <sup>1</sup>~~["Video footage from a"]~~ A<sup>1</sup> body worn camera 'recording'<sup>1</sup>  
13 shall be retained by the law enforcement agency that employs the  
14 officer for <sup>1</sup>~~["six months from the date it was recorded"]~~ a retention  
15 period consistent with the provisions of this section<sup>1</sup> , after which  
16 time the <sup>1</sup>~~["footage"]~~ recording<sup>1</sup> shall be permanently deleted  
17 <sup>1</sup>~~["except"]~~ . A body worn camera recording shall be retained for not  
18 less than 180 days from the date it was recorded, which minimum  
19 time frame for retention shall be applicable to all contracts for  
20 retention of body worn camera recordings executed by or on behalf  
21 of a law enforcement agency on or after the effective date of this  
22 act, and shall be subject to the following additional retention  
23 periods<sup>1</sup> :

24 (1) <sup>1</sup>~~["the video footage"]~~ a body worn camera recording<sup>1</sup> shall  
25 automatically be retained for not less than three years if it captures  
26 images involving <sup>1</sup>~~["~~

27 (a) any use of force;

28 (b) events preceding and including an arrest for a crime or  
29 attempted crime; or

30 (c) <sup>1</sup>~~["~~ an encounter about which a complaint has been registered  
31 by a subject of the <sup>1</sup>~~["video footage."] body worn camera recording;~~<sup>1</sup>

32 (2) <sup>1</sup>~~["the video footage"]~~ subject to any applicable retention  
33 periods established in paragraph (3) of this subsection to the extent  
34 such retention period is longer, a body worn camera recording<sup>1</sup>  
35 shall be retained for not less than three years if <sup>1</sup>~~["a longer retention~~  
36 ~~period is"]~~<sup>1</sup> voluntarily requested by:

37 (a) the law enforcement officer whose body worn camera  
38 <sup>1</sup>~~["recorded the video footage"]~~ made the video recording<sup>1</sup> , if that  
39 officer reasonably asserts the <sup>1</sup>~~["video footage"]~~ recording<sup>1</sup> has  
40 evidentiary or exculpatory value;

41 (b) a law enforcement officer who is a subject of the <sup>1</sup>~~["video~~  
42 ~~footage"]~~ body worn camera recording<sup>1</sup> , if that officer reasonably  
43 asserts the <sup>1</sup>~~["video footage"]~~ recording<sup>1</sup> has evidentiary or  
44 exculpatory value;

1 (c) any <sup>1</sup>【superior officer】 immediate supervisor<sup>1</sup> of a law  
2 enforcement officer whose body worn camera <sup>1</sup>【recorded the video  
3 footage】 made the recording<sup>1</sup> or who is a subject of the <sup>1</sup>【video  
4 footage】 body worn camera recording<sup>1</sup> , if that <sup>1</sup>【superior officer】  
5 immediate supervisor<sup>1</sup> reasonably asserts the <sup>1</sup>【video footage】  
6 recording<sup>1</sup> has evidentiary or exculpatory value;

7 (d) any law enforcement officer, if the <sup>1</sup>【video footage】 body  
8 worn camera recording<sup>1</sup> is being retained solely and exclusively for  
9 police training purposes;

10 (e) any member of the public who is a subject of the <sup>1</sup>【video  
11 footage】 body worn camera recording<sup>1</sup> ;

12 (f) any parent or legal guardian of a minor who is a subject of  
13 the <sup>1</sup>【video footage】 body worn camera recording<sup>1</sup> ; or

14 (g) a deceased subject's next of kin or legally authorized  
15 designee.

16 <sup>1</sup>(3) Notwithstanding the provisions of paragraph (1) or (2) of  
17 this subsection, a body worn camera recording shall be subject to  
18 the following additional retention requirements:

19 (a) when a body worn camera recording pertains to a criminal  
20 investigation or otherwise records information that may be subject  
21 to discovery in a prosecution, the recording shall be treated as  
22 evidence and shall be kept in accordance with the retention period  
23 for evidence in a criminal prosecution;

24 (b) when a body worn camera records an arrest that did not result  
25 in an ongoing prosecution, or records the use of police force, the  
26 recording shall be kept until the expiration of the statute of  
27 limitations for filing a civil complaint against the officer or the  
28 employing law enforcement agency;

29 (c) when a body worn camera records an incident that is the  
30 subject of an internal affairs complaint, the recording shall be kept  
31 pending final resolution of the internal affairs investigation and any  
32 resulting administrative action.<sup>1</sup>

33 k. To effectuate subparagraphs (e), (f), and (g) of paragraph (2)  
34 of subsection j. of this section, the member of the public, parent or  
35 legal guardian, or next of kin or designee shall be permitted to  
36 review the <sup>1</sup>【video footage】 body worn camera recording in  
37 accordance with the provisions of P.L.1963, c.73 (C.47:1A-1 et  
38 seq.)<sup>1</sup> to determine whether to request a three-year retention period.

39 l. Notwithstanding that a criminal investigatory record does  
40 not constitute a government record under section 1 of P.L.1995,  
41 c.23 (C.47:1A-1.1), only the following <sup>1</sup>【video footage】 body worn  
42 camera recordings<sup>1</sup> shall be exempt from public inspection:

43 (1) <sup>1</sup>【video footage】 body worn camera recordings<sup>1</sup> not subject  
44 to a minimum three-year retention period <sup>1</sup>or additional retention  
45 requirements<sup>1</sup> pursuant to subsection j. of this section;



1 (2) 1 **1** video footage body worn camera recordings<sup>1</sup> subject to a  
2 minimum three-year retention period solely and exclusively  
3 pursuant to 1 **1** subparagraph (c) of<sup>1</sup> paragraph (1) of subsection j.  
4 of this section if the subject of the 1 **1** video footage body worn  
5 camera recording<sup>1</sup> making the complaint requests the 1 **1** video  
6 footage body worn camera recording<sup>1</sup> not be made available to the  
7 public;

8 (3) 1 **1** video footage body worn camera recordings<sup>1</sup> subject to a  
9 minimum three-year retention period solely and exclusively  
10 pursuant to subparagraph (a), (b), (c), or (d) of paragraph (2) of  
11 subsection j. of this section; and

12 (4) 1 **1** video footage body worn camera recordings<sup>1</sup> subject to a  
13 minimum three-year retention period solely and exclusively  
14 pursuant to subparagraph (e), (f), or (g) of paragraph (2) of  
15 subsection j. of this section if a member, parent or legal guardian, or  
16 next of kin or designee requests the 1 **1** video footage body worn  
17 camera recording<sup>1</sup> not be made available to the public.

18 m. Any 1 **1** video footage body worn camera recording<sup>1</sup> retained  
19 beyond 1 **1** six months 180 days<sup>1</sup> solely and exclusively pursuant to  
20 subparagraph (d) of paragraph (2) of subsection j. of this section  
21 shall not be admissible as evidence in any criminal or civil legal or  
22 administrative proceeding.

23 n. A law enforcement officer shall not review or receive an  
24 accounting 1 **1** of a<sup>1</sup> body worn camera 1 **1** video footage recording<sup>1</sup>  
25 that is subject to a minimum three-year retention period pursuant to  
26 paragraph (1) 1 **1** or paragraph (3)<sup>1</sup> of subsection j. of this section  
27 prior to 1 **1** completing creating<sup>1</sup> any required initial reports,  
28 statements, and interviews regarding the recorded event 1; provided  
29 that nothing in this paragraph is intended to prevent the officer from  
30 considering, reviewing or receiving an accounting of such a body  
31 worn camera recording subsequent to the creation of any required  
32 initial reports, statements, and interviews regarding the recorded  
33 event<sup>1</sup> .

34 1 **1** o. Video footage not subject to a minimum three-year retention  
35 period shall not be viewed by any superior officer of a law  
36 enforcement officer whose body worn camera recorded the footage  
37 absent a specific allegation of misconduct, nor shall it be subject to  
38 any type of automated analysis or analytics.

39 1 **1** Video footage o. Body worn camera recordings<sup>1</sup> shall  
40 not be divulged or used by any law enforcement agency for any  
41 commercial or other non-law enforcement purpose.

42 1 **1** q. p.<sup>1</sup> If a law enforcement agency authorizes a third-party  
43 to act as its agent in maintaining 1 **1** footage recordings<sup>1</sup> from a  
44 body worn camera, the agent shall be prohibited from independently  
45 accessing, viewing, or altering any 1 **1** video footage recordings<sup>1</sup>,

1 except to delete **1** videos recordings<sup>1</sup> as required by law or agency  
2 retention policies.

3 **1** r. q.<sup>1</sup> If a law enforcement officer, employee, or agent fails  
4 to adhere to the recording or retention requirements contained in  
5 this act, or intentionally interferes with a body worn camera's  
6 ability to accurately capture **1** video footage audio or video  
7 recordings<sup>1</sup> :

8 (1) **1** appropriate disciplinary action shall be taken against<sup>1</sup> the  
9 officer, employee, or agent shall be subject to appropriate  
10 disciplinary action<sup>1</sup>;

11 (2) there shall be a rebuttable presumption that exculpatory  
12 evidence was destroyed or not captured<sup>1</sup> in favor of a criminal  
13 defendant who reasonably asserts that exculpatory evidence was  
14 destroyed or not captured; and

15 (3) there shall be a rebuttable presumption that evidence  
16 supporting the plaintiff's claim was destroyed or not captured<sup>1</sup> in  
17 favor of a civil plaintiff suing the government, a law enforcement  
18 agency, or a law enforcement officer for damages based on police  
19 misconduct if the plaintiff reasonably asserts that evidence  
20 supporting the plaintiff's claim was destroyed or not captured.

21 **1** s. The disciplinary action requirement and rebuttable  
22 presumptions contained in subsection r. of this section may be  
23 overcome by contrary evidence or proof of exigent circumstances  
24 that make compliance impossible.

25 **t.** r.<sup>1</sup> Any **1** video footage recordings<sup>1</sup> from a body worn  
26 camera recorded in contravention of this or any other applicable law  
27 shall be immediately destroyed and shall not be admissible as  
28 evidence in any criminal, civil, or administrative proceeding.

29 **1** u. s.<sup>1</sup> Nothing in this act shall be deemed to contravene any  
30 laws governing the maintenance and destruction of evidence in a  
31 criminal investigation or prosecution.

32  
33 2. This act shall take effect on the first day of the seventh  
34 month after enactment.

35  
36  
37  
38  
39 Regulates use of body cameras worn by law enforcement  
40 officers.

# ASSEMBLY, No. 4312

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JUNE 25, 2020

**Sponsored by:**

**Assemblywoman VERLINA REYNOLDS-JACKSON**

**District 15 (Hunterdon and Mercer)**

**Assemblywoman SHAVONDA E. SUMTER**

**District 35 (Bergen and Passaic)**

**Assemblywoman CLEOPATRA G. TUCKER**

**District 28 (Essex)**

**Senator NIA H. GILL**

**District 34 (Essex and Passaic)**

**Senator SHIRLEY K. TURNER**

**District 15 (Hunterdon and Mercer)**

**Co-Sponsored by:**

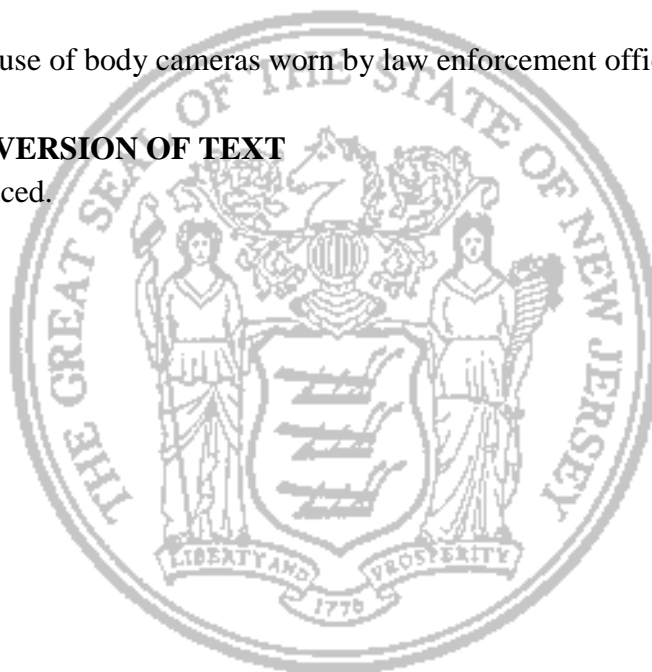
**Assemblywomen McKnight, Jasey, Timberlake, Pinkin, Vainieri Huttle  
and Assemblyman Coughlin**

**SYNOPSIS**

Regulates use of body cameras worn by law enforcement officers.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 8/27/2020)

A4312 REYNOLDS-JACKSON, SUMTER

2

1 AN ACT concerning law enforcement mobile video recording  
2 systems and supplementing Title 40A of the New Jersey Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. a. For the purposes of this section:

8 "Body worn camera" means a mobile video recording system  
9 worn by a law enforcement officer.

10 "Law enforcement officer" means a person whose public duties  
11 include the power to act as an officer for the detection,  
12 apprehension, arrest, and conviction of offenders against the laws of  
13 this State.

14 "Mobile video recording system" shall have the same meaning as  
15 set forth in section 1 of P.L.2014, c.54 (C.40A:14-118.1).

16 "School" means a public or nonpublic elementary or secondary  
17 school within this State offering education in grades kindergarten  
18 through 12, or any combination of grades, at which a child may  
19 legally fulfill compulsory school attendance requirements.

20 "Subject of the video footage" means any law enforcement  
21 officer, suspect, victim, detainee, conversant, injured party, or other  
22 similarly situated person who appears on the body camera  
23 recording, and shall not include a person who only incidentally  
24 appears on the recording.

25 b. Only a law enforcement officer shall be authorized to wear a  
26 body worn camera in this State. A body worn camera shall be  
27 placed so that it maximizes the camera's ability to capture video  
28 footage of the officer's activities.

29 c. The video and audio recording functions of a body worn  
30 camera shall be activated whenever the officer is responding to a  
31 call for service or at the initiation of any other law enforcement or  
32 investigative encounter between an officer and a member of the  
33 public; provided however, if an immediate threat to the officer's life  
34 or safety makes activating the body worn camera impossible or  
35 dangerous, the officer shall activate the body worn camera at the  
36 first reasonable opportunity to do so. The body worn camera shall  
37 remain activated until the encounter has fully concluded and the  
38 officer leaves the scene.

39 d. A law enforcement officer who is wearing a body worn  
40 camera shall notify the subject of the recording that the subject is  
41 being recorded by the body worn camera as close to the inception of  
42 the encounter as is reasonably possible.

43 e. Notwithstanding the requirements of subsection c. of this  
44 section:

45 (1) prior to entering a private residence without a warrant or in  
46 non-exigent circumstances, a law enforcement officer shall ask the  
47 occupant whether the occupant wishes the officer to discontinue use  
48 of the officer's body worn camera; if the occupant responds

1 affirmatively, the officer shall immediately discontinue use of the  
2 body worn camera;

3 (2) when interacting with an apparent crime victim, a law  
4 enforcement officer shall, as soon as practicable, ask the victim  
5 whether the victim wants the officer to discontinue use of the body  
6 worn camera; if the victim responds affirmatively, the officer shall  
7 immediately discontinue use of the body worn camera; and

8 (3) when interacting with a person seeking to anonymously  
9 report a crime or assist in an ongoing law enforcement  
10 investigation, a law enforcement officer shall, as soon as  
11 practicable, ask the person seeking to remain anonymous whether  
12 the person wants the officer to discontinue use of the body worn  
13 camera; if the person responds affirmatively, the officer shall  
14 immediately discontinue use of the body worn camera.

15 f. An offer to discontinue the use of a body worn camera made  
16 by a law enforcement officer pursuant to subsection e. of this  
17 section and the response to the offer shall be recorded by the  
18 recording system prior to discontinuing use of the recording system.

19 g. A body worn camera shall not be used surreptitiously.

20 h. A body worn camera shall not be used to gather intelligence  
21 information based on First Amendment protected speech,  
22 associations, or religion, or to record activity that is unrelated to a  
23 response to a call for service or a law enforcement or investigative  
24 encounter between a law enforcement officer and a member of the  
25 public.

26 i. A law enforcement officer shall not activate a body worn  
27 camera while on school grounds, except when the officer is  
28 responding to an imminent threat to life or health.

29 j. Video footage from a body worn camera shall be retained by  
30 the law enforcement agency that employs the officer for six months  
31 from the date it was recorded, after which time the footage shall be  
32 permanently deleted except:

33 (1) the video footage shall automatically be retained for not less  
34 than three years if it captures images involving:

35 (a) any use of force;

36 (b) events preceding and including an arrest for a crime or  
37 attempted crime; or

38 (c) an encounter about which a complaint has been registered by  
39 a subject of the video footage.

40 (2) the video footage shall be retained for not less than three  
41 years if a longer retention period is voluntarily requested by:

42 (a) the law enforcement officer whose body worn camera  
43 recorded the video footage, if that officer reasonably asserts the  
44 video footage has evidentiary or exculpatory value;

45 (b) a law enforcement officer who is a subject of the video  
46 footage, if that officer reasonably asserts the video footage has  
47 evidentiary or exculpatory value;

1 (c) any superior officer of a law enforcement officer whose  
2 body worn camera recorded the video footage or who is a subject of  
3 the video footage, if that superior officer reasonably asserts the  
4 video footage has evidentiary or exculpatory value;

5 (d) any law enforcement officer, if the video footage is being  
6 retained solely and exclusively for police training purposes;

7 (e) any member of the public who is a subject of the video  
8 footage;

9 (f) any parent or legal guardian of a minor who is a subject of  
10 the video footage; or

11 (g) a deceased subject's next of kin or legally authorized  
12 designee.

13 k. To effectuate subparagraphs (e), (f), and (g) of paragraph (2)  
14 of subsection j. of this section, the member of the public, parent or  
15 legal guardian, or next of kin or designee shall be permitted to  
16 review the video footage to determine whether to request a three-  
17 year retention period.

18 l. Notwithstanding that a criminal investigatory record does  
19 not constitute a government record under section 1 of P.L.1995,  
20 c.23 (C.47:1A-1.1), only the following video footage shall be  
21 exempt from public inspection:

22 (1) video footage not subject to a minimum three-year retention  
23 period pursuant to subsection j. of this section;

24 (2) video footage subject to a minimum three-year retention  
25 period solely and exclusively pursuant to subparagraph (c) of  
26 paragraph (1) of subsection j. of this section if the subject of the  
27 video footage making the complaint requests the video footage not  
28 be made available to the public;

29 (3) video footage subject to a minimum three-year retention  
30 period solely and exclusively pursuant to subparagraph (a), (b), (c),  
31 or (d) of paragraph (2) of subsection j. of this section; and

32 (4) video footage subject to a minimum three-year retention  
33 period solely and exclusively pursuant to subparagraph (e), (f), or  
34 (g) of paragraph (2) of subsection j. of this section if a member,  
35 parent or legal guardian, or next of kin or designee requests the  
36 video footage not be made available to the public.

37 m. Any video footage retained beyond six months solely and  
38 exclusively pursuant to subparagraph (d) of paragraph (2) of  
39 subsection j. of this section shall not be admissible as evidence in  
40 any criminal or civil legal or administrative proceeding.

41 n. A law enforcement officer shall not review or receive an  
42 accounting of body worn camera video footage that is subject to a  
43 minimum three-year retention period pursuant to paragraph (1) of  
44 subsection j. of this section prior to completing any required  
45 initial reports, statements, and interviews regarding the recorded  
46 event.

47 o. Video footage not subject to a minimum three-year retention  
48 period shall not be viewed by any superior officer of a law

1 enforcement officer whose body worn camera recorded the footage  
2 absent a specific allegation of misconduct, nor shall it be subject to  
3 any type of automated analysis or analytics.

4 p. Video footage shall not be divulged or used by any law  
5 enforcement agency for any commercial or other non-law  
6 enforcement purpose.

7 q. If a law enforcement agency authorizes a third-party to act  
8 as its agent in maintaining footage from a body worn camera, the  
9 agent shall be prohibited from independently accessing, viewing, or  
10 altering any video footage, except to delete videos as required by  
11 law or agency retention policies.

12 r. If a law enforcement officer, employee, or agent fails to  
13 adhere to the recording or retention requirements contained in this  
14 act, or intentionally interferes with a body worn camera's ability to  
15 accurately capture video footage:

16 (1) appropriate disciplinary action shall be taken against the  
17 officer, employee, or agent;

18 (2) there shall be a rebuttable presumption in favor of a criminal  
19 defendant who reasonably asserts that exculpatory evidence was  
20 destroyed or not captured; and

21 (3) there shall be a rebuttable presumption in favor of a civil  
22 plaintiff suing the government, a law enforcement agency, or a law  
23 enforcement officer for damages based on police misconduct if the  
24 plaintiff reasonably asserts that evidence supporting the plaintiff's  
25 claim was destroyed or not captured.

26 s. The disciplinary action requirement and rebuttable  
27 presumptions contained in subsection r. of this section may be  
28 overcome by contrary evidence or proof of exigent circumstances  
29 that make compliance impossible.

30 t. Any video footage from a body worn camera recorded in  
31 contravention of this or any other applicable law shall be  
32 immediately destroyed and shall not be admissible as evidence in  
33 any criminal, civil, or administrative proceeding.

34 u. Nothing in this act shall be deemed to contravene any laws  
35 governing the maintenance and destruction of evidence in a  
36 criminal investigation or prosecution.

37

38 2. This act shall take effect on the first day of the seventh  
39 month after enactment.

40

41

42

#### STATEMENT

43

44 This bill regulates the use of body cameras worn by law  
45 enforcement officers.

46 Under the bill, only law enforcement officers are authorized to  
47 wear a body camera in this State. A body camera is to be located  
48 on the officer where it maximizes the camera's ability to capture

1 video footage of the officer's activities. The video and audio  
2 recording functions of the body camera are to be activated  
3 whenever the officer is responding to a call for service or at the  
4 initiation of any other law enforcement or investigative encounter  
5 between an officer and a member of the public. But if an immediate  
6 threat to the officer's life or safety makes activating the body worn  
7 camera impossible or dangerous, the officer is directed by the bill to  
8 activate the body camera at the first reasonable opportunity to do  
9 so. The law enforcement officer wearing the body camera is  
10 required to notify the subject of the recording that he or she is being  
11 recorded as close to the inception of the encounter as is reasonably  
12 possible.

13 The bill specifies that a body camera is to remain activated until  
14 the encounter has fully concluded and the law enforcement officer  
15 leaves the scene. The bill permits an officer to deactivate the  
16 camera before the conclusion of the encounter if requested by the  
17 occupant of a private residence being entered by the officer without  
18 a warrant or in non-exigent circumstances; a victim; or a person  
19 anonymously reporting a crime or assisting in an investigation.

20 The bill prohibits a law enforcement officer from using a body  
21 camera surreptitiously or to gather intelligence information based  
22 on First Amendment protected speech, associations, or religion, or  
23 to record activity that is unrelated to a response to a call for service  
24 or a law enforcement or investigative encounter between a law  
25 enforcement officer and a member of the public. A law  
26 enforcement officer also is prohibited from wearing a body camera  
27 on school grounds, except when responding to an imminent threat  
28 to life or health.

29 The bill requires video footage from a body camera to be  
30 retained by the law enforcement agency that employs the officer for  
31 six months from the date it was recorded. The video footage is be  
32 permanently deleted after expiration of this six-month period. But  
33 the bill makes certain exceptions to the six-month rule. Video  
34 footage is to be retained for not less than three years if it captures  
35 images involving any use of force; events preceding and including  
36 an arrest for a crime or attempted crime; or an encounter about  
37 which a complaint has been registered by a subject of the video  
38 footage.

39 Video footage also is to be retained for not less than three years  
40 if a longer retention period is voluntarily requested by the law  
41 enforcement officer whose body worn camera recorded the video  
42 footage, if that officer reasonably asserts the video footage has  
43 evidentiary or exculpatory value; a law enforcement officer who is  
44 a subject of the video footage, if that officer reasonably asserts the  
45 video footage has evidentiary or exculpatory value; any superior  
46 officer of an officer whose body worn camera recorded the video  
47 footage or who is a subject of the video footage, if that superior  
48 officer reasonably asserts the video footage has evidentiary or



1 exculpatory value; a law enforcement officer, if the video footage is  
2 being retained solely and exclusively for police training purposes; a  
3 member of the public who is a subject of the video footage; a parent  
4 or legal guardian of a minor who is a subject of the video footage;  
5 or a deceased subject's next of kin or legally authorized designee.

6 The bill also specifies when video footage from a body camera is  
7 exempt from the State's open public records act. Recent case law  
8 has held that police video recordings are exempt from public  
9 disclosure under the State's open public records act because they  
10 pertain to criminal investigations. Notwithstanding this law, the bill  
11 specifies that video footage from a body worn camera is not subject  
12 to public inspection only when: 1) the footage is not subject to a  
13 three-year retention period; 2) the footage constitutes a recording of  
14 an encounter about which a complaint has been registered by the  
15 subject of the footage and the subject requests the footage not be  
16 made public; 3) a law enforcement officer or superior officer  
17 reasonably asserts the video footage has evidentiary or exculpatory  
18 value or the footage is being used for police training purposes; and  
19 (4) a member of the public, parent or legal guardian, or deceased  
20 subject's next of kin requests the video footage not be made  
21 available to the public.

22 Further, the bill limits superior officers from viewing footage  
23 unless there's an allegation of misconduct against the officer who  
24 recorded the footage and prohibits automated analysis or analytics.  
25 Third party vendors contracted to maintain video footage are  
26 prohibited from viewing the footage other than to delete it.

27 Finally, the bill requires disciplinary action to be taken against  
28 any law enforcement officer, employee, or agent who fails to adhere  
29 to the recording or retention requirements contained in the bill or  
30 who intentionally interferes with a body worn camera's ability to  
31 accurately capture video footage. A rebuttable presumption in  
32 favor of criminal defendants and civil plaintiffs is established if  
33 exculpatory evidence was destroyed or not captured.

34 Any video footage from a body worn camera recorded in  
35 contravention of the bill's provisions or any other applicable law is  
36 to be immediately destroyed and is not to be admissible as evidence  
37 in any criminal, civil, or administrative proceeding.

ASSEMBLY COMMUNITY DEVELOPMENT AND AFFAIRS  
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4312

**STATE OF NEW JERSEY**

DATED: AUGUST 24, 2020

The Assembly Community Development and Affairs Committee reports favorably Assembly Bill No. 4312.

This bill regulates the use of body cameras worn by law enforcement officers.

Under the bill, only law enforcement officers are authorized to wear a body camera in this State. A body camera is to be located on the officer where it maximizes the camera's ability to capture video footage of the officer's activities. The video and audio recording functions of the body camera are to be activated whenever the officer is responding to a call for service or at the initiation of any other law enforcement or investigative encounter between an officer and a member of the public. But if an immediate threat to the officer's life or safety makes activating the body worn camera impossible or dangerous, the officer is directed by the bill to activate the body camera at the first reasonable opportunity to do so. The law enforcement officer wearing the body camera is required to notify the subject of the recording that he or she is being recorded as close to the inception of the encounter as is reasonably possible.

The bill specifies that a body camera is to remain activated until the encounter has fully concluded and the law enforcement officer leaves the scene. The bill permits an officer to deactivate the camera before the conclusion of the encounter if requested by the occupant of a private residence being entered by the officer without a warrant or in non-exigent circumstances; a victim; or a person anonymously reporting a crime or assisting in an investigation.

The bill prohibits a law enforcement officer from using a body camera surreptitiously or to gather intelligence information based on First Amendment protected speech, associations, or religion, or to record activity that is unrelated to a response to a call for service or a law enforcement or investigative encounter between a law enforcement officer and a member of the public. A law enforcement officer also is prohibited from wearing a body camera on school grounds, except when responding to an imminent threat to life or health.

The bill requires video footage from a body camera to be retained by the law enforcement agency that employs the officer for six months

from the date it was recorded. The video footage is to be permanently deleted after expiration of this six-month period. But the bill makes certain exceptions to the six-month rule. Video footage is to be retained for not less than three years if it captures images involving any use of force; events preceding and including an arrest for a crime or attempted crime; or an encounter about which a complaint has been registered by a subject of the video footage.

Video footage also is to be retained for not less than three years if a longer retention period is voluntarily requested by the law enforcement officer whose body worn camera recorded the video footage, if that officer reasonably asserts the video footage has evidentiary or exculpatory value; a law enforcement officer who is a subject of the video footage, if that officer reasonably asserts the video footage has evidentiary or exculpatory value; any superior officer of an officer whose body worn camera recorded the video footage or who is a subject of the video footage, if that superior officer reasonably asserts the video footage has evidentiary or exculpatory value; a law enforcement officer, if the video footage is being retained solely and exclusively for police training purposes; a member of the public who is a subject of the video footage; a parent or legal guardian of a minor who is a subject of the video footage; or a deceased subject's next of kin or legally authorized designee.

The bill also specifies when video footage from a body camera is exempt from the State's open public records act. Recent case law has held that police video recordings are exempt from public disclosure under the State's open public records act because they pertain to criminal investigations. Notwithstanding this law, the bill specifies that video footage from a body worn camera is not subject to public inspection only when: 1) the footage is not subject to a three-year retention period; 2) the footage constitutes a recording of an encounter about which a complaint has been registered by the subject of the footage and the subject requests the footage not be made public; 3) a law enforcement officer or superior officer reasonably asserts the video footage has evidentiary or exculpatory value or the footage is being used for police training purposes; and (4) a member of the public, parent or legal guardian, or deceased subject's next of kin requests the video footage not be made available to the public.

Further, the bill limits superior officers from viewing footage unless there's an allegation of misconduct against the officer who recorded the footage and prohibits automated analysis or analytics. Third party vendors contracted to maintain video footage are prohibited from viewing the footage other than to delete it.

Finally, the bill requires disciplinary action to be taken against any law enforcement officer, employee, or agent who fails to adhere to the recording or retention requirements contained in the bill or who intentionally interferes with a body worn camera's ability to accurately capture video footage. A rebuttable presumption in favor of criminal

defendants and civil plaintiffs is established if exculpatory evidence was destroyed or not captured.

Any video footage from a body worn camera recorded in contravention of the bill's provisions or any other applicable law is to be immediately destroyed and is not to be admissible as evidence in any criminal, civil, or administrative proceeding.

**LEGISLATIVE FISCAL ESTIMATE**  
**ASSEMBLY, No. 4312**  
**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

DATED: AUGUST 31, 2020

**SUMMARY**

**Synopsis:** Regulates use of body cameras worn by law enforcement officers.

**Type of Impact:** Annual State and local cost increases; annual cost increases for public institutions of higher education

**Agencies Affected:** Department of Law and Public Safety; County and Municipal Law Enforcement; Public Institutions of Higher Education

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<u><b>Year 1</b></u>	<u><b>Year 2</b></u>	<u><b>Year 3</b></u>
<b>State Expenditure Increase</b>		Indeterminate	
<b>Local Expenditure Increase</b>		Indeterminate	
<b>Public Institutions of Higher Education Expenditure Increase</b>		Indeterminate	

- The Office of Legislative Services (OLS) projects that the bill may result in a one-time indeterminate State expenditure increase by the Department of Law and Public Safety (DLPS) for the Office of the Attorney General to update guidelines for body worn camera (BWC) implementation and usage. The OLS also projects that State, county, municipal, and public higher education law enforcement agencies may experience an indeterminate increase in annual costs related to data storage guidelines as required by the bill.

**BILL DESCRIPTION**

This bill regulates the use of BWCs by law enforcement officers throughout the State for those law enforcement agencies utilizing them and provides guidance as to when, why, and how a BWC should be utilized and indicates that only law enforcement officers are authorized to wear a body camera in this State.

The bill provides data storage retention requirements by law enforcement agencies between six months to not less than three years, depending on the specific incident. The bill also specifies when video footage from a body camera is exempt from the State’s open public records act.

Further, the bill limits superior officers from viewing footage unless there’s an allegation of misconduct against the officer who recorded the footage and prohibits automated analysis or

analytics. Third party vendors contracted to maintain video footage are prohibited from viewing the footage other than to delete it.

Finally, the bill requires disciplinary action to be taken against any law enforcement officer, employee, or agent who fails to adhere to the recording or retention requirements contained in the bill or who intentionally interferes with a body worn camera's ability to accurately capture video footage. A rebuttable presumption in favor of criminal defendants and civil plaintiffs is established if exculpatory evidence was destroyed or not captured. Any video footage from a body worn camera recorded in contravention of the bill's provisions or any other applicable law is to be immediately destroyed and is not to be admissible as evidence in any criminal, civil, or administrative proceeding.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS projects that the bill may result in a one-time indeterminate State expenditure increase by the DLPS for the Office of the Attorney General to update guidelines for BWC implementation and usage. The OLS also projects that State, county, municipal, and public higher education law enforcement agencies may experience an indeterminate increase in costs related to adhering to data storage guidelines as required by the bill.

***Expenditures:*** The bill marginally parallels the Attorney General's issued guidelines and directives on BWCs: *Attorney General Law Enforcement Directive NO. 2015-1, Law Enforcement Directive Regarding Police Body Worn Camera (BWCs) and Stored BWC Recordings* and *Attorney General Law Enforcement Directive NO. 2018-10, Law Enforcement Directive Concerning Public Release of Video Recordings Depicting Police Deadly Force Incidents*. The bill, however, expands the data storage requirements of the BWC footage in certain circumstances. Since 2015, the State has implemented activation, de-activation, disclosure, and retention policies for law enforcement departments utilizing dash-cams and BWCs. State retention and logging policies specifically require law enforcement departments utilizing BWCs to adopt systems to ensure: 1) secure retention of camera footage; 2) prevention of tampering or deletion; 3) restriction of access to appropriate persons and purposes; and 5) documentation in all instances when footage is accessed.

The OLS is of the understanding that the BWC program has been implemented by the Division of State Police and in at least 243 county, municipal, and campus police agencies. According to the 2014 report "Implementing a Body-Worn Camera Program Recommendations and Lessons Learned," published by the Police Executive Research Forum with support from a cooperative agreement awarded by the Office of Community Oriented Policing Services in the U.S. Department of Justice, although the initial costs of purchasing the cameras may be significant, the report found that many police executives attributed the most expensive aspect of a body-worn camera program to be data storage. The OLS anticipates there may be ongoing unknown annual costs to manage data storage.

*Section: Law and Public Safety*

*Analyst: Kristin Brunner Santos  
Senior Fiscal Analyst*

*Approved: Frank W. Haines III  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

## ASSEMBLY, No. 4312

### STATE OF NEW JERSEY 219th LEGISLATURE

DATED: NOVEMBER 19, 2020

#### SUMMARY

- Synopsis:** Regulates use of body cameras worn by law enforcement officers.
- Type of Impact:** Annual State and local cost increases; annual cost increases for public institutions of higher education.
- Agencies Affected:** Department of Law and Public Safety; County and Municipal Law Enforcement; Public Institutions of Higher Education

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Expenditure Increase</b>		Indeterminate	
<b>Local Expenditure Increase</b>		Indeterminate	
<b>Public Institutions of Higher Education Expenditure Increase</b>		Indeterminate	

- The Office of Legislative Services (OLS) projects that the bill may result in a one-time indeterminate State expenditure increase by the Department of Law and Public Safety (DLPS) for the Office of the Attorney General to update guidelines for body worn camera (BWC) implementation and use. The OLS also projects that State, county, municipal, and public higher education law enforcement agencies may experience an indeterminate increase in annual costs related to data storage guidelines as required by the bill.

#### BILL DESCRIPTION

This bill would regulate the use of BWCs by law enforcement officers throughout the State by outlining the circumstances under which a BWC may be deactivated, restricting the use of BWCs in certain circumstances, and specifying the retention periods for recorded footage.

The bill clarifies the circumstances in which deactivation of the BWC is required to protect the privacy of civilians, such as when a civilian other than an arrestee seeks medical attention or wishes to remain anonymous in order to provide information to law enforcement. The bill limits the use



of BWCs in situations when an officer is in a sensitive location, such as a school, medical facility, or place of worship, and provides that BWCs should only be activated when an officer is investigating a criminal offense or responding to an emergency or call for service, or when an officer reasonably believes that he or she will need to use constructive authority or force.

The bill provides data storage retention requirements by law enforcement agencies. As introduced, the bill requires recordings to be retained by all law enforcement agencies for a minimum of 180 days; however, the bill further provides that the new retention period would only be prospective. The bill also would allow existing contracts between law enforcement agencies and vendors to expire before agencies are required to retain recordings for the longer period.

Finally, the bill requires disciplinary action to be taken against any law enforcement officer, employee, or agent who fails to adhere to the recording or retention requirements contained in the bill or who intentionally interferes with a BWCs ability to accurately capture video footage. A rebuttable presumption in favor of criminal defendants and civil plaintiffs is established if exculpatory evidence was destroyed or not captured. Any material from a BWC recorded in contravention of the bill's provisions or any other applicable law is to be immediately destroyed and is not to be admissible as evidence in any criminal, civil, or administrative proceeding.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS projects that the bill may result in a one-time indeterminate State expenditure increase by the DLPS for the Office of the Attorney General to update guidelines for BWC implementation and usage. The OLS also projects that State, county, municipal, and public higher education law enforcement agencies may experience an indeterminate increase in costs related to adhering to data storage guidelines as required by the bill.

***Expenditures:*** The bill marginally parallels the Attorney General's issued guidelines and directives on BWCs: Attorney General Law Enforcement Directive No. 2015-1, "Law Enforcement Directive Regarding Police Body Worn Camera (BWCs) and Stored BWC Recordings" and Attorney General Law Enforcement Directive No. 2018-1, "Law Enforcement Directive Concerning Public Release of Video Recordings Depicting Police Deadly Force Incidents". The bill, however, expands the data storage requirements of BWC footage in certain circumstances. Since 2015, the State has implemented activation, de-activation, disclosure, and retention policies for law enforcement departments utilizing dash-cams and BWCs. State retention and logging policies specifically require law enforcement departments utilizing BWCs to adopt systems to ensure: 1) secure retention of BWC footage; 2) prevention of tampering or deletion; 3) restriction of access to appropriate persons and purposes; and 5) documentation in all instances when footage is accessed.

The OLS is of the understanding that the BWC program has been implemented by the Division of State Police and in at least 243 county, municipal, and campus police agencies. According to the 2014 report "Implementing a Body-Worn Camera Program Recommendations and Lessons Learned," published by the Police Executive Research Forum with support from a cooperative agreement awarded by the Office of Community Oriented Policing Services in the U.S. Department of Justice, although the initial costs of purchasing the BWCs may be significant, the

report found that many police executives attributed the most expensive aspect of a BWC program to be data storage.

The OLS anticipates there may be ongoing unknown annual costs to manage data storage. The bill provides that the new retention period would be prospective in order to avoid some of the more than 200 law enforcement agencies currently using BWCs from being forced to incur additional costs and to renegotiate their existing contracts with vendors to meet the obligations of the bill. In order to avoid substantial disruption to these agencies currently using BWCs, the bill also would allow existing contracts between law enforcement agencies and vendors to expire before agencies are required to retain recordings for the longer period.

*Section: Law and Public Safety*

*Analyst: Kristin Brunner Santos  
Senior Fiscal Analyst*

*Approved: Thomas Koenig  
Assistant Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# SENATE, No. 101

## STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Senator NIA H. GILL**

**District 34 (Essex and Passaic)**

**Senator SHIRLEY K. TURNER**

**District 15 (Hunterdon and Mercer)**

**SYNOPSIS**

Regulates use of body cameras worn by law enforcement officers.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 8/25/2020)

1 AN ACT concerning law enforcement mobile video recording  
2 systems and supplementing Title 40A of the New Jersey Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. a. For the purposes of this section:

8 "Body worn camera" means a mobile video recording system  
9 worn by a law enforcement officer.

10 "Law enforcement officer" means a person whose public duties  
11 include the power to act as an officer for the detection,  
12 apprehension, arrest, and conviction of offenders against the laws of  
13 this State.

14 "Mobile video recording system" shall have the same meaning as  
15 set forth in section 1 of P.L.2014, c.54 (C.40A:14-118.1).

16 "School" means a public or nonpublic elementary or secondary  
17 school within this State offering education in grades kindergarten  
18 through 12, or any combination of grades, at which a child may  
19 legally fulfill compulsory school attendance requirements.

20 "Subject of the video footage" means any law enforcement  
21 officer, suspect, victim, detainee, conversant, injured party, or other  
22 similarly situated person who appears on the body camera  
23 recording, and shall not include a person who only incidentally  
24 appears on the recording.

25 b. Only a law enforcement officer shall be authorized to wear a  
26 body worn camera in this State. A body worn camera shall be  
27 placed so that it maximizes the camera's ability to capture video  
28 footage of the officer's activities.

29 c. The video and audio recording functions of a body worn  
30 camera shall be activated whenever the officer is responding to a  
31 call for service or at the initiation of any other law enforcement or  
32 investigative encounter between an officer and a member of the  
33 public; provided however, if an immediate threat to the officer's life  
34 or safety makes activating the body worn camera impossible or  
35 dangerous, the officer shall activate the body worn camera at the  
36 first reasonable opportunity to do so. The body worn camera shall  
37 remain activated until the encounter has fully concluded and the  
38 officer leaves the scene.

39 d. A law enforcement officer who is wearing a body worn  
40 camera shall notify the subject of the recording that the subject is  
41 being recorded by the body worn camera as close to the inception of  
42 the encounter as is reasonably possible.

43 e. Notwithstanding the requirements of subsection c. of this  
44 section:

45 (1) prior to entering a private residence without a warrant or in  
46 non-exigent circumstances, a law enforcement officer shall ask the  
47 occupant whether the occupant wishes the officer to discontinue use  
48 of the officer's body worn camera; if the occupant responds

1 affirmatively, the officer shall immediately discontinue use of the  
2 body worn camera;

3 (2) when interacting with an apparent crime victim, a law  
4 enforcement officer shall, as soon as practicable, ask the victim  
5 whether the victim wants the officer to discontinue use of the body  
6 worn camera; if the victim responds affirmatively, the officer shall  
7 immediately discontinue use of the body worn camera; and

8 (3) when interacting with a person seeking to anonymously  
9 report a crime or assist in an ongoing law enforcement  
10 investigation, a law enforcement officer shall, as soon as  
11 practicable, ask the person seeking to remain anonymous whether  
12 the person wants the officer to discontinue use of the body worn  
13 camera; if the person responds affirmatively, the officer shall  
14 immediately discontinue use of the body worn camera.

15 f. An offer to discontinue the use of a body worn camera made  
16 by a law enforcement officer pursuant to subsection e. of this  
17 section and the response to the offer shall be recorded by the  
18 recording system prior to discontinuing use of the recording system.

19 g. A body worn camera shall not be used surreptitiously.

20 h. A body worn camera shall not be used to gather intelligence  
21 information based on First Amendment protected speech,  
22 associations, or religion, or to record activity that is unrelated to a  
23 response to a call for service or a law enforcement or investigative  
24 encounter between a law enforcement officer and a member of the  
25 public.

26 i. A law enforcement officer shall not activate a body worn  
27 camera while on school grounds, except when the officer is  
28 responding to an imminent threat to life or health.

29 j. Video footage from a body worn camera shall be retained by  
30 the law enforcement agency that employs the officer for six months  
31 from the date it was recorded, after which time the footage shall be  
32 permanently deleted except:

33 (1) the video footage shall automatically be retained for not less  
34 than three years if it captures images involving:

35 (a) any use of force;

36 (b) events preceding and including an arrest for a crime or  
37 attempted crime; or

38 (c) an encounter about which a complaint has been registered by  
39 a subject of the video footage.

40 (2) the video footage shall be retained for not less than three  
41 years if a longer retention period is voluntarily requested by:

42 (a) the law enforcement officer whose body worn camera  
43 recorded the video footage, if that officer reasonably asserts the  
44 video footage has evidentiary or exculpatory value;

45 (b) a law enforcement officer who is a subject of the video  
46 footage, if that officer reasonably asserts the video footage has  
47 evidentiary or exculpatory value;

1 (c) any superior officer of a law enforcement officer whose body  
2 worn camera recorded the video footage or who is a subject of the  
3 video footage, if that superior officer reasonably asserts the video  
4 footage has evidentiary or exculpatory value;

5 (d) any law enforcement officer, if the video footage is being  
6 retained solely and exclusively for police training purposes;

7 (e) any member of the public who is a subject of the video  
8 footage;

9 (f) any parent or legal guardian of a minor who is a subject of  
10 the video footage; or

11 (g) a deceased subject's next of kin or legally authorized  
12 designee.

13 k. To effectuate subparagraphs (e), (f), and (g) of paragraph (2)  
14 of subsection j. of this section, the member of the public, parent or  
15 legal guardian, or next of kin or designee shall be permitted to  
16 review the video footage to determine whether to request a three-  
17 year retention period.

18 l. Notwithstanding that a criminal investigatory record does not  
19 constitute a government record under section 1 of P.L.1995, c.23  
20 (C.47:1A-1.1), only the following video footage shall be exempt  
21 from public inspection:

22 (1) video footage not subject to a minimum three-year retention  
23 period pursuant to subsection j. of this section;

24 (2) video footage subject to a minimum three-year retention  
25 period solely and exclusively pursuant to subparagraph (c) of  
26 paragraph (1) of subsection j. of this section if the subject of the  
27 video footage making the complaint requests the video footage not  
28 be made available to the public;

29 (3) video footage subject to a minimum three-year retention  
30 period solely and exclusively pursuant to subparagraph (a), (b), (c),  
31 or (d) of paragraph (2) of subsection j. of this section; and

32 (4) video footage subject to a minimum three-year retention  
33 period solely and exclusively pursuant to subparagraph (e), (f), or  
34 (g) of paragraph (2) of subsection j. of this section if a member,  
35 parent or legal guardian, or next of kin or designee requests the  
36 video footage not be made available to the public.

37 m. Any video footage retained beyond six months solely and  
38 exclusively pursuant to subparagraph (d) of paragraph (2) of  
39 subsection j. of this section shall not be admissible as evidence in  
40 any criminal or civil legal or administrative proceeding.

41 n. A law enforcement officer shall not review or receive an  
42 accounting of body worn camera video footage that is subject to a  
43 minimum three-year retention period pursuant to paragraph (1) of  
44 subsection j. of this section prior to completing any required  
45 initial reports, statements, and interviews regarding the recorded  
46 event.

47 o. Video footage not subject to a minimum three-year retention  
48 period shall not be viewed by any superior officer of a law

1 enforcement officer whose body worn camera recorded the footage  
2 absent a specific allegation of misconduct, nor shall it be subject to  
3 any type of automated analysis or analytics.

4 p. Video footage shall not be divulged or used by any law  
5 enforcement agency for any commercial or other non-law  
6 enforcement purpose.

7 q. If a law enforcement agency authorizes a third-party to act as  
8 its agent in maintaining footage from a body worn camera, the agent  
9 shall be prohibited from independently accessing, viewing, or  
10 altering any video footage, except to delete videos as required by  
11 law or agency retention policies.

12 r. If a law enforcement officer, employee, or agent fails to  
13 adhere to the recording or retention requirements contained in this  
14 act, or intentionally interferes with a body worn camera's ability to  
15 accurately capture video footage:

16 (1) appropriate disciplinary action shall be taken against the  
17 officer, employee, or agent;

18 (2) there shall be a rebuttable presumption in favor of a criminal  
19 defendant who reasonably asserts that exculpatory evidence was  
20 destroyed or not captured; and

21 (3) there shall be a rebuttable presumption in favor of a civil  
22 plaintiff suing the government, a law enforcement agency, or a law  
23 enforcement officer for damages based on police misconduct if the  
24 plaintiff reasonably asserts that evidence supporting the plaintiff's  
25 claim was destroyed or not captured.

26 s. The disciplinary action requirement and rebuttable  
27 presumptions contained in subsection r. of this section may be  
28 overcome by contrary evidence or proof of exigent circumstances  
29 that make compliance impossible.

30 t. Any video footage from a body worn camera recorded in  
31 contravention of this or any other applicable law shall be  
32 immediately destroyed and shall not be admissible as evidence in  
33 any criminal, civil, or administrative proceeding.

34 u. Nothing in this act shall be deemed to contravene any laws  
35 governing the maintenance and destruction of evidence in a  
36 criminal investigation or prosecution.

37

38 2. This act shall take effect on the first day of the seventh month  
39 after enactment.

40

41

42

#### STATEMENT

43

44 This bill regulates the use of body cameras worn by law  
45 enforcement officers.

46 Under the bill, only law enforcement officers are authorized to  
47 wear a body camera in this State. A body camera is to be located  
48 on the officer where it maximizes the camera's ability to capture

1 video footage of the officer's activities. The video and audio  
2 recording functions of the body camera are to be activated  
3 whenever the officer is responding to a call for service or at the  
4 initiation of any other law enforcement or investigative encounter  
5 between an officer and a member of the public. But if an immediate  
6 threat to the officer's life or safety makes activating the body worn  
7 camera impossible or dangerous, the officer is directed by the bill to  
8 activate the body camera at the first reasonable opportunity to do  
9 so. The law enforcement officer wearing the body camera is  
10 required to notify the subject of the recording that he or she is being  
11 recorded as close to the inception of the encounter as is reasonably  
12 possible.

13 The bill specifies that a body camera is to remain activated until  
14 the encounter has fully concluded and the law enforcement officer  
15 leaves the scene. The bill permits an officer to deactivate the  
16 camera before the conclusion of the encounter if requested by the  
17 occupant of a private residence being entered by the officer without  
18 a warrant or in non-exigent circumstances; a victim; or a person  
19 anonymously reporting a crime or assisting in an investigation.

20 The bill prohibits a law enforcement officer from using a body  
21 camera surreptitiously or to gather intelligence information based  
22 on First Amendment protected speech, associations, or religion, or  
23 to record activity that is unrelated to a response to a call for service  
24 or a law enforcement or investigative encounter between a law  
25 enforcement officer and a member of the public. A law  
26 enforcement officer also is prohibited from wearing a body camera  
27 on school grounds, except when responding to an imminent threat  
28 to life or health.

29 The bill requires video footage from a body camera to be  
30 retained by the law enforcement agency that employs the officer for  
31 six months from the date it was recorded. The video footage is to be  
32 permanently deleted after expiration of this six-month period. But  
33 the bill makes certain exceptions to the six-month rule. Video  
34 footage is to be retained for not less than three years if it captures  
35 images involving any use of force; events preceding and including  
36 an arrest for a crime or attempted crime; or an encounter about  
37 which a complaint has been registered by a subject of the video  
38 footage.

39 Video footage also is to be retained for not less than three years  
40 if a longer retention period is voluntarily requested by the law  
41 enforcement officer whose body worn camera recorded the video  
42 footage, if that officer reasonably asserts the video footage has  
43 evidentiary or exculpatory value; a law enforcement officer who is  
44 a subject of the video footage, if that officer reasonably asserts the  
45 video footage has evidentiary or exculpatory value; any superior  
46 officer of an officer whose body worn camera recorded the video  
47 footage or who is a subject of the video footage, if that superior  
48 officer reasonably asserts the video footage has evidentiary or



1 exculpatory value; a law enforcement officer, if the video footage is  
2 being retained solely and exclusively for police training purposes; a  
3 member of the public who is a subject of the video footage; a parent  
4 or legal guardian of a minor who is a subject of the video footage;  
5 or a deceased subject's next of kin or legally authorized designee.

6 The bill also specifies when video footage from a body camera is  
7 exempt from the State's open public records act. Recent case law  
8 has held that police video recordings are exempt from public  
9 disclosure under the State's open public records act because they  
10 pertain to criminal investigations. Notwithstanding this law, the bill  
11 specifies that video footage from a body worn camera is not subject  
12 to public inspection only when: 1) the footage is not subject to a  
13 three-year retention period; 2) the footage constitutes a recording of  
14 an encounter about which a complaint has been registered by the  
15 subject of the footage and the subject requests the footage not be  
16 made public; 3) a law enforcement officer or superior officer  
17 reasonably asserts the video footage has evidentiary or exculpatory  
18 value or the footage is being used for police training purposes; and  
19 (4) a member of the public, parent or legal guardian, or deceased  
20 subject's next of kin requests the video footage not be made  
21 available to the public.

22 Further, the bill limits superior officers from viewing footage  
23 unless there's an allegation of misconduct against the officer who  
24 recorded the footage and prohibits automated analysis or analytics.  
25 Third party vendors contracted to maintain video footage are  
26 prohibited from viewing the footage other than to delete it.

27 Finally, the bill requires disciplinary action to be taken against  
28 any law enforcement officer, employee, or agent who fails to adhere  
29 to the recording or retention requirements contained in the bill or  
30 who intentionally interferes with a body worn camera's ability to  
31 accurately capture video footage. A rebuttable presumption in  
32 favor of criminal defendants and civil plaintiffs is established if  
33 exculpatory evidence was destroyed or not captured.

34 Any video footage from a body worn camera recorded in  
35 contravention of the bill's provisions or any other applicable law is  
36 to be immediately destroyed and is not to be admissible as evidence  
37 in any criminal, civil, or administrative proceeding.

# SENATE LAW AND PUBLIC SAFETY COMMITTEE

## STATEMENT TO

### SENATE, No. 101

# STATE OF NEW JERSEY

DATED: AUGUST 21, 2020

The Senate Law and Public Safety Committee reports favorably Senate Bill No. 101.

As reported by the committee, Senate Bill No. 101 regulates the use of body cameras worn by law enforcement officers.

Under this bill, only law enforcement officers are authorized to wear a body camera in this State. A body camera is to be located on the officer where it maximizes the camera's ability to capture video footage of the officer's activities. The video and audio recording functions of the body camera are to be activated whenever the officer is responding to a call for service or at the initiation of any other law enforcement or investigative encounter between an officer and a member of the public. But if an immediate threat to the officer's life or safety makes activating the body worn camera impossible or dangerous, the officer is directed by the bill to activate the body camera at the first reasonable opportunity to do so. The law enforcement officer wearing the body camera is required to notify the subject of the recording that he or she is being recorded as close to the inception of the encounter as is reasonably possible.

The bill specifies that a body camera is to remain activated until the encounter has fully concluded and the law enforcement officer leaves the scene. The bill permits an officer to deactivate the camera before the conclusion of the encounter if requested by the occupant of a private residence being entered by the officer without a warrant or in non-exigent circumstances; a victim; or a person anonymously reporting a crime or assisting in an investigation.

The bill prohibits a law enforcement officer from using a body camera surreptitiously or to gather intelligence information based on First Amendment protected speech, associations, or religion, or to record activity that is unrelated to a response to a call for service or a law enforcement or investigative encounter between a law enforcement officer and a member of the public. A law enforcement officer also is prohibited from wearing a body camera on school grounds, except when responding to an imminent threat to life or health.

The bill requires video footage from a body camera to be retained by the law enforcement agency that employs the officer for six months from the date it was recorded. The video footage is to be permanently deleted after expiration of this six-month period. But the bill makes

certain exceptions to the six-month rule. Video footage is to be retained for not less than three years if it captures images involving any use of force; events preceding and including an arrest for a crime or attempted crime; or an encounter about which a complaint has been registered by a subject of the video footage.

Video footage also is to be retained for not less than three years if a longer retention period is voluntarily requested by the law enforcement officer whose body worn camera recorded the video footage, if that officer reasonably asserts the video footage has evidentiary or exculpatory value; a law enforcement officer who is a subject of the video footage, if that officer reasonably asserts the video footage has evidentiary or exculpatory value; any superior officer of an officer whose body worn camera recorded the video footage or who is a subject of the video footage, if that superior officer reasonably asserts the video footage has evidentiary or exculpatory value; a law enforcement officer, if the video footage is being retained solely and exclusively for police training purposes; a member of the public who is a subject of the video footage; a parent or legal guardian of a minor who is a subject of the video footage; or a deceased subject's next of kin or legally authorized designee.

The bill also specifies when video footage from a body camera is exempt from the State's open public records act. Recent case law has held that police video recordings are exempt from public disclosure under the State's open public records act because they pertain to criminal investigations. Notwithstanding this law, the bill specifies that video footage from a body worn camera is not subject to public inspection only when: 1) the footage is not subject to a three-year retention period; 2) the footage constitutes a recording of an encounter about which a complaint has been registered by the subject of the footage and the subject requests the footage not be made public; 3) a law enforcement officer or superior officer reasonably asserts the video footage has evidentiary or exculpatory value or the footage is being used for police training purposes; and (4) a member of the public, parent or legal guardian, or deceased subject's next of kin requests the video footage not be made available to the public.

Further, the bill limits superior officers from viewing footage unless there's an allegation of misconduct against the officer who recorded the footage and prohibits automated analysis or analytics. Third party vendors contracted to maintain video footage are prohibited from viewing the footage other than to delete it.

Finally, the bill requires disciplinary action to be taken against any law enforcement officer, employee, or agent who fails to adhere to the recording or retention requirements contained in the bill or who intentionally interferes with a body worn camera's ability to accurately capture video footage. A rebuttable presumption in favor of criminal defendants and civil plaintiffs is established if exculpatory evidence was destroyed or not captured.

Any video footage from a body worn camera recorded in contravention of the bill's provisions or any other applicable law is to be immediately destroyed and is not to be admissible as evidence in any criminal, civil, or administrative proceeding.

**LEGISLATIVE FISCAL ESTIMATE**  
**SENATE, No. 101**  
**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

DATED: SEPTEMBER 1, 2020

**SUMMARY**

**Synopsis:** Regulates use of body cameras worn by law enforcement officers.

**Type of Impact:** Annual State and local cost increases; annual cost increases for public institutions of higher education

**Agencies Affected:** Department of Law and Public Safety; County and Municipal Law Enforcement; Public Institutions of Higher Education

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<u><b>Year 1</b></u>	<u><b>Year 2</b></u>	<u><b>Year 3</b></u>
<b>State Expenditure Increase</b>		Indeterminate	
<b>Local Expenditure Increase</b>		Indeterminate	
<b>Public Institutions of Higher Education Expenditure Increase</b>		Indeterminate	

- The Office of Legislative Services (OLS) projects that the bill may result in a one-time indeterminate State expenditure increase by the Department of Law and Public Safety (DLPS) for the Office of the Attorney General to update guidelines for body worn camera (BWC) implementation and usage. The OLS also projects that State, county, municipal, and public higher education law enforcement agencies may experience an indeterminate increase in annual costs related to data storage guidelines as required by the bill.

**BILL DESCRIPTION**

This bill regulates the use of BWCs by law enforcement officers throughout the State for those law enforcement agencies utilizing them and provides guidance as to when, why, and how a BWC should be utilized and indicates that only law enforcement officers are authorized to wear a body camera in this State.

The bill provides data storage retention requirements by law enforcement agencies between six months to not less than three years, depending on the specific incident. The bill also specifies when video footage from a body camera is exempt from the State’s open public records act.



Further, the bill limits superior officers from viewing footage unless there's an allegation of misconduct against the officer who recorded the footage and prohibits automated analysis or analytics. Third party vendors contracted to maintain video footage are prohibited from viewing the footage other than to delete it.

Finally, the bill requires disciplinary action to be taken against any law enforcement officer, employee, or agent who fails to adhere to the recording or retention requirements contained in the bill or who intentionally interferes with a body worn camera's ability to accurately capture video footage. A rebuttable presumption in favor of criminal defendants and civil plaintiffs is established if exculpatory evidence was destroyed or not captured. Any video footage from a body worn camera recorded in contravention of the bill's provisions or any other applicable law is to be immediately destroyed and is not to be admissible as evidence in any criminal, civil, or administrative proceeding.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS projects that the bill may result in a one-time indeterminate State expenditure increase by the DLPS for the Office of the Attorney General to update guidelines for BWC implementation and usage. The OLS also projects that State, county, municipal, and public higher education law enforcement agencies may experience an indeterminate increase in costs related to adhering to data storage guidelines as required by the bill.

***Expenditures:*** The bill marginally parallels the Attorney General's issued guidelines and directives on BWCs: *Attorney General Law Enforcement Directive NO. 2015-1, Law Enforcement Directive Regarding Police Body Worn Camera (BWCs) and Stored BWC Recordings* and *Attorney General Law Enforcement Directive NO. 2018-10, Law Enforcement Directive Concerning Public Release of Video Recordings Depicting Police Deadly Force Incidents*. The bill, however, expands the data storage requirements of the BWC footage in certain circumstances. Since 2015, the State has implemented activation, de-activation, disclosure, and retention policies for law enforcement departments utilizing dash-cams and BWCs. State retention and logging policies specifically require law enforcement departments utilizing BWCs to adopt systems to ensure: 1) secure retention of camera footage; 2) prevention of tampering or deletion; 3) restriction of access to appropriate persons and purposes; and 5) documentation in all instances when footage is accessed.

The OLS is of the understanding that the BWC program has been implemented by the Division of State Police and in at least 243 county, municipal, and campus police agencies. According to the 2014 report "Implementing a Body-Worn Camera Program Recommendations and Lessons Learned," published by the Police Executive Research Forum with support from a cooperative agreement awarded by the Office of Community Oriented Policing Services in the U.S. Department of Justice, although the initial costs of purchasing the cameras may be significant, the report found that many police executives attributed the most expensive aspect of a body-worn camera program to be data storage. The OLS anticipates there may be ongoing unknown annual costs to manage data storage.

*Section: Law and Public Safety*

*Analyst: Kristin Brunner Santos  
Senior Fiscal Analyst*

*Approved: Frank W. Haines III  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# Governor Murphy Takes Action on Legislation

10/19/2020

**TRENTON** – Today, Governor Phil Murphy signed the following bills and resolutions into law

**S-2584/A-3622 (Cunningham, Pou/Quijano, Vainieri Huttie, Murphy)** – Makes changes to membership and responsibilities of Campus Sexual Assault Commission

**A-1263/S-1914 (Schaer, Johnson/Pou, Cardinale)** – Prohibits act, practice or arrangement constituting stranger-originated life insurance

**A-2394/S-401 (Wimberly, Johnson, Holley/Turner, Cunningham)** – Requires law enforcement agencies in this State to establish minority recruitment and selection programs; establishes reporting requirement

**A-3367/S-1951 (Johnson, Kennedy, Benson/Smith, Codey)** – Concerns installation of electric vehicle charging stations in common interest communities

Governor Murphy conditionally vetoed the following bills:

**S-1163/A-4271 (Turner/Tucker, Conaway)** - Requires law enforcement officers to wear body cameras

[Copy of Statement](#)

**S-2842/A-4625 (Sarlo/Egan)** - Permits raffles to be conducted remotely at large sporting venues

[Copy of Statement](#)

**A-4312/S-101 (Reynolds-Jackson, Sumter, Tucker/Gill, Turner)** - Regulates use of body cameras worn by law enforcement officers

[Copy of Statement](#)

Governor Murphy absolute vetoed the following bills:

**S-2704/A-4413 (Sweeney, Gopal, A.M. Bucco, Cruz-Perez/Bramnick, Burzichelli, DeCroce)** - Appropriates \$30 million to EDA from federal "Coronavirus Relief Fund" to assist food establishments impacted by Executive Order No. 158

[Copy of Statement](#)

**A-4006/S-2404 (Chiaravalloti, Caputo, Mejia/Pou, Turner)** - Postpones New Jersey Quality Single Accountability Continuum (NJQSAC) review for certain school districts to accommodate disruption due to COVID-19 pandemic

[Copy of Statement](#)



**ASSEMBLY BILL NO. 4312**

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Bill No. 4312 with my recommendations for reconsideration.

This bill would regulate the usage of body worn cameras by law enforcement officers by outlining the circumstances under which a body worn camera may be deactivated, restricting the use of body worn cameras in certain circumstances, and specifying the retention period for recorded footage.

I commend the sponsors of this legislation for their efforts to establish uniform statutory standards applicable to the use of body worn cameras by the thousands of law enforcement officers statewide. Body worn cameras are an important tool in promoting transparency and accountability in policing in our communities, and maintaining well-considered, effective standards is a critical component toward achieving those ends. The sponsors rightly recognize the importance of establishing parameters on how and when law enforcement officers in New Jersey use body worn cameras in carrying out their official duties. However, there are nuances in the use of body worn cameras reflected in applicable Attorney General guidelines that should be incorporated into this bill to enhance the utility and effectiveness of this technology in the context of policing. These provisions in the Attorney General guidelines take into account the needs of the community and individual residents while at the same time giving due regard to relevant law enforcement practices and practical considerations. Consequently, I am returning Assembly Bill No. 4312 and recommending salutary amendments to increase the effectiveness of the uniform statewide standards that law enforcement officers and

agencies will adhere to in their use of body worn cameras in the performance of their duties.

I am recommending several revisions to clarify the circumstances in which deactivation of the camera is required to protect the privacy of civilians, such as when a civilian other than an arrestee seeks medical attention or when a civilian wishes to remain anonymous in order to provide information to law enforcement. To further protect the privacy interests of our residents, I also recommend limiting the use of body worn cameras in situations when an officer is in a sensitive location such as a school, medical facility, or a place of worship. Cameras should only be activated in these areas when an officer is investigating a criminal offense or responding to an emergency or call for service, or when an officer reasonably believes that he or she will need to use constructive authority or force.

I also recommend revising the bill's default retention provisions that require recordings to be retained by law enforcement agencies for six months from the date they were recorded. Body worn camera recordings have tremendous value as a potential source of crucial evidence for use in investigations and court proceedings. Recordings can also be used to support or dispel a civilian's claim against a law enforcement officer. The current statewide retention policy for body worn camera recordings is 90 days, but the need for evidence captured in recordings may not arise until after that period has elapsed. For instance, a potential complainant may, due to health considerations, be unable to file a complaint within 90 days of an incident captured by a body worn camera recording. For this reason, I support requiring body worn camera recordings to be retained for a minimum of 180 days.

However, the new retention period should be prospective. As written, the bill's six-month requirement would go into effect regardless of whether there are existing agreements concerning the maintenance and storage of body worn camera footage. This would likely force some of the more than 200 law enforcement agencies currently using body worn cameras to incur additional costs and to renegotiate their existing contracts with vendors to meet the obligations of the bill. In order to avoid substantial disruption to these agencies currently using body worn cameras, I am recommending revisions that would allow existing contracts between law enforcement agencies and vendors to expire before agencies are required to retain recordings for the longer period.

Finally, my recommended changes remove the restrictions on supervisors' ability to view body worn camera recordings. Having body cameras can be a valuable tool for supervisors striving to ensure officers are properly trained and carrying out their duties appropriately. As written, the bill prohibits any superior officer from viewing footage absent a specific allegation of misconduct. Supervisors should be encouraged to proactively spot-check footage for compliance and identify potential problems that need correction. This aspect of body worn cameras is significant to many law enforcement agencies, who use the recordings not only to monitor officer performance (which may reveal both non-compliant and exemplary conduct), but for providing training and direction to strengthen officer performance and address internal agency problems. A number of law enforcement agencies in the State currently use body worn camera recordings for this purpose because they recognize it is an essential tool to help the agency and its officers maintain the high quality of the public services they provide.

I look forward to continuing to work with my colleagues in the Legislature to promote police accountability and confidence in our law enforcement institutions, and the codification of uniform statewide standards for the use of body worn cameras by our law enforcement officers is an important step in that direction. I am heartened in the belief that we will continue on our path to more transparent, more accountable policing.

Therefore, I herewith return Assembly Bill No. 4312 and recommend that it be amended as follows:

Page 2, Section 1, Line 8: After "mobile" insert "audio and"

Page 2, Section 1, Line 9: After "officer" insert ", but shall not include a recording device worn by a law enforcement officer while engaging in an undercover assignment or a recording device used during a custodial interrogation conducted in a place of detention in compliance with Rule 3:17 of the Rules Governing the Courts of the State of New Jersey.

'Constructive authority' means the use of the law enforcement officer's authority to exert control over a person, directed against a person who is subject to an investigative detention or arrest or against any person if the officer has un-holstered a firearm or a conducted energy device.

'Force' shall include physical, mechanical, enhanced mechanical, and deadly force."

Page 2, Section 1, Line 22: After "body" insert "worn"

Page 2, Section 1, Line 24: After "recording." insert "'Youth facility' means a facility within this State used to house or provide services to children under P.L.1951, c.138 (C.30:4C-1 et seq.), including but not limited to group homes, residential facilities, day care centers, and day treatment centers."

- Page 2, Section 1, Lines 25-26: Delete "Only a law enforcement officer shall be authorized to wear a body worn camera in this State."
- Page 2, Section 1, Line 26: After "camera" insert "used by a law enforcement officer"
- Page 2, Section 1, Line 29: Delete "The" and insert "(1) Except as otherwise provided in this subsection or in subsection e. of this section, the"
- Page 2, Section 1, Line 33: After "public" insert ", in accordance with applicable guidelines or directives promulgated by the Attorney General"
- Page 2, Section 1, Line 38: After "scene." insert "(2) The video and audio recording functions of a body worn camera may be deactivated, consistent with directives or guidelines promulgated by the Attorney General, under the following circumstances:
- (a) when a civilian conversing with the officer requests that the device be deactivated where it reasonably appears that the person will not provide information or otherwise cooperate with the officer unless that request is respected;
- (b) when a person, other than an arrestee, is seeking emergency medical services for themselves or another person and requests that the device be deactivated;
- (c) while the officer is participating in a discussion pertaining to criminal investigation strategy and planning, provided that the discussion is not conducted in the immediate presence of a civilian and further provided that the officer is not actively engaged in the collection of physical evidence; or
- (d) when specifically authorized to do so by an assistant prosecutor or an assistant or deputy attorney general for good and sufficient cause as determined by the assistant prosecutor or assistant or deputy attorney general.

(3) Unless the officer is actively engaged in investigating the commission of a criminal offense, or is responding to an emergency or call for service, or reasonably believes that he or she will be required to use constructive authority or force, the officer shall not activate the video and audio recording functions of a body worn camera, or shall deactivate a device that has been activated, while the officer:

(a) is in a school or youth facility or on school or youth facility property under circumstances where minor children would be in view of the device;

(b) is in a patient care area of a healthcare facility, medical office, or substance abuse treatment facility under circumstances where patients would be in view of the device; or

(c) is in a place of worship under circumstances where worshippers would be in view of the device.

(4) The officer shall not activate the video and audio recording functions of a body worn camera, or shall deactivate a device that has been activated, if the officer knows or reasonably believes that the recording would risk revealing the identity of an individual as an undercover officer or confidential informant or otherwise would pose a risk to the safety of an undercover officer or confidential informant, unless such activation is expressly authorized by a supervisor, or unless the exigency of the situation and danger posed to an officer require that the encounter or incident be recorded, in which event the officer shall inform his or her supervisor that the recording risks revealing the identity of an individual as an undercover officer or confidential informant.

(5) An officer shall not activate a body worn camera while in a courtroom during court proceedings, unless the officer is responding to a call for service or is authorized to use constructive force or authority.

(6) If the body worn camera model selected by a law enforcement agency produces radio-frequency interference while activated or while in standby mode, the device shall be deactivated while in the area where an electronic alcohol breath testing device is being used, or, as necessary, shall be removed from the area where such device is being used. Nothing herein shall be construed to preclude the use of a body worn camera to record the behavior of a person arrested for driving while intoxicated other than while the person is in the breath-testing area while the electronic breath testing device is being operated. If this provision requires deactivation of a body worn camera, the officer shall narrate the reasons for deactivation, and the device shall be re-activated when safe and practicable to do so following the completion of the breath testing operation."

Page 2, Section 1, Line 41:

After "camera" insert "unless it is unsafe or infeasible to provide such notification. Such notification shall be made"

Page 2, Section 1, Line 42:

After "possible." insert "If the officer does not provide the required notification because it is unsafe or infeasible to do so, the officer shall document the reasons for that decision in a report or by narrating the reasons on the body worn camera recording, or both. The failure to verbally notify a person pursuant to this section shall not affect the admissibility of any statement or evidence."

Page 2, Section 1, Lines 45-46:

Delete "without a warrant or in non-exigent circumstances"

Page 2, Section 1, Line 46:

Delete "ask" and insert "notify"

- Page 2, Section 1, Line 47: Delete "whether" insert "that"
- Page 2, Section 1, Line 47: Delete "wishes" and insert "is being recorded by the body worn camera and, if the occupant requests"
- Page 2, Section 1, Line 48: Delete "; if the occupant responds"
- Page 3, Section 1, Line 1: Delete "affirmatively"
- Page 3, Section 1, Line 2: After "camera" insert "unless the officer is actively engaged in investigating the commission of a criminal offense, or is responding to an emergency, or reasonably believes that the officer will be required to use constructive authority or force"
- Page 3, Section 1, Line 4: Delete "ask" and insert "notify"
- Page 3, Section 1, Line 4: After "the" insert "apparent crime"
- Page 3, Section 1, Line 5: Delete "whether the victim wants" and insert "that he or she is being recorded by the body worn camera and, if the apparent crime victim requests"
- Page 3, Section 1, Line 6: Delete "; if the victim responds affirmatively"
- Page 3, Section 1, Line 10: After "officer" insert ", if the person requests that the officer discontinue use of the body worn camera,"
- Page 3, Section 1, Line 10: Delete ", as soon as"
- Page 3, Section 1, Lines 11-13: Delete in their entirety
- Page 3, Section 1, Line 14: Delete "immediately" and insert "evaluate the circumstances and, if appropriate,"
- Page 3, Section 1, Line 15: Delete "An offer" and insert "A request"
- Page 3, Section 1, Line 16: Delete "by" and insert "to"
- Page 3, Section 1, Line 17: Delete "offer" and insert "request"
- Page 3, Section 1, Line 25: After "public" insert ", provided that nothing in this subsection shall be construed to prohibit activation of video and audio recording functions of a body worn camera as authorized under this law"



and in accordance with any applicable guidelines or directives promulgated by the Attorney General"

Page 3, Section 1, Line 26:

Delete "A law enforcement officer shall not activate a body worn"

Page 3, Section 1, Lines 27-28:

Delete in their entirety and insert "Every law enforcement agency shall promulgate and adhere to a policy, standing operating procedure, directive, or order which meets the requirements of subsection j. of this act and any applicable guideline or directive promulgated by the Attorney General that specifies the period of time during which a body worn camera recording shall be retained."

Page 3, Section 1, Line 29:

Delete "Video footage from a" and insert "A"

Page 3, Section 1, Line 29:

After "camera" insert "recording"

Page 3, Section 1, Lines 30-31:

Delete "six months from the date it was recorded" and insert "a retention period consistent with the provisions of this section"

Page 3, Section 1, Line 31:

Delete "footage" and insert "recording"

Page 3, Section 1, Line 32:

Delete "except" and insert ". A body worn camera recording shall be retained for not less than 180 days from the date it was recorded, which minimum time frame for retention shall be applicable to all contracts for retention of body worn camera recordings executed by or on behalf of a law enforcement agency on or after the effective date of this act, and shall be subject to the following additional retention periods"

Page 3, Section 1, Line 33:

Delete "the video footage" and insert "a body worn camera recording"

Page 3, Section 1, Line 34:

Delete ":"

Page 3, Section 1, Lines 35-37:

Delete in their entirety

Page 3, Section 1, Line 38:

Delete "(c)"

Page 3, Section 1, Line 39:

Delete "video footage." and insert "body worn camera recording;"

- Page 3, Section 1, Line 40: Delete "the video footage" and insert "subject to any applicable retention periods established in paragraph (3) of this subsection to the extent such retention period is longer, a body worn camera recording"
- Page 3, Section 1, Line 41: Delete "a longer retention period is"
- Page 3, Section 1, Line 43: Delete "recorded the video footage" and insert "made the video recording"
- Page 3, Section 1, Line 44: Delete "video footage" and insert "recording"
- Page 3, Section 1, Lines 45-46: Delete "video footage" and insert "body worn camera recording"
- Page 3, Section 1, Line 46: After "the" delete "video footage" and insert "recording"
- Page 4, Section 1, Line 1: Delete "superior officer" and insert "immediate supervisor"
- Page 4, Section 1, Line 2: Delete "recorded the video footage" and insert "made the recording"
- Page 4, Section 1, Line 3: Delete "video footage" and insert "body worn camera recording"
- Page 4, Section 1, Line 3: Delete "superior officer" and insert "immediate supervisor"
- Page 4, Section 1, Line 4: Delete "video footage" and insert "recording"
- Page 4, Section 1, Line 5: Delete "video footage" and insert "body worn camera recording"
- Page 4, Section 1, Lines 7-8: Delete "video footage" and insert "body worn camera recording"
- Page 4, Section 1, Line 10: Delete "video footage" and insert "body worn camera recording"
- Page 4, Section 1, Line 12: After "designee." insert "(3) Notwithstanding the provisions of paragraph (1) or (2) of this subsection, a body worn camera recording shall be subject to the following additional retention requirements:
- (a) when a body worn camera recording pertains to a criminal investigation or otherwise records information that may be subject to

discovery in a prosecution, the recording shall be treated as evidence and shall be kept in accordance with the retention period for evidence in a criminal prosecution;

(b) when a body worn camera records an arrest that did not result in an ongoing prosecution, or records the use of police force, the recording shall be kept until the expiration of the statute of limitations for filing a civil complaint against the officer or the employing law enforcement agency;

(c) when a body worn camera records an incident that is the subject of an internal affairs complaint, the recording shall be kept pending final resolution of the internal affairs investigation and any resulting administrative action."

Page 4, Section 1, Line 16:

Delete "video footage" and insert "body worn camera recording in accordance with the provisions of P.L.1963, c.73 (C.47:1A-1 et seq.)"

Page 4, Section 1, Line 20:

Delete "video footage" and insert "body worn camera recordings"

Page 4, Section 1, Line 22:

Delete "video footage" and insert "body worn camera recordings"

Page 4, Section 1, Line 23:

After "period" insert "or additional retention requirements"

Page 4, Section 1, Line 24:

Delete "video footage" and insert "body worn camera recordings"

Page 4, Section 1, Line 25:

Delete "subparagraph (c) of"

Page 4, Section 1, Line 27:

Before "making" delete "video footage" and insert "body worn camera recording"

Page 4, Section 1, Line 27:

Before "not" delete "video footage" and insert "body worn camera recording"

Page 4, Section 1, Line 29:

Delete "video footage" and insert "body worn camera recordings"

Page 4, Section 1, Line 32:

Delete "video footage" and insert "body worn camera recordings"

- Page 4, Section 1, Line 36: Delete "video footage" and insert "body worn camera recording"
- Page 4, Section 1, Line 37: Delete "video footage" and insert "body worn camera recording"
- Page 4, Section 1, Line 37: Delete "six months" and insert "180 days"
- Page 4, Section 1, Line 42: After "of" insert "a"
- Page 4, Section 1, Line 42: Delete "video footage" and insert "recording"
- Page 4, Section 1, Line 43: After "(1)" insert "or paragraph (3)"
- Page 4, Section 1, Line 44: Delete "completing" and insert "creating"
- Page 4, Section 1, Line 46: After "event" insert "; provided that nothing in this paragraph is intended to prevent the officer from considering, reviewing or receiving an accounting of such a body worn camera recording subsequent to the creation of any required initial reports, statements, and interviews regarding the recorded event"
- Page 4, Section 1, Lines 47-48: Delete in their entirety
- Page 5, Section 1, Lines 1-3: Delete in their entirety
- Page 5, Section 1, Line 4: Delete "p. Video footage" and insert "o. Body worn camera recordings"
- Page 5, Section 1, Line 7: Delete "q." and insert "p."
- Page 5, Section 1, Line 8: Delete "footage" and insert "recordings"
- Page 5, Section 1, Line 10: Delete "video footage" and insert "recordings"
- Page 5, Section 1, Line 10: Delete "videos" and insert "recordings"
- Page 5, Section 1, Line 12: Delete "r." and insert "q."
- Page 5, Section 1, Line 15: Delete "video footage" and insert "audio or video recordings"
- Page 5, Section 1, Line 16: Delete "appropriate disciplinary action shall be taken against"
- Page 5, Section 1, Line 17: After "agent" insert "shall be subject to appropriate disciplinary action"

<u>Page 5, Section 1, Line 18:</u>	After "presumption" insert "that exculpatory evidence was destroyed or not captured"
<u>Page 5, Section 1, Line 21:</u>	After "presumption" insert "that evidence supporting the plaintiff's claim was destroyed or not captured"
<u>Page 5, Section 1, Lines 26-29:</u>	Delete in their entirety
<u>Page 5, Section 1, Line 30:</u>	Delete "t." and insert "r."
<u>Page 5, Section 1, Line 30:</u>	Delete "video footage" and insert "recordings"
<u>Page 5, Section 1, Line 34:</u>	Delete "u." and insert "s."

[seal]

Respectfully,  
/s/ Philip D. Murphy  
Governor

Attest:  
/s/ Parimal Garg  
Chief Counsel to the Governor

# Governor Murphy Signs Legislation to Bring Changes to the Use of Body Worn Cameras by New Jersey Law Enforcement

11/24/2020

*S1163 Requires Every Patrol Officer to Wear a Body Camera and A4312 Regulates the Use of Body Worn Cameras by Law Enforcement Officers*

*Executive Order Establishes Working Group to Further Facilitate Implementation of Body Worn Cameras*

**TRENTON** – Acting on a commitment to further promote transparency in policing and build trust between police officers and the communities they serve, Governor Phil Murphy today signed two pieces of legislation (S1163 and A4312), which concern the use of body worn cameras by members of law enforcement. The Governor also signed executive Order No. 201, which establishes a 14-member Interagency Working Group to provide recommendations to the Governor's Office and Attorney General regarding technology solutions to facilitate the statewide implementation of body worn cameras in law enforcement agencies. The Working Group will work to identify barriers to adopting body worn cameras and recommend technology solutions to facilitate their implementation.

"We've made it clear that New Jersey will be second-to-none in enacting vital reforms to promote transparency and boost public confidence in law enforcement," **said Governor Murphy**. "Body worn cameras are a wise all-around investment in public safety that not only redouble our commitment to transparency and accountability, but also ensure that members of law enforcement are equipped with an important tool to help them carry out their sworn duties. Today represents another step down what we know is a long road to full understanding and lasting trust between law enforcement and the communities they serve."

"New Jersey has made great strides to promote a greater degree of professionalism, accountability, and transparency within our law enforcement agencies, and our state is committed to ensuring that our officers feel supported when they are in the line of duty," **said Lt. Governor Sheila Oliver, who serves as Commissioner of the Department of Community Affairs**. "This legislation being signed today is about developing greater accountability and establishing trust between police officers and the people who rely on them every day to keep our communities safe."

"We are in the midst of a national reckoning on racial justice, which has highlighted a lack of trust between law enforcement and many of the communities we serve," **said Attorney General Gurbir S. Grewal**. "Since day one, we have been committed to rebuilding and strengthening that trust, and we know that body worn cameras are an important tool in those efforts. They encourage professionalism, promote better interactions between police and the public, and have been universally welcomed by agencies across our state. Today, we not only take an important step towards the uniform, statewide use of body worn cameras, but also towards making New Jersey a national leader on yet another set of policing policies and best practices. I thank the Governor and the Legislature for their leadership and support in these efforts."

"Today is a great day for New Jersey law enforcement and the communities we serve. The statewide implementation of body worn cameras represents an important step in strengthening the bonds of trust between police departments and communities while fostering greater transparency and accountability," **said Colonel Patrick J. Callahan, Superintendent of the New Jersey State Police**. "The New Jersey State Police has learned that recording interactions with the public from patrol vehicles for the last two decades has been a valuable asset in protecting both our citizens and our troopers alike. The addition of body worn camera technology is yet another layer of protection for our men and women in law enforcement and the communities they serve."

"I would like to thank Governor Murphy and his staff for their relentless efforts in making sure all officers have body cameras for the protection of the community as well as law enforcement," **said Reverend John Taylor, New Jersey State Police Chaplain**. "What a great day for New Jersey to be leading the way for the nation."

"The body worn camera has proven to be an excellent tool for law enforcement officers," **said Quovella Spruill, Executive Vice President, National Organization of Black Law Enforcement Executives NJ Chapter**. "Unfortunately, the principal detraction to this valuable technology is the cost. This has made them unattainable

for many jurisdictions. These bills for body worn camera usage and funding are long overdue. Law enforcement and the community agree on the transparency needed to aid in protecting everyone's rights. As a mother of teenagers, woman of color, and law enforcement executive, I see how these tools can better serve in improving our relationships with our youth and citizens."

The signing of this bill into law today is a win for our communities and law enforcement," **said Carolyn Chang, Past President and Current Social Justice Committee Chair, Association of Black Women Lawyers of New Jersey.** "On behalf of the Association of Black Women Lawyers of New Jersey, we thank the Governor and leaders in both chambers for enacting this new law.

"I commend Governor Phil Murphy for taking the necessary steps to ensure the statewide use of this effective public safety tool," **said Camden Mayor Frank Moran.** "In our community, body worn cameras have proven to be instrumental in the protection and accountability of police officers and residents alike."

"Today, as law enforcement, we must work with our community and policy leaders with reflection and deliberation on the topics of policing and social justice reform," **said Wayne Blanchard, President of the State Troopers Fraternal Association.** "When we have conversations, we get results that equal progress. I thank the bill sponsors and Governor Murphy and his team for including the STFA in the important conversations with respect to legislation on BWC."

"This bill will ensure transparency for both the public and our law enforcement members," **said Pat Colligan, President, New Jersey State Police Benevolent Association (NJSPBA).** "It will enhance officer safety and help us continue the extraordinarily high level of service we continue to provide the residents of our state."

"The Fraternal Order of Police endorses Assembly Bill 4312 and its passage into law today," **said Bob Fox, President of the New Jersey Fraternal Order of Police.** "Body worn cameras are a definitive tool to ensuring the safety of our brave men and women in law enforcement, as well as, the people they serve. Body worn cameras represent another tool for law enforcement to utilize in the quest for the safety and security of the people while providing the latest technology in our pursuit of transparency. This law and its funding will help help continue the public trust and ensure the technology-based applications are used for the betterment of all New Jersey residents."

S1163 requires every uniformed State, county, and municipal patrol law enforcement officer to wear a body worn camera, subject to funding appropriated by the Legislature. Exceptions are permitted for officers engaged in undercover assignments, meeting with confidential informants, performing administrative or non-uniformed duties, and when directed by a superior officer for a lawful purpose.

The bill was sponsored by Senators Shirley Turner and Linda Greenstein, and Assemblymembers Herb Conaway and Cleopatra Tucker.

"Police body cameras have become an essential part of community policing today," **said Assemblymembers Cleopatra Tucker, Herb Conaway, Verlina Reynolds-Jackson, and Shavonda Sumter, in a joint statement.** "They aim to ensure accountability for any actions which take place during a police stop, whether it is by the officer or a resident. Tensions surrounding community policing escalated after the death of George Floyd in Minneapolis. The distrust between communities of color and law enforcement was once again highlighted in the national spotlight. A body camera is only one way of ensuring greater transparency and accountability for law enforcement, and to rebuilding community relations; however, it will be a uniquely powerful tool in getting there."

A4312 regulates the use of body worn cameras by law enforcement officers. Under the bill, officers would be required to keep the camera activated when responding to a call for service or when initiating a law enforcement or investigative encounter. When immediate activation of the camera is impossible or dangerous, an officer would be required to activate the camera at the first reasonable opportunity to do so. Officers would be required to notify subjects that the camera is activated and, under certain conditions, may deactivate a camera upon the subject's request. To protect the privacy of civilians in sensitive situations, the bill limits the use of body worn cameras while officers are on school property, in medical facilities, and in houses of worship.

The bill was sponsored by Assemblymembers Verlina Reynolds-Jackson, Shavonda Sumter, and Cleopatra Tucker, and Senators Nia Gill and Shirley Turner.

"As we work to improve policing in New Jersey, setting clear guidelines for body camera usage is crucial for transparency, accountability and public confidence, safeguarding both citizens and law enforcement officers," **said Senator Gill.** "These regulations will provide clear guidelines for how these body cameras are used allowing for consistency and reliability when footage is needed and pulled."

“In recent years, body cameras have become a valuable tool for transparency, exposing instances of police misconduct and helping to hold officers accountable,” **said Senator Turner**. “They also protect officers against false accusations and reduce the legal costs associated with use-of-force lawsuits, which are ultimately paid for by taxpayers. Body cameras will help to create safer communities, and both officers and civilians will benefit greatly from rebuilding trust between police officers and the communities they have sworn to serve and protect.”

A copy of Executive Order No. 201 can be found [here](#).



**EXECUTIVE ORDER NO. 201**

WHEREAS, the State of New Jersey is committed to serving as a model for the nation on effective policing practices and criminal justice reform; and

WHEREAS, the Attorney General has sought, through the "Excellence in Policing" initiative, to promote the professionalism, accountability, and transparency that are hallmarks of New Jersey's best law enforcement agencies; and

WHEREAS, ensuring trust between the police and the communities they serve is a critical component of public safety; and

WHEREAS, the vast majority of New Jersey's 38,000 law enforcement officers serve the public in accordance with the highest standards of professionalism and integrity; and

WHEREAS, the deployment of body worn camera systems by law enforcement agencies can be a powerful tool for building community trust, both by creating a record of law enforcement professionalism in interactions with the public, and by providing evidence of officer misconduct when it does occur; and

WHEREAS, body worn camera footage can also be utilized to improve training for law enforcement officers, by enabling scenario-based review of past encounters with the public; and

WHEREAS, Attorney General Law Enforcement Directive No. 2015-1 establishes mandatory standards for the handling and storage of body worn camera footage; and

WHEREAS, as of September 23, 2020, 237 of the State's 537 law enforcement agencies now equip some or all of their officers with body-worn cameras; and

WHEREAS, many more law enforcement agencies recognize the benefits of body worn camera systems, but find the adoption of

such systems to be prohibitively expensive or logistically difficult; and

WHEREAS, a significant factor in the cost and utilization of body worn camera systems is the ongoing expense of storing and retrieving body worn camera footage, which currently requires that law enforcement agencies individually contract directly with private vendors; and

WHEREAS, New Jersey's municipal government structure provides municipalities with the authority to establish their own services, but which can have the effect of hindering cooperation on problems common across the State; and

WHEREAS, my Administration is dedicated to promoting and supporting shared services as a way to reduce costs borne by individual municipalities and take advantage of economies of scale; and

WHEREAS, a statewide, centralized solution for the storage and retrieval of body worn camera footage could leverage the State's purchasing power to significantly reduce the costs associated with doing so, which would lower the financial and logistical barriers to system adoption for law enforcement agencies, and

WHEREAS, reducing the costs associated with adopting a comprehensive body worn camera program will accelerate the implementation of body worn camera systems across the state; and

WHEREAS, the review of a statewide solution for the storage of body worn camera footage has not previously been conducted; and

WHEREAS, a statewide, centralized solution would facilitate the Office of Public Integrity and Accountability's review of use of force and death in custody incidents, thereby streamlining the

process to ensure timely release of video footage to the public pursuant to Attorney General Law Enforcement Directive 2019-4; and

WHEREAS, such a solution would benefit from the input of stakeholders across State government and law enforcement in New Jersey;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby created the Interagency Working Group on Body Worn Cameras ("Working Group"), which shall be responsible for providing advice and recommendations to the Governor's Office and to the Attorney General regarding technology solutions to facilitate the statewide implementation of body worn cameras in law enforcement agencies.

2. The objectives of the Working Group shall include the following:

- a. Consulting with law enforcement agencies to identify barriers to the adoption of body worn camera systems;
- b. Identifying and recommending potential technology solutions to facilitate the adoption of body worn camera systems by police departments, including the potential provision of centralized statewide or regional storage systems;
- c. Developing recommended strategies for implementation of a body worn camera solution for police departments, including any actions that must be taken by agencies of state government; and

- d. Recommending any necessary changes to existing policies, whether by executive action or legislation, related to the deployment of body worn camera systems or the storage and handling of body worn camera footage.

3. The Working Group shall consist of the following fourteen members:

- a. The Attorney General, or designee; who shall serve as Chair;
- b. The Superintendent of the State Police, or designee;
- c. The Director of the Division of Criminal Justice, or designee;
- d. The Chief Technology Officer of the Office of Information Technology, or designee;
- e. The Chief Innovation Officer, or designee;
- f. The New Jersey State Treasurer, or designee;
- g. Four members of the public, including at least one member of the faith-based community and one criminal justice advocate, who shall be appointed by the Governor;
- h. Two members of county or municipal law enforcement agencies, who shall be appointed by the Governor;
- i. A member of a police union, who shall be appointed by the Governor; and
- j. A County Prosecutor, who shall be appointed by the Governor. The appointed County Prosecutor may designate a representative for participation in the Working Group.

4. All members and designees shall serve at the pleasure of the appointing department or agency, or in the case of those appointed by the Governor, at the pleasure of the Governor, and all shall serve without compensation.

5. The Working Group shall be authorized to call upon any department, office, division, or agency of this State to supply it with information or other assistance as the Working Group determines to be necessary to discharge its duties under this Order.

6. Each Executive Branch department and agency is hereby required, to the extent not inconsistent with law and consistent with budgetary constraints, to cooperate fully with the Working Group within the limits of its statutory authority and to furnish the Working Group with such assistance on as timely a basis as is necessary to accomplish the purposes of this Order. To the extent necessary, the Department of Law and Public Safety shall provide professional and clerical staff to the Working Group.

7. The Working Group may consult with experts or other knowledgeable individuals in the public or private sector with respect to any aspect of its mission.

8. The Working Group shall organize and meet as soon as practicable to begin performing the charges set forth in this order.

9. The Working Group, which shall be purely advisory in nature, shall issue a report of its findings and recommendations to the Governor's Office and Attorney General no later than March 31, 2021. The Working Group shall expire upon the issuance of this report.

10. Nothing in this Order shall be construed to supersede any federal, State, or local law.

11. For purposes of this Order, "Executive Branch departments and agencies" shall mean any of the principal departments in the Executive Branch of State government and any agency, authority, board, bureau, commission, division, institution, office, or other instrumentality within or created by any such department, and any independent State authority, commission, instrumentality, or agency over which the Governor exercises executive authority, as determined by the Attorney General.

12. This Order shall take effect immediately.

GIVEN, under my hand and seal this  
24<sup>th</sup> day of November,  
Two Thousand and Twenty, and  
of the Independence of the  
United States, the Two  
Hundred and Forty-Fifth.

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Parimal Garg

Chief Counsel to the Governor