SENATE, No. 2656

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JUNE 30, 2020

Sponsored by:
Senator LORETTA WEINBERG
District 37 (Bergen)
Senator NIA H. GILL
District 34 (Essex and Passaic)

SYNOPSIS
Requires access to law enforcement disciplinary records as government records; requires such records to be retained for certain period of time.

CURRENT VERSION OF TEXT
As introduced.
AN ACT concerning the disclosure and retention of law enforcement disciplinary records, and supplementing P.L.1963, c.73 (C.47:1A-1 et seq.).

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

1. a. Notwithstanding the provisions of P.L.1963, c.73 (C.47:1A-1 et seq.) or any other law to the contrary, except as otherwise provided herein, the disciplinary records of any law enforcement officer shall be considered government records and shall be made available for public access.

b. As used in this section, "law enforcement officer" or "officer" means any person who is employed as a permanent member of a law enforcement agency, and who is statutorily empowered to act for the detection, investigation, arrest, and conviction of persons violating the criminal laws of this State and statutorily required to successfully complete a training course approved, or certified as being substantially equivalent to the approved course, by the Police Training Commission pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.).

The term “law enforcement officer” or “officer” shall also include: special police officers of Class I, Class II, or Class III; probationary and temporary police officers; school and campus police officers; county correctional police; correction officers and investigators of the Department of Corrections; and parole officers employed by the State Parole Board.

c. Disciplinary records of any law enforcement officer shall include, but not be limited to:

(1) any complaints, allegations, and charges pertaining to an officer;

(2) the name of the officer complained of or charged;

(3) the transcript of any disciplinary trial or hearing, including any exhibits introduced at such trial or hearing;

(4) the disposition of any proceeding;

(5) the final written opinion or memorandum supporting the disposition and discipline, if any, imposed, including the agency’s complete factual findings and its analysis of the conduct and appropriate discipline of the covered officer;

(6) internal affairs records relating to a law enforcement officer; and

(7) any video and audio recording created by a body-worn camera, mobile video recorder, or other similar recording device, which recorded the incident or conduct giving rise to any complaint, allegation, charge or internal affairs investigation.

d. The following information contained in any disciplinary record of a law enforcement officer shall be redacted:
(1) the home address, home telephone number, work or school address, work telephone number, and social security number of any law enforcement officer, or officer’s family member, or any complainant, or complainant’s family member, or any witness or witness’ family member; and

(2) the medical history and detailed medical information of any law enforcement officer or any complainant. This provision shall not be construed to permit redactions to any descriptions of injuries or conditions that are the subject of the complaint or caused by or resulting from a law enforcement officer’s alleged conduct; and

(3) the names of any complaints or witnesses upon their request. The custodian shall make a reasonable effort to determine whether complainants and witnesses request such redaction.

2. a. The disciplinary records of law enforcement officers shall be maintained for a minimum period of not less than 20 years from the date that such document was created, except that any video and audio recording created by a body-worn camera, mobile video recorder, or other similar recording device, which recorded the incident or conduct giving rise to any complaint, allegation, charge or internal affairs investigation, shall be maintained for a period not less than five years if such evidence is not part of a criminal, juvenile, or officer disciplinary investigation, or a civil action.

b. If any video and audio recording created by a body-worn camera, mobile video recorder, or other similar recording device, which recorded the incident or conduct giving rise to any complaint, allegation, charge or internal affairs investigation is part of a criminal, juvenile, or disciplinary investigation, such records shall be maintained until, at a minimum, the time of a final adjudication or conviction, including the exhaustion of any appeals, or post-conviction relief.

c. If any video and audio recording created by a body-worn camera, mobile video recorder, or other similar recording device, which recorded the incident or conduct giving rise to any complaint, allegation, charge or internal affairs investigation is part of a civil action, such records shall be maintained until, at a minimum, the time of a final resolution of the civil action, including the exhaustion of any appeals, or post-conviction relief.

3. Nothing contained in section 11 of P.L.2002, c.404 (C.47:1A-10) shall be deemed to create an exemption for disciplinary records of any law enforcement officer otherwise accessible pursuant to section 1 of this act, P.L. , c. (C. ) (pending before the Legislature as this bill).

4. This act shall take effect immediately.
Access to government records promotes general transparency in government. Access can expose significant failings and provide insight into what can be done to effectuate meaningful change. This is especially critical in the context of police disciplinary records. This bill makes law enforcement disciplinary records accessible as government records. Under the bill, certain information pertaining to the law enforcement officer, or the officer’s family, the complainant, or the complainant’s family, and a witness, or the witness’ family, will be redacted.

Under the bill, law enforcement disciplinary records includes, but are not limited to: complaints, allegations, and charges; the name of the officer complained of or charged; the transcript of any disciplinary trial or hearing, including any exhibits; the disposition of any proceeding; and the final written opinion or memorandum supporting the disposition and discipline imposed including the agency’s complete factual findings and its analysis of the conduct and appropriate discipline of the covered officer; and internal affairs records; and videos that record incidents that gave rise to complaints, allegations, charges, or internal affairs investigations.

This bill also requires that the disciplinary records of law enforcement officers must be maintained for a minimum period of not less than 20 years from the date that such document was created, except that any video and audio recording created by a body-worn camera, mobile video recorder, or other similar recording device, which recorded the incident or conduct giving rise to any complaint, allegation, charge or internal affairs investigation, must be maintained for a period not less than five years if such evidence is not part of a criminal, juvenile, or officer disciplinary investigation, or a civil action.

If any video and audio recording created by a body-worn camera, mobile video recorder, or other similar recording device, which recorded the incident or conduct giving rise to any complaint, allegation, charge or internal affairs investigation is part of a criminal, juvenile, or disciplinary investigation, such records must be maintained until, at a minimum, the time of a final adjudication or conviction, including the exhaustion of any appeals, or post-conviction relief.

If any video and audio recording created by a body-worn camera, mobile video recorder, or other similar recording device, which recorded the incident or conduct giving rise to any complaint, allegation, charge or internal affairs investigation is part of a civil action, such records must be maintained until, at a minimum, the time of a final resolution of the civil action, including the exhaustion of any appeals, or post-conviction relief.