

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)

Co-Sponsored by:

Senators Turner, Stack and Cunningham

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.



(Sponsorship Updated As Of: 5/13/2021)

1 AN ACT concerning the disclosure and retention of law enforcement
2 disciplinary records, and supplementing P.L.1963, c.73 (C.47:1A-
3 1 et seq.).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. a. Notwithstanding the provisions of P.L.1963, c.73 (C.47:1A-
9 1 et seq.) or any other law to the contrary, except as otherwise
10 provided herein, the disciplinary records of any law enforcement
11 officer shall be considered government records and shall be made
12 available for public access.

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

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

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

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

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

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

35 (4) the disposition of any proceeding;

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

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

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

46 d. The following information contained in any disciplinary record
47 of a law enforcement officer shall be redacted:

1 (1) the home address, home telephone number, work or school
2 address, work telephone number, and social security number of any
3 law enforcement officer, or officer's family member, or any
4 complainant, or complainant's family member, or any witness or
5 witness' family member; and

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

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

14

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

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

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

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

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46 4. This act shall take effect immediately.

STATEMENT

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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.