

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

**ASSEMBLY, No. 5039**

**STATE OF NEW JERSEY**

DATED: MAY 18, 2021

The Assembly Judiciary Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 5039.

As reported by the committee, the Assembly Committee Substitute for Assembly Bill No. 5039 requires correctional police officers to wear body worn cameras (BWC) and requires the development and implementation of a comprehensive plan to install a state-of-the-art camera system in State correctional facilities.

The committee substitute specifically requires all correctional police officers employed in a State correctional facility to wear a BWC at all times while performing the officer's duties, unless otherwise provided in the committee substitute. The substitute also regulates the use of BWCs by correctional police officers 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 committee substitute clarifies the circumstances in which deactivation of the BWC is required or permitted. Under the committee substitute, a BWC is to be deactivated: while an officer is using the restroom; during a State parole board hearing or court proceeding; during an officer's medical assessment or appointment; during a Department of Corrections meeting, or while engaging in union representation of a member of the collective bargaining group; during an interview of the victim of a Prison Rape Elimination Act allegation, unless the victim requests that the BWC remain activated during the interview; and when directed by the Commissioner of Corrections for a lawful purpose. The video capabilities of a BWC are to be deactivated, but the audio is to remain activated: during a strip search or body cavity search; and when an officer is patrolling a restroom or shower facility.

The committee substitute specifies that the video and audio functions of the BWC are to remain activated at all times: during a riot; during any incident resulting in bodily injury or death; during any incident in which the officer exercises the use of force; during any incident that involves suspected criminal activity; while meeting with a confidential informant; and when directed by the commissioner or a superior officer.

The committee substitute imposes data storage retention requirements. BWC recordings are to be retained for a minimum of 180 days from the date of the recording, but are subject to longer periods if they fall into certain categories. For example, a BWC recording is to automatically be retained for not less than three years if it captures images involving an encounter about which a complaint has been registered. A BWC recording may also be retained for a longer period if requested by the subject, parent or guardian of a minor who is the subject, or a deceased subject's next of kin or designee; or by the correctional ombudsman, or an inmate, inmate's attorney, or counsel substitute of an inmate who is the subject of a BWC recording of an incident that is the subject of a disciplinary action.

The committee substitute requires disciplinary action to be taken against any correctional police officer who fails to adhere to the recording or retention requirements contained in the committee substitute or who intentionally interferes with a BWC's ability to accurately capture video footage. A rebuttable presumption in favor of inmates who are 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 substitute'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.

The commissioner is required to issue a written summary of the provisions of the committee substitute relating to the use of BWCs by correctional police officers and ensure that a copy of the written policy is provided to each inmate, published in the inmate handbook, posted on the Department of Corrections website, and prominently posted throughout each State correctional facility.

In regard to the camera system, the committee substitute specifically requires the Commissioner of Corrections to contract with a consultant who has expertise in the area of surveillance cameras in correctional facilities to conduct a study of each facility. The consultant is to advise the commissioner on the development and implementation of the plan for installing the camera system.

The plan for the camera system is to require an evaluation of the current number and location of cameras in the facility and to the extent possible, incorporate these cameras into the comprehensive plan. The plan is to require security cameras be placed throughout the facility, including identified blind-spots, housing unit hallways and entryways, common spaces, and exterior locations. The plan also is to require systematic oversight and review of the camera footage. At least one corrections officer per shift is required to continuously monitor the camera system. The corrections officer is to immediately report any observed misconduct to the appropriate supervisor, as well as to the corrections ombudsperson. A corrections officer who does not comply with these reporting requirements is subject to administrative

sanctions. The plan also is to require security camera footage to be maintained for not less than 90 days and, when necessary, to be retained indefinitely. Upon request, the commissioner is to make this footage available to the Legislature for investigatory purposes. The Legislature is to keep confidential any information garnered from the footage.

The commissioner is required by the committee substitute to submit to the Legislature an annual report evaluating the effectiveness of the camera system, including a review of the location of cameras and whether their placement achieves maximum supervision. If the review indicates that a change to a camera location is necessary, the change is to be made within 30 days of the submission of the report. If the change cannot be made within 30 days, the reason for exceeding 30 days is to be documented.