

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 5039**

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**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

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ADOPTED MAY 18, 2021

**Sponsored by:**

**Assemblywoman YVONNE LOPEZ**

**District 19 (Middlesex)**

**Assemblywoman VALERIE VAINIERI HUTTLE**

**District 37 (Bergen)**

**Assemblywoman ANGELA V. MCKNIGHT**

**District 31 (Hudson)**

**Co-Sponsored by:**

**Assemblywoman Tucker**

**SYNOPSIS**

Requires correctional police officers to wear body worn cameras and security camera systems to be installed in State correctional facilities.

**CURRENT VERSION OF TEXT**

Substitute as adopted by the Assembly Judiciary Committee.



1    **AN ACT** concerning body worn and security cameras in State  
2       correctional facilities and supplementing Title 30 of the Revised  
3       Statutes.

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

7  
8       1. For the purposes of this section:

9       “Body worn camera” means a mobile audio and video recording  
10      system worn by a correctional police officer in a State correctional  
11      facility.

12      “Force” shall include physical, emotional, mechanical, enhanced  
13      mechanical, and deadly force.

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      “Subject of the video footage” means any correctional police  
17      officer, inmate, victim, detainee, conversant, injured party, or other  
18      similarly situated person who appears on the body worn camera  
19      recording, and shall not include a person who only incidentally  
20      appears on the recording.

21  
22      2. a. Notwithstanding the provisions of any other law to the  
23      contrary and subject to the limit of funds appropriated or otherwise  
24      made available for this purpose, the Commissioner of Corrections  
25      shall require all correctional police officers in every State  
26      correctional facility to wear a body worn camera that electronically  
27      records audio and video at all times while the officer is acting in the  
28      performance of the officer’s duties, except as provided in  
29      subsections b. and c. of this section.

30      b. A body-worn camera shall be deactivated:

31          (1) while the officer is using the restroom;

32          (2) during a State parole board hearing;

33          (3) during a court proceeding;

34          (4) during an officer’s medical assessment, appointment, or  
35          consultation;

36          (5) during a Department of Corrections meeting or while  
37          engaging in union representation of a member of the collective  
38          bargaining group; and

39          (6) during an interview of the victim of a Prison Rape  
40          Elimination Act allegation, unless the victim requests that the  
41          camera remain activated during the interview; prior to initiating the  
42          interview, the officer shall notify the victim that audio and video  
43          capabilities of the body worn camera will be deactivated during the  
44          interview unless the inmate requests that they remain activated; the  
45          body worn camera shall remain activated while the officer notifies  
46          the victim of the right to have the interview recorded and the  
47          victim’s stated preference to not record the interview prior to  
48          deactivation of the body worn camera.

- 1 c. The video capabilities of a body-worn camera shall be  
2 deactivated, but the audio shall remain activated:
- 3 (1) during a strip search or body cavity search; and  
4 (2) when an officer is patrolling a restroom or shower facility.
- 5 d. Notwithstanding the provisions of subsections b. and c. of  
6 this section, the video and audio functions of the body worn camera  
7 shall remain activated at all times:
- 8 (1) during a riot;  
9 (2) during any incident resulting in bodily injury or death;  
10 (3) during any incident in which the officer exercises the use of  
11 force;  
12 (4) during any incident that involves suspected criminal activity;  
13 (5) while meeting with a confidential informant; and  
14 (6) when directed by the commissioner or a superior officer for  
15 a lawful purpose.
- 16 e. A body worn camera used by a correctional police officer  
17 shall be placed so that it maximizes the camera's ability to capture  
18 audio and video footage of the officer's activities.
- 19 f. A body worn camera recording shall be retained by the  
20 Department of Corrections for a retention period consistent with the  
21 provisions of this section, after which time the recording shall be  
22 permanently deleted. A body worn camera recording shall be  
23 retained for not less than 180 days from the date it was recorded,  
24 which minimum time frame for retention shall be applicable to all  
25 contracts for retention of body worn camera recordings executed by  
26 or on behalf of the Department of Corrections on or after the  
27 effective date of this act, and shall be subject to the following  
28 additional retention periods:
- 29 (1) a body worn camera recording shall automatically be  
30 retained for not less than three years if it captures images involving  
31 an encounter about which a complaint has been registered by a  
32 subject of the body worn camera recording;
- 33 (2) subject to any applicable retention periods established in  
34 paragraph (3) of this subsection to the extent such retention period  
35 is longer, a body worn camera recording shall be retained for not  
36 less than three years if voluntarily requested by:
- 37 (a) the correctional police officer whose body worn camera  
38 made the video recording, if that officer reasonably asserts the  
39 recording has evidentiary or exculpatory value;
- 40 (b) a correctional police officer who is a subject of the body  
41 worn camera recording, if that officer reasonably asserts the  
42 recording has evidentiary or exculpatory value;
- 43 (c) any immediate supervisor of a correctional police officer  
44 whose body worn camera made the recording or who is a subject of  
45 the body worn camera recording, if that immediate supervisor  
46 reasonably asserts the recording has evidentiary or exculpatory  
47 value;

- 1 (d) any correctional police officer, if the body worn camera  
2 recording is being retained solely and exclusively for officer  
3 training purposes;
- 4 (e) any member of the public who is a subject of the body worn  
5 camera recording;
- 6 (f) any parent or legal guardian of a minor who is a subject of  
7 the body worn camera recording;
- 8 (g) a deceased subject's next of kin or legally authorized  
9 designee; or
- 10 (h) an inmate, the corrections ombudsperson, an inmate's  
11 attorney, or counsel substitute of an inmate who is the subject of the  
12 body worn camera recording of an incident that results in a  
13 disciplinary action.
- 14 (3) Notwithstanding the provisions of paragraph (1) or (2) of this  
15 subsection, a body worn camera recording shall be subject to the  
16 following additional retention requirements:
- 17 (a) when a body worn camera recording pertains to a criminal  
18 investigation or otherwise records information that may be subject  
19 to discovery in a prosecution, the recording shall be treated as  
20 evidence and shall be kept in accordance with the retention period  
21 for evidence in a criminal prosecution;
- 22 (b) when a body worn camera records an arrest that did not result  
23 in an ongoing prosecution, or records the use of force by a  
24 correctional police officer, the recording shall be kept until the  
25 expiration of the statute of limitations for filing a civil complaint  
26 against the officer or the Department of Corrections; and
- 27 (c) when a body worn camera records an incident that is the  
28 subject of an investigation by the Department of Corrections  
29 Special Investigations Division, the recording shall be kept pending  
30 final resolution of the investigation and any resulting administrative  
31 or disciplinary action.
- 32 g. To effectuate subparagraphs (e), (f), and (g) of paragraph (2)  
33 of subsection f. of this section, the member of the public, parent or  
34 legal guardian, or next of kin or designee shall be permitted to  
35 review the body worn camera recording in accordance with the  
36 provisions of P.L.1963, c.73 (C.47:1A-1 et seq.) to determine  
37 whether to request a three-year retention period.
- 38 h. To effectuate subparagraph (h) of paragraph (2) of  
39 subsection f. of this section, the inmate, corrections ombudsperson,  
40 inmate's attorney, or counsel substitute of an inmate who is the  
41 subject of the body worn camera recording of an incident that  
42 results in a disciplinary action shall be permitted to review the body  
43 worn camera recording in accordance with the provisions of  
44 P.L.1963, c.73 (C.47:1A-1 et seq.) to determine whether to request  
45 a three-year retention period.
- 46 i. Notwithstanding that a criminal investigatory record does  
47 not constitute a government record under section 1 of P.L.1995,

1 c.23 (C.47:1A-1.1), only the following body worn camera  
2 recordings shall be exempt from public inspection:

3 (1) body worn camera recordings not subject to a minimum  
4 three-year retention period or additional retention requirements  
5 pursuant to subsection f. of this section;

6 (2) body worn camera recordings subject to a minimum three-  
7 year retention period solely and exclusively pursuant to paragraph  
8 (1) of subsection f. of this section if the subject of the body worn  
9 camera recording making the complaint requests the body worn  
10 camera recording not be made available to the public;

11 (3) body worn camera recordings subject to a minimum three-  
12 year retention period solely and exclusively pursuant to  
13 subparagraph (a), (b), (c), or (d) of paragraph (2) of subsection f. of  
14 this section; and

15 (4) body worn camera recordings subject to a minimum three-  
16 year retention period solely and exclusively pursuant to  
17 subparagraph (e), (f), or (g) of paragraph (2) of subsection f. of this  
18 section if a member, parent or legal guardian, or next of kin or  
19 designee requests the body worn camera recording not be made  
20 available to the public.

21 j. Any body worn camera recording retained beyond 180 days  
22 solely and exclusively pursuant to subparagraph (d) of paragraph  
23 (2) of subsection f. of this section shall not be admissible as  
24 evidence in any criminal or civil legal or administrative proceeding.

25 k. Except as otherwise provided in this section, a correctional  
26 police officer shall not review or receive an accounting of a body  
27 worn camera recording.

28 l. Body worn camera recordings shall not be divulged or used  
29 by the Department of Corrections for any commercial or other non-  
30 law enforcement purpose.

31 m. If the Department of Corrections authorizes a third-party to  
32 act as its agent in maintaining recordings from a body worn camera,  
33 the agent shall be prohibited from independently accessing,  
34 viewing, or altering any recordings, except to delete recordings as  
35 required by law or Department of Corrections retention policies.

36 n. If a correctional police officer, employee, or agent fails to  
37 adhere to the recording or retention requirements contained in this  
38 act, or intentionally interferes with a body worn camera's ability to  
39 accurately capture video footage audio or video recordings:

40 (1) the officer, employee, or agent shall be subject to  
41 appropriate disciplinary action up to, and including, termination;

42 (2) there shall be a rebuttable presumption that exculpatory  
43 evidence was destroyed or not captured in favor of an inmate who is  
44 a criminal defendant who reasonably asserts that exculpatory  
45 evidence was destroyed or not captured; and

46 (3) there shall be a rebuttable presumption that evidence  
47 supporting the plaintiff's claim was destroyed or not captured in  
48 favor of an inmate plaintiff suing the government, the Department

1 of Corrections, or a correctional police officer for damages based on  
2 officer misconduct if the plaintiff reasonably asserts that evidence  
3 supporting the plaintiff's claim was destroyed or not captured.

4 o. Any recordings from a body worn camera recorded in  
5 contravention of this or any other applicable law shall be  
6 immediately destroyed and shall not be admissible as evidence in  
7 any criminal, civil, or administrative proceeding.

8 p. Nothing in this act shall be deemed to contravene any laws  
9 governing the maintenance and destruction of evidence in a  
10 criminal investigation or prosecution.

11  
12 3. a. The Commissioner of Corrections, in consultation with  
13 the Attorney General, shall promulgate or revise guidelines or  
14 directives, as appropriate, to implement and enforce the provisions  
15 of P.L. , c. (C. ) (pending before the Legislature as this  
16 bill).

17 b. The commissioner shall issue a written summary of the  
18 provisions of P.L. , c. (C. ) (pending before the Legislature  
19 as this bill) related to the use of body worn cameras by correctional  
20 police officers. The commissioner shall ensure that a copy of the  
21 written policy is:

- 22 (1) provided to each inmate;  
23 (2) published in the inmate handbook;  
24 (3) posted on the Internet website of the Department of  
25 Corrections; and  
26 (4) prominently posted throughout each State correctional  
27 facility.

28  
29 4. a. In addition to funding provided through the annual  
30 appropriations act, the Legislature shall appropriate to the New  
31 Jersey Department of Corrections from the General Fund such sums  
32 as are necessary to carry out the purposes of this act.

33 b. In addition to funds appropriated pursuant to subsection a. of  
34 this section, the body worn cameras required by subsection a. of  
35 section 2 of P.L. , c. (C. ) (pending before the Legislature  
36 as this bill) may be funded by any other source of funding made  
37 available for this purpose, including but not limited to federal  
38 grants.

39  
40 5. a. The Commissioner of Corrections shall install a state-of-  
41 the-art camera system in each State correctional facility for the  
42 purpose of maximizing supervision and protecting privacy.

43 b. The commissioner shall contract with a consultant with  
44 expertise in the area of surveillance cameras in correctional  
45 facilities to conduct a study of each facility to assist in the  
46 development and implementation of a comprehensive plan to install  
47 a camera system in each facility.

48 c. At a minimum, the plan for the camera system shall:

- 1 (1) evaluate the current number and location of cameras in the
- 2 facility and to the extent possible, incorporate these cameras into
- 3 the comprehensive plan;
- 4 (2) require installation of security cameras throughout the facility
- 5 including, but not limited to, identified blind-spots, housing unit
- 6 hallways and entryways, common spaces, and exterior locations;
- 7 (3) require systematic oversight and review of the footage
- 8 obtained from the security cameras, including continuous
- 9 monitoring by at least one correctional police officer per shift;
- 10 (4) require the correctional police officer assigned to monitor the
- 11 cameras to immediately report any observed misconduct to the
- 12 appropriate supervisor and submit a report to the corrections
- 13 ombudsperson;
- 14 (5) establish administrative sanctions for a correctional police
- 15 officer who does not comply with the provisions of this subsection;
- 16 and
- 17 (6) require security camera footage to be maintained for not less
- 18 than 90 days and when necessary to be retained indefinitely.
- 19 d. The commissioner shall submit to the Legislature pursuant to
- 20 section 2 of P.L.1991, c.164 (C.52:14-19.1) an annual report
- 21 evaluating the effectiveness of the camera system including, but not
- 22 limited to, a review of the location of cameras and whether
- 23 maximum supervision is achieved. If the review indicates that a
- 24 change to a camera location is necessary, the change shall be made
- 25 within 30 days of the submission of the annual report. If a change
- 26 cannot be made within 30 days, the reason for exceeding 30 days
- 27 shall be documented.
- 28 e. Upon request, the commissioner shall make available to the
- 29 Legislature security camera footage for investigatory purposes, the
- 30 content of which shall remain strictly confidential.
- 31
- 32 6. This act shall take effect on the first day of the seventh
- 33 month next following enactment.