

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

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

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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.).