

ASSEMBLY, No. 5505

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MARCH 17, 2021

Sponsored by:

Assemblywoman BRITNEE N. TIMBERLAKE

District 34 (Essex and Passaic)

Assemblywoman VERLINA REYNOLDS-JACKSON

District 15 (Hunterdon and Mercer)

SYNOPSIS

Establishes right to record law enforcement activity under certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/22/2021)

1 AN ACT concerning recording of law enforcement activity and
2 supplementing chapter 14 of Title 40A of the New Jersey
3 Statutes.

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

7
8 1. This act shall be known and may be cited as the "New
9 Jerseyans' Right to Monitor Act."

10
11 2. a. For purposes of this section:

12 "Law enforcement activity" means any activity of a law
13 enforcement officer acting in the performance of the officer's
14 duties.

15 "Law enforcement officer" means a person whose public duties
16 include the power to act as an officer for the detection,
17 apprehension, arrest, and conviction of offenders against the laws of
18 this State.

19 "Record" means to capture or attempt to capture any moving or
20 still image, sound, or impression through the use of any recording
21 device, camera, or other device capable of capturing audio, moving
22 or still images, or by way of written notes or observations.

23 b. A person who is not under arrest or in the custody of a law
24 enforcement officer has the right to record law enforcement activity
25 and to maintain custody and control of that recording and any
26 property, instruments, or equipment used by the person to record
27 law enforcement activities. A person under arrest or in custody
28 shall not, based solely on that status, forfeit the right to have a
29 recording, property, instrument, or equipment maintained and
30 returned.

31 c. Nothing in this section shall be construed to permit a person
32 to engage in actions that physically interfere with law enforcement
33 activity or otherwise constitute the crime of obstructing
34 administration of law or other governmental function pursuant to
35 N.J.S.2C:29-1.

36 d. A claim of unlawful interference with recording law
37 enforcement activity shall be established pursuant to this section if
38 the person exercised or attempted to exercise the right to record law
39 enforcement activity and the law enforcement officer commits an
40 act that interferes with that person, including, but not limited to:

41 (1) intentionally preventing or attempting to prevent that person
42 from recording law enforcement activity;

43 (2) threatening that person for recording law enforcement
44 activity;

45 (3) commanding the person cease recording law enforcement
46 activity when the person was authorized by law to record;

47 (4) stopping, seizing, searching, ticketing, or arresting that
48 person because the person recorded law enforcement activity; or

1 (5) unlawfully seizing property, instruments, or equipment used
2 by that person to record a law enforcement activity, unlawfully
3 destroying or seizing a recorded image of law enforcement activity,
4 or copying a recording of law enforcement activity without consent
5 of the person who recorded it or approval from an appropriate court.

6 e. It shall be an affirmative defense to a civil action under
7 paragraphs (1), (3), and (5) of subsection d. of this section that at
8 the time of the conduct of the law enforcement officer, the officer
9 had probable cause to arrest the person recording the law
10 enforcement activity for obstructing administration of law or other
11 governmental function pursuant to N.J.S.2C:29-1.

12 f. A person subject to unlawful interference with recording law
13 enforcement activity may bring an action for any violation of this
14 section in any court of competent jurisdiction for damages,
15 including punitive damages, declaratory and injunctive relief, or
16 other remedy the court may deem appropriate.

17 g. In any action or proceeding brought pursuant to this section,
18 the court may allow a prevailing plaintiff reasonable attorney's fees
19 and expert fees, in addition to any other costs which may be
20 recovered.

21 h. Any action or proceeding brought pursuant to this section
22 shall be commenced no later than three years after the date on
23 which the violation is committed.

24 i The right to record law enforcement activity established in
25 this section shall be in addition to all rights, procedures, and
26 remedies available under the United States Constitution; 42 U.S.C.
27 s.1983; the Constitution of the State of New Jersey; other federal,
28 State, or local law; administrative law; or other civil remedies,
29 including monetary damages, created by statute, ordinance,
30 regulation, or common law.

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32 3. This act shall take effect immediately.
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35 STATEMENT

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37 This bill, entitled the "New Jerseyans' Right to Monitor Act,"
38 authorizes this State's citizens to record the activities of law
39 enforcement officers.

40 Specifically, a person who is not under arrest or in the custody of
41 a law enforcement officer is accorded the right to record law
42 enforcement activity. The bill defines "law enforcement activity"
43 as any activity of a law enforcement officer acting in the
44 performance of the officer's duties. Under the bill, the person also
45 has the right to maintain custody and control of the recording, as
46 well as any property, instruments, or equipment used to record the
47 activity. But the bill specifically prohibits anyone from engaging in
48 actions that physically interfere with law enforcement activity or

1 obstruct the administration of law or another governmental
2 function.

3 A claim of unlawful interference with recording a law
4 enforcement activity is established pursuant to the bill's provisions
5 if a person exercised or attempted to exercise the right to record law
6 enforcement activity and a law enforcement officer commits an act
7 that interferes with the person. Those acts include intentionally
8 preventing or attempting to prevent that person from recording law
9 enforcement activity; threatening the person for recording law
10 enforcement activity; commanding that the person cease recording
11 law enforcement activity when the person was authorized under law
12 to record; stopping, seizing, searching, ticketing, or arresting the
13 person for recording law enforcement activity; or unlawfully
14 seizing property, instruments, or equipment used by the person to
15 record law enforcement activity, unlawfully destroying or seizing a
16 recorded image of law enforcement activity, or copying a recording
17 of law enforcement activity without the consent of the person who
18 recorded it or approval from the court.

19 The bill establishes an affirmative defense under certain
20 circumstances to a civil action if the law enforcement officer had
21 probable cause to arrest the person recording the law enforcement
22 activity for obstructing administration of law or other governmental
23 function.

24 An action for a violation of the bill's provisions may be brought
25 in any court of competent jurisdiction for damages, including
26 punitive damages, declaratory and injunctive relief, and any other
27 remedy the court may deem appropriate. The court may allow a
28 prevailing plaintiff reasonable attorney's and expert fees, in addition
29 to any other costs which may be recovered.

30 This bill is modelled on a recently enacted New York State law
31 that affirms the right to record law enforcement activity and
32 maintain custody of the recording and related equipment.