# LEGISLATIVE FISCAL ESTIMATE
# SENATE, No. 101
# STATE OF NEW JERSEY
# 219th LEGISLATURE

DATED: SEPTEMBER 1, 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 | Year 1 | Year 2 | Year 3 |
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| **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 usage. 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 regulates the use of BWCs by law enforcement officers throughout the State for those law enforcement agencies utilizing them and provides guidance as to when, why, and how a BWC should be utilized and indicates that only law enforcement officers are authorized to wear a body camera in this State.

The bill provides data storage retention requirements by law enforcement agencies between six months to not less than three years, depending on the specific incident. The bill also specifies when video footage from a body camera is exempt from the State's open public records act.

Further, the bill limits superior officers from viewing footage unless there's an allegation of misconduct against the officer who recorded the footage and prohibits automated analysis or analytics. Third party vendors contracted to maintain video footage are prohibited from viewing the footage other than to delete it.

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 body worn camera's 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 video footage from a body worn camera 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. 2018-10, Law Enforcement Directive Concerning Public Release of Video Recordings Depicting Police Deadly Force Incidents.* The bill, however, expands the data storage requirements of the BWC footage in certain circumstances. Since 2015, the State has implemented activation, de-activation, disclosure, and retention polices 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 camera 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 cameras may be significant, the report found that many police executives attributed the most expensive aspect of a body-worn camera program to be data storage. The OLS anticipates there may be ongoing unknown annual costs to manage data storage.

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| *Approved:* | *Frank W. Haines III*<br>*Legislative Budget and Finance Officer* |

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.).