SENATE, No. 365

STATE OF NEW JERSEY
220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

Sponsored by:
Senator NIA H. GILL
District 34 (Essex and Passaic)

SYNOPSIS
Prohibits use of facial recognition or biometric surveillance system on police body-worn cameras.

CURRENT VERSION OF TEXT
Introduced Pending Technical Review by Legislative Counsel.
AN ACT prohibiting use of biometric surveillance systems on police
body-worn cameras and supplementing Title 52 of the Revised
Statutes.

BE IT ENACTED by the Senate and General Assembly of the State
of New Jersey:

1. a. Every police department or force, the Division of State
Police in the Department of Law and Public Safety, and law
enforcement officers of every police department or force and the
Division of State Police, shall be prohibited from installing, activating,
or using any facial recognition or other biometric surveillance system
in connection with an officer camera, or data collected by an officer
camera.

b. This section shall not preclude a police department or force,
the State Police, or a law enforcement officer from using a mobile
fingerprint scanning device during a lawful detention to identify a
person who does not have proof of identification if this use is lawful
and does not generate or result in the retention of any biometric data
or surveillance information.

c. A person may institute proceedings for a violation of this
section for injunctive or declaratory relief in any court of competent
jurisdiction to enforce this section, and the person shall be entitled
to recover actual damages and additional damages of $100 for each
violation, or $1,000, whichever is greater. The court shall award
costs and reasonable attorneys' fees to a plaintiff who is the
prevailing party in an action brought pursuant to this subsection.

d. A violation of this section by a law enforcement officer shall
result in consequences that may include retraining, suspension, or
termination, subject to due process requirements.

e. For the purposes of this section:

"Biometric data" means a physiological, biological, or behavioral
characteristic that can be used, singly or in combination with each
other or with other information, to establish a person's identity.

"Facial recognition or other biometric surveillance” means an
automated or semi-automated process by which a person is identified
or attempted to be identified based on the characteristics of their face
or based on their biometric data, including identification of known or
unknown persons or groups; or an automated or semi-automated
process that generates, or assists in generating, surveillance
information about a person based on the characteristics of a person’s
face or based on biometric data. Facial recognition or other biometric
surveillance shall not include the use of an automated or semi-
automated process for the purpose of redacting a recording for release
or disclosure outside a police department or force to protect the
privacy of a subject depicted in the recording, if the process does
not generate or result in the retention of any biometric data or
surveillance information.
“Facial recognition or biometric surveillance system” means any computer software or application that performs facial recognition or other biometric surveillance.

"Officer camera” means a body-worn camera or similar device that records or transmits images or sound and is attached to the body or clothing of, or carried by, a law enforcement officer.

"Surveillance information” means any information about a known or unknown person, including but not limited to, a person's name, date of birth, gender or criminal background; or any information derived from biometric data, including but not limited to, assessments about a person’s sentiment, state of mind, or level of dangerousness.

2. This act shall take effect on the first day of the fourth month next following enactment.

STATEMENT

This bill prohibits police departments and law enforcement officers in this State from using facial recognition systems in body-worn police cameras.

The bill specifically prohibits municipal and county police departments, the Division of State Police in the Department of Law and Public Safety, and law enforcement officers of these departments and the State Police, from installing, activating, or using any facial recognition or other biometric surveillance system in connection with an officer camera, or data collected by an officer camera.

Under the bill, officer cameras include body-worn cameras or similar devices that record or transmit images or sound and is attached to the body or clothing of, or carried by, a law enforcement officer.

The bill defines "facial recognition or other biometric surveillance” as an automated or semi-automated process by which a person is identified or attempted to be identified based on the characteristics of their face or based on their biometric data, including identification of known or unknown persons or groups; or an automated or semi-automated process that generates, or assists in generating, surveillance information about a person based on the characteristics of a person’s face or based on biometric data. “Facial recognition or biometric surveillance system” is defined as any computer software or application that performs facial recognition or other biometric surveillance.

Police departments and law enforcement officers are not prohibited by the bill from lawfully using a mobile fingerprint scanning device during a lawful detention to identify a person who does not have proof of identification, but the use may not generate biometric data or result in retaining this data or information.

A person may seek injunctive or declaratory relief in a court of competent jurisdiction for violations of the bill’s provisions. The
person is entitled to recover actual damages and additional damages of $100 for each violation, or $1,000, whichever is greater. The court also is to award costs and reasonable attorneys' fees to a prevailing plaintiff. Violations by law enforcement officers may result in retraining, suspension, or termination.