

# SENATE, No. 365

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# STATE OF NEW JERSEY

## 220th LEGISLATURE

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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.



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1 AN ACT prohibiting use of biometric surveillance systems on police  
2 body-worn cameras and supplementing Title 52 of the Revised  
3 Statutes.

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

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

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

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

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

31 e. For the purposes of this section:

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

35 "Facial recognition or other biometric surveillance" means an  
36 automated or semi-automated process by which a person is identified  
37 or attempted to be identified based on the characteristics of their face  
38 or based on their biometric data, including identification of known or  
39 unknown persons or groups; or an automated or semi-automated  
40 process that generates, or assists in generating, surveillance  
41 information about a person based on the characteristics of a person's  
42 face or based on biometric data. Facial recognition or other biometric  
43 surveillance shall not include the use of an automated or semi-  
44 automated process for the purpose of redacting a recording for release  
45 or disclosure outside a police department or force to protect the  
46 privacy of a subject depicted in the recording, if the process does  
47 not generate or result in the retention of any biometric data or  
48 surveillance information.

1       “Facial recognition or biometric surveillance system” means any  
2 computer software or application that performs facial recognition or  
3 other biometric surveillance.

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

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

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

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STATEMENT

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

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

28       Under the bill, officer cameras include body-worn cameras or  
29 similar devices that record or transmit images or sound and is attached  
30 to the body or clothing of, or carried by, a law enforcement officer.  
31 The bill defines "facial recognition or other biometric surveillance"  
32 as an automated or semi-automated process by which a person is  
33 identified or attempted to be identified based on the characteristics of  
34 their face or based on their biometric data, including identification of  
35 known or unknown persons or groups; or an automated or semi-  
36 automated process that generates, or assists in generating, surveillance  
37 information about a person based on the characteristics of a person’s  
38 face or based on biometric data. “Facial recognition or biometric  
39 surveillance system” is defined as any computer software or  
40 application that performs facial recognition or other biometric  
41 surveillance.

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

47       A person may seek injunctive or declaratory relief in a court of  
48 competent jurisdiction for violations of the bill’s provisions. The

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1 person is entitled to recover actual damages and additional damages  
2 of \$100 for each violation, or \$1,000, whichever is greater. The  
3 court also is to award costs and reasonable attorneys' fees to a  
4 prevailing plaintiff. Violations by law enforcement officers may  
5 result in retraining, suspension, or termination.