

STATE OF NEW YORK

3398

2019-2020 Regular Sessions

IN SENATE

February 6, 2019

Introduced by Sen. BENJAMIN -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the civil rights law and the public officers law, in relation to excluding video camera recordings from cameras worn or used by police from being included as personnel records

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 50-a of the civil rights law is amended by adding a
2 new subdivision 5 to read as follows:

3 5. a. The provisions of this section shall not apply to recordings
4 made of police officers, firefighters, firefighter/paramedics,
5 correction officers or peace officers in the course of duty, including
6 recordings made by body cameras worn by an officer, dashboard cameras
7 placed on any part of an officer's motor vehicle, truck, bicycle or
8 other vehicle, cameras mounted on a taser or other weapon, or any other
9 government-operated recording device, or the metadata from those
10 recordings.

11 b. Any recording, as specified in paragraph a of this subdivision and
12 released pursuant to section eighty-seven of the public officers law,
13 shall have all identifying details of all persons in the video redacted,
14 including but not limited to, facial features and voices and other
15 personal information as defined in subdivision seven of section ninety-
16 two of the public officers law.

17 c. Nothing in this section shall modify the rights of litigants in a
18 civil or criminal action to access recordings or metadata.

19 d. Nothing in this section shall be construed to disallow recordings
20 or metadata from being used for disciplinary, hiring or other personnel
21 decisions.

22 e. Anyone who requests a recording or metadata, as specified in para-
23 graph a of this subdivision and released pursuant to section eighty-sev-
24 en of the public officers law, may also request any or all records of

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 agencies as defined in subdivisions three and four of section eighty-six
2 of the public officers law, necessary only to identify any officer in
3 the recording or metadata.

4 § 2. The opening paragraph of section 1-a of the civil rights law is
5 designated subdivision 1 and a new subdivision 2 is added to read as
6 follows:

7 2. The term "recording", as used in this chapter, shall mean an
8 original photographic record, disc, tape, audio or video cassette, wire,
9 film, hard drive, flash drive, memory card or other data storage device
10 or any other medium on which such sounds, images, or both sounds and
11 images are or can be recorded or otherwise stored, or a copy or repro-
12 duction that duplicates in whole or in part the original.

13 § 3. Paragraph (c) of subdivision 2 of section 89 of the public offi-
14 cers law, as amended by section 11 of part U of chapter 61 of the laws
15 of 2011, is amended to read as follows:

16 (c) Unless otherwise provided by this article, disclosure shall not be
17 construed to constitute an unwarranted invasion of personal privacy
18 pursuant to paragraphs (a) and (b) of this subdivision:

- 19 i. when identifying details are deleted or redacted;
20 ii. when the person to whom a record pertains consents in writing to
21 disclosure;
22 iii. when upon presenting reasonable proof of identity, a person seeks
23 access to records pertaining to him or her; or
24 iv. when a record or group of records relates to the right, title or
25 interest in real property, or relates to the inventory, status or char-
26 acteristics of real property, in which case disclosure and providing
27 copies of such record or group of records shall not be deemed an unwar-
28 ranted invasion of personal privacy, provided that nothing herein shall
29 be construed to authorize the disclosure of electronic contact informa-
30 tion, such as an e-mail address or a social network username, that has
31 been collected from a taxpayer under section one hundred four of the
32 real property tax law.

33 § 4. This act shall take effect immediately.