

DRAFT LBDC

A BUDGET BILL submitted by the Governor  
in accordance with Article VII of the Constitution

AN ACT to amend the correction law, in relation to addressing  
accountability within the department of corrections and  
community supervision (Part );

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

1 PART \_\_\_\_

2 Section 1. The correction law is amended by adding a new section 135  
3 to read as follows:

4 § 135. New York state department of corrections and community super-  
5 vision body-worn cameras program. 1. There is hereby created within the  
6 department a body-worn cameras program. The purpose of such program is  
7 to increase accountability and evidence for departmental and law  
8 enforcement purposes, department staff, residents of the state, and  
9 those under the department's care by providing body-worn cameras to all  
10 correction officers, security supervisors, and any civilian staff as  
11 identified by the commissioner.

12 2. The department shall provide body-worn cameras that will be powered  
13 on and worn by correction officers and security supervisors at all  
14 times, while on duty. Incidents and activities that require staff to  
15 manually activate their body-worn cameras, regardless of the presence of  
16 fixed cameras, include but are not limited to:

17 (a) during any interaction with an incarcerated individual or visitor,  
18 in any location. This paragraph shall not apply when the office of

1 special investigations or crisis intervention unit is conducting an  
2 interview with an incarcerated individual providing confidential infor-  
3 mation where a record of interview is completed;

4 (b) when staff observe unauthorized activity by an incarcerated indi-  
5 vidual, a department employee or any other person in the facility;

6 (c) during general movement of incarcerated individuals;

7 (d) when staff is responding to an emergency call for assistance;

8 (e) during all incarcerated individual escorts;

9 (f) during incarcerated individual transports, as directed by the  
10 facility watch commander or higher-ranking supervisor. When an employee  
11 enters a non-department facility, the employee will comply with the  
12 facility local policy on wearing the camera and recording. If a local  
13 policy does not exist, the employee shall default to department policy;

14 (g) when a firearm, oleoresin capsicum spray, or a baton is removed  
15 from its holster or holder;

16 (h) any instance where department staff feels there is an imminent  
17 threat or the need to document their time on duty;

18 (i) during all uses of force, including any physical aggression or use  
19 of a non-lethal or lethal weapon;

20 (j) during a disciplinary hearing when fixed video monitoring systems  
21 are not available where the disciplinary hearing is conducted. Such  
22 recordings will be securely preserved as part of the official hearing  
23 record for all Tier II and Tier III hearings pursuant to section 270.3  
24 of the New York codes, rules and regulations. Audio recordings of all  
25 hearings will continue to be made regardless of whether the video moni-  
26 toring system captures audio;

27 (k) as directed by the deputy commissioner or chief of investigations  
28 for the office of special investigations, or such deputy commissioner's

1 or chief of investigations' designee, office of special investigations  
2 investigators may utilize body-worn camera systems pursuant to the  
3 office of special investigations policy. The use of such cameras by the  
4 office of special investigations investigators may include but is not  
5 limited to absconder/fugitive operations, facility inspections, monitor-  
6 ing of frisks, canine operations, high-risk in-state transports of  
7 incarcerated individuals or releasees, and investigative activities  
8 which are deemed appropriate to record;

9 (l) in congregate shower areas; provided, however, that staff shall  
10 provide a verbal announcement that a body-worn camera is in use and  
11 avoid intentional recording of an incarcerated individual in a state of  
12 undress unless they are required to do so as part of the performance of  
13 their duties;

14 (m) during all correctional emergency response team activations; and

15 (n) during a strip search or strip frisk; provided, however, that  
16 incarcerated individuals shall be given verbal notice that they are  
17 being recorded, and the following rules apply:

18 (i) The wearer of the body-worn camera shall be of the same gender as  
19 the gender designation of the facility. Video recordings of strip frisks  
20 or strip searches shall not be viewed by anyone, except as expressly  
21 authorized in writing by the facility's deputy superintendent for secu-  
22 rity or higher authority. If the recording is approved for review, the  
23 deputy superintendent for security shall assure this fact is documented  
24 to include date, time, authorization, reviewer name, explanation of why  
25 the review is necessary, and the result of such review.

26 (ii) A body-worn camera recording of any strip search or strip frisk  
27 shall immediately be turned over to an officer assigned to upload,

1 charge, and issue such cameras to assigned staff for uploading and stor-  
2 age.

3 (iii) The video footage of a strip frisk or other incident depicting  
4 an incarcerated individual in a state of complete undress shall only be  
5 viewed by department staff who are of the same gender as the gender  
6 designation of the facility.

7 3. The commissioner shall have the authority to require civilian staff  
8 assigned to a correctional facility to wear body-worn cameras while on  
9 duty where the civilian employee has direct supervision of an incarcer-  
10 ated individual with only intermittent security supervision. In  
11 instances where the commissioner has required a civilian to wear a body-  
12 worn camera while on duty, such cameras shall be activated and shall  
13 record:

14 (a) while interacting with an incarcerated individual, regardless of  
15 the existence of fixed-video monitoring; and

16 (b) while such employee is in the area of a use of force incident,  
17 including any physical aggression or use of a non-lethal or lethal weap-  
18 on.

19 4. The department shall preserve recordings of such body-worn cameras  
20 for at least ninety days.

21 5. The department shall perform all necessary maintenance on the  
22 equipment used in such body-worn camera program established pursuant to  
23 this section.

24 6. The commissioner of the department shall solely determine the  
25 timing and appropriateness of any review or provision of body-worn  
26 camera footage to an employee prior to that employee being required to  
27 answer questions subject to paragraph (g) of subdivision one of section  
28 two hundred nine-a of the civil service law, or prior to an employment

1 disciplinary hearing regarding the potential misconduct of such employ-  
2 ee.

3 § 2. This act shall take effect on the sixtieth day after it shall  
4 have become a law. Effective immediately, the addition, amendment and/or  
5 repeal of any rule or regulation necessary for the implementation of  
6 this act on its effective date are authorized to be made and completed  
7 on or before such effective date.