

A2705-S1172 Choice of Cameras in Group Homes Bill, “ The Billy Cray Law’

Talking Points for Parent Advocates

This document will serve as Key Talking Points you can use when testifying in person or in writing about the Choice of Cameras bill. These talking points were written by parent advocates in consultation with Martha Earl Cray, the mother of Billy Cray, a young man who became a victim of abuse in his residential state licensed placement.

Families and Guardians Have Been and Continue to Be The Leaders in Quality of Life, Safety And Accountability for Individuals with I/DD

Families and guardians have greatly improved the safety and wellbeing of their loved ones, and always will—no matter how long it takes. Parents have driven the creation of the three laws currently protecting individuals with I/DD living in group homes: Danielle’s Law, the Stephen Komninos Law, and Rachel’s Law (S3750). S3750 was introduced by Senator Vitale as part of his reform package, passed by the Assembly and Senate, and signed into law by the Governor this year. These laws are mandates and were necessary to force provider compliance with basic tenets of safety and protection from abuse and neglect of our loved ones residing in state licensed facilities, group homes.

The Choice of Cameras Bill A2705-S1172 is necessary now more than ever as it also provides an accountability mechanism for tenets of Rachel’s law: within that law, ***substantiated*** findings are needed to impose fines and sanctions on provider organizations and DSPs/staff who commit the crimes of abuse and neglect.

About the Choice of Cameras Law and Billy Cray

This law will enable choice of cameras. This bill is about choice and person-centered planning. Residents of group homes and/or their guardians will be able to request and consent to video recording cameras (electronic monitoring devices) in common areas. *We agree with New Concepts for Living, a leading state licensed group home and day program provider agency and a member of NJACP about the need for audio as well as video and would like audio recordings added to the bill.*

Many incidents of abuse and neglect occur in common areas. In the past, group home provider lobbyists have cited privacy as the reason for why cameras should not be allowed in common areas. We disagree. Direct Support Professionals, DSPs enter group homes with their personal phones every shift during which they could violate patient privacy.

This bill has been through many changes over the past nine years. Parents and advocates would ideally like *all* individuals who reside at state licensed residential facilities to be able to choose to have cameras if they desire, but the current iteration of this bill has focused on those with DDD NJCAT budget Tiers C-E, with/without acuity to accomplish two things:

1. To assure that self-advocates do not oppose the bill. Self-advocates are those with lesser degrees of or no intellectual disabilities who have the ability to be a *reliable witness* to law enforcement and investigators of abuse given their higher cognition and ability to speak
2. To level the playing field in terms of unsubstantiated incidents of abuse and neglect. Individuals with I/DD with higher degrees of cognitive impairment and unreliable/no

communication skills are considered *unreliable* witnesses by law enforcement and investigators, hence crimes committed against them are deemed *unsubstantiated*. This allows those who abuse and neglect to go undetected. Cameras in common areas will be their eyes and ears, providing concrete evidence, the cameras themselves acting as reliable witnesses for those who cannot. Even those who can advocate for themselves and corroborate abuse and neglect also greatly benefit from access to video/audio footage.

About the NJCAT and Tiering

Ideally, parent advocates would like **all** individuals residing in group homes to have a choice of cameras, not just those who are unreliable witnesses due to the severity and impact of their disabilities. The bill needs to preserve guardian choice as well as individual choice for those who are “unreliable witnesses,” in addition to those who can self-advocate.

The NJCAT assessment tool tiering is inexact. The NJCAT does, however, capture data points that can be used to identify those who could fall into the category of *unreliable witnesses*. Many of those are grouped in Tiers C and beyond. *We recommend making Choice of Cameras available to all individuals who reside at state licensed residential settings, regardless of tier, and approve amending the bill to remove mention of Tiers C-E, as pointed out by NJACP.*

Federal Considerations

We agree with the Key CMS Question posed by lobbyist group NJACP that guides the residential setting experience: *“Does the individual still experience this setting as a home, with full rights, dignity, and autonomy?”*

Approximately 32% of NJ Group home providers have either received approval to have cameras by OPIA or have actually installed them, as per a crowdsourced list by parent advocates. There seem to be no issues with full rights, dignity, and autonomy at group homes that currently have cameras, nor have those providers been accused of violating CMS policies. Agencies with cameras highly recommend them for many reasons. According to New Concepts for Living, they’ve yet to meet a guardian or parent that speaks out against the cameras in their homes for any tier, not just C-E.

Recommended Bill Amendments

No One Should Lose Their Home...But Everyone Should be Able to Live Safely in their Home—with Cameras, if they Choose To

1. In light of Rachel’s Law (S3750) and the potential for civil fines to be levied against DSPs who do not report incidents of abuse and neglect, they may benefit from having cameras in common areas, as it helps verify their accounts. Cameras protect both individuals served and staff.
2. All individuals in existing group homes and their guardians should be asked in writing what they choose. The responses should be submitted to a trusted **third party** to determine if cameras should go in those homes— not group home providers. (Third party to be determined – maybe directly to DDD/DHS?)

3. If there is no consensus at the group homes, and a person wants to move into another home run by the same or another provider, they should not be subject to retaliation or involuntary discharge, and if they are, the provider should receive additional sanctions and fines.

4. Existing homes with cameras should not be made to redo their camera systems or to incur additional costs, but should follow the same rules for saving of and accessing video and audio footage, retainment of 60 days proposed.

5. Group home providers that currently have cameras installed should be allowed to expand their number of homes if they meet Licensing and Letter of Support DDD rules.

Audio as well as video files should be retained

In addition to video, we agree with New Concepts for Living that audio files need to be preserved as well and ask that the bill be amended to reflect this.

Add additional sanctions and fines if operational and retention policies are not followed

If the operation and field of vision of cameras, or preservation of video evidence is not followed or tapes are tampered with, lost, or not preserved for any reason, we recommend additional sanctions and fines.

Lateness, absence of, or tampering with incident reports should also necessitate additional sanctions and fines.

Transparency

1. Regarding Parent/Guardian access to recordings

We agree with New Concepts for Living and recommend that access to recordings be given to parents/guardians only if an incident is reported by the group home or 911 is called.

2. OPIA Report Card Changes

The current OPIA system is not transparent nor accurate and timely. We recommend that *monthly* report cards be published with new columns added to the report card, including:

- a. "Provider is NOT in compliance with camera operation and record retention policies"
- b. "Number of reported incidents per provider"
- c. An official updated list of providers who have operational cameras or have licenses to do so should be published quarterly. (NOTE: A list does exist but parents are not able to access it, despite requests to do so.)

Funding

There may not be a need for Additional Funds

The installation of cameras may not incur extra funding for group home providers and may fall within the 70% direct care ratio proposed in A4009 as installation and operation of cameras will directly benefit individuals served. Current group home providers with cameras have put them in

at no additional cost to the State. Individual supports residential budgets range from \$66,424 to \$527,838 annually.

Conclusion

Despite best efforts by families and guardians to have a public hearing for this bill, it has been blocked for nine years. In that time, there have been hundreds of unexpected deaths, and thousands of claims of abuse and neglect, many of which have been deemed unsubstantiated by OPIA, often due to the victims (individuals with I/DD) being *unreliable witnesses*. The situation has become so dire and so obvious that it has inspired Senator Vitale to release a [seven bill package](#); dozens of group home providers to install cameras at their own expense to protect clients and staff; our courageous prior Ombudsman to feature the neglect and abuse situation seven years in a row in the Annual Report; and the New Jersey Council on Developmental Disabilities to create an inclusive, multidisciplinary think-tank to make policy recommendations to combat it (the Blueprint).

In that time our world has also gone from cameras as a novelty to everyone on camera everywhere, with cameras acting as guardians and witnesses. Cameras can help organizations catch changes in behavior or spot patterns that management can quickly change for the better. Like DNA sequencing, camera footage and audio has also advanced and is used to solve crimes, including assault, abuse and neglect on people young and old. Yet here in New Jersey, we have not been able to have this one bill heard, a bipartisan, person-centered bill built on choice of cameras in common areas of state licensed residential facilities.

It's time. Nine years has not faded the memory of Billy Cray, nor dimmed the losses, endangerment, and harm suffered by many others. Cameras are a part of our lives. Cameras will help substantiate incidents of abuse and neglect, protecting both individuals with I/DD and staff. It's time for our state to do everything they can to stop abuse and neglect. The Choice of Cameras bill needs to be heard, and when the legislature opens that door, let's use our voices to make the Billy Cray Law a reality.