

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 13-170—HB 6373

Public Safety and Security Committee

Government Administration and Elections Committee

AN ACT CONCERNING THE POLICING OF INDIAN TRIBAL LAND

SUMMARY: This act authorizes the Department of Emergency Services and Public Protection (DESPP) commissioner, upon the chief state's attorney's approval, to enter into separate memoranda of agreement with the Mohegans and Mashantucket Pequots to establish the authority of each tribe's police department and police officers to exercise law enforcement powers. It authorizes both officials to jointly revoke an agreement. The officials, in either case, may take the actions notwithstanding a law requiring the legislature to execute and approve compacts between the tribes and state.

The act requires the commissioner, upon entering into an agreement, to submit a copy of it to the top six legislative leaders and Government Administration and Elections and Public Safety and Security committees.

The act subjects a tribal department under such an agreement to the Police Officer Standards and Training (POST) Council's jurisdiction and gives department officers the authority and duties of peace officers. But the departments must be created and governed by such an agreement for these provisions to apply.

EFFECTIVE DATE: Upon passage

LAW ENFORCEMENT UNIT

The act expands the definition of law enforcement units subject to the POST Council's jurisdiction. Under prior law, a "law enforcement unit" meant any state or municipal agency, organ, or department whose primary functions included enforcing criminal or traffic laws; preserving public order; protecting lives and property; or preventing, detecting, or investigating crime. The act adds any Mashantucket or Mohegan tribal agency, organ, or department created and governed under the act's state-tribal memorandum whose primary functions are as described above.

PEACE OFFICERS

The act expands the definition of a "peace officer" to include a member of a law enforcement unit created and governed under a state-tribal memorandum (described above) who is certified by the POST Council.

The law designates the following as peace officers: state and local police officers, Division of Criminal Justice inspectors, state marshals exercising statutory powers, judicial marshals performing their duties, conservation or special conservation officers, constables who perform criminal law enforcement duties, appointed special policemen, adult probation officers, Department of

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Correction officials authorized to make arrests in a correctional institution, investigators in the State Treasurer's Office, and federal narcotics agents.

BACKGROUND

Compact Approval

The law requires the legislature to approve any compact or compact amendment executed between Connecticut and another state or an Indian tribe before it can be implemented. Approval must be by a majority vote of each house within specified deadlines; either house can reject (CGS § 3-6c).

POST Council

The council (1) trains, certifies, and establishes minimum qualifications for municipal police officers and others and (2) enforces professional standards for certifying and decertifying them. Among other things, it is authorized to (1) develop accreditation standards for, and accredit, law enforcement units and (2) inspect law enforcement units for compliance with council requirements.

Peace Officers

Use of Physical Force. Peace officers are justified in using physical force, when and to the extent they reasonably believe it necessary, to (1) make an arrest or prevent a custodial escape, unless they know that the arrest or custody is unauthorized, or (2) defend themselves or someone else from the use or imminent use of physical force while making or attempting to make an arrest or while preventing or attempting to prevent an escape (CGS § 53a-22(b)).

Use of Deadly Physical Force. Peace officers are justified in using deadly physical force when they reasonably believe it is necessary to (1) defend themselves or another person from the use or imminent use of deadly physical force and (2) arrest or prevent the escape from custody of someone they reasonably believe committed or attempted to commit a felony involving the infliction or threatened infliction of serious physical injury, and if, where feasible, they warned of the intent to use deadly physical force (CGS § 53a-22(c)).

Duty to Retreat. The law exempts peace officers from the general duty to retreat rather than use reasonable deadly physical force (CGS § 53a-19(b)).

Resisting Arrest. The law prohibits the use of physical force to resist an arrest by a reasonably identifiable peace officer, whether the arrest is legal or illegal (CGS § 53a-23).

Arrest Powers. Peace officers, when in their town, can arrest, without a warrant, a person (1) apprehended while committing an offense or (2) on the speedy information of others. Outside of their town, they can arrest someone (1) for a felony, without a warrant, at any time or (2) when in immediate pursuit from their town if they could legally arrest the person under their authority (CGS § 54-1f).

OLR Tracking: VR:CR:JKL:RO