



House Bill No. 7103

June Special Session, Public Act No. 15-4

AN ACT CONCERNING EXCESSIVE USE OF FORCE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective October 1, 2015*) Each police basic or review training program conducted or administered by the Division of State Police within the Department of Emergency Services and Public Protection, the Police Officer Standards and Training Council established under section 7-294b of the general statutes or a municipal police department in the state shall include tactical training for police officers regarding the use of physical force, training in the use of body-worn recording equipment and the retention of data created by such equipment, and cultural competency and sensitivity and bias-free policing training.

Sec. 2. (NEW) (*Effective October 1, 2015*) Not later than January 1, 2016, each law enforcement unit, as defined in section 7-294a of the general statutes, shall develop and implement guidelines for the recruitment, retention and promotion of minority police officers, as defined in section 7-294a of the general statutes. Such guidelines shall promote achieving the goal of racial, gender and ethnic diversity within the law enforcement unit.

Sec. 3. (NEW) (*Effective October 1, 2015*) If a law enforcement unit

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serves a community with a relatively high concentration of minority residents, the unit shall make efforts to recruit, retain and promote minority police officers so that the racial and ethnic diversity of such unit is representative of such community. Such efforts may include, but are not limited to: (1) Efforts to attract young persons from the community such unit serves to careers in law enforcement through enrollment and participation in police athletic leagues in which police officers support young persons of the community through mentoring, sports, education and by fostering a positive relationship between such persons and police officers, the implementation of explorer programs and cadet units and support for public safety academies; (2) community outreach; and (3) implementation of policies providing that when there is a vacant position in such unit, such position shall be filled by hiring or promoting a minority candidate when the qualifications of such candidate exceed or are equal to that of any other candidate or candidates being considered for such position when such candidates are ranked on a promotion or examination register or list. For purposes of this section, "minority" means an individual whose race is defined as other than white, or whose ethnicity is defined as Hispanic or Latino by the federal Office of Management and Budget for use by the Bureau of Census of the United States Department of Commerce.

Sec. 4. Section 51-277a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):

(a) Whenever a peace officer, in the performance of [his] such officer's duties, uses [deadly] physical force upon another person and such person dies as a result thereof, the Division of Criminal Justice shall cause an investigation to be made and shall have the responsibility of determining whether the use of [deadly] physical force by the peace officer was appropriate under section 53a-22. The division shall request the appropriate law enforcement agency to

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provide such assistance as is necessary to determine the circumstances of the incident.

(b) In causing such an investigation to be made, the Chief State's Attorney [may,] shall, (1) as provided in section 51-281, designate a prosecutorial official from a judicial district other than the judicial district in which the incident occurred to conduct the investigation, or [may,] (2) as provided in subsection (a) of section 51-285, appoint a special assistant state's attorney or special deputy assistant state's attorney to conduct the investigation. [If the Chief State's Attorney designates a prosecutorial official from another judicial district or appoints a special prosecutor to conduct the investigation, the] The Chief State's Attorney shall, upon the request of such prosecutorial official or special prosecutor, appoint a special inspector or special inspectors to assist in such investigation. [Any person may make a written request to the Chief State's Attorney or the Criminal Justice Commission requesting that the Chief State's Attorney so designate a prosecutorial official from another judicial district or appoint a special prosecutor to conduct the investigation.]

(c) Upon the conclusion of the investigation of the incident, the division shall file a report with the Chief State's Attorney which shall contain the following: (1) The circumstances of the incident, (2) a determination of whether the use of [deadly] physical force by the peace officer was appropriate under section 53a-22, and (3) any future action to be taken by the Division of Criminal Justice as a result of the incident. The Chief State's Attorney shall provide a copy of the report to the chief executive officer of the municipality in which the incident occurred and to the Commissioner of Emergency Services and Public Protection or the chief of police of such municipality, as the case may be.

Sec. 5. (NEW) (*Effective October 1, 2015*) Each law enforcement unit, as defined in section 7-294a of the general statutes, shall create and

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maintain a record detailing any incident during which a police officer, as defined in section 7-294a of the general statutes, (1) uses physical force that is likely to cause serious physical injury, as defined in section 53a-3 of the general statutes, to another person or the death of another person, including, but not limited to, striking another person with an open or closed hand, club or baton, kicking another person or using pepper spray or an electroshock weapon on another person, or (2) discharges a firearm, except during a training exercise or in the course of dispatching an animal. Such record shall include, but not be limited to: The name of the police officer, the time and place of the incident, a description of what occurred during the incident and, to the extent known, the names of the victims and witnesses present at such incident.

Sec. 6. (NEW) (*Effective October 1, 2015*) (a) No law enforcement unit, as defined in section 7-294a of the general statutes, shall hire any person as a police officer, as defined in said section 7-294a, who was previously employed as a police officer by such unit or in any other jurisdiction and who (1) was dismissed for malfeasance or other serious misconduct calling into question such person's fitness to serve as a police officer; or (2) resigned or retired from such officer's position while under investigation for such malfeasance or other serious misconduct.

(b) Any law enforcement unit that has knowledge that any former police officer of such unit who (1) (A) was dismissed for malfeasance or other serious misconduct, or (B) resigned or retired from such officer's position while under investigation for such malfeasance or other serious misconduct; and (2) is an applicant for the position of police officer with any other law enforcement unit, shall inform such other unit of such dismissal, resignation or retirement.

(c) The provisions of this section shall not apply to any police officer who is exonerated of each allegation against such officer of such

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malfeasance or other serious misconduct.

(d) For purposes of this section, (1) "malfeasance" means the commonly approved usage of "malfeasance"; and (2) "serious misconduct" means improper or illegal actions taken by a police officer in connection with such officer's official duties that could result in a miscarriage of justice or discrimination, including, but not limited to, (A) a conviction of a felony, (B) fabrication of evidence, (C) repeated use of excessive force, (D) acceptance of a bribe, or (E) the commission of fraud.

Sec. 7. (NEW) (Effective from passage) (a) For purposes of this section and section 8 of this act:

(1) "Law enforcement agency" means the Division of State Police within the Department of Emergency Services and Public Protection, the special police forces established pursuant to section 10a-156b of the general statutes and any municipal police department that supplies any of its sworn members with body-worn recording equipment;

(2) "Police officer" means a sworn member of a law enforcement agency who wears body-worn recording equipment;

(3) "Body-worn recording equipment" means an electronic recording device that is capable of recording audio and video; and

(4) "Digital data storage device or service" means a device or service that retains the data from the recordings made by body-worn recording equipment using computer data storage.

(b) The Commissioner of Emergency Services and Public Protection and the Police Officer Standards and Training Council shall jointly evaluate and approve the minimal technical specifications of body-worn recording equipment that may be worn by police officers pursuant to this section and digital data storage devices or services

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that may be used by a law enforcement agency to retain the data from the recordings made by such equipment. Not later than January 1, 2016, the commissioner and council shall make such minimal technical specifications available to each law enforcement agency in a manner determined by the commissioner and council. The commissioner and council may revise the minimal technical specifications when the commissioner and council determine that revisions to such specifications are necessary.

(c) (1) On and after July 1, 2016, each sworn member of (A) the Division of State Police within the Department of Emergency Services and Public Protection, (B) the special police forces established pursuant to section 10a-156b of the general statutes, (C) any municipal police department for a municipality that is a recipient of grant-in-aid as reimbursement for body-worn recording equipment pursuant to subparagraph (A) or (C) of subdivision (1) of subsection (b) of section 8 of this act or subdivision (2) of said subsection (b), and (D) any municipal police department for any other municipality that is a recipient of grant-in-aid as reimbursement for body-worn recording equipment pursuant to subparagraph (B) of subdivision (1) of said subsection (b) if such sworn member is supplied with such body-worn recording equipment, shall use body-worn recording equipment while interacting with the public in such sworn member's law enforcement capacity, except as provided in subsections (g) and (j) of this section.

(2) Any sworn member of a municipal police department, other than those described in subdivision (1) of this subsection, may use body-worn recording equipment as directed by such department, provided the use of such equipment and treatment of data created by such equipment shall be in accordance with the provisions of subdivisions (3) and (4) of this subsection, and subsections (d) to (j), inclusive, of this section.

(3) Each police officer shall wear body-worn recording equipment

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on such officer's outer-most garment and shall position such equipment above the midline of such officer's torso when using such equipment.

(4) Body-worn recording equipment used pursuant to this section shall conform to the minimal technical specifications approved pursuant to subsection (b) of this section, except that a police officer may use body-worn recording equipment that does not conform to the minimal technical specifications approved pursuant to subsection (b) of this section, if such equipment was purchased prior to January 1, 2016, by the law enforcement agency employing such officer.

(d) Except as required by state or federal law, no person employed by a law enforcement agency shall edit, erase, copy, share or otherwise alter or distribute in any manner any recording made by body-worn recording equipment or the data from such recording.

(e) A police officer may review a recording from his or her body-worn recording equipment in order to assist such officer with the preparation of a report or otherwise in the performance of his or her duties.

(f) If a police officer is giving a formal statement about the use of force or if a police officer is the subject of a disciplinary investigation in which a recording from body-worn recording equipment is being considered as part of a review of an incident, the officer shall (1) have the right to review such recording in the presence of the officer's attorney or labor representative, and (2) have the right to review recordings from other body-worn recording equipment capturing the officer's image or voice during the incident.

(g) Except as otherwise provided by any agreement between a law enforcement agency and the federal government, no police officer shall use body-worn recording equipment to intentionally record (1) a

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communication with other law enforcement agency personnel, except that which may be recorded as the officer performs his or her duties, (2) an encounter with an undercover officer or informant, (3) when an officer is on break or is otherwise engaged in a personal activity, (4) a person undergoing a medical or psychological evaluation, procedure or treatment, (5) any person other than a suspect to a crime if an officer is wearing such equipment in a hospital or other medical facility setting, or (6) in a mental health facility, unless responding to a call involving a suspect to a crime who is thought to be present in the facility. No record created using body-worn recording equipment of an occurrence or situation described in subdivisions (1) to (6), inclusive, of this subsection shall be deemed a public record for purposes of section 1-210 of the general statutes. No record created by a police officer using body-worn recording equipment of (A) the scene of an incident that involves a victim of domestic or sexual abuse, or (B) a victim of homicide or suicide or a deceased victim of an accident, shall be subject to disclosure under the provisions of section 1-210 of the general statutes to the extent that disclosure of such record could reasonably be expected to constitute an unwarranted invasion of personal privacy.

(h) No police officer shall use body-worn recording equipment prior to being trained in accordance with section 1 of this act in the use of such equipment and in the retention of data created by such equipment, except that any police officer using such equipment prior to October 1, 2015, may continue to use such equipment prior to such training. A law enforcement agency shall ensure that each police officer such agency employs receives such training at least annually and is trained on the proper care and maintenance of such equipment.

(i) If a police officer is aware that any body-worn recording equipment is lost, damaged or malfunctioning, such officer shall inform such officer's supervisor as soon as is practicable. Upon

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receiving such information, the supervisor shall ensure that the equipment is inspected and repaired or replaced, as necessary. Each police officer shall inspect and test body-worn recording equipment prior to each shift to verify proper functioning, and shall notify such officer's supervisor of any problems with such equipment.

(j) Not later than January 1, 2016, the Commissioner of Emergency Services and Public Protection and the Police Officer Standards and Training Council shall jointly issue guidelines pertaining to the use of body-worn recording equipment, retention of data created by such equipment and methods for safe and secure storage of such data. Each law enforcement agency and any police officer and any other employee of such agency who may have access to such data shall adhere to such guidelines. The commissioner and council may update and reissue such guidelines, as the commissioner and council determine necessary. The commissioner and council shall, upon issuance of such guidelines or any update to such guidelines, submit such guidelines in accordance with the provisions of section 11-4a of the general statutes to the joint standing committees of the General Assembly having cognizance of matters relating to the judiciary and public safety.

Sec. 8. (NEW) (*Effective January 1, 2016*) (a) The Office of Policy and Management shall, within available resources, administer a grant program to provide grants-in-aid to reimburse each municipality for the costs associated with the purchase by such municipality of body-worn recording equipment for use by the sworn members of such municipality's police department and digital data storage devices or services, provided such equipment and device or service conforms to the minimal technical specifications approved pursuant to subsection (b) of section 7 of this act. Any such municipality may apply for such grants-in-aid to the Secretary of the Office of Policy and Management in such manner as prescribed by said secretary. Such grants-in-aid

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shall be distributed as provided in subsection (b) of this section.

(b) (1) (A) Any municipality that purchased such body-worn recording equipment and digital data storage devices or services during the fiscal year ending June 30, 2017, shall be reimbursed for up to one hundred per cent of the costs associated with such purchases, provided the costs of such digital data storage services shall not be reimbursed for a period of service that is longer than one year, and provided further that such body-worn recording equipment is purchased in sufficient quantity to ensure that each sworn member of such municipality's police department is supplied with such equipment while interacting with the public in such sworn member's law enforcement capacity.

(B) Any municipality that purchased such body-worn recording equipment or digital data storage devices or services on or after January 1, 2012, but prior to July 1, 2016, shall be reimbursed for costs associated with such purchases, but not in an amount to exceed the amount of grant-in-aid such municipality would have received under subparagraph (A) of this subdivision if such purchases had been made in accordance with said subparagraph (A).

(C) Any municipality that was reimbursed under subparagraph (B) of this subdivision for body-worn recording equipment and that purchased additional body-worn recording equipment during the fiscal year ending June 30, 2017, shall be reimbursed for up to one hundred per cent of the costs associated with such purchases, provided such equipment is purchased in sufficient quantity to ensure that each sworn member of such municipality's police department is supplied with such equipment while interacting with the public in such sworn member's law enforcement capacity.

(2) Any municipality that was not reimbursed under subdivision (1) of this subsection and that purchased such body-worn recording

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equipment and digital data storage devices or services during the fiscal year ending June 30, 2018, shall be reimbursed for up to fifty per cent of the costs associated with such purchases, provided the costs of such digital data storage services shall not be reimbursed for a period of service that is longer than one year.

Sec. 9. (NEW) (*Effective October 1, 2015*) (a) For the purposes of this section, "peace officer" has the same meaning as provided in section 53a-3 of the general statutes, except "peace officer" does not include a special agent of the federal government or a member of a law enforcement unit of the Mashantucket Pequot Tribe or the Mohegan Tribe of Indians of Connecticut.

(b) An employer of a peace officer who interferes with any person taking a photographic or digital still or video image of such peace officer or another peace officer acting in the performance of such peace officer's duties shall be liable to such person in an action at law, suit in equity or other proper proceeding for redress.

(c) An employer of a peace officer shall not be liable under subsection (b) of this section if the peace officer had reasonable grounds to believe that the peace officer was interfering with the taking of such image in order to (1) lawfully enforce a criminal law of this state or a municipal ordinance, (2) protect the public safety, (3) preserve the integrity of a crime scene or criminal investigation, (4) safeguard the privacy interests of any person, including a victim of a crime, or (5) lawfully enforce court rules and policies of the Judicial Branch with respect to taking a photograph, videotaping or otherwise recording an image in facilities of the Judicial Branch.

Approved July 6, 2015