



Senate

General Assembly

File No. 644

January Session, 2015

Substitute Senate Bill No. 1109

Senate, April 14, 2015

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING EXCESSIVE USE OF FORCE.

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

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

10 Sec. 2. (NEW) (*Effective October 1, 2015*) (a) Each police officer, as
11 defined in section 7-294a of the general statutes, shall wear body-worn
12 recording equipment in such manner and at such times as determined
13 by the Commissioner of Emergency Services and Public Protection, the
14 board of police commissioners, the chief of police, superintendent of
15 police or other authority having charge over such officer.

16 (b) Any image or video recorded on the equipment used pursuant
17 to subsection (a) of this section that is a public record or file, as defined
18 in section 1-200 of the general statutes, shall be disclosed in accordance
19 with the provisions of section 1-212 of the general statutes, subsection
20 (a) of section 1-210 of the general statutes and section 1-215 of the
21 general statutes, unless such record is exempt from disclosure
22 pursuant to the provisions of subdivision (3) of subsection (b) of
23 section 1-210 of the general statutes.

24 Sec. 3. (NEW) (*Effective October 1, 2015*) Not later than January 1,
25 2016, each law enforcement unit, as defined in section 7-294a of the
26 general statutes, shall develop and implement guidelines for the
27 recruitment and retention of minority police officers, as defined in
28 section 7-294a of the general statutes. Such guidelines shall consider
29 the racial and ethnic background of the community such unit serves
30 and contain policies to ensure that the unit makes efforts to recruit and
31 retain minority police officers so that the racial and ethnic background
32 of the unit closely resembles that of the community which it serves. For
33 purposes of this section, "minority" means an individual whose race is
34 defined as other than white, or whose ethnicity is defined as Hispanic
35 or Latino by the federal Office of Management and Budget for use by
36 the Bureau of Census of the United States Department of Commerce.

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

39 (a) Whenever a peace officer, in the performance of his duties, uses
40 [deadly] physical force upon another person and such person dies as a
41 result thereof, the Division of Criminal Justice shall cause an
42 investigation to be made and shall have the responsibility of
43 determining whether the use of [deadly] physical force by the peace
44 officer was appropriate under section 53a-22. The division shall
45 request the appropriate law enforcement agency to provide such
46 assistance as is necessary to determine the circumstances of the
47 incident.

48 (b) In causing such an investigation to be made, the Chief State's

49 Attorney [may, as provided in section 51-281, designate a prosecutorial
50 official from a judicial district other than the judicial district in which
51 the incident occurred to conduct the investigation or may] shall, as
52 provided in subsection (a) of section 51-285, appoint a special assistant
53 state's attorney or special deputy assistant state's attorney to conduct
54 the investigation. [If the Chief State's Attorney designates a
55 prosecutorial official from another judicial district or appoints a special
56 prosecutor to conduct the investigation, the] The Chief State's Attorney
57 shall, upon the request of such [prosecutorial official or] special
58 prosecutor, appoint a special inspector or special inspectors to assist in
59 such investigation. [Any person may make a written request to the
60 Chief State's Attorney or the Criminal Justice Commission requesting
61 that the Chief State's Attorney so designate a prosecutorial official
62 from another judicial district or appoint a special prosecutor to
63 conduct the investigation.]

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

75 Sec. 5. (NEW) (*Effective October 1, 2015*) Each law enforcement unit,
76 as defined in section 7-294a of the general statutes, shall record and
77 maintain any information detailing any incident during which a
78 firearm of a police officer, as defined in section 7-294a of the general
79 statutes, is discharged, including whether a death resulted from such
80 discharge.

81 Sec. 6. (NEW) (*Effective October 1, 2015*) (a) No law enforcement unit,

82 as defined in section 7-294a of the general statutes, shall hire any
 83 person as a police officer, as defined in said section 7-294a, who was
 84 previously employed as a police officer by such unit or in any other
 85 jurisdiction and who was dismissed for misconduct or who, while
 86 under investigation for misconduct, resigned or retired from such
 87 officer's position.

88 (b) Any law enforcement unit that has knowledge that any former
 89 police officer of such unit who was dismissed for misconduct or who,
 90 while under investigation for misconduct, resigned or retired from
 91 such officer's position, is an applicant for the position of police officer
 92 with any other unit, shall inform such other unit of such dismissal,
 93 resignation or retirement.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2015	New section
Sec. 2	October 1, 2015	New section
Sec. 3	October 1, 2015	New section
Sec. 4	October 1, 2015	51-277a
Sec. 5	October 1, 2015	New section
Sec. 6	October 1, 2015	New section

Statement of Legislative Commissioners:

Effective date in section 2 was changed for consistency.

JUD *Joint Favorable Subst. -LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 16 \$	FY 17 \$
Criminal Justice, Div.	GF - Cost	Approximately \$64,000 per Case	Approximately \$64,000
Various State Agencies	GF - Cost	See Below	See Below

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 16 \$	FY 17 \$
Various Municipalities	STATE MANDATE - Cost	See Below	See Below

Explanation

Section 1 of the bill requires each basic or review training program administered by the Department of Emergency Services and Public Protection (DESPP) or a municipal police department to include training on the use of body-worn recording equipment, cultural sensitivity, and deadly use of force. DESPP and certain municipalities are anticipated to incur costs ranging from \$20,000 to \$100,000 in FY 16 to develop and implement such training programs.

Section 2 of the bill requires each police officer to wear body-worn recording equipment. Such equipment suitable for law enforcement uses typically ranges in price from \$50 - \$1,000 per officer depending upon the recording functionality (audio, video, or both) of the equipment; this cost is anticipated to be incurred in FY 16. Additionally, such recording equipment requires significant data storage infrastructure, either server- or cloud-based, likely to range from \$5 - \$35 per officer per month with significant additional initial

equipment and personnel costs necessary for in-house server-based storage configurations. Certain state and municipal police departments already deploy body-worn recording equipment and may not incur additional costs as a result of this provision.

Section 3 of the bill requires each law enforcement unit to develop and implement guidelines for the recruitment and retention of minority officers. While many departments already have such policies in place, those that do not may incur costs beginning in FY 16, likely less than \$20,000 per year, to do so.

Section 4 of the bill expands circumstances that the Division of Criminal Justice must investigate a death involving a peace officer and requires that the investigation must be conducted by a contracted special assistant state's attorney, as opposed to a prosecutor from a different judicial district as is currently done. It is estimated, based on previous investigations, that it would take approximately 160 hours at an hourly rate of \$400/hour, for a total cost of approximately \$64,000 per case. On average there have been four such cases each year. The expansion includes all cases involving physical force that results in a death, as opposed to all deadly physical force, which may result in an increased number of investigations annually.

Section 5 of the bill requires each law enforcement unit to record information detailing any incident wherein the firearm of a police officer is discharged. While this is current practice for many departments already, certain non-compliant departments may incur costs beginning in FY 16, likely less than \$5,000 per year, to do so.

Section 6 of the bill prevents law enforcement units from hiring any police officer who was previously dismissed from another such unit for misconduct or who resigned while being investigated for such behavior. The bill also requires any law enforcement unit to notify another if it becomes aware that a former officer applies for employment after such a dismissal or resignation. There is no cost arising from these provisions of the bill.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sSB 1109*****AN ACT CONCERNING EXCESSIVE USE OF FORCE.*****SUMMARY:**

This bill makes a number of changes regarding law enforcement training, procedures, and hiring. Specifically, it:

1. requires police basic and review training programs conducted by the State Police, Police Officer Standards and Training Council (POST), and municipal police departments to include training on (a) using deadly force, (b) using body-worn recording equipment (body cameras) and retaining the records it creates, and (c) cultural competency and sensitivity;
2. requires police officers and certain other law enforcement officials to wear body cameras, as determined by the relevant supervisory authority;
3. requires agencies to disclose images and video recorded by the equipment under the Freedom of Information Act (FOIA) unless they can be withheld from disclosure under the existing exceptions for certain law enforcement purposes;
4. requires law enforcement units to develop and implement guidelines to recruit and retain minority police officers;
5. expands the circumstances when the Division of Criminal Justice must investigate a death involving a peace officer to include any use of physical force, not just deadly force, resulting in death and requires, rather than allows, appointment of a special prosecutor to conduct an investigation;
6. requires law enforcement units to record and maintain

information about incidents during which a police officer's or another law enforcement official's firearm is discharged and whether a death resulted; and

7. (a) prohibits a law enforcement unit from hiring a police officer who was, in previous employment with the unit or in another jurisdiction, dismissed for misconduct or resigned or retired during a misconduct investigation and (b) requires a law enforcement unit to inform another unit about an officer's dismissal, resignation, or retirement under these circumstances if it knows the officer is applying for a position as police officer with the other unit.

EFFECTIVE DATE: October 1, 2015

BODY CAMERAS

The bill's requirement to wear body cameras applies to sworn members of organized local police departments, appointed constables who perform criminal law enforcement duties, special policemen appointed for state property or utility or transportation companies or to investigate public assistance fraud, and any member of a law enforcement unit who performs police duties.

The emergency services and public protection (DESPP) commissioner, board of police commissioners, police chief, police superintendent, or other authority having charge over one of these officers determines how and when the officer must wear the equipment.

Disclosure Under FOIA

The bill requires disclosure of images and video recorded by the equipment under FOIA and the requirement to disclose certain arrest records. But the bill allows an agency to withhold them from disclosure under an existing exemption for a law enforcement record that is not otherwise available to the public, that was compiled to detect or investigate crime, and disclosure of which would not be in the public interest because it would disclose:

1. an informant's or witness's identity that is not otherwise known and the person's safety would be jeopardized or he or she would be subjected to threats or intimidation;
2. a minor witness's identity;
3. a signed witness statement;
4. information for a prospective law enforcement action, if prejudicial to the action;
5. investigatory techniques not otherwise known to the general public;
6. juvenile arrest records;
7. the name and address of a victim of certain types of sexual assault, risk of injury to or impairing the morals of a minor, or an attempt to commit one of these crimes; or
8. uncorroborated allegations the law requires be destroyed.

MINORITY POLICE OFFICER HIRING

By January 1, 2016, the bill requires law enforcement units to develop and implement guidelines to recruit and retain minority police officers. Under the bill, a "minority" is an individual whose race is other than white or whose ethnicity is defined as Hispanic or Latino by the U.S. Census. The bill applies to state, municipal, or other government subdivision entities with a primary function that includes enforcing criminal or traffic laws; preserving public order; protecting life and property; or preventing, detecting, or investigating crime. It also applies to the Mashantucket Pequot and Mohegan tribes' law enforcement units, which each have a memorandum of understanding with the state establishing a tribal police department.

The bill requires each unit's guidelines to consider the racial and ethnic background of the community served by the unit and ensure efforts to make the unit's racial and ethnic breakdown resemble the

community's.

USE OF FORCE INVESTIGATIONS

The bill expands when the Division of Criminal Justice must investigate a death involving a peace officer (see BACKGROUND). Currently, the division must investigate when a peace officer, in the performance of his or her duties, uses deadly physical force on someone and that person dies. The bill requires an investigation when the officer uses any type of physical force and death results.

The bill requires the chief state's attorney to appoint for purposes of these investigations a special assistant state's attorney or special deputy assistant state's attorney. (These attorneys are temporarily appointed under a contract.) Currently, he can do so but he also has the option to designate a prosecutor from a judicial district other than the one where the incident occurred to conduct the investigation. Current division policy requires an investigation into any death determined to have been caused by a police officer's use of force and the chief state's attorney must assign a state's attorney from a judicial district other than the one where the incident occurred to supervise the investigation and decide whether to pursue criminal charges.

As under current law, the investigation's report must include the incident's circumstances, a determination whether the officer used force appropriately, and the action that will be taken as a result of the incident.

REPORTS OF DICHARGE OF FIREARM

The bill requires law enforcement units (as described above) to record and maintain information about incidents in which a police officer's firearm is discharged and whether a death resulted. This applies to firearms used by sworn members of organized local police departments, appointed constables who perform criminal law enforcement duties, special policemen appointed for state property or utility or transportation companies or to investigate public assistance fraud, and any members of law enforcement units who perform police

duties.

BACKGROUND

POST

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.

Peace Officers

By law, “peace officers” are state or local police officers, Division of Criminal Justice inspectors, state marshals exercising statutory authority, judicial marshals performing their duties, conservation officers or special conservation officers, constables who perform criminal law enforcement duties, appointed special policemen, adult probation officers, Department of Correction officials authorized to make arrests in a correctional institution or facility, investigators in the State Treasurer's Office, federal narcotics agents, and POST-certified members of the Mashantucket Pequot and Mohegan tribes’ law enforcement units (CGS § 53a-3(9)).

Use of Force by Peace Officers and Other Officials

Peace officers, special policemen, POST-certified motor vehicle inspectors or authorized DOC or Board of Pardons and Paroles officials 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)).

These officers are justified in using deadly physical force when they reasonably believe it is necessary to (1) defend themselves or someone else from the use or imminent use of deadly physical force and (2) arrest or prevent the escape from custody of someone whom he or she reasonably believes committed or attempted to commit a felony

involving the infliction or threatened infliction of serious physical injury, and if, where feasible, the officer warned of the intent to use deadly physical force (CGS § 53a-22(c)).

“Deadly physical force” is physical force that can be reasonably expected to cause death or serious physical injury (CGS § 53a-3(5)).

Related Bills

sSB 770, File 436 reported favorably by the Public Safety and Security Committee, requires DESPP to conduct a pilot program on police body-worn video equipment.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 22 Nay 19 (03/27/2015)