



Senate

General Assembly

File No. 758

January Session, 2015

Substitute Senate Bill No. 1109

Senate, April 30, 2015

The Committee on Public Safety and Security reported through SEN. LARSON of the 3rd 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*) Not later than January 1,
11 2016, each law enforcement unit, as defined in section 7-294a of the
12 general statutes, shall develop and implement guidelines for the
13 recruitment and retention of minority police officers, as defined in
14 section 7-294a of the general statutes. Such guidelines shall consider

15 the racial and ethnic background of the community such unit serves
16 and contain policies to ensure that the unit makes efforts to recruit and
17 retain minority police officers so that the racial and ethnic background
18 of the unit closely resembles that of the community which it serves. For
19 purposes of this section, "minority" means an individual whose race is
20 defined as other than white, or whose ethnicity is defined as Hispanic
21 or Latino by the federal Office of Management and Budget for use by
22 the Bureau of Census of the United States Department of Commerce.

23 Sec. 3. Section 51-277a of the general statutes is repealed and the
24 following is substituted in lieu thereof (*Effective October 1, 2015*):

25 (a) Whenever a peace officer, in the performance of his duties, uses
26 [deadly] physical force upon another person and such person dies as a
27 result thereof, the Division of Criminal Justice shall cause an
28 investigation to be made and shall have the responsibility of
29 determining whether the use of [deadly] physical force by the peace
30 officer was appropriate under section 53a-22. The division shall
31 request the appropriate law enforcement agency to provide such
32 assistance as is necessary to determine the circumstances of the
33 incident.

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

48 from another judicial district or appoint a special prosecutor to
49 conduct the investigation.]

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

61 Sec. 4. (NEW) (*Effective October 1, 2015*) Each law enforcement unit,
62 as defined in section 7-294a of the general statutes, shall record and
63 maintain any information detailing any incident during which a
64 firearm of a police officer, as defined in section 7-294a of the general
65 statutes, is discharged, including whether a death resulted from such
66 discharge.

67 Sec. 5. (NEW) (*Effective October 1, 2015*) (a) No law enforcement unit,
68 as defined in section 7-294a of the general statutes, shall hire any
69 person as a police officer, as defined in said section 7-294a, who was
70 previously employed as a police officer by such unit or in any other
71 jurisdiction and who was dismissed for misconduct or who, while
72 under investigation for misconduct, resigned or retired from such
73 officer's position.

74 (b) Any law enforcement unit that has knowledge that any former
75 police officer of such unit who was dismissed for misconduct or who,
76 while under investigation for misconduct, resigned or retired from
77 such officer's position, is an applicant for the position of police officer
78 with any other unit, shall inform such other unit of such dismissal,
79 resignation or retirement.

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

PS *Joint Favorable Subst.*

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 \$
Department of Emergency Services and Public Protection	GF - Cost	Less than \$125,000	Less than \$25,000
Criminal Justice, Div.	GF - Cost	Approximately \$64,000 per Case	Approximately \$64,000 per Case
Various State Agencies	GF - Cost	Less than \$25,000	Less than \$25,000

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 16 \$	FY 17 \$
Various Municipalities	STATE MANDATE - Cost	Less than \$125,000 per Municipality	Less than \$25,000 per Municipality

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 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 3 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 4 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 5 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.

sHB 6824, the FY 16 and FY 17 budget bill, as favorably reported by the Appropriations Committee, appropriated \$200,000 in FY 16 and FY 17 to the Division of Criminal Justice to contract a special assistant state's attorney for investigations under section 3 of the bill. Funding for the other sections of this bill is not included in sHB 6824.

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 and retaining the records it creates, and (c) cultural competency and sensitivity;
2. requires law enforcement units by January 1, 2016 to develop and implement guidelines to recruit and retain minority police officers;
3. 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 the investigation in such cases;
4. requires law enforcement units to record and maintain information about incidents in which a police officer's, or another law enforcement officer's, firearm is discharged and whether a death resulted; and
5. 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 a police officer with the other unit.

EFFECTIVE DATE: October 1, 2015

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 federal government for use by the U.S. Census Bureau. The bill applies to state, municipal, or other governmental subdivision entities whose primary function 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' police departments.

Under the bill, police officers include 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 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 mix 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. “Deadly physical force” is physical force that can be reasonably expected to cause death or serious physical injury (CGS § 53a-3(5)).

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 of whether the officer used force appropriately, and the action that will be taken as a result of the incident.

REPORTS OF DISCHARGE 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)).

The above 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)).

Legislative History

The Senate referred the bill (File 644) to the Public Safety and Security Committee, which reported a substitute bill that eliminated provisions requiring law enforcement officers to wear body cameras and disclose the information they record under the Freedom of Information Act.

Related Bills

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

COMMITTEE ACTION

Judiciary Committee

Joint Favorable
Yea 22 Nay 19 (03/27/2015)

Public Safety and Security Committee

Joint Favorable Substitute
Yea 22 Nay 3 (04/28/2015)