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## **OLR Bill Analysis**

### **SB 380 (File 590, as amended by Senate "A")\***

#### ***AN ACT CONCERNING MENTAL HEALTH CARE AND WELLNESS TRAINING AND SUICIDE PREVENTION FOR POLICE OFFICERS.***

#### **SUMMARY**

This bill makes various changes to (1) law enforcement's use of force, (2) body-worn and dashboard camera recording disclosures, and (3) police pursuits.

Under the bill, each law enforcement unit must prepare and submit a use of force report for the preceding calendar year to the Office of Policy and Management (OPM). It also requires OPM to:

1. complete a preliminary status report whenever a peace officer uses physical force on another person and such person dies as a result and to submit the report to the legislature within five business days after the cause of death is available and
2. make the report it is required to provide at the end of its investigation available to the public on its website within 48 hours after the copies are provided to certain local and state officials.

The bill also (1) makes certain body-worn or dashboard camera recordings disclosable to the public within 96 hours after the incident, (2) narrows the instances deadly force is justified, and (3) generally prohibits a police officer engaged in a pursuit from discharging a firearm into or at a fleeing motor vehicle.

Lastly, the bill (1) establishes a task force to study police transparency and accountability and (2) requires the Police Officer Standards and Training Council (POST) to study and review police officers using firearms during a pursuit.

\*Senate Amendment "A" replaces the underlying bill which, among other things, (1) generally prohibited a law enforcement unit from disciplining officers for seeking mental health treatment, (2) required units to ask these officers to submit to a mental health evaluation before returning surrendered firearms to them, and (3) allowed officers who were voluntarily admitted for psychiatric treatment to have their work weapons or ammunition returned upon discharge.

EFFECTIVE DATE: October 1, 2019, except the provisions on the task force and POST studies are effective upon passage.

### **§ 1 — USE OF FORCE ANNUAL REPORT**

By February 1, 2020, and annually thereafter, the bill requires each law enforcement unit to prepare and submit a use of force report for the preceding calendar year to OPM's Division of Criminal Justice Policy and Planning.

Existing law requires each law enforcement unit to create and maintain a record detailing any incident where a police officer (1) discharges a firearm, except during training exercises or when dispatching an animal or (2) uses physical force that is likely to cause serious physical injury (see BACKGROUND) or the death of another person. The bill (1) specifies that using physical force likely to cause serious physical injury includes using a chokehold or other method of restraint applied to another person's neck area and (2) expands the recordkeeping requirement to include incidents when a police officer engages in a pursuit.

Under the bill, the annual report to OPM must include:

1. the name of the police officer, the time and place of the incident, a description of what occurred and, to the extent known, the victims' names and witnesses present at the incident;
2. summarized data compiled from such records; and
3. statistics on each use of force incident, including (a) the race and gender of the person the force was used upon, provided

identifying such characteristics is based on the police officer's observation and perception, (b) the number of times force was used on such person, and (c) any injury the person suffered. Each law enforcement unit must redact any information from the report that may identify a minor, witness, or victim before submitting the report.

## **§ 2 — BODY-WORN AND DASHBOARD CAMERA RECORDINGS**

Under existing law, a police officer, when giving a formal statement about the use of force or when the subject of a disciplinary investigation where a body camera recording is part of the review, has a right to review the recording, together with his or her attorney or labor representative. The bill extends this right to review the recordings from a dashboard camera with a remote recorder.

Additionally, the bill makes a body-worn or dashboard camera recording disclosable to the public not later than 48 hours after an officer has an opportunity to review it or if the officer does not review the recording, it must be disclosed not later than 96 hours after the recorded incident, whichever is earlier, upon request. As under existing law, certain scenarios are generally not disclosable, including the following:

1. communications with other law enforcement personnel unless within the performance of duties;
2. encounters with undercover officers or informants;
3. officers on break or engaged in personal activity;
4. people undergoing medical or psychological evaluations, procedures, or treatment;
5. people, other than suspects, in a hospital or medical facility;
6. activities in mental health facilities unless responding to a call involving a suspect in such facilities; or

7. certain crime victims if it would be an invasion of personal privacy (e.g., domestic or sexual abuse).

### **§ 3 — USE OF FORCE INVESTIGATIONS**

The bill extends existing law's requirement that the Division of Criminal Justice investigate and determine the appropriateness of an officer's use of physical force on another person that results in that person's death to an officer's use of deadly force on another person.

On and after January 1, 2020, the bill requires the Division of Criminal Justice to complete a preliminary status report with certain information whenever a peace officer, in the performance of the officer's duties, uses physical force on another person and the person dies as a result. The report must include: (1) the deceased person's name, gender, race, ethnicity, and age; (2) the date, time and location of the injury causing such death; (3) the law enforcement agency involved; (4) the toxicology report status, if available; and (5) the death certificate, if available. The division must complete the report and submit a copy, within five business days after the cause of death is available, to the Judiciary and Public Safety and Security committees.

The bill requires the division to make the report it is required to provide at the end of its investigation available to the public on its website within 48 hours after copies are provided to the chief executive officer of the municipality in which the incident occurred and the Department of Emergency Services and Public Protection (DESPP) commissioner or police chief. Under existing law, upon the conclusion of the investigation, the division must file a report with the Chief State's Attorney with certain information, including the determination of whether the use of physical force by the peace officer was appropriate and any future action to be taken.

### **§ 4 — JUSTIFIED USE OF FORCE**

The bill narrows the instances a peace officer, special policeman, motor vehicle inspector, or authorized official of the Department of Correction or the Board of Pardons and Paroles is justified in using deadly physical force on another person. Under current law, such law

enforcement official may use deadly force when he or she reasonably believes the action to be necessary to, among other things, prevent the escape from custody of a person whom he or she reasonably believes has committed or attempted to commit a felony. The bill narrows this to the escape from custody when the official reasonably believes the person committed such a felony.

#### **§ 5 — POLICE PURSUITS**

By January 1, 2021, and at least once during each five-year period thereafter, the bill requires the DESPP commissioner, in conjunction with the Chief State's Attorney, POST, the Connecticut Police Chiefs Association, and the Connecticut Coalition of Police and Correctional Officers, to adopt regulations to update the police pursuit policy.

The bill also generally prohibits a police officer (1) who is engaged in a pursuit, from discharging any firearm into or at a fleeing motor vehicle, unless the officer has reasonable belief that there is an imminent threat of death to the officer or another person posed by the fleeing vehicle or an occupant in the vehicle and (2) from intentionally positioning his or her body in front of a fleeing vehicle, unless such action is a tactic approved by the employing law enforcement unit.

Under the bill, if a pursuit enters another law enforcement unit's jurisdiction, the law enforcement unit that initiated the pursuit must immediately notify the unit with jurisdiction over the pursuit area.

#### **§ 6 — POLICE TRANSPARENCY AND ACCOUNTABILITY TASK FORCE**

The bill establishes a 13-member task force to study police transparency and accountability. The task force must examine: (1) police officer interactions with individuals with a mental, intellectual, or physical disability; (2) the feasibility of police officers who conduct traffic stops issuing a receipt to each stopped individual that includes the reason for the stop and records the demographic information of the person being stopped; and (3) any other police officer and transparency and accountability issue the task force deems appropriate.

The task force consists of the following members:

1. two appointed by the House speaker, one of whom is an individual with a mental, intellectual, or physical disability;
2. two appointed by the Senate president pro tempore, one of whom is a justice-impacted individual;
3. one appointed by the House majority leader, who must be a member of the General Assembly's Black and Puerto Rican Caucus;
4. one appointed by the Senate majority leader, who must be a Connecticut Police Chiefs Association member;
5. two appointed by the House minority leader; and
6. two appointed by the Senate minority leader.

Additionally, the bill appoints the following individuals or their designees as ex officio non-voting members: (1) OPM's Division of Criminal Justice Policy and Planning undersecretary; (2) DESPP commissioner; and (3) chief state's attorney.

Under the bill, all the legislative appointments, except the Senate majority leader's appointment, may be General Assembly members. All appointments must be made within 30 days after the bill's passage and the appointing authorities must fill any vacancy.

The House speaker and Senate president pro tempore must select the chairpersons from task force members. The chairpersons must schedule and hold the first meeting within 60 days after the bill's passage. The Judiciary and Public Safety and Security committee's administrative staff must serve as the task force's administrative staff.

The bill requires the task force to submit a preliminary report by January 1, 2020, and a final report by December 31, 2020, on its findings and legislative recommendations to the Judiciary and Public Safety and Security committees. The task force terminates on the date

it submits the report on December 31, 2020, whichever is later.

## **§ 7 — POST STUDY**

The bill requires POST to study and review police officers using firearms during a pursuit. By February 1, 2020, POST must report its findings and legislative recommendations to the Judiciary and Public Safety and Security committees.

As under existing law, “police officer” means any sworn member of an organized local police department; an appointed constable who performs criminal law enforcement duties; special police officers appointed under law (e.g., those appointed to investigate public assistance fraud); and members of a law enforcement unit who perform police duties, including the State Police and tribal police. “Pursuit” means an attempt by a police officer in an authorized emergency vehicle to apprehend any occupant of another moving motor vehicle, when the driver of the fleeing vehicle is attempting to avoid apprehension by maintaining or increasing the vehicle speed or by ignoring the police officer's attempt to stop the vehicle.

## **BACKGROUND**

### ***Law Enforcement Unit***

By law, a law enforcement unit means a law enforcement unit in any agency, organ, or department whose primary functions include enforcing criminal or traffic laws; preserving public order; protecting life and property; or preventing, detecting, or investigating crime. It includes the Mohegan and Mashantucket Pequot police units (CGS § 7-294a).

### ***Serious Physical Injury***

By law, a “serious physical injury” creates a substantial risk of death or causes serious disfigurement, impairment of health, or loss or impairment of an organ's function (CGS § 53a-3(4)).

## **COMMITTEE ACTION**

Public Health Committee

Joint Favorable

Yea 21 Nay 0 (03/22/2019)

Judiciary Committee

Joint Favorable

Yea 34 Nay 2 (04/22/2019)