

OFFICE OF FISCAL ANALYSIS

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EMERGENCY CERTIFICATION

HB-6004

AN ACT CONCERNING POLICE ACCOUNTABILITY.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 21 \$	FY 22 \$
Criminal Justice, Div.	GF - Cost	50,000- 100,000	50,000- 100,000
Criminal Justice, Div.	GF - Cost	758,739	1,011,652
Emergency Services and Public Protection, Dept.	GF - Potential Cost	25,000- 50,000	50,000- 100,000
State Comptroller - Fringe Benefits ¹	GF - Cost	328,947	438,595
Comptroller - Adjudicated Claims Account	GF - Potential Cost	See Below	See Below
Resources of the General Fund	GF - Potential Revenue Gain	See Below	See Below
Correction, Dept.; Judicial Dept. (Probation)	GF - Potential Cost	See Below	See Below
Med. Examiner, Off.	GF - Cost	40,000	40,000
Treasurer, Debt Serv.	GF - Potential Cost	See Below	See Below

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 21 \$	FY 22 \$
Various Municipalities	STATE MANDATE ² - Cost	See Below	See Below

¹The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 42.09% of payroll in FY 21 and FY 22.

² State mandate is defined in Sec. 2-32b(2) of the Connecticut General Statutes, "state mandate" means any state initiated constitutional, statutory or executive action that requires a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

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Explanation

This bill changes freedom of information law related to contract agreements, establishes an office of the Inspector General, places numerous requirements on state and municipal police departments, and will result in a net cost to both state agencies and various municipalities.

Sections 1-2 require all state police officers appointed after the effective date of the bill to obtain certification by the Police Officers Standards and Training Council (POST). There is no cost anticipated from this requirement.

Section 3 requires POST to create a statewide policy concerning mental health evaluations. Any fiscal impact to the state or municipalities would depend on the regulations developed by POST regarding mental health assessments.

This section also requires that state and municipal police officers pass a urinalysis test to receive POST recertification after a lapse in employment. The cost to POST to conduct these tests is expected to be less than \$5,000 annually, with each test costing approximately \$50.

It also 1) expands the instances in which POST is allowed to revoke a police officer's license and 2) allows POST to issue guidance to local law enforcement agencies regarding the suspension, cancellation, or decertification of a police officer's license. This has no fiscal impact.

Sections 5-6 require that POST, in conjunction with the Department of Emergency Services and Public Protection (DESPP) and the Chief's State Attorney, develop regulations regarding crowd management for state and municipal police departments and that any basic training programs for police include such regulations. Any cost to the state or municipalities would depend on the regulations adopted.

Section 7 requires that police training programs include implicit bias training. As training programs already include other bias training requirements, there is no anticipated cost from this section.

Section 8 states that the Freedom of Information Act shall prevail over provisions of a collective bargaining agreement or arbitration award if they are in conflict. This has no fiscal impact.

Section 9 states that any collective bargaining agreement with DESPP shall not include language that prohibits the disclosure of any disciplinary action based on a violation of the code of ethics contained in the personnel file of a sworn member of said division. This has no fiscal impact.

Sections 10-11 require that certain municipal law enforcement units and POST report their efforts in recruiting and retaining minority police officers. It is expected that these reports can be completed within existing resources.

Section 12, which extends the date of the task force report to January 2021 and adds certain requirements to be included in said report, has no fiscal impact.

Section 13, which alters the membership of the Police Officer Standards and Training Council, has no fiscal impact.

Section 16 requires that all state and municipal police officers receive mental health assessments by a licensed psychiatrist once every five years. It is anticipated that mental health assessments will cost DESPP and municipal police departments between \$300-\$500 per officer if the policies developed by POST per Section 3 of this bill require employers to fully cover costs.

The total cost to DESPP is anticipated to be between \$50,000-\$100,000 annually to provide mental health assessments to 20% of its sworn troopers. The cost to each municipality will vary based on how many officers are employed. For large cities, the cost is expected to be at least \$20,000 annually.

Section 17 allows towns to establish police civilian review boards. There is no fiscal impact associated with provision. The bill does not mandate any staffing or resource requirements for these boards.

Section 18 requires that each municipal law enforcement department evaluate the benefits of using social workers during emergency

response situations and provide a report to POST. It is anticipated that these reports can be completed within existing resources.

Sections 19-20 require the use of body worn cameras and dashboard recording devices by all state and municipal police officers and change reimbursement rates for grants-in-aid to municipalities for related costs. It is estimated that the total cost to purchase all equipment and related data storage services in the first full fiscal year is at least \$8 million, less all grants-in-aid provided for reimbursement. Based on new available funding in Section 44 of the bill, it is expected that the provisions of the bill will have a direct cost to remaining municipalities of at least \$4 million annually after reimbursement from OPM.

To date, OPM has expended approximately \$6.2 million in general obligation (GO) bond funding to provide grants-in-aid to municipalities for the purchase of body worn camera and dashboard recording devices and their associated data storage costs. Under current law, reimbursement rates for such costs are 50% or 100%, depending on the timing of purchases. This bill requires costs to be reimbursed by OPM at a rate of 50% for distressed municipalities and 30% for all others. Costs related to data storage are expected to total at least \$4 million annually for the remaining municipalities and are not reimbursable after the first year. Data storage costs are not expected to be incurred until after July 1, 2022.

It is estimated that 53 municipal police departments, representing approximately 3,970 (53%) of all municipal officers will need to purchase body worn cameras at a total one-time cost of approximately \$4 million. It is currently unknown how many additional dashboard cameras police departments will need to purchase to conform with the provisions of this section.

This section is not expected to result in any additional costs to DESPP, as they are currently in the process of outfitting all officers with body worn camera devices.

Sections 21- 22 provide further definition for law enforcement searches and probable cause and does not result in a fiscal impact.

Section 23 requires the Division of Criminal Justice and the Judicial Department to prepare a plan for prosecutorial review and does not result in a fiscal impact.

Sections 24-27 increase the penalty for falsely reporting an incident in certain circumstances. Violations of this provision may result in a potential cost for incarceration or probation and a potential revenue gain from fines assessed. On average, the marginal cost to the state for incarcerating an offender for the year is \$1,800¹ while the average marginal cost for supervision in the community is less than \$700² each year. There are zero people currently incarcerated under these charges, 60 people on probation, and \$1,185 in fines collected in FY 19.

Section 28 increases the penalty for misuse of the emergency 9-1-1 system in certain circumstances. Violations of this provision may result in a potential cost for incarceration or probation and a potential revenue gain from fines assessed. On average, the marginal cost to the state for incarcerating an offender for the year is \$1,800³ while the average marginal cost for supervision in the community is less than \$700⁴ each year. There are zero people currently incarcerated under these charges, 5 people on probation, and no fines collected in FY 19.

Section 29 provides additional definitions for the justification of the use of deadly physical force and does not result in a fiscal impact.

Sections 30 and 43 charges police officers and correction officers with hindering prosecution if they are aware of and don't report another police officer or correction officer using excessive force. To the extent that violations occur, this provision may result in a potential cost for incarceration or probation and a potential revenue gain from fines assessed. On average, the marginal cost to the state for incarcerating an offender for the year is \$1,800¹ while the average marginal cost for supervision in the community is less than \$700² each year.

This section also prevents police departments and the Department of Correction from taking retaliatory action against police officers who report unreasonable, excessive, or illegal use of force, and requires the Office of Policy and Management to create an annual report concerning such incidents. This has no fiscal impact.

³ Inmate marginal cost is based on increased consumables (e.g. food, clothing, water, sewage, living supplies, etc.) This does not include a change in staffing costs or utility expenses because these would only be realized if a unit or facility opened.

⁴ Probation marginal cost is based on services provided by private providers and only includes costs that increase with each additional participant. This does not include a cost for additional supervision by a probation officer unless a new offense is anticipated to result in enough additional offenders to require additional probation officers.

Sections 33-35 create an Office of the Inspector General within the Division of Criminal Justice (DCJ) and result in a FY 21 cost of \$758,739 for nine positions and associated costs of \$316,197 to the State Comptroller (OSC) for fringe benefits. The full year annualized costs are \$1,011,652 to DCJ and \$421,595 to OSC in FY 22. It is anticipated that the newly created Office of the Inspector General would require an Inspector General and a staff of eight, including a senior Assistant State's Attorney, five Inspectors, a forensic analyst, and a paralegal. It is estimated that the office will conduct approximately 25 full investigations annually.

The bill specifies that the location of the Office of the Inspector General will be separate. This cost is dependent on state owned office space that may be available or other space that may need to be leased. It is estimated that lease related costs will be approximately \$50,000 - \$100,000 annually.

This office will investigate all instances of deadly force and where physical force by a peace officer results in death. In addition, it will be the duty of the office to prosecute any case where the finding is not justifiable and make further recommendations concerning the peace officer in question to the Police Officers Standards and Training Council.

Sections 36-37 amend current statute to a) require the Office of the Chief Medical Examiner (OCME) to investigate "any [human] death that occurs while the deceased person is in the custody of a peace officer or a law enforcement agency or the Commissioner of Correction", b) expand the list of entities that can require an autopsy to be performed by OCME to include the Office of the Inspector General and c) require OCME to go to the scene of the event of any "death that occurs while the deceased person is in the custody of a peace officer or a law enforcement agency or the Commissioner of Correction" and take charge of the body. Existing law requires scene investigations in cases of an apparent homicide, suicide, or accidental deaths for which the causes are obscure.

These provisions are expected to result in a cost of approximately \$40,000 to OCME annually for a 0.5 FTE Special Investigator and an addition \$17,000 annually to OSC for fringe benefits.

Sections 38-39 expand the prohibition of the use of quotas by municipal police departments. This has no fiscal impact to the state or municipalities.

Section 40 establishes a process by which the Department of Emergency Services and Public Protection may order a municipality to sell or dispose of controlled equipment. To the extent that this results in any municipality selling or disposing of such equipment, there is 1) a revenue gain if the municipality can sell the equipment, or 2) a cost if the municipality must dispose of the equipment.

Section 41 results in a potential cost to the general fund and municipalities from eliminating qualified immunity, in certain circumstances, as a valid defense in any civil suit brought against either party. Any potential costs would vary based on the amounts awarded to plaintiffs and the number of suits brought annually against either party. Payments from court orders by the state are paid out of the Adjudicated Claims Account within the State Comptroller's Office.

This section results in no fiscal impact to the Judicial Department as the court system disposes of 400,000 cases annually.

Section 42 adds additional requirements to an existing task force related to qualified immunity and does not result in a fiscal impact.

Section 44 requires law enforcement agencies to obtain and maintain accreditation by the Commission on Accreditation of Law Enforcement Agencies. The bill requires POST to assist law enforcement agencies who do not obtain or maintain accreditation. This has no fiscal impact.

Section 45 increases GO bond authorizations by \$4 million for the purpose of providing grants-in-aid to municipalities for the purchase of body worn cameras, dashboard recording devices, and related data storage services. To the extent the new bond authorization is fully allocated and expended, there would be an increase in annual General Fund debt service costs until such bonds are fully repaid. At current market rates, total repayment costs over 20 years are estimated to be \$5.7 million.

The Out Years

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

The preceding Fiscal Impact statement is prepared for the benefit of the members of the General Assembly, solely for the purposes of information, summarization and explanation and does 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.