
OLR Bill Analysis

sHB 6598

AN ACT CONCERNING THE PROHIBITION AGAINST HIRING POLICE OFFICERS DISMISSED FOR MALFEASANCE OR WHO RESIGNED OR RETIRED WHILE UNDER INVESTIGATION.

SUMMARY

Existing law prohibits a law enforcement unit from hiring a police officer who was previously employed by the unit or in another jurisdiction and (1) was dismissed for malfeasance or serious misconduct calling into question his or her fitness to serve as an officer or (2) resigned or retired during an investigation into such conduct. This bill:

1. expressly prohibits the Police Office Standards and Training Council (POST) from certifying these officers;
2. allows POST to hold hearings for units and officers to determine whether a specific hiring or certification denial is improper; and
3. expands the type of actions considered “serious misconduct,” principally to include taking improper or illegal actions that could result in a gross deviation from generally accepted police officer standards and behavior.

Existing law requires a unit, if it knows that such an officer is applying to another unit, to inform POST and the other unit about the officer’s dismissal, resignation, or retirement. By expanding the definition of “serious misconduct,” the bill correspondingly expands when these units must report to POST and other units.

Under existing law and the bill, the hiring, certification, and reporting provisions do not apply to officers exonerated from malfeasance or serious misconduct allegations. Additionally, the bill does not preclude POST from suspending, cancelling, or revoking an

officer's certification based on its existing statutory authority.

Lastly, the bill makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2021

OFFICER CERTIFICATION

The bill explicitly prohibits POST from certifying any officer who (1) was dismissed for malfeasance or other serious misconduct, as defined below, or (2) resigned or retired during an investigation for such conduct. Under existing law, unchanged by the bill, "malfeasance" has its common meaning (i.e., a wrongful, unlawful, or dishonest act).

By law, POST enforces professional standards for certifying and decertifying police officers, among other duties. Existing law allows POST to cancel or revoke a police officer's certification for several actions included in the below definition of serious misconduct, such as fraud, document falsification, or felony convictions (CGS § 7-294d). POST must (1) investigate if it believes there is a reasonable basis for cancelling or revoking an officer's certificate and (2) institute cancellation or revocation procedures if it determines probable cause exists (Conn. Agencies Reg. § 7-294e-11).

POST HEARINGS

The bill allows POST to hold a hearing, in accordance with the Uniform Administrative Procedure Act (UAPA), for any (1) law enforcement unit prohibited from hiring a person by the provisions described above and (2) police officer denied certification by the bill. The hearing's purpose must be to determine whether the (1) police officer resigned or retired while under investigation for malfeasance or other serious misconduct, (2) police officer was exonerated of each allegation of malfeasance or other serious misconduct, or (3) conduct at issue constituted malfeasance or serious misconduct.

Under existing law, unchanged by the bill, before cancelling or revoking an officer's certification, POST must (1) give the officer notice and an adequate opportunity for a hearing and (2) make a finding of the improper conduct by clear and convincing evidence. Any hearing

to suspend, cancel, or revoke a certification must be conducted in accordance with the UAPA, and any certificate holder aggrieved by a POST decision may appeal to court under the UAPA (CGS § 7-294d).

SERIOUS MISCONDUCT

Under current law, “serious misconduct” means an officer’s improper or illegal actions connected with official duties that could cause a miscarriage of justice or discrimination, such as a felony conviction, evidence fabrication, repeated use of excessive force, bribe acceptance, or fraud.

The bill expands the definition of “serious misconduct” to include an officer’s improper or illegal actions connected with official duties that could cause a gross deviation from generally accepted police officer standards and behavior. It also expands the type of actions that explicitly constitute serious misconduct, to include:

1. evidence falsification;
2. failure to intervene or stop unreasonable, excessive, or illegal use of force by another officer; and
3. intimidation or harassment causing injury based upon actual or perceived protected class membership, identity, or expression.

Additionally, the bill changes when a police officer’s use of force rises to “serious misconduct.” Under current law, “serious misconduct” includes repeated use of excessive force. Under the bill, it instead includes the use of physical force found to be unjustifiable after a statutory investigation by the Office of the Inspector General (OIG). (By law, these OIG investigations are limited to circumstances in which a person dies as a result of an officer’s use of force (CGS § 51-277a).)

COMMITTEE ACTION

Public Safety and Security Committee

Joint Favorable
Yea 25 Nay 0 (03/18/2021)