



# House of Representatives

General Assembly

**File No. 273**

January Session, 2021

Substitute House Bill No. 6598

*House of Representatives, April 6, 2021*

The Committee on Public Safety and Security reported through REP. HORN of the 64th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

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

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

1 Section 1. Section 7-291c of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective July 1, 2021*):

3 (a) No law enforcement unit, as defined in section 7-294a, shall hire  
4 any person as a police officer, as defined in said section, [7-294a,] who  
5 was previously employed as a police officer by such unit or in any other  
6 jurisdiction and who (1) was dismissed for malfeasance or other serious  
7 misconduct calling into question such person's fitness to serve as a  
8 police officer; or (2) resigned or retired from such officer's position while  
9 under investigation for such malfeasance or other serious misconduct.

10 (b) Any law enforcement unit that has knowledge that any former  
11 police officer of such unit who (1) (A) was dismissed for malfeasance or  
12 other serious misconduct, or (B) resigned or retired from such officer's

13 position while under investigation for such malfeasance or other serious  
14 misconduct; and (2) is an applicant for the position of police officer with  
15 any other law enforcement unit, shall inform such other unit and the  
16 Police Officer Standards and Training Council established under section  
17 7-294b of such dismissal, resignation or retirement.

18 (c) The Police Officer Standards and Training Council shall not certify  
19 any police officer who (1) was dismissed for malfeasance or other  
20 serious misconduct, or (2) resigned or retired from such officer's  
21 position while under investigation for malfeasance or other serious  
22 misconduct.

23 ~~[(c)]~~ (d) The provisions of this section shall not apply to any police  
24 officer who is exonerated of each allegation against such officer of such  
25 malfeasance or other serious misconduct.

26 (e) The Police Officer Standards and Training Council may afford any  
27 law enforcement unit prohibited from hiring a person as a police officer  
28 pursuant to subsection (a) of this section and any police officer denied  
29 certification pursuant to subsection (c) of this section an opportunity for  
30 a hearing in accordance with the provisions of chapter 54 to determine  
31 whether (1) the police officer resigned or retired while under  
32 investigation for such malfeasance or other serious misconduct, (2) the  
33 police officer was exonerated of each allegation of such malfeasance or  
34 other serious misconduct, or (3) the conduct at issue constituted  
35 malfeasance or serious misconduct.

36 (f) Nothing in this section shall preclude the Police Officer Standards  
37 and Training Council from suspending, cancelling or revoking the  
38 certification of a police officer pursuant to subsection (c) of section 7-  
39 294d.

40 ~~[(d)]~~ (g) For purposes of this section, (1) "malfeasance" means the  
41 commonly approved usage of "malfeasance"; and (2) "serious  
42 misconduct" means improper or illegal actions taken by a police officer  
43 in connection with such officer's official duties that could result in a  
44 miscarriage of justice, ~~[or]~~ discrimination or a gross deviation of the

45 generally accepted standards and behavior of a police officer, including,  
46 but not limited to, (A) a conviction of a felony, (B) fabrication or  
47 falsification of evidence, (C) [repeated] use of [excessive] physical force  
48 in a manner found to not be justifiable after an investigation conducted  
49 pursuant to section 51-277a, (D) acceptance of a bribe, [or] (E) the  
50 commission of fraud, (F) failure to intervene or stop unreasonable,  
51 excessive or illegal use of force by another police officer, or (G)  
52 intimidation or harassment causing injury based upon actual or  
53 perceived protected class membership, identity or expression.

54 Sec. 2. Section 7-294e of the general statutes is repealed and the  
55 following is substituted in lieu thereof (*Effective July 1, 2021*):

56 (a) Notwithstanding the provisions of any general statute or special  
57 act or local law, ordinance or charter, [to the contrary,] each police  
58 officer shall forfeit such officer's appointment and position unless  
59 recertified by the council according to procedures and within the time  
60 frame established by the council. Any sworn member of the Division of  
61 State Police within the Department of Emergency Services and Public  
62 Protection who is deemed certified under subsection (d) of section 7-  
63 294d is required to apply for recertification by the council within the  
64 time frame established by the council, unless such member retires from  
65 said division within such time frame.

66 (b) The Police Officer Standards and Training Council may  
67 recommend to the Commissioner of Emergency Services and Public  
68 Protection any regulations it deems necessary to carry out the  
69 provisions of section 7-291c, as amended by this act, 7-294a, subsection  
70 (a) of section 7-294b, sections 7-294c and 7-294d and this section, giving  
71 due consideration to the varying factors and special requirements of law  
72 enforcement units.

73 (c) The Commissioner of Emergency Services and Public Protection  
74 may adopt regulations, in accordance with the provisions of chapter 54,  
75 as are necessary to implement the provisions of section 7-291c, as  
76 amended by this act, 7-294a, subsection (a) of section 7-294b, sections 7-  
77 294c and 7-294d and this section. Such regulations shall be binding upon

78 all law enforcement units.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2021	7-291c
Sec. 2	July 1, 2021	7-294e

**Statement of Legislative Commissioners:**

In Section 1(c), the word "such" was deleted for internal consistency, in Section 1(e), the word "former" was deleted for internal consistency and in Section 2(a), "to the contrary," was bracketed for conciseness.

**PS**            *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.*

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**OFA Fiscal Note****State Impact:** None**Municipal Impact:** None**Explanation**

The bill prohibits hiring police officers who were dismissed for malfeasance or resigned or retired while under investigation resulting in no fiscal impact to the state.

**The Out Years****State Impact:** None**Municipal Impact:** None

**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)