



House of Representatives

General Assembly

File No. 492

February Session, 2022

Substitute House Bill No. 5349

House of Representatives, April 14, 2022

The Committee on Judiciary reported through REP. STAFSTROM of the 129th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE TIMELY REPORTING BY THE POLICE OF A DEATH.

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

1 Section 1. (NEW) (*Effective October 1, 2022*) (a) If a peace officer who
2 is a sworn member of a law enforcement agency responds to an incident
3 involving a deceased person or the remains of a person or otherwise
4 encounters a deceased person or the remains of a person while such
5 officer is on duty, such officer shall ensure that a person who is a next
6 of kin of such person is notified of such person's death in a manner
7 provided for in applicable guidelines used by the law enforcement
8 agency employing such officer. Such law enforcement agency shall
9 ensure such notification is made as soon as practicable, but not later than
10 twenty-four hours following the identification of such person, except as
11 provided in subsection (b) of this section.

12 (b) If a peace officer is unable to notify a person who is a next of kin
13 of a deceased person as required under subsection (a) of this section,
14 such officer shall document the reason for the failure or delay of

15 notification and any attempts made to make such notification.

16 (c) If no person who is a next of kin of a deceased person is notified
17 of such person's death as required under subsection (a) of this section, a
18 person who is a next of kin of the deceased person may request of the
19 Office of the Inspector General, established under section 51-277e of the
20 general statutes, as amended by this act, an investigation of such lack of
21 notification or timely notification.

22 (d) For purposes of this section, "peace officer" has the same meaning
23 as provided in section 53a-3 of the general statutes, "next of kin" has the
24 same meaning as provided in section 19a-415a of the general statutes
25 and "law enforcement agency" means the Division of State Police within
26 the Department of Emergency Services and Public Protection or any
27 municipal police department.

28 Sec. 2. Section 51-277a of the 2022 supplement to the general statutes
29 is repealed and the following is substituted in lieu thereof (*Effective*
30 *October 1, 2022*):

31 (a) (1) Whenever a peace officer, in the performance of such officer's
32 duties, uses physical force upon another person and such person dies as
33 a result thereof or uses deadly force, as defined in section 53a-3, upon
34 another person, the Division of Criminal Justice shall cause an
35 investigation to be made and the Inspector General shall have the
36 responsibility of determining whether the use of physical force by the
37 peace officer was justifiable under section 53a-22.

38 (2) (A) Except as provided under subdivision (1) of this subsection,
39 whenever a person dies in the custody of a peace officer or law
40 enforcement agency, the Inspector General shall investigate and
41 determine whether physical force was used by a peace officer upon the
42 deceased person, and if so, whether the use of physical force by the
43 peace officer was justifiable under section 53a-22. If the Inspector
44 General determines the deceased person may have died as a result of
45 criminal action not involving the use of force by a peace officer, the
46 Inspector General shall refer such case to the Chief State's Attorney or

47 state's attorney for potential prosecution.

48 (B) Except as provided under subdivision (1) of this subsection or
49 subparagraph (A) of subdivision (2) of this subsection, whenever a
50 person dies in the custody of the Commissioner of Correction, the
51 Inspector General shall investigate and determine whether the deceased
52 person may have died as a result of criminal action, and, if so, refer such
53 case to the Chief State's Attorney or state's attorney for potential
54 prosecution.

55 (3) Whenever a person who (A) is a next of kin of a deceased person,
56 (B) is not notified of such deceased person's death as required pursuant
57 to section 1 of this act and no other person who is a next of kin of the
58 deceased person was so notified, and (C) requests of the Office of the
59 Inspector General an investigation of the lack of notification or timely
60 notification of such death, the Inspector General shall investigate and
61 determine whether there was any malfeasance on the part of a peace
62 officer or a supervisor of the peace officer in the failure to provide such
63 notification or timely notification, and if so, may make
64 recommendations to the Police Officer Standards and Training Council
65 established under section 7-294b concerning censure, suspension,
66 renewal, cancelation or revocation of the peace officer's or supervisor's
67 certification.

68 [(3)] (4) The Inspector General shall request the appropriate law
69 enforcement agency to provide such assistance as is necessary to
70 investigate and make a determination under subdivision (1), [or] (2) or
71 (3) of this subsection.

72 [(4)] (5) Whenever a peace officer, in the performance of such officer's
73 duties, uses physical force or deadly force upon another person and
74 such person dies as a result thereof, the Inspector General shall complete
75 a preliminary status report that shall include, but need not be limited to,
76 (A) the name of the deceased person, (B) the gender, race, ethnicity and
77 age of the deceased person, (C) the date, time and location of the injury
78 causing such death, (D) the law enforcement agency involved, (E) the
79 status on the toxicology report, if available, and (F) the death certificate,

80 if available. The Inspector General shall complete the report and submit
81 a copy of such report not later than five business days after the cause of
82 the death is available to the Chief State's Attorney and, in accordance
83 with the provisions of section 11-4a, to the joint standing committees of
84 the General Assembly having cognizance of matters relating to the
85 judiciary and public safety.

86 (b) Upon the conclusion of the investigation of [the] an incident of the
87 use of force, the Inspector General shall file a report with the Chief
88 State's Attorney which shall contain the following: (1) The
89 circumstances of the incident, (2) a determination of whether the use of
90 physical force by the peace officer was justifiable under section 53a-22,
91 and (3) any recommended future action to be taken by the Office of the
92 Inspector General as a result of the incident. The Chief State's Attorney
93 shall provide a copy of the report to the chief executive officer of the
94 municipality in which the incident occurred and to the Commissioner
95 of Emergency Services and Public Protection or the chief of police of
96 such municipality, as the case may be, and shall make such report
97 available to the public on the Division of Criminal Justice's Internet web
98 site not later than forty-eight hours after the copies are provided to the
99 chief executive officer and the commissioner or chief of police.

100 (c) The Office of the Inspector General shall prosecute any case
101 involving an incident of the use of force in which the Inspector General
102 determines that (1) the use of force by a peace officer was not justifiable
103 under section 53a-22, or (2) there was a failure to intervene in such
104 incident or to report any such incident, as required under subsection (a)
105 of section 7-282e or section 18-81nn.

106 Sec. 3. Subsection (a) of section 51-277e of the 2022 supplement to the
107 general statutes is repealed and the following is substituted in lieu
108 thereof (*Effective October 1, 2022*):

109 (a) There is established the Office of the Inspector General that shall
110 be a separate office within the Division of Criminal Justice. Not later
111 than October 1, 2021, the Criminal Justice Commission established
112 pursuant to section 51-275a shall appoint a deputy chief state's attorney

113 as Inspector General who shall lead the Office of the Inspector General.
114 The office shall: (1) Conduct investigations of peace officers in
115 accordance with section 51-277a, as amended by this act; (2) prosecute
116 any case in which the Inspector General determines a peace officer used
117 force found to not be justifiable pursuant to section 53a-22 or where a
118 police officer or correctional officer fails to intervene in any such
119 incident or to report any such incident, as required under subsection (a)
120 of section 7-282e or section 18-81nn, as applicable; [and] (3) investigate
121 any failure to report the death of a person in accordance with the
122 provisions of section 1 of this act; and (4) make recommendations to the
123 Police Officer Standards and Training Council established under section
124 7-294b concerning censure and suspension, renewal, cancelation or
125 revocation of a peace officer's certification.

126 Sec. 4. Subsection (c) of section 7-294d of the 2022 supplement to the
127 general statutes is repealed and the following is substituted in lieu
128 thereof (*Effective October 1, 2022*):

129 (c) (1) The council may refuse to renew any certificate if the holder
130 fails to meet the requirements for renewal of his or her certification.

131 (2) The council may cancel or revoke any certificate if: (A) The
132 certificate was issued by administrative error, (B) the certificate was
133 obtained through misrepresentation or fraud, (C) the holder falsified
134 any document in order to obtain or renew any certificate, (D) the holder
135 has been convicted of a felony, (E) the holder has been found not guilty
136 of a felony by reason of mental disease or defect pursuant to section 53a-
137 13, (F) the holder has been convicted of a violation of section 21a-279,
138 (G) the holder has been refused issuance of a certificate or similar
139 authorization or has had his or her certificate or other authorization
140 cancelled or revoked by another jurisdiction on grounds which would
141 authorize cancellation or revocation under the provisions of this
142 subdivision, (H) the holder has been found by a law enforcement unit,
143 pursuant to procedures established by such unit, to have used a firearm
144 in an improper manner which resulted in the death or serious physical
145 injury of another person, (I) the holder has been found by a law

146 enforcement unit, pursuant to procedures established by such unit and
147 considering guidance developed under subsection (g) of this section, to
148 have engaged in conduct that undermines public confidence in law
149 enforcement, including, but not limited to, discriminatory conduct,
150 falsification of reports, issuances of orders that are not lawful orders,
151 failure to report or timely report a death in violation of section 1 of this
152 act or a violation of the Alvin W. Penn Racial Profiling Prohibition Act
153 pursuant to sections 54-1l and 54-1m, provided, when evaluating any
154 such conduct, the council considers such conduct engaged in while the
155 holder is acting in such holder's law enforcement capacity or
156 representing himself or herself to be a police officer to be more serious
157 than such conduct engaged in by a holder not acting in such holder's
158 law enforcement capacity or representing himself or herself to be a
159 police officer, [;] (J) the holder has been found by a law enforcement unit,
160 pursuant to procedures established by such unit, to have used physical
161 force on another person in a manner that is excessive or used physical
162 force in a manner found to not be justifiable after an investigation
163 conducted pursuant to section 51-277a, as amended by this act, or (K)
164 the holder has been found by a law enforcement unit, pursuant to
165 procedures established by such unit, to have committed any act that
166 would constitute tampering with or fabricating physical evidence in
167 violation of section 53a-155, perjury in violation of section 53a-156 or
168 false statement in violation of section 53a-157b. Whenever the council
169 believes there is a reasonable basis for suspension, cancellation or
170 revocation of the certification of a police officer, police training school
171 or law enforcement instructor, it shall give notice and an adequate
172 opportunity for a hearing prior to such suspension, cancellation or
173 revocation. Such hearing shall be conducted in accordance with the
174 provisions of chapter 54. Any holder aggrieved by the decision of the
175 council may appeal from such decision in accordance with the
176 provisions of section 4-183. The council may cancel or revoke any
177 certificate if, after a de novo review, it finds by clear and convincing
178 evidence (i) a basis set forth in subparagraphs (A) to (G), inclusive, of
179 this subdivision, or (ii) that the holder of the certificate committed an act
180 set forth in subparagraph (H), (I), (J) or (K) of this subdivision. In any

181 such case where the council finds such evidence, but determines that the
 182 severity of an act committed by the holder of the certificate does not
 183 warrant cancellation or revocation of such holder's certificate, the
 184 council may suspend such holder's certification for a period of up to
 185 forty-five days and may censure such holder of the certificate. Any
 186 police officer or law enforcement instructor whose certification is
 187 cancelled or revoked pursuant to this section may reapply for
 188 certification no sooner than two years after the date on which the
 189 cancellation or revocation order becomes final. Any police training
 190 school whose certification is cancelled or revoked pursuant to this
 191 section may reapply for certification at any time after the date on which
 192 such order becomes final. For purposes of this subdivision, a lawful
 193 order is an order issued by a police officer who is in uniform or has
 194 identified himself or herself as a police officer to the person such order
 195 is issued to at the time such order is issued, and which order is
 196 reasonably related to the fulfillment of the duties of the police officer
 197 who is issuing such order, does not violate any provision of state or
 198 federal law and is only issued for the purposes of (I) preventing,
 199 detecting, investigating or stopping a crime, (II) protecting a person or
 200 property from harm, (III) apprehending a person suspected of a crime,
 201 (IV) enforcing a law, (V) regulating traffic, or (VI) assisting in emergency
 202 relief, including the administration of first aid.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2022	New section
Sec. 2	October 1, 2022	51-277a
Sec. 3	October 1, 2022	51-277e(a)
Sec. 4	October 1, 2022	7-294d(c)

Statement of Legislative Commissioners:

In Section 1(a) and Section 2(a)(4), changes were made for consistency and accuracy.

JUD *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:** None**Municipal Impact:** None**Explanation**

The bill requires the Office of the Inspector General (OIG) to investigate untimely reporting by peace officers of a death to the person's next of kin, and in situations where OIG determines malfeasance, it may make recommendations to the Police Officers Standards and Training Council to discipline the peace officer. This additional responsibility is not anticipated to result in a fiscal impact as minimal violations are anticipated.

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

OLR Bill Analysis**sHB 5349*****AN ACT CONCERNING THE TIMELY REPORTING BY THE POLICE OF A DEATH.*****SUMMARY**

This bill generally requires peace officers (i.e., law enforcement officers) to notify a deceased person's next of kin (i.e., spouse, adult child, parent, adult sibling, or grandparent) about the deceased's death as soon as practicable, but within 24 hours after identifying the deceased.

The bill also requires the Office of the Inspector General (OIG) to investigate any failure to report a death as required by the bill. It allows OIG to make recommendations to the Police Officer Standards and Training Council (POST) to discipline an officer or his or her supervisor.

The bill also makes minor, technical, and conforming changes.

EFFECTIVE DATE: October 1, 2022

POLICE NOTIFICATION REQUIREMENT

Under the bill, if a sworn on-duty peace officer responds to an incident involving, or otherwise encounters, a deceased person or a person's remains, the officer must ensure that the deceased person's next of kin is notified about the death according to the officer's law enforcement agency's applicable guidelines. The law enforcement agency must ensure the notification is made as soon as practicable, but within 24 hours following the identification of the person.

If a peace officer is unable to notify any next of kin, the officer must document the reason for the failure or delay and any attempts to make the notification. If no person who is a next of kin is notified, a deceased person's next of kin may request an OIG investigation into the lack of

notification or timely notification.

Under the bill, the following individuals are designated peace officers: state and local police, Division of Criminal Justice inspectors, state marshals exercising statutory powers, judicial marshals performing their duties, conservation 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 Office of the State Treasurer, POST-certified motor vehicle inspectors, U.S. marshals and deputy marshals, U.S. special agents authorized to enforce federal food and drug laws, and certified police officers of a law enforcement unit created and governed under a state-tribal memorandum (CGS § 53a-3(9)).

Under the bill, a “law enforcement agency” is the State Police or any municipal police department.

OIG INVESTIGATIONS

Upon a next of kin’s request (see above), the bill requires OIG to investigate and determine whether there was malfeasance on the part of the peace officer or his or her supervisor for failing to provide the notification or timely notification the bill requires.

If OIG finds malfeasance, it may make recommendations to POST concerning censuring, suspending, renewing, canceling, or revoking the officer or supervisor’s certification.

CANCELLATION OR REVOCATION OF POLICE CERTIFICATION

Existing law sets various grounds upon which POST may cancel or revoke a police officer’s certification, including for undermining public confidence in law enforcement. The bill expands these grounds by specifying that undermining public confidence includes failing to report or timely report a death in violation of the bill.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 37 Nay 2 (03/29/2022)