



House of Representatives

General Assembly

File No. 493

February Session, 2022

Substitute House Bill No. 5372

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 PERIODIC BEHAVIORAL HEALTH ASSESSMENTS, POLICE OFFICER RECRUITMENT, SCHOOL RESOURCE OFFICERS, REPORTING OF VIOLATIONS TO THE POLICE OFFICER STANDARDS AND TRAINING COUNCIL, INVESTIGATIONS BY THE INSPECTOR GENERAL AND MINIMUM STANDARDS AND PRACTICES FOR THE ADMINISTRATION, MANAGEMENT AND OPERATION OF LAW ENFORCEMENT UNITS.

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

1 Section 1. Section 7-291e of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2022*):

3 (a) As used in this section: (1) "Administrative head of each law
4 enforcement unit" means the Commissioner of Emergency Services and
5 Public Protection, the board of police commissioners, the chief of police,
6 superintendent of police or other authority having charge of a law
7 enforcement unit; and (2) "behavioral health assessment" means a
8 behavioral health assessment of a police officer conducted by a board-
9 certified psychiatrist, [or] psychologist licensed pursuant to the
10 provisions of chapter 383 or a clinical social worker licensed pursuant

11 to the provisions of chapter 383b, who has experience diagnosing and
12 treating post-traumatic stress disorder.

13 (b) On and after January 1, 2021, the administrative head of each law
14 enforcement unit shall require each police officer employed by such law
15 enforcement unit to submit, as a condition of continued employment, to
16 a periodic behavioral health assessment. Each police officer employed
17 by a law enforcement unit shall submit to a periodic behavioral health
18 assessment not less than once every five years. In carrying out the
19 provisions of this section, the administrative head of each law
20 enforcement unit may stagger the scheduling of such behavioral health
21 assessments in a manner that results in approximately twenty per cent
22 of the total number of police officers in the law enforcement unit
23 receiving behavioral health assessments each year over a five-year
24 period. Notwithstanding the provisions of this subsection, the
25 administrative head of a law enforcement unit may waive the
26 requirement that a police officer submit to a periodic behavioral health
27 assessment when the police officer has submitted written notification of
28 his or her decision to retire from the law enforcement unit to such
29 administrative head, provided the effective date of such retirement is
30 not more than six months beyond the date on which such periodic
31 behavioral health assessment is scheduled to occur.

32 (c) In addition to the behavioral health assessments required
33 pursuant to subsection (b) of this section, the administrative head of
34 each law enforcement unit may, for good cause shown, require a police
35 officer to submit to an additional behavioral health assessment. The
36 administrative head of a law enforcement unit requiring that a police
37 officer submit to an additional behavioral health assessment shall
38 provide the police officer with a written statement setting forth the good
39 faith basis for requiring the police officer to submit to an additional
40 behavioral health assessment. Upon receiving such written statement,
41 the police officer shall, not later than thirty days after the date of the
42 written request, submit to such behavioral health assessment.

43 (d) A law enforcement unit that hires any person as a police officer,

44 who was previously employed as a police officer by another law
45 enforcement unit or employed as a police officer in any other
46 jurisdiction, may require such new hire to submit to a behavioral health
47 assessment not later than six months after the date of hire. When
48 determining whether such new hire shall be required to submit to a
49 behavioral health assessment, the law enforcement unit shall give due
50 consideration to factors that include, but are not limited to, the date on
51 which such new hire most recently submitted to a behavioral health
52 assessment.

53 (e) Any person conducting a behavioral health assessment of a police
54 officer pursuant to the provisions of this section shall provide a written
55 copy of the results of such assessment to the police officer and to the
56 administrative head of the law enforcement unit employing the police
57 officer.

58 (f) The results of any behavioral health assessment conducted in
59 accordance with the provisions of this section and any record or note
60 maintained by a psychiatrist, [or] psychologist, or clinical social worker
61 in connection with the conducting of such assessment shall not be
62 subject to disclosure under section 1-210.

63 Sec. 2. Section 7-291b of the general statutes is repealed and the
64 following is substituted in lieu thereof (*Effective October 1, 2022*):

65 Not later than January 1, 2016, each law enforcement unit, as defined
66 in section 7-294a, shall develop and implement guidelines for the
67 recruitment, retention and promotion of minority police officers, as
68 defined in section 7-294a. Such guidelines shall promote achieving the
69 goal of racial, gender, ideological and ethnic diversity within the law
70 enforcement unit and community involvement.

71 Sec. 3. (*Effective from passage*) (a) Not later than thirty days after the
72 effective date of this section, the Board of Regents for Higher Education
73 shall select a public institution of higher education to study and evaluate
74 the role and impact school resource officers have on students with
75 disabilities.

76 (b) As part of such study, the selected public institution of higher
77 education shall:

78 (1) Determine how many school resource officers are employed in
79 this state and the number of such officers in each school district;

80 (2) Detail the funding mechanisms each district uses to employ school
81 resource officers;

82 (3) Develop metrics for assessing the efficacy of school resource
83 officers, particularly in the context of interactions with students with
84 disabilities;

85 (4) Determine the chain of command structure when students with
86 disabilities experience crises in school, including who responds and
87 when;

88 (5) Determine what the process is for entering into memoranda of
89 understanding between school districts, boards of education and school
90 resource officers, and public accessibility to such process; and

91 (6) Explore other issues that the public institution of higher education
92 conducting the study deems relevant to such study.

93 (c) Not later than December 1, 2022, the selected public institution
94 shall report its findings in accordance with the provisions of section 11-
95 4a of the general statutes to the joint standing committee of the General
96 Assembly having cognizance of matters relating to the judiciary.

97 Sec. 4. Section 7-294d of the 2022 supplement to the general statutes
98 is amended by adding subsection (h) as follows (*Effective October 1,*
99 *2022*):

100 (NEW) (h) (1) The chief law enforcement officer of each law
101 enforcement unit shall report to the council any violation where a
102 certificate holder has been found by the law enforcement unit, pursuant
103 to procedures established by such unit, to have: (A) Used unreasonable,
104 excessive or illegal force that causes serious physical injury to or the

105 death of another person, or used unreasonable, excessive or illegal force
106 that was likely to cause serious physical injury or death to another
107 person; (B) while acting in a law enforcement capacity, failed to
108 intervene or stop the use of unreasonable, excessive or illegal force by
109 another police officer that caused serious physical injury or death to
110 another person, or unreasonable, excessive or illegal force that was
111 likely to cause serious physical injury or death to another person, or to
112 notify a supervisor and submit a written report of such acts where the
113 holder has personal knowledge of such acts and had the ability to
114 prevent such acts; (C) intentionally intimidated or harassed another
115 person based upon actual or perceived protected class membership,
116 identity or expression and in doing so threatened to commit or caused
117 physical injury to another person; and (D) been terminated, dismissed,
118 resigned or retired under circumstances described in section 7-291c.

119 (2) If the chief law enforcement officer of any municipal police
120 department or the Department of Emergency Services and Public
121 Protection fails to report to the council as required in subdivision (1) of
122 this subsection, the council shall notify the Inspector General who shall
123 investigate such failure to report. The Inspector General shall report the
124 findings of the investigation to the Governor and joint standing
125 committee of the General Assembly having cognizance of matters
126 relating to the judiciary in accordance with the provisions of section 11-
127 4a.

128 Sec. 5. Subsection (a) of section 51-277e of the 2022 supplement to the
129 general statutes is repealed and the following is substituted in lieu
130 thereof (*Effective October 1, 2022*):

131 (a) There is established the Office of the Inspector General that shall
132 be a separate office within the Division of Criminal Justice. Not later
133 than October 1, 2021, the Criminal Justice Commission established
134 pursuant to section 51-275a shall appoint a deputy chief state's attorney
135 as Inspector General who shall lead the Office of the Inspector General.
136 The office shall: (1) Conduct investigations of peace officers in
137 accordance with section 51-277a, as amended by this act; (2) prosecute

138 any case in which the Inspector General determines a peace officer used
139 force found to not be justifiable pursuant to section 53a-22 or where a
140 police officer or correctional officer fails to intervene in any such
141 incident or to report any such incident, as required under subsection (a)
142 of section 7-282e or section 18-81nn, as applicable; [and] (3) investigate
143 any failure to report in accordance with the provisions of subdivision
144 (1) of subsection (h) of section 7-294d, as amended by this act; and (4)
145 make recommendations to the Police Officer Standards and Training
146 Council established under section 7-294b concerning censure and
147 suspension, renewal, cancelation or revocation of a peace officer's
148 certification.

149 Sec. 6. Section 7-294ee of the general statutes is repealed and the
150 following is substituted in lieu thereof (*Effective from passage*):

151 (a) [Until December 31, 2024, the] The Police Officer Standards and
152 Training Council, established under section 7-294b, and the
153 Commissioner of Emergency Services and Public Protection or the
154 commissioner's designee, shall jointly develop, adopt and revise, as
155 necessary, minimum standards and practices for the administration,
156 [and] management and operation of law enforcement units, as defined
157 in section 7-294a. Such minimum standards and practices shall be based
158 upon standards established by the International Association of Chiefs of
159 Police and the Commission on Accreditation for Law Enforcement
160 Agencies, Inc., and shall include, but need not be limited to, standards
161 and practices regarding bias-based policing, use of force, response to
162 crimes of family violence, use of body-worn recording equipment,
163 complaints that allege misconduct by police officers, use of electronic
164 defense weapons, eyewitness identification procedures, notifications in
165 death and related events and pursuits by police officers. Not later than
166 July 1, 2022, the council shall, within available appropriations, divide
167 the minimum standards and practices into three tiers, to be known as
168 tier one, tier two and tier three. Tier one shall consist of minimum
169 standards and practices designed to protect law enforcement units from
170 liability, enhance the delivery of services and improve public confidence
171 in law enforcement units. Tier two shall consist of minimum standards

172 and practices for the administration, management and operation of law
173 enforcement units. Tier three shall consist of higher minimum standards
174 and practices for the administration, management and operation of law
175 enforcement units. The council shall post [such] the minimum standards
176 and practices of each tier on the council's Internet web site and
177 disseminate [such] the minimum standards and practices of each tier to
178 law enforcement units. The council and commissioner or the
179 commissioner's designee shall jointly develop a process to review a law
180 enforcement unit's compliance with [such] the minimum standards and
181 practices of each tier and issue a certificate of compliance with [law
182 enforcement] the minimum standards and practices of tier one, tier two
183 or tier three, as the case may be, to a law enforcement unit that meets or
184 exceeds [such] the minimum standards and practices of such tier.

185 (b) On and after January 1, 2019, and until [December 31, 2024] June
186 30, 2022, each law enforcement unit shall adopt and maintain (1) the
187 minimum standards and practices developed by the council pursuant to
188 subsection (a) of this section, or (2) a higher level of accreditation
189 standards developed by the council or the Commission on Accreditation
190 for Law Enforcement Agencies, Inc.

191 (c) On and after July 1, 2022, and until December 31, 2022, each law
192 enforcement unit shall adopt and maintain the minimum standards and
193 practices of tier one developed by the council pursuant to subsection (a)
194 of this section.

195 (d) On and after January 1, 2023, and until December 31, 2024, each
196 law enforcement unit shall adopt and maintain the minimum standards
197 and practices of tier two developed by the council pursuant to
198 subsection (a) of this section.

199 [(c)] (e) On and after January 1, 2025, each law enforcement unit shall
200 [obtain and maintain accreditation by the Commission on Accreditation
201 for Law Enforcement Agencies, Inc. If a law enforcement unit fails to
202 obtain or maintain such accreditation, the council shall work with the
203 law enforcement unit to obtain and maintain such accreditation] adopt
204 and maintain the minimum standards and practices of tier three

205 developed by the council pursuant to subsection (a) of this section.

206 [(d)] (f) No civil action may be brought against a law enforcement
207 unit for damages arising from the failure of the law enforcement unit to
208 [(1)] adopt and maintain [such] the minimum standards and practices
209 or a higher level of accreditation standards pursuant to [subsection (b)
210 of] this section. [, or (2) obtain and maintain accreditation by the
211 Commission on Accreditation for Law Enforcement Agencies, Inc.,
212 pursuant to subsection (c) of this section.]

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2022</i>	7-291e
Sec. 2	<i>October 1, 2022</i>	7-291b
Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>October 1, 2022</i>	7-294d
Sec. 5	<i>October 1, 2022</i>	51-277e(a)
Sec. 6	<i>from passage</i>	7-294ee

Statement of Legislative Commissioners:

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

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:

Agency Affected	Fund-Effect	FY 23 \$	FY 24 \$
Higher Education Constituent Units	Various - Cost	221,122	None
Department of Emergency Services and Public Protection	GF - Cost	144,188	144,188
State Comptroller - Fringe Benefits ¹	GF - Cost	58,439	58,439

Note: GF=General Fund; Various=Various

Municipal Impact:

Municipalities	Effect	FY 23 \$	FY 24 \$
Various Municipalities	Potential Savings	See Below	See Below

Explanation

The bill makes various changes regarding law enforcement units resulting in a cost to various agencies and a potential savings to municipalities, described below.

Sections 1-2 make changes to police officer behavioral health assessments and expand the requirements for law enforcement unit guidelines on minority police recruitment, resulting in no fiscal impact to the state.

Section 3 requires a study by a public higher education institution

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 40.53% of payroll in FY 23.

that is anticipated to result in a total estimated cost of \$221,122 to either the Board of Regents or the University of Connecticut, across FY 22 and FY 23. The bill prescribes extensive research and a report to be completed in approximately six months. It is anticipated that the depth and speed of these activities will require two professors and two part-time graduate assistants at: (1) salary costs totaling approximately \$110,711; and (2) fringe benefit costs of an estimated \$110,412.² If the study begins in FY 22, then total costs may be split between FY 22 (an estimated \$36,854 for one-month costs) and FY 23 (\$184,268 for five-month costs). These costs may be funded by either the General Fund or other higher education institution revenues (e.g., tuition). If wage costs are funded through the General Fund, then the fringe benefits costs will be incurred within the Office of the State Comptroller.

Sections 4-5 require the Police Officer Standards and Training Council (POST) to notify the Office of the Inspector General (OIG) if a municipal chief law enforcement office or the Department of Emergency Services and Public Protection fails to make a required use of excessive force report to POST. There is no fiscal impact for the OIG to conduct these additional investigations of failure to report as it is already the OIG's duty to investigate use of excessive force.

Section 6 requires POST to develop three tiers of minimum standards and practices for law enforcement units resulting in POST needing to hire two field program assistants for a cost of \$202,627 in FY 22 and FY 23 (costs include salary and fringe benefits). The new employees are needed to help develop the standards, accredit and reaccredit law enforcement units, and review and certify unit compliance. It's anticipated that 150 law enforcement units will have to meet the new standards, 50 currently meet tier one and approximately 100 would

² The fringe benefit costs for employees funded out of other appropriated funds are budgeted within the fringe benefit account of those funds, as opposed to the fringe benefit accounts within the Office of the State Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes for other appropriated fund employees is 99.73% of payroll in FY 23.

need to start the process from the beginning.

Section 6 also results in potential savings to municipalities from eliminating the requirement that law enforcement units receive accreditation from the Commission on Accreditation for Law Enforcement Agencies, Inc (CALEA) by 2025. There is a cost to receiving accreditation from CALEA related to compliance and payment to CALEA.

The Out Years

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

OLR Bill Analysis**sHB 5372*****AN ACT CONCERNING PERIODIC BEHAVIORAL HEALTH ASSESSMENTS, POLICE OFFICER RECRUITMENT, SCHOOL RESOURCE OFFICERS, REPORTING OF VIOLATIONS TO THE POLICE OFFICER STANDARDS AND TRAINING COUNCIL, INVESTIGATIONS BY THE INSPECTOR GENERAL AND MINIMUM STANDARDS AND PRACTICES FOR THE ADMINISTRATION, MANAGEMENT AND OPERATION OF LAW ENFORCEMENT UNITS.*****SUMMARY**

This bill makes various changes in the laws governing law enforcement units. Specifically, it:

1. allows licensed clinical social workers, in addition to psychiatrists and psychologists, to conduct the behavioral health assessments of police officers required under existing law (§ 1);
2. expands the requirements for law enforcement unit guidelines on minority police officer recruitment, retention, and promotion to include, among other things, the goal of achieving ideological diversity, in addition to racial, gender, and ethnic diversity, within law enforcement units and community involvement (§ 2);
3. requires the Board of Regents for Higher Education (BOR) to select an institute of higher learning to (a) study and evaluate school resources officers' role and impact on students with disabilities and (b) report its findings to the Judiciary Committee by December 1, 2022 (§ 3);
4. requires (a) law enforcement units to report to the Police Officer Standards and Training Council (POST) instances where police officers commit certain prohibited actions (e.g., excessive force or failure to intervene) and (b) the Office of the Inspector General

(OIG) to investigate law enforcement units who fail to report and submit its findings to the governor and Judiciary Committee (§§ 4 & 5); and

5. modifies minimum accreditation standards and practices for administering and managing law enforcement units including, (a) requiring POST to establish a three-tiered accreditation system starting July 1, 2022, and (b) eliminating the requirement that units obtain accreditation from the Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA) starting in 2025 (§ 6).

EFFECTIVE DATE: October 1, 2022, except the provisions on the (1) school resource officer study and law enforcement unit accreditation standards take effect upon passage and (2) social worker behavioral health assessment take effect July 1, 2022.

§ 1 — SOCIAL WORKER BEHAVIORAL HEALTH ASSESSMENT

Existing law generally requires police officers to submit to a periodic behavioral health assessment at least once every five years as a condition of continued employment. (Officers may also be required to submit to an additional assessment for good cause shown.)

The bill allows licensed clinical social workers to conduct the assessments, in addition to board-certified psychiatrists and licensed psychologists, as under current law.

As under current law, behavioral health assessments conducted by clinical social workers are not subject to disclosure under the Freedom of Information Act.

§ 2 — MINORITY POLICE OFFICER GUIDELINES

By law, each law enforcement unit (see BACKGROUND) must develop and implement guidelines for recruiting, retaining, and promoting minority police officers.

The bill requires the guidelines to promote the goal of achieving

ideological diversity within law enforcement units, in addition to racial, gender, and ethnic diversity, as under current law. It also requires the guidelines to promote achieving these diversity goals within community involvement, in addition to law enforcement units.

§ 3 — SCHOOL RESOURCE OFFICER STUDY

The bill requires, within 30 days after its passage, BOR to select a public higher education institution to study and evaluate the role and impact of school resource officers on students with disabilities.

Under the bill, the selected institution must:

1. determine the number of school resource officers employed in the state and located in each school district;
2. detail the funding mechanisms each district uses to employ these officers;
3. develop metrics for assessing the officers' efficacy, particularly in the context of interacting with students with disabilities;
4. determine the chain of command structure when students with disabilities experience crises in school, including who responds and when;
5. determine the process for entering into memoranda of understanding between school districts, boards of education, and school resource officers, and the public's accessibility to this process; and
6. explore other issues the institution deems relevant.

The bill requires the selected institution to report its findings to the Judiciary Committee by December 1, 2022.

§§ 4 & 5 — USE OF EXCESSIVE FORCE REPORT

The bill requires each law enforcement unit's chief law enforcement officer to report to POST anytime the unit found, based on its

established procedures, that a police officer:

1. used unreasonable, excessive, or illegal force that (a) caused serious physical injury to or death of another person or (b) was likely to cause serious physical injury or death to another person;
2. while acting in a law enforcement capacity, failed to (a) intervene or stop the use of unreasonable, excessive, or illegal force by another police officer that caused or was likely to cause serious physical injury or death to another person, or (b) notify a supervisor and submit a written report of these acts when the police officer has personal knowledge of these acts and the ability to prevent them;
3. intentionally intimidated or harassed another person based on actual or perceived protected class membership, identity, or expression and in doing so threatened to commit or caused physical injury to another person; and
4. has been terminated, dismissed, resigned, or retired due to the state law prohibiting the hiring of certain officers who committed, or were investigated for, prior malfeasance.

The bill requires POST to notify OIG if the municipal chief law enforcement officer or Department of Emergency Services and Public Protection (DESPP) fails to make this required report. OIG must then investigate the failure and submit its findings to the governor and Judiciary Committee.

§ 6 — LAW ENFORCEMENT UNIT MINIMUM STANDARDS AND PRACTICES

The bill eliminates the sunset date for current law's requirement that POST and DESPP jointly develop, adopt, and revise minimum accreditation standards and practices for administering and managing law enforcement units. Under current law, this requirement sunsets on December 31, 2024. By law, these standards and practices must be based, in part, on CALEA standards.

Current law requires law enforcement units to adopt and maintain either (1) POST-DESPP’s minimum accreditation standards and practices or (2) a higher level of accreditation standards developed by POST or CALEA. Units must also obtain POST-DESPP certification that they meet these accreditation standards.

Starting July 1, 2022, the bill instead requires law enforcement units to obtain certification for a three-tiered state-accreditation system that POST must establish. Specifically, the bill requires POST, by this date and within available appropriations, to divide the current minimum accreditation standards and practices into three tiers. (In doing so, it codifies POST’s existing three-tiered accreditation structure.)

The bill also requires law enforcement units to obtain POST-DESPP certification for each accreditation tier over a prescribed period of time. Table 1 below describes the minimum standards and practices of each tier and the dates by which units must obtain certification.

Table 1: Minimum Standards and Practices Tiers Schedule

	<i>Tier I</i>	<i>Tier II</i>	<i>Tier III</i>
Minimum Standards & Practices Description	Minimum standards and practices designed to protect law enforcement units from liability, enhance service delivery, and improve public confidence in units	Minimum standards and practices for unit administration, management, and operation	Higher minimum standards and practices for unit administration, management, and operation
Required Certification Dates	Starting July 1, 2022, through December 31, 2022	Starting January 1, 2023, until December 31, 2024	On and after January 1, 2025

Additionally, the bill eliminates current law’s requirement for law enforcement units to maintain CALEA accreditation starting January 1, 2025.

Lastly, the bill makes several related conforming changes to provisions on (1) publishing and distributing accreditation standards,

(2) POST-DESPP joint review and issuance of compliance certifications, (3) POST assistance to law enforcement units who fail to obtain certification, and (4) the prohibition of civil actions for failure to comply with accreditation standards.

BACKGROUND

Law Enforcement Units

By law, a “law enforcement unit” is any state or municipal agency or department (or tribal agency or department created and governed under a memorandum of agreement) whose primary functions include enforcing criminal or traffic laws; preserving public order; protecting life and property; or preventing, detecting, or investigating crime (CGS § 7-294a).

Related Bill

sSB 135, reported favorably by the Public Safety and Security Committee, also contains provisions eliminating the CALEA accreditation requirement and establishing a three-tiered accreditation system.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute
Yea 39 Nay 0 (03/29/2022)