

---

## OLR Bill Analysis

### sHB 6840

#### ***AN ACT EXPANDING MEMBERSHIP OF THE POLICE OFFICER STANDARDS AND TRAINING COUNCIL, REQUIRING GUIDELINES REGARDING BODY-WORN RECORDING EQUIPMENT AND REQUIRING A REPORT REGARDING CONDUCT THAT UNDERMINES PUBLIC CONFIDENCE IN LAW ENFORCEMENT.***

#### **SUMMARY**

This bill adds an exception to state law's general requirement that police officers use body-worn recording equipment (i.e., body cameras) while interacting with the public. Specifically, it creates an exception for exigent circumstances based on guidelines that the Department of Emergency Services and Public Protection (DESPP) commissioner and the Police Officer Standards and Training Council (POST) must jointly adopt under the bill.

The bill also increases POST's membership from 21 members to 23 by adding two members who must be sworn police officers who are not in command positions within their law enforcement units. Lastly, it requires DESPP and POST to submit a report to the Public Safety and Security Committee on police officer conduct that undermines public confidence in law enforcement. By law, POST may cancel or revoke an officer's certification if he or she engages in this conduct.

The bill also makes technical changes, including repealing obsolete language.

EFFECTIVE DATE: July 1, 2023, except that the POST membership changes are effective January 1, 2024, and the reporting requirement is effective upon passage.

#### **BODY CAMERA EXCEPTION**

The law generally requires all sworn members of law enforcement

units and members of those units who perform police duties to use body cameras when they interact with the public in their law enforcement capacities. Existing law provides exceptions for circumstances identified in (1) state statute (e.g., encounters with undercover officers or informants) and (2) a municipal police department's policy based on POST guidelines (see BACKGROUND).

The bill adds a new exception. Specifically, by October 1, 2023, it requires the DESPP commissioner and POST to jointly adopt guidelines on the exigent circumstances under which a police officer may interact with the public without using a body camera. (The bill gives examples of an officer responding to an incident while off duty or when a body camera is unavailable.) Under the bill, the council and commissioner (1) may update and reissue the guidelines as necessary and (2) must submit the guidelines and any updates to the Judiciary and Public Safety and Security committees. Officers subject to the body camera use requirement must follow these guidelines.

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(8)).

### **POST MEMBERSHIP**

Beginning January 1, 2024, the bill increases POST's membership from 21 members to 23 by adding two new members, one appointed by each chairperson of the Public Safety and Security Committee. The appointees must be sworn police officers who are not in command positions within their law enforcement units. Under current law, the council consists of 21 members: 11 appointed by the governor, six legislative appointments, and four serving ex-officio (the DESPP commissioner and FBI special agent-in-charge for Connecticut, or their designees, and the chief state's attorney and Connecticut State Police Academy's commanding officer).

As under existing law, appointed members serve at the pleasure of their appointing authority for a term coterminous with their appointing authority (CGS § 4-1a). The law additionally deems a member to have resigned from POST if he or she misses three consecutive meetings or 50% of the meetings held during any calendar year.

### **REPORT ON CONDUCT UNDERMINING PUBLIC CONFIDENCE IN LAW ENFORCEMENT**

The bill requires DESPP and POST to report to the Public Safety and Security Committee by January 1, 2024, on the following:

1. (a) whether POST has cancelled or revoked a police officer's certification for conduct that undermines public confidence in law enforcement and (b) an explanation of the circumstances related to each cancellation or revocation;
2. whether POST has considered but declined to cancel or revoke a police officer's certification for this conduct and the circumstances related to these instances;
3. whether existing law on this subject, including POST guidance (i.e., POST General Notice 20-09, see below), provides sufficient guidance to police officers and law enforcement units on the types of conduct that undermine public confidence in law enforcement, and the disciplinary actions that should be taken in response to different types of this conduct; and
4. any recommendations for revising the existing law or POST's guidelines on this subject.

Under existing law, POST may cancel or revoke a police officer's certification if, among other things, the officer is found by a law enforcement unit to have engaged in conduct that undermines public confidence in law enforcement. Examples of this conduct include discriminatory conduct, falsifying reports, issuing unlawful orders, failing to report or timely report a death, and violating the Alvin W. Penn Racial Profiling Prohibition Act (CGS § 7-294d(c)(2)(I)).

## **BACKGROUND**

### ***Statutory Prohibition on Intentional Recordings***

The law prohibits police officers from using body cameras to intentionally record the following occurrences or situations, unless an agreement between the officer's agency and the federal government provides otherwise:

1. communications with State Police, municipal police department, or public university or college special police force personnel unless recorded within the performance of the officers' duties;
2. encounters with undercover officers or informants, or an officer performing detective work;
3. officers on break or engaged in personal activities;
4. people undergoing medical or psychological evaluations, procedures, or treatments;
5. people, other than criminal suspects, in a hospital or medical facility; or
6. people in a mental health facility, unless responding to a call involving a criminal suspect in the facility.

### ***DESPP-POST Use Guidelines***

The DESPP commissioner and POST must jointly issue guidelines on using body cameras, retaining their data, and storing the data safely and securely. The guidelines were most recently updated in 2022 and, among other things, establish beginning and end of shift procedures and directions on when officers may or must deactivate their cameras. They incorporate the above intentional recording prohibitions and also prohibit recording the following:

1. private conversations to which the officer is not a party;
2. telephonic conversations unless specifically authorized by law while in the performance of their official duties;

3. strip searches; and
4. while in a locker room, changing room or restroom, unless confronting a violent or assaultive suspect or in an incident involving the anticipated use of force.

The guidelines also allow deactivation of body cameras if officers determine that, based on the circumstances, an investigation could be significantly hampered if the recording were to continue. However, they direct officers, whenever possible, to (1) record on the camera the reason for interrupting or ending the recording before deactivating the camera and (2) document the event in the officer's report. Additionally, they require officers to reactivate their cameras as soon as practical (POST General Notice 22-05).

***Related Bill***

sSB 1222, reported favorably by the Government Administration and Elections Committee, (1) sets additional requirements for redacting and disclosing body and dashboard camera recordings and (2) establishes a fee schedule for redacting the recordings.

**COMMITTEE ACTION**

Public Safety and Security Committee

Joint Favorable Substitute

Yea 23    Nay 2    (03/16/2023)