

LEGISLATIVE SUMMARY

An Act relative to Justice, Equity and Accountability in Law Enforcement in the Commonwealth

An Act relative to Justice, Equity and Accountability in Law Enforcement in the Commonwealth makes significant structural reforms to policing in Massachusetts by implementing changes to training, establishing certification of law enforcement officers, and providing for continuing assessment of the role of race in our state institutions.

MASSACHUSETTS POLICE STANDARDS AND TRAINING COMMISSION (MPSTC)

- An **independent** commission consisting primarily of civilians with the responsibility of training, certifying, and disciplining all law enforcement officers in the Commonwealth.
 - **Commission Membership**
 - 2 appointed by Governor
 - 2 appointed by AG
 - 3 appointed jointly by Governor and AG (1 shall be a chair from the Massachusetts Law Enforcement Policy Group, 1 shall be selected from a list of 3 persons submitted by the Massachusetts Coalition of Police)
 - Commission shall appoint an executive director
 - **Commission duties:** Serve as the civil enforcement agency to certify, restrict, revoke, or suspend certification for officers, agencies and academies. Refer cases for criminal prosecution and report annually to the Legislature, Governor, and the Attorney General. Maintain a publicly available database of decertified officers, officer certification suspensions, and officer retraining. Cooperate with the national decertification index promulgate rules and regulations for the administration and enforcement of use of force standards and officer intervention.
 - The commission shall conduct preliminary inquiries, revocation and suspension proceedings and hearings, and promulgate regulations for such proceedings and hearings pursuant to G.L. c. 30A.
 - **Division of Training and Certification**
 - Under management and control of the new Committee on Police Training and Certification
 - The division shall establish uniform policies and standards for the training and certification of all law enforcement officers subject to the approval of the commission.
 - **Division of Police Standards**
 - The division is made up of administrative staff and is a law enforcement agency with law enforcement powers.
 - The division shall investigate officer misconduct and make disciplinary recommendations to the commission and shall maintain database of officer complaints.

- **Hearings and Appeals:**
 - The MPSTC shall immediately notify an officer and the head of the agency employing the officer who is the subject of a preliminary inquiry within 30 days of commencement of the inquiry. **The commission shall conduct revocation or suspension proceedings and hearings, and promulgate regulations for such proceedings and hearings,** pursuant to chapter 30A. The MPSTC shall immediately notify an officer and the head of the agency employing the officer who is decertified, suspended or ordered to undergo retraining of the order. The commission may only revoke or suspend an officer certification by **clear and convincing evidence.**
 - Nothing prohibits an agency or the Civil Service Commission from conducting internal employment investigations separately from the commission, however **decisions made by the MPSTC shall only be appealable pursuant to chapter 30A.**

USE OF FORCE AND DUTY TO INTERVENE

- **Physical Force**
 - An officer may only use physical force if de-escalation tactics have been attempted and failed, or are not feasible based on the totality of the circumstances, and such force is necessary to: (i) effect the lawful arrest of a person; (ii) prevent the escape from custody of a person; or (iii) prevent imminent harm and the amount of force used is proportional to the threat of imminent harm.
- **Deadly Force**
 - An officer may only use deadly force if de-escalation tactics have been attempted and failed, or are not feasible based on the totality of the circumstances, and such force is necessary to prevent imminent harm to a person and the amount of force used is proportional to the threat of imminent harm.
- **Ban on Chokeholds**
 - A law enforcement officer shall not use a chokehold.
- **Discharge a firearm into a fleeing motor vehicle**
 - A law enforcement officer shall not discharge any firearm into or at a fleeing motor vehicle unless, based on the totality of the circumstances, such discharge is necessary to prevent imminent harm to a person and the discharge is proportional to the threat of imminent harm to a person.
- **Tear gas/Rubber pellets/Dogs**
 - A law enforcement officer shall not discharge tear gas or any other chemical weapon, discharge rubber pellets or release a dog to control or influence a person's behavior unless: (i) de-escalation tactics have been attempted and failed or are not feasible based on the totality of the circumstances; and (ii) the measures used are necessary to prevent imminent harm and the foreseeable harm inflicted by the tear gas or other chemical weapon, rubber pellets or dog is proportionate to the threat of imminent harm.
 - If an officer uses any of these techniques in a crowd the law enforcement officer's appointing agency must file a report with the commission. The commission shall review the report and make any additional investigation and if applicable, make a

finding if the de-escalation efforts were adequate and if the use of the technique was justified.

- **Duty to Intervene**
 - Requires that an officer intervene if he or she sees another officer using physical force beyond that which is necessary or objectively reasonable based on the totality of the circumstances, unless interceding will result in imminent harm to the officer or another identifiable person.
 - Requires an officer who observes unnecessary force to report it to his or her direct supervisor and prepare a detailed written statement. The officer's statement shall be included in the supervisor's report.

REVIEW OF THE CIVIL SERVICE SYSTEM

- Establishes a special legislative commission to study and examine the civil service law, personnel administration rules, hiring procedures and bylaws for municipalities not subject to the civil service law, and the state police hiring practices. The commission shall:
 - Study the employment, promotion, performance evaluation, and disciplinary procedures for civil service employees.
 - Study the employment, promotion, performance evaluation, and disciplinary procedures of municipalities not subject to the provisions of the civil service law.
 - Study employment, promotion, performance evaluation, and disciplinary procedures of MA state police.
 - Evaluate the feasibility of having a statewide diversity office and diversity officers in each municipality.
 - Make recommendations for changes to improve diversity, transparency, and representation of the community in recruitment, hiring, and training for civil service employees, municipalities not subject to the civil service law, and the Massachusetts state police.

INVESTIGATION OF STRUCTURAL RACISM

- Creates 3 special legislative commissions to study the presence of institutional racism in the criminal justice system.
 - Special Commission on Structural Racism in Correctional Facilities
 - Review the policies and procedures in place at state and county correctional facilities, both as written and as implemented, to determine if there are disparities in the treatment of persons of color and if structural racism at these facilities is a cause of those disparities.
 - Make recommendations to eliminate any disparities in the treatment of persons of color including policy or legislative changes.
 - Special Commission on Structural Racism in Parole Process
 - Review the parole process to determine if there are disparities in the treatment of persons of color in the granting or denying of parole and if structural racism is a cause of those disparities.
 - Make recommendations to eliminate any disparities in the treatment of persons of color found in the parole process including policy or legislative changes.

- Special Commission on Structural Racism in Probation Services
 - Review the probation process to determine if there are disparities in the treatment of persons of color in the probation system and if structural racism is a cause of those disparities.
 - Make recommendations to eliminate any disparities in the treatment of persons of color found in probation services including policy or legislative changes.

QUALIFIED IMMUNITY

- This legislation only makes changes to the application of qualified immunity to decertified law enforcement officers.
- Qualified immunity shall not extend to a law enforcement officer who, while acting under color of law, violates a person’s right to bias-free professional policing if that conduct results in the officer’s decertification by the Massachusetts police standards and training commission.

FACIAL RECOGNITION

- Forbids a public agency or employee from acquiring, accessing, or using any software that performs facial recognition except the Registry of Motor vehicles.
- Only allows law enforcement to request, in writing, that the RMV perform a facial recognition search: (i) to execute a warrant duly authorized by a justice of the superior court based on probable cause that the search will to lead to evidence of the commission of a violent felony offense under the laws of the commonwealth; or (ii) without a warrant if the law enforcement agency reasonably believes that an emergency involving immediate danger of death or serious physical injury to any individual or group of people requires the performance of a facial recognition search without delay.
- The RMV will be required to document each use of facial recognition at the request of law enforcement, which shall be public record, and publish on its website the total number of searches performed by law enforcement, the number of searches conducted by a warrant, the number of emergency searches and the number of searches requested by each law enforcement agency annually.
- Establishes a **special legislative commission** to study the use of facial recognition technology by the Massachusetts Department of Transportation.

ATTORNEY GENERAL

- **Establishes the Division of Police Standards and Professional Conduct Enforcement**
 - The director of the division shall be an assistant attorney general designated by the AG
 - The division shall investigate and prosecute allegations of criminal offenses committed by officers, investigate and prosecute any and all instances arising from actions of an officer resulting in death or serious bodily injury, receive referrals for criminal prosecution from the commission, provide assistance to the commission regarding officer misconduct.

MASSACHUSETTS STATE POLICE REFORM

- Requires trainings done by the state police to be approved by the MPSTC and requires state police officers to be certified by the MPSTC.
- Allows the colonel of the state police to be appointed from outside the state police.

SCHOOL RESOURCE OFFICERS AND LIMITS ON STUDENT RECORD SHARING BY SCHOOLS

- Establishes a Model School Resource Officer Memorandum of Understanding (MOU) Review Commission to develop and review the model school resource officer memorandum of understanding. The model MOU shall be developed for schools and police departments as the minimum requirement for schools to formalize and clarify implementation of the partnership between the school and the school resource officer. The final MOU between the superintendent and chief of police shall be filed with DESE and made public.
- Directs the committee on police training and certification to develop an in-service training program for school resource officers and gives the MPSTC the power to issue a specialized certification for school resource officers.
- Prohibits school department personnel from disclosing certain student record information to law enforcement. This does not prohibit the sharing of information for the purposes of completing a report pursuant to section 51A of chapter 119 or filing a weapon report with the chief of police.

DEPARTMENT OF PUBLIC HEALTH

- DPH shall collect and report data on law enforcement-related injuries and deaths.

PUBLIC RECORDS

- Makes records relating to law enforcement misconduct investigations subject to the public records law.

CRIME OF SUBMITTING A FALSE TIMESHEET

- A law enforcement officer who knowingly submits a fraudulent time sheet shall be punished by a fine of 3 times the amount of the fraudulent wages paid or by imprisonment for not more than 2 years.

PROHIBITS SEXUAL INTERCOURSE WITH A PERSON IN CUSTODY

- A law enforcement officer who has sexual intercourse with a person in custody or control of the law enforcement officer shall be found in violation of the rape statute.

NO-KNOCK WARRANTS

- Requires that a no-knock warrant be issued by a judge and only if the affidavit supporting the request establishes probable cause that if the officer announces their presence their life or the lives of others will be endangered.
- An officer may only enter a residence without a no-knock warrant if there is a credible risk of imminent harm.

SPECIAL COMMISSIONS

- The executive office of public safety and security, in collaboration with the executive office of technology services and security, shall establish the **law enforcement body camera taskforce**. The taskforce shall propose regulations establishing a uniform code for the procurement and use of body-worn cameras by law enforcement officers to provide consistency throughout the commonwealth. The taskforce shall propose minimum requirements for the storage and transfer of audio and video recordings collected by body-worn cameras.
- Establishes the following commissions:
 - Permanent commission on the status of African Americans
 - Commission to study the feasibility of establishing a statewide law enforcement officer cadet program
 - Commission on corrections officer training and certification