

HOUSE 4398:

AN ACT TO REFORM POLICE STANDARDS AND SHIFT RESOURCES TO BUILD A MORE EQUITABLE, FAIR AND JUST COMMONWEALTH THAT VALUES BLACK LIVES AND COMMUNITIES OF COLOR

(summary reflects text as redrafted, title as changed, as accompanied by S1367, S2469 and S1052, and reported in part)

SPONSORS:

Senate Committee on Ways and Means

LEGISLATIVE

2/5/2020 H4367, reported in-part by the House Committee on Ways and Means, passed to be engrossed

HISTORY:

2/10/2020 Read and referred to the committee on Senate Ways and Means

EXISTING LAWS

AFFECTED:

M.G.L. c. 3; M.G.L. c. 4 § 7; M.G.L. c. 6 §§ 116 and 116G; M.G.L. c. 6A § 18; M.G.L. c. 12 §§ 11I and 11J; M.G.L. c.19 § 25; M.G.L. c. 22C §§ 3, 10, 11, 13, 20, 23 and 26; M.G.L. c. 29 §§ 1 and 6B; M.G.L. c. 31 §§ 2, 42 and 43; M.G.L. c. 41 § 96B; M.G.L. c. 71 §§ 37L and 37P; M.G.L. c. 90 § 63; M.G.L. c. 111 § 1; M.G.L. c. 231; M.G.L. c. 265 § 22; and M.G.L. c. 276 §§ 100F, 100G and 100I

PROPOSED

LEGISLATION:

- Establishes a Commission on the Status of African Americans to be a resource on issues affecting African American communities.
- Clarifies that the disposition of a law enforcement misconduct investigation is not exempt from public disclosure.
- Requires the Municipal Police Training Committee to set policies and standards for training on the proposed use of force law.
- Requires that the Massachusetts Bay Transportation Authority police force, campus police officers and deputy sheriffs performing police duties and functions be covered by the Municipal Police Training Committee's policies and standards for training.
- Requires the Municipal Police Training Committee to maintain records of training and issue confirmation of satisfactory completion of training to the Police Officer Standards and Accreditation Committee.
- Requires the Municipal Police Training Committee to include training on the history of slavery, lynching, racist legal institutions and racism in the United States in its in-service

training.

- Establishes a Police Officer Standards and Accreditation Committee to certify, renew, revoke or otherwise modify the certification of law enforcement officers.
- Authorizes the Police Officer Standards and Accreditation Committee to receive complaints of misconduct and to conduct its own independent investigations into complaints of misconduct.
- Requires the Police Officer Standards and Accreditation Committee to maintain a searchable database available to appointing authorities to confirm and review information related to a law enforcement officer's certification.
- Requires the Police Officer Standards and Accreditation Committee to maintain a publicly available searchable database containing information about a law enforcement officer's appointing authority and certification status.
- Requires the Police Officer Standards and Accreditation Committee to maintain a publicly available searchable database containing deidentified information about complaints filed against individual law enforcement officers.
- Requires law enforcement officers to be recertified every 3 years after completing not less than 120 hours of in-service training.
- Requires the Police Officer Standards and Accreditation Committee to revoke a law enforcement officer's certification if certain circumstances are met.
- Specifies the circumstances under which the Police Officer Standards and Accreditation Committee may revoke a law enforcement officer's certification, suspend the certification or issue a reprimand.
- Requires the Police Officer Standards and Accreditation Committee to make public any revocation and findings and to submit revocation information to the National Decertification Index.
- Authorizes the Attorney General to bring a civil action seeking an injunction or other appropriate equitable and declaratory relief to eliminate a pattern or practice of conduct by law enforcement officers that deprives a person of their rights or that discriminates on the basis of race, color, religious creed, national origin, sex, gender identity, sexual orientation or

disability.

- Allows a person to institute and prosecute a civil action for injunctive and other appropriate relief for infringement upon their rights by a person acting under color of law.
- Specifies that qualified immunity shall not apply to claims of monetary damages under the Massachusetts Civil Rights Act unless no reasonable defendant could have had reason to believe that such conduct would violate the law.
- Renames the Center for Police Training in Crisis Intervention to the Center for Responsive Training in Crisis Intervention and expands its duties.
- Updates membership to the Community Policing and Behavioral Health Advisory Council.
- Authorizes the Governor to appoint a colonel from outside the ranks of the State Police.
- Authorizes the Colonel of the State Police to establish a state police cadet program.
- Requires that training for the State Police include or be equivalent to the training mandated for municipal and other officers.
- Authorizes the Colonel of the State Police, in certain circumstances, to suspend without pay or discipline an officer after a departmental hearing.
- Provides that an administrative suspension without pay by the Colonel of the State Police shall not be appealable to the Civil Service Commission, but may be appealed in Superior Court
- Amends the eligibility requirements for promotion in the State Police.
- Requires the Comptroller's regulations governing notice requirements for applications for federal grants by a state agency to include the projected annual maintenance costs of any military grade controlled property transferred or acquired from a federal agency.
- Requires a state law enforcement agency to obtain approval from the overseeing agency before applying for military grade controlled property or related funds for the acquisition of such property.
- Requires a public hearing before a municipal legislative body, response in writing to any questions raised by officials or residents at such hearing and approval of the legislative body

before a local law enforcement agency may apply for the transfer of military grade controlled property or related funds.

- Requires sheriffs' departments to obtain approval from the Executive Office of Public Safety and Security before applying for the transfer of military grade controlled property or related funds
- Establishes a Justice Reinvestment Workforce Development Fund to make grants to programs that create employment opportunities for people who have low incomes, are the victims of violence or who have been incarcerated.
- Prohibits a law enforcement agency from including or permitting the inclusion of a non-disclosure, non-disparagement or other similar clause in any settlement agreement between the agency and a complainant.
- Prohibits school personnel from sharing information from its databases or other record-keeping systems with a law enforcement officer or agency or a database designed to track gang affiliation or involvement.
- Requires, at the request of the superintendent, a chief of police to assign at least 1 school resource officer to serve the municipality or regional school, rather than requiring the automatic assignment of a school resource officer.
- Requires the Department of Elementary and Secondary Education to collect data on the number of mental and social emotional health support personnel and school resource officers employed by each local education agency.
- Prohibits racial or other profiling by a law enforcement entity and authorizes the Attorney General to bring a civil action for an injunction or other equitable relief.
- Requires law enforcement officers to record statistical data whenever a person is stopped and frisked or searched.
- Requires a law enforcement officer to provide a receipt after a stop of a vehicle or pedestrian that did not result in a citation.
- Requires a police department to do a quarterly review of each officer's stop and search documentation and the entire department's stop and search data.
- Requires a municipal police department to submit an annual report to the legislative body of the municipality and make the report public on the internet.
- Requires a police department to submit its stop and search data

to the Executive Office of Public Safety and Security not less than 2 times per year.

- Requires the Executive Office of Public Safety and Security to transmit the stop and search data on an annual basis to an independent organization or university for analysis.
- Requires the Department of Public Health to collect and report data on law-enforcement-related injuries and deaths.
- Establishes statutory standards for the use of physical force by a law enforcement officer, including deadly physical force.
- Prohibits a law enforcement officer from using a choke hold.
- Prohibits a law enforcement officer from discharging a firearm into or at a fleeing motor vehicle, except to prevent imminent harm.
- Limits the use of tear gas or other chemical weapons, rubber pellets or dogs to control or influence another person's behavior by a law enforcement officer.
- Requires a law enforcement officer to intervene when they are present and observe another officer using unnecessary or objectively unreasonable physical force.
- Imposes treble damages on a law enforcement officer who knowingly submits a false statement for hours worked and receives payment for such hours.
- Categorizes sexual intercourse or unnatural sexual intercourse by a law enforcement officer with a person in their custody as rape.
- Requires that a "no-knock" warrant be issued by a judge.
- Prohibits the issuance of a "no-knock" warrant except where the affidavit establishes probable cause that knocking and announcing the law enforcement officer's presence would endanger their life or the lives of others.
- Clarifies that a person may petition for expungement of more than 1 record pertaining to certain charges or cases that occurred before the person's twenty-first birthday.
- Requires the Executive Office of Public Safety and Security to create and implement a process by which State Police details are assigned by a civilian employer or contractor.
- Establishes a commission to make recommendations on the certification and training of corrections officers and juvenile detention officers.
- Establishes a Massachusetts Law Enforcement Body Camera

Task Force to propose regulations establishing minimum requirements for the procurement and use of body-worn cameras and for the storage and transfer of recordings.

- Prohibits a government entity or agent from acquiring, possessing, accessing or using any biometric surveillance system or any information derived from a biometric surveillance system operated by another entity from the effective date of this act until December 31, 2021.
- Establishes a special commission to study the use of facial recognition by the Department of Transportation and law enforcement agencies.
- Requires the Community Policing and Behavioral Health Advisory Council to conduct a study of current and potential crisis intervention models.
- Allows a person to refile a petition for expungement if such petition was denied before the effective date of this act solely because the petitioner had more than 1 record as an adjudicated delinquent or adjudicated youthful offender or of a conviction.

**ESTIMATED
FISCAL
IMPACT:**

The estimated annual cost of this legislation is \$5,000,000.

(JB)