

HOUSE No. 4794

The Commonwealth of Massachusetts



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June 17, 2020

To the Honorable Senate and House of Representatives,

I am pleased to submit for your consideration, “An Act to Improve Police Officer Standards and Accountability and to Improve Training.”

This legislation proposes a program for certifying law enforcement officers in the Commonwealth. Forty-six states in the Union certify their police officers. Massachusetts is one of the four that does not. But Massachusetts starts with a robust platform for training officers, thanks to the work of the Municipal Police Training Committee and the State Police Academy.

In 2018, I was proud to sign the section of the criminal justice reform law that required the Municipal Police Training Committee to develop in-service training modules for local law enforcement that are devoted to, among other subjects, bias-free policing and de-escalation techniques.

This legislation builds off of that work in proposing to create a new entity, the Police Officer Standards and Accreditation (POSA) Committee, which will work side by side with the Municipal Police Training Committee and the State Police Academy to improve police performance. The new Committee would consist of seven law enforcement representatives and seven civilian appointees. At least half of the Committee members would be required to be racially and ethnically diverse.

This new Committee would certify every law enforcement officer in the Commonwealth, and would ensure that those officers' training and misconduct records are available both to the Committee and to those officers' current and future employers, improving accountability. The new Committee would also be required to maintain a database of all certified officers, including each officer's training record and misconduct infractions that have been confirmed after investigation. Members of the public would be able to access certain information about individual police officers (such as the officer's certification status and any confirmed misconduct infractions) upon request.

The POSA Committee would also be charged with developing and approving a standard background investigation for any existing officer applying for a new job, including a check of both the POSA database and the National Decertification Index. Certifications would last for three years after the initial phase-in period, and officers would be required to meet annual training requirements in order to be re-certified.

The legislation would also establish a process under which officers could lose their certification for certain types of misconduct that have been found to have occurred, either by a court or by the officer's employer. For example, a conviction of a felony would result in decertification, as would a sustained finding of excessive use of force that includes a chokehold or similar vascular restraint or that results in serious bodily injury, or a sustained finding of conduct that would constitute a hate crime. For other infractions, or for a pattern of misconduct, the POSA Committee would have the discretion to consider decertification, suspension of certification, or a reprimand of an officer.

This legislation also proposes a program of incentives to encourage police officers to take more advanced training beyond the training required for all officers. Examples of the courses that the MPTC would have to make available for this incentive include foreign language proficiency, advanced domestic and sexual violence response, and advanced de-escalation techniques. Three levels of financial incentives are proposed, which would not roll forward from year to year.

This bill makes law enforcement more accountable for their conduct and provides the public with direct insight into officers' performance history which not only creates greater transparency in law enforcement but also gives departments greater ability to hire or promote only qualified applicants. Taken together, these measures enhance public safety by giving police departments greater ability to employ only officers with the most up-to-date, community-oriented policing skills that best serve the public. I urge your prompt enactment of this legislation.

Respectfully submitted,

Charles D. Baker,
Governor

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act to improve police officer standards and accountability and to improve training.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to set standards and increase transparency and accountability for the conduct of law enforcement officers, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety and convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 116 of chapter 6 of the General Laws, as appearing in the 2018
2 Official Edition, is hereby amended by striking out the fourth paragraph and inserting in place
3 thereof the following 6 paragraphs:-

4 The committee shall set policies and standards for the training of the following, in
5 accordance with applicable laws and regulations, including the training mandated by sections
6 116A to 116D, inclusive, of this chapter, section 36C of chapter 40, sections 96B and 97B of
7 chapter 41 and section 24M of chapter 90:

- 8 (i) municipal police officers and candidates for such appointment;
- 9 (ii) Massachusetts Bay Transportation Authority transit police officers, and candidates
10 for such appointment;

11 (iii) police officers of the department of law enforcement within the executive office of
12 environmental affairs, and candidates for such appointment;

13 (iv) University of Massachusetts police officers, and candidates for such appointment;

14 (v) Campus police officers attending committee-approved academies or training
15 programs; and

16 (vi) deputy sheriffs, appointed pursuant to section 3 of chapter 37, performing police
17 duties and functions.

18 The committee shall set policies and standards for background investigations for all
19 persons appointed to committee-certified academies and initial appointments of those persons,
20 which investigations shall require at a minimum verification against the National Decertification
21 Index, as defined in section 220, and the database maintained by the police officer standards and
22 accreditation committee, as described in subsection (b) of section 223.

23 The committee shall maintain records of training for all law enforcement officers, as
24 defined in section 220, issue confirmation of satisfactory completion of training, and provide for
25 extensions or waivers of training requirements for good cause and maintain records of any such
26 extension or waiver and the reason. The committee shall provide records of completion of
27 training to the police officer standards and accreditation committee pursuant to subsection (b) of
28 section 223.

29 The committee shall identify training requirements and develop guidance for meeting
30 those requirements through trainings provided by the committee or other independent
31 educational entities.

32 The committee shall review and recommend to the secretary of public safety and security
33 an annual appropriation for the administration of the committee, as well as for the operations of a
34 headquarters and regional training centers, and for the delivery of standardized training at the
35 centers.

36 The committee may promulgate regulations pursuant to chapter 30A as necessary to
37 implement sections 116 through 118.

38 SECTION 2. Said chapter 6 of the General Laws is hereby amended by inserting after
39 section 116G, as so appearing, the following section:-

40 Section 116H. In addition to any benefits received pursuant to section 108L of chapter
41 41, any certified law enforcement officer shall also be eligible to receive each fiscal year a bonus
42 for exceeding the minimum training requirements established by the municipal police training
43 committee.

44 The benefits made available under this section shall be conditioned on the successful
45 completion of eligible coursework as determined by the municipal police training committee
46 established in section 116. The committee shall establish by regulation the curriculum of courses
47 that may result in a bonus under this section, and may either offer such courses itself, or establish
48 a process by which independent educational institutions can be accredited for providing such
49 courses. Such courses shall be in addition to, and not in place of, course work that is a part of an
50 officer's annual in-service training requirement as determined by the committee. The courses
51 may cover such subjects as the committee deems appropriate, but shall at a minimum cover:

52 (i) Proficiency in a foreign language relevant to police work in the jurisdiction in which
53 the individual licensed officer is employed;

- 54 (ii) Advanced first aid;
- 55 (iii) Advanced domestic violence and sexual violence training;
- 56 (iv) Advanced de-escalation techniques;
- 57 (v) Narcotics training;
- 58 (vi) Advanced training in bias-free policing.

59 Annual base salary increases shall be awarded in the following increments per level of
60 achievement:

61 Level 1 \$1,000

62 Level 2 \$2,500

63 Level 3 \$5,000

64 The committee shall determine what courses or sequences of courses will result in
65 attainment of the foregoing levels. A bonus shall be paid by the public employer, payable in
66 biweekly increments, for the remainder of the fiscal year upon completion of the coursework
67 required for such bonus, and shall be paid for coursework completed during that fiscal year, but
68 shall not roll forward to subsequent fiscal years. Officers may not receive credit in a fiscal year
69 for courses completed in a prior fiscal year, and may not receive an incentive for re-taking a
70 course the officer has previously taken. Officers may not receive payment for more than one
71 level in one fiscal year.

72 The committee shall establish quality guidelines, including, but not limited to, standards
73 and review processes, for courses that are eligible for bonuses under this section. The committee

74 shall certify annually that any independent educational institution offering the courses meets or
75 exceeds the academic standards established by the above-mentioned guidelines. The committee
76 shall consult with the department of higher education as part of its certification process for any
77 independent educational institution.

78 The committee shall establish a program of qualifying course offerings not later than
79 June 1 of each calendar year.

80 This section shall apply to law enforcement officers employed by the Commonwealth and
81 to any law enforcement officer employed by any city or town that accepts the provisions of this
82 section. For purposes of this section, “law enforcement officer” shall be defined according to
83 section 220.

84 SECTION 3. Said chapter 6 of the General Laws is hereby amended by inserting after
85 section 219 the following 5 sections:-

86 Section 220. For purposes of sections 220 through 224, the following terms shall have
87 the following meanings:

88 “Appointing authority” shall mean the person or agency with authority to appoint a law
89 enforcement officer.

90 “Law enforcement officer” or “officer” shall mean any person performing police
91 functions or duties and appointed to: a municipal police department; the state police, the office of
92 law enforcement within the executive office of environmental affairs; the Massachusetts Bay
93 Transportation Authority transit police, the University of Massachusetts system police; or any
94 person performing such functions and duties and appointed to serve as a special state police

95 officer pursuant to sections 56 through 68 of chapter 22C, or as a deputy sheriff pursuant to
96 section 3 of chapter 37.

97 “Municipal police training committee” or “MPTC” shall mean the committee established
98 in section 116.

99 “National Decertification Index” shall mean the national registry of certificate or license
100 revocation actions related to officer misconduct as reported by participating state government
101 agencies.

102 “Police officer standards and accreditation committee” or “committee” shall mean the
103 committee established in section 221.

104 “Sustained internal affairs complaint” shall mean a finding by an appointing authority
105 that an officer has violated the appointing authority’s rules, policy, procedure, or committed
106 other misconduct or improper action, based upon findings of fact resulting from an investigation
107 conducted pursuant to the appointing authority’s formal process of internal control and
108 discipline, and from which finding there is no further right to appeal within the appointing
109 authority.

110 Section 221. There shall be a police officer standards and accreditation committee within
111 the executive office of public safety and security. There shall be 14 members of said committee
112 as follows: the colonel of state police or their designee, the commissioner of the Massachusetts
113 Bay Transportation Authority transit police or their designee, the commissioner of police of the
114 city of Boston or their designee, 1 chief of police selected by the Massachusetts Chiefs of Police
115 Association, 1 law enforcement officer selected by the Massachusetts Association of Minority
116 Law Enforcement Officers, 1 law enforcement officer below the rank of sergeant appointed by

117 the Governor, 1 law enforcement officer of any rank appointed to a department in western
118 Massachusetts appointed by the Governor, the attorney general or their designee, and 6 non-law
119 enforcement individuals appointed by the Governor. Not fewer than 7 of the members shall be
120 from groups eligible under the definition of “minority business enterprise” appearing in section
121 58 of chapter 7. All such appointments shall be for terms of 3 years with their successors
122 appointed in a like manner.

123 The Governor shall appoint a chairperson of the committee. The secretary of public
124 safety and security shall appoint an executive director of the committee, with the approval of the
125 Governor. The position of executive director shall be classified in accordance with section 45 of
126 chapter 30 and the salary shall be determined in accordance with section 46C of said chapter 30.

127 Section 222. The police officer standards and accreditation committee shall have the
128 power to certify, renew, revoke, or otherwise modify the certification of any law enforcement
129 officer pursuant to sections 223 and 224. The committee shall have the power to promulgate
130 regulations pursuant to chapter 30A as necessary to implement sections 223 and 224.

131 Section 223. (a) No person shall be appointed as a law enforcement officer unless
132 certified by the police officer standards and accreditation committee.

133 (b) A person who completes an MPTC-certified academy or training program, or the
134 training programs prescribed by chapter 22C, shall be certified by the police officer standards
135 and accreditation committee.

136 (c) The committee shall maintain a database containing the following records for each
137 law enforcement officer certified:

138 (1) the dates of certification, renewal of certification, decertification, suspension of
139 certification, or reprimand;

140 (2) records of completion of training;

141 (3) the date of any separation from employment with an appointing authority, and the
142 nature of the separation, including but not limited to suspension, resignation, retirement, and
143 termination.

144 (4) the reason for any separation from employment, including but not limited to whether
145 the separation was based on misconduct, or whether the separation occurred while the appointing
146 authority was conducting an investigation of the certified individual for a violation of an
147 appointing authority's rules, policy, procedure, or other misconduct or improper action;

148 (5) the date of any criminal conviction and the charge of conviction;

149 (6) the date of any sustained internal affairs complaint, and the charge sustained.

150 All information in the database shall be made available to an appointing authority for the
151 purpose of a background investigation for appointment as a law enforcement officer, and the
152 committee shall set standards for such background investigation for appointments subsequent to
153 the initial appointment. The information in the database shall be a public record as defined in
154 clause twenty-sixth of section 7 of chapter 4.

155 The MPTC shall report to the committee the information described in paragraph (2).

156 Each appointing authority shall report to the committee the information described in paragraphs
157 (3) through (6). The committee shall prescribe the manner, form, and frequency with which this
158 information shall be provided by the MPTC and each appointing authority.

159 (d) The police officer standards and accreditation committee shall determine the form
160 and manner of issuance of a certification. A certification shall expire three years after the date of
161 issuance.

162 (e) Each person who is certified as a law enforcement officer shall, prior to the date of
163 expiration of the certification, renew the certification for the ensuing 3-year period by
164 demonstrating satisfactory completion, over the preceding 3-year period, of 120 total hours of in-
165 service training approved by the MPTC or prescribed pursuant to chapter 22C. The police
166 officer standards and accreditation committee shall permit law enforcement officers who have
167 not completed the required in-service training to maintain their certification for good cause
168 shown and upon demonstration by the officer of approval by the MPTC of both a plan for the
169 completion of the in-service training hours and the reasonable amount of time in which to do so.

170 Section 224.

171 (a) The police officer standards and accreditation committee shall revoke a certification
172 if:

173 (1) The certification was issued by administrative error;

174 (2) The certification was obtained through misrepresentation or fraud;

175 (3) The certified officer falsified any document in order to obtain or renew any
176 certification;

177 (4) The certified officer has had a certification or other authorization revoked by another
178 jurisdiction on grounds which would authorize revocation under the provisions of this section;

179 (5) The certified officer is convicted of a felony;

180 (6) The certified officer is found not guilty of a felony by reason of lack of criminal
181 responsibility;

182 (7) The certified officer is terminated based upon intentional conduct performed under
183 the color of office to: obtain false confessions; make a false arrest; create or use falsified
184 evidence, including false testimony or destroying evidence to create a false impression; engage
185 in conduct that would constitute a hate crime as defined in section 32 of chapter 22C; or directly
186 or indirectly receive a reward, gift, or gratuity on account of his or her official services;

187 (8) The certified officer is convicted of a misdemeanor which would render that officer
188 ineligible for a license to carry a firearm under section 131 of chapter 140;

189 (9) The certified officer has a sustained internal affairs complaint based upon conduct
190 consisting of:

191 (i) Excessive use of force involving the use of a lateral vascular neck restraint or similar
192 chokehold that restricts free movement of the neck and head;

193 (ii) Failing to stop, or to attempt to stop, another law enforcement officer from applying
194 excessive force in the presence of the certified officer;

195 (iii) Excessive use of force resulting in serious bodily injury, as defined in section 13K
196 of chapter 265;

197 (iv) Conduct that would constitute a hate crime, as defined in section 32 of chapter 22C;

198 (v) Intimidation of a witness, as defined in section 13B of chapter 268;

199 (vi) Tampering with a record for use in an official proceeding, as defined in section 13E
200 of chapter 268;

201 (vi) Perjury, as defined in section 1 of chapter 268; or

202 (vii) Files a written police report containing a false statement, knowing the statement to
203 be materially false.

204 (b) The committee may revoke a certification if:

205 (1) The certified officer has been convicted of any misdemeanor; or

206 (2) The certified officer has repeated sustained internal affairs complaints, for the same
207 or different offenses.

208 (c) The committee may require an appointing authority to provide information
209 reasonably necessary to determine whether to initiate revocation proceedings.

210 (d) The committee shall conduct revocation proceedings and hearings, and promulgate
211 regulations for such proceedings and hearings, pursuant to chapter 30A. Any revocation hearing
212 shall take place before a panel of the committee composed of 7 members as follows:

213 (i) 3 members of the committee who are police officers, selected by the chairperson.

214 (ii) 3 members of the committee who are not police officers, selected by the chairperson.

215 (iii) 1 member of the bargaining unit to which the officer who is the subject of the
216 revocation hearing belongs, selected by that officer. The chairperson shall select a member of
217 the committee if the officer does not select a representative or does not belong to a bargaining
218 unit.

219 Not fewer than 3 of the committee members serving on the panel shall be from groups
220 eligible under the definition of “minority business enterprise” appearing in section 58 of chapter
221 7.

222 (e) The committee shall revoke a certification upon a finding by a preponderance of the
223 evidence, by majority vote of the hearing panel, of any grounds set forth in paragraphs (1)
224 through (9) of subsection (a). Any decision under this subsection shall be appealable pursuant to
225 chapter 30A.

226 (f) The committee may revoke or suspend a certification, or issue a reprimand, upon a
227 finding by a preponderance of the evidence, by majority vote of a hearing panel, of any grounds
228 set forth in paragraphs (1) or (2) of subsection (b) and that there is good cause to revoke or
229 suspend a certification or to issue a reprimand. The committee may set conditions including the
230 completion of additional training if a certification is suspended or a reprimand is issued. Any
231 decision under this subsection shall be appealable pursuant to chapter 30A.

232 (g) No adverse action taken against a certification by the committee pursuant to this
233 section shall be appealable to the civil service commission established under chapter 31. No
234 employment action taken by an appointing authority that results from a revocation by the
235 committee pursuant to subsection (a) shall be appealable to the civil service commission
236 established under chapter 31.

237 (h) The committee shall publish any revocation and findings. The committee shall
238 provide revocation information to the National Decertification Index. No officer may apply for
239 certification after that officer’s certification has been revoked pursuant to this section.

240 SECTION 4. Section 18 of chapter 6A of the General Laws, as so appearing is hereby
241 amended by inserting, in line 4, after the words, “the municipal police training committee;” the
242 following words:- the police officer standards and accreditation committee.

243 SECTION 5. Section 18½ of said chapter 6A is hereby amended by inserting, in line 9,
244 after the words, “the municipal police training committee,” the following words:- the police
245 officer standards and accreditation committee.

246 SECTION 6. Subsection (c) of section 2 of chapter 31 of the General Laws, as so
247 appearing, is hereby amended by adding the following words:- , except that the commission shall
248 not have jurisdiction to hear an appeal of a decision by the police officer standards and
249 accreditation committee to take adverse action against the certification of a law enforcement
250 officer under subsections (e) or (f) of section 224 of chapter 6.

251 SECTION 7. The first paragraph of section 42 of said chapter 31 is hereby amended by
252 adding the following sentence:- The rights under this section shall not be available to a person
253 who is the subject of disciplinary action or other employment-related consequences by an
254 appointing authority, as defined in section 220 of chapter 6, that results from decertification
255 under subsection (e) of section 224 of chapter 6.

256 SECTION 8. Section 43 of said chapter 31 is hereby amended by adding the following
257 sentence:- The rights under this section shall not be available to a person who is the subject of
258 disciplinary action or employment-related consequences by an appointing authority, as defined in
259 section 220 of chapter 6, that results from decertification under subsection (e) of section 224 of
260 chapter 6.

261 SECTION 9. Said section 96B of said chapter 41 is hereby further amended by striking
262 out, in line 30, the words “department of criminal justice training” and inserting thereof the
263 following word:- municipal police training committee.

264 SECTION 10: Said section 96B of said chapter 41 is hereby further amended by striking
265 out, in line 24, the word “his” and inserting thereof the following words:- the person’s

266 SECTION 11. Said section 96B of said chapter 41 is hereby further amended by striking
267 out, in line 32, the word “he” and inserting thereof the following words:- the person.

268 SECTION 12. Said section 96B of said chapter 41 is hereby further amended by striking
269 out, in line 34, the word “his” and inserting thereof the following words:- the person.

270 SECTION 13. Said section 96B of said chapter 41 is hereby further amended by striking
271 out, in line 39, the word “his” and inserting thereof the following words:- the appointed person.

272 SECTION 14. Said section 96B of said chapter 41 is hereby further amended by striking
273 out, in line 43, the word “his” and inserting thereof the following words:- the appointed person’s.

274 SECTION 15. Notwithstanding section 223 of chapter 6, all law enforcement officers, as
275 defined in section 220, who have completed an municipal police training committee-certified
276 academy or training program, or the training programs prescribed by chapter 22C, on or before
277 effective date of this section, and are appointed as law enforcement officers as of the effective
278 date of this section, shall be certified as of the effective date of this section.

279 All law enforcement officers who have completed a reserve training program on or
280 before the effective date of this section shall be certified as of the effective date of this section.

281 Prior to the expiration of that certification the officer shall complete additional training as
282 required by the MPTC or be granted a waiver pursuant to section 96B of chapter 41.

283 Any training waiver or exemption granted by the municipal police training committee
284 prior to the effective date of this section shall expire 6 months after the effective date of this
285 section. Any person who has not completed an municipal police training committee-certified
286 academy or training program, or the training programs prescribed by chapter 22C, on or before
287 the effective date of this section, and has been appointed to a law enforcement position as of the
288 effective date of this section, shall not exercise police powers after 6 months after the effective
289 date of this section. Prior to the expiration of this 6-month period, the person may obtain from
290 the municipal police training committee a waiver pursuant to section 96B of chapter 41, or an
291 extension of time necessary to complete training according to a municipal police training
292 committee-approved work plan.

293 The certifications of law enforcement officers who have graduated from a municipal
294 police training committee-certified academy or training program, or the training programs
295 prescribed by chapter 22C, who are certified as a result of subsection (c) of chapter 223:

296 (a) And whose last names begin with A-H shall expire one year after the effective
297 date of this section;

298 (b) And whose last names begin with I-P shall expire two years after the effective
299 date of this section;

300 (c) And whose last names begin with Q-Z shall expire three years after the effective
301 date of this section.

302 SECTION 16. Notwithstanding any general or special law to the contrary, in making
303 initial appointments to the police standards and accreditation committee established pursuant to
304 section 221 of chapter 6 of the General Laws, the governor shall appoint 4 members for a term of
305 3 years, 3 members for a term of two years, and 1 members for a term of one year.

306 SECTION 17. This act shall take effect upon its passage.