

SENATE No. 2469

The Commonwealth of Massachusetts



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January 16, 2020

To the Honorable Senate and House of Representatives,

I am filing for your consideration a bill entitled “An Act Advancing Reform within the Massachusetts State Police.” This legislation supports our Administration’s reform and modernization efforts currently underway within the State Police by providing new tools that will improve accountability and discipline within the Department and enhance diversity in the Department’s recruitment and promotional practices. These initiatives are both critical elements in building a State Police Department that is entitled to the public’s confidence and that will be equipped for the policing challenges of the future.

This bill makes a number of changes to provisions governing the appointment and promotion of uniformed members of the Department. To begin with, the bill seeks to broaden the pool of candidates available for initial appointment to the State Police Academy by establishing a State Police cadet program to provide cadets with up to two years of intensive on the-job training in the skills necessary to become a Trooper. Following the model of other successful cadet programs, such as in the City of Boston, the State Police cadet program will be designed to attract and qualify candidates for the Academy from a wide range of backgrounds who might not otherwise pursue appointment through the Department’s traditional, exam-only route.

The legislation also updates the rules governing promotions of uniformed members to officer positions. Consistent with the recommendations of a 2018 special legislative

commission, the bill eliminates the oral interview as a scoring component in ranking members seeking elevation to the ranks of lieutenant and captain, a change intended to focus the promotional decision on objective evaluation of professional qualifications and to exclude unintended, subjective considerations. The bill also adjusts the rate at which members earn promotional credits for longevity in service, with the goal of providing that promotions to the rank of officer will be made from a broader pool of talented Troopers, particularly at the levels of sergeant and lieutenant. Finally, the legislation removes the requirement that the Governor look exclusively within the State Police when appointing a colonel, a change that will ensure that the leader of the Department is selected from as large a group of well-qualified candidates as possible.

The bill also seeks to improve accountability within the Department by enhancing the Colonel's ability to address and correct misconduct by uniformed members. To address the most serious forms of misconduct, the bill clarifies the Colonel's legal authority to act immediately to suspend without pay any Trooper who has been charged with a criminal offense, who has been referred to a prosecutor's office for investigation, or who is accused of misconduct that violates the public trust. The law also establishes a new civil penalty with treble damages for any police officer who knowingly receives payment in exchange for a fraudulent claim of hours worked. The legislation would also permit the Department to impose lower levels of discipline through a simplified, timely, internal process.

The citizens of the Commonwealth deserve a State Police force worthy of their trust. They are entitled to trust that opportunities to join the force are open to the best candidates and that the process by which Troopers rise through the ranks rewards the most qualified. And they are entitled to trust that there will be fair but strict consequences for misconduct within the Department, particularly when that misconduct undermines the legitimate expectation that police officers should, at all times, serve with honor and fidelity to the laws that they have sworn to uphold.

The improvements proposed in this legislation will substantially advance the ongoing work of rebuilding the public's trust and confidence in the Massachusetts State police. I urge your prompt enactment of this legislation.

Respectfully submitted

Charles D. Baker,
Governor

SENATE No. 2469

Senate, January 21, 2020 -- Message from His Excellency the Governor (pursuant to the provisions of Article II, Section 8, Paragraph 1, Clause (2) of the Amendments to the Constitution) recommending legislation advancing reform within the Massachusetts State Police

The Commonwealth of Massachusetts

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

An Act advancing reform within the Massachusetts State Police.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to support the continuing reform and modernization of the Massachusetts State Police, therefore 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 3 of chapter 22C of the General Laws, as appearing in the 2018
2 Official Edition, is hereby amended by striking out, in lines 6 and 7, the word “he” and inserting
3 in place thereof, in each instance, the following words:- the colonel.

4 SECTION 2. Said section 3 of said chapter 22C, as so appearing, is hereby further
5 amended by striking out the second paragraph and inserting in place thereof the following
6 paragraph:-

7

8 The colonel shall be appointed by the governor, upon the recommendation of the
9 secretary of public safety and security, and shall be a person qualified by training and experience

10 to direct the work of the department. At the time of appointment, the colonel shall have not less
11 than 10 years of full-time experience as a sworn law enforcement officer and not less than 5
12 years of full-time experience in a senior administrative or supervisory position in a police force
13 or a military body with law enforcement responsibilities. Such appointment shall constitute
14 appointment as a uniformed member of the department and shall qualify the colonel to exercise
15 all powers granted to a uniformed member under this chapter. The colonel shall serve at the
16 pleasure of the governor and shall devote his or her full time during business hours to the duties
17 of the office.

18 SECTION 3. Section 10 of said chapter 22C, as so appearing, is hereby amended by
19 striking out, in line 27, the words “reached his twenty-first birthday” and inserting in place
20 thereof the following words:- attained the age of 21.

21 SECTION 4. Said section 10 of said chapter 22C, as so appearing, is hereby further
22 amended by striking out, in said line 30, the words “he has reached his thirty-fifth birthday” and
23 inserting in place thereof the following words:- the person has attained the age of 35.

24 SECTION 5. Said section 10 of said chapter 22C, as so appearing, is hereby further
25 amended by striking out the third paragraph and inserting in place thereof the following
26 paragraph:-

27 No person shall be enlisted as a uniformed member of the state police except in
28 accordance with the provisions of this section and section 11; provided further that, other than
29 for an appointment made pursuant to section 3, no person employed as a police officer for an
30 agency other than the department of state police, including but not limited to, any agency of the

31 commonwealth or any of its political subdivisions, shall be allowed to transfer into a position as
32 a uniformed member of the state police.

33 SECTION 6. Said section 10 of said chapter 22C, as so appearing, is hereby further
34 amended by striking out, in lines 52, 54, 61, 63, and 65, the word “he” and inserting in place
35 thereof, in each instance, the following words:- such officer.

36 SECTION 7. Said section 10 of said chapter 22C, as so appearing, is hereby further
37 amended by striking out, in lines 66 and 71, the word “his” and inserting in place thereof, in each
38 instance, the following words:- such officer’s.

39 SECTION 8. Said chapter 22C, as so appearing, is hereby further amended by inserting
40 after section 10 the following section:-

41 Section 10A. The colonel may establish a cadet program within the department and may
42 admit as a state police cadet, for a period of full-time “on the job” training, any citizen resident in
43 the commonwealth who:

44 (i) is not less than 19 nor more than 25 years of age;

45 (ii) would otherwise be found suitable for appointment for initial enlistment as a
46 uniformed member of the state police pursuant to sections 10, 11, and 14, with the exception of
47 the physical fitness standards;

48 (iii) has passed a qualifying physical fitness examination, as determined by the colonel;
49 and

50 (iv) has passed a qualifying examination, as determined by the colonel.

51 Such qualifying examination shall be conducted under the direction of the colonel, after
52 consultation with the personnel administrator, who shall determine its form, method and subject
53 matter, and such qualifying examination shall fairly test the knowledge, skills, and abilities
54 which can be fairly and reliably measured and which are actually required to perform the
55 primary or dominant duties of the position of state police cadet.

56 Any person who has attained the age of 19 on or before the final date for the filing of
57 applications for the state police cadet program shall be eligible to take the qualifying
58 examination for the state police cadet program. No person who has attained the age of 26 on or
59 before the final date for the filing of applications for the state police cadet program shall be
60 eligible to take the qualifying examination for the state police cadet program.

61 Admission as a state police cadet shall not be subject to the civil service law or rules; nor
62 shall a state police cadet be entitled to any benefits of such law or rules. The colonel shall report
63 in writing forthwith to the secretary of public safety and the personnel administrator any such
64 admission as a state police cadet made under the provisions of this section. Such admission shall
65 be for a term of service of not less than 12 months as determined by the department and may be
66 terminated at any time, and shall be terminated whenever a state police cadet fails to maintain a
67 passing grade in any course of study the colonel determines the state police cadet should
68 undertake. A state police cadet shall be required to meet the physical fitness standards required
69 for appointment for initial enlistment as a uniformed member of the state police within 12
70 months of the state police cadet's admission to the state police cadet program. A state police
71 cadet shall be an at-will employee. A state police cadet shall receive such compensation and
72 such leave with pay as the colonel shall determine in consultation with the personnel

73 administrator. The colonel shall establish requirements for successful completion of the state
74 police cadet program.

75 The colonel shall determine the duties and responsibilities of state police cadets. A state
76 police cadet shall not carry arms, nor shall a state police cadet have any power of arrest other
77 than that of an ordinary citizen. A state police cadet shall be considered an employee of the
78 commonwealth for the purposes of workers' compensation.

79 A state police cadet shall not be subject to or entitled to the benefits of any retirement or
80 pension law nor shall any deduction be made from a state police cadet's compensation for the
81 purpose thereof; but a state police cadet who successfully completes the state police cadet
82 program and is appointed to the department of state police pursuant to section 11 of this chapter
83 shall have their state police cadet service considered as creditable service, as defined in section 1
84 of chapter 32, for purposes of retirement, provided the state police cadet pays into the annuity
85 savings fund of the retirement system such amount as the retirement board determines equal to
86 that which the state police cadet would have paid had the state police cadet been a member of
87 said retirement system during the period of training as a state police cadet.

88 SECTION 9. Section 11 of said chapter 22C, as so appearing, is hereby amended by
89 striking out the first sentence and inserting in place thereof the following sentence:-
90 Appointments for initial enlistment as a uniformed member of the state police shall be made
91 from a list established as the result of a competitive examination conducted under the direction
92 of the colonel, after consultation with the personnel administrator, who shall determine its form,
93 method, and subject matter.

94 SECTION 10. Said section 11 of said chapter 22C, as so appearing, is hereby further
95 amended by inserting, in lines 19 and 20, after the word “his”, in each instance, the following
96 words:- or her.

97 SECTION 11. Said section 11 of said chapter 22C, as so appearing, is hereby further
98 amended by inserting after the third paragraph the following paragraph:-

99 Notwithstanding the preceding 3 paragraphs, the colonel may appoint for initial
100 enlistment as a uniformed member of the state police any person who has successfully completed
101 the state police cadet program pursuant to section 10A and is willing to accept such appointment.
102 Any such appointment for initial enlistment as a uniformed member of the state police shall
103 terminate that person’s admission as a state police cadet. Not more than one-third of the total
104 number of appointments to the state police in any single recruit training troop shall be made
105 under the provisions of this paragraph. The colonel shall report in writing forthwith to the
106 personnel administrator any appointment made under the provisions of this paragraph.

107 SECTION 12. Section 13 of said chapter 22C, as so appearing, is hereby amended by
108 striking out, in line 1, the word “Any” and inserting in place thereof the following words:- (a)
109 Discipline by Trial. Any.

110 SECTION 13. Said section 13 of said chapter 22C, as so appearing, is hereby further
111 amended by inserting, in line 10, after the word “him” the following words:- or her.

112 SECTION 14. Said section 13 of said chapter 22C, as so appearing, is hereby further
113 amended by adding the following two subsections:-

114 (b) Administrative Suspension Without Pay. Notwithstanding the provisions of
115 subsection (a), the colonel may administratively suspend without pay a uniformed member who
116 has served for 1 year or more where: a criminal complaint or indictment has issued against the
117 uniformed member; the uniformed member has been referred by the department to any
118 prosecutorial agency for review for prosecution; or there are reasonable grounds to believe that
119 the uniformed member has engaged in misconduct in the performance of that member's duties
120 that violates the public trust. Prior to such administrative suspension, the department shall
121 provide the uniformed member notice of and the underlying factual basis for such administrative
122 suspension. After such notice, the colonel or the colonel's designee shall hold a departmental
123 hearing at which the uniformed member shall have an opportunity to respond to the allegations.
124 Following the departmental hearing and upon a finding that there are reasonable grounds for
125 such administrative suspension without pay, the colonel may administratively suspend without
126 pay such uniformed member forthwith. A uniformed member may not appeal such
127 administrative suspension without pay under sections 41 to 45, inclusive of chapter 31, but may
128 appeal such administrative suspension without pay as provided in section 43 of this chapter.

129 A uniformed member who is administratively suspended without pay pursuant to this
130 section may seek a review by the colonel or the colonel's designee of such administrative
131 suspension without pay after 1 year from the date of such suspension, and every year thereafter,
132 or sooner if the uniformed member can demonstrate a material change in circumstances. The
133 decision of the colonel or the colonel's designee after such review may not be appealed under
134 sections 41 to 45, inclusive of chapter 31, but may be appealed as provided in section 43 of this
135 chapter.

136 (c) Administrative Discipline. Notwithstanding the provisions of subsection (a), the
137 colonel may impose on a uniformed member who has served for 1 year or more any permanent
138 discipline that does not involve a suspension of pay, loss of accrued vacation time, loss of rank
139 or seniority, or termination without provision for a trial by board. Prior to imposing such
140 discipline, the department shall provide the uniformed member notice of and the underlying
141 factual basis for such discipline. After such notice, the colonel or the colonel's designee shall
142 hold a departmental hearing at which the uniformed member shall have an opportunity to
143 respond to the allegations. Following the departmental hearing and upon a finding that there are
144 reasonable grounds for such discipline, the colonel may impose such discipline forthwith.

145 A uniformed member may not appeal an order imposing discipline pursuant to this
146 subsection under sections 41 to 45, inclusive of chapter 31, but such an order may be appealed as
147 provided in section 43 of this chapter.

148 SECTION 15. Section 20 of said chapter 22C, as so appearing, is hereby amended by
149 striking out the first sentence and inserting in place thereof the following sentence: - The colonel
150 shall prescribe a training program for persons who shall be enlisted for the first time in the
151 department such that no person, with the exception of the colonel, shall exercise police powers as
152 such a uniformed member until he or she shall have been assigned to and satisfactorily
153 completed such training program.

154 SECTION 16. Section 23 of said chapter 22C, as so appearing, is hereby amended by
155 inserting, in line 8, after the word "All" the following words:- admissions,

156 SECTION 17. Said section 23 of said chapter 22C, as so appearing, is hereby further
157 amended by inserting, in line 10, after the words "positions of" the following words:- cadets,.

158 SECTION 18. Said chapter 22C is hereby further amended by striking out section 26, as
159 so appearing, and inserting in place thereof the following section:-

160 Section 26. The colonel may promote uniformed members of the state police who are
161 deemed eligible for promotion by the colonel to the title of noncommissioned officer, lieutenant
162 or captain. All promotions shall be based upon a uniformed member's total promotional score.
163 Such total promotional score shall be based on the sum of scores earned on a competitive
164 promotional examination and from longevity.

165 (1) Competitive promotional examination:

166 (i) A member's competitive promotional examination score shall be calculated as
167 follows:

168 the number of points awarded to the member for correct answers on such examination
169 divided by the total number of possible points to be earned on the examination, multiplied by
170 100, multiplied by 0.75.

171 (ii) For a member who is a veteran, a member's competitive promotional examination
172 score shall be calculated as follows:

173 the number of points awarded to the member for correct answers on such examination
174 divided by the total number of possible points to be earned on the examination, multiplied by
175 100, plus 2, multiplied by 0.75.

176 (iii) No member shall be eligible for promotion unless the member has attained a mark of
177 at least 70 percent on the competitive promotional examination.

178 (iv) Promotional examinations for each of the following titles shall be open to all
179 members as follows:

180 Noncommissioned officer: such examination shall be open to all members who have
181 completed at least 5 years of service as a uniformed member immediately before the final date
182 for the filing of applications for such examination, and have completed, in the immediately
183 preceding year, 1 full year of service in the next lower rank, or title.

184 Lieutenant: such examination shall be open to all members who have completed at least 1
185 year of service in the next lower rank, or title, immediately before the final date for the filing of
186 applications for such examination, and have completed at least 8 years of service as a uniformed
187 member prior to the final date for filing applications for such examination.

188 Captain: such examination shall be open to all members who have completed at least 1
189 year of service in the next lower rank, or title, immediately before the final date for the filing of
190 applications for such examination, and have completed at least 12 years of service as a
191 uniformed member prior to the final date for filing applications for such examination.

192 (2) Longevity: for promotion to each of the positions listed below, a member's longevity
193 score shall be calculated as follows:

194 Noncommissioned officer: a member shall be granted 1 longevity point for each full
195 month of service since appointment to the department, up to a maximum of 120 months,
196 computed as of the final date for the filing of applications for such promotion. A member's
197 longevity score shall be the total longevity points granted divided by 120, multiplied by 25.

198 Lieutenant: a member shall be granted 1 longevity point for each full month of service
199 since appointment to the department, up to a maximum of 180 months, computed as of the final
200 date for the filing of applications for such promotion. A member's longevity score shall be the
201 total longevity points granted divided by 180, multiplied by 25.

202 Captain: a member shall be granted 1 longevity point for each full month of service since
203 appointment to the department, up to a maximum of 240 months, computed as of the final date
204 for the filing of applications for such promotion. A member's longevity score shall be the total
205 longevity points granted divided by 240, multiplied by 25.

206 Prior to making any promotions in accordance with the provisions of this section, the
207 colonel shall publish and distribute in the orders of the department for each title in the
208 department a list of the members who are eligible for promotion to each such title in the order in
209 which each member shall be considered for such promotion; provided that such order shall be
210 based upon the final determination by the colonel in accordance with the provisions of clauses
211 (1) and (2) of the first paragraph. Each such eligible list for promotion shall be used by the
212 colonel from which to fill vacancies for a period of 2 years from the initial date of said
213 publication; provided, however, if a new eligible list shall not have been established after such 2
214 year period, each such eligible list shall continue to be used by said colonel for promotions until
215 a new eligible list shall have been established. Any promotion to a vacancy occurring in any title
216 for which an examination is conducted in accordance with the provisions of this section shall be
217 made from the first 3 members on such list who is eligible for such promotion and is willing to
218 accept such promotion.

219 SECTION 19. Chapter 231 of the General Laws is hereby amended by inserting after
220 section 85AA, as so appearing, the following section:-

221 Section 85BB. (a) For purposes of this section, a “police officer” shall mean a police
222 officer employed by a state agency or state authority, as those terms are defined in section 1 of
223 chapter 29, or by a city or town.

224 (b) Any police officer who: (i) knowingly submits to a state agency, state authority, city
225 or town a false or fraudulent claim of hours worked for payment and receives payment therefor;
226 or (ii) knowingly makes, uses or causes to be made or used a false record or statement material to
227 such a false or fraudulent claim of hours worked for payment that results in any police officer
228 receiving payment therefor; or any person who conspires to commit a violation of this section,
229 shall be liable to that state agency, state authority, city or town for a civil penalty of 3 times the
230 amount of damages that the state agency, state authority, city or town sustains because of such
231 violation.

232 (c) A civil action for damages under this section may be brought in the superior court.

233 (d) A civil action for damages under this section may not be brought (i) more than 4
234 years after the date on which the violation occurred; or (ii) more than 4 years after the date when
235 facts material to the right of action are known or reasonably should have been known by an
236 official of the state agency, state authority, city or town who is authorized to approve the
237 initiation of an action for damages, but in no event more than 6 years after the date on which the
238 violation is committed, whichever occurs last. A civil action for damages under this section may
239 be brought for acts that occurred prior to the effective date of this section, subject to the
240 limitations period set forth in this section.

241 (e) Notwithstanding any other general or special law, rule of procedure or rule of
242 evidence to the contrary, a final judgment rendered in favor of the commonwealth in a criminal
243 proceeding charging fraud or false statements, whether upon a verdict after trial, or upon a plea
244 of guilty, or a continuance without a finding following the defendant's admission to sufficient
245 facts to support a conviction, shall estop the defendant from denying the essential elements of the
246 offense in any action which involves the same act, transaction or occurrence as in the criminal
247 proceedings and which is brought under this section.

248 (f) In any action brought pursuant to this section, the party bringing the action shall be
249 required to prove all essential elements of the cause of action, including damages, by a
250 preponderance of the evidence.

251 SECTION 20. This act shall take effect upon its passage.