

SENATE No. 2825

Senate, July 13, 2020 – Text of the Senate amendment (Senator Fattman) to the Senate Bill to reform police standards and shift resources to build a more equitable, fair and just commonwealth that values Black lives and communities of color (Senate, No. 2800)

The Commonwealth of Massachusetts

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

1 by striking out section 6 and inserting in place thereof the following section:-

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

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

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

8 “Law enforcement officer” or “officer” shall mean any person performing police
9 functions or duties and appointed to: a municipal police department; the state police, the office of
10 law enforcement within the executive office of environmental affairs; the Massachusetts Bay
11 Transportation Authority transit police, the University of Massachusetts system police; or any
12 person performing such functions and duties and appointed to serve as a special state police
13 officer pursuant to sections 56 through 68 of chapter 22C, or as a deputy sheriff pursuant to
14 section 3 of chapter 37.

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

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

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

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

28 Section 221. There shall be a police officer standards and accreditation committee within
29 the executive office of public safety and security. There shall be 14 members of said committee
30 as follows: the colonel of state police or their designee, the commissioner of the Massachusetts
31 Bay Transportation Authority transit police or their designee, the commissioner of police of the
32 city of Boston or their designee, 1 chief of police selected by the Massachusetts Chiefs of Police
33 Association, 1 law enforcement officer selected by the Massachusetts Association of Minority
34 Law Enforcement Officers, 1 law enforcement officer below the rank of sergeant appointed by
35 the Governor, 1 law enforcement officer of any rank appointed to a department in western
36 Massachusetts appointed by the Governor, the attorney general or their designee, and 6 non-law

37 enforcement individuals appointed by the Governor. Not fewer than 7 of the members shall be
38 from groups eligible under the definition of “minority business enterprise” appearing in section
39 58 of chapter 7. All such appointments shall be for terms of 3 years with their successors
40 appointed in a like manner.

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

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

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

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

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

56 (1) the dates of certification, renewal of certification, decertification, suspension of
57 certification, or reprimand;

58 (2) records of completion of training;

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

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

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

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

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

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

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

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

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

88 Section 224. (a) The police officer standards and accreditation committee shall revoke a
89 certification if:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

136 Not fewer than 3 of the committee members serving on the panel shall be from groups
137 eligible under the definition of “minority business enterprise” appearing in section 58 of chapter
138 7.

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

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

149 (g) No adverse action taken against a certification by the committee pursuant to this
150 section shall be appealable to the civil service commission established under chapter 31. No
151 employment action taken by an appointing authority that results from a revocation by the
152 committee pursuant to subsection (a) shall be appealable to the civil service commission
153 established under chapter 31.

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