

**ILLINOIS LAW ENFORCEMENT TRAINING AND STANDARDS BOARD
4500 South 6th Street Road, Room 173, Springfield, IL 62703-6617**

**MINUTES OF THE SPECIAL MEETING OF THE JOINT FINANCE
& LEGISLATIVE COMMITTEE
Springfield, IL – WebEx Video Conferencing due to COVID-19
January 5, 2021**

I. CALL TO ORDER/ROLL CALL/ESTABLISHMENT OF QUORUM

The January 5, 2021 special meeting of the Finance and Legislative Committee was called to order at 2:00 p.m. by Chairman Sean Smoot. Roll was called by Ellen Petty, and a quorum of voting members was established.

Members in attendance:

Chair Sean Smoot *via WebEx*

Vice Chair Elvia Williams *via WebEx (joined at 2:08)*

John Idleburg *via WebEx (joined at 2:08)*

Tim Nugent *via WebEx*

Members absent:

Iris Y. Martinez

Kwame Raoul

Staff in attendance:

Brent Fischer

John Keigher

Kelly Griffith

Denise Matthew *via WebEx*

Keith Calloway *via WebEx*

Ellen Petty

Others in Attendance:

John Carroll a designee of Kwame Raoul

Mitchell Davis

Tim Gleason

Ashley Wright

Due to WebEx format, there is no available listing of all guests listening in on the meeting.

II. REVIEW OF MINUTES

This item is tabled until the next meeting.

III. CHAIRMAN'S REMARKS

Chairman Smoot thanked Director Fischer and his staff for working over the New Year holiday weekend in order to prepare for the hearing and brief the Board on

what is included in this new legislation and how it would impact officers that fall under the Board's jurisdiction and the operation of the Board itself. After having reviewed the legislation, he has some questions and concerns, as does Board staff. He believes Ashley Wright from the AG's office, who has been the chief drafter, will be joining in on the call to help address some of those concerns.

IV. PROPOSED LEGISLATION: POLICE CERTIFICATION REFORM

A. Overview of Modifications

John Keigher took the committee through the legislation PowerPoint presentation he had prepared for the meeting.

The Attorney General's Office has recently shared draft legislation that addresses the police reform concepts that have been discussed over the last few months. The following is a breakdown of the major components of this bill, as of December 30, 2020.

Modifies Automatic Decertification

Adds the following new misdemeanors as decertifiable offenses: Conspiracy, Attempt, Solicitation of a Sexual Act, Public Indecency, Transmission of Obscene messages, Harassment by Telephone, Harassment through Electronic Communications & Evidence inference, Adds Domestic Battery and Interfering with the reporting of domestic violence as decertifiable offenses; Adds section 11-501 of the Criminal Code to the list of misdemeanors. This is possibly a reference to add DUI. It also deletes specific reference to Resisting/Obstructing and groups them with other professional offenses.

Allows for New Discretionary Decertification

In the case of certain violations, the Board may bring an action for decertification. Specifically, these are:

1. Acts committed by an officer that would be a decertifiable crime, but not prosecuted or did not result in a criminal conviction – apply the civil standard,
2. Officers who exercised excessive use of force,
3. Officers who failed to intervene when another officer exercises excessive use of force,
4. Officers who tampers with a body cam or dash cam to destroy evidence,
5. Dishonest officer conduct regarding a crime and tampering with evidence,
6. Acts of Moral Turpitude - conduct that fails to meet the integrity of the profession. *(Griffith added that the excessive use of force definition here is not entirely consistent with the current use of force statute as it pertains to law enforcement officers. The language used here is closer to that used in case law. This has been communicated to the AG's staff, but no feedback has yet been received. There is no indication*

anywhere that they intend to change the use of force definition used in the criminal code.)

Complaint Submission for Discretionary Decertification Violations

Under the new provisions, agencies and states attorneys must notify the Board within 7 days of learning of a discretionary decertification violation.

Also, members of the public may file a complaint with the Board alleging a discretionary decertification violation. These may be anonymous. Anonymous complaints must be sworn to by a Board investigator if moving forward to meet verification requirements. Complaints must be submitted on a form developed by the Board.

After receiving a complaint, the Board must conduct a Preliminary Review. If the allegations are founded, the Board must assign the matter for an investigation to the local employing agency, an external agency, or to a Board investigator. Within 30 days of receiving the complaint, the investigating agency must complete a Summary Report that contains Allegation of elements of misconduct, Evidence (testimony, documents, and physical evidence), and a list of witnesses and relevant parties.

If the summary report shows a violation, the Board must file complaint with newly created Certification Review Panel. The CRP then sets the matter for a hearing. Notice goes to the officer outlining time, date, allegations. The officer may file a response – but must file an answer. (The officer may request an informal conference to surrender their certificate, in which case, they are still considered decertified.)

After this, an Administrative Law Judge conducts the hearing to gather testimony and evidence and determine findings of fact and law. *(No specific qualifications for ALJs are outlined in the legislation.)* Upon the conclusion of the hearing: The ALJ report of findings is sent to the CRP. The CRP decides if there is enough to warrant decertification or other punishment. The CRP issues its recommendations to the Board. The Board would take official action and accept or reject the recommendation of the CRP. The officer has 20 days to move for reconsideration and the officer may seek reinstatement after 1 year.

Creates a new Certification Review Panel (CRP)

Membership consists of the following 11 people: Member of an organized officer's association appointed by Governor, Sheriffs Association appointed by Governor, Chiefs Association appointed by Governor, Representative of a minority officers group by Governor, States attorney association representative by Governor, 3 citizens selected by Governor – must be from disproportionately high officer interaction communities, 1 citizen selected by the AG – must represent a victims' advocacy community, Director of the Illinois State Police, & the Attorney General.

There is a strict no-conflict provision: Automatic removal for any member that fails to report a conflict of interest.

Creates new Certification Statuses

Under these revisions, the Board certificates would have one of three different statuses: Active; Inactive (retired, terminated, disability, or military); or Decertified. The law would also be clarified that an officer's certification must be "active" to exercise law enforcement authority.

With these changes, Inactive officers must reactivate when taking a new appointment – and must meet all training standards. Departments must still request a training waiver and are entitled to appeal if waiver is denied. An officer's Certification may be temporarily suspended if arrested or charged. Automatic "decertification" if an officer is inactive for more than 1 year. (We have asked to address or extend this.)

Ashley Wright from the AG's office joined the meeting and advised that reference to medical and military have been removed from the inactive status. She also added that language could be added to allow for specific requests to be moved to voluntarily go to inactive status.

Requires In-service Training Compliance Verification

This bill establishes a process for officers to verify that they have met the in-service training mandates: Each officer must self-report every 3 years, and attest that all training mandates have been met. The officer's certificate goes to inactive status if verification not reported by officer. The officer can request a waiver of this requirement. The Board can audit up to 30% of all reports. If it is found that there is a mistake in the report the officer has 2 months to rectify. If there is found there is be a willful falsification by officer in report the Board may decertify.

Wright indicated self-reporting could possibly be done in an online portal by clicking a box. The reporting could be staggered so that a third of officers could be reported each year, preventing all officers across the state reporting at the same time.

Revises the Misconduct Database

As before, the Board shall maintain database for chiefs and sheriffs that reflects certification history and any reported misconduct.

Agencies must notify Board of any willful violation of policy, official misconduct, or violation of law, if: Officer receives a state suspension of at least 10 days, officer conduct would trigger an investigation, allegation of untruthfulness, bias, or integrity of officer, or the officer resigns under investigation after receiving notice. Agencies may report any other

misconduct. The Board must notify the officer and the officer may choose to respond.

Now, Chiefs and Sheriffs would have a duty to check this database and contact former employers, which must be documented. The database will also be available to states attorneys and AG for Brady/Giglio matters. All information in this database would now be exempt from FOIA.

Requires a new Publicly Accessible Database

In addition to the misconduct database, the Board must maintain a database of all law enforcement officers that shall be accessible to the public. It must reflect: employing agency, initial certification date, current certification status, any sustained complaint of misconduct that resulted in decertification, no personal address or family data.

Requires a new Database of Board Investigations

The Board would also be required to maintain a public database reflecting all completed officer investigations. This database must be available from Board's website and officer identities are to remain anonymous. This investigation database must include the following: confidential or anonymous officer ID number; agency; date of incident; location of incident; race of officer involved; race, gender, age of anyone involved in the incident; victim injury, treatment, death; what agency did the investigation; when was investigation completed; was complaint sustained or unfounded.

Requires an Annual Board Report to Governor and General Assembly

Each year, the Board must submit a report to the Governor's office and the legislative leaders reflecting number of complaints received, number of investigations initiated, number of investigations concluded, number of investigations pending, number of hearings held, number of officers decertified.

Miscellaneous

The bill addresses a few other sections of the Police Training Act and makes minor revisions as follows: Clarifies that law enforcement officers from state agencies fall under the Board, but excludes the Illinois State Police; Requires all agencies to have a written policy of how they will investigate misconduct that rises to the level of discretionary decertification; Removes the complicated language regarding instances of officer perjury in homicide cases; Allows ex-officio members to appoint designees with full voting powers.

B. Discussion

Williams asked why State Police is not included. Keigher advised that a lot of their HR matters are under the Merit Board, which may create a conflict to put them under our Act. Fischer added that he believed the ISP would be reconciling this language with their act as well.

Nugent asked if this language would supersede any labor negotiations. Keigher advised that yes, it would. Wright added that if agencies are asked to investigated, they would have to abide by CBA rules, but if the Board investigates, they are not required to abide by these rules. Departments will not be required to renegotiate CBAs, but may choose to do so if they prefer the state rules. Keigher commented that enforcement mechanisms against departments who fail to report or follow through with investigations remains unclear.

Nugent asked if there has been a funding mechanism put in place to pay for all of these changes to the Board's operation. Fischer advised that the need for funding has been expressed repeatedly throughout the process, but thus far, there have been no alternative revenue sources proposed. Smoot noted that this is a significant concern since the Board is behind currently with the MTUs due to funding issues and is not getting the funding support to do what it is currently required to do by statute. This proposal could easily be \$40M-\$50M annual operation, which is well beyond the scope of the Board's current funding levels. He added that he doesn't know how this could possibly be done without a significant investment. Nugent stated that this is basically a statewide internal affairs agency with its own investigation division, which will require a considerable financial investment as well as a great number of manhours.

Keigher asked Wright if it was the intent to include DUI in the misdemeanor section and she indicated that it was not. She added that decertification after 1 year of inactivity has been changed to 4 years of inactivity. Keigher stated that decertification is generally seen as something that happens due to misconduct, and to decertify after a period of inactivity could lead to a misunderstanding or misrepresentation. He would prefer there not be an automatic decertification after a period of inactivity. Fischer added that anyone who had been inactive for an extended period of time would not just be automatically waived to return to active status, as there would be a requirement to take additional training to get up to speed and a fresh background check before any such waivers would be granted to allow an officer to go back into active status. Wright said they could remove the 4-year limit to inactivity if we didn't believe that was helpful. She also will ensure the return to active status is initiated by the agency and not the officer.

There is no bill number available just yet. She asked about reporting dates and whether they worked for us or not. Fischer asked about some of the timelines and deadlines for investigations. He felt that some of these might be too quick of a turnaround. Wright said they tried to set timelines similar to

those in other states, but they have modified some and are willing to modify further if the Board makes a reasonable request. The intention is not to overburden the Board.

Nugent asked if the Board investigators would be law enforcement officers subject to complaints as well. Wright indicated that yes, this would be the case. Nugent added that technically, while Board investigators are investigating an officer, an anonymous complaint could be lodged against them as well – he sees this as something that could really tie things up. Calloway indicated he thought any such complaints could be followed up on and investigated by the ISP or the AG’s office. Wright made a note of it and thanked them for the feedback on that matter.

C. Delivery of Feedback

Fischer thanked staff for their hard work and efforts over the holidays on this project.

V. NEXT STEPS

Chairman Davis said he’s thoroughly impressed and thanked staff for doing this overview and Ashley and the AG’s office for their work on this as well. He appreciates the collaboration of everyone involved.

VI. NEXT MEETING

No additional meetings are currently scheduled prior to the March Quarterly meetings.

VII. ADJOURNMENT

Motion was made by Williams, seconded by Nugent, and carried by all members present to adjourn the meeting at 3:28 p.m.

