

SAFE-T Act and HB 3443 SA 5 *(P.A. 101-652)* *(P.A. 102-0028)*

Changes Effective July 1 Impacting ILETSB and
Training for IL Officers

June 30, 2021



Illinois Law Enforcement
Training and Standards Board

Topics to Cover:

- Curriculum update project (BLE, BCO and CSO)
- Laws effective July 1 impacting the basic academy curriculum
 - Criminal Offenses
 - Use of Force
 - Rights of the Accused
 - Laws of Arrest, Search and Seizure (Search Warrant)
 - Crime Victims and Their Rights
- BLE Mandates effective 1 / 1 / 2022
- Mental Health Screenings
- Professional Conduct Database
- In-Service Training Mandates effective
1 / 1 / 2022

Curriculum update project (BLE, BCO and CSO)

- ▶ **Basic Law Enforcement Officer:**
 - Currently minimum 560-hour curriculum
 - Last updated June 2017 (expanded the 400/480 hours to 560 hours)
 - Project is currently in the content review/revisions phase

- ▶ **Basic Correctional Officer:**
 - Currently 200-hour curriculum
 - Project is currently in the Job Task analysis phase (almost completed)

- ▶ **Court Security Officer:**
 - Currently 160-hour curriculum
 - Project is currently in the Job Task analysis phase (almost completed)

Laws Effective July 1 impacting basic academy curriculum

- ▶ **Criminal Offenses:**
 - First Degree Murder (felony murder)
 - Law Enforcement Misconduct
 - Review of relevant Law Enforcement Officer–Worn Body Camera Act

- ▶ **Use of Force:**
 - Peace Officer’s Use of Force in Making Arrest
 - Prohibited Use of Force by a Peace Officer
 - Use of Force to Prevent Escape
 - Duty to Render Aid
 - Duty to Intervene

- ▶ **Rights of the Accused:**
 - Treatment While in Custody

- ▶ **Laws of Arrest, Search and Seizure:**
 - Use of Force in Execution of Search Warrant

- ▶ **Crime Victims and Their Rights**

Laws Effective July 1 impacting basic academy curriculum

▶ Criminal Offenses:

- First Degree Murder 720 ILCS 5/9-1

- (a) A person who kills an individual without lawful justification commits first degree murder if, in performing the acts which cause the death:

- (1) he or she either intends to kill or do great bodily harm to that individual or another, or knows that such acts will cause death to that individual or another; or
- (2) he or she knows that such acts create a strong probability of death or great bodily harm to that individual or another; or
- (3) he or she, acting alone or with one or more participants, commits or attempts to commit a forcible felony other than second degree murder, and in the course of or in furtherance of such crime or flight therefrom, he or she or another participant causes the death of a person ~~he or she is attempting or committing a forcible felony other than second degree murder.~~

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▶ Criminal Offenses: New offense

- Law enforcement misconduct 720 ILCS 5/33-9
- (a) A law enforcement officer or a person acting under color of law commits law enforcement misconduct when, in the performance of his or her official duties with intent to prevent the apprehension or obstruct the prosecution or defense of any person, he or she:
 - (1) knowingly and intentionally misrepresents or fails to provide material facts describing an incident in any report or during any investigations regarding the law enforcement employee's conduct;
 - (2) knowingly and intentionally withholds any knowledge of the material misrepresentations of another law enforcement officer from the law enforcement employee's supervisor, investigator, or other person or entity tasked with holding the law enforcement officer accountable; or
 - (3) knowingly and intentionally fails to comply with paragraphs (3), (5), (6), and (7) of subsection (a) of Section 10-20 of the Law Enforcement Officer-Worn Body Camera Act.
- (b) Sentence. Law enforcement misconduct is a Class 3 felony.

Laws Effective July 1 impacting basic academy curriculum

▶ Criminal Offenses:

- Review of relevant Law Enforcement Officer–Worn Body Camera Act
- (a)
 - (3) Cameras must be turned on at all times when the officer is in uniform and is responding to calls for service or engaged in any law enforcement–related encounter or activity, that occurs while the officer is on duty.
 - (A) If exigent circumstances exist which prevent the camera from being turned on, the camera must be turned on as soon as practicable.
 - (B) Officer–worn body cameras may be turned off when the officer is inside of a patrol car which is equipped with a functioning in–car camera; however, the officer must turn on the camera upon exiting the patrol vehicle for law enforcement–related encounters.
 - (C) Officer–worn body cameras may be turned off when the officer is inside a correctional facility or courthouse which is equipped with a functioning camera system.

Laws Effective July 1 impacting basic academy curriculum

▶ Criminal Offenses:

- Review of relevant Law Enforcement Officer–Worn Body Camera Act
- (a)
 - (5) The officer must provide notice of recording to any person if the person has a reasonable expectation of privacy and proof of notice must be evident in the recording. If exigent circumstances exist which prevent the officer from providing notice, notice must be provided as soon as practicable.

Laws Effective July 1 impacting basic academy curriculum

▶ Criminal Offenses:

- Review of relevant Law Enforcement Officer–Worn Body Camera Act
- (a)
 - (6) (A) For the purposes of redaction, labeling, or duplicating recordings, access to camera recordings shall be restricted to only those personnel responsible for those purposes. The recording officer or his or her supervisor may not redact, label, duplicate or otherwise alter the recording officer's camera recordings. Except as otherwise provided in this Section, the recording officer and his or her supervisor may access and review recordings prior to completing incident reports or other documentation, provided that the supervisor discloses that fact in the report or documentation.
 - (i) A law enforcement officer shall not have access to or review his or her body-worn camera recordings or the body-worn camera recordings of another officer prior to completing incident reports or other documentation when the officer:
 - (a) has been involved in or is a witness to an officer-involved shooting, use of deadly force incident, or use of force incidents resulting in great bodily harm;
 - (b) is ordered to write a report in response to or during the investigation of a misconduct complaint against the officer.

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▶ Criminal Offenses:

- Review of relevant Law Enforcement Officer–Worn Body Camera Act
 - (ii) If the officer subject to subparagraph (i) prepares a report, any report shall be prepared without viewing body–worn camera recordings, and subject to supervisor's approval, officers may file amendatory reports after viewing body–worn camera recordings. Supplemental reports under this provision shall also contain documentation regarding access to the video footage.
 - (B) The recording officer's assigned field training officer may access and review recordings for training purposes. Any detective or investigator directly involved in the investigation of a matter may access and review recordings which pertain to that investigation but may not have access to delete or alter such recordings.

Laws Effective July 1 impacting basic academy curriculum

▶ Criminal Offenses:

- Review of relevant Law Enforcement Officer–Worn Body Camera Act
- (a)
 - (7) Recordings made on officer–worn cameras must be retained by the law enforcement agency or by the camera vendor used by the agency, on a recording medium for a period of 90 days.
 - (A) Under no circumstances shall any recording, except for a non–law enforcement related activity or encounter, made with an officer–worn body camera be altered, erased, or destroyed prior to the expiration of the 90–day storage period. In the event any recording made with an officer–worn body camera is altered, erased, or destroyed prior to the expiration of the 90–day storage period, the law enforcement agency shall maintain, for a period of one year, a written record including (i) the name of the individual who made such alteration, erasure, or destruction, and (ii) the reason for any such alteration, erasure, or destruction.

Laws Effective July 1 impacting basic academy curriculum

▶ Use of Force:

- Peace Officer's Use of Force in Making Arrest
720 ILCS 5/7-5

- (a) A peace officer, or any person whom he has summoned or directed to assist him, need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. He is justified in the use of any force which he reasonably believes, based on the totality of the circumstances, to be necessary to effect the arrest and of any force which he reasonably believes, based on the totality of the circumstances, to be necessary to defend himself or another from bodily harm while making the arrest. However, he is justified in using force likely to cause death or great bodily harm only when: (i) he reasonably believes, based on the totality of the circumstances, that such force is necessary to prevent death or great bodily harm to himself or such other person; or (ii) when he reasonably believes, based on the totality of the circumstances, both that:

Laws Effective July 1 impacting basic academy curriculum

▶ Use of Force:

- Peace Officer's Use of Force in Making Arrest
- (a) or (ii) when he reasonably believes, based on the totality of the circumstances, both that:
 - (1) Such force is necessary to prevent the arrest from being defeated by resistance or escape and the officer reasonably believes that the person to be arrested is likely to cause great bodily harm to another; and
 - (2) The person to be arrested committed or attempted a forcible felony which involves the infliction or threatened infliction of great bodily harm or is attempting to escape by use of a deadly weapon, or otherwise indicates that he will endanger human life or inflict great bodily harm unless arrested without delay.

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- ▶ Use of Force: New language in subsection (a)
 - Peace Officer's Use of Force in Making Arrest
 - As used in this subsection, "retreat" does not mean tactical repositioning or other de-escalation tactics.
 - A peace officer is not justified in using force likely to cause death or great bodily harm when there is no longer an imminent threat of great bodily harm to the officer or another

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▶ Use of Force: new subsections

- Peace Officer's Use of Force in Making Arrest
- (a-5) Where feasible, a peace officer shall, prior to the use of force, make reasonable efforts to identify himself or herself as a peace officer and to warn that deadly force may be used.
- (a-10) A peace officer shall not use deadly force against a person based on the danger that the person poses to himself or herself if a reasonable officer would believe the person does not pose an imminent threat of death or great bodily harm to the peace officer or to another person.
- (a-15) A peace officer shall not use deadly force against a person who is suspected of committing a property offense, unless that offense is terrorism or unless deadly force is otherwise authorized by law.

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- ▶ **Use of Force: new subsections (c) and (d)**
 - **Peace Officer's Use of Force in Making Arrest**
 - (b) A peace officer making an arrest pursuant to an invalid warrant is justified in the use of any force which he would be justified in using if the warrant were valid, unless he knows that the warrant is invalid.
 - (c) The authority to use physical force conferred on peace officers by this Article is a serious responsibility that shall be exercised judiciously and with respect for human rights and dignity and for the sanctity of every human life.
 - (d) Peace officers shall use deadly force only when reasonably necessary in defense of human life. In determining whether deadly force is reasonably necessary, officers shall evaluate each situation in light of the totality of circumstances of each case including but not limited to the proximity in time of the use of force to the commission of a forcible felony, and the reasonable feasibility of safely apprehending a subject at a later time, and shall use other available resources and techniques, if reasonably safe and feasible to a reasonable officer.

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▶ Use of Force: new subsections

◦ Peace Officer's Use of Force in Making Arrest

- (e) The decision by a peace officer to use force shall be evaluated carefully and thoroughly, in a manner that reflects the gravity of that authority and the serious consequences of the use of force by peace officers, in order to ensure that officers use force consistent with law and agency policies.
- (f) The decision by a peace officer to use force shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time of the decision, rather than with the benefit of hindsight, and that the totality of the circumstances shall account for occasions when officers may be forced to make quick judgments about using force.
- (g) Law enforcement agencies are encouraged to adopt and develop policies designed to protect individuals with physical, mental health, developmental, or intellectual disabilities, or individuals who are significantly more likely to experience greater levels of physical force during police interactions, as these disabilities may affect the ability of a person to understand or comply with commands from peace officers.

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- ▶ Use of Force: new subsection
 - Peace Officer's Use of Force in Making Arrest
 - (h) As used in this Section:
 - (1) "Deadly force" means any use of force that creates a substantial risk of causing death or great bodily harm, including, but not limited to, the discharge of a firearm.
 - (2) A threat of death or serious bodily injury is "imminent" when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or great bodily harm to the peace officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed.
 - (3) "Totality of the circumstances" means all facts known to the peace officer at the time, or that would be known to a reasonable officer in the same situation, including the conduct of the officer and the subject leading up to the use of deadly force.

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▶ Use of Force:

- Prohibited Use of Force by a Peace Officer
720 ILCS 5/7-5.5
- (a) A peace officer, or any other person acting under the color of law, shall not use a chokehold or restraint above the shoulders with risk of asphyxiation in the performance of his or her duties, unless deadly force is justified under Article 7 of this Code.
- (b) A peace officer, or any other person acting under the color of law, shall not use a chokehold or restraint above the shoulders with risk of asphyxiation, or any lesser contact with the throat or neck area of another, in order to prevent the destruction of evidence by ingestion.

Laws Effective July 1 impacting basic academy curriculum

▶ Use of Force: new subsection (d)

- Prohibited Use of Force by a Peace Officer
720 ILCS 5/7-5.5
- (c) As used in this Section, "chokehold" means applying any direct pressure to the throat, windpipe, or airway of another.
"Chokehold" does not include any holding involving contact with the neck that is not intended to reduce the intake of air such as a headlock where the only pressure applied is to the head.
- (d) As used in this Section, "restraint above the shoulders with risk of positional asphyxiation" means a use of a technique used to restrain a person above the shoulders, including the neck or head, in a position which interferes with the person's ability to breathe after the person no longer poses a threat to the officer or any other person.

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- ▶ Use of Force: new subsection
 - Prohibited Use of Force by a Peace Officer
720 ILCS 5/7-5.5
 - (e) A peace officer, or any other person acting under the color of law, shall not:
 - (i) use force as punishment or retaliation;
 - (ii) discharge kinetic impact projectiles and all other non-or less-lethal projectile in a manner that targets the head, neck, groin, anterior, pelvis, or back;
 - (iii) discharge conducted electrical weapons in a manner that targets the head, chest, neck, groin, or anterior pelvis;
 - (iv) discharge firearms or kinetic impact projectiles indiscriminately into a crowd;
- or

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▶ Use of Force: new subsection

◦ Prohibited Use of Force by a Peace Officer

720 ILCS 5/7-5.5

- (e) A peace officer, or any other person acting under the color of law, shall not:
 - (v) use chemical agents or irritants for crowd control, including pepper spray and tear gas, prior to issuing an order to disperse in a sufficient manner to allow for the order to be heard and repeated if necessary, followed by sufficient time and space to allow compliance with the order unless providing such time and space would unduly place an officer or another person at risk of death or great bodily harm.
 - (vi) use chemical agents or irritants, including pepper spray and tear gas, prior to issuing an order in a sufficient manner to ensure the order is heard, and repeated if necessary, to allow compliance with the order unless providing such time and space would unduly place an officer or another person at risk of death or great bodily harm.

Laws Effective July 1 impacting basic academy curriculum

▶ Use of Force: new subsection (c)

- Use of Force to Prevent Escape 720 ILCS 5/7-9
- (a) A peace officer or other person who has an arrested person in his custody is justified in the use of force, except deadly force, to prevent the escape of the arrested person from custody as he would be justified in using if he were arresting such person.
- (b) A guard or other peace officer is justified in the use of force which he reasonably believes to be necessary to prevent the escape from a penal institution of a person whom the officer reasonably believes to be lawfully detained in such institution under sentence for an offense or awaiting trial or commitment for an offense.
- (c) Deadly force shall not be used to prevent escape under this Section unless, based on the totality of the circumstances, deadly force is necessary to prevent death or great bodily harm to himself or such other person.

Laws Effective July 1 impacting basic academy curriculum

▶ Use of Force: new section

- Duty to Render Aid 720 ILCS 5/7-15
- It is the policy of the State of Illinois that all law enforcement officers must, as soon as reasonably practical, determine if a person is injured, whether as a result of a use of force or otherwise, and render medical aid and assistance consistent with training and request emergency medical assistance if necessary. "Render medical aid and assistance" includes, but is not limited to, (i) performing emergency life-saving procedures such as cardiopulmonary resuscitation or the administration of an automated external defibrillator; and (ii) the making of arrangements for the carrying of such person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that treatment is necessary, or if such carrying is requested by the injured person.

Laws Effective July 1 impacting basic academy curriculum

▶ Use of Force: new section

- Duty to Intervene 720 ILCS 5/7-16
- (a) A peace officer, or any other person acting under the color of law who has an opportunity to intervene, shall have an affirmative duty to intervene to prevent or stop another peace officer in his or her presence from using any unauthorized force or force that exceeds the degree of force permitted, if any, without regard for chain of command.
- (b) A peace officer, or any other person acting under the color of law, who intervenes as required by this Section shall report the intervention to the person designated/identified by the law enforcement entity in a manner prescribed by the agency. The report required by this Section must include the date, time, and place of the occurrence; the identity, if known, and description of the participants; and a description of the intervention actions taken and whether they were successful. In no event shall the report be submitted more than 5 days after the incident.
- (c) A member of a law enforcement agency shall not discipline nor retaliate in any way against a peace officer for intervening as required in this Section or for reporting unconstitutional or unlawful conduct, or for failing to follow what the officer reasonably believes is an unconstitutional or unlawful directive.

Laws Effective July 1 impacting basic academy curriculum

▶ Rights of the Accused:

- Treatment While in Custody 725 ILCS 5/103-2
- (a) On being taken into custody every person shall have the right to remain silent.
- (b) No unlawful means of any kind shall be used to obtain a statement, admission or confession from any person in custody.
- (c) Persons in custody shall be treated humanely and provided with proper food, shelter and, if required, medical treatment without unreasonable delay if the need for the treatment is apparent.

Laws Effective July 1 impacting basic academy curriculum

- ▶ **Laws of Arrest, Search and Seizure: NEW subsection (c)**
 - **Use of Force in Execution of Search Warrant**
725 ILCS 5/108-8
 - (c) Prior to the issuing of a warrant under subsection (b), the officer must attest that:
 - (1) prior to entering the location described in the search warrant, a supervising officer will ensure that each participating member is assigned a body worn camera and is following policies and procedures in accordance with Section 10-20 of the Law Enforcement Officer-Worn Body Camera Act; provided that the law enforcement agency has implemented body worn camera in accordance with Section 10-15 of the Law Enforcement Officer-Worn Body Camera Act. If a law enforcement agency or each participating member of a multi-jurisdictional team has not implemented a body camera in accordance with Section 10-15 of the Law Enforcement Officer-Worn Body Camera Act, the officer must attest that the interaction authorized by the warrant is otherwise recorded;
 - (2) The supervising officer verified the subject address listed on the warrant for accuracy and planned for children or other vulnerable people on-site; and
 - (3) if an officer becomes aware the search warrant was executed at an address, unit, or apartment different from the location listed on the search warrant, that member will immediately notify a supervisor who will ensure an internal investigation or formal inquiry ensues.

Laws Effective July 1 impacting basic academy curriculum

▶ Crime Victims and Their Rights

740 ILCS 45/2 Definitions

- (a) definition of “applicant” adds the Attorney General as one who can find a victim is entitled to compensation; changes made in this amendatory Act apply to actions commenced or pending on or after January 1, 2021
- (d) definition of victim adds language in subsection (2) “child” of person killed or injured; also adds “or anyone living in the household of a person killed or injured in a relationship that is substantially similar to that of parent, spouse, or child”
- (f) definition of relative adds language of “or anyone living in the household of a person killed or injured in a relationship that is substantially similar to that of parent, spouse, or child”
- (h) definition of “pecuniary loss” : increases transport/burial costs to a maximum of \$10,000 (currently \$7500); loss of earnings determination is victims average net monthly earnings for the 6 months preceding the injury or \$2400 per month (currently \$1250)

Laws Effective July 1 impacting basic academy curriculum

▶ Crime Victims and Their Rights

740 ILCS 45/2.5 Felon as Victim

- A victim's criminal history or felony status shall not automatically prevent compensation to that victim or the victim's family. However, no compensation may be granted to a victim or applicant under this Act while the applicant or victim is held in a correctional institution.

740 ILCS 45/6.1 Right to Compensation

- (a) changes it to within 5 years of the occurrence of the crime (was 2 years); also changes that a person may present an application within 3 years (was 2 years) after he or she attains the age of 18
- (g) lists factors for the AG or Court of Claims to consider in determining whether cooperation has been reasonable

BLE Mandates effective 1 / 1 / 2022

- ▶ Requires “crisis intervention” in the BLE
- ▶ 12 Hours of hands-on, scenario-based, role playing
- ▶ 6 Hours in Use of force, including De-escalation
- ▶ Officer safety: Cover, Concealment, Time
- ▶ 6 Hours of high-risk traffic stops

Mental Health Screenings

- ▶ Added to the Police Training Act, 50 ILCS 705/6, subsection (f) requires the Illinois Law Enforcement Training and Standards Board “to establish statewide standards for minimum standards regarding regular mental health screenings for probationary and permanent police officers, ensuring that counseling sessions and screenings remain confidential

Professional Conduct Database

- ▶ Changes to the Officer Professional Conduct Database 50 ILCS 705/6.2:
 - Subsection (a)(2) “resigned under investigation” category is expanded to include all felonies (was class 2 or greater)
 - Subsection (c) allows State’s Attorneys to also request these conduct reports (was just chiefs and sheriffs)

In-Service Training Mandates effective 1 / 1 / 2022

▶ In-Service Training Mandates

50 ILCS 705 / 7:

▶ 3 YEAR MANDATES

- Subsection (g) 30 hours every 3 years shall include:
 - Constitutional and proper use of law enforcement authority
 - Procedural justice
 - Civil Rights
 - Human Rights
 - Reporting Child Abuse and Neglect
 - Cultural Competency (including implicit bias and racial and ethnic sensitivity)

In-Service Training Mandates effective 1 / 1 / 2022

▶ In-Service Training Mandates

50 ILCS 705/10.6:

▶ 3 YEAR MANDATES

- New Section 10.6 Use of force training shall include:
 - At least 12 hours of hands-on, scenario-based role-playing
 - At least 6 hours of instruction on use of force techniques, including the use of de-escalation techniques to prevent or reduce the need for force whenever safe and feasible
 - Specific training on the law concerning stops, searches, and the use of force under the Fourth Amendment to the United States Constitution
 - Specific training on officer safety techniques, including cover, concealment, and time
 - At least 6 hours of training focused on high-risk traffic stops

In-Service Training Mandates effective 1 / 1 / 2022

▶ In-Service Training Mandates

50 ILCS 705 / 7:

▶ ANNUAL MANDATES

- Subsection (h) annual mandates shall include:
 - Law updates
 - Emergency medical response and certification
 - Crisis intervention training
 - Officer wellness and mental health