



The Coalition for Frontline Police Officers

Quick Guide to Police Reform Bills and How They Will Impact You and Your Department

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Certification

Effective: January 1, 2022

What:

Illinois **Law Enforcement Officers** and **Correctional Officers** must now certify every three (3) years the following:

- a) They have completed mandatory training
- b) Their current employment information, including any jobs left the previous 3 years
- c) A statement that the officer has not committed misconduct

50 ILCS 705/8.4

All Police Officers and Correctional Officers in Illinois Must Be Certified in Order to Work in any Law Enforcement/Correctional officer position in Illinois

When:

Every three (3) years, beginning:

January 30, 2023 - last names begin with the letters **A** through **G**

January 30, 2024 - last names begin with the letters **H** through **O**

January 30, 2025 - last names begin with the letters **P** through **Z**

50 ILCS 705/8.4

Who:

Law Enforcement Training and Standards Board

State agency that determines what annual training courses should be mandated, and which schools are approved to teach them, as well as:

- Reviews and ensure all law enforcement officers remain in compliance with the Act and any administrative rules adopted under the Act;
- Is Empowered to suspend any certificate for a definite period, limit or restrict any certificate, or revoke any certificate;
- Administers state certification examinations.

50 ILCS 705/3

See "Training" on page 11 for more information regarding the training required for Certification

Losing Certification

Automatic Decertification:

An Officer will lose certification who has been convicted of, found guilty of, entered a plea of guilty or of *nolo contendere* to a felony offense under the laws of the State, or any other state.

(50 ILCS 705/6.1)

Discretionary Decertification:

The Board may decertify an officer if the Board determines the officer:

- committed an act that would constitute a felony or misdemeanor which could serve as basis for automatic decertification, whether or not the law enforcement officer was criminally prosecuted, and whether or not the law enforcement officer's employment was terminated;
- exercised excessive use of force;
- failed to comply with the officer's duty to intervene, including through acts or omissions;
- tampered with a dash camera or body-worn camera or data recorded by a dash camera or body-worn camera or directed another to tamper with or turn off a dash camera or body-worn camera or data recorded by a dash camera or body-worn camera for the purpose of concealing, destroying or altering potential evidence;
- engaged in the following conduct relating to the reporting, investigation, or prosecution of a crime: committed perjury, made a false statement, or knowingly tampered with or fabricated evidence; and
- engaged in any unprofessional, unethical, deceptive, or deleterious conduct or practice harmful to the public; such conduct or practice need not have resulted in actual injury to any person. As used in this paragraph, the term "unprofessional conduct" shall include any departure from, or failure to conform to, the minimal standards of acceptable and prevailing practice of an officer.

(50 ILCS 705/6.3)

NOTE: These are the types of misconduct that every officer is now required to report if they have knowledge of 50 ILCS 705/6.3(c)

Losing Certification – Process

1. **Initial Complaint:** the following individuals and agencies **shall** notify the LETSB within seven days of becoming aware of any alleged violation:
 - Any Governmental agency
 - Any States Attorney
 - The Executive Director of the LETSB
 - **Any Law Enforcement or Correctional Officer** (50 ILCS 705/6.3(c))

Anonymous Initial Complaint: also, any person may make confidentially report an allegation of misconduct to the Board, and the Board must accept notice and investigate any such complaints

2. **Review:** The LETSB will review the complaint and decide if it warrants further investigation (50 ILCS 705/6.3(e))

3. Investigation

- **In most cases**, the governmental agency reporting the misconduct will conduct the investigation
- **This may** happen in conjunction with the internal disciplinary investigation the department/office conducts

In some cases, such as when the department/office or its policies are the focus of the complaint, or when a State's Attorney initiates the complaint, the Board will itself investigate (50 ILCS 705/6.3(f))

The Board will receive the results of the local agency's investigation and can order the agency to fix or redo any parts of the investigation it finds insufficient.

4. If the Board finds a reasonable basis exists to support the allegation, they will send it to the **Certification Review Panel** for a hearing.

Every Law Enforcement Agency is also required to adopt a written policy regarding investigating misconduct, which must include: The requirement that every officer report any of the misconduct from the previous page to their supervisor

50 ILCS 705/6.3(f)(6))

Losing Certification – Process (con't)

5. The Hearing will be set by the Certification Review Panel and conducted by an Administrative Law Judge. (50 ILCS 705/6.3(g))
6. After the hearing, the Judge's recommended decision will go to the Panel for approval, then to the LETSB for final approval. (50 ILCS 705/6.3(g)(9))
7. All decisions of the LETSB are reviewable in Sangamon and Cook County Circuit Courts.

Important Points:

- This process only applies to the types of Misconduct as described on page 3
- The process for Decertification is mandated by state statute, therefore no provision in a collective bargaining agreement may alter or amend it (50 ILCS 705/6.7)
- Internal disciplinary investigations may take place concurrently with State Misconduct investigations, but such internal discipline investigations may not interfere with the State Misconduct investigation
- Certifications may be placed in "inactive" or "retired" status, but may require completion of certain training programs to reactivate

Emergency Suspension of Certification

The LETSB also has the authority to immediately suspend a law enforcement officer's certification if the officer is arrested or indicted on any felony charge or charges (50 ILCS 705/8.3)

In such cases, the officer will be allowed a chance to challenge the issuance of the emergency order, as well as the ultimate decertification decision.

Discipline

Criminal Official Misconduct (720 ILCS 5/33-9)

- An officer commits **Official Misconduct** when:
 - in the course of official duties,
 - with intent to prevent the apprehension or obstruct the prosecution or defense of any person,
 - he or she knowingly and intentionally:
 - Misrepresents or fails to provide facts describing an incident in any report or during any investigations regarding the law enforcement officer's conduct;
 - Withholds any knowledge of the 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;
 - Fails to comply with the provisions of Section 10-20 of the Law Enforcement Officer-Worn Body Camera Act;
 - Including; when bodycams must be recording;
 - When an officer must give notice to persons being recorded;
 - When officers may access videos;
 - Retention, maintenance and destruction of videos
- **Official Misconduct is a Class 3 Felony**
- Effective immediately

Disciplinary Interrogations (UPODA)

- Removes a requirement for an officer to be informed of the names of all complainants prior to an administrative proceeding;
- Removes a requirement for an officer under investigation to be informed of the name, rank and unit or command of the officer in charge of the investigation;
- States that it shall not be a requirement for a person filing a complaint against a sworn peace officer to have the complaint supported by a sworn affidavit or any other legal documentation.; and,
- States that this ban on an affidavit requirement shall apply to any collective bargaining agreements entered after the effective date of the provision.
- Effective Immediately (50 ILCS 725/3.2)

Disciplinary Records

- Stipulates that police misconduct records, all public records and nonpublic records related to complaints, investigations and adjudications of police misconduct shall be permanently retained and may not be destroyed. (50 ILCS 205/25)
 - Effective immediately

Report Writing and Body Cams

- Officers may review body cam recordings of his/herself or another officer prior to writing incident reports or other documentation; **except:**
 - When the officer has been involved, or is a witness to, an officer-involved shooting, use of deadly force, or use of force resulting in great bodily harm; or
 - When the officer is ordered to write a report in response to or during the investigation of a misconduct complaint against the officer.
- **However**, officers may file amendatory/supplemental reports, subject to supervisor approval, after viewing body-worn camera recordings.
 - Such supplemental reports must contain documentation that video footage was viewed.

Important Note: This legislation only bars officers from viewing body cam footage prior to writing a report in the above exceptions; but is silent about dash cameras.

Effective July 1, 2021 (50 ILCS 706/10-20)

On Patrol

Duty to Render Aid (720 ILCS 5/7-15)

Requires all law enforcement officers to render medical aid and request emergency medical assistance if necessary.

Duty to Intervene (720 ILCS 5/7-16)

Officers and others acting under color of law have an affirmative duty to intervene to stop or prevent another peace officer in his or her presence from using any unauthorized force or force that exceeds the degree of force permitted. The language further requires such an officer to report the intervention. Prohibits the discipline or retaliation against a peace officer for intervening as required by the section.

Execution of Warrant (725 ILCS 5/108-8)

Allows for no-knock warrants if body-worn cameras are in use or the interaction is otherwise recorded, requires steps to be taken to plan for the presence of children or vulnerable people on-site, and allows for an internal investigation if a warrant is executed at an incorrect address.

Treatment While in Custody (725 ILCS 5/103-2)

Requires that persons in custody shall be treated without unreasonable delay if need for medical treatment is apparent.

Illinois Vehicle Code (625 ILCS 5/6)

Requires, as soon as practicable and no later than July 1, 2021, the Illinois Secretary of State to rescind the suspension, cancellation or prohibition of renewal of a person's driver's license that has been suspended, canceled or whose renewal has been prohibited before the effective date of this amendatory Act due to the person having failed to pay any fine or penalty for traffic violations, automated traffic law enforcement system violations or abandoned vehicle fees.

On Patrol: Use of Force

The conditions when a peace officer may use any force, including deadly force, has been amended (720 ILCS 5/7)

- A peace officer 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 any force which he reasonably believes, based on the **totality of the circumstances**, to be necessary to defend himself or another from great bodily harm while making the arrest;
- **“Totality of the circumstances”** is also inserted into provisions allowing the use of deadly force along with the requirement that the officer reasonably believes that the person to be arrested may cause great bodily harm to another, and such harm is imminent
- Where feasible, a peace officer shall, prior to the use of force, make reasonable efforts to identify as a peace officer and to warn that deadly force may be used.
- 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 officer or to another person; and,
- 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.

“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 (but not limited to) the conduct of the officer and the subject, 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.

On Patrol: Use of Force

Prohibited Use of Force by a Peace Officer (720 ILCS 5/7-5.5)

The language prohibits a peace officer or any person acting under the color of law to use a **restraint above the shoulders with risk of asphyxiation in addition to the use of chokeholds (but not headlocks not intended to restrict airways)**, as currently provided in law. The language also prohibits the following activities:

- Use of force as punishment or retaliation;
- Discharge of kinetic impact projectiles and all other non- or less-lethal projectiles in a manner that targets the head, pelvis, neck, groin, front pelvis or back;
- Discharge conducted electrical weapons (TASERs) in a manner that targets the head, chest, neck, groin, or front pelvis.
- Discharge of kinetic impact projectiles indiscriminately into a crowd; or,
- Use of 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 ensure the order is 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 put the officer or another person at risk of death or great bodily harm.

Use of Force to Prevent Escape (720 ILCS 5/7-9)

The language prohibits the use of deadly force to prevent escape, unless deadly force is necessary to prevent death or great bodily harm to the officer or another person.

On Patrol: Body Cams

Law Enforcement Officer-Worn Body Camera Act (50 ILCS 706/10)

Requires all law enforcement agencies to employ the use of officer-worn body cameras and further stipulates the schedule by which all agencies must implement the use of body cameras as follows:

- Municipalities/counties with populations of 500,000 or more - January 1, 2022;
- with populations of 100,000 or more but under 500,000 -January 1, 2023;
- with populations of 50,000 or more but under 100,000 -January 1, 2024; and,
- with populations under 50,000, and all other law enforcement agencies -January 1, 2025.

A law enforcement agency that complies with these requirements shall receive preference by ILETSB in awarding grant funding under the Law Enforcement Camera Grant Act.

Note:

Reminder, that the new law considers the following to be a type of misconduct that can result in losing your certification as a law enforcement officer/correctional officer (see page 3)

“tampering with a dash camera or body-worn camera or data recorded by a dash camera or body-worn camera or directing another to tamper with or turn off a dash camera or body-worn camera or data recorded by a dash camera or body-worn camera for the purpose of concealing, destroying or altering potential evidence” (50 ILCS 705/6.3)

Training

Training to Be Completed Every 3 Years (50 ILCS 705/10.6)

Requires LETSB to adopt rules and minimum standards for in-service training requirements consisting of at least **30 hours of training every three years** and specifies the content of the training:

- (1) At least 12 hours of hands-on, scenario-based role-playing.
- (2) At least 6 hours of instruction on use of a techniques, including the use of de-escalation techniques to prevent or reduce the need for force whenever safe and feasible.
- (3) Specific training on the law concerning stops, searches, and the use of force under the Fourth Amendment to the United States Constitution.
- (4) Specific training on officer safety techniques, including cover, concealment, and time.
- (5) At least 6 hours of training focused on high-risk traffic stops.

All mandated training must be provided at no cost to the officer, and officers must be compensated for time they spend at training. (50 ILCS 705/8.1)

Crisis Intervention Team/Mental Health Awareness Training

(50 ILCS 705/10.17)

- Requires ILETSB to approve a standard curriculum for certified training programs in crisis intervention of at least 40 hours.
- Requires crisis intervention training programs to be a collaboration between law enforcement professionals, mental health providers, families and consumer advocates.

Community-Law Enforcement Partnership for Deflection and Substance Use Disorder Treatment Act (5 ILCS 820/21)

Adds to the list of subjects for which law enforcement agencies participating in such a program must be trained, including:

- Neuroscience of addiction, treatment, and mental health
- Racial and Gender Bias in Deflection
- Deflection in Rural Communities
- Working with Community Partners

Residency

Residency Requirements Population Cap Lowered (5 ILCS 315/14)

In municipalities with more than 100,000 people, Residency Requirements are no longer “Arbitrable”- which means that an arbitrator, during interest arbitration to resolve a law enforcement union contract, may not include in the contract any language restricting the employer's ability to impose residency requirements.

- Takes effect July 1, 2021.

Important Points:

- **If you already have** language in your contract regarding residency requirements, then that language will likely continue to control, even if your municipality passes an ordinance requiring residency.
- **If you do not have** language in your contract regarding residency, then you may still be able to bargain for it, whether or not the municipality has or eventually does pass an ordinance requiring residency.
- **If your municipality passes a residency ordinance**, you may be subject to it if there is no contract language and you are unable to successfully bargain for contract language modifying or exempting the ordinance from your contract.
 - **However**, if the City does impose a residency requirement, it can only apply to future hires. Anyone currently working prior to the ordinance is grandfathered in and does not have to abide by the residency requirement (65 ILCS 5/10-2.1-6(b))
 - **If your municipality passes a residency ordinance**, and the employer does not agree to contract language modifying or exempting it from your contract, thus sending the issue to an interest arbitrator to settle, that interest arbitrator can NOT include language exempting or modifying the ordinance in your contract.

Key Point:

This bill does not mandate Residency Requirements. Such a requirement would still need to be passed as a **Municipal Ordinance**

Miscellaneous

Right to Communicate with Attorney and Family; Transfers (725 ILCS 5/103-3)

Grants a suspect the right to three phone calls no later than three hours after being taken into custody to communicate with an attorney and family members, by phone or other reasonable manner, free of charge, and allows them to access their own cell phone for contact numbers, at their first place of custody. If the suspect is transferred to another place of custody, their right to three phone calls is renewed. Further requires this information to be posted on a sign.

Telephone calls to an attorney may not be monitored. If the suspect is asleep, unconscious or otherwise incapacitated, the three hours does not begin until they are awake, conscious or otherwise capable to use their three calls.

Effective January 1, 2022.

Public Officer Prohibited Activities Act (50 ILCS 105/4.1) (Whistleblower Protections)

Prohibits units of local government, agents or representatives of units of local government or another employee to retaliate against an employee or contractor who:

- Reports an improper governmental action under this Section;
- Cooperates with an investigation related to a report of improper governmental action; or, testifies in a proceeding or prosecution arising out of an improper governmental action.

Certain Military Surplus Prohibited

Amends the Counties Code (55 ILCS 5/4-5001) and Municipal Code (65 ILCS 5/11-5.1-2), to prohibit a police department or Sheriff's office from requesting or receiving specified equipment from any military surplus program. If the chief/sheriff requests any property from such a program, the sheriff shall publish notice of the request on a publicly accessible website maintained by the sheriff or the county within 14 days of the request.

Prohibited equipment under this section:

- tracked armored vehicles (excluding FEMA required vehicles)
- weaponized aircraft, vessels, or vehicles
- firearms and ammunition of .50-caliber or higher
- grenade launchers (rounds intended to cause great bodily harm/death)
- bayonets

Miscellaneous (con't)

(The following provisions took effect July 1, 2021)

Abolition of Monetary Bail ((725 ILCS 5/102-6; (725 ILCS 5/110-1.5)

- Establishes offenses and conditions upon which pretrial release may be granted or denied and provisions for release without appearance before a judge
- The language removes the requirement of posting monetary bail on and after the effective date of the Act. Exceptions are provided in the Uniform Criminal Extradition Act, the Driver License Compact and the Nonresident Violator Compact

Release on Own Recognizance (725 ILCS 5/110-2)

The language provides that it is presumed that a defendant is entitled to release on personal recognizance on the condition that the defendant attend all required court proceedings and the defendant does not commit a criminal offense. Additional conditions of release shall only be set when it is determined they are necessary to assure the defendant's appearance in court.

Options for Warrant Alternatives (725 ILCS 5/110-3)

If a defendant fails to comply with any condition of pretrial release, a court may issue an order to show cause why a person is subject to revocation of pretrial release. If the person does not appear at the hearing, the court may issue a warrant for the arrest of the person.

Miscellaneous (con't)

Pretrial Release (725 ILCS 5/110-4)

All persons charged with an offense shall be eligible for pretrial release before conviction. Pretrial release may only be denied when a person is charged with specific offenses listed in Section 110-6.1 of the Criminal Code of 2012, or who has a high likelihood of willful flight, and after the court has held a hearing.

Determining the Amount of Bail and Conditions of Release (725 ILCS 5/110-5)

The language adds to the list of factors a court shall take into consideration in determining the conditions of pretrial release that will ensure the appearance of a defendant

The language further allows the court to use a regularly validated risk assessment tool to aid in its determination of appropriate conditions of release but states that such tools may not be used as the sole basis to deny pretrial release (pg. 354).

Revocation of Pretrial Release (725 ILCS 5/110-6)

Provides conditions through which pretrial release may be revoked, and further provides conditions of re-arrest, jurisdiction for newly committed offenses.

Denial of Pretrial Release (725 ILCS 5/110-6.1)

Upon a verified petition by the State, the court shall hold a hearing and may deny pretrial release only if certain conditions and offenses are met or occur. These include but are not limited to:

- The defendant is charged with a forcible felony offense and pretrial release poses a real and present threat to a specific, identifiable person or persons;
- The defendant is charged with stalking or aggravated stalking and it is alleged that the defendant's pretrial release poses a real and present threat to the physical safety of a victim;
- The victim of abuse was a family or household member; and
- The defendant is charged with domestic battery and it is alleged that the defendant's pretrial release poses a real and present threat to the physical safety of any person.