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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- LAW ENFORCEMENT
OFFICER SCREENING, DISCIPLINE AND DECERTIFICATION

Introduced By: Representative Jose F. Batista

Date Introduced: March 22, 2023

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 42 of the General Laws entitled "STATE AFFAIRS AND
2 GOVERNMENT" is hereby amended by adding thereto the following chapter:

3 CHAPTER 28.11

4 LAW ENFORCEMENT OFFICER SCREENING, DISCIPLINE, AND DECERTIFICATION

5 **42-28.11-1. Definitions.**

6 As used in this chapter:

7 (1) "Board" or "POST board" means peace officer standards and training board in § 42-
8 28.11-2.

9 (2) "Conviction" means and includes a finding or a verdict of guilt, a plea of guilty, or a
10 plea of nolo contendere in a criminal proceeding, regardless of whether the adjudication of guilt or
11 sentence is withheld or not entered thereon.

12 (3) "Employing agency" means the law enforcement agency employing or appointing the
13 police officer.

14 (4) "Law enforcement agency" or "agency" means any police department, sheriff's
15 department, the police department of any campus of any college or university within the state and
16 the state police.

17 (5) "Officer" means an agent, operative, or official of this state, a subdivision or
18 municipality thereof, who, as an employee for hire or as a volunteer of a law enforcement agency

1 or other governmental entity, is vested either expressly by law or by virtue of public employment
2 or service with authority to enforce the criminal or traffic laws through the power of arrest and
3 whose duties include the preservation of public order, the protection of life and property, and the
4 prevention, detection, or investigation of crime. "Officer" shall also include certified private police.

5 (6) "Serious bodily injury" means bodily injury that results in a permanent disfigurement,
6 extreme physical pain, loss or impairment of a bodily function, limb or organ, or a significant risk
7 of death. Examples of serious bodily injury include: broken bones, closed head injuries, loss of
8 consciousness, as well as any other injuries that could result in death or disfigurement.

9 **42-28.11-2. The police officer standards and training board - composition and**
10 **appointment.**

11 (a) There is hereby established a police officer standards and accreditation board ("board").
12 All appointments of members to the board shall be for a term of three (3) years commencing the
13 first day of February next following their respective appointment(s) and until their respective
14 successors shall be appointed and qualified to succeed the person or persons whose term next
15 expires. There shall be fifteen (15) members of said board as follows:

16 (1) The colonel of the Rhode Island state police, or designee;

17 (2) The commissioner of public safety for the city of Providence, or designee;

18 (3) One chief of police selected by the Rhode Island police chiefs' association;

19 (4) One law enforcement officer selected by the Rhode Island minority police association;

20 (5) One law enforcement officer below the rank of sergeant appointed by the governor;

21 (6) One law enforcement officer of any rank appointed by the governor;

22 (7) One law enforcement officer with an educational or law enforcement training
23 background to be appointed by the governor;

24 (8) The attorney general, or designee;

25 (9) Seven (7) non-law enforcement persons appointed by the governor. A minimum of
26 three (3) whom shall be from the office of diversity, equity and opportunity.

27 (b) Members of the board shall be eligible for reappointment.

28 (c) The governor shall appoint a chairperson of the board.

29 (d) None of the board members outlined in subsection (a) of this section shall be employed,
30 or have been previously employed, as an officer.

31 (e) When a board member may have an actual, perceived, or potential conflict of interest
32 or appearance of bias that could prevent the board member from making a fair and impartial
33 decision in a suspension or decertification proceeding, the board member shall recuse themselves; or
34 if the board member fails to recuse themselves, then the board may, by a simple majority, vote to

1 recuse the board member from the proceeding.

2 (f) A “conflict of interest or appearance of bias” in subsection (c) of this section may
3 include, but is not limited to, matters where a party in a disciplinary proceeding is: an individual
4 with whom the member has an employment relationship; the member’s relatives or friends, or an
5 individual belonging to a professional organization, association, or a union in which the member
6 now actively serves.

7 (g) A board member may be removed if the member:

8 (1) Is guilty of malfeasance in office or commits gross misconduct;

9 (2) Substantially neglects the duties of a board member;

10 (3) Is unable to discharge the powers and duties of the board;

11 (4) Is convicted of a felony; or

12 (5) Engaged in any conduct that could be a basis for board.

13 (h) During the term of their tenure, board members may not hold or seek office in any state
14 or local legislature, or serve as the chief executive of any state or local government.

15 **42-28.11-3. Board powers.**

16 The board is vested with the following powers:

17 (1) To meet at such times and places as it may deem necessary;

18 (2) To hire staff persons to assist the board in carrying out its duties and functions;

19 (3) To contract with other agencies, public or private, or persons as it deems necessary for
20 the rendering and affording of such services, facilities, studies, and reports as will best assist it to
21 carry out its duties and responsibilities;

22 (4) To cooperate with and secure the cooperation of every department, agency, or
23 instrumentality in the state government or its political subdivisions in the furtherance of the
24 purposes of this chapter;

25 (5) To refuse to grant a certificate to or to discipline a certified officer under this chapter
26 or any antecedent law;

27 (6) To compel the attendance of witnesses and the production of any book, writing, or
28 document by issuing a subpoena therefor; and

29 (7) To do any and all things necessary or convenient to enable it to perform wholly and
30 adequately its duties and to exercise the power granted to it.

31 **42-28.11-4. Background checks and other agency investigation obligations.**

32 (a) For purposes of this section, the term “employment-related information” means written
33 information contained in an employer's records or personnel files that relates to an applicant’s
34 performance or behavior while employed by such employer, including all performance evaluations,

1 complaints (regardless if deemed unfounded or unsubstantiated), disciplinary records and records
2 concerning investigations of misconduct (regardless of the result of the investigation), and records
3 concerning eligibility for rehire. "Employment-related information" shall not include information
4 prohibited from disclosure by federal law.

5 (b) Any applicant who has been offered a conditional offer of employment as an officer
6 shall submit to a background investigation by the agency looking to employ the applicant (the
7 "employing agency") to determine the applicant's suitability for employment and good character.
8 Employing agencies shall only make an offer of employment that is conditional on the completion
9 of a background investigation of the applicant.

10 (c) Employing agencies shall not make a nonconditional offer of employment to an
11 applicant who has satisfied any of the grounds for discipline of this chapter, or upon finding that
12 the applicant lacks good character.

13 (d) Employing agencies shall disclose to the board any information it uncovers that could
14 provide grounds for discipline by the board.

15 (e) The board may inspect and copy the documentation of an employing agency to ensure
16 compliance with this section.

17 (f) The agency chief, or designee, shall verify in writing to the board under penalty of
18 perjury that they have complied with all background check requirements and have found the
19 applicant not to have satisfied any of the grounds for discipline except for if at least five (5) years
20 have passed since the applicant engaged in the conduct that formed the basis for the criminal
21 conviction and the conduct occurred before the applicant was certified as a law enforcement officer;

22 (g) If they have found an applicant:

23 (1) To have satisfied any of the grounds for discipline; or

24 (2) To have satisfied any of the grounds for discipline and that at least five (5) years have
25 passed since the applicant engaged in the conduct that formed the basis for the conviction and the
26 conduct occurred before the applicant was certified as a law enforcement officer, the agency chief,
27 or designee, have considered and evaluated the circumstances of the officer's conduct in light of
28 the factors; and

29 (3) To have good moral character, before making any nonconditional offer of employment.

30 (h) The board shall adopt rules that establish procedures for conducting background
31 investigations. The rules must specify a form for employing agencies to use to document the
32 findings of the background investigation. The background check must include, at a minimum:

33 (1) A criminal history check;

34 (2) Review of the National Decertification Index (and/or other similar national or regional

1 indices specified by the board),

2 (3) Review of board decertification, disciplinary, and any other records the board possesses
3 concerning the applicant;

4 (4) Review of disciplinary records held by any other state or local agency or entity;

5 (5) Review of all employment-related information from each of the applicant's previous
6 and current law enforcement or correctional agency employers;

7 (6) Communication with the local prosecuting authority in any jurisdiction in which an
8 officer has served to determine whether the officer is on any potential impeachment disclosure list;

9 (7) Fingerprinting the applicant for the purpose of conducting a fingerprint-based search of
10 the Federal Bureau of Investigation, and other relevant databases to determine the existence of any
11 warrants, arrests, or criminal records;

12 (8) Written communication with each of the applicant's references, including a written
13 reference from each law enforcement, correctional, and private safety agency that has employed
14 the applicant. Each agency providing a reference must include in their reference whether the agency
15 is aware of any conduct committed by the applicant that could satisfy any of the grounds for
16 discipline, including any conduct the agency was investigating, even if the agency did not complete
17 its investigation because the applicant resigned from his or her position at the agency while the
18 investigation was pending; and

19 (9) Verification of the applicant's education and military history.

20 (i) The applicant must provide the employing agency with at least the following
21 information:

22 (1) A complete list of all law enforcement, correctional, and private safety agencies that
23 have employed the applicant as well as a reference from each agency;

24 (2) Information setting forth the facts and reasons for any of the applicant's previous
25 separations from private or public employment or appointment, as the applicant understands them.
26 For the purposes of this subsection, the term "separation from employment or appointment"
27 includes any firing, termination, resignation, retirement, or voluntary or involuntary extended leave
28 of absence from any salaried or non-salaried position;

29 (3) A signed declaration verifying under penalty of perjury that all of the information the
30 applicant has provided during the background investigation is true and correct to the best of the
31 applicant's knowledge; and

32 (4) A signed release allowing background investigation information to be shared with other
33 law enforcement or correctional agencies, or private safety agencies of which the applicant may
34 become affiliated.

1 (j) For each applicant, the employing agency must ask each of the applicant's current and
2 previous employers in writing to disclose all employment-related information to the employing
3 agency, and each employer must disclose all employment-related information upon receiving a
4 written request from the employing agency.

5 (1) Each employer shall also disclose the reason for the applicant's separation from the
6 employer.

7 (2) Any person or entity who discloses information to the board in good-faith pursuant to
8 this section is immune from civil liability arising from the disclosure.

9 (k) Post-hire.

10 (1) The employing agency shall annually run a criminal history, arrest, and warrant check
11 for each officer it employs.

12 (2) Employing agencies must have a policy requiring officers to immediately report to their
13 employing agency any pending criminal charges against them, and any conviction, plea, or other
14 case disposition.

15 (l) Enforcement.

16 (1) In order for a law enforcement agency to be eligible to receive any state law
17 enforcement funding or any state-administered federal grant, the chief law enforcement officer of
18 that agency must certify annually in writing to the board that the agency complied with all of the
19 requirements set forth in this section in the previous calendar year. If the chief law enforcement
20 officer submits a written certification while knowing that the agency has not complied with all of
21 the requirements set forth under this section, they shall be fined no more than one-quarter (1/4) or
22 one-half (1/2) of their annual salary.

23 (m) The board also may impose a civil penalty on employing agencies not to exceed five
24 thousand dollars (\$5,000) per violation for the failure of an employing agency to follow the
25 requirements of this section.

26 **42-28.11-5. Reporting misconduct and other information.**

27 (a) For purposes of this section, "police oversight agency" means any agency, board, or
28 commission created by a political subdivision to accept and review complaints against law
29 enforcement officers employed by the political subdivision.

30 (b) Any person or entity who discloses information to the board in good-faith pursuant to
31 this section is immune from civil liability arising from the disclosure.

32 (c) Permissive reporting

33 (1) Any person or entity may notify the board of any conduct the person believes an officer
34 has committed that could give rise to discipline from the board. Upon written request, the board

1 shall disclose to the person or entity who filed a notice of violation the status of the board's review.

2 (2) The notice of violation reported under subsection (a) of this section shall be on a form
3 prescribed by the board. The board shall make the form publicly available by paper and electronic
4 means.

5 (3) Nothing in this subsection shall preclude the board from receiving, investigating, or
6 acting upon allegations made anonymously.

7 (4) The identity of any person or entity reporting a notice of violation shall be kept
8 confidential and may not be disclosed without the written consent of that person. The
9 confidentiality granted by this subsection does not preclude the disclosure of the identity of a person
10 in any capacity other than as the source of an allegation.

11 (d) Mandatory agency and officer reporting. An officer and his or her employing agency
12 both shall report to the board, on a form provided by the board, any of the following within five (5)
13 business days:

14 (1) Separation of an officer from an employing agency for any reason, including
15 termination, resignation, or retirement. If the employing agency accepts an officer's resignation or
16 retirement in lieu of termination, the employing agency shall report its reasons and rationale to the
17 board, including the findings from any internal or external investigations into misconduct.

18 (2). Any disciplinary action taken against an officer by the employing agency or any other
19 federal, state, or municipal agency, organization, or department. Disciplinary action includes any
20 suspension, demotion, or reprimand. The agency must make available to the board any records
21 concerning the disciplinary action.

22 (3) Any arrest of the officer for any crime.

23 (e) Any law enforcement agency that arrests anyone the agency knows to be an officer
24 must report the arrest to the board within five (5) business days of the arrest.

25 (f) The employing agency, as well as any police oversight agency, shall transmit to the
26 board any complaint it receives alleging officer conduct that could give rise to officer discipline
27 pursuant to any grounds for discipline specified in subsection (c) of this section, in a form to be
28 determined by the board, no later than seven (7) days after the complaint is filed. The board,
29 however, may establish a streamlined process for the reporting or handling of minor complaints
30 that do not involve allegations involving the use of force or officer conduct that could give rise to
31 criminal liability.

32 (g) The employing agency and officer both shall notify the board within two (2) days of
33 any incident involving the use of physical force by the officer that resulted in death or serious bodily
34 injury; or of learning that an officer has been charged with a crime, and any subsequent case

1 dispositions following the charge(s).

2 (h) The employing agency shall report to the board on a form provided by the board any
3 other officer conduct or information that could give rise to officer discipline and any other officer
4 conduct or information that board chooses to require, including the remaining grounds for
5 discipline no later than seven (7) days from the date the agency learns of the information.

6 (i) An officer's employing agency must submit any investigative findings and supporting
7 information and documentation to the board related to the triggering events or conduct. The board
8 may inspect and copy an employing agency's records to ensure compliance with this subsection.

9 (j) Enforcement.

10 (1) In order for a law enforcement agency to be eligible to receive any state law
11 enforcement funding or any state-administered federal grant, the chief law enforcement officer of
12 that agency must certify annually in writing to the board that the agency complied with all of the
13 requirements set forth in this section in the previous calendar year. If the chief law enforcement
14 officer submits a written certification while knowing that the agency has not complied with all of
15 the requirements set forth under this section, they shall be fined no more than one-quarter (1/4) or
16 one-half (1/2) of their annual salary.

17 (2) The attorney general may investigate, and if warranted, bring a civil action against any
18 law enforcement agency to obtain equitable or declaratory relief to enforce the provisions of this
19 section.

20 (3) The board may impose a civil penalty on officers and employing agencies not to exceed
21 five thousand dollars (\$5,000) per violation for the failure of an officer or an employing agency to
22 timely and accurately report information as required by this section.

23 **42-28.11-6. Investigations and board data tracking.**

24 (a) Preliminary review.

25 (1) When the board learns of alleged officer conduct or information that could give rise to
26 officer discipline, the board shall complete a preliminary review of the allegations to determine if
27 there is sufficient information to warrant further investigation.

28 (2) Upon initiating a preliminary review of the allegations, the board shall notify the head
29 of the agency that employs the officer who is subject of the allegations that the board is conducting
30 a preliminary review.

31 (3) At the board's request, the employing agency must submit copies of any relevant
32 investigative findings, evidence, or documentation to the board to facilitate the board's preliminary
33 review, in accord with rules adopted by the board.

34 (b) If, after a preliminary review of the allegations, the board believes an officer may have

1 engaged in conduct or the board learns that a law enforcement agency terminated the officer's
2 employment for-cause or that the officer resigned in lieu of termination or retired in lieu of
3 termination, then the board shall assign the allegations for further investigation.

4 (c) The board shall either conduct the further investigation itself or assign the further
5 investigation to the agency that employs the officer or the attorney general.

6 (1) The board shall set a deadline of six (6) months from the date of assignment for the
7 entity assigned to conduct further investigation to complete its investigation.

8 (2) The entity conducting further investigation shall, within seven (7) days of completing
9 an investigation, deliver an investigative summary report and copies of any evidence to the board.

10 (d) Proceeding with charges. If the board elects to prepare and serve upon the officer a
11 statement of charges, the board shall do so no later than four (4) months after receiving the
12 investigative summary report, associated evidence, and any supplementary materials that the board
13 requests from the investigating entity.

14 (e) Data tracking and agency reporting obligations. The board shall create and maintain a
15 database containing records for each certified officer that includes:

16 (1) The date of initial certifications and date(s) of any recertifications;

17 (2) All charges brought by the board and any discipline imposed by the board against the
18 officer, including suspension and decertification;

19 (3) The date(s) of any suspensions or decertification and the reason for said suspension or
20 decertification;

21 (4) All separations of an officer from an employing agency and the nature of the separations
22 (e.g. resignation, retirement, termination, resignation in lieu of termination);

23 (5) The reasons for any separation of an officer from an employing agency, including
24 whether the separation was based on misconduct or occurred while the employing agency was
25 investigating the officer for violating the employing agency's rules or policies, or for other
26 misconduct or improper action.

27 (6) The nature and outcome of any disciplinary proceedings taken against the officer by an
28 employing agency;

29 (7) All complaints received by the board and the basis for the complaint;

30 (8) Any incident involving the use of force by the officer that resulted in death or serious
31 bodily injury;

32 (9) All arrests and criminal charges brought against the officer, as well as any subsequent
33 case dispositions following the charges;

34 (10) Any other officer conduct reported to the board that could give rise to discipline; and

1 (11) any other information the board deems appropriate.

2 (f) The board shall actively monitor the database to identify patterns of alleged officer
3 misconduct that could provide a basis for investigation and could inform the appropriate discipline
4 to impose.

5 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO STATE AFFAIRS AND GOVERNMENT -- LAW ENFORCEMENT
OFFICER SCREENING, DISCIPLINE AND DECERTIFICATION

- 1 This act would create an officer discipline board and would require law enforcement
- 2 personnel to comply with this act.
- 3 This act would take effect upon passage.

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