

103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB4046

Introduced 4/27/2023, by Rep. John M. Cabello - Patrick Windhorst, Dennis Tipsword, Jr., Tony M. McCombie and Kevin Schmidt

SYNOPSIS AS INTRODUCED:

20 ILCS 2610/12.7
20 ILCS 2610/12.8 new
50 ILCS 205/25
50 ILCS 705/6 from Ch. 85, par. 506
50 ILCS 705/6.3
50 ILCS 705/6.7
50 ILCS 727/1-35 rep.

Amends the Illinois State Police Act. Modifies the definition of "duty to intervene" in provisions regarding discretionary termination of Illinois State Police officers. Provides that a member of the Illinois State Police shall not discipline or retaliate in any way against an officer for exercising the officer's duty to intervene, for reporting unconstitutional or unlawful conduct, or for failing to follow what the officer reasonably believes is an unconstitutional or unlawful directive. Amends the Illinois Police Training Act making similar changes to the changes made to the Illinois State Police Act, except that the Law Enforcement Training Standards Board must adopt rules prohibiting members of law enforcement agencies from retaliating. Further amends the Illinois Police Training Act removing language providing that an individual has no property interest in law enforcement certification at the time of initial certification or at any time thereafter, including, but not limited to, after decertification or after the officer's certification has been deemed inactive. Amends the Local Records Act. Provides that records of automatic expungement of misconduct records where an officer has been found not to have committed any wrong doing or the complaint was found to be frivolous shall be permanently retained and may not be destroyed. Amends the Intergovernmental Law Enforcement Officer's In-Service Training Act. Repeals provisions allowing a person to file notice of an anonymous complaint to the Illinois Law Enforcement Training Standards Board of any conduct the person believes a law enforcement officer has committed.

LRB103 31719 AWJ 60300 b

1 AN ACT concerning government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois State Police Act is amended by
5 changing Section 12.7 and by adding Section 12.8 as follows:

6 (20 ILCS 2610/12.7)

7 Sec. 12.7. Discretionary termination of Illinois State
8 Police officers.

9 (a) Definitions. For purposes of this Section 12.7:

10 "Duty to intervene" means the affirmative duty of an
11 officer who has an opportunity to intervene to: (i) intervene
12 to prevent or stop another officer in his or her presence from
13 using any unauthorized force or force that exceeds the degree
14 of force permitted, if any, without regard for chain of
15 command; and (ii) report an intervention under item (i) no
16 later than 5 days after the incident to the person designated
17 or identified by the Director in a manner prescribed by the
18 Director, including the date, time, and place of the
19 occurrence; the identity, if known, and description of the
20 participants; and a description of the intervention actions
21 taken and whether they were successful. ~~an obligation to~~
22 ~~intervene to prevent harm from occurring that arises when an~~
23 ~~officer is present and has reason to know:~~

1 ~~(1) that excessive force is being used; or~~
2 ~~(2) that any constitutional violation has been~~
3 ~~committed by a law enforcement official; and the officer~~
4 ~~has a realistic opportunity to intervene.~~

5 ~~This duty applies equally to supervisory and~~
6 ~~nonsupervisory officers. If aid is required, the officer~~
7 ~~shall not, when reasonable to administer aid, knowingly~~
8 ~~and willingly refuse to render aid as defined by State or~~
9 ~~federal law. An officer does not violate this duty if the~~
10 ~~failure to render aid is due to circumstances such as lack~~
11 ~~of appropriate specialized training, lack of resources or~~
12 ~~equipment, or both, or if it is unsafe or impracticable to~~
13 ~~render aid.~~

14 "Excessive use of force" means using force in violation of
15 State or federal law.

16 "False statement" means:

17 (1) any knowingly false statement provided on a form
18 or report;

19 (2) that the writer does not believe to be true; and

20 (3) that the writer includes to mislead a public
21 servant in performing that public servant's official
22 functions.

23 "Perjury" has the meaning as defined under Sections 32-2
24 and 32-3 of the Criminal Code of 2012.

25 "Tampers with or fabricates evidence" means if a law
26 enforcement officer:

1 (1) has reason to believe that an official proceeding
2 is pending or may be instituted; and

3 (2) alters, destroys, conceals, or removes any record,
4 document, data, video or thing to impair its validity or
5 availability in the proceeding.

6 (b) Discretionary termination conduct. The Board may
7 terminate an Illinois State Police officer upon a
8 determination by the Board that the Illinois State Police
9 officer has:

10 (1) committed an act that would constitute a felony or
11 misdemeanor which could serve as basis for automatic
12 decertification, whether or not the law enforcement
13 officer was criminally prosecuted, and whether or not the
14 law enforcement officer's employment was terminated;

15 (2) exercised excessive use of force;

16 (3) failed to comply with the officer's duty to
17 intervene, including through acts or omission;

18 (4) tampered with a dash camera or body-worn camera or
19 data recorded by a dash camera or body-worn camera or
20 directed another to tamper with or turn off a dash camera
21 or body-worn camera or data recorded by a dash camera or
22 body-worn camera for the purpose of concealing, destroying
23 or altering potential evidence;

24 (5) engaged in the following conduct relating to the
25 reporting, investigation, or prosecution of a crime:
26 committed perjury, made a false statement, or knowingly

1 tampered with or fabricated evidence;

2 (6) engaged in any unprofessional, unethical,
3 deceptive, or deleterious conduct or practice harmful to
4 the public; such conduct or practice need not have
5 resulted in actual injury to any person. As used in this
6 paragraph, the term "unprofessional conduct" shall include
7 any departure from, or failure to conform to, the minimal
8 standards of acceptable and prevailing practice of an
9 officer.

10 (c) If an officer enters a plea of guilty, nolo
11 contendere, stipulates to the facts or is found guilty of a
12 violation of any law, or if there is any other Board or
13 judicial determination that will support any punitive measure
14 taken against the officer, such action by the officer or
15 judicial entity may be considered for the purposes of this
16 Section. Termination under this Section shall be by clear and
17 convincing evidence. If the Board votes to terminate, the
18 Board shall put its decision in writing, setting forth the
19 specific reasons for its decision. Final decisions under this
20 Section are reviewable under the Administrative Review Law.

21 (d) The Illinois State Police Merit Board shall report all
22 terminations under this Section to the Officer Professional
23 Conduct Database provided in Section 9.2 of the Illinois
24 Police Training Act.

25 (e) Nothing in this Act shall require an Illinois State
26 Police officer to waive any applicable constitutional rights.

1 (f) Nothing in this Section shall prohibit the Merit Board
2 from administering discipline up to and including termination
3 for violations of Illinois State Police policies and
4 procedures pursuant to other Sections of this Act.

5 (Source: P.A. 101-652, eff. 1-1-22; 102-813, eff. 5-13-22.)

6 (20 ILCS 2610/12.8 new)

7 Sec. 12.8. Retaliation against an officer. A member of the
8 Illinois State Police shall not discipline or retaliate in any
9 way against an officer for exercising the officer's duty to
10 intervene, as that term is defined in Section 12.7, for
11 reporting unconstitutional or unlawful conduct, or for failing
12 to follow what the officer reasonably believes is an
13 unconstitutional or unlawful directive.

14 Section 10. The Local Records Act is amended by changing
15 Section 25 as follows:

16 (50 ILCS 205/25)

17 Sec. 25. Police misconduct records. Notwithstanding any
18 other provision of law to the contrary, all public records and
19 nonpublic records related to complaints, investigations, and
20 adjudications of police misconduct and records related to
21 automatic expungement of misconduct records where an officer
22 has been found not to have committed any wrong doing or the
23 complaint was found to be frivolous shall be permanently

1 retained and may not be destroyed.

2 (Source: P.A. 101-652, eff. 7-1-21.)

3 Section 15. The Illinois Police Training Act is amended by
4 changing Sections 6, 6.3, and 6.7 as follows:

5 (50 ILCS 705/6) (from Ch. 85, par. 506)

6 Sec. 6. Powers and duties of the Board; selection and
7 certification of schools. The Board shall select and certify
8 schools within the State of Illinois for the purpose of
9 providing basic training for probationary law enforcement
10 officers, probationary county corrections officers, and court
11 security officers and of providing advanced or in-service
12 training for permanent law enforcement officers or permanent
13 county corrections officers, which schools may be either
14 publicly or privately owned and operated. In addition, the
15 Board has the following power and duties:

16 a. To require law enforcement agencies to furnish such
17 reports and information as the Board deems necessary to
18 fully implement this Act.

19 b. To establish appropriate mandatory minimum
20 standards relating to the training of probationary local
21 law enforcement officers or probationary county
22 corrections officers, and in-service training of permanent
23 law enforcement officers.

24 c. To provide appropriate certification to those

1 probationary officers who successfully complete the
2 prescribed minimum standard basic training course.

3 d. To review and approve annual training curriculum
4 for county sheriffs.

5 e. To review and approve applicants to ensure that no
6 applicant is admitted to a certified academy unless the
7 applicant is a person of good character and has not been
8 convicted of, found guilty of, entered a plea of guilty
9 to, or entered a plea of nolo contendere to a felony
10 offense, any of the misdemeanors in Sections 11-1.50,
11 11-6, 11-6.5, 11-6.6, 11-9.1, 11-9.1B, 11-14, 11-14.1,
12 11-30, 12-2, 12-3.2, 12-3.4, 12-3.5, 16-1, 17-1, 17-2,
13 26.5-1, 26.5-2, 26.5-3, 28-3, 29-1, any misdemeanor in
14 violation of any Section of Part E of Title III of the
15 Criminal Code of 1961 or the Criminal Code of 2012, or
16 subsection (a) of Section 17-32 of the Criminal Code of
17 1961 or the Criminal Code of 2012, or Section 5 or 5.2 of
18 the Cannabis Control Act, or a crime involving moral
19 turpitude under the laws of this State or any other state
20 which if committed in this State would be punishable as a
21 felony or a crime of moral turpitude, or any felony or
22 misdemeanor in violation of federal law or the law of any
23 state that is the equivalent of any of the offenses
24 specified therein. The Board may appoint investigators who
25 shall enforce the duties conferred upon the Board by this
26 Act.

1 For purposes of this paragraph e, a person is
2 considered to have been convicted of, found guilty of, or
3 entered a plea of guilty to, plea of nolo contendere to
4 regardless of whether the adjudication of guilt or
5 sentence is withheld or not entered thereon. This includes
6 sentences of supervision, conditional discharge, or first
7 offender probation, or any similar disposition provided
8 for by law.

9 f. To establish statewide standards for minimum
10 standards regarding regular mental health screenings for
11 probationary and permanent police officers, ensuring that
12 counseling sessions and screenings remain confidential.

13 g. To review and ensure all law enforcement officers
14 remain in compliance with this Act, and any administrative
15 rules adopted under this Act.

16 h. To suspend any certificate for a definite period,
17 limit or restrict any certificate, or revoke any
18 certificate.

19 i. The Board and the Panel shall have power to secure
20 by its subpoena and bring before it any person or entity in
21 this State and to take testimony either orally or by
22 deposition or both with the same fees and mileage and in
23 the same manner as prescribed by law in judicial
24 proceedings in civil cases in circuit courts of this
25 State. The Board and the Panel shall also have the power to
26 subpoena the production of documents, papers, files,

1 books, documents, and records, whether in physical or
2 electronic form, in support of the charges and for
3 defense, and in connection with a hearing or
4 investigation.

5 j. The Executive Director, the administrative law
6 judge designated by the Executive Director, and each
7 member of the Board and the Panel shall have the power to
8 administer oaths to witnesses at any hearing that the
9 Board is authorized to conduct under this Act and any
10 other oaths required or authorized to be administered by
11 the Board under this Act.

12 k. In case of the neglect or refusal of any person to
13 obey a subpoena issued by the Board and the Panel, any
14 circuit court, upon application of the Board and the
15 Panel, through the Illinois Attorney General, may order
16 such person to appear before the Board and the Panel give
17 testimony or produce evidence, and any failure to obey
18 such order is punishable by the court as a contempt
19 thereof. This order may be served by personal delivery, by
20 email, or by mail to the address of record or email address
21 of record.

22 l. The Board shall have the power to administer state
23 certification examinations. Any and all records related to
24 these examinations, including, but not limited to, test
25 questions, test formats, digital files, answer responses,
26 answer keys, and scoring information shall be exempt from

1 disclosure.

2 m. To make grants, subject to appropriation, to units
3 of local government and public institutions of higher
4 education for the purposes of hiring and retaining law
5 enforcement officers.

6 n. To make rules that must be followed by each law
7 enforcement agency prohibiting a member of a law
8 enforcement agency from disciplining or retaliating in any
9 way against a law enforcement officer for exercising the
10 officer's duty to intervene, as that term is defined in
11 Section 6.3, for reporting unconstitutional or unlawful
12 conduct, or for failing to follow what the officer
13 reasonably believes is an unconstitutional or unlawful
14 directive.

15 (Source: P.A. 101-187, eff. 1-1-20; 101-652, Article 10,
16 Section 10-143, eff. 7-1-21; 101-652, Article 25, Section
17 25-40, eff. 1-1-22; 102-687, eff. 12-17-21; 102-694, eff.
18 1-7-22; 102-1115, eff. 1-9-23.)

19 (50 ILCS 705/6.3)

20 Sec. 6.3. Discretionary decertification of full-time and
21 part-time law enforcement officers.

22 (a) Definitions. For purposes of this Section 6.3:

23 "Duty to intervene" means the affirmative duty of an
24 officer who has an opportunity to intervene to: (i) intervene
25 to prevent or stop another officer in his or her presence from

1 using any unauthorized force or force that exceeds the degree
2 of force permitted, if any, without regard for chain of
3 command; and (ii) report an intervention under item (i) no
4 later than 5 days after the incident to the person designated
5 or identified by the law enforcement agency in a manner
6 prescribed by the agency, including the date, time, and place
7 of the occurrence; the identity, if known, and description of
8 the participants; and a description of the intervention
9 actions taken and whether they were successful. ~~an obligation~~
10 ~~to intervene to prevent harm from occurring that arises when:~~
11 ~~an officer is present, and has reason to know (1) that~~
12 ~~excessive force is being used or that any constitutional~~
13 ~~violation has been committed by a law enforcement official;~~
14 ~~and (2) the officer has a realistic opportunity to intervene.~~
15 ~~This duty applies equally to supervisory and nonsupervisory~~
16 ~~officers. If aid is required, the officer shall not, when~~
17 ~~reasonable to administer aid, knowingly and willingly refuse~~
18 ~~to render aid as defined by State or federal law. An officer~~
19 ~~does not violate this duty if the failure to render aid is due~~
20 ~~to circumstances such as lack of appropriate specialized~~
21 ~~training, lack of resources or equipment, or if it is unsafe or~~
22 ~~impracticable to render aid.~~

23 "Excessive use of force" means using force in violation of
24 State or federal law.

25 "False statement" means (1) any knowingly false statement
26 provided on a form or report, (2) that the writer does not

1 believe to be true, and (3) that the writer includes to mislead
2 a public servant in performing the public servant's official
3 functions.

4 "Perjury" means that as defined under Sections 32-2 and
5 32-3 of the Criminal Code of 2012.

6 "Tampers with or fabricates evidence" means if a law
7 enforcement officer (1) has reason to believe that an official
8 proceeding is pending or may be instituted, and (2) alters,
9 destroys, conceals, or removes any record, document, data,
10 video or thing to impair its validity or availability in the
11 proceeding.

12 (b) Decertification conduct. The Board has the authority
13 to decertify a full-time or a part-time law enforcement
14 officer upon a determination by the Board that the law
15 enforcement officer has:

16 (1) committed an act that would constitute a felony or
17 misdemeanor which could serve as basis for automatic
18 decertification, whether or not the law enforcement
19 officer was criminally prosecuted, and whether or not the
20 law enforcement officer's employment was terminated;

21 (2) exercised excessive use of force;

22 (3) failed to comply with the officer's duty to
23 intervene, including through acts or omissions;

24 (4) tampered with a dash camera or body-worn camera or
25 data recorded by a dash camera or body-worn camera or
26 directed another to tamper with or turn off a dash camera

1 or body-worn camera or data recorded by a dash camera or
2 body-worn camera for the purpose of concealing, destroying
3 or altering potential evidence;

4 (5) engaged in the following conduct relating to the
5 reporting, investigation, or prosecution of a crime:
6 committed perjury, made a false statement, or knowingly
7 tampered with or fabricated evidence; and

8 (6) engaged in any unprofessional, unethical,
9 deceptive, or deleterious conduct or practice harmful to
10 the public; such conduct or practice need not have
11 resulted in actual injury to any person. As used in this
12 paragraph, the term "unprofessional conduct" shall include
13 any departure from, or failure to conform to, the minimal
14 standards of acceptable and prevailing practice of an
15 officer.

16 (b-5) The Board has the authority to decertify a full-time
17 or part-time law enforcement officer notwithstanding whether a
18 law enforcement agency takes disciplinary action against a law
19 enforcement officer for the same underlying conduct as
20 outlined in subsection (b).

21 (c) Notice of Alleged Violation.

22 (1) The following individuals and agencies shall
23 notify the Board within 7 days of becoming aware of any
24 violation described in subsection (b):

25 (A) A law enforcement agency as defined in Section
26 2 or any law enforcement officer of this State. For

1 this subsection (c), law enforcement agency includes,
2 but is not limited to, a civilian review board, an
3 inspector general, and legal counsel for a law
4 enforcement agency.

5 (B) The Executive Director of the Board;

6 (C) A State's Attorney's Office of this State.

7 "Becoming aware" does not include confidential
8 communications between agency lawyers and agencies
9 regarding legal advice. For purposes of this subsection,
10 "law enforcement agency" does not include the Illinois
11 Attorney General when providing legal representation to a
12 law enforcement officer under the State Employee
13 Indemnification Act.

14 (2) Any person may also notify the Board of any
15 conduct the person believes a law enforcement officer has
16 committed as described in subsection (b). Such
17 notifications may be made confidentially. Notwithstanding
18 any other provision in state law or any collective
19 bargaining agreement, the Board shall accept notice and
20 investigate any allegations from individuals who remain
21 confidential.

22 (3) Upon written request, the Board shall disclose to
23 the individual or entity who filed a notice of violation
24 the status of the Board's review.

25 (d) Form. The notice of violation reported under
26 subsection (c) shall be on a form prescribed by the Board in

1 its rules. The form shall be publicly available by paper and
2 electronic means. The form shall include fields for the
3 following information, at a minimum:

4 (1) the full name, address, and telephone number of
5 the person submitting the notice;

6 (2) if submitted under subsection (c)(1), the agency
7 name and title of the person submitting the notice;

8 (3) the full name, badge number, employing agency, and
9 physical description of the officer, if known;

10 (4) the full name or names, address or addresses,
11 telephone number or numbers, and physical description or
12 descriptions of any witnesses, if known;

13 (5) a concise statement of facts that describe the
14 alleged violation and any copies of supporting evidence
15 including but not limited to any photographic, video, or
16 audio recordings of the incident;

17 (6) whether the person submitting the notice has
18 notified any other agency; and

19 (7) an option for an individual, who submits directly
20 to the Board, to consent to have the individual's identity
21 disclosed. The identity of any individual providing
22 information or reporting any possible or alleged violation
23 to the Board shall be kept confidential and may not be
24 disclosed without the consent of that individual, unless
25 the individual consents to disclosure of the individual's
26 name or disclosure of the individual's identity is

1 otherwise required by law. The confidentiality granted by
2 this subsection does not preclude the disclosure of the
3 identity of a person in any capacity other than as the
4 source of an allegation.

5 Nothing in this subsection (d) shall preclude the Board
6 from receiving, investigating, or acting upon allegations made
7 confidentially or in a format different from the form provided
8 for in this subsection.

9 (e) Preliminary review.

10 (1) The Board shall complete a preliminary review of
11 the allegations to determine whether there is sufficient
12 information to warrant a further investigation of any
13 violations of the Act. Upon initiating a preliminary
14 review of the allegations, the Board shall notify the head
15 of the law enforcement agency that employs the law
16 enforcement officer who is the subject of the allegations.
17 At the request of the Board, the law enforcement agency
18 must submit any copies of investigative findings,
19 evidence, or documentation to the Board in accordance with
20 rules adopted by the Board to facilitate the Board's
21 preliminary review. The Board may correspond with the law
22 enforcement agency, official records clerks or any
23 investigative agencies in conducting its preliminary
24 review.

25 (2) During the preliminary review, the Board will take
26 all reasonable steps to discover any and all objective

1 verifiable evidence relevant to the alleged violation
2 through the identification, retention, review, and
3 analysis of all currently available evidence, including,
4 but not limited to: all time-sensitive evidence, audio and
5 video evidence, physical evidence, arrest reports,
6 photographic evidence, GPS records, computer data, lab
7 reports, medical documents, and witness interviews. All
8 reasonable steps will be taken to preserve relevant
9 evidence identified during the preliminary investigation.

10 (3) If after a preliminary review of the alleged
11 violation or violations, the Board believes there is
12 sufficient information to warrant further investigation of
13 any violations of this Act, the alleged violation or
14 violations shall be assigned for investigation in
15 accordance with subsection (f).

16 (4) If after a review of the allegations, the Board
17 believes there is insufficient information supporting the
18 allegations to warrant further investigation, it may close
19 a notice. Notification of the Board's decision to close a
20 notice shall be sent to all relevant individuals,
21 agencies, and any entities that received notice of the
22 violation under subsection (c) within 30 days of the
23 notice being closed, except in cases where the notice is
24 submitted anonymously if the complainant is unknown.

25 (5) Except when the Board has received notice under
26 subparagraph (A) of paragraph (1) of subsection (c), no

1 later than 30 days after receiving notice, the Board shall
2 report any notice of violation it receives to the relevant
3 law enforcement agency, unless reporting the notice would
4 jeopardize any subsequent investigation. The Board shall
5 also record any notice of violation it receives to the
6 Officer Professional Conduct Database in accordance with
7 Section 9.2. The Board shall report to the appropriate
8 State's Attorney any alleged violations that contain
9 allegations, claims, or factual assertions that, if true,
10 would constitute a violation of Illinois law. The Board
11 shall inform the law enforcement officer via certified
12 mail that it has received a notice of violation against
13 the law enforcement officer.

14 If the Board determines that due to the circumstances
15 and the nature of the allegation that it would not be
16 prudent to notify the law enforcement officer and the
17 officer's law enforcement agency unless and until the
18 filing of a Formal Complaint, the Board shall document in
19 the file the reason or reasons a notification was not
20 made.

21 (6) If the law enforcement officer is involved in a
22 criminal proceeding on the same subject as the notice of
23 violation, the Board is responsible for maintaining a
24 current status report including court dates, hearings,
25 pleas, adjudication status and sentencing. A State's
26 Attorney's Office must notify the Board of any criminal

1 charges filed against a law enforcement officer, and must
2 provide updates of significant developments to the Board
3 in a timely manner but no later than 30 days after such
4 developments.

5 (f) Investigations; requirements. Investigations are to be
6 assigned after a preliminary review, unless the investigations
7 were closed under paragraph (4) of subsection (e), as follows
8 in paragraphs (1), (2), and (3) of this subsection (f).

9 (1) A law enforcement agency that submits a notice of
10 violation to the Board under subparagraph (A) of paragraph
11 (1) of subsection (c) shall be responsible for conducting
12 an investigation of the underlying allegations except
13 when: (i) the law enforcement agency refers the notice to
14 another law enforcement agency or the Board for
15 investigation and such other agency or the Board agrees to
16 conduct the investigation; (ii) an external, independent,
17 or civilian oversight agency conducts the investigation in
18 accordance with local ordinance or other applicable law;
19 or (iii) the Board has determined that it will conduct the
20 investigation based upon the facts and circumstances of
21 the alleged violation, including but not limited to,
22 investigations regarding the Chief or Sheriff of a law
23 enforcement agency, familial conflict of interests,
24 complaints involving a substantial portion of a law
25 enforcement agency, or complaints involving a policy of a
26 law enforcement agency. Any agency or entity conducting an

1 investigation under this paragraph (1) shall submit
2 quarterly reports to the Board regarding the progress of
3 the investigation. The quarterly report shall be reviewed
4 by the individual or individuals at the Board who
5 conducted the preliminary review, if available.

6 Any agency or entity conducting an investigation under
7 this paragraph (1) shall, within 7 days of completing an
8 investigation, deliver an Investigative Summary Report and
9 copies of any administrative evidence to the Board. If the
10 Board finds an investigation conducted under this
11 paragraph (1) is incomplete, unsatisfactory, or deficient
12 in any way, the Board may direct the investigating entity
13 or agency to take any additional investigative steps
14 deemed necessary to thoroughly and satisfactorily complete
15 the investigation, or the Board may take any steps
16 necessary to complete the investigation. The investigating
17 entity or agency or, when necessary, the Board will then
18 amend and re-submit the Investigative Summary Report to
19 the Board for approval.

20 The Board shall submit a report to the investigating
21 entity disclosing the name, address, and telephone numbers
22 of persons who have knowledge of facts which are the
23 subject of the investigation and identifying the subject
24 matter of their knowledge.

25 (2) The Board shall investigate and complete an
26 Investigative Summary Report when a State's Attorney's

1 Office submits a notice of violation to the Board under
2 (c) (1) (C).

3 (3) When a person submits a notice to the Board under
4 paragraph (2) of subsection (c), The Board shall assign
5 the investigation to the law enforcement agency that
6 employs the law enforcement officer, except when: (i) the
7 law enforcement agency requests to refer the notice to
8 another law enforcement agency or the Board for
9 investigation and such other agency or the Board agrees to
10 conduct the investigation; (ii) an external, independent,
11 or civilian oversight agency conducts the investigation in
12 accordance with local ordinance or other applicable law;
13 or (iii) the Board has determined that it will conduct the
14 investigation based upon the facts and circumstances of
15 the alleged violation, including but not limited to,
16 investigations regarding the Chief or Sheriff of a law
17 enforcement agency, familial conflict of interests,
18 complaints involving a substantial portion of a law
19 enforcement agency, or complaints involving a policy of a
20 law enforcement agency.

21 The investigating entity or agency shall submit
22 quarterly reports to the Board regarding the progress of
23 the investigation in a form to be determined by the Board.
24 The quarterly report shall be reviewed by the individual
25 at the Board who conducted the preliminary review, if
26 available.

1 The investigating entity or agency shall, within 7 days of
2 completing an investigation, deliver an Investigative
3 Summary Report and copies of any evidence to the Board. If
4 the Board finds an investigation conducted under this
5 subsection (f)(3) is incomplete, unsatisfactory, or
6 deficient in any way, the Board may direct the
7 investigating entity to take any additional investigative
8 steps deemed necessary to thoroughly and satisfactorily
9 complete the investigation, or the Board may take any
10 steps necessary to complete the investigation. The
11 investigating entity or agency or, when necessary, the
12 Board will then amend and re-submit the Investigative
13 Summary Report to the Board for approval. The
14 investigating entity shall cooperate with and assist the
15 Board, as necessary, in any subsequent investigation.

16 (4) Concurrent Investigations. The Board may, at any
17 point, initiate a concurrent investigation under this
18 section. The original investigating entity shall timely
19 communicate, coordinate, and cooperate with the Board to
20 the fullest extent. The Board shall promulgate rules that
21 shall address, at a minimum, the sharing of information
22 and investigative means such as subpoenas and interviewing
23 witnesses.

24 (5) Investigative Summary Report. An Investigative
25 Summary Report shall contain, at a minimum, the
26 allegations and elements within each allegation followed

1 by the testimonial, documentary, or physical evidence that
2 is relevant to each such allegation or element listed and
3 discussed in association with it. All persons who have
4 been interviewed and listed in the Investigative Summary
5 Report will be identified as a complainant, witness,
6 person with specialized knowledge, or law enforcement
7 employee.

8 (6) Each law enforcement agency shall adopt a written
9 policy regarding the investigation of conduct under
10 subsection (a) that involves a law enforcement officer
11 employed by that law enforcement agency. The written
12 policy adopted must include the following, at a minimum:

13 (a) Each law enforcement officer shall immediately
14 report any conduct under subsection (b) to the
15 appropriate supervising officer.

16 (b) The written policy under this Section shall be
17 available for inspection and copying under the Freedom
18 of Information Act, and not subject to any exemption
19 of that Act.

20 (7) Nothing in this Act shall prohibit a law
21 enforcement agency from conducting an investigation for
22 the purpose of internal discipline. However, any such
23 investigation shall be conducted in a manner that avoids
24 interference with, and preserves the integrity of, any
25 separate investigation by the Board being conducted.

26 (g) Formal complaints. Upon receipt of an Investigative

1 Summary Report, the Board shall review the Report and any
2 relevant evidence obtained and determine whether there is
3 reasonable basis to believe that the law enforcement officer
4 committed any conduct that would be deemed a violation of this
5 Act. If after reviewing the Report and any other relevant
6 evidence obtained, the Board determines that a reasonable
7 basis does exist, the Board shall file a formal complaint with
8 the Certification Review Panel.

9 (h) Formal Complaint Hearing.

10 (1) Upon issuance of a formal complaint, the Panel
11 shall set the matter for an initial hearing in front of an
12 administrative law judge. At least 30 days before the date
13 set for an initial hearing, the Panel must, in writing,
14 notify the law enforcement officer subject to the
15 complaint of the following:

16 (i) the allegations against the law enforcement
17 officer, the time and place for the hearing, and
18 whether the law enforcement officer's certification
19 has been temporarily suspended under Section 8.3;

20 (ii) the right to file a written answer to the
21 complaint with the Panel within 30 days after service
22 of the notice;

23 (iii) if the law enforcement officer fails to
24 comply with the notice of the default order in
25 paragraph (2), the Panel shall enter a default order
26 against the law enforcement officer along with a

1 finding that the allegations in the complaint are
2 deemed admitted, and that the law enforcement
3 officer's certification may be revoked as a result;
4 and

5 (iv) the law enforcement officer may request an
6 informal conference to surrender the officer's
7 certification.

8 (2) The Board shall send the law enforcement officer
9 notice of the default order. The notice shall state that
10 the officer has 30 days to notify the Board in writing of
11 their desire to have the order vacated and to appear
12 before the Board. If the law enforcement officer does not
13 notify the Board within 30 days, the Board may set the
14 matter for hearing. If the matter is set for hearing, the
15 Board shall send the law enforcement officer the notice of
16 the date, time and location of the hearing. If the law
17 enforcement officer or counsel for the officer does
18 appear, at the Board's discretion, the hearing may proceed
19 or may be continued to a date and time agreed upon by all
20 parties. If on the date of the hearing, neither the law
21 enforcement officer nor counsel for the officer appears,
22 the Board may proceed with the hearing for default in
23 their absence.

24 (3) If the law enforcement officer fails to comply
25 with paragraph (2), all of the allegations contained in
26 the complaint shall be deemed admitted and the law

1 enforcement officer shall be decertified if, by a majority
2 vote of the panel, the conduct charged in the complaint is
3 found to constitute sufficient grounds for decertification
4 under this Act. Notice of the decertification decision may
5 be served by personal delivery, by mail, or, at the
6 discretion of the Board, by electronic means as adopted by
7 rule to the address or email address specified by the law
8 enforcement officer in the officer's last communication
9 with the Board. Notice shall also be provided to the law
10 enforcement officer's employing law enforcement agency.

11 (4) The Board, at the request of the law enforcement
12 officer subject to the Formal Complaint, may suspend a
13 hearing on a Formal Complaint for no more than one year if
14 a concurrent criminal matter is pending. If the law
15 enforcement officer requests to have the hearing
16 suspended, the law enforcement officer's certification
17 shall be deemed inactive until the law enforcement
18 officer's Formal Complaint hearing concludes. The Board or
19 the law enforcement officer may request to have the
20 hearing suspended for up to 6 additional months for good
21 cause. This request may be renewed. For purposes of this
22 paragraph (4), "good cause" means an incident or
23 occurrence that is beyond the control of the requester and
24 that prevents the hearing from occurring, or holding the
25 hearing would impose an undue hardship or prejudice on the
26 requester.

1 (5) Surrender of certification or waiver. Upon the
2 Board's issuance of a complaint, and prior to hearing on
3 the matter, a law enforcement officer may choose to
4 surrender the officer's certification or waiver by
5 notifying the Board in writing of the officer's decision
6 to do so. Upon receipt of such notification from the law
7 enforcement officer, the Board shall immediately decertify
8 the officer, or revoke any waiver previously granted. In
9 the case of a surrender of certification or waiver, the
10 Board's proceeding shall terminate.

11 (6) Appointment of administrative law judges. The
12 Board shall retain any attorney licensed to practice law
13 in the State of Illinois to serve as an administrative law
14 judge in any action involving a law enforcement officer
15 under this Act. The administrative law judge shall be
16 retained to a term of no greater than 4 years. If more than
17 one judge is retained, the terms shall be staggered. The
18 administrative law judge has full authority to conduct the
19 hearings.

20 Administrative law judges will receive initial and
21 annual training that is adequate in quality, quantity,
22 scope, and type, and will cover, at minimum the following
23 topics:

24 (i) constitutional and other relevant law on
25 police-community encounters, including the law on the
26 use of force and stops, searches, and arrests;

- 1 (ii) police tactics;
- 2 (iii) investigations of police conduct;
- 3 (iv) impartial policing;
- 4 (v) policing individuals in crisis;
- 5 (vi) Illinois police policies, procedures, and
6 disciplinary rules;
- 7 (vii) procedural justice; and
- 8 (viii) community outreach.

9 The Board shall determine the content and extent of
10 the training within the scope provided for by this
11 subsection.

12 (7) Hearing. At the hearing, the administrative law
13 judge will hear the allegations alleged in the complaint.
14 The law enforcement officer, the counsel of the officer's
15 choosing, and the Board, or the officer's counsel, shall
16 be afforded the opportunity to present any pertinent
17 statements, testimony, evidence, and arguments. The law
18 enforcement officer shall be afforded the opportunity to
19 request that the Board compel the attendance of witnesses
20 and production of related documents. After the conclusion
21 of the hearing, the administrative law judge shall report
22 any findings of fact, conclusions of law, and recommended
23 disposition to the Panel. If the law enforcement officer
24 objects to any procedural or substantive legal portion of
25 the report, the officer may do so by written brief filed
26 with the Panel within 14 days after receipt of the report.

1 The Panel may grant reasonable extensions for good cause
2 shown or when mutually agreed upon by the parties.

3 No later than 28 days before the hearing, a party
4 shall disclose the following:

5 (i) The name and, if known, the address and
6 telephone number of each individual likely to have
7 information relevant to the hearing that the
8 disclosing party may use to support its claims or
9 defenses. This includes, but is not limited to, any
10 name that has previously been held as confidential by
11 the Board.

12 (ii) A copy of any documents and videos that are in
13 the possession, custody, or control of the party, and
14 that the disclosing party may use to support its
15 claims or defenses.

16 (8) Certification Review Meeting. Upon receipt of the
17 administrative law judge's findings of fact, conclusions
18 of law, and recommended disposition, and any submitted
19 objections from the law enforcement officer, the Panel
20 shall call for a certification review meeting.

21 In such a meeting, the Panel may adjourn into a closed
22 conference for the purposes of deliberating on the
23 evidence presented during the hearing. In closed
24 conference, the Panel shall consider the hearing officer's
25 findings of fact, conclusions of law, and recommended
26 disposition and may deliberate on all evidence and

1 testimony received and may consider the weight and
2 credibility to be given to the evidence received. No new
3 or additional evidence may be presented to the Panel.
4 After concluding its deliberations, the Panel shall
5 convene in open session for its consideration of the
6 matter. If a simple majority of the Panel finds that no
7 allegations in the complaint supporting one or more
8 charges of misconduct are proven by clear and convincing
9 evidence, then the Panel shall recommend to the Board that
10 the complaint be dismissed. If a simple majority of the
11 Panel finds that the allegations in the complaint
12 supporting one or more charges of misconduct are proven by
13 clear and convincing evidence, then the Panel shall
14 recommend to the Board to decertify the officer. The Panel
15 shall prepare a summary report as soon as practicable
16 after the completion of the meeting including the
17 following: the hearing officer's findings of fact,
18 conclusions of law, recommended disposition, and the
19 Panel's order.

20 (9) Final action by the Board. After receiving the
21 Panel's recommendations and any objections by the law
22 enforcement officer, and after due consideration of the
23 Panel's recommendations, the Board, by majority vote,
24 shall issue a final decision to decertify the law
25 enforcement officer or take no action in regard to the law
26 enforcement officer. No new or additional evidence may be

1 presented to the Board. If the Board makes a final
2 decision contrary to the recommendations of the Panel, the
3 Board shall set forth in its final written decision the
4 specific written reasons for not following the Panel's
5 recommendations. A copy of the Board's final decision
6 shall be served upon the law enforcement officer by the
7 Board, either personally or as provided in this Act for
8 the service of a notice of hearing. A copy of the Board's
9 final decision also shall be delivered to the last
10 employing law enforcement agency, the complainant, and the
11 Panel.

12 (10) Reconsideration of the Board's Decision. Within
13 30 days after service of the Board's final decision, the
14 Panel or the law enforcement officer may file a written
15 motion for reconsideration with the Review Committee. The
16 motion for reconsideration shall specify the particular
17 grounds for reconsideration. The non-moving party may
18 respond to the motion for reconsideration. The Review
19 Committee shall only address the issues raised by the
20 parties.

21 The Review Committee may deny the motion for
22 reconsideration, or it may grant the motion in whole or in
23 part and issue a new final decision in the matter. The
24 Review Committee must notify the law enforcement officer
25 and their last employing law enforcement agency within 14
26 days of a denial and state the reasons for denial.

1 (i) This Section applies to conduct by a full-time or
2 part-time law enforcement officer in violation of subsection
3 (b) that occurred before, on, or after the effective date of
4 this amendatory Act of the 102nd General Assembly.

5 (j) Notwithstanding any provision of law to the contrary,
6 the changes made to this Section by this amendatory Act of the
7 102nd General Assembly and Public Act 101-652 take effect July
8 1, 2022.

9 (Source: P.A. 101-652, eff. 1-1-22; 102-694, eff. 1-7-22.)

10 (50 ILCS 705/6.7)

11 Sec. 6.7. Certification and decertification procedures
12 under Act exclusive. Notwithstanding any other law, the
13 certification and decertification procedures, including the
14 conduct of any investigation or hearing, under this Act are
15 the sole and exclusive procedures for certification as law
16 enforcement officers in Illinois and are not subject to
17 collective bargaining under the Illinois Public Labor
18 Relations Act or appealable except as set forth herein. The
19 provisions of any collective bargaining agreement adopted by a
20 law enforcement agency and covering the law enforcement
21 officer or officers under investigation shall be inapplicable
22 to any investigation or hearing conducted under this Act.

23 ~~An individual has no property interest in law enforcement~~
24 ~~certification at the time of initial certification or at any~~
25 ~~time thereafter, including, but not limited to, after~~

1 ~~decertification or after the officer's certification has been~~
2 ~~deemed inactive.~~ Nothing in this Act shall be construed to
3 create a requirement that a law enforcement agency shall
4 continue to employ a law enforcement officer who has been
5 decertified.

6 (Source: P.A. 101-652, eff. 1-1-22; 102-694, eff. 1-7-22.)

7 (50 ILCS 727/1-35 rep.)

8 Section 20. The Police and Community Relations Improvement
9 Act is amended by repealing Section 1-35.