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**VERSIONS OF THIS BILL**

[12/08/2022](https://www.scstatehouse.gov/sess125_2023-2024/prever/3338_20221208.docx)

A bill

TO AMEND THE SOUTH CAROLINA code of laws BY ENACTING THE “ETHICAL POLICING TRANSPARENCY AND ACCOUNTABILITY ACT” BY ADDING CHAPTER 2 TO TITLE 23 SO AS TO DEFINE CERTAIN TERMS, TO PROVIDE FOR A FRAMEWORK TO INSTITUTIONALIZE HIGH STANDARDS FOR POLICING PRACTICES AND CONDUCT BY THE CREATION OF CITIZEN REVIEW BOARDS AND THEIR DUTIES, TO PROVIDE FOR THE USE OF STANDARD FORMS TO RECORD LAW ENFORCEMENT OFFICER COMPLAINTS, TO PROVIDE LAW ENFORCEMENT AGENCIES SHALL RECORD ALL INSTANCES OF DISCIPLINARY ACTION AGAINST LAW ENFORCEMENT OFFICERS, TO PROVIDE ALL LAW ENFORCEMENT OFFICERS SHALL ENGAGE IN ETHICAL POLICING, TO PROVIDE PENALTIES FOR VIOLATING CERTAIN PROVISIONS OF THIS CHAPTER, TO PROVIDE LAW ENFORCEMENT OFFICERS MUST COMPLETE CERTAIN TRAINING AND CARRY LIABILITY INSURANCE, TO PROVIDE LAW ENFORCEMENT AGENCIES MUST RELEASE AN ANNUAL REPORT THAT CONTAINS COMPLAINTS FILED AND DISCIPLINARY ACTIONS IMPOSED ON ITS LAW ENFORCEMENT OFFICERS, AND TRACK THIS INFORMATION TO DETERMINE WHETHER CERTAIN UNETHICAL POLICING PATTERNS OF CONDUCT ARE OCCURRING, AND TO PROVIDE THAT CERTAIN CONDUCT BY LAW ENFORCEMENT OFFICERS SHALL PROHIBIT THEM FROM BEING REINSTATED, TRANSFERRED, OR EMPLOYED BY A LAW ENFORCEMENT AGENCY.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act must be known and may be cited as the “Ethical Policing Transparency and Accountability Act”.

SECTION 2. Title 23 of the S.C. Code is amended by adding:

CHAPTER 2

Ethical Policing Transparency and Accountability Act

 Section 23‑2‑15. As contained in this chapter:

 (1) “Board” means citizen review board.

 (2) “Bodily injury” means any injury caused to an individual’s person by a law enforcement officer as a result of law enforcement misconduct, including death.

 (3) “Citizen review board” means a board comprised of no less than five and no more than nine residents of the State, which meets no less than once every three months.

 (4) “Disciplinary action” means all discipline imposed as a result of conduct in violation of this chapter or the policies of a law enforcement agency.

 (5) “Disposition” means any status, applied to a complaint alleging law enforcement misconduct, after the complaint has been investigated, including investigations left incomplete or which are ongoing.

 (6) “Duty to intervene” means the requirement to intervene when misconduct occurs and to report any misconduct witnessed or learned of.

 (7) “Duty to safeguard life” means the requirement to refrain from law enforcement misconduct in the discharge of responsibilities, the requirement to discharge ones professional duties in the best interest of public safety, and the requirement to adhere to law enforcement policies and standards.

 (8) “Early warning system” means a system for electronically tracking complaints and disciplinary action, disaggregated by individual law enforcement officers.

 (9) “Ethical policing” means the discharge of responsibilities, stemming from employment as a law enforcement officer, which is devoid of law enforcement misconduct and which is carried out in conformance with this chapter, including the duty to safeguard life and the duty to intervene.

 (10) “Family unit” means individuals related by blood, marriage, or domestic partnership.

 (11) “Inspection” means the examination of information and records qualifying for public inspection, including securing physical copies and electronic copies, pursuant to the requirements of this chapter.

 (12) “Law enforcement misconduct” means conduct that violates ethical policing as defined in this section or the policies and standards of the employing law enforcement agency, including the following conduct:

 (a) excessive use of force;

 (b) bodily injury;

 (c) sexual violence;

 (d) exceeding authority;

 (e) racial profiling; and

 (f) failure to act on the duty to intervene.

 (13) “Qualified board member” means a resident of the State, no younger than eighteen years of age. However, the following individuals shall not be deemed qualified:

 (a) an elected or appointed official;

 (b) a member of a law enforcement agency; and

 (c) an employee or representative of any agency responsible for training or certifying law enforcement officers.

 Board membership shall reflect the general demographics of the jurisdiction it serves.

 Section 23‑2‑20. (A) A state or local jurisdiction shall have the right to form citizen review boards comprised of qualified board members.

 (B) Board membership shall be volunteer‑based. However, where a jurisdiction has appropriated funds for use by the board, members may be offered a stipend.

 (C) The board shall not spend more than fifty percent of its funds on stipends.

 (D) The board shall be required to adopt a policy statement of non‑discrimination. The policy statement shall apply to identification of qualified board members and the manner in which the board conducts its work. Members of the same family unit shall not serve on the board simultaneously and denial of membership in furtherance of this restriction shall not qualify as discrimination. A person shall not be denied the opportunity to serve on the board as a result of having been previously incarcerated.

 (E) Any person or entity who denies the public the right to form, or otherwise interferes with formation of a review board is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than thirty days.

 (F) Qualified board members shall serve a term of twelve consecutive months, but may not serve more than twenty‑four consecutive months. Board membership shall be limited to two terms.

 (G) A citizens review board shall convene for the purposes of discharging its responsibilities no less than once every three months.

 (H) The board shall have the authority to meet as often as it deems necessary to discharge its responsibilities.

 Section 23‑2‑25. (A) A municipality with a population of at least two thousand five hundred shall be qualified to form a board at the local level.

 (B) The opportunity to form a board at the local level must be extended to the residents of a qualified jurisdiction before a board serving the qualified jurisdiction can be formed at any other level.

 (C) A board formed at the local level shall have the authority to examine the policing practices, as set forth in this chapter, of any law enforcement agency providing service within the borders of its jurisdiction.

 (D) If the population requirements to form a board at the local level do not exist or where the residents of a qualified jurisdiction choose not to form a board at the local level, the board can be formed at the county level.

 (E) If a board is not formed at the county level, the board can be formed at the state level. A board formed at the state level can be comprised of qualified board members from anywhere within the State. A state‑level board shall not discharge its responsibilities within any jurisdiction already served by a board which has been formed at the local level. Where a local‑level board is formed after a state‑level board has been formed, the state‑level board shall yield to the local‑level board.

 Section 23‑2‑30. (A) A board shall have the authority to:

 (1) examine, at will, complaint records and records of disciplinary action to identify best practices related to a law enforcement agency’s response to, and its resolution of, law enforcement misconduct;

 (2) examine, at will, complaint records and records of disciplinary action to assess a law enforcement agency’s overall policing culture for conformance with ethical policing;

 (3) examine, at will, complaint records and records of disciplinary action upon receipt of notice from any member of the public alleging law enforcement misconduct;

 (4) examine, at will, complaint records and records of disciplinary action in response to publicly disclosed acts of alleged law enforcement misconduct;

 (5) investigate and issue findings on incidents, including the use of force by a law enforcement officer, death or serious injury to any person held in custody, serious abuse of authority or misconduct, allegedly discriminatory stops, and other incidents regarding the conduct of law enforcement officers or civilian employees of a law enforcement agency serving under the authority of the locality;

 (6) examine, at will, any written recommendation or final order issued as part of the disposition of a law enforcement action;

 (7) examine, at will, any written recommendation or final order issued by a hearing board or similar body with the responsibility of adjudicating law enforcement complaints or law enforcement disciplinary actions;

 (8) examine, at will, any recommendation resulting from an investigation or interrogation of a law enforcement officer;

 (9) examine, at will, complaint records and records of disciplinary action held by any state or local law enforcement agency providing services within the boundaries of the jurisdiction served by the board;

 (10) file a complaint, using the process set forth in this chapter, asserting law enforcement misconduct on behalf of a community member upon his request or upon the board’s impression that a violation of ethical policing has occurred;

 (11) engage in public education regarding its responsibilities and the breadth of its authority;

 (12) publish, for public consumption, its findings and recommendations;

 (13) request the agency with the authority to act on violations of this chapter to examine complaints of misconduct and records of disciplinary action for the purposes of determining whether a violation of this chapter has occurred;

 (14) initiate an independent investigation into misconduct complaints without regard to the disposition of those complaints. Where the State has not appropriated funds to be used by the board for these purposes, the board shall have the authority to solicit donations to cover the expenses of the independent investigation;

 (15) initiate an independent investigation into any law enforcement officer who has been reinstated and who does, or will, provide services within the borders of the jurisdiction served by the board. Where the State has not appropriated funds to be used by the board for these purposes, the board shall have the authority to solicit donations to cover the expenses of the independent investigation;

 (16) initiate an investigation into any person, other than a member of the judiciary, who reinstates a law enforcement official. Where the State or local governing body has not appropriated funds to be used by the board for these purposes, the board shall have the authority to solicit donations to cover the expenses of the independent investigation;

 (17) concordant with any investigation conducted pursuant to subsection (B)(1) or (2) and after consultation with the officer or employee’s direct supervisor or commander, to make binding disciplinary determinations in cases that involve serious breaches of departmental and professional standards, as defined by the locality. These disciplinary determinations may include letters of reprimand, suspension without pay, suspension with pay, demotion within the department, reassignment within the department, termination, involuntary restitution, or mediation to be implemented by the local governmental employee with ultimate supervisory authority over officers or employees of law enforcement agencies under the authority of the locality;

 (18) investigate policies, practices, and procedures of law enforcement agencies under the authority of the locality and to make recommendations regarding changes to the policies, practices, and procedures of law enforcement agencies under the authority of the locality. If the law enforcement agency declines to implement any recommended changes from the board, the law enforcement agency may be required to create a written record, which must be made available to the public, of its rationale for declining to implement recommendations of the board;

 (19) review all investigations conducted internally by law enforcement agencies under the authority of the locality, including internal investigations of civilians employed by the law enforcement agencies, and to issue findings regarding the accuracy, completeness, and impartiality of those investigations and the sufficiency of any discipline resulting from those investigations;

 (20) make public reports on the activities of the board, including investigations, hearings, findings, recommendations, determinations, and oversight activities;

 (21) undertake any other duties as reasonably necessary for the board to effectuate its lawful purpose as provided for in this section to effectively oversee the law enforcement agencies as authorized by the locality; and

 (22) hold hearings and, if after making a good faith effort to voluntarily obtain the attendance of witnesses and the production of books, papers, and other evidence necessary to perform its duties the board is unable to obtain such attendance or production, it may apply to the circuit court for a subpoena compelling the attendance of such witnesses or the production of such books, papers, and other evidence, and the court, upon good cause shown, may cause the subpoena to be issued. Any person so subpoenaed may apply to the court that issued the subpoena to quash it.

 (B) An examination authorized by this section shall extend to the complaint and disciplinary records of:

 (1) law enforcement officers; and

 (2) the chief law enforcement officer, his deputies and assistants, and any person exercising the duties and responsibilities common to the roles contained in this section.

 (C) Any person, agency, or entity who denies or otherwise thwarts the authority granted to a citizen review board is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than thirty days.

 (D) Any person currently employed by a law enforcement agency is ineligible to serve on a civilian review board established pursuant to this section.

 (E) The board may retain legal counsel to represent it in all cases, hearings, controversies, or matters involving its interest.

 Section 23‑2‑35. (A) All law enforcement agencies within the State shall use the same form to record complaints alleging law enforcement misconduct.

 (B) Complaints alleging law enforcement officer misconduct filed by a law enforcement officer against another law enforcement officer must be recorded on the standardized complaint form.

 (C) All information submitted on the standardized complaint form must be made available for public inspection without regard to the status of any underlying or related investigation except where the complaint was filed as contained in subsection (B). The complainant shall have the opportunity to indicate whether the complainant’s personal contact information should be withheld from inspection.

 (D) A complainant must be afforded the opportunity to file a complaint in person, electronically, or by telephone interview. If the complainant files the complaint electronically, he shall have the right to receive assistance from a person he chooses.

 (E) The standardized form shall include:

 (1) the date and time the complaint was received;

 (2) the location at which the complaint was taken;

 (3) the name, rank, and badge number of the person taking the complaint;

 (4) the telephone number at which the person taking the complaint can be reached;

 (5) the date and approximate time of the incident;

 (6) the location of the incident;

 (7) a check box to indicate the total number of complainants;

 (8) the name of each complainant;

 (9) the race or ethnicity of the complainant;

 (10) the complainant’s two preferred methods of contact and a check box for the complainant to indicate whether he grants permission to share personal contact information with the citizen review board;

 (11) identifying information of an officer against whom a complaint is being filed, including:

 (a) his name and rank;

 (b) his badge number; and

 (c) space to add any other information that may help identify the officer where his name is unknown;

 (12) the name and rank of the officer’s immediate supervisor;

 (13) the name of the chief of the law enforcement agency;

 (14) check boxes for classifying the type of misconduct, with clear instruction to check all that apply, that include:

 (a) excessive use of force;

 (b) bodily injury;

 (c) sexual violence;

 (d) exceeding authority;

 (e) racial profiling;

 (f) failure to act on the duty to intervene; and

 (g) other types of misconduct;

 (15) space for a narrative describing what happened;

 (16) check boxes for indicating next steps to be taken that include:

 (a) to whom the complaint will be referred to;

 (b) person taking complaint will investigate further;

 (c) other; and

 (d) date complainant can expect to receive an initial response;

 (17) affirmation statement;

 (18) signature of person taking the complaint or time and date stamp if the complaint is submitted electronically;

 (19) signature of complainant;

 (20) a section marked ‘for agency use only’. This section shall contain the following check boxes to indicate final disposition of the complaint:

 (a) sustained;

 (b) unsustained;

 (c) exonerated;

 (d) unfounded; and

 (e) referred, including:

 (i) name of department or agency referred to;

 (ii) arbitration;

 (iii) mediation;

 (iv) date of referral; and

 (v) other;

 (21) whether an inspection is requested and must include an indication of “ongoing” if the investigation into a complaint was ongoing at the time an investigation is requested;

 (22) check boxes to indicate the type of discipline, if any, was imposed, including;

 (a) suspension;

 (i) with pay; or

 (ii) without pay;

 (b) administrative action;

 (c) summary punishment;

 (d) emergency suspension;

 (i) with pay; or

 (ii) without pay;

 (e) termination;

 (f) other;

 (g) date the complaint was resolved or otherwise closed; and

 (h) the name and rank of the person resolving or closing the complaint.

 (F) If the “for agency use only” portion of the standardized form is being completed as a result of disciplinary action not stemming from a complaint of misconduct, the following portions of the standardized complaint form must be completed:

 (1) name, rank, and badge number of the law enforcement officer being disciplined;

 (2) narrative describing the conduct precipitating the disciplinary action; and

 (3) the portion of the form designated for indicating the type of discipline imposed, with an indication as to the disciplinary action taken.

 (G) All other information not identified in this section required for, or used for, the purposes of conducting an investigation stemming from a complaint of misconduct, must be recorded separately from the information on the standardized complaint form.

 (H)(1) It shall be a misdemeanor to:

 (a) refuse to take a complaint;

 (b) obstruct or delay the ability of a law enforcement officer or the public to file a complaint; or

 (c) fail to accurately record on the standardized complaint all available information.

 (2) A person who violates this provision is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than thirty days.

 Section 23‑2‑40. (A) All law enforcement agencies shall record all instances of disciplinary action on the standardized complaint form used to record misconduct.

 (B) Disciplinary action must be recorded without regard to whether the action resulted from the filing of an official complaint of misconduct or an internal agency decision to impose disciplinary action.

 (C) Where there is no related complaint of misconduct, the name of the law enforcement officer subject to the disciplinary action must be noted on the standardized complaint form.

 (D) The standardized complaint form must include a description of the conduct underlying the disciplinary action.

 (E) The person recording the disciplinary action on the standardized complaint form must provide his signature on the form’s signature line.

 (F) The disciplinary action imposed must include a written definition for each violation.

 (G) All disciplinary actions must be recorded on the standardized complaint form within seventy‑two hours of being imposed.

 (H) A person who fails to accurately and timely record disciplinary actions on the standardized complaint form is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than thirty days.

 Section 23‑2‑45. (A) An inspection of the information submitted on a standardized complaint form shall be permitted.

 (B) If a request for inspection is prompted by an alleged act of law enforcement misconduct resulting in death or substantial harm or injury to the public, the citizen review board shall have the authority to request an emergency inspection. An emergency inspection must be permitted within forty‑eight hours of the request.

 Section 23‑2‑50. (A) The standardized complaint form and all information filed on it must be held or stored in a manner conducive to inspection.

 (B) Information recorded on the standardized complaint form shall be permanently retained as a public record.

 (C) A person who fails to hold or store the standardized complaint form and all information filed on it is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than thirty days.

 Section 23‑2‑55. (A) The complainant must be provided a copy of the complaint no later than twenty‑four hours after it is filed.

 (B) The copy can be a physical or an electronic copy.

 (C) If a copy is not provided to the complainant directly, it may be provided by mail service with proof of delivery, or by electronic mail.

 (D) A complainant denied a copy or who is not provided a copy in violation of this section is entitled to pursue all available remedies.

 Section 23‑2‑60. (A) All information submitted on a standardized complaint form must be made available for inspection to a law enforcement agency that requests records of a person to:

 (1) determine his eligibility for transfer; or

 (2) determine his eligibility for employment.

 (B) A person who fails to make the information available for inspection is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than thirty days.

 Section 23‑2‑65. (A) Information submitted on a standardized complaint form must be made available for inspection to any citizen review board upon request.

 (B) A person who fails to comply with this section is guilty of a misdemeanor and, upon conviction, must be fined of not more than one thousand dollars or imprisoned not more than thirty days.

 Section 23‑2‑70. (A) Complaint history and records of disciplinary action must be inspected, as a condition of transfer, for any law enforcement officer transferring between law enforcement agencies or departments.

 (B) Complaint history and records of disciplinary action must be part of the determination as to the transferee’s ability to engage in ethical policing. No person with a complaint history or record of disciplinary action indicative of conduct in violation of ethical policing shall serve as a law enforcement officer within the State.

 (C) If no complaint history or records of disciplinary action exists, the person responsible for obtaining these records shall certify, in writing, the absence of these records.

 (D) Where complaint history and records of disciplinary action are available, but the information is not held on the standardized complaint form, the information shall be transferred to the standardized complaint form by the recipient of the information and the accuracy of the transferred information certified, in writing, by the person so doing.

 (E) Where the requirements of this section are not undertaken and the transferee is subsequently found guilty of law enforcement misconduct involving bodily injury, racial profiling, sexual violence, or failure to act on the duty to intervene, the law enforcement officer named in the complaint, and the person who approved the law enforcement officer’s transfer shall be guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than thirty days.

 Section 23‑2‑75. (A) Complaint history and records of disciplinary action must be inspected for any law enforcement officer seeking new employment or reemployment with a law enforcement agency. Complaint history and records of disciplinary action must be part of the determination as to the applicant’s ability to engage in ethical policing. No person with a complaint history or records of disciplinary action indicative of conduct in violation of ethical policing shall serve as a law enforcement officer within the State.

 (B) If no complaint history or records of disciplinary action exist, the person responsible for obtaining these records shall certify, in writing, the absence of these records.

 (C) If complaint history and records of disciplinary action are available, but the information is not held on the standardized complaint form, the information must be transferred to the standardized form by the recipient of the information and the accuracy of the transferred information certified, in writing, by that person.

 (D) If the requirements of this section are not undertaken, but the applicant is employed and subsequently convicted of law enforcement misconduct involving bodily injury, racial profiling, sexual violence, or failure to act on the duty to intervene, the following individuals are guilty of a misdemeanor and upon conviction, must be fined not more than one thousand dollars or imprisoned not more than thirty days:

 (1) the law enforcement officer named in the complaint; and

 (2) the person who approved the law enforcement officer’s application for employment.

 Section 23‑2‑80. (A) All law enforcement officers shall engage in ethical policing in the discharge of their duties.

 (B) No person with a complaint history or records of disciplinary action indicative of conduct in violation of ethical policing shall serve as a law enforcement officer within the State.

 (C) If there is a requirement for training, licensing or certification as a condition of employment or promotion, the requirement for ethical policing must be acknowledged by the signature of the law enforcement officer.

 (D) If there is no requirement for training, licensing or certification, the requirement for ethical policing must be acknowledged by the law enforcement officer by his signature as part of the employer’s employment policies.

 (E) A person who fails to acknowledge the requirement for ethical policing by his signature is not eligible for employment as a law enforcement officer within the State.

Section 23‑2‑85. (A) A law enforcement officer shall file a complaint alleging a violation of ethical policing on the standardized complaint form whenever this conduct exists.

 (B) A law enforcement officer who files a complaint alleging any action in violation of ethical policing shall not be disciplined, either directly or indirectly, for having filed a complaint.

 For the purposes of this section, discipline shall include all forms of disciplinary action including demotion.

 (C) A law enforcement officer who files a complaint alleging any action in violation of ethical policing must not be subjected to retaliation, either directly or indirectly.

 (D) If a violation of the protections afforded by this section are alleged, the presumption is in favor of the person who filed the complaint of misconduct.

 (E) If a law enforcement officer acts in furtherance of the duty to intervene, the protections contained in this section apply.

 (F) A complaint filed as a result of the duty to intervene must be filed on the standardized complaint form.

 (G) A law enforcement officer alleging a violation of the protections contained in this section is entitled to pursue all available remedies.

 (H) A person who violates the provisions contained in this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than thirty days.

 Section 23‑2‑90. (A) A member of a citizen review board who files a complaint alleging law enforcement misconduct shall not be subjected to harassment, direct or indirect.

 (B) If a violation of the protections contained in this section are alleged, the person so alleging has the right to file a formal complaint without regard to the status of the complaint that precipitated the harassment or retaliation. This complaint must be filed on the standardized complaint form.

 (C) A member of a citizen review board experiencing harassment or retaliation believed to be a result of having filed a complaint is entitled to pursue all available remedies.

 (D) A law enforcement officer acting in violation of the provisions contained in this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than thirty days.

 Section 23‑2‑95. (A) If a hearing has been scheduled in response to, or in resolution of a complaint of law enforcement misconduct, written notice to the public must be provided.

 The notice must be issued at least five days in advance of the hearing and shall state the date, time, and address of the hearing, as well as the name of the subject of the hearing.

 (B) A person who fails to provide proper notice is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than thirty days.

 Section 23‑2‑100. A hearing scheduled in response to, or in resolution of, a complaint of law enforcement misconduct must be open to the public. However, hearings must be closed to protect minors who are serving as witnesses, the identity of undercover law enforcement officers, and informants.

 Section 23‑2‑105. (A) Investigations stemming from the filing of a complaint alleging law enforcement misconduct or a violation of ethical policing, including a violation of the duty to intervene, may not be unreasonably restricted.

 (B) Reasonable time for the thorough examination of all relevant evidence and facts must be allowed.

 (C) Law enforcement agencies may adopt internal policies setting reasonable parameters on the length of an investigation where the alleged misconduct is minor and the facts are undisputed.

 (D) If an investigation is not completed within the parameters set regarding the length of the investigation, it must be noted on the underlying standardized complaint form as part of the disposition of the complaint.

 (E) Failure to complete an investigation within the parameters contained in this section is not cause to discontinue the investigation.

 (F) If an investigation fails to meet the parameters contained in this section, the reason for the failure must be recorded in writing and made available for public inspection upon request.

 Section 23‑2‑110. (A) All law enforcement officers must be trained, licensed, or certified in the proper discharge of their policing duties, including ethical policing. This training, licensing, or certification must be required as a condition of employment. Retraining, renewed licensing, or recertification shall occur no less than every twenty‑four months.

 (B) A law enforcement officer with a history of sustained complaints alleging misconduct involving bodily injury, racial profiling, sexual violence, or failure to act on the duty to intervene or a record which includes five disciplinary actions, must not be retrained, have his license renewed, or be eligible for recertification.

 (C) Upon written request from a citizen review board, any agency or entity statutorily responsible for the training, licensing, or certification required by this section shall examine the complaint records of the law enforcement officer named in the written request.

 (D) If training, licensing, or certification of a law enforcement officer is denied, a written determination must be issued by the entity or agency making the determination. The determination shall indicate the reason training, licensing, or certification is denied, including denial of retraining, relicensing, and recertification. The determination is subject to inspection. If the determination was issued as a result of a request from a citizen review board, the determination must be provided to the board, and the determination must be provided to the named law enforcement officer’s supervisor.

 Section 23‑2‑115. If a complaint alleging misconduct, involving bodily injury, racial profiling, sexual violence, or failure to act on the duty to intervene is sustained, any license or certification previously issued to law enforcement officer must be canceled and revoked.

 Section 23‑2‑120. (A) All law enforcement officers shall carry professional liability insurance as a condition of employment. The minimum required insurance amount must be determined by the State Law Enforcement Division and must be in an amount reasonably calculated to shield the policy holder.

 (B) All law enforcement officers shall be required to attain professional liability insurance with the same minimum coverage.

 (C) No law enforcement officer shall be prevented from obtaining coverage in higher amounts nor required to obtain coverage in an amount higher than that required of other law enforcement officers of the same rank.

 Section 23‑2‑125. (A) Every law enforcement agency employing law enforcement officers shall release an annual report summarizing the total number of complaints filed against, and disciplinary actions imposed, on its law enforcement officers. This information must be available for public inspection and may be published on the law enforcement agency’s website or through the website of any state agency with an interest in ethical policing.

 (B) The annual report shall contain the following information, disaggregated by policing agency and where applicable, by precinct: the name of every law enforcement officer against whom a complaint alleging misconduct has been sustained; and the race or ethnicity of the person filing the complaint, and if the complainant is different from the victim, the race and ethnicity of the victim, a description of the offending conduct, and the discipline imposed. If a law enforcement officer has multiple sustained complaints on record, the total number of sustained complaints must be included also.

 (C) The total number of complaints filed against an agency’s law enforcement officers, disaggregated by disposition of the complaint must be included in the annual report.

 (D) The total number of disciplinary actions imposed on an agency’s law enforcement officers as a result of internal action not precipitated by a formal complaint of misconduct, disaggregated by type of discipline imposed must be included in the annual report.

 (E) The annual report must be made available for public inspection.

 Section 23‑2‑130. (A) Every law enforcement agency must adopt and use an early warning system to track complaints filed against, and disciplinary actions imposed on its law enforcement officers.

 (B) The early warning system must be accompanied by clear policies setting forth the responsibility of persons in supervisory positions, to timely and properly respond to patterns suggestive of conduct incompatible with ethical policing.

 (C) The policies must, at a minimum, set forth the steps that must be taken and identify the disciplinary consequences, up to and including dismissal, when conduct incompatible with ethical policing is identified.

 (D) The policies also must set forth the consequences for failing to timely and properly respond to patterns suggestive of conduct incompatible with ethical policing.

 (E) If the early warning system indicates a pattern of conduct incompatible with ethical policing for a law enforcement officer and the incompatibility is confirmed after examination of the underlying records, the law enforcement officer must be deemed to be in violation of ethical policing.

 Section 23‑2‑135. (A) A decision, not made by the courts, to reinstate a law enforcement officer previously suspended or dismissed, must be recorded on the standardized complaint form.

 (B) If the reinstatement supersedes or otherwise changes the disposition on a previously filed complaint, the information required by this section must be added to the initial complaint form.

 (C) If the reinstatement supersedes or otherwise changes an instance of disciplinary action previously recorded on the standardized complaint form, the information required by this section must be added to the initial complaint form.

 (D) When a law enforcement officer is reinstated as contained in this section, the following information, at a minimum, must be added to the standardized complaint form:

 (1) the name and rank of the law enforcement officer, prior to the action precipitating reinstatement;

 (2) the law enforcement officer’s rank upon reinstatement; and

 (3) the name and, if applicable, rank of the person reinstating the law enforcement officer.

 (E) If a law enforcement officer is reinstated, public notice of the decision to reinstate must be made no less than seventy‑two hours before the law enforcement officer resumes employment.

 (F) If a citizen review board exists, the board must be informed, in writing, of the decision to reinstate.

 (G) The notice required by this section must state the full name and rank of the officer being reinstated. A person who fails to provide proper notice is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year.

 Section 23‑2‑140. (A) If a person, other than a member of the judiciary, has reinstated more than three law enforcement officers, the person’s actions may be investigated for a violation of ethical policing.

 (B) Any member of the public shall have the right to initiate the investigation.

 (C) A citizen review board shall have the right to initiate the investigation.

 (D) A law enforcement agency’s internal affairs division shall have the right to initiate the investigation if it has authority over the subject of the investigation.

 (E) If the law enforcement officer is not subject to his agency’s internal affairs division, any individual or agency with authority over the officer may conduct the investigation.

 (F) For the purposes of this section, if an investigation is undertaken, a written determination of findings must be issued as follows:

 (1) the investigation must be completed and the findings issued within sixty days;

 (2) the findings must be made available for public inspection; and

 (3) where there is a citizen review board, the investigating agency shall provide a copy of the findings to the board.

 If an investigation is not undertaken or the findings are not made available for inspection, such actions shall be deemed a violation of ethical policing.

 Section 23‑2‑145. (A) If a law enforcement officer has five records of disciplinary action imposed, the law enforcement officer, unless otherwise directed by the courts, is ineligible for transfer, reinstatement, or employment with any law enforcement agency within the State.

 (B) A law enforcement officer convicted of any criminal offense, is ineligible for reinstatement, transfer, or employment with any law enforcement agency within the State.

 (C) A law enforcement officer found to have violated ethical policing standards is ineligible for reinstatement, transfer, or employment with any law enforcement agency within the State.

 (D) Any person permitting a law enforcement officer to engage in policing within the State, in violation of this section, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than thirty days.

SECTION 3. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this severability, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 4. This act takes effect upon approval by the Governor.

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