



Agency Legislative Proposal - 2021 Session

Document Name: 092820_DESPP_7-291c_POSTC_Authority_Revision

(If submitting electronically, please label with date, agency, and title of proposal – 092621_SDE_TechRevisions)

State Agency: Department of Emergency Services and Public Protection

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Lead agency division requesting this proposal: Police Officer Standards and Training Council

Agency Analyst/Drafter of Proposal: Colin Milne

Title of Proposal: 7-291c POSTC

Statutory Reference: Conn. Gen. Stat. Sec. 7-291c

Proposal Summary:

The proposal grants the Police Officer Standards and Training Council the ability to enforce the prohibition on employment of police officers who have been terminated, resigned, or retired while under investigation for malfeasance or serious misconduct by denying or withholding certification. The proposal also includes a mechanism for police officers to review and remove said prohibition by petitioning the council. Finally, the proposal includes new examples of serious misconduct (Effective upon passage.) Amend Sec. 7-291c.

PROPOSAL BACKGROUND

◇ **Reason for Proposal**

Please consider the following, if applicable:

- (1) Have there been changes in federal/state/local laws and regulations that make this legislation necessary?
- (2) Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)? Are other states considering something similar this year?
- (3) Have certain constituencies called for this action?
- (4) What would happen if this was not enacted in law this session?

The proposal grants the Police Officer Standards and Training Council the ability to enforce the prohibition on employment of Police Officers who have been terminated, resigned, or retired while under investigation for malfeasance or serious misconduct by denying or withholding certification. (Effective upon passage.) Amend Sec. 7-291c.

Rationale: Section 7-291c prevents law enforcement officers, who were terminated, resigned, or retired under investigation of malfeasance or serious misconduct from being rehired. However, the current statutory scheme does not provide for penalties or enforcement action where a law enforcement does not comply with the statute. By allowing the Council to withhold certification, the Council can enforce the provisions of 7-291c.

"A police officer dismissed under 7-291c or a hiring law enforcement unit may petition the Police Officer Standards and Training Council to review and remove the prohibition under this section for good cause shown. For purposes of this section, "Good



Cause" means (1) the police officer did not retire or resign while under investigation malfeasance or other serious misconduct (2) the police officer was exonerated under subsection (d) of this section or (3) the conduct does not rise to the definitions of "malfeasance" and "serious misconduct" as defined in subsection (f) of this section. "

Rationale: The current law does not provide a safeguard to officers who may have been terminated, resigned, or retired for conduct that ultimately did not rise to the level of malfeasance or serious misconduct, or were later found to be exonerated. Such a mechanism will alleviate due process concerns.

The proposal provides the following changes to the list of examples for serious misconduct: "falsification of evidence, (C) [repeated] use of excessive force, (D) failure to intervene or stop excessive, illegal, or unreasonable force by another officer, (E) intimidation or harassment causing injury based upon actual or perceived protected class membership, identity, or expression"

Rationale: The additional examples correspond with the June Special Session Public Act 20-01 "Police Accountability Bill".

Origin of Proposal **New Proposal** **Resubmission**

If this is a resubmission, please share:

- (1) *What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package?*
- (2) *Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?*
- (3) *Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?*
- (4) *What was the last action taken during the past legislative session?*

PROPOSAL IMPACT

AGENCIES AFFECTED *(please list for each affected agency)*

Agency Name: N/A
Agency Contact (name, title, phone): N/A
Date Contacted: N/A

Approve of Proposal **YES** **NO** **Talks Ongoing**

Summary of Affected Agency's Comments
N/A

Will there need to be further negotiation? **YES** **NO**

FISCAL IMPACT *(please include the proposal section that causes the fiscal impact and the anticipated impact)*



Municipal <i>(please include any municipal mandate that can be found within legislation)</i> None
State None
Federal None
Additional notes on fiscal impact

◇ **POLICY and PROGRAMMATIC IMPACTS** *(Please specify the proposal section associated with the impact)*

N/A

◇ **EVIDENCE BASE**

<i>What data will be used to track the impact of this proposal over time, and what measurable outcome do you anticipate? Is that data currently available or must it be developed? Please provide information on the measurement and evaluation plan. Where possible, those plans should include process and outcome components. Pew MacArthur Results First evidence definitions can help you to establish the evidence-base for your program and their Clearinghouse allows for easy access to information about the evidence base for a variety of programs.</i>

Insert fully drafted bill here

Section 1. Section 7-291c.

(a) No law enforcement unit, as defined in section 7-294a, shall hire any person as a police officer, as defined in said section 7-294a, who was previously employed as a police officer by such unit or in any other jurisdiction and who (1) was dismissed for malfeasance or other serious misconduct calling into question such person's fitness to serve as a police officer; or (2) resigned or retired from such officer's position while under investigation for such malfeasance or other serious misconduct.

(b) Any law enforcement unit that has knowledge that any former police officer of such unit who (1) (A) was dismissed for malfeasance or other serious misconduct, or (B) resigned or retired from such officer's position while under investigation for such malfeasance or other serious misconduct; and (2) is an applicant for the position of police officer with any other law enforcement unit, shall inform such



other unit and the Police Officer Standards and Training Council established under section 7-294b of such dismissal, resignation or retirement.

(c) The Police Officer Standards and Training Council shall not certify any former police officer who (1) was dismissed for malfeasance or other serious misconduct calling into question such person's fitness to serve as a police officer; or (2) resigned or retired from such officer's position while under investigation for such malfeasance or other serious misconduct.

[(c)](d) The provisions of this section shall not apply to any police officer who is exonerated of each allegation against such officer of such malfeasance or other serious misconduct.

(e) A police officer or law enforcement unit may petition the Police Officer Standards and Training Council to review and remove the prohibition under this section for good cause shown. For purposes of this section, "Good Cause" means (1) the police officer did not retire or resign while under investigation malfeasance or other serious misconduct (2) the police officer was exonerated under subsection (d) of this section or (3) the conduct does not rise to the definitions of "malfeasance" and "serious misconduct" as defined in subsection (f) of this section.

[(d)](f) For purposes of this section, (1) "malfeasance" means the commonly approved usage of "malfeasance"; and (2) "serious misconduct" means improper or illegal actions taken by a police officer in connection with such officer's official duties that could result in a miscarriage of justice or discrimination, behavior not in accordance with the acceptable standards of the profession, including, but not limited to, (A) a conviction of a felony, (B) fabrication or falsification of evidence, (C) [repeated] use of excessive force, (D) failure to intervene or stop excessive, illegal, or unreasonable force by another officer, (E) intimidation or harassment causing injury based upon actual or perceived protected class membership, identity, or expression, (D)(F) acceptance of a bribe, or (E)(G) the commission of fraud.

(g) The provisions of this section do not preclude an action to cancel or revoke the certification of an officer pursuant to section §7-294d(c).

(h) The Commissioner of Emergency Services and Public Protection, in consultation with the Police Officer Standards Training Council may adopt regulations, in accordance with the provisions of chapter 54, as are necessary to implement the provisions of this section.