

AN ACT in relation to police officers.

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

Section 5. If and only if Senate Bill 472 of the 93rd General Assembly becomes law by the override of the Governor's amendatory veto, the Illinois Police Training Act is amended by changing Section 6.1 as follows:

(50 ILCS 705/6.1)

Sec. 6.1. Decertification of full-time and part-time police officers.

(a) The Board must review police officer conduct and records to ensure that no police officer is certified or provided a valid waiver if that police officer has been convicted of a felony offense under the laws of this State or any other state which if committed in this State would be punishable as a felony. The Board must also ensure that no police officer is certified or provided a valid waiver if that police officer has been convicted on or after the effective date of this amendatory Act of 1999 of any misdemeanor specified in this Section or if committed in any other state would be an offense similar to Section 11-6, 11-9.1, 11-14, 11-17, 11-19, 12-2, 12-15, 16-1, 17-1, 17-2, 28-3, 29-1, 31-1, 31-6, 31-7, 32-4a, or 32-7 of the Criminal Code of 1961 or to Section 5 or 5.2 of the Cannabis Control Act. The Board must appoint investigators to enforce the duties conferred upon the Board by this Act.

(b) It is the responsibility of the sheriff or the chief executive officer of every local law enforcement agency or department within this State to report to the Board any arrest or conviction of any officer for an offense identified in this Section.

(c) It is the duty and responsibility of every full-time and part-time police officer in this State to report to the Board within 30 days, and the officer's sheriff or chief executive officer, of his or her arrest or conviction for an offense identified in this Section. Any full-time or part-time police officer who knowingly makes, submits, causes to be submitted, or files a false or untruthful report to the Board must have his or her certificate or waiver immediately decertified or revoked.

(d) Any person, or a local or State agency, or the Board is immune from liability for submitting, disclosing, or releasing information of arrests or convictions in this Section as long as the information is submitted, disclosed, or released in good faith and without malice. The Board has qualified immunity for the release of the information.

(e) Any full-time or part-time police officer with a certificate or waiver issued by the Board who is convicted of any offense described in this Section immediately becomes decertified or no longer has a valid waiver. The decertification and invalidity of waivers occurs as a matter of law. Failure of a convicted person to report to the Board his or her conviction as described in this Section or any continued law enforcement practice after receiving a conviction is a Class 4 felony.

(f) The Board's investigators are peace officers and have all the powers possessed by policemen in cities and by sheriff's, provided that the investigators may exercise those powers anywhere in the State, only after contact and cooperation with the appropriate local law enforcement authorities.

(g) The Board must request and receive information and assistance from any federal, state, or local governmental agency as part of the authorized criminal background investigation. The Department of State Police must process,

retain, and additionally provide and disseminate information to the Board concerning criminal charges, arrests, convictions, and their disposition, that have been filed before, on, or after the effective date of this amendatory Act of the 91st General Assembly against a basic academy applicant, law enforcement applicant, or law enforcement officer whose fingerprint identification cards are on file or maintained by the Department of State Police. The Federal Bureau of Investigation must provide the Board any criminal history record information contained in its files pertaining to law enforcement officers or any applicant to a Board certified basic law enforcement academy as described in this Act based on fingerprint identification. The Board must make payment of fees to the Department of State Police for each fingerprint card submission in conformance with the requirements of paragraph 22 of Section 55a of the Civil Administrative Code of Illinois.

(h) A police officer who has been certified or granted a valid waiver shall also be decertified or have his or her waiver revoked upon a determination by the Illinois Labor Relations Board State Panel that he or she, while under oath, has knowingly and willfully made false statements as to a material fact going to an element of the offense of murder. If an appeal is filed, the determination shall be stayed.

(1) In the case of an acquittal on a charge of murder, a verified complaint may be filed:

(A) by the defendant; or

(B) by a police officer with personal knowledge of perjured testimony.

The complaint must allege that a police officer, while under oath, knowingly and willfully made false statements as to a material fact going to an element of the offense of murder. The verified complaint must be filed with the Executive Director of the Illinois Law Enforcement Training Standards

Board within 2 years of the judgment of acquittal.

(2) Within 30 days, the Executive Director of the Illinois Law Enforcement Training Standards Board shall review the verified complaint and determine whether the verified complaint is frivolous and without merit, or whether further investigation is warranted. The Illinois Law Enforcement Training Standards Board shall notify the officer and the Executive Director of the Illinois Labor Relations Board State Panel of the filing of the complaint and any action taken thereon. If the Executive Director of the Illinois Law Enforcement Training Standards Board determines that the verified complaint is frivolous and without merit, it shall be dismissed. The Executive Director of the Illinois Law Enforcement Training Standards Board has sole discretion to make this determination and this decision is not subject to appeal.

(i) If the Executive Director of the Illinois Law Enforcement Training Standards Board determines that the verified complaint warrants further investigation, he or she shall refer the matter to a task force of investigators created for this purpose. This task force shall consist of 8 sworn police officers: 2 from the Illinois State Police, 2 from the City of Chicago Police Department, 2 from county police departments, and 2 from municipal police departments. These investigators shall have a minimum of 5 years of experience in conducting criminal investigations. The investigators shall be appointed by the Executive Director of the Illinois Law Enforcement Training Standards Board. Any officer or officers acting in this capacity pursuant to this statutory provision will have statewide police authority while acting in this investigative capacity. Their salaries and expenses for the time spent conducting investigations under this paragraph shall be reimbursed by the Illinois Law Enforcement Training Standards Board.

(j) Once the Executive Director of the Illinois Law Enforcement Training Standards Board has determined that an investigation is warranted, the verified complaint shall be assigned to an investigator or investigators. The investigator or investigators shall conduct an investigation of the verified complaint and shall write a report of his or her findings. This report shall be submitted to the Executive Director of the Illinois Labor Relations Board State Panel.

Within 30 days, the Executive Director of the Illinois Labor Relations Board State Panel shall review the investigative report and determine whether sufficient evidence exists to conduct an evidentiary hearing on the verified complaint. If the Executive Director of the Illinois Labor Relations Board State Panel determines upon his or her review of the investigatory report that a hearing should not be conducted, the complaint shall be dismissed. This decision is in the Executive Director's sole discretion, and this dismissal may not be appealed.

If the Executive Director of the Illinois Labor Relations Board State Panel determines that there is sufficient evidence to warrant a hearing, a hearing shall be ordered on the verified complaint, to be conducted by an administrative law judge employed by the Illinois Labor Relations Board State Panel. The Executive Director of the Illinois Labor Relations Board State Panel shall inform the Executive Director of the Illinois Law Enforcement Training Standards Board and the person who filed the complaint of either the dismissal of the complaint or the issuance of the complaint for hearing. The Executive Director shall assign the complaint to the administrative law judge within 30 days of the decision granting a hearing.

(k) In the case of a finding of guilt on the offense of murder, if a new trial is granted on direct appeal, or a state post-conviction evidentiary hearing is ordered, based

on a claim that a police officer, under oath, knowingly and willfully made false statements as to a material fact going to an element of the offense of murder, the Illinois Labor Relations Board State Panel shall hold a hearing to determine whether the officer should be decertified if an interested party requests such a hearing within 2 years of the court's decision. The complaint shall be assigned to an administrative law judge within 30 days so that a hearing can be scheduled.

At the hearing, the accused officer shall be afforded the opportunity to:

- (1) Be represented by counsel of his or her own choosing;
- (2) Be heard in his or her own defense;
- (3) Produce evidence in his or her defense;
- (4) Request that the Illinois Labor Relations Board State Panel compel the attendance of witnesses and production of related documents including but not limited to court documents and records.

Once a case has been set for hearing, the verified complaint shall be referred to the Department of Professional Regulation. That office shall prosecute the verified complaint at the hearing before the administrative law judge. The Department of Professional Regulation shall have the opportunity to produce evidence to support the verified complaint and to request the Illinois Labor Relations Board State Panel to compel the attendance of witnesses and the production of related documents, including, but not limited to, court documents and records. The Illinois Labor Relations Board State Panel shall have the power to issue subpoenas requiring the attendance of and testimony of witnesses and the production of related documents including, but not limited to, court documents and records and shall have the power to administer oaths.

The administrative law judge shall have the responsibility of receiving into evidence relevant testimony and documents, including court records, to support or disprove the allegations made by the person filing the verified complaint and, at the close of the case, hear arguments. If the administrative law judge finds that there is not clear and convincing evidence to support the verified complaint that the police officer has, while under oath, knowingly and willfully made false statements as to a material fact going to an element of the offense of murder, the administrative law judge shall make a written recommendation of dismissal to the Illinois Labor Relations Board State Panel. If the administrative law judge finds that there is clear and convincing evidence that the police officer has, while under oath, knowingly and willfully made false statements as to a material fact that goes to an element of the offense of murder, the administrative law judge shall make a written recommendation so concluding to the Illinois Labor Relations Board State Panel. The hearings shall be transcribed. The Executive Director of the Illinois Law Enforcement Training Standards Board shall be informed of the administrative law judge's recommended findings and decision and the Illinois Labor Relations Board State Panel's subsequent review of the recommendation.

(l) An officer named in any complaint filed pursuant to this Act shall be indemnified for his or her reasonable attorney's fees and costs by his or her employer. These fees shall be paid in a regular and timely manner. The State, upon application by the public employer, shall reimburse the public employer for the accused officer's reasonable attorney's fees and costs. At no time and under no circumstances will the accused officer be required to pay his or her own reasonable attorney's fees or costs.

(m) The accused officer shall not be placed on unpaid

status because of the filing or processing of the verified complaint until there is a final non-appealable order sustaining his or her guilt and his or her certification is revoked. Nothing in this Act, however, restricts the public employer from pursuing discipline against the officer in the normal course and under procedures then in place.

(n) The Illinois Labor Relations Board State Panel shall review the administrative law judge's recommended decision and order and determine by a majority vote whether or not there was clear and convincing evidence that the accused officer, while under oath, knowingly and willfully made false statements as to a material fact going to the offense of murder. Within 30 days of service of the administrative law judge's recommended decision and order, the parties may file exceptions to the recommended decision and order and briefs in support of their exceptions with the Illinois Labor Relations Board State Panel. The parties may file responses to the exceptions and briefs in support of the responses no later than 15 days after the service of the exceptions. If exceptions are filed by any of the parties, the Illinois Labor Relations Board State Panel shall review the matter and make a finding to uphold, vacate, or modify the recommended decision and order. If the Illinois Labor Relations Board State Panel concludes that there is clear and convincing evidence that the accused officer, while under oath, knowingly and willfully made false statements as to a material fact going to an element of the offense murder, the Illinois Labor Relations Board State Panel shall inform the Illinois Law Enforcement Training Standards Board and the Illinois Law Enforcement Training Standards Board shall revoke the accused officer's certification. If the accused officer appeals that determination to the Appellate Court, as provided by this Act, he or she may petition the Appellate Court to stay the revocation of his or her certification

pending the court's review of the matter.

(o) None of the Illinois Labor Relations Board State Panel's findings or determinations shall set any precedent in any of its decisions decided pursuant to the Illinois Public Labor Relations Act by the Illinois Labor Relations Board State Panel or the courts.

(p) A party aggrieved by the final order of the Illinois Labor Relations Board State Panel may apply for and obtain judicial review of an order of the Illinois Labor Relations Board State Panel, in accordance with the provisions of the Administrative Review Law, except that such judicial review shall be afforded directly in the Appellate Court for the district in which the accused officer resides. Any direct appeal to the Appellate Court shall be filed within 35 days from the date that a copy of the decision sought to be reviewed was served upon the party affected by the decision.

(q) Interested parties. Only interested parties to the criminal prosecution in which the police officer allegedly, while under oath, knowingly and willfully made false statements as to a material fact going to an element of the offense of murder may file a verified complaint pursuant to this Section. For purposes of this Section, "interested parties" shall be limited to the defendant and any police officer who has personal knowledge that the police officer who is the subject of the complaint has, while under oath, knowingly and willfully made false statements as to a material fact going to an element of the offense of murder.

(r) Semi-annual reports. The Executive Director of the Illinois Labor Relations Board shall submit semi-annual reports to the Governor, President, and Minority Leader of the Senate, and to the Speaker and Minority Leader of the House of Representatives beginning on June 30, 2004, indicating:

(1) the number of verified complaints received

since the date of the last report;

(2) the number of investigations initiated since the date of the last report;

(3) the number of investigations concluded since the date of the last report;

(4) the number of investigations pending as of the reporting date;

(5) the number of hearings held since the date of the last report; and

(6) the number of officers decertified since the date of the last report.

{h}--A-police-officer-who-has-been-certified-or-granted-a valid-waiver-may-also-be--decertified--or--have--his--or--her waiver--revoked--upon-a-determination-by-the-Board-that-he-or she,-while-under-oath,-has-knowingly-and-willfully-made-false statements--as--to--a--material--fact--during---a---homicide proceeding.--A-determination--may--be--made--only--after--an investigation--and--hearing--upon--a-verified-complaint-filed with-the-Illinois-Law-Enforcement-Training--Standards--Board. No--action--may--be--taken-by-the-Board-regarding-a-complaint unless-a-majority-of-the-members-of-the-Board-are-present--at the-meeting-at-which-the-action-is-taken.

{1}--The--Board--shall--adopt--rules--governing--the investigation--and--hearing--of--a--verified-complaint-to assure-the-police-officer-due-process--and--to--eliminate conflicts-of-interest-within-the-Board-itself.

{2}--Upon-receipt-of-the-initial-verified-complaint,- the--Board--must-make-a-finding-within-30-days-of-receipt of-the-complaint-as-to-whether-sufficient-evidence-exists to-support-the-complaint.--The--Board--is--empowered--to investigate--and--dismiss-the-complaint-if-it-finds,-by-a vote-of-a-majority-of-the-members-present,-that-there--is insufficient--evidence--to--support--it.-Upon-the-initial filing,-the-sheriff-or-police-chief,-or--other--employing

agency, of the accused officer may suspend, with or without pay, the accused officer pending a decision of the Board. Upon a Board finding of insufficient evidence, the police officer shall be reinstated with back pay, benefits, and seniority status as appropriate. The sheriff or police chief, or employing agency, shall take such necessary action as is ordered by the Board.

(3) If the Board finds, by a vote of a majority of the members present, that sufficient evidence exists to support the complaint, it shall authorize a hearing before an administrative law judge within 45 days of the Board's finding, unless, based upon the complexity and extent of the allegations and charges, additional time is needed. In no event may a hearing before an administrative law judge take place later than 60 days after the Board's finding.

(i) The Board shall have the power and authority to appoint administrative law judges on a contractual basis. The Administrative law judges must be attorneys licensed to practice law in the State of Illinois. The Board shall also adopt rules governing the appointment of administrative law judges and the conduct of hearings consistent with the requirements of this Section. The administrative law judge shall hear all evidence and prepare a written recommendation of his or her findings to the Board. At the hearing the accused police officer shall be afforded the opportunity to:

(1) Be represented by counsel;

(2) Be heard in his or her own defense;

(3) Produce evidence in his or her defense;

(4) Request that the Board compel the attendance of witnesses and production of court records and documents.

(j) Once a case has been set for hearing, the person who filed the verified complaint shall have the opportunity to produce evidence to support any charge against a police

officer-that-he-or-she, while-under-oath, has--knowingly--and willfully--made-false-statements-as-to-a-material-fact-during a-homicide-proceeding.

(1)--The-person-who--filed--the--verified--complaint shall--have--the-opportunity-to-be-represented-by-counsel and-shall-produce-evidence-to-support-his-or-her-charges;

(2)--The-person-who-filed-the-verified-complaint-may request-the-Board-to-compel-the-attendance--of--witnesses and-production-of-court-records-and-documents.

(k)--The--Board--shall--have-the-power-to-issue-subpoenas requiring-the-attendance-and-testimony-of-witnesses--and--the production--of-court-records-and-documents-and-shall-have-the power-to-administer-oaths.

(l)--The--administrative--law--judge---shall---have---the responsibility--of-receiving-into-evidence-relevant-testimony and--documents,--including--court--records,--to--support---or disprove--the--allegations--made--by--the--person--filing-the verified-complaint,--and,--at--the--close--of--the--case,--hear arguments.--If--the-administrative-law-judge-finds-that-there is-not-clear-and-convincing-evidence-to-support-the--verified complaint--that--the--police--officer--has, while-under-oath, knowingly--and--willfully--made--false--statements--as--to--a material---fact---during---a---homicide---proceeding,---the administrative--law-judge-shall-make-a-written-recommendation of-dismissal-to-the-Board.-If-the--administrative--law--judge finds--that-there-is-clear-and-convincing-evidence-to-support the-verified-complaint-that-the--police--officer--has,--while under--oath, knowingly-and-willfully-made-false-statements-as to--a--material--fact--during--a--homicide--proceeding,---the administrative--law-judge-shall-make-a-written-recommendation of-decertification-to-the-Board.

(m)--Any-person, with-the-exception-of-the-police-officer who-is-the-subject-of-the-hearing, who-is-served-by-the-Board with-a-subpoena-to-appear, testify-or--produce--evidence--and

refuses--to--comply--with--the--subpoena--is--guilty--of--a--Class--B
misdemeanor. Any circuit court or judge, upon application--by
the--Board,--may--compel--compliance--with--a--subpoena--issued--by
the--Board.

(n)--Within--15--days--of--receiving--the--recommendation,--the
Board--shall--consider--the--recommendation--of--the--administrative
law--judge--and--the--record--of--the--hearing--at--a--Board--meeting.
If, by a two-thirds vote of the members present at the--Board
meeting,--the--Board--finds--that--there--is--clear--and--convincing
evidence--that--the--police--officer--has,--while--under--oath,
knowingly--and--willfully--made--false--statements--as--to--a
material--fact--during--a--homicide--proceeding,--the--Board--shall
order--that--the--police--officer--be--decertified--as--a--full--time
or--part--time--police--officer. If less than two-thirds of the
members present vote to decertify--the--police--officer,--the
Board--shall--dismiss--the--complaint.

(o)--The--provisions--of--the--Administrative--Review--Law
shall--govern--all--proceedings--for--the--judicial--review--of--any
order--rendered--by--the--Board. The moving party shall pay the
reasonable--costs--of--preparing--and--certifying--the--record--for
review. If the moving party is the police officer and he or
she prevails, the court may award the police officer actual
costs--incurred--in--all--proceedings,--including--reasonable
attorney--fees. If the court awards the police officer the
actual--costs--incurred--in--a--proceeding,--including--reasonable
attorney--fees,--the--costs--and--attorney--fees--shall--be--paid,
subject--to--appropriation,--from--the--Illinois--Law--Enforcement
Training--Standards--Board--Costs--and--Attorney--Fees--Fund,--a
special--fund--that--is--created--in--the--State--Treasury. The--Fund
shall--consist--of--moneys--appropriated--or--transferred--into--the
Fund--for--the--purpose--of--making--payments--of--costs--and--attorney
fees--in--accordance--with--this--subsection--(o). The Illinois Law
Enforcement Training Standards--Board--shall--administer--the
Fund--and--adopt--rules--for--the--administration--of--the--Fund--and

for the submission and disposition of claims for costs and attorney fees in accordance with this subsection (o).

(p) If the police officer is decertified under subsection (h), the Board shall notify the defendant who was a party to the proceeding that resulted in the police officer's decertification and his or her attorney of the Board's decision. Notification shall be by certified mail, return receipt requested, sent to the party's last known address and to the party's attorney if any.

(q) Limitation of action.

(1) No complaint may be filed pursuant to this Section until after a verdict or other disposition is rendered in the underlying case or the underlying case is dismissed in the trial court.

(2) A complaint pursuant to this Section may not be filed more than 2 years after the final resolution of the case. For purposes of this Section, final resolution is defined as the trial court's ruling on the State post-conviction proceeding in the case in which it is alleged the police officer, while under oath, knowingly and willfully made false statements as to a material fact during a homicide proceeding. In the event a post-conviction petition is not filed, an action pursuant to this Section may not be commenced more than 2 years after the denial of a petition for certiorari to the United States Supreme Court, or if no petition for certiorari is filed, 2 years after the date such a petition should have been filed. In the event of an acquittal, no proceeding may be commenced pursuant to this Section more than 6 years after the date upon which judgment on the verdict of acquittal was entered.

(r) Interested parties. Only interested parties to the criminal prosecution in which the police officer allegedly, while under oath, knowingly and willfully made false

~~statements-as-to-a-material-fact-during-a-homicide-proceeding
may-file-a-verified-complaint-pursuant-to-this--Section--For
purposes--of--this--Section,--"interested-parties"--include-the
defendant-and-any-police-officer-who-has--personal--knowledge
that--the--police-officer-who-is-the-subject-of-the-complaint
has,--while-under-oath,--knowingly--and--willfully--made--false
statements---as---to---a--material--fact--during--a--homicide
proceeding.~~

(Source: 93SB472enr.)

Section 10. If and only if Senate Bill 472 of the 93rd General Assembly becomes law by the override of the Governor's amendatory veto, the Code of Criminal Procedure of 1963 is amended by changing Section 107A-10 as follows:

(725 ILCS 5/107A-10)

Sec. 107A-10. Pilot study on sequential lineup procedures.

(a) Legislative intent. Because the goal of a police investigation is to apprehend the person or persons responsible for committing a crime, it is useful to conduct a pilot study in the field on the effectiveness of the sequential method for lineup procedures.

(b) Establishment of pilot jurisdictions. The Department of State Police shall select 3 police departments to participate in a one-year pilot study on the effectiveness of the sequential lineup method for photo and live lineup procedures. One such pilot jurisdiction shall be a police district within a police department in a municipality whose population is at least 500,000 residents; one such pilot jurisdiction shall be a police department in a municipality whose population is at least 100,000 but less than 500,000; and one such pilot jurisdiction shall be a police department in a municipality whose population is less than 100,000. All

such pilot jurisdictions shall be selected no later than July January 1, 2004.

(c) Sequential lineup procedures in pilot jurisdictions. For any offense alleged to have been committed in a pilot jurisdiction on or after July January 1, 2004, selected lineup identification procedure shall be presented in the sequential method in which a witness is shown lineup participants one at a time, using the following procedures:

(1) The witness shall be requested to state whether the individual shown is the perpetrator of the crime prior to viewing the next lineup participant. Only one member of the lineup shall be a suspect and the remainder shall be "fillers" who are not suspects but fit the general description of the offender without the suspect unduly standing out;

(2) The lineup administrator shall be someone who is not aware of which member of the lineup is the suspect in the case; and

(3) Prior to presenting the lineup using the sequential method the lineup administrator shall:

(A) Inform the witness that the perpetrator may or may not be among those shown, and the witness should not feel compelled to make an identification;

(B) Inform the witness that he or she will view individuals one at a time and will be requested to state whether the individual shown is the perpetrator of the crime, prior to viewing the next lineup participant; and

(C) Ask the witness to state in his or her own words how sure he or she is that the person identified is the actual offender. During the statement, or as soon thereafter as reasonably possible, the witness's actual words shall be documented.

(d) Application. This Section applies to selected live lineups that are composed and presented at a police station and to selected photo lineups regardless of where presented; provided that this Section does not apply in police investigations in which a spontaneous identification is possible and no lineup procedure is being used. This Section does not affect the right to counsel afforded by the U.S. or Illinois Constitutions or State law at any stage of a criminal proceeding.

(e) Selection of lineups. The participating jurisdictions shall develop a protocol for the selection and administration of lineups which is practical, designed to elicit information for comparative evaluation purposes, and is consistent with objective scientific research methodology.

(f) Training and administrators. The Department of State Police shall offer training to police officers and any other appropriate personnel on the sequential method of conducting lineup procedures in the pilot jurisdictions and the requirements of this Section. The Department of State Police may seek funding for training and administration from the Illinois Criminal Justice Information Authority and the Illinois Law Enforcement Training Standards Board if necessary.

(g) Report on the pilot study. The Department of State Police shall gather information from each of the participating police departments selected as a pilot jurisdiction with respect to the effectiveness of the sequential method for lineup procedures and shall file a report of its findings with the Governor and the General Assembly no later than ~~September~~ April 1, 2005.

(Source: 93SB472enr.)

Section 95. The amendatory changes to Section 6.1 of the Illinois Police Training Act made by this amendatory Act of

the 93rd General Assembly and the provisions of Section 107A-10 of the Code of Criminal Procedure of 1963 made by this amendatory Act of the 93rd General Assembly supersede the amendatory changes made to Section 6.1 of the Illinois Police Training Act and the provisions of Section 107A-10 of the Code of Criminal Procedures of 1963 added by Senate Bill 472 of the 93rd General Assembly, if Senate Bill 472 of the 93rd General Assembly becomes law.

Section 99. Effective date. This Act takes effect upon becoming law.