



## 103RD GENERAL ASSEMBLY

### State of Illinois

### 2023 and 2024

#### HB4047

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

#### SYNOPSIS AS INTRODUCED:

5 ILCS 100/5-45.35 new

50 ILCS 705/8.1

720 ILCS 5/7-5.5

from Ch. 85, par. 508.1

Amends the Illinois Police Training Act. Provides that a training waiver from the Minimum Standards Basic Law Enforcement or County Correctional Training Course due to extensive prior law enforcement or county corrections experience shall be given whether or not the experience was obtained by employment by this State or any local governmental agency. Provides that, within 60 days after the effective date of the amendatory Act, the Illinois Law Enforcement Training Standards Board shall adopt uniform rules providing for a training waiver process for a person previously employed and qualified as a law enforcement or county corrections officer under federal law or the laws of any other state. Requires the rules to provide that any person previously employed or qualified as a law enforcement or county corrections officer under federal law or the laws of any other state shall successfully complete the following prior to the approval of a waiver: (1) a training program approved by the Board on the laws of this State relevant to the duties of law enforcement and county correctional officers; and (2) firearms training. Amends the Illinois Administrative Procedure Act. Grants the Illinois Law Enforcement Training Standards Board emergency rulemaking authority to implement the provisions of the amendatory Act. Amends the Criminal Code of 2012. Deletes language providing that a peace officer, or any other person acting under the color of law, shall not discharge kinetic impact projectiles or other non-lethal or less-lethal projectiles in a manner that targets the back.

LRB103 31717 AWJ 60298 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 Administrative Procedure Act is  
5 amended by adding Section 5-45.35 as follows:

6 (5 ILCS 100/5-45.35 new)

7 Sec. 5-45.35. Emergency rulemaking; Illinois Law  
8 Enforcement Training Standards Board. To provide for the  
9 expeditious and timely implementation of the changes made in  
10 Section 8.1 of the Illinois Police Training Act, emergency  
11 rules implementing the waiver process under Section 8.1 of the  
12 Illinois Police Training Act may be adopted in accordance with  
13 Section 5-45 by the Illinois Law Enforcement Training  
14 Standards Board. The adoption of emergency rules authorized by  
15 Section 5-45 and this Section is deemed to be necessary for the  
16 public interest, safety, and welfare.

17 This Section is repealed one year after the effective date  
18 of this amendatory Act of the 103rd General Assembly.

19 Section 10. The Illinois Police Training Act is amended by  
20 changing Section 8.1 as follows:

21 (50 ILCS 705/8.1) (from Ch. 85, par. 508.1)

1           Sec. 8.1. Full-time law enforcement and county corrections  
2 officers.

3           (a) No person shall receive a permanent appointment as a  
4 law enforcement officer or a permanent appointment as a county  
5 corrections officer unless that person has been awarded,  
6 within 6 months of the officer's initial full-time employment,  
7 a certificate attesting to the officer's successful completion  
8 of the Minimum Standards Basic Law Enforcement or County  
9 Correctional Training Course as prescribed by the Board; or  
10 has been awarded a certificate attesting to the officer's  
11 satisfactory completion of a training program of similar  
12 content and number of hours and which course has been found  
13 acceptable by the Board under the provisions of this Act; or a  
14 training waiver by reason of extensive prior law enforcement  
15 or county corrections experience, whether or not the  
16 experience was obtained by employment by this State or any  
17 local governmental agency, the basic training requirement is  
18 determined by the Board to be illogical and unreasonable.  
19 Within 60 days after the effective date of this amendatory Act  
20 of the 103rd General Assembly, the Board shall adopt uniform  
21 rules providing for a waiver process for a person previously  
22 employed and qualified as a law enforcement or county  
23 corrections officer under federal law or the laws of any other  
24 state. The rules shall provide that any person previously  
25 employed or qualified as a law enforcement or county  
26 corrections officer under federal law or the laws of any other

1 state shall successfully complete the following prior to the  
2 approval of a waiver:

3 (1) a training program approved by the Board on the  
4 laws of this State relevant to the duties of law  
5 enforcement and county correctional officers; and

6 (2) firearms training.

7 If such training is required and not completed within the  
8 applicable 6 months, then the officer must forfeit the  
9 officer's position, or the employing agency must obtain a  
10 waiver from the Board extending the period for compliance.  
11 Such waiver shall be issued only for good and justifiable  
12 reasons, and in no case shall extend more than 90 days beyond  
13 the initial 6 months. Any hiring agency that fails to train a  
14 law enforcement officer within this period shall be prohibited  
15 from employing this individual in a law enforcement capacity  
16 for one year from the date training was to be completed. If an  
17 agency again fails to train the individual a second time, the  
18 agency shall be permanently barred from employing this  
19 individual in a law enforcement capacity.

20 An individual who is not certified by the Board or whose  
21 certified status is inactive shall not function as a law  
22 enforcement officer, be assigned the duties of a law  
23 enforcement officer by an employing agency, or be authorized  
24 to carry firearms under the authority of the employer, except  
25 as otherwise authorized to carry a firearm under State or  
26 federal law. Sheriffs who are elected as of January 1, 2022

1 ~~(the effective date of Public Act 101-652) ~~this amendatory Act~~~~  
2 ~~of the 101st General Assembly,~~ are exempt from the requirement  
3 of certified status. Failure to be certified in accordance  
4 with this Act shall cause the officer to forfeit the officer's  
5 position.

6 An employing agency may not grant a person status as a law  
7 enforcement officer unless the person has been granted an  
8 active law enforcement officer certification by the Board.

9 (b) Inactive status. A person who has an inactive law  
10 enforcement officer certification has no law enforcement  
11 authority.

12 (1) A law enforcement officer's certification becomes  
13 inactive upon termination, resignation, retirement, or  
14 separation from the officer's employing law enforcement  
15 agency for any reason. The Board shall re-activate a  
16 certification upon written application from the law  
17 enforcement officer's law enforcement agency that shows  
18 the law enforcement officer: (i) has accepted a full-time  
19 law enforcement position with that law enforcement agency,  
20 (ii) is not the subject of a decertification proceeding,  
21 and (iii) meets all other criteria for re-activation  
22 required by the Board. The Board may also establish  
23 special training requirements to be completed as a  
24 condition for re-activation.

25 The Board shall review a notice for reactivation from  
26 a law enforcement agency and provide a response within 30

1 days. The Board may extend this review. A law enforcement  
2 officer shall be allowed to be employed as a full-time law  
3 enforcement officer while the law enforcement officer  
4 reactivation waiver is under review.

5 A law enforcement officer who is refused reactivation  
6 or an employing agency of a law enforcement officer who is  
7 refused reactivation under this Section may request a  
8 hearing in accordance with the hearing procedures as  
9 outlined in subsection (h) of Section 6.3 of this Act.

10 The Board may refuse to re-activate the certification  
11 of a law enforcement officer who was involuntarily  
12 terminated for good cause by an employing agency for  
13 conduct subject to decertification under this Act or  
14 resigned or retired after receiving notice of a law  
15 enforcement agency's investigation.

16 (2) A law enforcement agency may place an officer who  
17 is currently certified on inactive status by sending a  
18 written request to the Board. A law enforcement officer  
19 whose certificate has been placed on inactive status shall  
20 not function as a law enforcement officer until the  
21 officer has completed any requirements for reactivating  
22 the certificate as required by the Board. A request for  
23 inactive status in this subsection shall be in writing,  
24 accompanied by verifying documentation, and shall be  
25 submitted to the Board with a copy to the chief  
26 administrator of the law enforcement officer's current or

1 new employing agency.

2 (3) Certification that has become inactive under  
3 paragraph (2) of this subsection (b) shall be reactivated  
4 by written notice from the law enforcement officer's  
5 agency upon a showing that the law enforcement officer ~~is~~:  
6 (i) is employed in a full-time law enforcement position  
7 with the same law enforcement agency, (ii) is not the  
8 subject of a decertification proceeding, and (iii) meets  
9 all other criteria for re-activation required by the  
10 Board.

11 (4) Notwithstanding paragraph (3) of this subsection  
12 (b), a law enforcement officer whose certification has  
13 become inactive under paragraph (2) may have the officer's  
14 employing agency submit a request for a waiver of training  
15 requirements to the Board in writing and accompanied by  
16 any verifying documentation. A grant of a waiver is  
17 within the discretion of the Board. Within 7 days of  
18 receiving a request for a waiver under this Section  
19 ~~section~~, the Board shall notify the law enforcement  
20 officer and the chief administrator of the law enforcement  
21 officer's employing agency, whether the request has been  
22 granted, denied, or if the Board will take additional time  
23 for information. A law enforcement agency whose request  
24 for a waiver under this subsection is denied is entitled  
25 to request a review of the denial by the Board. The law  
26 enforcement agency must request a review within 20 days of

1 the waiver being denied. The burden of proof shall be on  
2 the law enforcement agency to show why the law enforcement  
3 officer is entitled to a waiver of the legislatively  
4 required training and eligibility requirements.

5 (c) No provision of this Section shall be construed to  
6 mean that a county corrections officer employed by a  
7 governmental agency at the time of the effective date of this  
8 amendatory Act, either as a probationary county corrections  
9 officer or as a permanent county corrections officer, shall  
10 require certification under the provisions of this Section. No  
11 provision of this Section shall be construed to apply to  
12 certification of elected county sheriffs.

13 (d) Within 14 days, a law enforcement officer shall report  
14 to the Board: (1) any name change; (2) any change in  
15 employment; or (3) the filing of any criminal indictment or  
16 charges against the officer alleging that the officer  
17 committed any offense as enumerated in Section 6.1 of this  
18 Act.

19 (e) All law enforcement officers must report the  
20 completion of the training requirements required in this Act  
21 in compliance with Section 8.4 of this Act.

22 (e-1) Each employing law enforcement agency shall allow  
23 and provide an opportunity for a law enforcement officer to  
24 complete the mandated requirements in this Act. All mandated  
25 training shall ~~will~~ be provided ~~for~~ at no cost to the  
26 employees. Employees shall be paid for all time spent

1 attending mandated training.

2 (e-2) Each agency, academy, or training provider shall  
3 maintain proof of a law enforcement officer's completion of  
4 legislatively required training in a format designated by the  
5 Board. The report of training shall be submitted to the Board  
6 within 30 days following completion of the training. A copy of  
7 the report shall be submitted to the law enforcement officer.  
8 Upon receipt of a properly completed report of training, the  
9 Board will make the appropriate entry into the training  
10 records of the law enforcement officer.

11 (f) This Section does not apply to part-time law  
12 enforcement officers or probationary part-time law enforcement  
13 officers.

14 (g) Notwithstanding any provision of law to the contrary,  
15 the changes made to this Section by ~~this amendatory Act of the~~  
16 ~~102nd General Assembly,~~ Public Act 101-652, ~~and~~ Public Act  
17 102-28, and Public Act 102-694 take effect July 1, 2022.

18 (Source: P.A. 101-187, eff. 1-1-20; 101-652, eff. 1-1-22;  
19 102-28, eff. 6-25-21; 102-694, eff. 1-7-22; revised 2-3-22.)

20 Section 15. The Criminal Code of 2012 is amended by  
21 changing Section 7-5.5 as follows:

22 (720 ILCS 5/7-5.5)

23 Sec. 7-5.5. Prohibited use of force by a peace officer.

24 (a) A peace officer, or any other person acting under the

1 color of law, shall not use a chokehold or restraint above the  
2 shoulders with risk of asphyxiation in the performance of his  
3 or her duties, unless deadly force is justified under this  
4 Article.

5 (b) A peace officer, or any other person acting under the  
6 color of law, shall not use a chokehold or restraint above the  
7 shoulders with risk of asphyxiation, or any lesser contact  
8 with the throat or neck area of another, in order to prevent  
9 the destruction of evidence by ingestion.

10 (c) As used in this Section, "chokehold" means applying  
11 any direct pressure to the throat, windpipe, or airway of  
12 another. "Chokehold" does not include any holding involving  
13 contact with the neck that is not intended to reduce the intake  
14 of air such as a headlock where the only pressure applied is to  
15 the head.

16 (d) As used in this Section, "restraint above the  
17 shoulders with risk of positional asphyxiation" means a use of  
18 a technique used to restrain a person above the shoulders,  
19 including the neck or head, in a position which interferes  
20 with the person's ability to breathe after the person no  
21 longer poses a threat to the officer or any other person.

22 (e) A peace officer, or any other person acting under the  
23 color of law, shall not:

24 (i) use force as punishment or retaliation;

25 (ii) discharge kinetic impact projectiles and all  
26 other non-lethal or less-lethal projectiles in a manner

1 that targets the head, neck, groin, or anterior pelvis,~~or~~  
2 ~~back~~;

3 (iii) discharge conducted electrical weapons in a  
4 manner that targets the head, chest, neck, groin, or  
5 anterior pelvis;

6 (iv) discharge firearms or kinetic impact projectiles  
7 indiscriminately into a crowd;

8 (v) use chemical agents or irritants for crowd  
9 control, including pepper spray and tear gas, prior to  
10 issuing an order to disperse in a sufficient manner to  
11 allow for the order to be heard and repeated if necessary,  
12 followed by sufficient time and space to allow compliance  
13 with the order unless providing such time and space would  
14 unduly place an officer or another person at risk of death  
15 or great bodily harm; or

16 (vi) use chemical agents or irritants, including  
17 pepper spray and tear gas, prior to issuing an order in a  
18 sufficient manner to ensure the order is heard, and  
19 repeated if necessary, to allow compliance with the order  
20 unless providing such time and space would unduly place an  
21 officer or another person at risk of death or great bodily  
22 harm.

23 (Source: P.A. 101-652, eff. 7-1-21; 102-28, eff. 6-25-21;  
24 102-687, eff. 12-17-21.)