

FINAL SCORECARD FOR CRIMINAL JUSTICE SYSTEM AND POLICE REFORM LEGISLATION

Topic/Issue Area	Description/Comment	Final Action	
		Bill/Result	Comment
Addressing Racism Generally			
Public health crisis	Declare racism a public health crisis and direct agencies to adopt policies to address it	HR 570 , HR 582 Left in House Rules	Because both were resolutions, they would not have had the force of law. Because they are still in limbo as far as a committee assignment is concerned, it is doubtful any action will be taken.
Bridge gaps	Uncover racial disparities in all areas and create solutions to bridge the gaps	n/a	No bill introduced. Hard to envision what legislation would have been introduced to implement this goal.
Hate crimes	Expand hate crimes to include false 911 calls based on race	HB 5098 Enacted	There is not a separate penalty for “hate crimes”. Some offenses carry an enhanced penalty if committed because of the victim’s race, religion, gender, etc. This bill would make it a Class 6 felony to make a false 911 report or to summon police against a person because of that person’s race, etc.
Police Accountability, Training, and Regulation			
Citizen review boards	Provide for the establishment of citizen review boards to investigate citizen complaints, use of force by law-enforcement, as well as conducting other actions.	HB 5055 ; SB 5035 Enacted	Would be optional for counties and cities. Would not apply to sheriffs. Locality would set policies and procedures for review board, which could include making binding disciplinary determinations for serious breaches of dept. policy; investigation of policies and practices; and review of internal investigations. Board authorized to apply to circuit court for subpoena for witnesses and records.

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Access of prosecutor to personnel records	Require chief law-enforcement office to provide Commonwealth's attorney access to all records, including police reports, disciplinary records, and internal investigations relating to wrongful arrest or use of force complaints.	SB 5030 (omnibus) Enacted	Part of omnibus bill.
Qualified immunity	Create a civil action for the deprivation of a person's rights by a law-enforcement officer and provides that a plaintiff may be awarded compensatory damages, punitive damages, and equitable relief, as well as reasonable attorney fees and costs.	HB 5013; SB 5065. Passed House; killed in Senate Committee	
Standardize and reform police administration, training, and accountability	Increase required minimum training	HB 5109 ; SB 5030 (omnibus) Enacted	Requires more training in bias recognition and interaction with persons with mental illness. Requires establishment of uniform curriculum to be used by all training facilities.
Standards of conduct	Requires Board of Criminal Justice Services Board to adopt statewide professional standards of conduct applicable to all law-enforcement officers	HB 5136 ; SB 5030 (omnibus) HB left In Committee	Issue included in Senate omnibus bill. For coverage of this issue in House, see Police decertification category below and HB 5051, which covered this issue.
Increase reporting of incidents	Require law enforcement to submit reports to State Police on traffic stops, stop-and-frisk stops, and other investigatory detentions that do not result in arrest or summons	SB 5030 (omnibus) Enacted	Part of omnibus bill.

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Police decertification	Expand grounds for decertification of law enforcement officers to include violation of state law or serious misconduct as defined by statewide professional standards of conduct	HB 5051 ; SB 5030 (omnibus) Enacted	The bill would require the Criminal Justice Services Board to adopt a statewide code of professional standards of conduct applicable to all certified law enforcement officers.
Establish statewide officer database		n/a	No bill introduced. The Dept. of Criminal Justice Services has a database for tracking individual officers' compliance with training requirements. It is assumed this database could be used to track certifications, as well.
Prohibit hiring of officers fired or who resigned during use of force investigations	There was no specific bill on this subject. The bills dealing with decertification (see above) would prohibit the hiring of an officer decertified due to serious misconduct. However, there does not seem to be a prohibition on hiring an officer who was terminated, or resigned, due to use of force, but who was not decertified. This issue is closely related to next issue below.	n/a	No specific bill. See police decertification category above.
Background of law enforcement applicants	Requires law enforcement agency considering hiring someone who had been previously employed by another law-enforcement agency to obtain background information on the applicant from previous employers.	HB 5104 ; SB 5030 (omnibus) Enacted.	In addition to requiring the obtaining of the employment history, the bill provides that law-enforcement agencies may require that applicants undergo a psychological examination.
Body cameras	Expand the use of body cameras	HB 5135 Left in	Would require all law-enforcement agencies to require all officers to use body cameras.

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		committee	
Independent investigation of all police-involved shootings/deaths	No separate legislation. Issue covered by legislation on citizen review boards. See above.	n/a	
Sex with individuals arrested	Prohibit law-enforcement officers from having sex with persons arrested, comparable to ban on correctional officers having sex with prisoner.	HB 5045 ; SB 5030 (omnibus) Enacted.	The offense would be a Class 6 felony.
Investigative files	End FOIA exemption for police investigative files	HB 5090 Passed House Died in Senate Committee	Allows public access under certain restrictions Senate committee members expressed support for bill but worried about unintended consequences and results. Asked FOIA Advisory Council to study bill.
Use of Force			
Excess use of force	Defines degree of force and situations in which it can be used by law enforcement	SB 5030 (omnibus) Enacted	Violators of the provisions regarding excessive use of force would be subject to disciplinary action, up to and including decertification.
Use of choke holds and other force	Prohibit or restrict the use of various types of force by law enforcement officers	HB 5069 ; SB 5030 (omnibus) Enacted	Prohibits the use of choke hold (“neck restraint”) by law-enforcement officer, unless immediately necessary to protect the law-enforcement officer or another person from death or serious bodily injury. As introduced, a violation would have been a Class 6 felony. The enacted bill deleted the criminal penalty and provided that an officer violating the statute would be subject to administrative disciplinary action.

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No-knock warrants	Regulate whether law-enforcements can execute a search warrant without announcing their presence	HB 5099 SB 5030 (omnibus) Enacted.	The enacted bill prohibits the use of no-knock warrants. It also requires that any search warrant be executed only in the daytime unless a judge or magistrate authorizes execution at another time of day.
De-escalation	Require attempts at de-escalation prior to use of force	SB 5030 (omnibus)	Provision requires that law-enforcement officer exhaust all other reasonably available options before using deadly force. Failure to do so could lead to disciplinary action, up to, and including, decertification.
Warning	Require warnings before shots fired	SB 5030 (omnibus)	Bill requires law-enforcement to provide warning of intent to use deadly force, if feasible, before doing so. Failure to do so could lead to disciplinary action, up to, and including, decertification.
Officer intervention in uses of force	Require law-enforcement witnessing another officer engaging, or attempting to engage, in the use of force against another to intervene and to report the use of excessive force to his superiors	HB 5029 SB 5030 (omnibus) Enacted	As passed by the House, violation of the provisions of the legislation would have been a criminal offense, with the level of punishment dependent on the degree of force used. As amended by the Senate and finally enacted, any law-enforcement officer violating its provisions will be subject to administrative discipline, including decertification.
Reporting wrongdoing by fellow officer	Requires law-enforcement officer who witnesses, or has knowledge of, a fellow officer violating any law or department rule to report such action to his supervisor.	HB 5112 Passed House; failed in Senate	Failure to report wrongdoing that is not a criminal offense would make the officer subject to disciplinary action. Failure to report a criminal offense would be a Class 1 misdemeanor.
Shooting at vehicles	Prohibit shooting into or at moving vehicles	SB 5030 (omnibus)	Prohibits shooting at, or into, a moving vehicle unless immediately necessary to protect law-enforcement officer or other person from death or serious injury. A violation of the provision would be subject to disciplinary action up to, and including, decertification.
Use-of-force continuum	Require police department to use a use-of-force continuum	n/a	No legislation introduced.
Use of tear gas	Restricts the use of tear gas and	HB 5049 SB	As passed by the House, the legislation would have put

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	such weapons as rubber bullets to certain circumstances.	5030 (omnibus) Enacted	limitations on the use of tear gas. Those provisions were removed by the Senate and were not included in the final bill. The final bill did prohibit the use of rubber bullets and other kinetic impact munitions unless needed to protect a law-enforcement officer or other person from bodily injury. Violators would be subject to disciplinary action up to, and including, decertification.
Militarization of Police	Prohibit law enforcement from acquiring military-style equipment such as tracked armored vehicles, grenade launchers, and high caliber weapons	HB 5049 SB 5030 (omnibus) Enacted	
Funding for police	Provide additional funding for police.	HB 5005 (Budget bill) Enacted	Some of the agenda items for criminal justice reform in the summer had called for conditioning the receipt of state 599 funds on police departments complying with new reporting requirements and on being accredited. Not only did the General Assembly decline to do that, it increased the 599 appropriation by \$7.5 million.
Reduction of role of law enforcement in certain circumstances			
Mental health awareness (MARCUS system)	Provides for primary response to situations dealing with people in a mental health crisis to be the responsibility of mental health professionals, rather than law enforcement. There would be a provision whereby 911 calls involving such situations would be routed to crisis teams.	HB 5043 SB 5038 Enacted	Community care team would consist of mental health professions who would provide immediate response. A team may include law enforcement officers, but a mental health professional would be the leader of a team. The Dept. of Behavioral Health and Developmental Services (DBHDS) would be responsible for establishing teams, which would be organized in community services board regions. The boards would be phased in: By Dec. 1, 2021: one team in each of the agency's regions. By July 1, 2026—one in each CSB region.

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School resource officers	Reduce the role of SROs and replace with mental health professionals	HB 5126 Left in committee	Would prohibit SROs from enforcing school disciplinary policies that have no connection to law enforcement and security services
Divest from law enforcement budgets and invest more in communities	This is a budget issue and is more applicable to localities.	n/a	
Changes in court systems and processes			
Expungement of criminal records	Make it easier, or automatic, to expunge criminal records	HB 5146 <u>Did not pass</u>	Authorizes automatic expungement of certain criminal records without individual having to request the action. Also restricts access to criminal history information. Both chambers passed a version of the bill, but were not able to reconcile differences.
Cash bail	Reform cash bail process	n/a	No bill introduced.
Prosecutorial discretion	Confirm authority of prosecutors to drop charges.	SB 5033 Enacted	In addition, the bill clarifies that courts may defer imposition of a finding of guilt, contingent upon offender fulfilling specified conditions.
Jury sentencing	Eliminate jury sentencing. Unless otherwise requested by defendant, judge would impose sentence without recommendation from jury.	SB 5007 Enacted	Would be effective July 1, 2021.
Jury trial during state of emergency	Eliminate prosecutors' right to demand jury trial when jury trials suspended for state of emergency	n/a	No bill introduced.
Racial profiling			
Traffic stops	Prohibit searches of person based	HB 5058	Prohibits the giving of a citation or summons for many offenses

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	solely on odor of marijuana and eliminate minor pretexts for traffic stops	Enacted	except as a secondary offense. No evidence found as a result of a stop in violation of the provisions may be used in a criminal proceeding.
Corrections reforms			
Earned sentence credits	Increase earned sentence credits for certain offenders in state prisons from a maximum of 4.5 days per 30 days served to a maximum of 30 days for each 30 days served. The expansion of credits would not be applicable to offenders convicted of many violent offenses.	HB 5148 SB 5034 Enacted	The amount of earned sentence credit an offender could earn would depend on the number of disciplinary infractions incurred and the offender's progress in completing programs offered by DOC. The provisions would not be effective until July 1, 2022.
Parole	Reinstate parole	SB 5016 Killed in committee.	
Compassionate release	Provide discretion to Parole Board for compassionate release of terminally ill or permanently disabled inmates	SB 5034 ; SB 5018 Enacted	The bills (identical provisions) authorize terminally ill offenders to petition the Parole Board for conditional release. Granting such release would be discretionary on the part of the Parole Board. "Terminally ill" is defined as having a medical prognosis of death within 12 months. Offenders convicted of most violent crimes would not be eligible for such release. The bills as introduced would have also allowed permanently disabled offenders to petition for release and would have applied to all offenders. As enacted, the provisions were narrowed to apply only to terminally ill non-violent offenders.
Criminal law changes			
Assault of law enforcement officer	Decrease the felony penalty for assault of public safety personnel, including law enforcement officers	SB 5032 Passed Senate; killed in	House referred bill to Crime Commission for study.

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		House	
Marijuana	Legalize marijuana	HB 5141 Left In committee	
Other			
Cost of legislation	Require agencies to determine cost savings for introduced criminal justice legislation— expansion of Woodrum bill	SB 5045 Passed Senate; died in House	