

**OFFICE OF POLICY AND LEGAL ANALYSIS  
BILL ANALYSIS**

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**TO:** Members, Joint Standing Committee on Criminal Justice and Public Safety  
**FROM:** Jane Orbeton, Legislative Analyst  
**DATE:** April 19, 2021  
**LD:** 400, An Act To Modify the Composition of the Board of Trustees of the Maine Criminal Justice Academy (Rep Bell)  
505, An Act to Expand the Disciplinary Authority of the Board of Trustees of the Maine Criminal Justice Academy (Rep McCrea)  
513, An Act Regarding the Membership of the Board of Trustees of the Maine Criminal Justice Academy and Its Complaint Review Committee (Rep Reckitt)  
1092, An Act to Expand the Board of Trustees of the Maine Criminal Justice Academy to Include 6 Members of the Public Who Are Not Employed as Any Type of Law Enforcement Personnel and To Require a Public Review of the Training Syllabus (Sen Miramant)

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**A. Membership on the Maine Criminal Justice Academy (MCJA) Board of Trustees**

LD 400, 513 and 1092 all amend Title 25, section 2802 and increase the membership on the MCJA board. None of the seats require review by the CJPS Committee or confirmation by the Senate. In outline form the current membership of 18 persons and proposals read as follows.

**Ex officio members:**

1. Commissioner of Public Safety
2. Attorney General
3. Game Warden Colonel in the Department of Inland Fisheries and Wildlife
4. Commissioner of Corrections
5. Chief of the State Police

**Members appointed by the Governor:**

6. County sheriff
7. Chief of a municipal police department
8. Officer of municipal police departments, not a police chief
9. Officer of municipal police departments, not a police chief
10. Educator, not and has not a law enforcement officer
11. Criminal prosecutor from one of the offices of the District Attorney
12. Representative of a federal law enforcement agency
13. Citizen, not and has not been a law enforcement officer
14. Citizen, not and has not been a law enforcement officer
15. Citizen, not and has not been a law enforcement officer
16. Municipal official, not and has not been a law enforcement officer
17. Nonsupervisory corrections officer representing a state or county correctional facility
18. Person knowledgeable about public safety, recommended to the Governor by the Wabanaki tribal governments of the Aroostook Band of Micmacs, the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe at Motahkmikuk, the Passamaquoddy Tribe at Sipayik and the Penobscot Nation. by a process determined by those governments that provides for the board membership to rotate among the tribal governments.

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**B. Proposals to increase board membership**

LD 400 and 513 both propose adding a county commissioner who is not and has not been a law enforcement officer.

LD 1092 proposes adding 3 members to the board as follows. Decreasing the existing 3 citizen members to 2. Adding 2 citizen members who have never been law enforcement officers appointed by the President and confirmed by the Senate. And adding 2 citizen members who have never been law enforcement officers appointed by the Speaker and confirmed by the Senate.

LD 1092 proposes to require filling new citizen member board vacancies within 3 months and to allow serving citizen members to complete their terms.

**Testimony**

In presenting LD 513 Rep Reckitt opposed expansion to include a county commissioner. Maine County Commissioners Association supports.

Maine Chiefs of Police Association and MCJA suggested a county commissioner and a municipal official rotate in the seat held by a municipal official and oppose expansion to 21.

Maine Sheriffs Association suggests designating one citizen seat for a county commissioner or rotating with a municipal official.

MCJA opposed increase to 21 members.

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**C. Proposal to enlarge the complaint review committee**

LD 513 proposes enlarging the complaint committee from 3 members to 5 members. Requiring 2 members to be citizen members and requiring 1 citizen member as part of a 3 member quorum.

**Testimony**

MCJA, Maine Sheriffs Association and Maine Chiefs of Police Association support.

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**D. Proposal to increase disciplinary authority of the board**

LD 505, as amended by Rep McCrea at the public hearing, proposes to authorize the board to adopt rules establishing disciplinary standards of conduct for an applicant or certificate holder and to authorize the board to take action against an applicant or certificate holder who engages in conduct that is a violation of those disciplinary standards of conduct.

**Testimony**

MCJA and Maine Chiefs of Police Association support as amended.

There was discussion of whether to require certification and meeting training requirements for a person to serve as sheriff and whether to give MCJA board authority to revoke a sheriff's certification. See LD 375 and 1065, referred to State and Local Government Committee.

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### **E. Proposal regarding the basic law enforcement training program**

LD 1092 proposes to require that prior to changing or adopting an element of the basic law enforcement training program:

- A. The MCJP must make available for public comment the entire syllabus; and
- B. Each member of the board must acknowledge receipt of and consider all public comments.

LD 1092 proposes to require, after the proposed public comment period, review of the syllabus of the basic law enforcement training program by the board, including 6 citizen non-law enforcement officer members, within 12 months.

### **Testimony**

Maine Chiefs of Police Association commented on MCJA rulemaking authority, which is subject to the Administrative Procedure Act and is codified in Department of Public Safety Rule Chapter 227.

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### **F. Issues referred to these work sessions from LD 539 on personnel information regarding law enforcement officers**

- 1. Should psychological testing and polygraph examinations be required for law enforcement officers and all correctional officers?
- 2. Does Title 25, section 2806-A provide adequate authority to the board when a polygraph examination shows dishonesty or criminal behavior?

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## **PART 8**

### **MAINE CRIMINAL JUSTICE ACADEMY**

#### **CHAPTER 341**

### **THE MAINE CRIMINAL JUSTICE ACADEMY**

#### **§2801. Maine Criminal Justice Academy; purpose**

**1. Purpose of academy.** The purpose of the Maine Criminal Justice Academy is to provide a central training facility for criminal justice personnel. The academy shall promote the highest levels of professional law enforcement performance and facilitate coordination and cooperation between various criminal justice agencies.

**2. Purpose of board of trustees.** The purpose of the Maine Criminal Justice Academy Board of Trustees is to protect the public health and welfare. The board carries out this purpose by ensuring that the public is served by competent and honest criminal justice practitioners and by establishing minimum standards of proficiency in the regulated professions by examining, licensing, regulating and disciplining practitioners of those regulated professions, as are identified in this chapter. Other goals or objectives may not supersede this purpose.

#### **§2801-A. Definitions**

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings.

**1. Board.** "Board" means the Board of Trustees of the Maine Criminal Justice Academy.

**2. Corrections officer.** "Corrections officer" means a person who is responsible for the custody or direct supervision of a person confined in a jail, prison or state correctional facility pursuant to an order of a court or as a result of an arrest and who possesses a current and valid certificate issued by the board pursuant to section 2803-A.

- A.
- B.

**2-A. Judicial marshal.** "Judicial marshal" means a law enforcement officer who possesses a current and valid certificate issued by the board pursuant to section 2803-A and is employed by a nonfederal employer to provide security and protection to the Judicial Branch and the courts located within the State.

**3. Full-time corrections officer.**

**4. Full-time law enforcement officer.** "Full-time law enforcement officer" means a person who possesses a current and valid certificate issued by the board pursuant to section 2803-A and is employed as a law enforcement officer by a municipality, a county, the State or any other nonfederal employer with a reasonable expectation of working more than 1,040 hours in any one calendar year performing law enforcement officer duties.

**5. Law enforcement officer.** "Law enforcement officer" means a person who by virtue of public employment is vested by law with the power to make arrests for crimes or serve criminal process, whether that power extends to all crimes or is limited to specific crimes and who possesses a current and valid certificate issued by the board pursuant to section 2803-A. As used in this chapter, "law enforcement officer" does not include federal law enforcement officers or attorneys prosecuting for the State.

**6. Part-time corrections officer.**

**7. Part-time law enforcement officer.** "Part-time law enforcement officer" means a person who:

- A. Possesses a current and valid certificate issued by the board pursuant to section 2803-A to perform duties as a part-time law enforcement officer and does not possess any other type of current and valid certificate issued by the board pursuant to section 2803-A;
- B. Is employed as a law enforcement officer; and
- C. Absent extenuating circumstances as determined by the board, works not more than 1,040 hours in any one calendar year performing law enforcement duties.

**8. Transport officer.** "Transport officer" means a person who is responsible for transferring or conveying from one place to another individuals who are confined in a jail, prison or state correctional facility pursuant to an order of a court or as a result of an arrest and who possesses a current and valid certificate issued by the board pursuant to section 2803-A.

**§2801-B. Application of chapter; exemption**

**1. Training and policy exemption.** The training standards of this chapter and the requirements of section 2803-B do not apply to a person defined by this chapter as a law enforcement officer who is:

- A. An employee of the Department of Corrections with a duty to perform probation functions or who is an adult probation supervisor as defined in Title 17-A, section 2, subsection 3-C or an investigative officer or other employee of the Department of Corrections authorized to exercise law enforcement powers as described in Title 34-A, section 3011;
- B. An agent or a representative of the Department of Agriculture, Conservation and Forestry, Bureau of Parks and Lands whose law enforcement powers are limited to those specified in Title 12, section 1806;
- C. The state supervisor of the forest protection unit of the Bureau of Forestry within the Department of Agriculture, Conservation and Forestry or a forest ranger appointed under Title 12, section 8901;
- D.
- E. A harbor master;
- F. A municipal shellfish conservation warden;
- G. A police officer appointed by the Commissioner of Public Safety pursuant to section 2908;
- H. The State Fire Marshal or Assistant State Fire Marshal;
- I.
- J. A judicial marshal;
- K. A contract officer appointed by the Commissioner of Public Safety pursuant to Title 28-A, section 82-A; or
- K. (REALLOCATED TO T. 25, §2801-B, sub-§1, ¶L)
- L. (REALLOCATED FROM T. 25, §2801-B, sub-§1, ¶K) A transport officer.

This exemption does not include certification training requirements set out in this chapter that are specific to the positions identified in this subsection or, in the case of an investigative officer as described in Title 34-A, section 3011, training requirements set out in this chapter other than those of section 2803-B.

**2. Education, training and certification training required.** A law enforcement officer listed in subsection 1 must possess a current and valid certificate issued by the board prior to carrying out any law enforcement duties. The directors of the state agencies listed in subsection 1 shall provide adequate education and training for all law enforcement officers within their jurisdiction annually and provide documentation to the board by December 31st of each year. The board shall advise the directors concerning appropriate and adequate training.

**§2802. Board of trustees**

There is created a board of trustees for the academy consisting of 18 members as follows: the Commissioner of Public Safety, ex officio, the Attorney General, ex officio, the Game Warden Colonel in the Department of Inland Fisheries and Wildlife, ex officio, the Commissioner of Corrections, ex officio, the Chief of the State Police, ex officio, and the following to be appointed by the Governor: a county sheriff, a chief of a municipal police department, 2 officers of municipal police departments who are not police chiefs, an educator who is not and has never been a sworn member of a law enforcement agency, a criminal prosecutor from one of the offices of the District Attorney, a representative of a federal law enforcement agency, 3 citizens each of whom is not and has never been a sworn member of a law enforcement agency, a municipal official who is not and has never been a sworn member of a law enforcement agency, one nonsupervisory corrections officer representing a state or county correctional facility and one person knowledgeable about public safety who has been recommended to the Governor by the Wabanaki tribal governments of the Aroostook Band of Micmacs, the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe at Motahkmikuk, the Passamaquoddy Tribe at Sipayik and the Penobscot Nation. The member appointed by the Governor based on the recommendation of the Wabanaki tribal governments must be recommended by the tribal governments by a process determined by those governments that provides for the board membership to rotate among the tribal governments.

A designee of an ex officio member is a member of the board only during the term of office of the ex officio member who designated the designee. All of the other members of the board serve for a term of 3 years, except that the member appointed by the Governor based on the recommendation of the Wabanaki tribal governments serves for a term of 2 years. A trustee holds office for the term for which the trustee is appointed or until the trustee's successor has been appointed and qualified. Members of the board are entitled to compensation in accordance with Title 5, chapter 379. Any vacancy on the board of trustees must be filled in the same manner as the original appointment, but for the unexpired term.

#### **§2803. Powers and duties**

**(REPEALED)**

#### **§2803-A. Powers and duties of the board of trustees**

The board has the following powers and duties:

**1. Training and certification of all law enforcement officers in State.** In accordance with this chapter, to establish training and certification standards for all law enforcement officers, set requirements for board-approved courses, prescribe curriculum and certify both graduates of board-approved courses and persons for whom the board has waived the training requirements of this chapter. Certification must be based on the officer's demonstration of having acquired specific knowledge and skills directly related to job performance;

**2. Admission standards.** In accordance with the requirements of this chapter, to establish standards for admission to the board-approved courses, including academic and physical admission standards that apply uniformly to all candidates applying for admission to the academy;

**3. Certification of criminal justice executives.** To certify and set standards for certification of criminal justice executives. As used in this subsection, "criminal justice executives" means police chiefs, sheriffs and the persons directly below the police chiefs or sheriffs in line of command;

**4. Training and certification of sheriffs.**

**5. Training and certification of corrections officers in State.** In accordance with this chapter, to establish training and certification standards for all corrections officers, set requirements for board-approved courses, prescribe curriculum and certify graduates of board-approved courses and persons for whom the board has waived the training requirements of this chapter. Certification must be based on the officer's demonstration of having acquired specific knowledge and skills directly related to job performance;

**5-A. Training of corrections employees with law enforcement powers.** To establish certification standards and a preservice and in-service training program for employees of the Department of Corrections authorized to exercise law enforcement powers as described in Title 34-A, section 3011. This program must include:

A. Preservice law enforcement training under section 2804-B;

B. In-service law enforcement training that is specifically approved by the board as prescribed in section 2804-E.

Except for investigative officers, these employees of the Department of Corrections are exempt from section 2804-C, but completion of the basic training under section 2804-C exempts a person from the preservice training requirements under paragraph A;

**6. Training and certification of State Police enlisted personnel.**

**7. Training of harbor masters.** To establish suitable training programs for harbor masters authorized to make arrests under Title 38, chapter 1, subchapter I, relevant to their duties as harbor masters;

**8. Training and certification in court procedures.** To establish certification standards and a program to certify law enforcement officers as being familiar with current court procedures. This program shall include:

- A. Sufficient instruction in the basic training courses approved by the board under this chapter to satisfy certification standards upon successful completion of the course;
- B. A method by which law enforcement officers whose basic training course did not contain the instruction required by paragraph A may satisfy the certification standards; and
- C. A requirement that in-service training programs required under section 2804-E include instruction on current court procedures;

**8-A. Training of police officers of the Bureau of Capitol Police.** To establish certification standards and a training program for police officers appointed by the Commissioner of Public Safety pursuant to section 2908. This program must include:

- A. The preservice law enforcement training under section 2804-B;
- B. An additional 120-hour field training program developed and approved by the board that is specific to the duties of a Capitol Police officer; and
- C. In-service law enforcement training that is specifically approved by the board as prescribed in section 2804-E.

Capitol Police officers are exempt from section 2804-C;

**8-B. Training of judicial marshals.** To establish certification standards and a preservice and in-service training program for judicial marshals. This program must include:

- A. Preservice law enforcement training under section 2804-B;
- B. An additional basic judicial marshal training program developed and approved by the board that is specific to the duties of a judicial marshal; and
- C. In-service law enforcement training that is specifically approved by the board as prescribed in section 2804-E.

Judicial marshals are exempt from section 2804-C, but completion of basic training under section 2804-C exempts a person from the preservice training requirement under paragraph A;

**8-C. Training of transport officers.** To establish certification standards and a training program for transport officers. This program must include:

- A. The preservice law enforcement training under section 2804-B; and
- B. In-service law enforcement training that is specifically approved by the board as prescribed in section 2804-E;

**8-D. Training of forest rangers.** To establish certification standards and a training program for the state supervisor of the forest protection unit of the Bureau of Forestry within the Department of Agriculture, Conservation and Forestry and forest rangers appointed under Title 12, section 8901. This program must include:

- A. Preservice law enforcement training under section 2804-B;
- B. An additional basic forest ranger training program developed by the state supervisor of the forest protection unit of the Bureau of Forestry within the Department of Agriculture, Conservation and Forestry and approved by the board that is specific to the duties of a forest ranger;
- C. In-service law enforcement training that is specifically approved by the board as prescribed in section 2804-E; and
- D. A firearms training program equivalent to a firearms training program of a full-time law enforcement officer trained at the Maine Criminal Justice Academy that is developed and approved by the board.

A forest ranger hired on or after July 1, 2019 shall complete basic training under section 2804-C.

Forest ranger pilots regardless of hire date and forest rangers hired prior to July 1, 2019 are exempt from basic training under section 2804-C, but completion of basic training under section 2804-C exempts a person from the preservice training requirement under paragraph A;

**9. Other training programs.** To establish additional training programs considered to be beneficial to law enforcement officers, corrections officers and other criminal justice personnel;

**10. Establish fees.** To establish, with the approval of the commissioner, reasonable fees for attendance to defray at least part of the operation costs of the academy;

**11. Formulate a budget.**

**12. Accept funds and grants.** With the approval of the commissioner, to accept such federal funds or grants as may be available to carry out the purposes of the academy;

**13. Acquire facilities.** With the approval of the commissioner, to lease, rent or acquire adequate facilities to conduct the academy's training programs;

**14. Certification of instructors.** To certify and set standards for certification of law enforcement and criminal justice instructors to be used in all academy preservice, basic and in-service training programs as required by the board of trustees and over which the board has statutory control;

**15. Revocation or suspension of certification.** To take disciplinary action concerning any certificate issued by the board, including but not limited to suspension or revocation;

**16. Provide assistance and materials.** To provide to state, municipal and county corrections officers and state, municipal and county law enforcement officers any assistance or instructional materials the board considers necessary to fulfill the purposes of this chapter and Title 30-A, sections 381 and 2671;

**17. Acceptance of gifts.** To accept, as recommended by the Director of the Maine Criminal Justice Academy, money, goods and services, gifts, bequests and endowments donated to the Maine Criminal Justice Academy to support any activities carried out by the Maine Criminal Justice Academy pursuant to this chapter. Any money donated to the academy and any proceeds from the sale of property bequeathed to the board pursuant to this section must be deposited in the academy's Other Special Revenue Funds account;

**18. Rules.** To adopt rules as the board determines necessary and proper to carry out this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A; and

**19. Issuance of subpoenas.** To conduct investigations and issue subpoenas to assist with investigations or as otherwise considered necessary for the fulfillment of its responsibilities and to hold hearings and issue subpoenas for witnesses, records and documents in the name of the board in accordance with the terms of Title 5, section 9060, except that the subpoena authority applies to any stage or type of an investigation and is not limited to an adjudicatory hearing.

**§2803-B. Requirements of law enforcement agencies**

**1. Law enforcement policies.** All law enforcement agencies shall adopt written policies regarding procedures to deal with the following:

- A. Use of physical force, including the use of electronic weapons and less-than-lethal munitions;
- B. Barricaded persons and hostage situations;
- C.
- D. Domestic violence, which must include, at a minimum, the following:
  - (1) A process to ensure that a victim receives notification of the defendant's release from jail;
  - (2) A process for the collection of information regarding the defendant that includes the defendant's previous history, the parties' relationship, whether the commission of an alleged crime included the use of strangulation as defined in Title 17-A, section 208, subsection 1, paragraph C, the name of the victim and a process to relay this information to a bail commissioner before a bail determination is made;
  - (3) A process for the safe retrieval of personal property belonging to the victim or the defendant that includes identification of a possible neutral location for retrieval, the presence of at least one law enforcement officer during the retrieval and giving the victim the option of at least 24 hours' notice to each party prior to the retrieval;
  - (4) Standard procedures to ensure that protection from abuse orders issued under Title 19-A, section 4006 or 4007 are served on the defendant as quickly as possible; and
  - (5) A process for the administration of a validated, evidence-based domestic violence risk assessment recommended by the Maine Commission on Domestic and Sexual Abuse, established in Title 5, section 12004-I, subsection 74-C, and approved by the Department of Public Safety and the conveyance of the results of that assessment to the bail commissioner, if appropriate, and the district attorney for the county in which the domestic violence occurred.
- E. Hate or bias crimes. A policy adopted under this paragraph must include a policy statement that prohibits stops, detentions, searches or asset seizures and forfeitures efforts based on race, ethnicity, gender, sexual orientation, gender identity, religion, socioeconomic status, age, national origin or ancestry by members of the law enforcement agency, states that individuals may be stopped or detained only when legal authority exists to do so and states that members of the law enforcement agency must base their enforcement actions solely on an individual's conduct and behavior or specific suspect information;
- F. Police pursuits;
- G. Citizen complaints of police misconduct;
- H. Criminal conduct engaged in by law enforcement officers;
- I. Death investigations, including at a minimum the protocol of the Department of the Attorney General regarding such investigations;
- J. Public notification regarding persons in the community required to register under Title 34-A, chapters 15 and 17;
- J. **(REALLOCATED TO T. 25, §2803-B, sub-§1, ¶K)**
- K. **(REALLOCATED FROM T. 25, §2803-B, sub-§1, ¶J)** Digital, electronic, audio, video or other recording of law enforcement interviews of suspects in murder, Class A, Class B and Class C crimes and the preservation of investigative notes and records in such cases;
- L. Mental illness and the process for involuntary commitment, and the process pursuant to Title 34-B, section 3862-A; and

M. Freedom of access requests. The chief administrative officer of a municipal, county or state law enforcement agency shall certify to the board annually that the agency has adopted a written policy regarding procedures to deal with a freedom of access request and that the chief administrative officer has designated a person who is trained to respond to a request received by the agency pursuant to Title 1, chapter 13. The chief administrative officer of each agency shall certify to the board that attempts were made to obtain public comment during the formulation of policies.

**2. Minimum policy standards.** The board shall establish minimum standards for each law enforcement policy pursuant to subsection 1 with the exception of the freedom of access policy under subsection 1, paragraph M. Minimum standards of new mandatory policies enacted by law must be adopted by the board no later than December 31st of the year in which the law takes effect.

**3. Agency compliance.** The chief administrative officer of each law enforcement agency shall certify to the board annually no later than January 1st of each year that the agency has adopted written policies consistent with the minimum standards established or amended by the board and that all officers have received orientation and training with respect to new mandatory policies or new mandatory policy changes pursuant to subsection 2. New mandatory policies enacted by law must be implemented by all law enforcement agencies no later than the July 1st after the board has adopted the minimum standards.

**4. Penalty.**

**5. Annual standards review.** The board shall review annually the minimum standards for each policy to determine whether changes in any of the standards are necessary to incorporate improved procedures identified by critiquing known actual events or by reviewing new enforcement practices demonstrated to reduce crime, increase officer safety or increase public safety.

**6. Freedom of access.**

**7. Certification by record custodian.**

**§2803-C. Penalty**

An agency or individual who fails to comply with a provision of this chapter commits a civil violation for which the State or the local government entity whose officer or employee committed the violation or the individual who committed the violation may be adjudged a fine not to exceed \$500.

**§2803-D. Certificate admissible**

Notwithstanding any other law or rule of evidence, a certificate issued by the custodian of the records of the board, when signed and sworn to by that custodian, or the custodian's designee, is admissible in a judicial or administrative proceeding as prima facie evidence of any fact stated in the certificate.

**§2804. Meetings**

The board of trustees shall meet at such time or times as may be reasonably necessary to carry out their duties, but it shall meet at least once in each calendar quarter at such place and time as the board shall determine and it shall meet at the call of the chairman. The board shall organize annually by electing a chairman, vice-chairman and secretary from among its members.

**§2804-A. Director; appointment; powers and duties**

The Commissioner of Public Safety, with the advice and consent of the board of trustees, shall appoint a director, who is the administrator of the academy and the executive director of the board. Qualifications of the director must be established by the commissioner and the board jointly. The salary of the director must be established by the commissioner and the board jointly. The director may be dismissed for cause by the commissioner with the approval of the board.

The director shall have the duty to plan, direct and supervise the day-to-day operation of the academy and shall be charged with the responsibility of carrying out the policy and procedures established by the board.

The director shall employ, within the limits of funds available, with the approval of the board and the commissioner and subject to the Civil Service Law, such personnel as may be reasonably necessary to carry out the purposes of the academy.

**§2804-B. Preservice law enforcement training**

**1. Required.** A person may not serve as a law enforcement officer with the power to make arrests or the authority to carry a firearm in the course of duty until certified by the board as satisfying all preservice training requirements.

**2. Preservice training standards.** The board shall establish standards for preservice training certification. In establishing the standards, the board shall consider the use of a registered apprenticeship with a certified, experienced officer, to be followed by an examination given by the board, as an alternative to part or all of the preservice training course leading to preservice certification. In establishing the standards, the board shall cooperate with the State and local departments and agencies to which the preservice standards apply to ensure that the standards are appropriate.



**3. Certification.** The board shall certify each person who meets the preservice training standards as eligible to serve as a law enforcement officer with the power to make arrests and the authority to carry a firearm in the course of duty, subject to annual recertification training as prescribed by the board.

**4. Course.** The board shall provide a training course, the successful completion of which must meet the preservice training standards. In developing and delivering the training course, the board shall consider the use of telecommunications technology. The board may work with post-secondary and other institutions within the State to deliver the preservice training course throughout the State as often as reasonable demand requires.

**5. Agency sponsorship.** The board shall evaluate the use of law enforcement agency sponsorship, screening of preservice training applicants and students and the availability of preservice training before employment.

**6. Completion of basic law enforcement training sufficient.** The board shall certify law enforcement officers who successfully complete basic law enforcement training under section 2804-C before being empowered to make arrests or given the authority to carry a firearm in the course of duty as having satisfied the preservice training standards.

**7. Part-time law enforcement officers.** The board shall certify law enforcement officers who successfully complete preservice law enforcement training and who have qualified with a firearm using the board firearm proficiency standards as part-time law enforcement officers. Thereafter, as a condition of continued service as a part-time law enforcement officer, the officer must satisfactorily maintain the preservice certification. The board shall maintain a roster of all currently certified part-time law enforcement officers. The roster must be available for inspection by the public at the academy during regular working hours.

**8. Application to currently certified law enforcement officers.** This section does not apply to any law enforcement officer certified as meeting the law enforcement training requirements or to any full-time law enforcement officer employed by a state agency, including the University of Maine System, as of July 1, 1990.

**§2804-C. Basic law enforcement training; core curriculum requirements**

**1. Required.** As a condition to the continued employment of any person as a full-time law enforcement officer by a municipality, a county, the State or any other nonfederal employer, that person must successfully complete, within the first 12 months of initial full-time employment, the basic training course at the Maine Criminal Justice Academy approved by the board. If a person's failure to comply with this requirement was a result of that person's failure to satisfy any of the admission standards applicable to the basic training course and that person is subsequently employed as a full-time law enforcement officer within 12 months of termination of the initial employment by a municipality, a county, the State or any other nonfederal employer, the person must have satisfied all the admission standards established by the board prior to the time of hire. As a condition of continued employment as a full-time law enforcement officer, the officer must satisfactorily maintain the basic certification by completing the recertification requirements prescribed by the board. The board, under extenuating and emergency circumstances in individual cases, may extend the 12-month period for not more than 180 days. The board also, in individual cases, may waive the basic training requirement when the facts indicate that an equivalent course has been successfully completed.

**2. Core curriculum requirements.**

**2-A. Probationary employment period.** Upon being hired, a law enforcement officer shall complete an employment probationary period that lasts for at least one year after graduation from the academy or the date the board waives the basic training requirement.

**2-B. Training regarding people who are homeless.** The board shall include in the basic law enforcement training program a block of instruction aimed specifically at reducing barriers to reporting crimes against people who are homeless and dealing with the unique challenges posed by cases that involve victims or witnesses who are homeless.

**2-C. Receipt of firearms; training; procedure; liability.** The Maine Criminal Justice Academy shall provide training for municipal, county and state law enforcement officers regarding the proper handling, storage, safekeeping and return of firearms and firearm accessories received pursuant to a court order under Title 19-A, section 4006, subsection 2-A or Title 19-A, section 4007, subsection 1, paragraph A-1. Such training must include education concerning the prohibitions on the purchase or possession of a firearm when a protection order has been obtained and communication with parties to protection orders concerning such prohibitions.

In developing materials for training in domestic violence issues, the Maine Criminal Justice Academy may consult with a statewide organization involved in advocacy for victims of domestic violence and with an organization having statewide membership representing the interests of firearms owners.

A law enforcement officer who receives custody of a firearm pursuant to Title 19-A, section 4006, subsection 2-A or Title 19-A, section 4007, subsection 1, paragraph A-1 shall exercise reasonable care to avoid loss, damage or reduction in value of the firearm and may not permanently mark the firearm or fire the firearm unless there is reasonable suspicion that the firearm has been used in the commission of a crime. Any liability for damage or reduction in value to such a firearm is governed by Title 14, chapter 741.

**2-D. Training regarding people who have mental illness and the involuntary commitment process.** The board shall include in the basic law enforcement training program a block of instruction aimed specifically at the clinical, safety and procedural components of the involuntary commitment process, including the provision of a uniform checklist that includes reference to Title 34-B, section 1207, subsection 7 for law enforcement officers to use in order to effectively describe the seriousness of a case to a mental health professional.

**2-E. Receipt of certain dangerous weapons; training; procedure; liability.** Beginning in 2020, the Maine Criminal Justice Academy Board of Trustees shall require training as part of its mandated training schedule for municipal, county and state law enforcement officers regarding the process for protection from substantial threats by a restricted person and the proper handling, storage, safekeeping and return of dangerous weapons received pursuant to an endorsement or court order under Title 34-B, section 3862-A or 3873-A. The training must include education concerning the prohibitions on the purchase, control or possession of dangerous weapons. A law enforcement officer who receives custody of a dangerous weapon pursuant to Title 34-B, section 3862-A or 3873-A shall exercise reasonable care to avoid loss, damage or reduction in value of the weapon and may not permanently mark or fire the weapon unless there is reasonable suspicion that the weapon has been used in the commission of a crime. Any liability for damage or reduction in value to such a weapon is governed by Title 14, chapter 741.

**REVISOR'S NOTE:** (Subsection 2-E as enacted by PL 2019, c. 410, §3 is REALLOCATED TO TITLE 25, SECTION 2804-C, SUBSECTION 2-F)

**2-F. (REALLOCATED FROM T. 25, §2804-C, sub-§2-E) Training regarding bias-based profiling.** The board shall include in the basic law enforcement training program a block of instruction aimed specifically at the prohibition of bias-based profiling that prohibits stops, detentions, searches or asset seizures and forfeitures efforts based on race, ethnicity, gender, sexual orientation, gender identity, religion, socioeconomic status, age, national origin or ancestry by members of a law enforcement agency, that provides that individuals may be stopped or detained only when legal authority exists to do so and that provides that members of a law enforcement agency must base their enforcement actions solely on an individual's conduct and behavior or specific suspect information.

**3. Certification.** The board shall certify each person who meets the core curriculum training requirements.

**4. Courses.** The board shall:

- A. Provide a training course, the successful completion of which meets the basic training requirements;
- B. Provide a structured residential program that balances the goals of professional policing with public services emphasis; and
- C. Incorporate a community policing philosophy in its training program.
- D.

**5. Application to currently certified law enforcement officers.** This section does not apply to any law enforcement officer certified as meeting the law enforcement training requirements or to any full-time law enforcement officer employed by a state agency, including the University of Maine System, as of July 1, 1990 or to any person employed as a full-time law enforcement officer by a municipality on September 23, 1971 or by a county on July 1, 1972.

#### **§2804-D. Basic corrections training**

**1. Required.** As a condition to the continued employment of any person as a corrections officer, that person must successfully complete, within the first 12 months of employment, a basic training course as approved by the board. Thereafter, as a condition of continued employment as a corrections officer, the officer must satisfactorily maintain the basic certification. The board, under extenuating and emergency circumstances in individual cases, may extend the 12-month period for not more than 180 days. The board, in individual cases, may waive basic training requirements when the facts indicate that an equivalent course has been successfully completed in another state or federal jurisdiction. A full-time correctional trade instructor must meet the training requirements established under this subsection for corrections officers. Beginning January 1, 2018, the basic training course must include 8 hours of training in how to identify, understand and respond to signs of mental illnesses and substance use disorder that is provided by a trainer who is certified by a nationally recognized organization that provides evidence-based mental health first aid training.

#### **§2804-E. In-service law enforcement training**

**1. Required.** As a condition to the continued employment of a person as a law enforcement officer with the power to make arrests or the authority to carry a firearm in the course of duty by a municipality, county, the State or other nonfederal employer, that person must successfully complete in-service training as prescribed by the board. Failure to successfully complete in-service training by a law enforcement officer as prescribed by the board constitutes grounds to suspend or revoke a certificate issued by the board pursuant to section 2803-A.

**2. Role of board.** The board shall establish in-service recertification training requirements, consistent with subsection 1, and coordinate delivery of in-service training. The in-service recertification training requirements must include information on new laws and court decisions and on new enforcement practices demonstrated to reduce crime or increase officer safety. The board shall consider and encourage the use of telecommunications

technology in the development and delivery of in-service training programs. In establishing the recertification training requirements, the board shall cooperate with the state and local departments and agencies to which the in-service requirements apply to ensure that the standards are appropriate. In-service training may not be applied to satisfy in-service recertification training requirements unless it is approved by the board.

**3. Additional certificates.**

**4. Credit for continuing education.** The board may grant in-service training credits to be applied to in-service recertification training requirements for courses completed at accredited colleges and universities.

**5. Provision of in-service training.** In-service training programs that meet the requirements established under subsection 2 or other in-service training programs may be provided by the Maine Criminal Justice Academy or the agency employing the law enforcement officer.

**§2804-F. In-service corrections training**

**1. Required.** As a condition to the continued employment of any person as a corrections officer by a municipality, county, the State or other nonfederal employer, that person shall successfully complete in-service training as prescribed by the board. Failure to successfully complete in-service training by a corrections officer as prescribed by the board constitutes grounds to suspend or revoke a certificate issued by the board pursuant to section 2803-A.

**2. Role of board.** The board shall establish in-service training requirements, consistent with subsection 1, and coordinate delivery of in-service training. The in-service recertification training requirements must include information on new laws and court decisions. The board shall consider and encourage the use of telecommunications technology in the development and delivery of in-service training programs. In establishing the recertification training requirements, the board shall cooperate with the state and local departments and agencies to which the in-service requirements apply to ensure that the standards are appropriate. In-service training may not be applied to satisfy in-service recertification training requirements unless it is approved by the board.

**3. Provisions of in-service training.** In-service training programs that meet the requirements established under subsection 2 or other in-service training may be provided by the Maine Criminal Justice Academy or the agency employing the corrections officer.

**4. Credit for continuing education.** The board may grant in-service training credits to be applied to in-service recertification training requirements for courses completed at accredited colleges and universities.

**§2804-G. Qualifications**

**1. Age.** An applicant must be 21 years of age or older to qualify for a position as a law enforcement officer unless the applicant has an associate's degree or 60 credit hours of postsecondary education, in which case the applicant must be at least 20 years of age.

**§2804-H. Continuing certification**

If the commissioner or deputy commissioner is a law enforcement officer who is certified under sections 2804-B and 2804-C, the officer's certification does not lapse during the period the officer serves as commissioner or deputy commissioner.

**§2804-I. Law enforcement training for harbor masters and municipal shellfish conservation wardens**

Harbor masters and municipal shellfish conservation wardens must successfully complete the preservice law enforcement training requirements in section 2804-B and the in-service law enforcement training requirements in section 2804-E in order to have the power to make arrests or to carry a firearm. Harbor masters and municipal shellfish conservation wardens are exempt from section 2804-C.

**§2804-J. Law enforcement training for police officers of the Bureau of Capitol Police**

The following provisions govern the training and certification of police officers appointed pursuant to section 2908.

**1. Security officers hired or appointed before March 1, 2002.**

**2. Police officers hired or appointed on or after March 1, 2002.** A police officer hired or appointed on or after March 1, 2002 must have successfully completed, at the time the person is hired or within the first 12 months of employment, the requirements established in section 2803-A, subsection 8-A in order to have the power to make arrests or to carry a firearm.

**§2804-K. Law enforcement training for judicial marshals**

As a condition to the continued employment of any person as a judicial marshal, that person must successfully complete, within the first 12 months of employment, the training required under section 2803-A, subsection 8-B. Thereafter, as a condition of continued employment as a judicial marshal, the judicial marshal must satisfactorily maintain the judicial marshal certification by completing recertification requirements prescribed by the board. The board, under extenuating and emergency circumstances in individual cases, may extend that period for not more than 180 days.

**§2804-L. Law enforcement training for forest rangers**

Beginning July 1, 2019, all forest rangers and the state supervisor of the forest protection unit of the Bureau of Forestry within the Department of Agriculture, Conservation and Forestry must successfully complete the training requirements established under section 2803-A, subsection 8-D.

**§2805. Qualifications**

**(REPEALED)**

**§2805-A. Standards for reserve and other part-time law enforcement officers**

**(REPEALED)**

**§2805-B. Employment and training records**

**1. Annual report and records.** Within 30 days of the close of each calendar year, the highest elected official of each political subdivision and the head of each state department and agency employing law enforcement or corrections officers subject to this chapter shall provide the board with a report containing a list of the names and dates of employment of all law enforcement and corrections officers covered by this chapter. The official or department or agency head shall maintain records regarding the basic and in-service training of law enforcement and corrections officers as provided in sections 2804-C to 2804-F. The report provided to the board must include the total number of excessive force complaints received about law enforcement or corrections officers during the reporting year by the reporting jurisdiction and the total number of these complaints that were determined to be founded and unfounded. The board may adopt additional categories that law enforcement agencies shall record and include in their annual report to the board.

**2. New officers.** Whenever a law enforcement officer or corrections officer is newly appointed, the official or department or agency head shall send notice of appointment within 30 days to the board on a form provided for that purpose. The form is deemed an application for admission to the training program or for other certification as required by this chapter.

**3. Termination of officers.** Whenever the employment of a law enforcement officer or corrections officer is terminated, the official or department or agency head shall send notice of the termination within 30 days to the board on a form provided for that purpose.

**§2805-C. Complaint review committee**

**1. Committee.** The chair of the board shall appoint 3 members of the board to serve on the complaint review committee. One of the members must be one of the citizen members of the board. All members of the committee must be present for deliberations. A majority vote is necessary to recommend taking corrective or disciplinary action on a complaint or to order an independent investigation pursuant to subsection 3.

**2. Investigation.** The committee shall investigate complaints regarding any violation of this chapter or rules established by the board by a person holding a certificate issued by the board pursuant to section 2803-A and recommend appropriate action to the board.

**3. Investigation and notice of complaints.** Before proceeding with a hearing to suspend or revoke a certificate issued by the board pursuant to section 2803-A, the board, the complaint review committee or board staff shall notify the chief administrative officer of the agency employing the certificate holder that the board is investigating the certificate holder. The chief administrative officer shall investigate the alleged conduct of the certificate holder and, notwithstanding any other provision of law, report the findings and provide copies of the investigative reports to the board within 30 days of receiving notice of the investigation. The board shall proceed with any suspension or revocation action it determines appropriate after receiving the chief administrative officer's findings and reports. This subsection does not preclude a chief administrative officer from investigating conduct that may give rise to grounds for suspension or revocation before receiving a request for an investigation from the board, the complaint review committee or board staff, as long as the chief administrative officer notifies the board following that investigation if the investigation reveals reasonable cause to believe that a certificate holder has engaged in conduct described in section 2806-A, subsection 5, and providing to the board the findings and investigative reports related to the conduct. Nothing in this subsection precludes the board from investigating the conduct of a certificate holder on its own or referring a matter of such conduct to another agency for investigation regardless of whether it receives an investigative report from the chief administrative officer under this section.

**§2806. Enforcement provision**

**(REPEALED)**

**§2806-A. Disciplinary sanctions**

**1. Disciplinary proceedings and sanctions.** The board or, as delegated, the complaint review committee, established pursuant to section 2805-C, or staff, shall investigate a complaint on its own motion or upon receipt of a written complaint filed with the board regarding noncompliance with or violation of this chapter or of any rules adopted by the board. Investigation may include an informal conference before the complaint review committee to determine whether grounds exist for suspension, revocation or denial of a certificate or for taking other disciplinary action pursuant to this chapter. The board, the complaint review committee or staff may subpoena witnesses, records and documents in any investigation or hearing conducted.

**2. Notice.** The board or, as delegated, the complaint review committee, established pursuant to section 2805-C, or staff, shall notify the certificate holder of the content of a complaint filed against the certificate holder as soon as possible, but in no event later than 60 days after the board or staff receives the initial pertinent information. The certificate holder has the right to respond within 30 days in all cases except those involving an emergency denial, suspension or revocation, as described in Title 5, chapter 375, subchapter 5. If the certificate holder's response to the complaint satisfies the board, the complaint review committee or staff that the complaint does not merit further investigation or action, the matter may be dismissed, with notice of the dismissal to the complainant, if any.

**3. Informal conference.** If, in the opinion of the board, the complaint review committee, established pursuant to section 2805-C, or staff, the factual basis of the complaint is or may be true and the complaint is of sufficient gravity to warrant further action, the board or staff may request an informal conference with the certificate holder. The complaint review committee or staff shall provide the certificate holder with adequate notice of the conference and of the issues to be discussed. The certificate holder may, without prejudice, refuse to participate in an informal conference if the certificate holder prefers to request an adjudicatory hearing.

**4. Further action.** If the board or the complaint review committee, established pursuant to section 2805-C, finds that the factual basis of the complaint is true and is of sufficient gravity to warrant further action, it may take any of the following actions.

A. The board, the complaint review committee or staff may negotiate a consent agreement that resolves a complaint or investigation without further proceedings. Consent agreements may be entered into only with the consent of the certificate holder and the board. Any remedy, penalty or fine that is otherwise available by law, even if only in the jurisdiction of the Superior Court, may be achieved by consent agreement, including long-term suspension and permanent revocation of a certificate issued under this chapter. A consent agreement is not subject to review or appeal and may be modified only by a writing executed by all parties to the original consent agreement. A consent agreement is enforceable by an action in Superior Court.

B. If a certificate holder offers to voluntarily surrender a certificate, the board, the complaint review committee or staff may negotiate stipulations necessary to ensure protection of the public health and safety and the rehabilitation or education of the certificate holder. These stipulations may be set forth only in a consent agreement entered into between the board and the certificate holder.

C. Unless specifically otherwise indicated in this chapter, if the board concludes that modification, suspension, revocation or imposition of any other sanction authorized under this chapter is in order, the board shall so notify the certificate holder and inform the certificate holder of the right to request an adjudicatory hearing. If the certificate holder requests an adjudicatory hearing in a timely manner, the adjudicatory hearing must be held by the board, a subcommittee of 3 board members designated by the board chair or a hearing officer appointed by the board. The hearing must be in accordance with Title 5, chapter 375, subchapter 4. If a hearing officer conducts the hearing, the hearing officer, after conducting the hearing, shall file with the board all papers connected with the case and report recommended findings and sanctions to the board, which may approve or modify them. If the certificate holder wishes to appeal the final decision of the board, the certificate holder shall file a petition for review with the Superior Court within 30 days of receipt of the board's decision. Review under this paragraph must be conducted pursuant to Title 5, chapter 375, subchapter 7.

**5. Grounds for action.** The board may take action against any applicant for a certificate or certificate holder pursuant to this chapter or any rules adopted pursuant to this chapter, including, but not limited to, a decision to impose a civil penalty or to refuse to issue a certificate or to modify, suspend or revoke a certificate for any of the following reasons:

A. Failure to meet annual certification or recertification requirements. In enforcing this paragraph, the board shall, no later than March 31st of every year, review the certification of all law enforcement and corrections officers and decertify those individuals who do not meet certification or recertification requirements;

B. Absent extenuating circumstances as determined by the board, working more than 1,040 hours in any one calendar year as a part-time law enforcement officer performing law enforcement duties and while possessing a part-time law enforcement certificate issued by the board pursuant to section 2803-A;

C. Conviction of murder or any crime or attempted crime classified in state law as a Class A, Class B, Class C or Class D crime or a violation of any provision of Title 17-A, chapter 15, 19, 25, 29, 31, 35, 41 or 45. Notwithstanding any other provision of law, the board may summarily and without hearing suspend or revoke any certificate as a result of any criminal conviction identified by this paragraph pursuant to Title 5, section 10004, subsection 1;

D. Juvenile adjudication of murder or any crime or attempted crime classified in state law as a Class A, Class B, Class C or Class D crime;

E. Guilty plea pursuant to a deferred disposition of murder or any crime or attempted crime classified in state law as a Class A, Class B, Class C or Class D crime or a violation of any provision of Title 17-A, chapter 15, 19, 25, 29, 31, 35, 41 or 45;

F. Engaging in conduct that is prohibited or penalized by state law as murder or a Class A, Class B, Class C or Class D crime or by any provision of Title 17-A, chapter 15, 19, 25, 29, 31, 35, 41 or 45;

G. Conviction of or adjudication as a juvenile of a crime specified in paragraph D in another state or other jurisdiction, unless that crime is not punishable as a crime under the laws of that state or other jurisdiction in which it occurred. Notwithstanding any other provision of law, the board may summarily and without hearing suspend or revoke any certificate as a result of any criminal conviction identified by this paragraph pursuant to Title 5, section 10004, subsection 1;

H. Engaging in conduct specified in paragraphs C and D in another state or other jurisdiction unless that conduct is not punishable as a crime under the laws of that state or other jurisdiction in which it occurred;

I. Falsifying or misrepresenting material facts in obtaining or maintaining a certificate issued by the board pursuant to section 2803-A;

J. Engaging in conduct that violates the standards established by the board and that when viewed in light of the nature and purpose of the person's conduct and circumstances known to the person, involves a gross deviation from the standard of conduct that a reasonable and prudent certificate holder would observe in the same or similar situation;

K. Engaging in a sexual act, as defined in Title 17-A, section 251, subsection 1, paragraph C, or in sexual contact, as defined in Title 17-A, section 251, subsection 1, paragraph D, with another person, not the person's spouse, if at the time of the sexual act or sexual contact:

(1) The officer was engaged in an investigation or purported investigation involving an allegation of abuse, as defined in former Title 19, section 762, subsection 1 and in Title 19-A, section 4002, subsection 1;

(2) The other person was the alleged victim of that abuse;

(3) The parties did not have a preexisting and ongoing sexual relationship that included engaging in any sexual act or sexual contact; and

(4) Less than 60 days had elapsed since the officer initially became involved in the investigation or purported investigation; and

L. Engaging in sexual contact, as defined in Title 17-A, section 251, subsection 1, paragraph D, with another person, not the person's spouse, if at the time of the sexual contact the applicant or certificate holder is acting in performance of official duties and the other person is under arrest, in custody or being interrogated or temporarily detained, including during a traffic stop or questioning pursuant to an investigation of a crime, except that it is not grounds for discipline that a certificate holder properly performs a search of a person for legitimate law enforcement purposes consistent with training standards approved by the board.

**6. Discipline.** The board may impose the following forms of discipline upon a certificate holder or applicant for a certificate:

A. Denial of an application for a certificate, which may occur in conjunction with the imposition of other discipline;

B. Issuance of warning, censure or reprimand. Each warning, censure or reprimand issued must be based upon violation of a single applicable law, rule or condition of certification or must be based upon a single instance of actionable conduct or activity;

C. Suspension of a certificate for up to 3 years. Execution of all or any portion of a term of suspension may be stayed pending successful completion of conditions of probation, although the suspension remains part of the certificate holder's record;

D. Revocation of a certificate;

E. Imposition of civil penalties of up to \$1,500 for each violation of applicable laws, rules or conditions of certification or for each instance of actionable conduct or activity; or

F. Imposition of conditions of probation. Probation may run for such time period as the board determines appropriate. Probation may include conditions such as: additional continuing education; medical, psychiatric or mental health consultations or evaluations; mandatory professional supervision of the applicant or certificate holder; restrictions; and other conditions as the board determines appropriate. Costs incurred in the performance of terms of probation are borne by the applicant or certificate holder. Failure to comply with the conditions of probation is a ground for disciplinary action against a certificate holder.

**7. Letter of guidance.** The board may issue a letter of guidance or concern to a certificate holder. A letter of guidance or concern may be used to educate, reinforce knowledge regarding legal or professional obligations or express concern over action or inaction by the certificate holder that does not rise to the level of misconduct sufficient to merit disciplinary action. The issuance of a letter of guidance or concern is not a formal proceeding and does not constitute an adverse disciplinary action of any form. Notwithstanding any other provision of law, letters of guidance or concern are not confidential. The board may place letters of guidance or concern, together with any underlying complaint, report and investigation materials, in a certificate holder's file for a specified period

of time, not to exceed 10 years. Any letters, complaints and materials placed on file may be accessed and considered by the board in any subsequent action commenced against the certificate holder within the specified time frame. Complaints, reports and investigation materials placed on file remain confidential to the extent required by this chapter.

**8. Injunction.** The State may bring an action in Superior Court to enjoin a person from violating any provision of this chapter, regardless of whether civil or administrative proceedings have been or may be instituted.

**9. Recertification.** A person whose certificate has been revoked under this chapter may apply to the board for reinstatement of certification if:

- A. The certificate was revoked for a cause other than engaging in conduct that is prohibited or penalized by state law as murder or as a Class A, Class B or Class C crime or for equivalent conduct in another state or other jurisdiction;
- B. At least 3 years have elapsed since revocation of the certificate; and
- C. A law enforcement or corrections agency has indicated a commitment to hire the individual if the individual is recertified.

The granting of recertification under this subsection is governed by Maine Criminal Justice Academy rules relating to certification. The individual is subject to all training requirements applicable to persons whose certification has lapsed.

**10. Confidentiality; access to documents.** All complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations and any other information or materials that may result in suspension or revocation of a certificate that are considered by the board or the complaint review committee established pursuant to section 2805-C are confidential. If a person subject to this chapter requests an adjudicatory hearing under the Maine Administrative Procedure Act, that hearing must be open to the public. The hearing officer who presides over the hearing shall issue a written decision that states the conduct or other facts on the basis of which action is being taken and the reason for that action. Once issued, the hearing officer's written decision is a public record under the Freedom of Access Act, regardless of whether it is appealed.

**§2807. Reports of conviction or misconduct by certificate holder**

Notwithstanding any other provision of law, in the event that a certificate holder is convicted of a crime or violation or engages in conduct that could result in suspension or revocation of the individual's certificate pursuant to section 2806-A and the chief administrative officer of the agency employing the certificate holder or considering the individual for employment has knowledge of the conviction or conduct, the chief administrative officer shall within 30 days notify the Director of the Maine Criminal Justice Academy with the name of the certificate holder and a brief description of the conviction or conduct.

**§2808. Sharing of training costs**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

- A. "Governmental entity" means the State or any city, town, plantation or county.
- B. "Training" means the basic training provided to a full-time law enforcement officer by the Maine Criminal Justice Academy, as described in section 2804-C.
- C. "Training costs" means a fixed dollar amount determined by the board. In making the determination, the board shall include the following costs:
  - (1) The full cost of the salary, including fringe benefits, paid to the officer while in training;
  - (2) The full cost of the tuition charged by the Maine Criminal Justice Academy;
  - (3) The full cost of uniforms for training and graduation provided to the officer in training; and
  - (4) The full cost of the salary, inclusive of overtime, paid to officers to provide police protection that would otherwise have been lost during the absence of the officer in training.

The board shall review the determination of training costs annually, make any necessary adjustments and provide that determination to all law enforcement agencies in the State.

**2. Reimbursement for training costs.**

**3. Reimbursement for training costs.** Whenever a full-time law enforcement officer, trained at the Maine Criminal Justice Academy at the expense of a particular governmental entity, is subsequently hired by another governmental entity as a full-time law enforcement officer within 5 years of graduation from the academy, the governmental entity shall reimburse the first governmental entity according to the following formula, unless a mutual agreement is reached.

- A. If the officer is hired by the other governmental entity during the first year after graduation, that governmental entity shall reimburse the first governmental entity the full cost of the training costs.
- B. If the officer is hired by the other governmental entity during the 2nd year after graduation, that governmental entity shall reimburse the first governmental entity 80% of the training costs.

- C. If the officer is hired by the other governmental entity during the 3rd year after graduation, that governmental entity shall reimburse the first governmental entity 60% of the training costs.
- D. If the officer is hired by the other governmental entity during the 4th year after graduation, that governmental entity shall reimburse the first governmental entity 40% of the training costs.
- E. If the officer is hired by the other governmental entity during the 5th year after graduation, that governmental entity shall reimburse the first governmental entity 20% of the training costs.
- F. If the officer graduated more than 5 years before subsequently being hired by the other governmental entity, that governmental entity is not obligated to reimburse the first governmental entity.

If the officer is subsequently hired by additional governmental entities within 5 years of graduation from the academy, each of those governmental entities is liable to the governmental employer immediately preceding it for the training costs paid by that governmental entity under this subsection. The extent of financial liability must be determined according to the formula established by this subsection.

#### **§2808-A. Sharing of training costs for corrections officers**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

- A. "Governmental entity" means the State or any city, town, plantation or county.
- B. "Training" means the basic training provided to a corrections officer by the Maine Criminal Justice Academy, as described in section 2804-D.
- C. "Training costs" means a fixed dollar amount determined by the board. In making the determination, the board shall include the following costs:
  - (1) The full cost of the salary, including fringe benefits, paid to the officer while in training;
  - (2) The full cost of the tuition charged by the Maine Criminal Justice Academy;
  - (3) The full cost of uniforms for training and graduation provided to the officer in training; and
  - (4) The full cost of the salary, inclusive of overtime, paid to corrections officers to provide coverage that would otherwise have been lost during the absence of the corrections officer in training.

The board shall review the determination of training costs annually, make any necessary adjustments and provide that determination to the Commissioner of Corrections and to all administrators of county jails in the State.

**2. Reimbursement for training costs.** Whenever a corrections officer, trained at the Maine Criminal Justice Academy at the expense of a particular governmental entity, is subsequently hired by another governmental entity as a corrections officer or within 5 years of graduation from the academy, the governmental entity shall reimburse the first governmental entity according to the following formula, unless a mutual agreement is reached.

- A. If the corrections officer is hired by the other governmental entity during the first year after graduation, that governmental entity shall reimburse the first governmental entity the full cost of the training costs.
- B. If the corrections officer is hired by the other governmental entity during the 2nd year after graduation, that governmental entity shall reimburse the first governmental entity 80% of the training costs.
- C. If the corrections officer is hired by the other governmental entity during the 3rd year after graduation, that governmental entity shall reimburse the first governmental entity 60% of the training costs.
- D. If the corrections officer is hired by the other governmental entity during the 4th year after graduation, that governmental entity shall reimburse the first governmental entity 40% of the training costs.
- E. If the corrections officer is hired by the other governmental entity during the 5th year after graduation, that governmental entity shall reimburse the first governmental entity 20% of the training costs.
- F. If the corrections officer graduated more than 5 years before subsequently being hired by the other governmental entity, that governmental entity is not obligated to reimburse the first governmental entity.

If the corrections officer is subsequently hired by additional governmental entities within 5 years of graduation from the academy, each of those governmental entities is liable to the governmental employer immediately preceding it for the training costs paid by that governmental entity under this subsection. The extent of financial liability must be determined according to the formula established by this subsection.

#### **§2809. Report to Legislature**

The board shall report annually to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters on the implementation and effectiveness of this chapter. The purpose of the report is to provide the Legislature annual information on the law governing law enforcement training in order to ensure that appropriate and timely training is accomplished. The report must include the following:

- 1. Availability of training.** An evaluation of the availability of preservice, basic and in-service training throughout the State. The evaluation must cover whether any municipalities operated without adequate law enforcement officers with the power to make arrests because training was not available in a timely manner;



**2. In-service training requirements.** An explanation of in-service training requirements for law enforcement and corrections officers, including any changes in the requirements and a discussion of the adequacy of the requirements;

**3. In-service training courses.** An evaluation of available board-approved in-service training courses for law enforcement and corrections officers and the participation level in each;

**4. Training for exempt law enforcement officers.** An explanation and evaluation of the training provided by the state agencies for their law enforcement officers who are exempt from the requirements of this chapter under section 2801-B; and

**5. Other information.** Any other information the Legislature may request or the board determines is appropriate.