
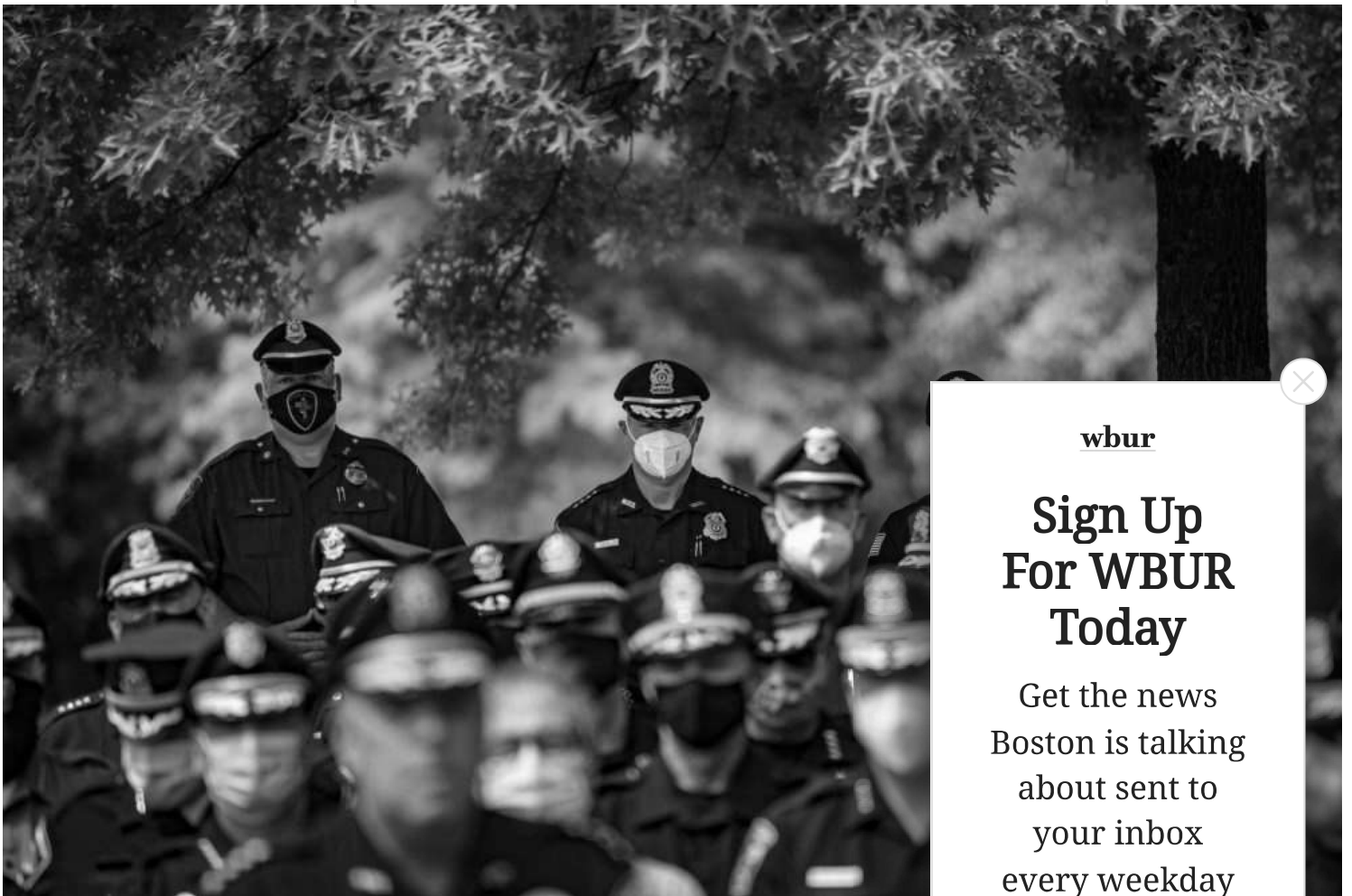


Here's What's In The Massachusetts Police Reform Law

Updated April 07, 2021


By [Steve Brown](#)  and [Ally Jarmanning](#) 



Police chiefs from across the commonwealth gathered in Framingham to discuss early versions of the police reform bill. (Jesse Costa/WBUR)

This article is more than 1 year old.

Update: Gov. Charlie Baker signed an amended version of the



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Some of the biggest changes in years to law enforcement oversight and rules are coming to Massachusetts.

That's after Gov. Charlie Baker signed into law on Dec. 31 of last year a landmark police reform bill.

Police lobbied hard against the bill. They say it gives too much oversight to people without law enforcement experience. Meanwhile, some progressives say the bill doesn't go far enough to end things like facial recognition and qualified immunity protections.

But the new law is the compromise lawmakers came up with. This year, we'll be tracking whether the bill delivers on key promises. Here's what those new rules dictate:

Creation Of A New Commission To Certify Police Officers Statewide

For the first time, Massachusetts will have a system to certify across the commonwealth. The new Peace Officer Standards commission will have the power to investigate misconduct in subpoena power to compel witnesses and documents as part

The governor and attorney general will appoint the nine-members of those members will be from outside law enforcement. A conservative, along with a retired Superior Court judge and a social v

The POST commission can undertake its own investigations, patterns of unprofessional police conduct, escalating behavior complaints against an officer or agency.

An earlier version of the bill would have also given the POST set training standards but that was removed after Baker said

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Slight Changes To Qualified Immunity, And The Promise Of A Study

Qualified immunity — a legal doctrine that provides protection to public officials, including police officers, in civil lawsuits — was one of the most contentious parts of the debate around reforms. The compromise bill doesn't go as far as the earlier Senate version, which would have put the burden on public officials to make the case as to why they weren't liable in a civil suit.

The compromise bill ties qualified immunity to decertification. If a police officer is decertified by the state, he or she loses immunity. But some legal experts question the wording of the legislation, which states only officers who violate a person's right to "bias-free policing" and are decertified lose their qualified immunity protections.

Bias-free policing means decisions made without considering a person's race, ethnicity, sex, gender or other aspects. Many civil rights violations that are subject to lawsuits aren't about bias necessarily, but about actions like excessive force or wrongful arrest. So some lawyers doubt that this provision changes much in practice.

Advocates are also disappointed that the provision leaves in place the language that says police officers can't use "force, intimidation and coercion" in the state civil rights law. That means police officers can't be held liable for a civil rights violation unless the officer explicitly intimidates or coerces the plaintiff in some way. (For example, using force excessively isn't enough, the officer would have had to explicitly threaten to intimidate the person before throwing the punch.)

Stronger Facial Recognition Rules

Law enforcement can ask in writing for the RMV, FBI or state police to conduct a facial recognition search. They need a warrant from a court, except in cases where the search is for a person who is a suspect in a crime.

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Agencies need to document each facial recognition search and provide that information to the state.

A commission will study the government use of facial recognition technology.

Boston already banned facial recognition this year, along with several other smaller communities.

A Task Force To Study Body Camera Regulations

Body camera use across the state varies from department to department. The state public safety agency will create a task force that will propose a uniform code for the purchase and use of body cameras, requirements for storage and transfer of the recordings and discipline for not using the cameras correctly. There will be at least five public hearings on the issue.

Review Of The Civil Service System

Civil service is the system most departments use to hire and promote. A new bill would create a legislative commission to review the law, and to improve diversity, transparency and representation of the workforce.

The civil service laws are often blamed for exacerbating the lack of diversity and promotion, and protecting those who are disciplined. As part of reform recommendations, Mayor Marty Walsh is seeking a change in the law to allow the city to prioritize local hiring — including Boston College graduates — and advance officers of color.

The commission will look at creating a statewide diversity office in the Office of Administration and Finance that would oversee implementation of diversity plans and monitor noncompliance. It also will review the possibility of a diversity officer for every city or town with a fire or police department.

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The bill bans chokeholds entirely, restricts officers from firing into a fleeing motor vehicle unless there's a risk of imminent harm and creates rules around the use of tear gas, dogs or rubber bullets.

Boston's policy currently allows the use of chokeholds in cases where deadly force is necessary; this law would forbid them in all cases. Boston officers already are restricted from shooting at moving vehicles, except when threatened with deadly force.

The legislation adds restrictions on using tear gas, rubber bullets or dogs. Officers need to have tried deescalation tactics, and the harm from the "less lethal" option needs to be proportionate to the threat from the person or group targeted. Any use of tear gas, rubber bullets or dogs needs to be reported to the POST commission.

Before planned mass protests or demonstrations, police departments are required to "attempt in good faith" to communicate with organizers of the event.

Police will have an explicit duty to intervene and report if a fellow officer is using unreasonable force. And police departments will have to have a policy and procedure for officers to report abuse by a colleague without fear of retaliation.

Investigates Structural Racism

Three special legislative commissions will look at institutions like courts, prisons, probation and parole. They'll investigate disparities between white and people of color and whether structural racism is the cause, and how to fix it.

Removes Requirement That School Officers, And Restricts Disclosure of Information

Current law mandates that every school have a School Resource Officer (SRO). The compromise now leaves it up to school superintendents to decide whether to have one with the community's police chief for an appointed SRO. Schools can also hire their own SROs.

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and clarify the partnership between the school and the SRO, with that MOU filed with the state's Department of Elementary and Secondary Education (DESE).

The bill also forbids school department personnel and SROs from disclosing certain student record information to law enforcement officials, except in certain cases where the student, parent or guardian has provided informed written consent, or to comply with a court order or subpoena in connection with a health or safety emergency as defined by [DESE regulations](#).

Implements Changes For State Police

While much of the bill has local policing in mind, it does apply to members of the Massachusetts State Police as well. All troopers will have to be certified by the POST commission, and are subject to the rules to maintain that certification. The POST commission will also oversee training at the State Police Academy in New Braintree.

The bill also includes language championed by Gov. Baker that would allow the head of the state police to be appointed from outside the agency. Current law requires the colonel be promoted from within the ranks. Critics say this practice may have contributed to a culture that has allowed for numerous scandals over the years.

There's a nod to the recent state police overtime scandal, too. Submitting a false timesheet will be a crime, with a fine of the fraudulent wages collected and up to two years behind bars.

Other Notable Aspects Of The Pr

- Law enforcement officers who have sex with or indecent custody can be charged with rape or indecent assault and
- No-knock warrants are restricted. Police officers will have no children or people over age 65 in the home targeted, themselves would cause life-threatening harm. Those w

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- Expands expungement from one criminal or juvenile record to two.
- The bill creates eight commissions. Among them: permanent commissions to study the status of African Americans, Latinx people, those with disabilities, and Black men and boys. Other commissions will focus on studying a statewide cadet program, corrections officer training, consolidating police academies and the use of emergency hospitalizations.
- It increases transparency. The Department of Public Health will collect and report data on police-involved injuries and deaths, including those at correctional facilities. The bill clarifies that records on police misconduct investigations are subject to the public records law; Many departments shield open investigations from public view. And the POST commission will each year report a plethora of data, including details about officers decertified, those suspended, and how many retrainings were ordered.

Correction: Due to a reporting error, an earlier version of this article contained an incomplete description of how the new law limits the use of facial recognition.

This article was originally published on December 01, 2020.

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Contact Us

(617) 353-0909

info@wbur.org

890 Commonwealth Ave.

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