1   S.285

2   An act relating to law enforcement interrogation policies

3   It is hereby enacted by the General Assembly of the State of Vermont:

4   Sec. 1. LEGISLATIVE INTENT; LAW ENFORCEMENT

5   INTERROGATION POLICIES

6   It is the intent of the General Assembly to prevent false confessions and

7   wrongful convictions of individuals subject to law enforcement interrogation,

8   to progress towards a total prohibition of the use of deception in all forms of

9   interrogation, and to ultimately improve trust between Vermont's communities

10   and law enforcement. To achieve these objectives, it is the further intent of the

11   General Assembly to create a minimum set of law enforcement interrogation

12   standards that incorporate evidence-based best practices by:

13   (1) prohibiting law enforcement's use of threats, physical harm, and

14   deception during interrogations of all persons; and

15   (2) mandating that the Vermont Criminal Justice Council develop,

16   adopt, and enforce a statewide model interrogation policy that applies to all

17   Vermont law enforcement agencies and constables exercising law enforcement

18   authority pursuant to 24 V.S.A. § 1936a.

19   Sec. 2. VERMONT CRIMINAL JUSTICE COUNCIL; MODEL

20   INTERROGATION POLICY

21   (a) On or before October 1, 2024, the Law Enforcement Advisory Board, in

1   consultation with the Office of the Attorney General, shall collaborate and

2   create a model interrogation policy that applies to all persons subject to various

3   forms of interrogation, including the following:

4   (1) custodial interrogations occurring in a place of detention;

5   (2) custodial interrogations occurring outside a place of detention;

6   (3) interrogations that are not considered custodial, regardless of

7   location; and

8   (4) the interrogation of individuals with developmental, intellectual, and

9   psychiatric disabilities; substance use disorder; and low literacy levels.

10   (b) The model interrogation policy shall prohibit the use of physical harm,

11   threats, and deception during custodial interrogations of all persons.

12   (1) At a minimum, the model interrogation policy shall define

13   "deception" as the knowing communication of false facts about evidence or

14   unauthorized statements regarding leniency by a law enforcement officer to a

15   subject of custodial interrogation.

16   (2) The model interrogation policy shall also address other forms of

17   interrogation involving persons under 20 years of age wherein the use of

18   deception is prohibited.

19   (c) The model interrogation policy shall prohibit any training of law

20   enforcement officers that employs the use of deception, including the REID

21   Technique of Investigative Interviewing and Advanced Interrogation

1   Techniques.

2   (d)(1) On or before December 1, 2024, the Law Enforcement Advisory

3   Board shall submit the model interrogation policy to the Joint Legislative

4   Justice Oversight Committee and testify before the Committee.

5   (2) On or before January 1, 2025, the Vermont Criminal Justice Council,

6   in consultation with stakeholders, including the Agency of Human Services,

7   the Vermont League of Cities and Towns, and the Vermont Human Rights

8   Commission, shall update the Law Enforcement Advisory Board's model

9   interrogation policy to establish one cohesive model policy for law

10   enforcement agencies and constables to adopt, follow, and enforce as part of

11   the agency's or constable's own interrogation policy.

12   Sec. 3. 20 V.S.A. § 2359 is amended to read:

13   § 2359. COUNCIL SERVICES CONTINGENT ON AGENCY

14   COMPLIANCE; GRANT ELIGIBILITY

15   (a) On and after January 1, 2022, a law enforcement agency shall be

16   prohibited from having its law enforcement applicants or officers trained by

17   the Police Academy or from otherwise using the services of the Council if the

18   agency is not in compliance with the requirements for collecting roadside stop

19   data under section 2366 of this chapter, the requirement to report to the Office

20   of Attorney General death or serious bodily injuries under 18 V.S.A.

21   § 7257a(b), or the requirement to adopt, follow, or enforce any policy required

1   under this chapter.

2   (b) On and after April 1, 2025, a law enforcement agency shall be

3   prohibited from receiving grants, or other forms of financial assistance, if the

4   agency is not in compliance with the requirement to adopt, follow, or enforce

5   the model interrogation policy established by the Council pursuant to section

6   2371 of this title.

7   (c) The Council shall adopt procedures to enforce the requirements of this

8   section, which may allow for waivers for agencies under a plan to obtain

9   compliance with this section.

10   Sec. 4. 20 V.S.A. § 2371 is added to read:

11   § 2371. STATEWIDE POLICY; INTERROGATION METHODS

12   (a) Definitions. As used in this section:

13   (1) "Custodial interrogation" has the same meaning as in 13 V.S.A.

14   § 5585.

15   (2) "Place of detention" has the same meaning as in 13 V.S.A. § 5585.

16   (b) Model policy contents.

17   (1) The Vermont Criminal Justice Council shall establish a model

18   interrogation policy that applies to all persons subject to various forms of

19   interrogation, including the following:

20   (A) custodial interrogations occurring in a place of detention;

21   (B) custodial interrogations occurring outside a place of detention;

1   (C) interrogations that are not considered custodial, regardless of

2   location; and

3   (D) the interrogation of individuals with developmental, intellectual,

4   and psychiatric disabilities; substance use disorder; and low literacy levels.

5   (2) The model interrogation policy shall prohibit the use of physical

6   harm, threats, and deception during custodial interrogations of all persons.

7   (A) At a minimum, the model interrogation policy shall define

8   "deception" as the knowing communication of false facts about evidence or

9   unauthorized statements regarding leniency by a law enforcement officer to a

10   subject of custodial interrogation.

11   (B) The model interrogation policy shall also address other forms of

12   interrogation involving persons under 20 years of age wherein the use of

13   deception is prohibited.

14   (3) The model interrogation policy shall prohibit any training of law

15   enforcement officers that employs the use of deception, including the Reid

16   Technique of Investigative Interviewing and Advanced Interrogation

17   Techniques.

18   (c) Policy adoption and updates.

19   (1) On or before April 1, 2025, each law enforcement agency and every

20   constable who exercises law enforcement authority pursuant to 24 V.S.A.

21   § 1936a and who is trained in compliance with section 2358 of this title shall

1   adopt, follow, and enforce an interrogation policy that includes each

2   component of the model interrogation policy established by the Council, and

3   each law enforcement officer or constable who exercises law enforcement

4   authority shall comply with the provisions of an agency's or a constable's

5   policy.

6   (2) On or before October 1, 2025, and every odd-numbered year

7   thereafter, the Vermont Criminal Justice Council, in consultation with others,

8   including the Office of the Attorney General, the Agency of Human Services,

9   and the Human Rights Commission, shall review and, if necessary, update the

10   model interrogation policy.

11   (d) Compliance. To encourage fair and consistent interrogation methods

12   statewide, the Vermont Criminal Justice Council, in consultation with the

13   Office of the Attorney General, shall review the policies of law enforcement

14   agencies and constables required to adopt a policy pursuant to subsection (c) of

15   this section to ensure that those policies establish each component of the model

16   policy on or before April 15, 2025. If the Council finds that a policy does not

17   meet each component of the model policy, it shall work with the law

18   enforcement agency or constable to bring the policy into compliance. If, after

19   consultation with its attorney or with the Council, or with both, the law

20   enforcement agency or constable fails to adopt a policy that meets each

21   component of the model policy, that agency or constable shall be deemed to

1   have adopted and shall follow and enforce the model policy established by the

2   Council.

3   (e) Training. The Council shall incorporate the provisions of this section

4   into the training it provides.

5   (f) Reporting.

6   (1) Annually, as part of their training report to the Council, every law

7   enforcement agency and every constable who exercises law enforcement

8   authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with

9   section 2358 of this title shall report to the Council whether the agency or

10   constable has adopted an interrogation policy in accordance with subsections

11   (c) and (d) of this section. The Vermont Criminal Justice Council shall

12   determine, as part of the Council's annual certification of training

13   requirements, whether current officers have received training on interrogation

14   methods as required by subsection (e) of this section.

15   (2) Annually, on or before July 1, the Vermont Criminal Justice Council

16   shall report to the House and Senate Committees on Judiciary regarding which

17   law enforcement agencies and officers have received training on interrogation

18   methods.

1   Sec. 5. EFFECTIVE DATES

2   This act shall take effect on July 1, 2024, except that Secs. 3 (council

3   services contingent on agency compliance; grant eligibility) and 4 (statewide

4   policy; interrogation methods) shall take effect on April 1, 2025.