

1 S.75

2 Introduced by Senators Sears and Champion

3 Referred to Committee on

4 Date:

5 Subject: Municipal law; law enforcement; civilian oversight

6 Statement of purpose of bill as introduced: This bill proposes to authorize
7 municipalities to create civilian oversight boards to oversee law enforcement
8 within its jurisdiction. Any board created has the authority to manage police
9 departments in the same manner as a legislative body, town manager, or police
10 chief. Additionally, a board has the power to receive, investigate, and
11 adjudicate complaints of misconduct against law enforcement officers. The
12 investigations are confidential unless certain exceptions apply, and any
13 discipline shall be in accordance with applicable collective bargaining
14 agreements.

15 An act relating to civilian oversight of law enforcement

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

17 Sec. 1. 24 V.S.A. § 1944 is added to read:

18 § 1944. CIVILIAN OVERSIGHT BOARDS

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

1 (1) “Law enforcement agency” means a municipal police department, a
2 sheriff’s department, the provider of law enforcement services pursuant to an
3 intermunicipal services agreement under section 1938 of this title, or the
4 provider of law enforcement services for a union municipal district formed
5 pursuant to section 4866 of this title or by municipal charter.

6 (2) “Law enforcement officer” means a member of a law enforcement
7 agency.

8 (3) “Legislative body” has the same meaning as in section 2001 of this
9 title.

10 (4) “Officer-involved death or serious bodily injury” means the death or
11 serious bodily injury of an individual that results directly from an action of a
12 law enforcement officer while the law enforcement officer is on duty or while
13 the law enforcement officer is off duty but performing activities that are within
14 the scope of the officer’s law enforcement duties.

15 (5) “Serious bodily injury” has the same meaning as in 13 V.S.A.
16 § 1021.

17 (6) “Unprofessional conduct” has the same meaning as in 20 V.S.A.
18 § 2401.

19 (b) Creation. The legislative body and, in its stead, the town manager,
20 when appointed pursuant to chapter 37 of this title, of a municipality as defined

1 in section 2001 of this title may delegate the authority granted pursuant to
2 sections 1931–1934 of this title to a civilian oversight board.

3 (c) Powers and duties.

4 (1) In addition to the authority granted pursuant to sections 1931–1934
5 of this title, a civilian oversight board created under this section may receive,
6 investigate, and address:

7 (A) all grievances and complaints filed by members of the public
8 against a law enforcement agency within its jurisdiction;

9 (B) all complaints of unprofessional conduct;

10 (C) all incidents in which a law enforcement officer acting within the
11 officer’s scope of authority uses physical force upon another person that results
12 in death or serious bodily injury to the person;

13 (D) all incidents that result in an officer-involved death; and

14 (E) all incidents of alleged ill-treatment or misconduct that come to
15 the attention of the board, regardless of whether those cases are the subject of
16 any specific formal complaint or grievance.

17 (2) A board may contract with or hire an attorney licensed by the State
18 to provide legal services. Legal services may include the proper conduct of its
19 affairs, assistance to a board in the lawful and orderly conduct of its open
20 meetings, and other nondisciplinary business, such as making procedural and
21 parliamentary rulings. Each board may contract with or hire an attorney

1 licensed by the State to assist with conducting investigations or drafting
2 reports.

3 (3) A board may contract with or hire investigators who have
4 successfully met the standards of training for a Level III law enforcement
5 officer under 20 V.S.A. chapter 151. An investigator contracted or hired by a
6 board shall not have previously been affiliated with or employed by a law
7 enforcement agency within a board's jurisdiction.

8 (4) A board may hire or contract with staff to assist in administrative,
9 secretarial, or any other services a board may deem necessary.

10 (5) A board shall hold meetings at its discretion. Any meetings held by
11 a board shall be subject to the Vermont Open Meeting Law.

12 (6) A board shall hold hearings prior to disciplining or sanctioning a law
13 enforcement officer within its jurisdiction. Any discipline or sanction issued
14 by a board shall be in accordance any collective bargaining or employment
15 agreement that may apply to the law enforcement officer. Any disciplinary
16 hearings held by a board shall be subject to chapter 36 of this title.

17 (d) Investigations. Notwithstanding any statute or charter to the contrary,
18 for the purpose of carrying out an investigation pursuant to this section, a
19 board shall have the authority to:

1 (1) Request and receive any assistance and information from a law
2 enforcement agency or officer that a board deems necessary for the discharge
3 of its duties and responsibilities.

4 (2) Inspect and examine all law enforcement agency records and
5 documents, including law enforcement officer personnel records, documents,
6 and body camera footage, that a board deems relevant to any matter being
7 investigated by a board.

8 (3) Administer oaths and issue subpoenas to compel the attendance or
9 testimony of a witness or the production of any relevant evidence, including
10 books, papers, documents, records, photographs, recordings, reports, and
11 tangible objects maintained by a law enforcement agency within its
12 municipality or region. If a witness refuses to attend, testify, or produce
13 materials as required by the subpoena, a board or its designee may compel the
14 witness to comply by petition to the Superior Court of proper jurisdiction
15 pursuant to Rule 37 of the Vermont Rules of Civil Procedure.

16 (4) Contract with and designate external organizations to assist with or
17 conduct investigations.

18 (5) Notwithstanding the provisions of 1 V.S.A. § 317, the content of any
19 investigation, including the identity of a witness or victim, any procedure,
20 testimony taken, document or other tangible evidence produced, or any answer

1 made under this section is confidential and not subject to disclosure as a public
2 record or public document unless and until:

3 (A) confidentiality is waived by the person upon whom the
4 investigative demand is made;

5 (B) disclosure is authorized by a Superior Court; or

6 (C) disclosure is made by a federal court or federal agency.

7 (e) Disposition of complaints; reports.

8 (1) A board may summarily dismiss a grievance or complaint filed by a
9 member of the public pursuant this section only when a board determines that:

10 (A) the complainant's interest is not sufficiently related to the subject
11 matter of the grievance or complaint;

12 (B) the grievance or complaint is trivial, frivolous, irrelevant, without
13 merit, or made in bad faith;

14 (C) resources are insufficient for an adequate investigation of the
15 grievance or complaint; or

16 (D) the grievance or complaint is the subject of undue delay to justify
17 an examination of its merit.

18 (2) A board shall issue a public report detailing its findings at the
19 conclusion of an investigation of any matter within the authority of the board.

20 The report shall articulate findings of fact relative to the matter, including any
21 disciplinary decisions and personnel changes made by the law enforcement

1 agency, and recommendations relating to the disposition of the matter and any
2 associated sanction.

3 (A) An investigation concluding that a complaint or grievance
4 against a law enforcement agency or officer pursuant to this section could not
5 be substantiated shall detail the underlying reasons for the conclusion in the
6 public report. The investigation shall be closed but shall be archived and may
7 be used as an aggravating factor in any subsequent investigation by a board of
8 similar conduct by the same law enforcement officer that is substantiated.

9 (B) An investigation substantiating a complaint or grievance against
10 a law enforcement agency or officer pursuant to this section shall articulate the
11 nature of any substantiated conduct, identify the underlying deficiencies of the
12 conduct, and contain the board's sanction recommendation.

13 Sec. 2. 24 V.S.A. § 1934 is amended to read:

14 § 1934. CONSTRUCTION

15 Notwithstanding any contrary provisions in any municipal charter, the
16 provisions of sections 1931–1933 and 1944 of this title shall control, unless a
17 municipality has charter provisions providing for tenure of police officers
18 during good behavior with removal only after hearing and for cause.

19 Sec. 3. EFFECTIVE DATE

20 This act shall take effect on July 1, 2023.