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H.225

Introduced by Representatives Masland of Thetford, Donahue of Northfield,  
Batchelor of Derby, Branagan of Georgia, Browning of  
Arlington, Clarkson of Woodstock, Consejo of Sheldon, Davis  
of Washington, Devereux of Mount Holly, Evans of Essex,  
Fisher of Lincoln, Haas of Rochester, Hooper of Montpelier,  
Kupersmith of South Burlington, Lanpher of Vergennes, Lenes  
of Shelburne, Lewis of Berlin, Macaig of Williston, Marcotte of  
Coventry, Martin of Springfield, Moran of Wardsboro, Pearson  
of Burlington, Ram of Burlington, Sharpe of Bristol, Shaw of  
Derby, Stevens of Waterbury, Till of Jericho, Townsend of  
Randolph, Townsend of South Burlington, Weed of Enosburgh,  
Yantachka of Charlotte, and Zagar of Barnard

Referred to Committee on

Date:

Subject: Internal security and public safety; training of law enforcement  
officers; electronic control device certification training

Statement of purpose of bill as introduced: This bill proposes to establish a  
statewide policy on the training requirements for electronic control devices;  
authorize the Criminal Justice Training Council to develop regulations and  
training for electronic control devices; and require coordination of training for

1 the use of electronic control devices between the Criminal Justice Training  
2 Council and the Department of Mental Health.

3 An act relating to a statewide policy on the use of and training requirements  
4 for electronic control devices

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

6 ~~Sec. 1. 20 V.S.A. § 2367 is added to read:~~

7 ~~§ 2367. STATEWIDE POLICY; ELECTRONIC CONTROL DEVICES;~~

8 ~~REPORTING~~

9 ~~(a) The Department of Public Safety shall establish a statewide policy on~~  
10 ~~the use of and training requirements for electronic control devices. The policy~~  
11 ~~shall include the following provisions:~~

12 ~~(1) Electronic control devices are alternatives to lethal force but are not~~  
13 ~~nonlethal.~~

14 ~~(2) Electronic control devices shall be limited to use under the same~~  
15 ~~standards that justify the use of lethal force or that will directly reduce an~~  
16 ~~imminent risk of a person's death through self-harm.~~

17 ~~(3) Electronic control devices shall not be used for the primary purpose~~  
18 ~~of subduing an individual, of obtaining compliance, or as punishment.~~

19 ~~(4) The use of electronic control devices shall comply with all~~  
20 ~~recommendations by manufacturers for the reduction of risk of injury to~~

1 ~~subjects, including situations where a subject's physical susceptibilities are~~  
2 ~~known.~~

3 (5) The use of electronic control devices shall include recognition of the  
4 heightened risk that misuse can result from situations in which subjects have  
5 cognitive disabilities or are in emotional crises that interfere with the ability to  
6 understand consequences of action. These circumstances require steps to  
7 prevent unwarranted use of electronic control devices.

8 (b) The Criminal Justice Training Council shall adopt rules and develop  
9 training to ensure that the policies and standards of this section are met. The  
10 Criminal Justice Training Council shall ensure that a law enforcement officer  
11 receives appropriate and sufficient training before becoming authorized to  
12 carry or use an electronic control device.

13 (c) The Criminal Justice Training Council shall coordinate training  
14 initiatives with the Department of Mental Health related to law enforcement  
15 interventions, training for joint law enforcement and mental health crisis team  
16 responses, and enhanced capacity for mental health emergency responses.

17 (d) The Attorney General's Office shall report annually on or before  
18 December 15 to the General Assembly on all incidents involving the use of an  
19 electronic control device, a review of compliance with standards under this  
20 section, the adequacy of certification requirements established under this

1 ~~section, and the adequacy of funding for the mental health collaboration~~  
2 required by this section.

3 (e) As used in this section:

4 (1) "Electronic control device" means a device primarily designed to  
5 disrupt an individual's central nervous system by means of deploying electrical  
6 energy sufficient to cause uncontrolled muscle contractions and override an  
7 individual's voluntary motor responses.

8 (2) "Law enforcement officer" means a sheriff, deputy sheriff,  
9 constable, police officer, state's attorney, capitol police officer, state game  
10 warden, state police officer, or certified law enforcement officer of the  
11 Department of Motor Vehicles, the Agency of Natural Resources, or the  
12 Department of Liquor Control.

13 Sec. 2. REPORTS

14 (a) On or before December 15, 2013, the Criminal Justice Training Council  
15 shall report to the General Assembly on the progress made implementing the  
16 rules, training, and certification standards required by this act.

17 (b) On or before December 15, 2013, the Department of Mental Health  
18 shall report to the General Assembly on the adequacy of funding to support the  
19 requirements of this act.

20 Sec. 3. EFFECTIVE DATE

21 This act shall take effect on July 1, 2013.

*Sec. 1. 20 V.S.A. § 2367 is added to read:*

§ 2367. STATEWIDE POLICY; ELECTRONIC CONTROL DEVICES;

REPORTING

(a) On or before January 1, 2015, the Law Enforcement Advisory Board shall establish a statewide policy on the use of and training requirements for electronic control devices. On or before January 1, 2016, every State, local, county, and municipal law enforcement agency that employs one or more certified law enforcement officers shall adopt this policy. The policy shall include the following provisions:

(1) Electronic control devices are less-lethal alternatives to lethal force.

(2)(A) Officers may deploy an electronic control device:

(i) in response to an actively resistant subject, if there is reason to believe that using another compliance technique will result in a greater risk of injury to the officer, the subject, or a third party; and

(ii) in response to an assaultive subject when lethal force does not appear to be objectively reasonable.

(B) Neither an officer, a subject, or a third party has to actually suffer an injury before an officer is permitted to use an electronic control device, and officers are not required to use alternatives that increase the danger to themselves or the public.

(C) When it is safe to do so, officers shall attempt to deescalate situations by their presence or through the use of verbal persuasion, and shall provide a warning prior to deploying an electronic control device.

(3) Electronic control devices shall not be used in a punitive or coercive manner and shall not be used to awaken, escort, or gain compliance from passively resistance subjects. The act of fleeing or destroying evidence, in and of itself, does not justify the use of an electronic control device.

(4) The use of electronic control devices shall comply with all recommendations by manufacturers for the reduction of risk of injury to subjects, including situations where a subject's physical susceptibilities are known.

(5) The use of electronic control devices shall include recognition of the potential additional risks that can result from situations in which subjects have cognitive disabilities or are in emotional crises that interfere with the ability to understand consequences of action. Special consideration should be given to whether other types of force are reasonably available to effectuate custody of or facilitate control over a member of one of these special populations while still preserving the safety of that person, third parties, and the responding officer.

(6) Electronic control devices shall not be used on animals unless necessary to deter vicious or aggressive animals that threaten the safety of

officers or others.

(b) The Criminal Justice Training Council shall adopt rules and develop training to ensure that the policies and standards of this section are met. The Criminal Justice Training Council shall ensure that a law enforcement officer receives appropriate and sufficient training before becoming authorized to carry or use an electronic control device.

(c) On or before June 30, 2017, every State, local, county, and municipal law enforcement agency that employs one or more certified law enforcement officers shall ensure that all officers have completed the training established in 2004 Acts and Resolves No. 80, Sec. 13(a).

~~(c)~~ (d) The Criminal Justice Training Council shall coordinate training initiatives with the Department of Mental Health related to law enforcement interventions, training for joint law enforcement and mental health crisis team responses, and enhanced capacity for mental health emergency responses.

~~(d)~~ (e) Every State, local, county, and municipal law enforcement agency that employs one or more certified law enforcement officers shall report all incidents involving the use of an electronic control device to the Criminal Justice Training Council in a form to be determined by the Council.

~~(e)~~ (f) As used in this section:

(1) "Electronic control device" means a device primarily designed to disrupt an individual's central nervous system by means of deploying electrical

energy sufficient to cause uncontrolled muscle contractions and override an individual's voluntary motor responses.

(2) "Law enforcement officer" means a sheriff, deputy sheriff, constable, police officer, state's attorney, capitol police officer, state game warden, state police officer, or certified law enforcement officer of the Department of Motor Vehicles, the Agency of Natural Resources, or the Department of Liquor Control.

Sec. 2. REPORTS

(a) On or before December 15, 2015, the Criminal Justice Training Council shall report to the House and Senate Committees on Government Operations and Judiciary on the progress made implementing the rules, training, and certification standards required by this act.

(b) On or before December 15, 2015, the Department of Mental Health shall report to the House and Senate Committees on Government Operations and Judiciary on the adequacy of funding to support the requirements of this act.

(c) On March 15, 2016, and annually thereafter, the Criminal Justice Training Council shall report to the House and Senate Committees on Government Operations and Judiciary all incidents involving the use of an electronic control device, a review of compliance with standards, the adequacy

of training and certification requirements, and the adequacy of funding for  
mental health collaboration.

*Sec. 3. EFFECTIVE DATE*

*This act shall take effect on passage.*