

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Government Operations to which was referred House Bill  
3 No. 225 entitled “An act relating to a statewide policy on the use of and  
4 training requirements for electronic control devices” respectfully reports that it  
5 has considered the same and recommends that the bill be amended by striking  
6 out all after the enacting clause and inserting in lieu thereof the following:

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

8 § 2367. STATEWIDE POLICY; ELECTRONIC CONTROL DEVICES;

9 REPORTING

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

13 (1) Electronic control devices are less-lethal alternatives to lethal force  
14 but are not nonlethal.

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

18 (2)(A) Officers may deploy an electronic control devices:

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

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

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

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

10          (3) Electronic control devices shall not be used for the primary purpose  
11          of subduing an individual, of obtaining compliance, or as punishment shall not  
12          be used in a punitive or coercive manner and shall not be used to awaken,  
13          escort, or gain compliance from passively resistance subjects. The act of  
14          fleeing or destroying evidence, in and of itself, does not justify the use of an  
15          Electronic control device.

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

20          (5) The use of electronic control devices shall include recognition of the  
21          heightened potential additional risks that misuse can result from situations in

1 which subjects have cognitive disabilities or are in emotional crises that  
2 interfere with the ability to understand consequences of action. **Special**  
3 consideration should be given to whether other types of force are reasonably  
4 available to effectuate custody of or facilitate control over a member of one of  
5 these special populations while still preserving the safety of that person, third  
6 parties, and the responding officer.

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

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

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

1       (e) As used in this section:

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

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

11       Sec. 2. REPORTS

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

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

20       Sec. 3. EFFECTIVE DATE

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

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2 (Committee vote: \_\_\_\_\_)

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\_\_\_\_\_

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Representative \_\_\_\_\_

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FOR THE COMMITTEE