

1 TO THE HONORABLE SENATE:

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 Senate propose to the House
6 that the bill be amended by striking out all after the enacting clause and
7 inserting in lieu thereof the following:

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

9 § 2367. STATEWIDE POLICY; ELECTRONIC CONTROL DEVICES;

10 REPORTING

11 (a) As used in this section:

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

16 (2) “Law enforcement officer” means a sheriff, deputy sheriff, police
17 officer, capitol police officer, State game warden, State Police officer,
18 constable who exercises law enforcement authority pursuant to 24 V.S.A.
19 § 1936a and who is trained in compliance with section 2358 of this title, and a
20 certified law enforcement officer employed by a State branch, agency, or
21 department, including the Department of Motor Vehicles, the Agency of

1 Natural Resources, the Office of the Attorney General, the Department of
2 State’s Attorney, the Secretary of State, and the Department of Liquor Control.

3 (b) On or before January 1, 2015, the Law Enforcement Advisory Board
4 shall establish a statewide policy on the use of and training requirements for
5 the use of electronic control devices. On or before January 1, 2016, every
6 State, local, county, and municipal law enforcement agency and every law
7 enforcement officer who is not employed by a law enforcement agency shall
8 adopt this policy. If a law enforcement agency or officer that is required to
9 adopt a policy pursuant to this subsection fails to do so on or before January 1,
10 2016, that agency or officer shall be deemed to have adopted, and shall follow
11 and enforce, the model policy established by the Law Enforcement Advisory
12 Board. The policy shall include the following provisions:

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

15 (2) Officers may deploy an electronic control device only:

16 (A) against subjects who are exhibiting active aggression or who are
17 actively resisting in a manner that, in the officer’s judgment, is likely to result
18 in injuries to others or themselves; or

19 (B) if, without further action or intervention by the officer, injuries
20 to the subject or others will likely occur.

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

5 (4) When it is safe to do so, officers shall attempt to de-escalate
6 situations and shall provide a warning prior to deploying an electronic control
7 device.

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

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

16 (7) Electronic control devices shall be used in a manner that recognizes
17 the potential additional risks that can result from situations:

18 (A) involving persons who are in an emotional crisis that may
19 interfere with their ability to understand the consequences of their actions or to
20 follow directions;

1 (B) involving persons with disabilities whose disability may impact
2 their ability to communicate with an officer, or respond to an officer's
3 directions; and

4 (C) involving higher risk populations that may be more susceptible to
5 injury as a result of electronic control devices.

6
7 (8) Electronic control devices shall not be used on animals unless
8 necessary to deter vicious or aggressive behavior that threatens the safety of
9 officers or others.

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

15 (d) On or before June 30, 2017, every State, local, county, and municipal
16 law enforcement agency that employs one or more certified law enforcement
17 officers shall ensure that all officers have completed the training established in
18 2004 Acts and Resolves No. 80, Sec. 13(a), and every law enforcement officer
19 who is not employed by a law enforcement agency shall have completed this
20 training.

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

5 (f) Every State, local, county, and municipal law enforcement agency and
6 every law enforcement officer who is not employed by a law enforcement
7 agency shall report all incidents involving the use of an electronic control
8 device to the Criminal Justice Training Council in a form to be determined by
9 the Council.

10 (g) The Law Enforcement Advisory Board shall study and shall, on or
11 before January 15, 2015, report to the House and Senate Committees on
12 Government Operations and on Judiciary concerning:

13 (1) whether and how the calibration and output of electronic control
14 devices should be measured; and

15 (2) whether officers authorized to carry electronic control devices
16 should be required to wear body cameras.

17 Sec. 2. REPORTS

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

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

4 (c) On or before March 15, 2016, and annually thereafter, the Criminal
5 Justice Training Council shall report to the House and Senate Committees on
6 Government Operations and on Judiciary all incidents involving the use of an
7 electronic control device, a review of compliance with standards, the adequacy
8 of training and certification requirements, and the adequacy of funding for
9 mental health collaboration.

10 Sec. 3. EFFECTIVE DATE

11 This act shall take effect on passage.

12

13

14 (Committee vote: _____)

15

16

Senator _____

17

FOR THE COMMITTEE