

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 and training  
4 requirements for electronic control devices” respectfully reports that it has  
5 considered the same and recommends that the Senate propose to the House that  
6 the bill be amended by striking out all after the enacting clause and inserting in  
7 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) On or before January 1, 2015, the Law Enforcement Advisory Board  
12 shall establish a statewide policy on the use of and training requirements for  
13 electronic control devices. On or before January 1, 2016, every State, local,  
14 county, and municipal law enforcement agency that employs one or more  
15 certified law enforcement officers shall adopt this policy. The policy shall  
16 include the following provisions:

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

18 [Note: Below there are 4 options for (2)(A), concerning the standard for use.

19 The first is the existing language from the House version, the second was

20 suggested by Disability Rights Vermont, and the third and fourth by the

21 ACLU]



1 immediate risk of serious injury or expected death to the subject, officer, or  
2 others.

3 \* \* \* [Option #4: Suggested by ACLU to Senate Government Operations on  
4 April 22, 2014] \* \* \*

5 (2)(A) Officers may deploy an electronic control device if necessary to  
6 reduce an immediate threat of serious injury or expected death to the subject,  
7 officer, or others.

8 \* \* \*

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

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

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

20 (4) The use of electronic control devices shall comply with all  
21 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 \* \* \* [Option #1: Existing language in House As Passed version, with minor  
4 changes] \* \* \*

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

13 \* \* \* [Option #2] \* \* \*

14 (5) The use of electronic control devices shall include recognition of,  
15 and training concerning:

16 (A) the potential additional risks that can result from situations in  
17 which subjects are in an emotional crisis that could interfere with their ability  
18 to understand the consequences of their actions; or

19 (B) special populations and how to use other types of force or other  
20 approaches to effectuate custody or control over a member of a special

1 population while preserving the safety of that person, third parties, and the  
2 officer.

3 \* \* \*

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

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) On or before June 30, 2017, every State, local, county, and municipal  
13 law enforcement agency that employs one or more certified law enforcement  
14 officers shall ensure that all officers have completed the training established in  
15 2004 Acts and Resolves No. 80, Sec. 13(a).

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

20 (e) The Law Enforcement Advisory Board shall study whether:

1           (1) the calibration and output of electronic control devices should be  
2           measured; and

3           (2) officers authorized to carry electronic control devices should be  
4           required to wear body cameras.

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

9           (g) As used in this section:

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

14           (2) “Law enforcement officer” means a sheriff, deputy sheriff,  
15           constable, police officer, State’s Attorney, capitol police officer, State game  
16           warden, State Police officer, or certified law enforcement officer of the  
17           Department of Motor Vehicles, the Agency of Natural Resources, or the  
18           Department of Liquor Control.

19           Sec. 2. REPORTS

20           (a) On or before December 15, 2015, the Criminal Justice Training Council  
21           shall report to the House and Senate Committees on Government Operations

1 and on Judiciary on the progress made implementing the rules, training, and  
2 certification standards required by this act.

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

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

13 Sec. 3. EFFECTIVE DATE

14 This act shall take effect on passage.

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16

17 (Committee vote: \_\_\_\_\_)

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\_\_\_\_\_

19

Senator \_\_\_\_\_

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FOR THE COMMITTEE