

Thank you for the opportunity to speak before your committee.

My name is Frank Koss and I am the Chief of the Hinesburg Community Police Department. I have 35 years of law enforcement experience with three years in Alaska, twenty-five years with the California Highway Patrol and eight years here in Vermont.

I am requesting that H.765 not make it out of your committee and be dropped from consideration or returned to the House until a written study is submitted to the legislature.

Specifically:

1. The author of the house bill, Bill Lippert admits that the protections that were supposed to be afforded currently part time certified officers are not in the passed bill.
  - a. **Attachment One** is Representative Lippert's response to Senator Snelling, myself and Sergeant Casco regarding his intent of H.765.
  
2. That the Level 1 and Level II proposed with limited arrest authority is counterproductive to a municipal police department or sheriff's office performing general law enforcement duties.
  - a. As explained to me, it would only allow Level III officers to make arrests of the serious felonies. As police chief and responsible to my town, am I not in the best position to determine who is best qualified for a major investigation? i.e. a part time certified officer with nine years of experience or a full time certified officer just out of the academy.
  
3. That of the 58 municipal police departments in Vermont, 47 utilize part time certified officers. No study has been completed on the consequences to those departments on staffing and budget issues. Additionally, with a few exceptions, the departments only using full time certified are larger departments that can afford to have a few openings without a disruption to their operation. The loss of one full time certified officer in Hinesburg is 20 percent of my staffing.
  - a. **Attachment Two** is a listing of the Vermont departments, if they use part time certified and if they currently have an employment add on the Vermont Academy website.
  
4. No study has been initiated to determine if the full time Vermont Police Academy, now capped at 76 training slots (38 per class) a year could handle an influx of candidates since part time certified would no longer be an option.

5. No study has been completed on the ongoing needs of Vermont State Police and Vermont Fish and Game who due to mandatory retirements and resignations took over half of the last training slots in the February class and will continue to have above average utilization of the Vermont Police Academy.
6. No study has been done on the consequences of not being able to hire an employee and due to delays in the full time training, put him/her through the part time process. This allows the immediate hiring, field training process to get someone on the road and pay them a salary while the department waits for a full time training slot.
7. No study has been done to determine what the actual problem is in a program that has been in place for decades. Can anyone testifying for the bill state any specific examples where a part time certified officer violated a citizen's rights or made any mistake due to lack of training that made any newspapers. Do not allow anybody to use "it's a liability issue" without citing specific examples. **Attachment Three** is a summary of law enforcement officers making the newspapers in the last several years. There are fourteen full time certified officers listed and only one part time certified officer.
8. An interesting study, Independent Evaluation of Law Enforcement Services Executive Summary and Key Findings and Recommendations dated February 20, 2009 was submitted to the Vermont General Assembly. This 25 page document did an excellent job in detailing issues of law enforcement in Vermont but did not address part time certified officers in any manner.

I am not in any way saying that there is not an issue to be addressed. I do advocate the formation of a study committee made up in part, with actual Chiefs that will be affected by any changes to the part time certified officers. For this reason, it should not be left up to either the Law Enforcement Advisory Board or the Vermont Criminal Justice Training Council who are primarily made up of agencies without part time certified officers.

Sincerely,

FRANK KOSS, Chief

## ATTACHMENT ONE

**EMAIL TO REPRESENTATIVE LIPPERT, Tuesday, March 25, 2014**

Koss, Frank

To:

[Bill Lippert \[billlippert@gmavt.net\]](mailto:billlippert@gmavt.net); [Diane Snelling \[DSnelling@leg.state.vt.us\]](mailto:DSnelling@leg.state.vt.us)

Cc:

Please review the authority of a Level II officer. Then look at Section 6 which indicates that the part time officer will recertify into one of the two levels. There is nowhere in the bill that provides for ongoing authority of a currently certified part time officer.

Frank

BILL AS PASSED THE HOUSE H.765

Level II officer may respond to calls regarding alleged crimes in progress and may react in the following circumstances if the officer determines that it is necessary to do any of the following:

- (I) protect an individual in the presence of the officer from the imminent infliction of serious bodily injury;
  - (II) provide immediate assistance to an individual who has suffered or is threatened with serious bodily injury;
  - (III) prevent the escape of an individual whom the officer reasonably believes has committed a crime in the presence of the officer; or
  - (IV) prevent the escape of an individual whom the officer reasonably believes has committed a felony under Vermont law.
- (ii) If a Level II officer responds to calls regarding alleged crimes in progress or reacts to any of the circumstances described in subdivision (i) of this subdivision (B) and that response or reaction is outside the scope of his or her scope of practice, he or she shall call upon a Level III officer to respond and assume law enforcement authority over the incident.
- (3) Level III certification.
- (A) An applicant for certification as a Level III law enforcement officer shall complete Level III basic training.
- (B) The scope of practice of a Level III law enforcement officer

shall include all law enforcement authority.

(c) All programs required by this section shall be approved by the Council. Completion of a program shall be established by a certificate to that effect signed by the Executive Director of the Council.

#### Sec. 6. TRANSITIONAL PROVISIONS; GRANDFATHERING OF

##### PART-TIME OR FULL-TIME CERTIFIED LAW ENFORCEMENT OFFICERS; RULEMAKING AUTHORITY

(a) (1) On the effective date of Sec. 4 of this act, any law enforcement officer certified by the Vermont Criminal Justice Training Council as a part-time or full-time law enforcement officer immediately prior to the effective date of Sec. 4 may continue to hold that certification and practice as a law enforcement officer under the limitations of his or her part-time or full-time certification in effect immediately prior to the effective date of Sec. 4.

(2) A law enforcement officer described in subdivision (1) of this subsection shall be required to complete the next annual in-service training for one of the three levels of law enforcement officer certification provided as required pursuant to the terms of Sec. 4 according to that officer's desired scope of practice, except that an officer certified as a part-time law enforcement officer immediately prior to the effective date of Sec. 4 may only complete the next annual in-service training for a Level I or Level II law enforcement officer.

(b) The Vermont Criminal Justice Training Council shall adopt rules in order to implement the provisions of Secs. 2 (amending 20 V.S.A. § 2355 (powers and duties)), 4 (amending 20 V.S.A. § 2358 (minimum training

Frank Koss, Chief  
Hinesburg Community Police  
802-482-3397

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From: Bill Lippert [billlippert@gmavt.net]  
Sent: Tuesday, March 25, 2014 8:16 AM  
To: Diane Snelling  
Cc: <ccasco@earthlink.net>; Lippert, Rep. Bill; Sears, Sen. Richard; Koss, Frank; Koss, Frank  
Subject: Re: H.765 And the negative affect it will have on police officers.

Good morning Caleb & Diane,

Let me briefly respond to the emails from Caleb and Chief Koss. I believe there is a misunderstanding.

**H. 765 will not make Caleb unemployable as a law enforcement officer in Hinesburg or in Vermont. Section 6 of H. 765 specifically grandfathers Caleb, and all currently part-time certified law enforcement officers. They will continue to have full law enforcement authority, as they do currently.**

I will confirm this today at the statehouse.

I will be happy to address further the broader issues raised by Chief Koss about law enforcement training, but have to head out to the statehouse.

Bill

Sent from my iPhone. BillLippert@gmavt.net.

Rep. Bill Lippert Vermont House of Representatives 2751  
Baldwin Road, Hinesburg, VT 05461. 734-0593 cell. 482-3528  
h/o.

To:

[Koss, Frank](#)

Cc:

[Diane Snelling \[DSnelling@leg.state.vt.us\]](mailto:DSnelling@leg.state.vt.us); [<ccasco@earthlink.net>](mailto:ccasco@earthlink.net); [Lippert, Rep. Bill](#); [Sears, Sen. Richard](#)

Tuesday, March 25, 2014 9:05 AM

**Frank, Your reading of Sec. 6 (a)(2) does appear to create the problem you describe. That was not my proposal in the bill I introduced, and it was not my understanding as the bill came to the floor for debate.**

**I will pursue this at the statehouse to make sure of how this would be interpreted and implemented.**

**Bill**

## ATTACHMENT TWO

### County Sheriffs

Agency	Use P/T Yes or No	Current Employment Ad	
		FT	PT
Addison Co. Sheriff's Office	Y		
Bennington Co. Sheriff's Office	Y		
Caledonia Co. Sheriff's Office	Y		X
Chittenden Co. Sheriff's Office	Y	X	X
Essex County Sheriff's Office	Y		
Franklin Co. Sheriff's Office	Y		
Grand Isle County Sheriff's Office	Y		
Lamoille Co. Sheriff's Office	Y		
Orange County Sheriff's Office	Y		
Orleans County Sheriff's Office	Y		
Rutland Co. Sheriff's Office	Y		X
Washington Co. Sheriff's Office	Y		
Windham Co. Sheriff's Office	Y	X	X
Windsor Co. Sheriff's Office	Y		

## Municipal Agencies

Agency	Use P/T Yes or No	Current Employment	
		Ad	
		FT	PT
Barre City Police Department	Y		
Barre Town Police Dept	Y		
Bellows Falls Police Dept	Y	X	
Bennington Police Dept	N	X	
Berlin Police Department	Y		X
Bradford Police Department	Y		
Brandon Police Department	Y	X	X
Brattleboro Police Dept.	N	X	
Brighton Police Department	Y		
Bristol Police Department	Y		
Burlington Police Department	N	X	
Canaan Police Department	N		
Castleton Police Department	Y	X	
Chester Police Department	Y		
Colchester Police Department	N	X	
Dover Police Department	Y		
Essex Police Department	Y		
Fair Haven Police Dept	Y		
Fairlee Police Departmen	Y		
Hardwick Police Department	Y		X
Hartford Police Department	Y		
Hinesburg Community Police	Y		
Killington Police Department	Y		X
Ludlow Police Department	Y		
Lyndonville Police Dept.	Y		
Manchester Police Dept	Y		X
Middlebury Police Dept.	N		
Milton Police Department	Y		
Montpelier Police Department	N		
Morristown Police Dept	Y		
Mount Tabor Police Dept.	Y		
Newport Police Department	Y		
Northfield Police Department	Y		
Norwich Police Department	Y		X
Pittsford Police Department	Y		
Randolph Police Department	Y	X	X
Richmond Police Department	Y		
Royalton Police Department	Y		
Rutland City Police Dept.	N	X	
Rutland Town Police Department	Y		
St. Albans Police Department	N	X	

St. Johnsbury Police Dept.	Y		
Shelburne Police Departmen	Y		
Springfield Police Dept.	Y	X	
South Burlington Police Dept.	N	X	
Stowe Police Department	Y		
Swanton Police Department	Y		
Thetford Police Department	N		
Vergennes Police Department	Y		X
Vernon Police Department	Y		X
Waterbury Police Department	Y		
Weathersfield Police Dept.	Y		
Williston Police Department	Y	X	
Wilmington Police Dept	Y		
Windsor Police Department	Y	X	X
Winhall Police Department	Y		
Winooski Police Department	Y		
Woodstock Police Dept.	Y		



## **ATTACHMENT THREE**

### **Full Time Certified**

Sgt. David Schauwecker - Rutland City Police Department  
Charged on March 24, 2010, with removing pornography seized as evidence for his own use and knowingly lying to investigators to deflect attention.

Officer Michael Nesshoever – Rutland Police Department  
Shot shackled prisoner with pepper ball gun.

Officer Robert Barrows III - Hinesburg Police Department  
Charged on January 10, 2011, with domestic assault after allegedly shoving girlfriend to the floor.

Officer Zak Winston - Barre City Police Department  
Charged on January 3, 2011, with burglary, unlawful trespass, unlawful mischief and resisting arrest for allegedly stealing a TV from under a neighbor's Christmas tree and throwing it in the Winooski River.

Deputy Russell E. Lindemann - Orleans County Sheriff's Office  
Charged on February 14, 2011, with neglect of duty and unlawful trespass for allegedly barging into ex-lover's home and later pulling her over for no lawful reason.

Trooper Joshua P. Lemieux - Vermont State Police  
Charged October 7, 2010, with DUI following altercation at a Rutland bar.

Chief Michael Lowe - Vergennes Police Department  
Pleaded guilty on January 11, 2010, to obtaining regulated drugs by fraud, DUI by drugs and neglect of duty after becoming hooked on oxycodone and hydrocodone.

Trooper Mark Beezup - Vermont State Police  
Charged with sexual assault on a minor and lewd and lascivious conduct for allegedly taking nude photos of a girl and molesting her in August 2009 and January 2011.

Deputy Richard Kelley - Windsor County Sheriff's Office  
Charged in January with committing lewd and lascivious acts against an underage girl during the period of April to June 2009.

Trooper Tim Newton - Vermont State Police  
Charged on February 6, 2011, with domestic assault after a 4 year old told police Newton punched his mother — a Bennington police dispatcher who was engaged to Newton — in the nose following a Super Bowl party.

Corporal Jason Nokes - Winooski Police Department  
Charged with DUI on August 6, 2011, after cops allegedly found him slumped behind the wheel of his truck after reports of erratic driving on I-89.

Sergeant James Deeghan – Vermont State Police  
Charged for allegedly doctoring his timesheets to get paid for overtime he did not work.

Deputy Chief Andi Higbee - Burlington Police Department  
Arrested for Driving Under the Influence. (Second Offense)

Officer Jeremy Wyskiel – Colchester Police  
Arrested for DUI

### **Part Time Certified**

Deputy Wayne Davis Jr. - Bennington County Sheriff's Office  
Charged with aggravated domestic assault and unlawful mischief (both felonies) for allegedly choking his wife and hurling a soda can at her. Subsequently charged with obstruction of justice and violation of conditions of release for allegedly calling his wife in violation of abuse prevention order.