

1 H.564

2 Introduced by Representative Hubert of Milton

3 Referred to Committee on

4 Date:

5 Subject: Public safety; Vermont Criminal Justice Training Council; law

6 enforcement officers; professional regulation; aggravated cruelty to

7 animals; property forfeiture; municipal police departments; Law

8 Enforcement Advisory Board

9 Statement of purpose of bill as introduced: This bill proposes to:

10 (1) Make miscellaneous amendments regarding the Vermont Criminal
11 Justice Training Council and its regulation of law enforcement officers'
12 certification. In particular, the bill would amend the scope of practice of a
13 Level II certified law enforcement officer; establish what constitutes
14 unprofessional conduct of a law enforcement officer; establish the procedure to
15 receive, investigate, and adjudicate complaints; and provide the discipline the
16 Council may order upon its finding that an officer committed unprofessional
17 conduct.

18 (2) Provide that the intentional injuring or killing of an animal in the
19 performance of its duties while under the supervision of a law enforcement
20 officer constitutes the crime of aggravated cruelty to animals.

1 (3) Provide that ten percent of the proceeds from the sale of forfeited
2 property be distributed to the Vermont Police Academy.

3 (4) Require that in a municipal police department, the chief of police
4 and any police officer who is employed in a supervisory capacity or who holds
5 the rank of sergeant or higher shall be certified as a Level III law enforcement
6 officer.

7 (5) Add to the membership of the Law Enforcement Advisory Board
8 representation from the Departments of Fish and Wildlife and of Motor
9 Vehicles.

10 An act relating to law enforcement officers

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

12 * * * Vermont Criminal Justice Training Council * * *

13 Sec. 1. 20 V.S.A. § 2351 is amended to read:

14 § 2351. CREATION AND PURPOSE OF COUNCIL

15 (a) In order to promote and protect the health, safety, and welfare of the
16 public, it is in the public interest to provide for the creation of the Vermont
17 Criminal Justice Training Council.

18 (b) The Council is created to encourage and assist municipalities, counties,
19 and governmental agencies of this State in their efforts to improve the quality
20 of law enforcement and citizen protection by maintaining a uniform standard

1 of recruit and in-service training for law enforcement officers, ~~including~~
2 ~~members of the Department of Public Safety, Capitol Police officers,~~
3 ~~municipal police officers, constables, correctional officers, prosecuting~~
4 ~~personnel, motor vehicle inspectors, State investigators employed on a~~
5 ~~full-time basis by the Attorney General, fish and game wardens, sheriffs and~~
6 ~~their deputies who exercise law enforcement powers pursuant to the provisions~~
7 ~~of 24 V.S.A. §§ 307 and 311, railroad police commissioned pursuant to~~
8 ~~5 V.S.A. chapter 68, subchapter 8, and police officers appointed to the~~
9 ~~University of Vermont's Department of Police Services.~~

10 (c) The Council shall offer continuing programs of instruction in up-to-date
11 methods of law enforcement and the administration of criminal justice.

12 (d) It is the responsibility of the Council to encourage the participation of
13 local governmental units in the program and to aid in the establishment of
14 adequate training facilities.

15 Sec. 2. 20 V.S.A. § 2351a is added to read:

16 § 2351a. DEFINITIONS

17 As used in this chapter:

18 (1) “Director of a law enforcement agency” means the director, chief, or
19 similar head of a law enforcement agency.

20 (2) “Law enforcement agency” means the office that employs a law
21 enforcement officer.

1 (3) “Law enforcement officer” means a member of the Department of
2 Public Safety who exercises law enforcement powers; a member of the State
3 Police; a Capitol Police officer; a municipal police officer; a constable who
4 exercises law enforcement powers; a motor vehicle inspector; an employee of
5 the Department of Liquor Control who exercises law enforcement powers; an
6 investigator employed by the Secretary of State; a Board of Medical Practice
7 investigator employed by the Department of Health; an investigator employed
8 by the Attorney General or a State’s Attorney; a fish and game warden; a
9 sheriff; a deputy sheriff who exercises law enforcement powers; a railroad
10 police officer commissioned pursuant to 5 V.S.A. chapter 68, subchapter 8; or
11 a police officer appointed to the University of Vermont’s Department of Police
12 Services.

13 (4) “Off-site training” means training provided off the premises of a law
14 enforcement officer training school and approved by the Council under the
15 provisions of section 2355 of this chapter.

16 Sec. 3. 20 V.S.A. § 2352 is amended to read:

17 § 2352. ~~CREATION OF COUNCIL~~ MEMBERSHIP

18 (a)(1) The Vermont Criminal Justice Training Council shall consist of:

19 (A) the Commissioners of Public Safety, of Corrections, of Motor
20 Vehicles, and of Fish and Wildlife;

21 (B) the Attorney General;

1 (C) a member of the Vermont State Police bargaining unit of the
2 Vermont State Employees' Association or its successor entity, elected by its
3 membership,~~and~~;

4 (D) a member of the Vermont Police Association, elected by its
5 membership. ~~The Governor shall appoint; and~~

6 (E) five additional members appointed by the Governor so as to
7 provide broad representation of all aspects of law enforcement and the public
8 in Vermont on the Council.

9 (2) The Governor shall solicit recommendations for appointment from
10 the Vermont State's Attorneys Association, the Vermont State's Sheriffs
11 Association, the Vermont Police Chiefs Association, and the Vermont
12 Constables Association.

13 (3) ~~Their~~ A member's term shall be three years.

14 * * *

15 Sec. 4. 20 V.S.A. § 2354 is amended to read:

16 § 2354. COUNCIL MEETINGS

17 (a) The ~~council~~ Council shall meet at least once in each quarter of each
18 year. Special meetings may be called by the ~~chairman~~ Chair or upon the
19 written request of six members of the ~~council~~ Council.

20 (b) The ~~council~~ Council shall adopt rules as to quorum and procedures with
21 respect to the conduct of its meetings and other affairs.

1 (c)(1) ~~The commissioner of public safety, the commissioner of corrections,~~
2 ~~the commissioner of motor vehicles, the commissioner of fish and wildlife, the~~
3 ~~attorney general, the representative from the Vermont troopers' association, the~~
4 ~~representative from the Vermont police association, and the representatives~~
5 ~~from the Vermont state's attorneys', sheriffs', and police chiefs' association,~~
6 ~~each~~ A member may designate in writing a person within ~~their~~ his or her
7 agency or association to attend a meeting or meetings of the ~~council~~ Council.
8 The designation shall be filed with the ~~chairman~~ Chair of the ~~council~~ Council.

9 (2) A person so designated shall have the same voting rights and
10 responsibilities as the ~~ex-officio~~ member at such meeting or meetings ~~except,~~
11 but that the designee shall not automatically assume the member's place as an
12 officer of the ~~board~~ Council.

13 Sec. 5. 20 V.S.A. § 2355 is amended to read:

14 § 2355. COUNCIL POWERS AND DUTIES

15 (a) The Council shall adopt rules with respect to:

16 (1) the approval, or revocation thereof, of law enforcement officer
17 training schools and off-site training programs;

18 (2) minimum courses of study, attendance requirements, and equipment
19 and facilities to be required at approved law enforcement officer training
20 schools and off-site training programs;

1 (3) minimum qualifications for instructors at approved law enforcement
2 officer training schools and off-site training programs;

3 (4) minimum qualifications for students at training programs, which
4 may include passage of a polygraph examination or a criminal background
5 investigation, or both;

6 (5) minimum basic training for law enforcement officers in each level of
7 law enforcement officer certification and the time within which that training
8 shall be completed;

9 ~~(5) [Repealed.]~~

10 (6) minimum annual in-service training requirements for law
11 enforcement officers in each level of law enforcement officer certification;

12 (7) minimum courses of training for other criminal justice personnel;

13 (8) categories or classifications of advanced in-service training
14 programs and minimum courses of study and attendance requirements with
15 respect to those categories or classifications;

16 (9) recertification of persons who have not been employed as law
17 enforcement officers for a three-year period;

18 (10) a definition of criminal justice personnel and criminal justice
19 training for purposes of this title; and

20 (11) ~~decertification of persons who have been convicted of a felony~~
21 ~~subsequent to their certification as law enforcement officers;~~

1 ~~(12) decertification of persons who have not complied with in-service~~
2 ~~training requirements, provided that the Council, through permitting its~~
3 Executive Director,~~may~~ to grant up to a 60-day waiver to a law enforcement
4 officer who has failed to meet his or her annual in-service training
5 requirements but who is able to complete those training requirements within
6 ~~that 60-day period~~ the time period permitted by the Executive Director.

7 * * *

8 Sec. 6. 20 V.S.A. § 2356 is added to read:

9 § 2356. VERMONT POLICE ACADEMY

10 The Vermont Police Academy within the Robert H. Wood, Jr. Criminal
11 Justice and Fire Service Training Center of Vermont is hereby designated a
12 law enforcement agency. The law enforcement powers of a law enforcement
13 officer employed by the Vermont Police Academy may be exercised statewide.

14 Sec. 7. 20 V.S.A. § 2358 is amended to read:

15 § 2358. MINIMUM TRAINING STANDARDS; DEFINITIONS

16 * * *

17 (b) The Council shall offer or approve basic training and annual in-service
18 training for each of the following three levels of law enforcement officer
19 certification in accordance with the scope of practice for each level, and shall
20 determine by rule the scope of practice for each level in accordance with the
21 provisions of this section:

1 (1) Level I certification.

2 * * *

3 (B)(i) The scope of practice of a Level I law enforcement officer
4 shall be limited to security, transport, vehicle escorts, and traffic control, as
5 those terms are defined by the Council ~~by rule~~, except that a Level I officer
6 may react in the following circumstances if the officer determines that it is
7 necessary to do any of the following:

8 * * *

9 (2) Level II certification.

10 (A) An applicant for certification as a Level II law enforcement
11 officer shall first complete Level II basic training and may then become
12 certified in a specialized practice area as set forth in subdivision (B)(ii) of this
13 subdivision (2). Level II basic training shall include training to respond to
14 calls regarding alleged crimes in progress and to react to the circumstances
15 described in subdivision (B)(iii) of this subdivision (2). Level II basic training
16 shall consist of at least 300 hours, and Level II basic training and annual
17 in-service training shall consist of at least 75 percent of the physical fitness that
18 is required for a Level III law enforcement officer.

19 (B)(i) Except as provided in subdivisions (ii) and (iii) of this
20 subdivision (B), the scope of practice of a Level II law enforcement officer
21 shall be limited to investigating the following matters:

1 (I) 7 V.S.A. § 657 (person under 21 years of age
2 misrepresenting age, procuring, possessing, or consuming alcoholic beverages;
3 third or subsequent offense);
4 (II) 7 V.S.A. § 658 (sale or furnishing to minors; enabling
5 consumption by minors);
6 ~~(H)~~(III) 13 V.S.A. chapter 7 (advertisements);
7 ~~(H)~~(IV) 13 V.S.A. chapter 8 (humane and proper treatment of
8 animals);
9 ~~(IV)~~(V) 13 V.S.A. §§ 505 (fourth degree arson), 508 (setting
10 fires), and 509 (attempts);
11 ~~(V)~~(VI) 13 V.S.A. chapter 19, subchapter 1 (riots);
12 ~~(VI)~~(VII) 13 V.S.A. §§ 1022 (noise in the nighttime), 1023
13 (simple assault), 1025 (recklessly endangering another person), 1026
14 (disorderly conduct), 1026a (aggravated disorderly conduct), 1027 (disturbing
15 peace by use of telephone or other electronic communications), 1030 (violation
16 of an abuse prevention order, an order against stalking or sexual assault, or a
17 protective order concerning contact with a child), 1031 (interference with
18 access to emergency services), 1042 (domestic assault), and 1062 (stalking);
19 ~~(VII)~~(VIII) 13 V.S.A. chapter 35 (escape);
20 ~~(VIII)~~(IX) 13 V.S.A. chapter 41 (false alarms and reports);
21 ~~(IX)~~(X) 13 V.S.A. chapter 45 (flags and ensigns);

- 1 ~~(X)~~(XI) 13 V.S.A. chapter 47 (frauds);
- 2 ~~(XI)~~(XII) 13 V.S.A. chapter 49 (fraud in commercial
- 3 transactions);
- 4 ~~(XII)~~(XIII) 13 V.S.A. chapter 51 (gambling and lotteries);
- 5 ~~(XIII)~~(XIV) 13 V.S.A. chapter 57 (larceny and embezzlement),
- 6 except for subchapter 2 (embezzlement);
- 7 ~~(XIV)~~(XV) 13 V.S.A. chapter 67 (public justice and public
- 8 officers);
- 9 ~~(XV)~~(XVI) 13 V.S.A. chapter 69 (railroads);
- 10 ~~(XVI)~~(XVII) 13 V.S.A. chapter 77 (trees and plants);
- 11 ~~(XVII)~~(XVIII) 13 V.S.A. chapter 81 (trespass and malicious
- 12 injuries to property);
- 13 ~~(XVIII)~~(XIX) 13 V.S.A. chapter 83 (vagrants);
- 14 ~~(XIX)~~(XX) 13 V.S.A. chapter 85 (weapons);
- 15 (XXI) 13 V.S.A. § 7559(d), (e), and (f) (violating condition
- 16 of release);
- 17 ~~(XX)~~(XXII) 18 V.S.A. §§ 4230(a), 4230c, and 4230d
- 18 (marijuana possession);
- 19 ~~(XXI)~~(XXIII) 18 V.S.A. § 4231(a) (cocaine possession);
- 20 ~~(XXII)~~(XXIV) 18 V.S.A. § 4232(a) (LSD possession);
- 21 ~~(XXIII)~~(XXV) 18 V.S.A. § 4233(a) (heroin possession);

1 ~~(XXIV)~~(XXVI) 18 V.S.A. § 4234(a) (depressant, stimulant, or
2 narcotic drug possession);

3 ~~(XXV)~~(XXVII) 18 V.S.A. § 4234a(a) (methamphetamine
4 possession);

5 ~~(XXVI)~~(XXVIII) 18 V.S.A. § 4235(b) (hallucinogenic drug
6 possession);

7 ~~(XXVII)~~(XXIX) 18 V.S.A. § 4235a(a) (ecstasy possession);

8 ~~(XXVIII)~~(XXX) 18 V.S.A. § 4476 (drug paraphernalia
9 offenses);

10 (XXXI) 20 V.S.A. § 3132 (firework prohibitions);

11 ~~(XXXI)~~(XXXII) 21 V.S.A. § 692(c)(2) (criminal violation of
12 stop-work order);

13 ~~(XXX)~~(XXXIII) any misdemeanor set forth in Title 23 of the
14 Vermont Statutes Annotated, except for 23 V.S.A. chapter 13, subchapter 13
15 (drunken driving), 23 V.S.A. § 3207a (snowmobiling under the influence),
16 23 V.S.A. § 3323 (boating under the influence), or 23 V.S.A. § 3506(b)(8)
17 (operating an all-terrain vehicle under the influence);

18 ~~(XXXI)~~(XXXIV) any motor vehicle accident that includes
19 property damage and injuries, as permitted by the Council by rule;

20 ~~(XXXII)~~(XXXV) any matter within the jurisdiction of the
21 Judicial Bureau as set forth in 4 V.S.A. § 1102;

1 ~~(XXXIII)~~(XXXVI) municipal ordinance violations;

2 ~~(XXXIV)~~(XXXVII) any matter within the jurisdiction of a
3 game warden or deputy game warden as set forth in 10 V.S.A. chapter 103,
4 subchapter 4 (game wardens); and

5 ~~(XXXV)~~(XXXVIII) any matter within the scope of practice of
6 a Level I law enforcement officer.

7 * * *

8 (d) ~~As used in this section:~~

9 ~~(1) “Law enforcement officer” means a member of the Department of~~
10 ~~Public Safety who exercises law enforcement powers, a member of the State~~
11 ~~Police, a Capitol Police officer, a municipal police officer, a constable who~~
12 ~~exercises law enforcement powers, a motor vehicle inspector, an employee of~~
13 ~~the Department of Liquor Control who exercises law enforcement powers, an~~
14 ~~investigator employed by the Secretary of State, Board of Medical Practice~~
15 ~~investigators employed by the Department of Health, Attorney General, or a~~
16 ~~State’s Attorney, a fish and game warden, a sheriff, or deputy sheriff who~~
17 ~~exercises law enforcement powers, a railroad police officer commissioned~~
18 ~~pursuant to 5 V.S.A. chapter 68, subchapter 8, or a police officer appointed to~~
19 ~~the University of Vermont’s Department of Police Services.~~

1 Sec. 9. 20 V.S.A. § 2359 is added to read:

2 § 2359. UNPROFESSIONAL CONDUCT

3 The conduct set forth in this section, alone or in combination, committed by
4 a law enforcement officer, whether committed within or without the State,
5 shall constitute unprofessional conduct:

6 (1) has made or caused to be made a false, fraudulent, or forged
7 statement or representation to the Council;

8 (2) failure to complete an annual in-service training requirement;

9 (3) conviction of a crime that indicates an unfitness to practice law
10 enforcement;

11 (4) attempting to conceal his or her own unprofessional conduct or that
12 of another law enforcement officer;

13 (5) conduct unbecoming of a law enforcement officer;

14 (6) has willfully or repeatedly violated any of the provisions of this
15 chapter;

16 (7) is habitually intemperate or is addicted to the use of habit-forming
17 drugs; or

18 (8) engages in conduct of a character likely to deceive, defraud, or harm
19 the public.

1 Sec. 10. 20 V.S.A. § 2359a is added to read:

2 § 2359a. LAW ENFORCEMENT AGENCIES; MANDATORY

3 REPORTING TO COUNCIL

4 (a) The director of a law enforcement agency shall report to the Council

5 when:

6 (1)(A) There has been a final and binding decision to involuntarily
7 terminate a law enforcement officer of that agency.

8 (B) As used in this subdivision (1), “final and binding decision”
9 means that any appeal, grievance, or other challenge to the involuntary
10 termination by the officer or his or her collective bargaining agent has been
11 fully adjudicated and any deadline for further appeal has passed.

12 (2)(A) The law enforcement agency has hired or is contemplating hiring
13 a person who was employed as a law enforcement officer in another law
14 enforcement agency.

15 (B) Upon inquiry to that former law enforcement agency by the
16 Council, the director of that former law enforcement agency shall report to the
17 Council any alleged unprofessional conduct committed by that law
18 enforcement officer, even if that conduct did not result in the officer’s
19 involuntary termination.

20 (3) A law enforcement officer of that agency has been charged with a
21 crime.

1 (b)(1) A director of a law enforcement agency required to report to the
2 Council under subsection (a) of this section shall provide the Council with all
3 evidence supporting the information required to be reported.

4 (2) A report shall be filed within 10 days of the event triggering the
5 report.

6 (c) The provisions of this section shall not limit the ability of a law
7 enforcement agency to otherwise report to the Council on alleged
8 unprofessional conduct committed by a law enforcement officer.

9 Sec. 11. 20 V.S.A. § 2360 is added to read:

10 § 2360. PROCEDURE FOR RECEIVING, INVESTIGATING, AND

11 ADJUDICATING COMPLAINTS

12 (a) Generally. Except as otherwise provided in this chapter, the Council's
13 procedure for receiving, investigating, and adjudicating complaints of alleged
14 unprofessional conduct committed by a law enforcement officer shall be in
15 accordance with the Vermont Administrative Procedure Act.

16 (b) Filing complaints.

17 (1) The Council shall receive complaints from any source.

18 (2) A person who in good faith files a complaint with the Council shall
19 not be liable for damages in a civil action.

1 (c) Investigating complaints.

2 (1)(A) The Executive Director of the Council:

3 (i) shall conduct a preliminary investigation of any report required
4 to be made to the Council under section 2359a of this chapter and of any other
5 complaint made to the Council regarding alleged unprofessional conduct
6 committed by a law enforcement officer; and

7 (ii) may conduct a preliminary investigation of a law enforcement
8 officer's alleged conduct without receiving a complaint.

9 (B) The purpose of a preliminary investigation under this
10 subdivision (1) shall be to determine whether an allegation regarding conduct
11 of a law enforcement officer is credible and if so, would constitute
12 unprofessional conduct under this chapter if substantiated.

13 (2) After his or her preliminary investigation, the Executive Director
14 may conduct a full investigation with the assistance of an investigator for the
15 Council and an attorney assigned by the Council who shall be responsible for
16 prosecuting charges of unprofessional conduct before it.

17 (d) Hearing officer.

18 (1) The Council may appoint a hearing officer, who shall be an attorney
19 admitted to practice in this State, to preside at hearings for the purpose of
20 making procedural and evidentiary rulings. The Council may overrule a ruling

1 by the hearing officer. The hearing officer may administer oaths and exercise
2 the powers of the Council properly incidental to the conduct of the hearing.

3 (2) The hearing officer shall draft findings of fact, conclusions of law,
4 and Council orders for the Council's review. The Council shall enter its
5 findings, conclusions, and orders within 60 days of the conclusion of a hearing,
6 unless the Council grants an extension.

7 (e) Conflicts of interest.

8 (1)(A) A Council member or hearing officer who has a conflict of
9 interest in the outcome of any Council decision shall not participate in deciding
10 the matter. In that circumstance, the member or hearing officer shall recuse
11 himself or herself from participating in the matter in his or her official
12 capacity.

13 (B) If a member or hearing officer refuses to recuse, the remaining
14 members of the Council may vote to disqualify him or her from participating in
15 the matter. A Council vote on disqualification shall be final and subject to
16 review only upon appeal of a final order of the Council.

17 (2) As used in subdivision (1) of this subsection, a "conflict of interest"
18 means that a member or hearing officer has a personal or pecuniary interest in
19 the outcome of a Council decision, or the respondent in the matter is an
20 employee of the member's or hearing officer's law enforcement agency.

1 (f) Ad hoc members. When the Council is unable to convene a quorum by
2 reason of recusal, disqualification, resignation, vacancy, or necessary absence,
3 the Executive Director shall appoint a number of ad hoc members to serve on
4 the Council for that matter only, after consulting with the Chair of the Council.

5 (g) Procedural authority. The Council may authorize:

6 (1) its Chair or hearing officer to grant continuances of scheduled
7 hearings;

8 (2) its Chair to grant or deny stays pending appeal; and

9 (3) its Chair or hearing officer to convene and conduct prehearing
10 conferences.

11 (h) Burden of proof. The burden of proof in an unprofessional conduct
12 action shall be on the State to show by a preponderance of the evidence that a
13 law enforcement officer has committed unprofessional conduct.

14 (i) Permitted Council orders.

15 (1) Upon finding that a law enforcement officer committed
16 unprofessional conduct, the Council may order any of the following, alone or
17 in combination:

18 (A) Warning or Reprimand.

19 (B) Conditions.

20 (C) Suspension.

21 (D) Decertification.

1 (2) In cases requiring emergency action, the Council may summarily
2 suspend the certification of a law enforcement officer as provided in
3 3 V.S.A. § 814(b).

4 (j) Alleged sexual misconduct. In any proceeding under this section that
5 addresses a law enforcement officer's alleged sexual misconduct, evidence of
6 the sexual history of the victim of the alleged sexual misconduct shall neither
7 be subject to discovery nor be admitted into evidence. Neither opinion
8 evidence of nor evidence of the reputation of the victim's sexual conduct shall
9 be admitted.

10 (k) Appeals. A party aggrieved by a decision of the Council may appeal to
11 the Vermont Supreme Court.

12 Sec. 12. 20 V.S.A. § 2360a is added to read:

13 § 2360a. ACCESSIBILITY AND CONFIDENTIALITY

14 (a) It is the purpose of this section both to protect the reputation of law
15 enforcement officers from public disclosure of unwarranted complaints against
16 them, and to fulfill the public's right to know of any action taken against a law
17 enforcement officer when that action is based on a determination of
18 unprofessional conduct.

19 (b) All meetings and hearings of the Council shall be subject to the Open
20 Meeting Law.

1 (c) The Executive Director of the Council shall prepare and maintain a
2 register of all complaints, which shall be a public record and which shall show:

3 (1) with respect to any complaint, the following information:

4 (A) the date and the nature of the complaint, but not including the
5 identity of the law enforcement officer; and

6 (B) a summary of the completed investigation; and

7 (2) only with respect to a complaint resulting in filing of charges or
8 stipulations or the taking of disciplinary action, the following additional
9 information:

10 (A) the name and business addresses of the law enforcement officer
11 and the complainant;

12 (B) formal charges, provided that they have been served or a
13 reasonable effort to serve them has been made;

14 (C) the findings, conclusions, and order of the Council;

15 (D) the transcript of the hearing, if one has been made, and exhibits
16 admitted at the hearing;

17 (E) any stipulation filed with the Council; and

18 (F) any final disposition of the matter by the Vermont Supreme
19 Court.

20 (d) The Council, its hearing officer, and Council staff shall keep
21 confidential any other information regarding unprofessional conduct

1 complaints, investigations, proceedings, and related records except the
2 information required or permitted to be released under this section.

3 (e) A law enforcement officer charged with unprofessional conduct shall
4 have the right to inspect and copy the investigation file that results in the
5 charges against him or her, except for any attorney work product or other
6 privileged information.

7 (f) Nothing in this section shall prohibit the disclosure of any information
8 regarding unprofessional conduct complaints pursuant to an order from a court
9 of competent jurisdiction, or to a State or federal law enforcement agency in
10 the course of its investigation, provided the agency agrees to maintain the
11 confidentiality of the information as provided in subsection (d) of this section.

12 * * * Intentionally Injuring or Killing Law Enforcement Animals * * *

13 Sec. 13. 13 V.S.A. § 352a is amended to read:

14 § 352a. AGGRAVATED CRUELTY TO ANIMALS

15 A person commits the crime of aggravated cruelty to animals if the person:

16 (1) kills an animal by intentionally causing the animal undue pain or
17 suffering; ~~or~~

18 (2) intentionally, maliciously, and without just cause tortures, mutilates,
19 or cruelly beats an animal; or

20 (3) intentionally injures or kills an animal that is in the performance of
21 official duties while under the supervision of a law enforcement officer.

1 * * * Forfeiture Proceeds to Vermont Police Academy * * *

2 Sec. 14. 18 V.S.A. § 4247 is amended to read:

3 § 4247. DISPOSITION OF PROPERTY

4 (a) Whenever property is forfeited and delivered to the State Treasurer
5 under this subchapter, the State Treasurer shall, no sooner than 90 days of the
6 date the property is delivered, sell the property at a public sale held under
7 ~~27 V.S.A. chapter 13~~ 27 V.S.A. chapter 14.

8 (b) The proceeds from the sale of forfeited property shall be used first to
9 offset any costs of selling the property, and then, after any liens on the property
10 have been paid in full, applied to payment of seizure, storage, and forfeiture
11 expenses, including animal care expenses related to the underlying violation.
12 Remaining proceeds shall be distributed as follows:

13 (1) Ten percent shall be distributed to the Vermont Police Academy.

14 (2)(A) ~~Forty-five~~ Thirty-five percent shall be distributed among:

15 (i) the Office of the Attorney General;

16 (ii) the Department of State's Attorneys and Sheriffs; and

17 (iii) State and local law enforcement agencies.

18 (B) The Governor's Criminal Justice and Substance Abuse Cabinet is
19 authorized to determine the allocations among the groups listed in subdivision
20 (A) of this subdivision ~~(1)(2)~~, and may only reimburse the prosecutor and law
21 enforcement agencies that participated in the enforcement effort resulting in

1 the forfeiture for expenses incurred, including actual expenses for involved
2 personnel. The proceeds shall be held by the Treasurer until the Cabinet
3 notifies the Treasurer of the allocation determinations, at which time the
4 Treasurer shall forward the allocated amounts to the appropriate agency's
5 operating funds.

6 ~~(2)~~(3) The remaining 55 percent shall be deposited in the General Fund.

7 * * * Municipal Police Departments * * *

8 Sec. 15. 24 V.S.A. § 1931 is amended to read:

9 § 1931. POLICE OFFICERS

10 (a) The legislative body of a municipality, as that term is defined in section
11 2001 of this title, and in its stead, the town manager, when appointed pursuant
12 to chapter 37 of this title, of a municipality as defined in section 2001 of this
13 title may establish a police department and appoint police officers and a chief
14 of police who shall be a police officer. Notwithstanding any provision of law
15 to the contrary, a chief of police and any police officer who is employed in a
16 supervisory capacity or who holds the rank of sergeant or higher shall be
17 certified as a Level III law enforcement officer pursuant to 20 V.S.A.
18 chapter 151 (Vermont Criminal Justice Training Council).

19 (1) Such legislative body or town manager may temporarily appoint
20 qualified persons as additional police officers when necessary, or appoint
21 qualified persons as temporary police officers in the event no police

1 department is established, shall specify the term and duties of such officers,
2 and may fix their compensation, which may be paid by the municipality.

3 (2) ~~They~~ A municipal police officer shall be sworn and shall hold office
4 during good behavior, unless sooner removed for cause, or in the case of a
5 temporary police ~~officers~~ officer, for the term specified. Such appointment,
6 oath, and removal shall be in writing and recorded in the office of the clerk of
7 the municipality.

8 * * *

9 Sec. 16. 24 V.S.A. § 1932 is amended to read:

10 § 1932. NEGLIGENCE OF OFFICER; SUSPENSION; HEARING

11 (a) Whenever it appears to the appointing authority by its own knowledge
12 or when informed by a written petition signed by one or more responsible
13 persons that any regular officer has become negligent or derelict in the
14 officer's official duty, or is guilty of conduct unbecoming an officer, the
15 appointing authority shall set a date for a hearing before the legislative body
16 upon the complaint, and shall give at least seven and not more than 15 days
17 written notice to the accused officer stating particularly the complainant, the
18 charges against the officer, and the time and place of hearing. The legislative
19 body may suspend such officer from duty pending a hearing.

1 (b) The officer is entitled to be represented by counsel, to answer the
2 complaint, and to be heard on the charges. He or she may waive in writing his
3 or her right to a hearing.

4 ~~(c) The officer may file with the Criminal Division of the Superior Court~~
5 ~~having territorial jurisdiction of such municipality and with the legislative~~
6 ~~body, at least 24 hours before the time set for said hearing, a notice of election~~
7 ~~to have the cause heard before said Court. If such notice is duly filed, the~~
8 ~~Criminal Division of the Superior Court shall set the matter for hearing within~~
9 ~~ten days from the filing of said notice and shall give at least five days' written~~
10 ~~notice to the legislative body and the officer of the time and place of hearing.~~
11 ~~The Court shall determine the facts and certify its findings, which shall be~~
12 ~~final, to the legislative body. [Repealed.]~~

13 (d) If the legislative body ~~or the Criminal Division of the Superior Court, as~~
14 ~~the case may be,~~ finds after considering all the evidence offered in such
15 hearing, that the officer is guilty of the charges as offered, the legislative body
16 shall have the power by majority vote to remove the officer or to suspend him
17 or her without pay for a period of time not to exceed 60 days.

18 (e) Any officer found not guilty of the charges offered against him or her
19 by ~~either the Criminal Division of the Superior Court or the legislative body~~
20 shall have restored to the officer pay lost through suspension.

1 * * * Law Enforcement Advisory Board * * *

2 Sec. 17. REPEAL

3 24 V.S.A. § 1939 (Law Enforcement Advisory Board) is repealed.

4 Sec. 18. 20 V.S.A. § 1818 is added to read:

5 § 1818. LAW ENFORCEMENT ADVISORY BOARD

6 (a) A Law Enforcement Advisory Board is created within the Department
7 of Public Safety to advise the Commissioner of Public Safety, the Governor,
8 and the General Assembly on issues involving the cooperation and
9 coordination of all agencies that exercise law enforcement responsibilities.

10 The Board shall review any matter that affects more than one law enforcement
11 agency. The Board shall comprise the following members:

12 (1) the Commissioner of Public Safety;

13 (2) the Director of the Vermont State Police;

14 (3) the Director of the Vermont Criminal Justice Services Division;

15 (4) a member of the Vermont Association of Chiefs of Police appointed

16 by the President of the Association;

17 (5) a member of the Vermont Sheriffs' Association appointed by the

18 President of the Association;

19 (6) a representative appointed by the Vermont League of Cities and

20 Towns appointed by the Executive Director;

- 1 (7) a member of the Vermont Police Association appointed by the
2 President of the Association;
- 3 (8) the Attorney General or designee;
- 4 (9) a State's Attorney appointed by the Executive Director of the
5 Department of State's Attorneys and Sheriffs;
- 6 (10) the U.S. Attorney or designee;
- 7 (11) the Executive Director of the Vermont Criminal Justice Training
8 Council;
- 9 (12) the Defender General or designee;
- 10 (13) one employee-representative of the Vermont State Police,
11 appointed by the Director of the Vermont State Employees' Association;
- 12 (14) a member of the Vermont Constables Association appointed by the
13 President of the Association;
- 14 (15) the Commissioner of Fish and Wildlife or designee; and
- 15 (16) the Commissioner of Motor Vehicles or designee.
- 16 (b) The Board shall elect a chair and a vice chair, which shall rotate among
17 the various member representatives. Each member shall serve a term of two
18 years. The Board shall meet at the call of the Chair. A quorum shall consist of
19 six members, and decisions of the Board shall require the approval of a
20 majority of those members present and voting.

1 (c) The Board shall undertake an ongoing formal review process of law
2 enforcement policies and practices with a goal of developing a comprehensive
3 approach to providing the best services to Vermonters, given monies available.
4 The Board shall also provide educational resources to Vermonters about public
5 safety challenges in the State.

6 (d) The Board shall meet no fewer than six times a year to develop policies
7 and recommendations for law enforcement priority needs, including retirement
8 benefits, recruitment of officers, training needs, homeland security issues,
9 dispatching, and comprehensive drug enforcement. The Board shall present its
10 findings and recommendations in brief summary to the House and Senate
11 Committees on Judiciary annually on or before January 15.

12 Sec. 19. RECODIFICATION

13 (a) 24 V.S.A. § 1939 is recodified as 20 V.S.A. § 1818. During statutory
14 revision, the Office of Legislative Council shall revise accordingly any
15 references to 24 V.S.A. § 1939 in the Vermont Statutes Annotated.

16 (b) Any references in session law and adopted rules to 24 V.S.A. § 1939 as
17 previously codified shall be deemed to refer to 20 V.S.A. § 1818.

18 * * * Effective Dates * * *

19 Sec. 20. EFFECTIVE DATES

20 This act shall take effect on July 1, 2016 except for Sec. 15,
21 24 V.S.A. § 1931, which shall take effect on July 1, 2017.