

1 TO THE HONORABLE SENATE:

2 The Committee on Government Operations to which was referred Senate Bill
3 No. 124 entitled “An act relating to expanding the scope of practice of Level II
4 certified law enforcement officers” respectfully reports that it has considered
5 the same and recommends that the bill be amended by striking out all after the
6 enacting clause and inserting in lieu thereof the following:

7 * * * Vermont Criminal Justice Training Council * * *

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

9 § 2351. CREATION AND PURPOSE OF COUNCIL

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

13 (b) The Council is created to encourage and assist municipalities, counties,
14 and governmental agencies of this State in their efforts to improve the quality
15 of law enforcement and citizen protection by maintaining a uniform standard
16 of recruit and in-service training for law enforcement officers, ~~including~~
17 ~~members of the Department of Public Safety, capitol police officers, municipal~~
18 ~~police officers, constables, correctional officers, prosecuting personnel, motor~~
19 ~~vehicle inspectors, State investigators employed on a full time basis by the~~
20 ~~Attorney General, fish and game wardens, sheriffs and their deputies who~~
21 ~~exercise law enforcement powers pursuant to the provisions of 24 V.S.A. §§~~

1 ~~307 and 311, railroad police commissioned pursuant to 5 V.S.A. chapter 68,~~
2 ~~subchapter 8, and police officers appointed to the University of Vermont's~~
3 ~~Department of Police Services.~~

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

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

9 Sec. 2. 20 V.S.A. § 2352 is amended to read:

10 § 2352. ~~CREATION OF COUNCIL~~ MEMBERSHIP

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

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

14 (B) the Attorney General;

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

18 (D) a member of the Vermont Police Association, elected by its
19 membership; and

1 ~~each~~ A member may designate in writing a person within ~~their agency~~ his or
2 her agency or association to attend a meeting or meetings of the ~~council~~
3 Council. The designation shall be filed with the ~~chairman~~ Chair of the ~~council~~
4 Council.

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

9 Sec. 4. 20 V.S.A. 2355 is amended to read:

10 § 2355. COUNCIL POWERS AND DUTIES

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

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

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

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

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

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

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

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

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

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

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

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

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

17 ~~(12) decertification of persons who have not complied with in-service~~
18 ~~training requirements, provided that the Council, through permitting its~~
19 ~~Executive Director, may to grant up to a 60-day waiver to a law enforcement~~
20 ~~officer who has failed to meet his or her annual in-service training~~

1 requirements but who is able to complete those training requirements within
2 ~~that 60 day~~ the time period permitted by the Executive Director.

3 * * *

4 Sec. 5. 20 V.S.A. § 2356 is added to read:

5 § 2356. VERMONT POLICE ACADEMY

6 The Vermont Police Academy within the Robert H. Wood, Jr. Criminal
7 Justice and Fire Service Training Center of Vermont is hereby designated a
8 law enforcement agency.

9 Sec. 6. 20 V.S.A. § 2358(b)(1) and (2), as amended by 2014 Acts and
10 Resolves No. 141, Sec. 5, is amended to read:

11 (1) Level I certification.

12 (A) An applicant for certification as a Level I law enforcement
13 officer shall first complete an off-site training program prior to entering and
14 completing Level I basic training. Level I basic training shall include training
15 to react to the circumstances described in subdivision (B) of this
16 subdivision (1).

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

1 (I) protect an individual in the presence of the officer from the
2 imminent infliction of serious bodily injury;

3 (II) provide immediate assistance to an individual who has
4 suffered or is threatened with serious bodily injury;

5 (III) detain or arrest an individual ~~whom~~ who the officer
6 reasonably believes has committed a crime in the presence of the officer; or

7 (IV) detain or arrest an individual ~~whom~~ who the officer
8 reasonably believes has committed a felony under Vermont law.

9 (ii) If a Level I officer reacts to any of the circumstances described
10 in subdivision (i) of this subdivision (B), he or she shall call upon an officer
11 certified to respond and assume law enforcement authority over the incident.

12 (2) Level II certification.

13 (A) An applicant for certification as a Level II law enforcement
14 officer shall first complete Level II basic training and may then become
15 certified in a specialized practice area as set forth in subdivision (B)(ii) of this
16 subdivision (2). Level II basic training shall include training to respond to
17 calls regarding alleged crimes in progress and to react to the circumstances
18 described in subdivision (B)(iii) of this subdivision (2).

19 (B)(i) Except as provided in subdivisions (ii) and (iii) of this
20 subdivision (B) and as it may be further limited by rules adopted by the

1 Council, the scope of practice of a Level II law enforcement officer shall be
2 limited to investigating the following matters:

3 (I) 7 V.S.A. § 658 (sale or furnishing to minors; enabling
4 consumption by minors);

5 (II) 13 V.S.A. chapter 7 (advertisements);

6 ~~(H)~~ (III) 13 V.S.A. chapter 8 (humane and proper treatment of
7 animals);

8 (IV) 13 V.S.A. §§ 505 (fourth degree arson), 508 (setting fires),
9 and 509 (attempts);

10 ~~(H)~~ (V) 13 V.S.A. chapter 19, subchapter 1 (riots);

11 ~~(V)~~ (VI) 13 V.S.A. §§ 1022 (noise in the nighttime), 1023
12 (simple assault), 1025 (recklessly endangering another person), 1026
13 (disorderly conduct), and 1027 (disturbing peace by use of telephone or other
14 electronic communications), 1030 (violation of an abuse prevention order, an
15 order against stalking or sexual assault, or a protective order concerning
16 contact with a child), 1031 (interference with access to emergency services),
17 1042 (domestic assault), and 1062 (stalking);

18 ~~(V)~~ (VII) 13 V.S.A. chapter 35 (escape);

19 ~~(V)~~ (VIII) 13 V.S.A. chapter 41 (false alarms and reports);

20 ~~(V)~~ (IX) 13 V.S.A. chapter 45 (flags and ensigns);

21 ~~(VIII)~~ (X) 13 V.S.A. chapter 47 (frauds);

- 1 ~~(IX)~~ (XI) 13 V.S.A. chapter 49 (fraud in commercial
2 transactions);
- 3 ~~(X)~~ (XII) 13 V.S.A. chapter 51 (gambling and lotteries);
- 4 ~~(XI)~~ (XIII) 13 V.S.A. chapter 57 (larceny and embezzlement),
5 except for subchapter 2 (embezzlement);
- 6 ~~(XII)~~ (XIV) 13 V.S.A. chapter 67 (public justice and public
7 officers);
- 8 ~~(XIII)~~ (XV) 13 V.S.A. chapter 69 (railroads);
- 9 ~~(XIV)~~ (XVI) 13 V.S.A. chapter 77 (trees and plants);
- 10 ~~(XV)~~ (XVII) 13 V.S.A. chapter 81 (trespass and malicious
11 injuries to property);
- 12 ~~(XVI)~~ (XVIII) 13 V.S.A. chapter 83 (vagrants);
- 13 ~~(XVII)~~ (XIX) 13 V.S.A. chapter 85 (weapons);
- 14 ~~(XVIII)~~ (XX) 18 V.S.A. § 4230(a) (marijuana possession)
- 15 (XXI) 18 V.S.A. § 4231(a) (cocaine possession);
- 16 (XXII) 18 V.S.A. § 4232(a) (LSD possession);
- 17 (XXIII) 18 V.S.A. § 4233(a) (heroin possession);
- 18 (XXIV) 18 V.S.A. § 4234(a) (depressant, stimulant, or narcotic
19 drug possession);
- 20 (XXV) 18 V.S.A. § 4234a(a) (methamphetamine possession);
- 21 (XXVI) 18 V.S.A. § 4235(b) (hallucinogenic drug possession);

1 (XXVII) 18 V.S.A. § 4235a(a) (ecstasy possession);

2 (XXVIII) 18 V.S.A. § 4476 (drug paraphernalia offenses);

3 (XXIX) 21 V.S.A. § 692(c)(2) (criminal violation of stop-work
4 order);

5 (XXX) any misdemeanor set forth in Title 23 of the Vermont
6 Statutes Annotated;

7 (XXXI) any motor vehicle accident that includes property
8 damage and injuries, as permitted by the Council by rule;

9 (XXXII) any matter within the jurisdiction of the Judicial
10 Bureau as set forth in 4 V.S.A. § 1102;

11 ~~(XIX)~~ (XXXIII) municipal ordinance violations;

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

15 ~~(XXI)~~ (XXXV) any matter within the scope of practice of a
16 Level I law enforcement officer.

17 (ii) In addition to the scope of practice permitted under
18 subdivision (i) of this subdivision (B), a Level II law enforcement officer may
19 also practice in additional areas approved in writing by the Council based on a
20 special certification or training approved by the Council ~~pursuant to rules~~
21 ~~adopted by the Council.~~

1 (iii) Notwithstanding the limitations set forth in subdivisions (i)
2 and (ii) of this subdivision (B), a Level II officer may respond to calls
3 regarding alleged crimes in progress and may react in the following
4 circumstances if the officer determines that it is necessary to do any of the
5 following:

6 (I) protect an individual in the presence of the officer from the
7 imminent infliction of serious bodily injury;

8 (II) provide immediate assistance to an individual who has
9 suffered or is threatened with serious bodily injury;

10 (III) detain or arrest an individual ~~whom~~ who the officer
11 reasonably believes has committed a crime in the presence of the officer; or

12 (IV) detain or arrest an individual ~~whom~~ who the officer
13 reasonably believes has committed a felony under Vermont law.

14 (iv) If a Level II officer responds to calls regarding alleged crimes
15 in progress or reacts to any of the circumstances described in subdivision (iii)
16 of this subdivision (B) and that response or reaction is outside the scope of his
17 or her scope of practice, he or she shall call upon an officer certified to respond
18 and assume law enforcement authority over the incident.

1 Sec. 7. 20 V.S.A. § 2359 is added to read:

2 § 2359. UNPROFESSIONAL CONDUCT

3 (a) General provisions. If a person engages in the following conduct, the
4 Council may deny an application for certification or renewal; suspend a
5 certification issued by it; decertify a law enforcement officer; or condition or
6 otherwise discipline the practice of a law enforcement officer upon due notice
7 and opportunity for hearing in compliance with the provisions of the Vermont
8 Administrative Procedure Act:

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

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

12 (3) whether or not committed in this State, has been convicted of a
13 crime that indicates an unfitness to practice law enforcement;

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

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

17 (6) has willfully or repeatedly violated any of the provisions of this
18 chapter;

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

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

3 (b) Reports of alleged unprofessional conduct.

4 (1) The Council shall receive complaints regarding an applicant's or a
5 law enforcement officer's conduct from any source, and may investigate an
6 applicant's or a law enforcement officer's conduct without receiving a
7 complaint.

8 (2) The head of an agency, department, or other organization shall report
9 to the Council within 96 hours of determining that there are reasonable
10 grounds to believe that a law enforcement officer employed by the
11 organization committed unprofessional conduct.

12 (3) A person shall not be liable in a civil action for damages resulting
13 from the good faith reporting of information to the Council about alleged
14 incompetent, unprofessional, or unlawful conduct of an applicant or law
15 enforcement officer.

16 (c) Procedures. The Council shall establish procedures in accordance with
17 this chapter and the Vermont Administrative Procedure Act for:

18 (1) receiving and investigating a complaint of an applicant's or law
19 enforcement officer's alleged incompetent, unprofessional, or unlawful
20 conduct; and

1 (2) denying an application for certification or renewal or disciplining a
2 law enforcement officer.

3 (d) Appeals. A party aggrieved by a decision of the Council may appeal on
4 the record to the Supreme Court in accordance with 3 V.S.A. § 815 (judicial
5 review of contested cases).

6 Sec. 8. 20 V.S.A. § 2360 is added to read:

7 § 2360. ACCESSIBILITY AND CONFIDENTIALITY OF DISCIPLINARY
8 MATTERS

9 (a) All meetings and hearings of Council shall be subject to the Open
10 Meeting Law.

11 (b) The Council shall prepare and maintain a register of all complaints
12 made against law enforcement officers, which shall be a public record and
13 which shall show:

14 (1) with respect to all complaints, the following information:

15 (A) the date and the nature of the complaint, but not including the
16 identity of the officer; and

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

18 (2) only with respect to complaints resulting in filing of disciplinary
19 charges or stipulations or the taking of disciplinary action, the following
20 additional information, as applicable:

21 (A) the name and business addresses of the officer and complainant;

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

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

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

6 (E) stipulations filed with the Council; and

7 (F) the final disposition of the matter by the Court.

8 (c) The Council shall not make public any other information regarding
9 unprofessional conduct complaints, investigations, proceedings, and related
10 records except the information required to be released under this section.

11 (d) The discovery rules for conduct complaints shall apply to and govern
12 the provision of investigatory files to those charged with unprofessional
13 conduct.

14 (e) Nothing in this section shall prohibit the disclosure of any information
15 regarding unprofessional conduct complaints pursuant to an order from a court
16 of competent jurisdiction, or to State or federal law enforcement agencies,
17 provided those agencies agree to maintain the confidentiality and privileged
18 status of the information as provided in subsection (c) of this section.

19 (f) As used in this section, “disciplinary action” means an action based on a
20 finding of unprofessional conduct that suspends, revokes, limits, or conditions

1 a law enforcement officer's certification in any way, including administrative
2 penalties, warnings, and reprimands.

3 * * * Municipal Police Departments * * *

4 Sec. 9. 24 V.S.A. § 1931 is amended to read:

5 § 1931. POLICE OFFICERS

6 (a) The legislative body of a municipality, as that term is defined in section
7 2001 of this title, and in its stead, the town manager, when appointed pursuant
8 to chapter 37 of this title, ~~of a municipality as defined in section 2001 of this~~
9 ~~title~~ may establish a police department and appoint police officers and a chief
10 of police ~~who shall be a police officer~~. Notwithstanding any provision of law
11 to the contrary, a chief of police and any police officer who is employed in a
12 supervisory capacity shall be certified as a Level III law enforcement officer
13 pursuant to 20 V.S.A. chapter 151 (Vermont Criminal Justice Training
14 Council).

15 (1) Such legislative body or town manager may temporarily appoint
16 qualified persons as additional police officers when necessary, or appoint
17 qualified persons as temporary police officers in the event no police
18 department is established, shall specify the term and duties of such officers,
19 and may fix their compensation, which may be paid by the municipality.

20 (2) ~~They~~ A municipal police officer shall be sworn and shall hold office
21 during good behavior, unless sooner removed for cause, or in the case of a

1 temporary police ~~officers~~ officer, for the term specified. Such appointment,
2 oath, and removal shall be in writing and recorded in the office of the clerk of
3 the municipality.

4 (b) The direction and control of the entire police force, except as otherwise
5 provided, shall be vested in the chief of police. If the chief of police is absent
6 or disabled, or if the office of chief of police is vacant, the appointing authority
7 may appoint another officer to discharge the duties of the chief of police.

8 (c) The legislative body or town manager shall report the creation of a new
9 police department or the elimination of an existing police department to the
10 Vermont Criminal Justice Training Council within five working days of the
11 creation or elimination. The report shall include the effective date of creation
12 or elimination, the mailing address for the police department, and the name of
13 the appointed police chief.

14 * * * Law Enforcement Advisory Board * * *

15 Sec. 10. REPEAL

16 24 V.S.A. § 1939 (Law Enforcement Advisory Board) is repealed.

17 Sec. 11. 20 V.S.A. § 1818 is added to read:

18 § 1818. LAW ENFORCEMENT ADVISORY BOARD

19 (a) A Law Enforcement Advisory Board is created within the Department
20 of Public Safety to advise the Commissioner of Public Safety, the Governor,
21 and the General Assembly on issues involving the cooperation and

1 coordination of all agencies that exercise law enforcement responsibilities.

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

4 (1) the Commissioner of Public Safety;

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

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

7 (4) a member of the Vermont Association of Chiefs of Police appointed
8 by the President of the Association;

9 (5) a member of the Vermont Sheriffs' Association appointed by the
10 President of the Association;

11 (6) a representative appointed by the Vermont League of Cities and
12 Towns appointed by the Executive Director;

13 (7) a member of the Vermont Police Association appointed by the
14 President of the Association;

15 (8) the Attorney General or his or her designee;

16 (9) a State's Attorney appointed by the Executive Director of the
17 Department of State's Attorneys and Sheriffs;

18 (10) the U.S. Attorney or his or her designee;

19 (11) the Executive Director of the Vermont Criminal Justice Training
20 Council;

21 (12) the Defender General or designee;

1 (13) one employee-representative of the Vermont State Police,
2 appointed by the Director of the Vermont State Employees' Association;

3 (14) a member of the Vermont Constables Association appointed by the
4 President of the Association;

5 (15) the Commissioner of Fish and Wildlife or his or her designee; and

6 (16) the Commissioner of Motor Vehicles or his or her designee.

7 (b) The Board shall elect a chair and a vice chair, which shall rotate among
8 the various member representatives. Each member shall serve a term of two
9 years. The Board shall meet at the call of the Chair. A quorum shall consist of
10 six members, and decisions of the Board shall require the approval of a
11 majority of those members present and voting.

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

17 (d) The Board shall meet no fewer than six times a year to develop policies
18 and recommendations for law enforcement priority needs, including retirement
19 benefits, recruitment of officers, training needs, homeland security issues,
20 dispatching, and comprehensive drug enforcement. The Board shall present its

1 findings and recommendations in brief summary to the House and Senate
2 Committees on Judiciary annually by January 15.

3 Sec. 12. RECODIFICATION

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

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

9 * * * Grand Jury Decisions Involving Law Enforcement Officers * * *

10 Sec. 13. 13 V.S.A. 5607 is added to read:

11 § 5607. REVIEW OF ACTIONS OF LAW ENFORCEMENT

12 The Attorney General or a State's Attorney may disclose the decision of a
13 grand jury not to return a true bill in a matter involving actions committed by a
14 law enforcement officer while acting within the scope of employment or while
15 on duty as a law enforcement officer.

16 * * * Effective Dates * * *

17 Sec. 14. EFFECTIVE DATES

18 This act shall take effect on July 1, 2015, except for Sec. 9,
19 24 V.S.A. § 1931 (municipal police officers), which shall take effect on
20 July 1, 2016.

1 and that after passage the title of the bill be amended to read: “An act relating
2 to the certification and regulation of law enforcement officers and the
3 membership of the Law Enforcement Advisory Board”

4

5 (Committee vote: _____)

6

7

Senator _____

8

FOR THE COMMITTEE