

1 H.22

2 Introduced by Representatives Hubert of Milton, Condon of Colchester,
3 Devereux of Mount Holly, Gage of Rutland City, Gannon of
4 Wilmington, Kitzmiller of Montpelier, LaClair of Barre Town,
5 Lewis of Berlin, Townsend of South Burlington, and Weed of
6 Enosburgh

7 Referred to Committee on

8 Date:

9 Subject: Public safety; law enforcement officers; professional regulation;
10 Vermont Criminal Justice Training Council

11 Statement of purpose of bill as introduced: This bill proposes to amend
12 statutes regarding the Vermont Criminal Justice Training Council's
13 professional regulation of law enforcement officers.

14 An act relating to the professional regulation of law enforcement officers by
15 the Vermont Criminal Justice Training Council

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

17 * * * Vermont Criminal Justice Training Council * * *

18 Sec. 1. 20 V.S.A. chapter 151 is amended to read:

19 CHAPTER 151. VERMONT CRIMINAL JUSTICE TRAINING COUNCIL

20 Subchapter 1. General Provisions

1 § 2351. CREATION AND PURPOSE OF COUNCIL

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

5 (b) The Council is created to encourage and assist municipalities, counties,
6 and governmental agencies of this State in their efforts to improve the quality
7 of law enforcement and citizen protection by maintaining a uniform standard
8 of ~~recruit~~ recruitment and in-service training for law enforcement officers,
9 ~~including members of the Department of Public Safety, Capitol Police officers,~~
10 ~~municipal police officers, constables, correctional officers, prosecuting~~
11 ~~personnel, motor vehicle inspectors, State investigators employed on a fulltime~~
12 ~~basis by the Attorney General, fish and game wardens, sheriffs and their~~
13 ~~deputies who exercise law enforcement powers pursuant to the provisions of~~
14 ~~24 V.S.A. §§ 307 and 311, railroad police commissioned pursuant to 5 V.S.A.~~
15 ~~chapter 68, subchapter 8, and police officers appointed to the University of~~
16 ~~Vermont's Department of Police Services.~~

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

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

1 § 2351a. DEFINITIONS

2 As used in this chapter:

3 (1) “Executive officer” means the highest-ranking law enforcement
4 officer of a law enforcement agency.

5 (2) “Law enforcement agency” means the employer of a law
6 enforcement officer.

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

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

1 § 2352. ~~CREATION OF~~ COUNCIL MEMBERSHIP

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

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

5 (B) the Attorney General;

6 (C) a member of the Vermont State Police bargaining unit of the
7 Vermont State Employees' Association Troopers' Association or its successor
8 entity, elected by its membership, ~~and;~~

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

11 (E) five additional members ~~so as to~~ appointed by the Governor.

12 (i) The Governor's appointees shall provide broad representation
13 of all aspects of law enforcement and the public in Vermont on the Council.

14 (ii) The Governor shall solicit recommendations for appointment
15 from the Vermont State's Attorneys Association, the Vermont State's Sheriffs
16 Association, the Vermont Police Chiefs Association, and the Vermont
17 Constables Association.

18 (2) ~~Their~~ A member's term shall be three years.

19 * * *

20 § 2354. COUNCIL MEETINGS

21 (a) ~~The council~~ Council shall meet at least once in each quarter of each

1 year. Special meetings may be called by the ~~chairman~~ Chair or upon the
2 written request of six members of the ~~council~~ Council.

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

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

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

17 § 2355. COUNCIL POWERS AND DUTIES

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

19 * * *

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

1 (11) ~~decertification of persons who have been convicted of a felony~~
2 ~~subsequent to their certification as law enforcement officers; [Repealed.]~~

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

9 * * *

10 § 2358. MINIMUM TRAINING STANDARDS; DEFINITIONS

11 * * *

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

13 (1) ~~“Law enforcement officer” means a member of the Department of~~
14 ~~Public Safety who exercises law enforcement powers, a member of the State~~
15 ~~Police, a Capitol Police officer, a municipal police officer, a constable who~~
16 ~~exercises law enforcement powers, a motor vehicle inspector, an employee of~~
17 ~~the Department of Liquor Control who exercises law enforcement powers, an~~
18 ~~investigator employed by the Secretary of State, Board of Medical Practice~~
19 ~~investigators employed by the Department of Health, Attorney General, or a~~
20 ~~State’s Attorney, a fish and game warden, a sheriff, or deputy sheriff who~~
21 ~~exercises law enforcement powers, a railroad police officer commissioned~~

1 pursuant to ~~5 V.S.A. chapter 68, subchapter 8, or a police officer appointed to~~
2 ~~the University of Vermont's Department of Police Services.~~

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

6 (3) [Repealed.]

7 * * *

8 § 2362. REPORTS

9 (a) ~~Within five working~~ ten business days:

10 (1) Elected constables. ~~Town, A town, village, and or city clerks clerk~~
11 ~~shall notify the council~~ Council, on a form provided by the ~~council~~ Council, of
12 the election, appointment to fill a vacancy under 24 V.S.A. § 963, expiration of
13 term, or reelection of any constable.

14 (2) Appointed constables and police chiefs. The legislative body of a
15 municipality or its designee shall notify the ~~council~~ Council of the
16 appointment or removal of a constable or police chief.

17 (3) Municipal police officers. A police chief appointed under 24 V.S.A.
18 § 1931 shall notify the ~~council~~ Council of the appointment or removal of a
19 police officer under the police chief's direction and control.

20 (4) State law enforcement officers. The appointing authority of a ~~state~~
21 State agency employing a ~~law enforcement officers~~ law enforcement officer shall notify the

1 ~~council~~ Council of the appointment or removal of a law enforcement officer
2 employed by that agency.

3 (5) Sheriffs' officers. A sheriff shall notify the ~~council~~ Council of the
4 appointment or removal of a deputy or other law enforcement officer
5 employed by that sheriff's department.

6 (b) Notification required by this section shall include the name of the
7 constable, police chief, police officer, deputy, or other law enforcement officer,
8 the date of appointment or removal, and the term of office or length of
9 appointment, if any.

10 (c) A report required by this section may be combined with any report
11 required under subchapter 2 of this chapter.

12 § 2362a. POTENTIAL HIRING AGENCY; DUTY TO CONTACT

13 FORMER AGENCY

(a)(1) Prior to hiring a law enforcement officer who ~~has been employed at~~
~~another~~ *is no longer employed at his or her last* law enforcement agency, the
executive officer of a potential hiring law enforcement agency shall:

14 (A) require that officer to execute a written waiver that explicitly
15 authorizes the officer's last law enforcement agency employer to disclose the
16 reason that officer is no longer employed by that agency; and

17 (B) contact that former agency to determine that reason and provide
18 to that agency a copy of that written waiver.

1 (2) An officer who refuses to execute the written waiver shall not be
2 hired by the potential hiring agency.

3 (b)(1) If that former agency is a law enforcement agency in this State, the
4 executive officer of that former agency or designee shall disclose to the
5 potential hiring agency the reason the officer is no longer employed by the
6 former agency.

7 (2) Such a former agency shall be immune from liability for its
8 disclosure described in subdivision (1) of this subsection.

9 * * *

10 Subchapter 2. Unprofessional Conduct

11 § 2401. DEFINITIONS

12 As used in this subchapter:

13 (1) "Category A conduct" means:

14 (A) A felony.

15 (B) A misdemeanor that is committed while on duty and did not
16 involve the legitimate performance of duty.

17 (C) Any of the following misdemeanors, if committed off duty:

18 (i) simple assault, second offense;

19 (ii) domestic assault;

20 (iii) false reports and statements;

21 (iv) driving under the influence, second offense;

1 (v) violation of a relief from abuse order or of a
2 condition of release;

3 (vi) stalking;

4 (vii) false pretenses;

5 (viii) voyeurism;

(ix) prostitution *or soliciting prostitution*;

6 (x) distribution of a regulated substance;

7 (xi) simple assault on a law enforcement officer; or

8 (xii) possession of a regulated substance, second offense.

9 (2) “Category B conduct” means gross professional misconduct
10 amounting to actions on duty or under color of authority, or both, that involve
11 substantial deviation from professional conduct as defined by the law
12 enforcement agency’s policy or if not defined by the agency’s policy, then as
13 defined by Council policy, such as:

14 (A) sexual harassment involving physical contact or misuse of
15 position;

16 (B) misuse of official position for personal or economic gain;

17 (C) excessive use of force under color of authority, second offense;

18 (D) biased enforcement; or

19 (E) use of electronic criminal records database for personal, political,
20 or economic gain.

1 (3) “Category C conduct” means any allegation of misconduct
2 pertaining to Council processes or operations, including:

3 (A) intentionally exceeding the scope of practice for an officer’s
4 certification level;

5 (B) knowingly making material false statements or reports to the
6 Council;

7 (C) falsification of Council documents;

8 (D) intentional interference with Council investigations, including
9 intimidation of witnesses or misrepresentations of material facts;

10 (E) material false statements about certification status to a law
11 enforcement agency;

12 (F) knowing employment of an individual in a position or for duties
13 for which the individual lacks proper certification;

(G) intentional failure to *conduct a valid investigation or* file a report
as required by this
subchapter; or

14 (H) failure to complete annual in-service training requirements.

15 (4) “Effective internal affairs program” means that a law enforcement
16 agency does all of the following:

17 (A) Complaints. Accepts complaints against its law enforcement
18 officers from any source.

1 (B) Investigators. Assigns an investigator to determine whether an
2 officer violated an agency rule or policy or State or federal law.

3 (C) Policies. Has language in its policies or applicable collective
4 bargaining agreement that outlines for its officers expectations of employment
5 or prohibited activity, or both, and provides due process rights for its officers
6 in its policies. These policies shall establish a code of conduct and a
7 corresponding range of discipline.

8 (D) Fairness in discipline. Treats its accused officers fairly, and
9 decides officer discipline based on just cause, a set range of discipline for
10 offenses, consideration of mitigating and aggravating circumstances, and its
11 policies' due process rights.

(E) Civilian review. Provides for review of officer discipline by
civilians, which may be a selectboard or other elected *or appointed* body, at
least for the conduct required to be reported to the Council under this
subchapter.

12 (5) “Unprofessional conduct” means Category A, B, or C conduct.

13 (6)(A) “Valid investigation” means an investigation conducted pursuant
14 to a law enforcement agency’s established or accepted procedures.

15 (B) An investigation shall not be valid if:

16 (i) the agency has not adopted an effective internal affairs
17 program;

1 (ii) the agency refuses, without any legitimate basis, to conduct an
2 investigation;

3 (iii) the agency intentionally did not report allegations to the
4 Council as required;

5 (iv) the agency attempts to cover up the misconduct or takes an
6 action intended to discourage or intimidate a complainant; or

7 (v) the agency's executive officer is the officer accused of
8 misconduct.

9 § 2402. LAW ENFORCEMENT AGENCIES; DUTY TO ADOPT AN
10 EFFECTIVE INTERNAL AFFAIRS PROGRAM

11 (a) Each law enforcement agency shall adopt an effective internal affairs
12 program in order to manage complaints regarding the agency's law
13 enforcement officers.

14 (b) The Council shall create an effective internal affairs program model
15 policy that may be used by law enforcement agencies to meet the requirements
16 of this section.

17 § 2403. LAW ENFORCEMENT AGENCIES; DUTY TO REPORT

18 ~~(a)(1) The executive officer of a law enforcement agency or the chair of~~
19 the agency's civilian review board shall report to the Council within 10
20 business days if any of the following occur in regard to a law enforcement
21 officer of the agency:

1 ~~(A) The agency receives a complaint against the officer that, if~~
2 ~~deemed credible by the executive officer of the agency as a result of a valid~~
3 ~~investigation, alleges that the officer committed unprofessional conduct.~~

4 ~~(B) The agency receives or issues any of the following:~~

5 ~~(i) a report or findings of an investigation into allegations that the~~
6 ~~officer committed Category A or Category B conduct;~~

7 ~~(ii) any decision or findings, including findings of fact or verdict,~~
8 ~~regarding allegations that the officer committed Category A or Category B~~
9 ~~conduct, including a hearing officer decision, arbitration, administrative~~
10 ~~decision, or judicial decision, and any appeal therefrom; or~~

11 ~~(iii) a finding of probable cause that the officer committed~~
12 ~~Category A conduct.~~

13 ~~(C) The agency terminates the officer for Category A or Category B~~
14 ~~conduct.~~

15 ~~(D) The officer resigns from the agency while under investigation for~~
16 ~~unprofessional conduct.~~

*(a)(1) The executive officer of a law enforcement agency or the chair of the
agency's civilian review board shall report to the Council within 10 business
days if any of the following occur in regard to a law enforcement officer of the
agency:*

(A) Category A.

(i) There is a finding of probable cause by a court that the officer committed Category A conduct.

(ii) There is any decision or findings of fact or verdict regarding allegations that the officer committed Category A conduct, including a judicial decision and any appeal therefrom.

(B) Category B.

(i) The agency receives a complaint against the officer that, if deemed credible by the executive officer of the agency as a result of a valid investigation, alleges that the officer committed Category B conduct.

(ii) The agency receives or issues any of the following:

(I) a report or findings of a valid investigation finding that the officer committed Category B conduct; or

(II) any decision or findings, including findings of fact or verdict, regarding allegations that the officer committed Category B conduct, including a hearing officer decision, arbitration, administrative decision, or judicial decision, and any appeal therefrom.

(C) Termination. The agency terminates the officer for Category A or Category B conduct.

(D) Resignation. The officer resigns from the agency while under investigation for unprofessional conduct.

1 (2) As part of his or her report, the executive officer of the agency or
2 the chair of the civilian review board shall provide to the Council a copy of
3 any relevant documents associated with the report, including any findings,
4 decision, and the agency's investigative report.

5 (b) The Executive Director of the Council shall report to the Attorney
6 General and the State's Attorney of jurisdiction any allegations that an officer
7 committed Category A conduct.

8 § 2404. INVESTIGATIONS

9 (a) Agency investigations of Category A and B conduct.

10 (1)(A) Each law enforcement agency shall conduct a valid investigation
11 of any complaint alleging that a law enforcement officer employed by the
12 agency committed Category A or Category B conduct. An agency shall
13 conclude its investigation even if the officer resigns from the agency during
14 the course of the investigation.

15 (B) Notwithstanding the provisions of subdivision (A) of this
16 subdivision (1), a law enforcement agency shall refer to the Council any
17 unprofessional conduct complaints made against a law enforcement officer
18 who is the executive officer of that agency.

19 (2)(A) The Council shall accept from any source complaints alleging a
20 law enforcement officer committed unprofessional conduct and, if the
21 Executive Director of the Council deems such a complaint credible, he or she

1 shall refer any complaints regarding Category A or Category B conduct to the
2 executive officer of the agency who employs that officer, and that agency shall
3 conduct a valid investigation.

4 (B) Notwithstanding the provisions of subdivision (A) of this
5 subdivision (2), the Council shall cause to be conducted an alternate course of
6 investigation if the allegation is in regard to a law enforcement officer who is
7 the executive officer of the agency.

8 (b) Exception to an agency's valid investigation. Notwithstanding a law
9 enforcement agency's valid investigation of a complaint, the Council may
10 investigate that complaint or cause the complaint to be investigated if the
11 officer resigned before a valid investigation had begun or was completed.

12 (c) Council investigations of Category C conduct. The Council shall
13 investigate allegations of Category C conduct.

14 § 2405. COUNCIL SANCTION PROCEDURE

15 Except as otherwise provided in this subchapter, the Council shall conduct
16 its proceedings in accordance with the Vermont Administrative Procedure Act.
17 This includes the ability to summarily suspend the certification of a law
18 enforcement officer in accordance with 3 V.S.A. § 814(c).

19 § 2406. PERMITTED COUNCIL SANCTIONS

20 The Council may impose any of the following sanctions on a law
21 enforcement officer's certification upon its finding that a law enforcement

1 officer committed unprofessional conduct:

2 (1) written warning;

3 (2) suspension, but to run concurrently with the length and time of any
4 suspension imposed by a law enforcement agency with an effective internal
5 affairs program, which shall amount to suspension for time already served if
6 an officer has already served a suspension imposed by his or her agency with
7 such a program;

8 (3) revocation with the option of recertification at the discretion of the
9 Council; or

10 (4) permanent revocation.

11 § 2407. LIMITATION ON COUNCIL SANCTIONS; FIRST OFFENSE OF
12 CATEGORY B CONDUCT

13 ~~(a) Allegations of Category B conduct; first offense. If a law enforcement~~
14 ~~agency conducts a valid investigation of a complaint alleging that a law~~
15 ~~enforcement officer committed a first offense of Category B conduct and~~
16 ~~concludes that the officer did not engage in that conduct, the Council shall take~~
17 ~~no action.~~

(a) Category B conduct; first offense. If a law enforcement agency
conducts a valid investigation of a complaint alleging that a law enforcement
officer committed a first offense of Category B conduct, the Council shall take
no action.

1 (b) “Offense” defined. As used in this section, an “offense” means any
2 offense committed by a law enforcement officer during the course of his or her
3 certification, and includes any offenses committed during employment at a
4 previous law enforcement agency.

5 § 2408. INVALID INVESTIGATIONS

6 Nothing in this subchapter shall prohibit the Council from causing a
7 complaint to be investigated or taking disciplinary action on an officer’s
8 certification if the Council determines that a law enforcement agency’s
9 investigation of the officer’s conduct did not constitute a valid investigation.

10 § 2409. ACCESSIBILITY AND CONFIDENTIALITY

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

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

18 (c) The Executive Director of the Council shall prepare and maintain a
19 register of all complaints, which shall be open to public inspection and
20 copying, except as may be exempt under the Public Records Act, and which
21 shall show:

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

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

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

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

8 (A) the name and business addresses of the law enforcement officer
9 ~~and the complainant;~~

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

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

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

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

16 (F) any final disposition of the matter by the Vermont Supreme
17 Court.

18 (d) The Council, its hearing officer, and Council staff shall keep
19 confidential any other information regarding unprofessional conduct
20 complaints, investigations, proceedings, and related records except the
21 information required or permitted to be released under this section.

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

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

10 § 2410. COUNCIL ADVISORY COMMITTEE

11 (a) Creation. There is created the Council Advisory Committee to provide
12 advice to the Council regarding its duties under this subchapter.

13 (1) The Committee shall specifically advise and assist the Council in
14 developing procedures to ensure that allegations of unprofessional conduct by
15 law enforcement officers are investigated fully and fairly, and to ensure that
16 appropriate action is taken in regard to those allegations.

17 (2) The Committee shall be advisory only and shall not have any
18 decisionmaking authority.

19 (b) Membership. The Committee shall be composed of five individuals
20 appointed by the Governor. The Governor may solicit recommendations for
21 appointments from the Chair of the Council.

1 (1) Four of these members shall be public members who during
2 incumbency shall not serve and shall have never served as a law enforcement
3 officer or corrections officer and shall not have an immediate family member
4 who is serving or has ever served as either of those officers.

5 (2) One of these members shall be a retired law enforcement officer.

6 (c) Assistance. The Executive Director of the Council or designee shall
7 attend Committee meetings as a resource for the Committee.

8 (d) Reimbursement. Members of the Committee who are not employees of
9 the State of Vermont and who are not otherwise compensated or reimbursed
10 for their attendance shall be entitled to per diem compensation and
11 reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than
12 five meetings per year. Such payments shall be derived from the budget of the
13 Council.

14 § 2411. COUNCIL RULES

15 The Council may adopt rules to implement the provisions of this
16 subchapter.

17 Sec. 2. TRANSITIONAL PROVISIONS TO IMPLEMENT THIS ACT

18 (a) Effective internal affairs programs.

19 (1) Law enforcement agencies. On or before January 1, 2018, each law
20 enforcement agency shall adopt an effective internal affairs program in
21 accordance with 20 V.S.A. § 2402(a) in Sec. 1 of this act.

1 (2) Vermont Criminal Justice Training Council. On or before
2 October 1, 2017, the Vermont Criminal Justice Training Council shall adopt an
3 effective internal affairs program model policy in accordance with
4 20 V.S.A. § 2402(b) in Sec. 1 of this act.

5 (b) Alleged law enforcement officer unprofessional conduct. The
6 provisions of 20 V.S.A. chapter 151, subchapter 2 (unprofessional conduct) in
7 Sec. 1 of this act shall apply to law enforcement officer conduct alleged to
8 have been committed on and after the effective date of that subchapter.

9 (c) Duty to disclose. The requirement for a former law enforcement
10 agency to disclose the reason that a law enforcement officer is no longer
11 employed by the agency as set forth in 20 V.S.A. § 2362a in Sec. 1 of this act
12 shall not apply if there is a binding nondisclosure agreement prohibiting that
13 disclosure that was executed prior to the effective date of that section.

14 (d) Council rules. The Vermont Criminal Justice Training Council may
15 adopt rules in accordance with 20 V.S.A. § 2411 (Council rules) in Sec. 1 of
16 this act, prior to the effective date of that section.

17 (e) Council Advisory Committee. The Governor shall make appointments
18 to the Council Advisory Committee set forth in 20 V.S.A. § 2410 in Sec. 1 of
19 this act prior to the effective date of that section.

(f) Annual report of Executive Director. Annually, on or before January 15,
beginning in the year 2018 and ending in the year 2021, the Executive

Director of the Vermont Criminal Justice Training Council shall report to the General Assembly regarding the Executive Director's analysis of the implementation of this act and any recommendations he or she may have for further legislative action.

* * * Vermont State Police * * *

1
2 Sec. 3. 20 V.S.A. § 1812 is amended to read:

3 § 1812. DEFINITIONS

4 ~~The following words and phrases, as As used in this title, shall have the~~
5 ~~following meanings unless otherwise provided:~~

6 (1) ~~“Commissioner;” means the ~~commissioner of public safety;~~~~

7 ~~Commissioner of Public Safety.~~

8 (2) ~~“Department;” means the ~~department of public safety; Department~~~~

9 ~~of Public Safety.~~

10 (3) ~~“Employee;” ~~an employee assigned to a position other than that of~~~~

11 ~~state police; means a person employed by the Department.~~

12 (4) ~~“Member;” ~~any employee of the department; means a sworn~~~~

13 ~~employee assigned to the State Police.~~

14 (5) ~~“State police, Police” ~~an employee assigned to police duties and~~~~

15 ~~means the sworn law enforcement officers who are employees of the~~

16 ~~Department.~~

17 Sec. 4. 20 V.S.A. § 1922 is amended to read:

1 § 1922. CREATION OF STATEPOLICE ADVISORY COMMISSION;
2 MEMBERS; DUTIES

3 (a) There is hereby created the ~~state police advisory commission~~ State
4 Police Advisory Commission, which shall provide advice and counsel to the
5 ~~commissioner~~ Commissioner in carrying out his or her responsibilities for the
6 management, supervision, and control of the Vermont ~~state police~~ State Police.

7 (b) The ~~commission~~ Commission shall consist of seven members, at least
8 one of whom shall be an attorney and one of whom shall be a retired ~~state~~
9 ~~police~~ State Police officer, to be appointed by the ~~governor~~ Governor with the
10 advice and consent of the ~~senate~~ Senate.

11 (c) Members of the ~~commission~~ Commission shall serve for terms of four
12 years, at the pleasure of the ~~governor~~ Governor. Of the initial appointments,
13 one shall be appointed for a term of one year, two for terms of two years, two
14 for terms of three years, and two for terms of four years. Appointments to fill
15 a vacancy shall be for the unexpired portion of the term vacated. The
16 ~~chairman~~ Chair shall be appointed by the ~~governor~~ Governor.

17 (d) The creation and existence of the ~~commission~~ Commission shall not
18 relieve the ~~commissioner~~ Commissioner of his or her duties under the law to
19 manage, supervise, and control the ~~state police~~ State Police.

20 (e) To ensure that ~~state police~~ State Police officers are subject to fair and
21 known practices, the ~~commission~~ Commission shall advise the ~~commissioner~~

1 Commissioner with respect to and review rules concerning promotion,
2 grievances, transfers, internal investigations, and discipline.

3 (f) Members of the Commission shall be ~~paid~~ entitled to receive per diem
4 compensation and reimbursement for expenses in accordance with ~~section~~
5 ~~1010 of Title 32~~ V.S.A. § 1010.

6 Sec. 5. 20 V.S.A. § 1923 is amended to read:

7 § 1923. INTERNAL INVESTIGATION

8 (a)(1) ~~The commission~~ State Police Advisory Commission shall advise and
9 assist the ~~commissioner~~ Commissioner in developing and making known
10 routine procedures to ensure that allegations of misconduct by ~~state police~~
11 State Police officers are investigated fully and fairly, and to ensure that
12 appropriate action is taken with respect to such allegations.

13 (2) The Commissioner shall ensure that the procedures described in
14 subdivision (1) of this subsection constitute an effective internal affairs
15 program in order to comply with section 2402 of this title.

16 (b)(1) ~~The commissioner~~ Commissioner shall establish ~~an office of internal~~
17 ~~investigation~~ the Office of Internal Investigation within the ~~department~~
18 Department, which ~~office~~ shall investigate, or cause to be investigated, all
19 allegations of misconduct by members of the ~~department~~ Department, except
20 complaints lodged against members of the ~~internal investigation office~~ Office,
21 which ~~complaints~~ shall be separately and independently investigated by

1 officers designated for each instance by the ~~commissioner~~ Commissioner, with
2 the approval of the ~~state police advisory commission~~ State Police Advisory
3 Commission.

4 (2) The head of the ~~internal affairs unit~~ Office shall report all allegations
5 and his or her findings as to such allegations to the ~~commissioner~~
6 Commissioner. The head of the ~~internal affairs unit~~ Office also shall
7 immediately report all allegations to the ~~state's attorney~~ State's Attorney of the
8 county in which the incident took place, ~~to the attorney general~~ Attorney
9 General, and ~~to the governor~~ Governor, unless the head of the ~~unit~~ Office
10 makes a determination that the allegations do not include a violation of a
11 criminal statute. The head of the ~~internal affairs unit~~ Office shall also report
12 the disposition of all cases so reported to the ~~state's attorney~~ State's Attorney,
13 ~~attorney general~~ Attorney General, and ~~governor~~ Governor.

14 (c)(1) The ~~office of internal investigation~~ Office of Internal Investigation
15 shall maintain a written log with respect to each allegation of misconduct
16 made. The log shall document all action taken with respect to each allegation,
17 including a notation of the person or persons assigned to the investigation, a
18 list of all pertinent documents, all action taken, and the final disposition of
19 each allegation.

20 (2) Failure of any member of the ~~department~~ Department to report to
21 the ~~office of internal investigation~~ Office an allegation of misconduct known

1 to ~~such~~ the member, shall be grounds for disciplinary action by the
2 ~~commissioner~~ Commissioner, including dismissal.

3 (d) Records of the ~~office of internal investigation~~ Office of Internal
4 Investigation shall be confidential, except:

5 (1) ~~The state police advisory commission~~ the State Police Advisory
6 Commission shall, at any time, have full and free access to such records; ~~and~~

7 (2) ~~The commissioner~~ the Commissioner shall deliver such materials
8 from the records of the ~~office of internal investigation~~ Office as may be
9 necessary to appropriate prosecutorial authorities having jurisdiction;

10 (3) the Director of the State Police or the Chair of the State Police
11 Advisory Commission shall report to the Vermont Criminal Justice Training
12 Council as required by section 2403 of this title; and

13 ~~(3)(4)~~ The state police advisory commission the State Police Advisory
14 Commission shall, in its discretion, be entitled to report to such authorities as it
15 may deem appropriate; or to the public, or to both, to ensure that proper action
16 is taken in each case.

17 * * * Effective Dates * * *

18 Sec. 6. EFFECTIVE DATES

19 This act shall take effect on July 1, 2017, except:

20 (1) this section and Sec. 2 (transitional provisions to implement this act)
21 shall take effect on passage; and

1 (2) in Sec. 1, 20 V.S.A. chapter 151, subchapter 2 (unprofessional
2 conduct) shall take effect on January 1, 2018, except that 20 V.S.A. § 2410
3 (Council Advisory Committee) shall take effect on July 1, 2017.