

1 H.145

2 Introduced by Representatives Donahue of Northfield, Donovan of

3 Burlington, and Lippert of Hinesburg

4 Referred to Committee on

5 Date:

6 Subject: Health; mental health; law enforcement; fatality and injury review

7 Statement of purpose of bill as introduced: This bill proposes to establish the
8 Mental Health Crisis Response Commission for the purpose of reviewing
9 fatalities and serious bodily injuries that occur during interactions between law
10 enforcement and persons demonstrating symptoms of mental illness.

11 An act relating to establishing the Mental Health Crisis Response
12 Commission

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

14 ~~Sec. 1. 18 V.S.A. § 7257a is added to read:~~

15 § 7257a. MENTAL HEALTH CRISIS RESPONSE COMMISSION

16 (a) There is created the Mental Health Crisis Response Commission within
17 the Office of the Attorney General for the following purposes:

18 (1) to conduct reviews of law enforcement interactions with persons
19 demonstrating symptoms of mental illness that have led to and resulted in a
20 fatality or serious bodily injury to any party to the interaction,

1 (2) to identify where increased or alternative supports or strategic
2 investments within law enforcement, designated agencies, or other community
3 service systems could improve outcomes;

4 (3) to educate the public, service providers, and policymakers about
5 strategies for intervention in and prevention of mental health crises;

6 (4) to recommend policies, practices, and services that will encourage
7 collaboration and increase successful interventions between law enforcement
8 and persons demonstrating symptoms of mental illness;

9 (5) to recommend training strategies for public safety, emergency, or
10 other crisis response personnel that will increase successful interventions; and

11 (6) to make recommendations based on the review of cases before the
12 Commission.

13 (b) Each incident involving an interaction between law enforcement and a
14 person who is demonstrating symptoms of a mental illness that results in a
15 death or serious bodily injury to any party shall be referred to the Office of the
16 Attorney General by the relevant law enforcement agency for review, analysis,
17 and recommendations.

18 (c)(1) The Commission shall comprise the following members:

19 (A) the Attorney General or designee;

20 (B) the Commissioner of Public Safety or designee;

21 (C) the Commissioner of Mental Health or designee;

1 (D) a State's Attorney with experience investigating use of force
2 incidents, appointed by the Executive Director of the Department of State's
3 Attorneys and Sheriffs;

4 (E) a representative of local law enforcement, appointed by the
5 Governor;

6 (F) a representative of the Vermont State Police;

7 (G) the Executive Director of the Vermont Criminal Justice Training
8 Council or designee;

9 (H) one judge, appointed by the Chief Justice of the Vermont
10 Supreme Court;

11 (I) a representative of the designated agencies, appointed by Vermont
12 Care Partners; and

13 (J) the director of Disability Rights Vermont or designee.

14 (2) The members of the Commission specified in subdivision (1) of this
15 subsection shall serve two-year terms. Any vacancy on the Commission shall
16 be filled in the same manner as the original appointment. The replacement
17 member shall serve for the remainder of the unexpired term.

18 (d)(1) The Attorney General or designee shall call the first meeting of the
19 Commission to occur on or before September 30, 2017.

20 (2) The Commission shall select a chair and vice chair from among its
21 members at the first meeting, and annually thereafter.

1 (3) The Commission shall meet at such times as may reasonably be
2 necessary to carry out its duties, but at least once in each calendar quarter.

3 (e) In any case subject to review by the Commission, upon written request
4 of the Commission, a person who possesses information or records that are
5 necessary and relevant to a fatality or serious bodily injury review shall, as
6 soon as practicable, provide the Commission with the information and records.

7 A person who provides information or records upon request of the
8 Commission is not criminally or civilly liable for providing information or
9 records in compliance with this section.

10 (f) The proceedings and records of the Commission are confidential and
11 are not subject to subpoena, discovery, or introduction into evidence in a civil
12 or criminal action. The Commission shall disclose conclusions and
13 recommendations upon request, but may not disclose information, records, or
14 data that are otherwise confidential, such as autopsy records. The Commission
15 shall not use the information, records, or data for purposes other than those
16 designated by subsections (a) and (b) of this section.

17 (g) The Commission is authorized to require any person appearing before it
18 to sign a confidentiality agreement created by the Commission in order to
19 maintain the confidentiality of the proceedings. In addition, the Commission
20 may enter into agreements with nonprofit organizations and private agencies to
21 obtain otherwise confidential information.

1 ~~(h) Commission meetings are confidential and shall be exempt from~~
2 1 V.S.A. chapter 5, subchapter 2 (the Vermont Open Meeting Law). Except as
3 otherwise provided in subsection (f) of this section, Commission records are
4 exempt from public inspection and copying under the Public Records Act and
5 shall be kept confidential.

6 (i) Notwithstanding 2 V.S.A. § 20(d), the Commission shall report its
7 findings and recommendations to the Governor, General Assembly, and Chief
8 Justice of the Vermont Supreme Court on or before January 15 of the first year
9 of the biennium. The report shall be available to the public through the Office
10 of the Attorney General.

11 Sec. 2. EFFECTIVE DATE

12 ~~This act shall take effect on July 1, 2017.~~

Sec. 1. 18 V.S.A. § 7257a is added to read:

§ 7257a. MENTAL HEALTH CRISIS RESPONSE COMMISSION

(a) There is created the Mental Health Crisis Response Commission within
the Office of the Attorney General for the following purposes:

(1) to conduct reviews of law enforcement interactions with persons
acting in a manner that created reason to believe a mental health crisis was
occurring and resulted in a fatality or serious bodily injury to any party to the
interaction;

(2) to identify where increased or alternative supports or strategic

investments within law enforcement, designated agencies, or other community service systems could improve outcomes;

(3) to educate the public, service providers, and policymakers about strategies for intervention in and prevention of mental health crises;

(4) to recommend policies, practices, and services that will encourage collaboration and increase successful interventions between law enforcement and persons acting in a manner that created reason to believe a mental health crisis was occurring;

(5) to recommend training strategies for public safety, emergency, or other crisis response personnel that will increase successful interventions; and

(6) to make recommendations based on the review of cases before the Commission.

(b)(1) Each incident involving an interaction between law enforcement and a person acting in a manner that created reason to believe a mental health crisis was occurring that results in a death or serious bodily injury to any party shall be referred to the Office of the Attorney General by the relevant law enforcement agency for review, analysis, and recommendations within 60 days of the incident. ~~Interactions not resulting in death or serious bodily injury may be referred for optional review to the Commission including review of interactions with positive outcomes that could serve to provide guidance on effective strategies. A law enforcement officer or mental health crisis responder~~

~~involved in an interaction not resulting in death or serious bodily injury is encouraged to refer the interaction for optional review to the Commission, including interactions with positive outcomes that could serve to provide guidance in effective strategies. Interactions not resulting in death or serious bodily injury may be referred for optional review to the Commission, including review of interactions with positive outcomes that could serve to provide guidance on effective strategies. A law enforcement officer or mental health crisis responder involved in such an interaction is encouraged to refer it to the Commission.~~

~~(2) The review process shall not commence until a final determination has been rendered regarding the appropriateness of the involved law enforcement officer's use of force by the Attorney General, State's Attorney, or the internal review process of the law enforcement agency.~~

~~(2) The review process shall not commence until any criminal prosecution arising out of the incident is concluded or the Attorney General and State's Attorney provide written notice to the Commission that no criminal charges shall be filed.~~

~~(c)(1) The Commission shall comprise the following members:~~

~~(A) the Attorney General or designee from a division other than that investigating the interaction;~~

~~(B) the Commissioner of Mental Health or designee;~~

(C) a member of the Vermont State Police, appointed by the Commissioner of Public Safety;

(D) a representative of frontline local law enforcement, appointed by the Vermont Association of Chiefs of Police;

(E) the Executive Director of the Vermont Criminal Justice Training Council or designee;

(F) a representative of the designated agencies, appointed by Vermont Care Partners;

(G) the director of Disability Rights Vermont or designee;

(H) an individual who has a personal experience of living with a mental illness or psychiatric disability, appointed by Vermont Psychiatric Survivors;

(I) a family member of an individual who experienced or is experiencing a mental condition or psychiatric disability, appointed by the Vermont chapter of the National Alliance on Mental Illness; and

(J) two regionally diverse at-large members, appointed by the Governor, who are not representative of subdivisions (A)–(G) of this subdivision (c)(1), such as an emergency dispatcher, specialist in interactions between law enforcement and individuals with a perceived mental condition, or a representative of the Vermont Human Rights Commission or Vermont Legal Aid.

(2) The members of the Commission specified in subdivision (1) of this subsection shall serve two-year terms. Any vacancy on the Commission shall be filled in the same manner as the original appointment. The replacement member shall serve for the remainder of the unexpired term.

(3) Members who are part of an organization involved in an interaction under review shall recuse themselves from that review and shall not access any information related to it. The Commission may appoint an interim replacement member to fill the category represented by the recused member for review of that interaction.

(d)(1) The Attorney General or designee shall call the first meeting of the Commission to occur on or before September 30, 2017.

(2) The Commission shall select a chair and vice chair from among its members at the first meeting, and annually thereafter.

(3) The Commission shall meet at such times as may reasonably be necessary to carry out its duties, but at least once in each calendar quarter.

(e) In any case under review by the Commission, upon written request of the Commission, a person who possesses information or records that are necessary and relevant to review an interaction shall, as soon as practicable, provide the Commission with the information and records. The Commission may subpoena information or records necessary and relevant to the review of an interaction from any person who does not provide information or records in

his or her possession to the Commission upon receiving an initial written request. A person who provides information or records upon request of the Commission is not criminally or civilly liable for providing information or records in compliance with this section.

(f) The proceedings and records of the Commission are confidential and are not subject to subpoena, discovery, or introduction into evidence in a civil or criminal action. The Commission shall not use the information, records, or data for purposes other than those designated by subsections (a) and (i) of this section.

(g) To the extent permitted under federal law, the Commission may enter into agreements with nonprofit organizations and private agencies to obtain otherwise confidential information.

(h) Commission meetings are confidential and shall be exempt from 1 V.S.A. chapter 5, subchapter 2 (the Vermont Open Meeting Law). Commission records are exempt from public inspection and copying under the Public Records Act and shall be kept confidential.

(i) Notwithstanding 2 V.S.A. § 20(d), the Commission shall report its conclusions and recommendations to the Governor, General Assembly, and Chief Justice of the Vermont Supreme Court ~~on or before January 15 of the first year of the biennium~~ as the Commission deems necessary, but no less frequently than once per calendar year. The report shall disclose individually

identifiable health information only to the extent necessary to convey the Commission's conclusions and recommendations, and any such disclosures shall be limited to information already known to the public. The report shall be available to the public through the Office of the Attorney General.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2017.