

1 TO THE HONORABLE SENATE:

2           The Committee on Government Operations to which was referred Senate  
3        Bill No. 192 entitled “An act relating to transferring the professional regulation  
4        of law enforcement officers from the Vermont Criminal Justice Training  
5        Council to the Office of Professional Regulation” respectfully reports that it  
6        has considered the same and recommends that the bill be amended by striking  
7        out all after the enacting clause and inserting in lieu thereof the following:

8 \* \* \* Transfer to OPR \* \* \*

9 Sec. 1. 3 V.S.A. § 122 is amended to read:

10        § 122. OFFICE OF PROFESSIONAL REGULATION

11        The Office of Professional Regulation is created within the Office of the  
12      Secretary of State. The Office shall have a director who shall be appointed by  
13      the Secretary of State and shall be an exempt employee. The following boards  
14      or professions are attached to the Office of Professional Regulation:

15 \* \* \*

17 Sec. 2. 26 V.S.A. chapter 103 is added to read:

## CHAPTER 103. LAW ENFORCEMENT OFFICERS

19 Subchapter 1. General Provisions

1       § 5301. PURPOSE AND EFFECT

2       In order to safeguard the life and health of the people of this State, a person  
3       shall not practice, or offer to practice, as a law enforcement officer unless  
4       currently licensed under this chapter.

5       § 5302. DEFINITIONS

6       As used in this chapter:

7           (1) “Category A conduct” means:

8              (A) A felony.

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

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

12              (i) simple assault, second offense;

13              (ii) domestic assault;

14              (iii) false reports and statements;

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

16              (v) violation of a relief from abuse order or of a condition

17       of release;

18              (vi) stalking;

19              (vii) false pretenses;

20              (viii) voyeurism;

21              (ix) prostitution or soliciting prostitution;

- 1                   (x) distribution of a regulated substance;
- 2                   (xi) simple assault on a law enforcement officer; or
- 3                   (xii) possession of a regulated substance, second offense.
- 4                   (2) “Category B conduct” means gross professional misconduct
- 5                   amounting to actions on duty or under color of authority, or both, that involve
- 6                   willful failure to comply with a State-required policy or substantial deviation
- 7                   from professional conduct as defined by the law enforcement agency’s policy
- 8                   or if not defined by the agency’s policy, then as defined by rules adopted by
- 9                   the Office, such as:
- 10                  (A) sexual harassment involving physical contact or misuse of
- 11                  position;
- 12                  (B) misuse of official position for personal or economic gain;
- 13                  (C) excessive use of force under color of authority, second offense;
- 14                  (D) biased enforcement; or
- 15                  (E) use of an electronic criminal records database for personal,
- 16                  political, or economic gain.
- 17                  (3) “Category C conduct” means any allegation of misconduct
- 18                  pertaining to Office or Council processes or operations, including:
- 19                  (A) intentionally exceeding the scope of practice for an officer’s
- 20                  certification level;

1                   (B) knowingly making material false statements or reports to the  
2                   Office or Council;  
3                   (C) falsification of Office or Council documents;  
4                   (D) intentional interference with Office or Council investigations,  
5                   including intimidation of witnesses or misrepresentations of material facts;  
6                   (E) material false statements about certification or licensure status to  
7                   a law enforcement agency;  
8                   (F) knowing employment of an individual in a position or for duties  
9                   for which the individual lacks proper certification;  
10                  (G) intentional failure to conduct a valid investigation or file a report  
11                  as required by this chapter; or  
12                  (H) failure to complete annual in-service training required by the  
13                  Council.  
14                  (4) “Certification” means the document issued by the Council that  
15                  verifies that a law enforcement officer has successfully completed the  
16                  Council’s initial basic training or annual in-service training requirements, or  
17                  such a document issued by another entity with training requirements  
18                  substantially similar to those of the Council as determined by the Director.  
19                  (5) “Council” means the Vermont Criminal Justice Training Council.  
20                  (6) “Director” means the Director of the Office of Professional  
21                  Regulation.

1                   (7) “Effective internal affairs program” means that a law enforcement  
2                   agency does all of the following:

3                   (A) Complaints. Accepts complaints against its law enforcement  
4                   officers from any source.

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

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

12                  (D) Fairness in discipline. Treats its accused officers fairly and  
13                  decides officer discipline based on just cause, a set range of discipline for  
14                  offenses, consideration of mitigating and aggravating circumstances, and its  
15                  policies’ due process rights.

16                  (E) Civilian review. Provides for review of officer discipline by  
17                  civilians, which shall be a selectboard or other elected or appointed body or  
18                  person, at least for the conduct required to be reported to the Office under this  
19                  chapter. The assistant judges of a county shall appoint a committee of at least  
20                  three and up to five civilians, who shall be selected from among elected

1       officials who reside in the county, to review the discipline imposed on officers  
2       by the sheriff.

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

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

7           (10) “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           (11) “License” means a current authorization granted by the Director,  
20      permitting the practice as a law enforcement officer.

21           (12) “Office” means the Office of Professional Regulation.

1                   (13) “Unprofessional conduct” means Category A, B, or C conduct.

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

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

5                   (i) the agency has not adopted an effective internal affairs  
6                   program;

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

9                   (iii) the agency intentionally did not report allegations to the  
10                  Office as required;

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

13                  (v) the agency’s executive officer is the officer accused of  
14                  misconduct.

15                  § 5303. PROHIBITIONS; OFFENSES

16                  (a) It shall be a violation of this chapter for any person, including any  
17                  corporation, association, or individual, to:

18                  (1) sell or fraudulently obtain or furnish any law enforcement degree,  
19                  diploma, certification, license, or any other related document or record or to  
20                  aid or abet therein;

1           (2) practice law enforcement under cover of any degree, diploma,  
2           registration, certification, license, or related document or record illegally or  
3           fraudulently obtained or signed or issued unlawfully or under fraudulent  
4           representation;

5           (3) practice as a law enforcement officer unless licensed or otherwise  
6           authorized to do so under the provisions of this chapter;

7           (4) represent himself or herself as being licensed or otherwise  
8           authorized by this State to practice as a law enforcement officer or use in  
9           connection with a name any words, letters, signs, or figures that imply that a  
10          person is a law enforcement officer when not licensed or otherwise authorized  
11          under this chapter;

12          (5) practice as a law enforcement officer during the time a license or  
13          authorization issued under this chapter is suspended or revoked; or

14          (6) employ an unlicensed or unauthorized person to practice as a law  
15          enforcement officer.

16          (b) Any person violating this section shall be subject to the penalties  
17          provided in 3 V.S.A. § 127.

18          § 5304. EXEMPTIONS

19          The following shall not require a license under this chapter:

20          (1) The furnishing of assistance in the case of an emergency or disaster.

1                   (2) The practice of a law enforcement officer who is employed by the  
2                   U.S. government or any bureau, division, or agency of it while in the discharge  
3                   of his or her official duties.

4                   (3) The practice of any other occupation or profession by a person duly  
5                   licensed or otherwise authorized under the laws of this State.

6                   Subchapter 2. Administration

7                   § 5311. DUTIES OF THE DIRECTOR

8                   (a) The Director shall:

9                   (1) provide general information to applicants for license as law  
10                  enforcement officers;

11                  (2) receive applications for licensure and provide licenses to applicants  
12                  qualified under this chapter;

13                  (3) administer fees as established by law;

14                  (4) refer all disciplinary matters to an administrative law officer;

15                  (5) renew, revoke, and reinstate licenses as ordered by an administrative  
16                  law officer; and

17                  (6) explain appeal procedures to licensed law enforcement officers and  
18                  to applicants and complaint procedures to the public.

19                  (b) The Director may adopt rules appropriate to perform his or her duties  
20                  under this chapter and to administer the provisions of this chapter.

1       § 5312. ADVISOR APPOINTEES

2       (a)(1) The Secretary of State shall appoint three persons for five-year  
3       staggered terms to serve at the Secretary's pleasure as advisors in matters  
4       relating to law enforcement. One of the initial appointments shall be for less  
5       than a five-year term. The Secretary shall consider representation among  
6       small, medium, and large agencies as factors in making the appointments.

7       (2) An advisor appointee shall have not less than three years' experience  
8       as a law enforcement officer immediately preceding appointment; shall be  
9       licensed as a law enforcement officer in Vermont; and shall be actively  
10      engaged in the practice of law enforcement in this State during incumbency.

11      (b) The Director shall seek the advice of the law enforcement advisor  
12      appointees in carrying out the provisions of this chapter.

13                   Subchapter 3. Licenses

14       § 5321. ELIGIBILITY FOR LICENSURE

15      An applicant for licensure shall demonstrate that he or she has a current,  
16      valid certification.

17       § 5322. LICENSURE RENEWAL

18      (a) In order to renew his or her license, a law enforcement officer shall  
19      demonstrate that he or she has a current, valid certification. A license shall be  
20      renewed biennially upon application and payment of the required fee. Failure  
21      to comply with the provisions of this section shall result in suspension of all

1       privileges granted to the licensee, beginning on the expiration date of the  
2       license.

3       (b) A license that has lapsed shall be renewed upon payment of the renewal  
4       fee and any applicable late renewal penalty pursuant to 3 V.S.A. § 127(d).

5       § 5323. APPLICATIONS

6       Applications for licensure and license renewal shall be on forms provided  
7       by the Director. Each application shall contain a statement under oath showing  
8       the applicant's certification and other pertinent information required by law  
9       and shall be accompanied by the required fee.

10      § 5324. LICENSURE GENERALLY

11      (a) The Director shall issue a license or renew a license, upon payment of  
12      the fees required under this chapter, to an applicant or licensee who has  
13      satisfactorily met all the requirements of this chapter.

14      (b)(1) The actions and legal authority of a law enforcement officer  
15      employed by a law enforcement agency or elected to a law enforcement office  
16      whose license has expired and who acts with the apparent authority of a license  
17      issued under this chapter shall be valid at law, notwithstanding the failure to  
18      renew the license.

19      (2) The provisions of this subsection shall only apply during the 30-day  
20      reinstatement period described in subdivision (c)(2) of this section.

(c)(1) The Director shall provide written notice that the officer's license has expired to the officer, the officer's executive officer, if any, and the Council.

3           (2) The effective date of a license that was renewed during the 30 days  
4           following license expiration shall relate back to the date the license expired, up  
5           to the date the license was reinstated, and the license shall be deemed legally  
6           valid during that timeframe.

7      § 5325. FEES

Applicants and persons regulated under this chapter shall pay those fees set forth in 3 V.S.A. § 125(b).

10       § 5326. CONFIDENTIALITY OF PERSONAL INFORMATION

11       A law enforcement officer's home address and personal telephone number  
12       and email address produced or acquired under this chapter shall be kept  
13       confidential and are exempt from public inspection and copying under the  
14       Public Records Act.

15 Subchapter 4. Investigations, Reports, and Unprofessional

16 Conduct Sanctions

**17      § 5331. INVESTIGATIONS**

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

19           (1)(A) Each law enforcement agency shall conduct a valid investigation  
20       of any complaint alleging that a law enforcement officer employed by the  
21       agency committed Category A or Category B conduct. An agency shall

1       conclude its investigation even if the officer resigns from the agency during the  
2       course of the investigation.

3           (B) Notwithstanding the provisions of subdivision (A) of this  
4       subdivision (1), a law enforcement agency shall refer to the Office any  
5       unprofessional conduct complaints made against a law enforcement officer  
6       who is the executive officer of that agency.

7           (2)(A) The Office shall accept from any source complaints alleging a  
8       law enforcement officer committed unprofessional conduct and, if the Director  
9       deems such a complaint credible, he or she shall refer any complaints  
10      regarding Category A or Category B conduct to the executive officer of the  
11      agency who employs that officer, and that agency shall conduct a valid  
12      investigation.

13           (B) Notwithstanding the provisions of subdivision (A) of this  
14      subdivision (2), the Office shall cause to be conducted an alternate course of  
15      investigation if the allegation is in regard to a law enforcement officer who is  
16      the executive officer of the agency.

17           (b) Exception to an agency's valid investigation. Notwithstanding a law  
18      enforcement agency's valid investigation of a complaint, the Office may  
19      investigate that complaint or cause the complaint to be investigated if the  
20      officer resigned before a valid investigation had begun or was completed.

- 1                   (c) Office and Council investigations of Category C conduct.
- 2                   (1) The Office shall investigate allegations of Category C conduct
- 3                   pertaining to Office processes.
- 4                   (2) The Council shall investigate allegations of Category C conduct
- 5                   pertaining to Council processes.
- 6                   § 5332. LAW ENFORCEMENT AGENCIES; DUTY TO REPORT
- 7                   (a)(1) The executive officer of a law enforcement agency or the chair of the
- 8                   agency's civilian review board shall report to the Office within 10 business
- 9                   days if any of the following occur in regard to a law enforcement officer of the
- 10                  agency:
- 11                  (A) Category A.
- 12                  (i) There is a finding of probable cause by the criminal division of
- 13                  a court that the officer committed Category A conduct.
- 14                  (ii) There is any decision or findings of fact or verdict regarding
- 15                  allegations that the officer committed Category A conduct, including a judicial
- 16                  decision and any appeal therefrom.
- 17                  (B) Category B.
- 18                  (i) The agency receives a complaint against the officer that, if
- 19                  deemed credible by the executive officer of the agency as a result of a valid
- 20                  investigation, alleges that the officer committed Category B conduct.

- 1                   (ii) The agency receives or issues any of the following:
- 2                    (I) a report or findings of a valid investigation finding that the
- 3                   officer committed Category B conduct; or
- 4                    (II) any decision or findings, including findings of fact or
- 5                   verdict, regarding allegations that the officer committed Category B conduct,
- 6                   including a hearing officer decision, arbitration, administrative decision, or
- 7                   judicial decision, and any appeal therefrom.
- 8                   (C) Termination. The agency terminates the officer for Category A
- 9                   or Category B conduct.
- 10                  (D) Resignation. The officer resigns from the agency while under
- 11                  investigation for unprofessional conduct.
- 12                  (2) As part of his or her report, the executive officer of the agency or the
- 13                  chair of the civilian review board shall provide to the Office a copy of any
- 14                  relevant documents associated with the report, including any findings,
- 15                  decision, and the agency's investigative report. The information provided shall
- 16                  be treated as a complaint under the provisions of 3 V.S.A. § 131.
- 17                  (b) The Director shall report to the Attorney General and the State's
- 18                  Attorney of jurisdiction any allegations that an officer committed Category A
- 19                  conduct.

1       § 5333. PERMITTED OFFICE SANCTIONS

2           (a) Generally. The Office may impose any of the following sanctions on a  
3       law enforcement officer's license upon its finding that a law enforcement  
4       officer committed unprofessional conduct:

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

11           (3) revocation, with the option of re licensure at the discretion of the  
12      Office; or

13           (4) permanent revocation.

14           (b) Intended revocation; temporary voluntary surrender.

15              (1)(A) If, after an evidentiary hearing, the Office intends to revoke a law  
16       enforcement officer's license due to its finding that the officer committed  
17       unprofessional conduct, the Office shall issue a decision to that effect.

18              (B) Within 10 business days from the date of that decision, such an  
19       officer may voluntarily surrender his or her license if there is a pending labor  
20       proceeding related to the Office's unprofessional conduct findings.

1                   (C) A voluntary surrender of an officer's license shall remain in  
2                   effect until the labor proceeding and all appeals are finally adjudicated or until  
3                   the officer requests a final sanction hearing, whichever occurs first, and  
4                   thereafter until the Office's final sanction hearing on the matter. At that  
5                   hearing, the Office may modify its findings and decision on the basis of  
6                   additional evidence, but shall not be bound by any outcome of the labor  
7                   proceeding.

8                   (2) If an officer fails to voluntarily surrender his or her license in  
9                   accordance with subdivision (1) of this subsection, the Office's original  
10                  findings and decision shall take effect. However, if the final adjudication of  
11                  the labor proceeding is inconsistent with the Office's findings and decision, at  
12                  the officer's request, the Director may, in his or her discretion, order that the  
13                  Office's findings and decision be reconsidered.

14                  § 5334. LIMITATION ON OFFICE SANCTIONS; FIRST OFFENSE OF  
15                  CATEGORY B CONDUCT

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

20                  (b) "Offense" defined. As used in this section, an "offense" means any  
21                  offense committed by a law enforcement officer during the course of his or her

licensure, and includes any offenses committed during employment at a previous law enforcement agency.

### § 5335. INVALID INVESTIGATIONS

4       Nothing in this subchapter shall prohibit the Office from causing a  
5       complaint to be investigated or taking disciplinary action on an officer's  
6       license if the Office determines that a law enforcement agency's investigation  
7       of the officer's conduct did not constitute a valid investigation.

8 Sec. 3. CREATION OF TWO NEW POSITIONS WITHIN THE OFFICE OF  
9 PROFESSIONAL REGULATION

10       (a) To support the administration of law enforcement officer professional  
11       regulation set forth in Sec. 2 of this act, there is created the following positions  
12       within the Secretary of State's Office of Professional Regulation:

13                   (1) one classified investigator; and

14                   (2) one exempt attorney.

15       (b) Any funding necessary to support the positions created under  
16       subsection (a) of this section shall be derived from the Office's Professional  
17       Regulatory Fee Fund, with no General Fund dollars.

1

\* \* \* Council Revisions \* \* \*

2

Sec. 4. 20 V.S.A. § 2357 is amended to read:

3

**§ 2357. POWERS AND DUTIES OF THE EXECUTIVE DIRECTOR**

4

(a) The Executive Director of the Council, on behalf of the Council, shall have the following powers and duties, subject to the supervision of the Council and to be exercised only in accordance with rules adopted under this chapter:

7

\* \* \*

8

(b) The Executive Director shall collaborate with the Office of Professional Regulation to alert the Office of:

10

(1) persons who have successfully obtained or renewed their certification; and

12

(2) the reports made under section 2362 of this chapter.

13

Sec. 5. 20 V.S.A. § 2360 is added to read:

14

**§ 2360. LAW ENFORCEMENT AGENCIES; DUTY TO ADOPT AN EFFECTIVE INTERNAL AFFAIRS PROGRAM**

16

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

19

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

1           (c) As used in this section, an “effective internal affairs program” means  
2           that a law enforcement agency does all of the following:

3           (1) Complaints. Accepts complaints against its law enforcement  
4           officers from any source.

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

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

12          (4) Fairness in discipline. Treats its accused officers fairly, and decides  
13          officer discipline based on just cause, a set range of discipline for offenses,  
14          consideration of mitigating and aggravating circumstances, and its policies'  
15          due process rights.

16          (5) Civilian review. Provides for review of officer discipline by  
17          civilians, which shall be a selectboard or other elected or appointed body or  
18          person, at least for the conduct required to be reported to the Office of  
19          Professional Regulation under 26 V.S.A. chapter 103. The assistant judges of  
20          a county shall appoint a committee of at least three and up to five civilians,

1       who shall be selected from among elected officials who reside in the county, to  
2       review the discipline imposed on officers by the sheriff.

3       Sec. 6. 20 V.S.A. § 2362 is amended to read:

4       § 2362. REPORTS

5           (a) Within ten business days:

6              (1) Elected constables. A town, village, or city clerk shall notify the  
7        Council, on a form provided by the Council, of the election, appointment to fill  
8        a vacancy under 24 V.S.A. § 963, expiration of term, or reelection of any  
9        constable.

10             (2) Appointed constables and police chiefs. The legislative body of a  
11      municipality or its designee shall notify the Council of the appointment or  
12      removal of a constable or police chief.

13             (3) Municipal police officers. A police chief appointed under 24 V.S.A.  
14      § 1931 shall notify the Council of the appointment or removal of a police  
15      officer under the police chief's direction and control.

16             (4) State law enforcement officers. The appointing authority of a State  
17      agency employing a law enforcement officer shall notify the Council of the  
18      appointment or removal of a law enforcement officer employed by that agency.

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

1                   (b) Notification required by this section shall include the name of the  
2 constable, police chief, police officer, deputy, or other law enforcement  
3 officer; the date of appointment or removal; and the term of office or length  
4 of appointment, if any.

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

7 Sec. 7. REPEALS

8                   The following are repealed in Title 20:

9                   (1) In chapter 151 (Vermont Criminal Justice Training Council), the  
10 subchapter 1 (General Provisions) designation.

11                   (2) In chapter 151, subchapter 2 (Unprofessional Conduct).

12 Sec. 8. 2017 Acts and Resolves No. 56, Sec. 2 is amended to read:

13                   Sec. 2. TRANSITIONAL PROVISIONS TO IMPLEMENT THIS ACT

14                   (a) Effective internal affairs programs.

15                   (1) Law enforcement agencies. On or before July 1, 2018, each law  
16 enforcement agency shall adopt an effective internal affairs program in  
17 accordance with 20 V.S.A. § 2402(a) in ~~Sec. 1 of this act~~ § 2360(a).

18                   (2) Vermont Criminal Justice Training Council. On or before  
19 April 1, 2018, the Vermont Criminal Justice Training Council shall adopt an  
20 effective internal affairs program model policy in accordance with  
21 20 V.S.A. § 2402(b) in ~~Sec. 1 of this act~~ § 2360(b).

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

5                   [Repealed.]

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

11                  (d) ~~Council rules.~~ The Vermont Criminal Justice Training Council may  
12                  adopt rules in accordance with 20 V.S.A. § 2411 (~~Council rules~~) in Sec. 1 of  
13                  this act, prior to the effective date of that section. [Repealed.]

14                  (e) ~~Council Advisory Committee.~~ The Governor shall make appointments  
15                  to the Council Advisory Committee set forth in 20 V.S.A. § 2410 in Sec. 1 of  
16                  this act prior to the effective date of that section. [Repealed.]

17                  (f) ~~Annual report of Executive Director.~~ Annually, on or before  
18                  January 15, beginning in the year 2019 and ending in the year 2022, the  
19                  Executive Director of the Vermont Criminal Justice Training Council shall  
20                  report to the General Assembly regarding the Executive Director's analysis of

1 the implementation of this act and any recommendations he or she may have  
2 for further legislative action. [Repealed.]

3                         (g) Council, OPR; joint report. On or before October 1, 2017, the  
4                         Executive Director of the Vermont Criminal Justice Training Council and the  
5                         Director of the Office of Professional Regulation (Office) shall consult with  
6                         law enforcement stakeholders and report to the Senate and House Committees  
7                         on Government Operations on a proposal for the Office to perform duties  
8                         related to the professional regulation of law enforcement officers.

9 \* \* \* Vermont State Police \* \* \*

10 Sec. 9. 20 V.S.A. § 1923 is amended to read:

11 § 1923. INTERNAL INVESTIGATION

12                   (a)(1) The State Police Advisory Commission shall advise and assist the  
13                   Commissioner in developing and making known routine procedures to ensure  
14                   that allegations of misconduct by State Police officers are investigated fully  
15                   and fairly, and to ensure that appropriate action is taken with respect to such  
16                   allegations.

17                         (2) The Commissioner shall ensure that the procedures described in  
18 subdivision (1) of this subsection constitute an effective internal affairs  
19 program in order to comply with section ~~2402~~ 2360 of this title.

20 \* \* \*

1                   (d) Records of the Office of Internal Investigation shall be confidential,  
2 except:  
3                   (1) the State Police Advisory Commission shall, at any time, have full  
4 and free access to such records;  
5                   (2) the Commissioner shall deliver such materials from the records of  
6 the Office as may be necessary to appropriate prosecutorial authorities having  
7 jurisdiction;  
8                   (3) the Director of the State Police or the Chair of the State Police  
9 Advisory Commission shall report to the ~~Vermont Criminal Justice Training~~  
10 ~~Council as required by section 2403 of this title~~ Office of Professional  
11 Regulation as required by 26 V.S.A. § 5332; and  
12                   (4) the State Police Advisory Commission shall, in its discretion, be  
13 entitled to report to such authorities as it may deem appropriate or to the  
14 public, or both, to ensure that proper action is taken in each case.

15                   \* \* \* Transitional Provisions, Conforming Revisions, and Effective Date \* \* \*

16 Sec. 10. TRANSITIONAL PROVISIONS

17                   (a) Transfer of regulation. On the effective date of this act, a person  
18 certified as a law enforcement officer by the Vermont Criminal Justice  
19 Training Council under the provisions of 20 V.S.A. chapter 151 shall be  
20 deemed licensed as a law enforcement officer by the Office of Professional

1       Regulation under the provisions of 26 V.S.A. chapter 103 upon payment of the  
2       initial license fee set forth in 26 V.S.A. § 5325 in Sec. 2 of this act.

3       (b) Alleged law enforcement officer unprofessional conduct. The  
4       unprofessional conduct provisions applicable to law enforcement officers set  
5       forth in Sec. 2 of this act shall apply to law enforcement officer conduct  
6       alleged to have been committed on and after the effective date of this act.

7       Sec. 11. CONFORMING REVISIONS

8       When preparing the Vermont Statutes Annotated for publication, the Office  
9       of Legislative Council shall replace references to law enforcement officers  
10       certified by the Vermont Criminal Justice Training Council under 20 V.S.A.  
11       chapter 151 with references to law enforcement officers licensed by the Office  
12       of Professional Regulation under 26 V.S.A. chapter 103 and make substantially  
13       similar revisions as needed for consistency with Secs. 1-3 of this act, provided  
14       the revisions have no other effect on the meaning of the affected statutes.

15       Sec. 12. IMPLEMENTATION

16       (a) The advisor appointees created in Sec. 2, in 26 V.S.A. § 5312, shall be  
17       appointed within 60 days of the effective date of this section.

18       (b) The Director of the Office of Professional Regulation may adopt rules  
19       in accordance with the provisions of Sec. 2 of this act prior to the effective date  
20       of that section.

1 Sec. 13. EFFECTIVE DATES

2 (a) The following sections shall take effect on January 1, 2019:

3 (1) Sec. 1 (amending 3 V.S.A. § 122);

4 (2) Sec. 2 (adding 26 V.S.A. chapter 103);

5 (3) Sec. 9 (amending 20 V.S.A. § 1923);

6 (4) Sec. 10 (transitional provisions); and

7 (5) Sec. 11 (conforming revisions);

8 (b) The following sections shall take effect on July 1, 2018:

9 (1) Sec. 6 (amending 20 V.S.A. § 2362); and

10 (2) Sec. 7 (repeals), except that in 20 V.S.A. § 2355 (Council powers  
11 and duties), subdivision (a)(11) (decertification of persons who have been  
12 convicted of a felony subsequent to their certification as law enforcement  
13 officers) shall be repealed on January 1, 2019.

14 (c) This section and the following sections shall take effect on passage:

15 (1) Sec. 3 (creating positions in the Office of Professional Regulation);

16 (2) Sec. 4 (amending 20 V.S.A. § 2357);

17 (3) Sec. 5 (adding 20 V.S.A. § 2360);

18 (4) Sec. 8 (amending 2017 Acts and Resolves No. 56, Sec. 2); and

19 (5) Sec. 12 (implementation).

20

21

1

2 (Committee vote: \_\_\_\_\_)

3 \_\_\_\_\_

4 Senator \_\_\_\_\_

5 FOR THE COMMITTEE