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S.192

Introduced by Senator White

Referred to Committee on

Date:

Subject: Professions and occupations; law enforcement officers; Office of

Professional Regulation; Vermont Criminal Justice Training Council

Statement of purpose of bill as introduced: This bill proposes to transfer the professional regulation of law enforcement officers from the Vermont Criminal Justice Training Council to the Office of Professional Regulation.

An act relating to transferring the professional regulation of law enforcement officers from the Vermont Criminal Justice Training Council to the Office of Professional Regulation

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

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

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

§ 122. OFFICE OF PROFESSIONAL REGULATION

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

\* \* \*

*Voice suggestions  
11/2/18 to Sen  
Gov't OPR*

1           (48) Law Enforcement Officers

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

3                           CHAPTER 103. LAW ENFORCEMENT OFFICERS

4   Subchapter 1. General Provisions

5           § 5301. PURPOSE AND EFFECT

6    ( a ) In order to safeguard the life and health of the people of this State, a person  
7    shall not practice, or offer to practice, as a law enforcement officer unless  
8    currently licensed under this chapter.

*otherwise by*

*(b) This subchapter is not intended to interfere with the rights of employers and employees created by contract or law regarding the right to hire, fire, terminate, discipline an employee who is a law enforcement officer.*

9           § 5302. DEFINITIONS

10           As used in this chapter:

11           (1) "Category A conduct" means:

12           *a conviction for*

13           (A) ~~A~~ felony.

14           *a conviction for*

15           (B) ~~A~~ misdemeanor that is committed while on duty and did not

*OR IMPACT THE STATUS of*

16           involve the legitimate performance of duty.

17           *a conviction for*

18           (C) ~~A~~ Any of the following misdemeanors, if committed off duty:

19           (i) simple assault, second offense;

20           (ii) domestic assault; *second offense;*

21           (iii) false ~~reports and statements~~; *information to a law enforcement officer;*

(iv) driving under the influence, second offense;

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

of release;

*law enforcement duties which are the responsibility of the officer*

- 1            (vi) stalking;
- 2            (vii) false pretenses;
- 3            (viii) voyeurism;
- 4            (ix) prostitution or soliciting prostitution;
- 5            (x) distribution of a regulated substance;
- 6            (xi) simple assault on a law enforcement officer; or
- 7            (xii) possession of a regulated substance, second offense.

8            (2) "Category B conduct" means gross professional misconduct  
9            amounting to actions on duty or under color of authority, or both, that involve  
10           willful failure to comply with a State-required policy *relating to the discharge of*  
11           from professional conduct *relating to the discharge of law enforcement duties* <sup>GROSS</sup> or substantial deviation  
12           as defined by the law enforcement agency's policy  
13           or if not defined by the agency's policy, then as defined by rules adopted by  
14           the Office, such as:

- 14            (A) sexual harassment involving physical contact or misuse of  
15            position; *(B) domestic assault, first offense;*
- 16            (C) ~~(B)~~ misuse of official position for personal or economic gain;
- 17            (D) ~~(C)~~ excessive use of force under color of authority, second offense;
- 18            (E) ~~(D)~~ biased enforcement; or
- 19            (F) ~~(E)~~ use of an electronic criminal records database for personal,  
20            political, or economic gain.

1           (3) "Category C conduct" means any allegation of misconduct  
2           pertaining to Office or Council processes or operations, <sup>AS FOLLOWS:</sup> ~~including~~

3           (A) <sup>KNOWINGLY</sup> ~~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           Office or Council;

7           (C) falsification of Office or Council documents;

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

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

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

14          (G) intentional failure to conduct a valid investigation or file a report  
15          as required by this chapter; or

16          (H) failure to complete annual in-service training required by the  
17          Council.

18          (4) "Certification" means the document issued by the Council that  
19          verifies that a law enforcement officer has successfully completed the  
20          Council's initial basic training or annual in-service training requirements, or

1 such a document issued by another entity with training requirements

2 substantially similar to those of the Council as determined by the Director.

3 (5) "Council" means the Vermont Criminal Justice Training Council.

4 (6) "Director" means the Director of the Office of Professional  
5 Regulation.

6 (7) "Effective internal affairs program" means that a law enforcement  
7 agency does all of the following:

8 (A) Complaints. Accepts complaints against its law enforcement  
9 officers from any source.

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

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

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

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

OR  
PERSON

4           (8) "Executive officer" means the highest-ranking law enforcement  
5 officer of a law enforcement agency.

6           (9) "Law enforcement agency" means the employer of a law  
7 enforcement officer.

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

20           (11) "License" means a current authorization granted by the Director,  
21 permitting the practice as a law enforcement officer.

1           (12) "Office" means the Office of Professional Regulation.

2           (13) "Unprofessional conduct" means Category A, B, or C conduct.

3           (14)(A) "Valid investigation" means an investigation conducted  
4 pursuant to a law enforcement agency's established or accepted procedures.

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

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

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

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

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

14           (v) the agency's executive officer is the officer accused of  
15 misconduct.

16           § 5303. PROHIBITIONS; OFFENSES

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

19           (1) sell or fraudulently obtain or furnish any law enforcement degree,  
20 diploma, certification, license, or any other related document or record or to  
21 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.

*who has criminal  
law experience  
as a trial court  
judge, prosecutor  
or criminal  
defense  
attorney;*

1 § 5312. ADVISOR APPOINTEES

2 (a)(1) ~~In consultation with the Executive Director of the Council~~ <sup>FIVE</sup> ~~The~~  
3 Secretary of State shall appoint ~~three~~ persons for five-year staggered terms to  
4 serve at the Secretary's pleasure as advisors in matters relating to law  
5 enforcement. <sup>and in recommending individuals who can serve as administrative law officers.</sup> One of the initial appointments shall be for less than a five-year  
6 term.

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

11 <sup>state's attorney or deputy state's attorney and one of the appointees shall be a criminal defense attorney</sup> (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)(1) 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

*and one will be selected from a small, medium or large law enforcement agency.*

The length of which is to be determined by the field training officer after a minimum mandatory 80 hour period.

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

3 (2) A license that has lapsed <sup>FOR UP TO THREE YEARS</sup> shall be renewed upon payment of the  
4 renewal fee and the late renewal penalty.

5 (b) The <sup>secretary of state SHALL</sup> Director ~~may~~ adopt rules necessary for the protection of the public  
6 to <sup>ENSURE</sup> assure the Director that an applicant whose license has <sup>FOR MORE THAN THREE YEARS</sup> lapsed or who has  
7 not worked for more than three years as a law enforcement officer is  
8 professionally qualified for licensure renewal. (Conditions imposed under this

9 subsection shall be in addition to the requirements of subsection (a) of this  
10 section. The secretary shall also adopt rules granting

11 § 5323. APPLICATIONS  
12 Applications for licensure and license renewal shall be on forms provided  
13 by the Director. Each application shall contain a statement under oath showing  
14 the applicant's education, experience, and other pertinent information and shall

reciprocity to an applicant who has the status of a law enforcement officer in another state or territory, or with the U.S. Armed Forces, on terms and conditions which will ensure protection of the public, and may waive other physical training or other requirements for good cause.

15 be accompanied by the required fee.

16 § 5324. LICENSURE GENERALLY

17 The Director shall issue a license or renew a license, upon payment of the  
18 fees required under this chapter, to an applicant or licensee who has  
19 satisfactorily met all the requirements of this chapter.

The rules shall reflect that there is a shortage of certified and licensed law enforcement officers, require that the applicant successfully complete the annual firearms recertification field test required of currently licensed law enforcement officers, and complete 1780 hours of supervised field training with a field training officer. The rules shall ~~not~~ require the applicant most physical training requirements; those qualifications shall be determined by the law enforcement agency that hires the applicant.

person within the last year employed in a law enforcement agency in the U.S.

1     § 5325. FEES

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

4                     Subchapter 4. Investigations, Reports, and Unprofessional  
5                             Conduct Sanctions

6     § 5331. INVESTIGATIONS

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

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

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

17                     (2)(A) The Office shall accept from any source complaints alleging a  
18 law enforcement officer committed unprofessional conduct and, if the Director  
19 deems such a complaint credible, he or she shall refer any complaints  
20 regarding Category A or Category B conduct to the executive officer of the

1 agency who employs that officer, and that agency shall conduct a valid  
2 investigation.

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

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

11 (c) Office and Council investigations of Category C conduct.

12 (1) The Office shall investigate allegations of Category C conduct  
13 pertaining to Office processes.

14 (2) The Council shall investigate allegations of Category C conduct  
15 pertaining to Council processes.

16 § 5332. LAW ENFORCEMENT AGENCIES; DUTY TO REPORT

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

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(A) Category A.

*the criminal division of the superior court*

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

*by the criminal division of the superior court*

(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 the  
2 chair of the civilian review board shall provide to the Office a copy of any  
3 relevant documents associated with the report, including any findings,  
4 decision, and the agency's investigative report.

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

8           § 5333. PERMITTED OFFICE SANCTIONS

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

12           (1) written warning;

13           (2) suspension, but to run concurrently with the length and time of any  
14 suspension imposed by a law enforcement agency with an effective internal

15 affairs program, which shall amount to suspension for time already served if an  
16 officer has already served a suspension imposed by his or her agency with such

17 a program;

18           (3) revocation, with the option of relicensure at the discretion of the

19 Office or

20           (4) permanent revocation.

*Handwritten notes:*  
for a finding of a violation in Category A  
or B or C  
or D  
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or Z

*Handwritten note:* for a finding of a Category A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, V, W, X, Y, Z violation CONDUCT

*Handwritten note:* after a finding of Category A conduct, date of revocation of the officer has taken steps to address the underlying causes for the Category B CONDUCT violation required by the office and communicated to the officer with the revocation decision.

*Handwritten note:* a finding of a

*Handwritten note:* successfully

*Handwritten note:* successful completion of any sentence imposed by a superior court shall create a rebuttable presumption that the officer has been rehabilitated.

1           **(b) Intended revocation; temporary voluntary surrender.**

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

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

8           **(C) A voluntary surrender of an officer's license shall remain in**  
9 **effect until the labor proceeding and all appeals are finally adjudicated or until**  
10 **the officer requests a final sanction hearing, whichever occurs first, and**  
11 **thereafter until the Office's final sanction hearing on the matter. At that**  
12 **hearing, the Office may modify its findings and decision on the basis of**  
13 **additional evidence, but shall not be bound by any outcome of the labor**  
14 **proceeding.**

15           **(2) If an officer fails to voluntarily surrender his or her license in**  
16 **accordance with subdivision (1) of this subsection, the Office's original**  
17 **findings and decision shall take effect,** *but may be reconsidered at the officer's*

18 *request after the outcome of the labor proceeding.*  
19 **§ 5334. LIMITATION ON OFFICE SANCTIONS; FIRST OFFENSE OF**

19           **CATEGORY B CONDUCT**

20           **(a) Category B conduct; first offense. If a law enforcement agency**  
21 **conducts a valid investigation of a complaint alleging that a law enforcement**



1 officer committed a first offense of Category B conduct, the Office shall take  
2 no action.

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

7 § 5335. INVALID INVESTIGATIONS

8 Nothing in this subchapter shall prohibit the Office from causing a  
9 complaint to be investigated or taking disciplinary action on an officer's  
10 license if the Office <sup>finds, after hearing,</sup> determines that a law enforcement agency's investigation  
11 of the officer's conduct did not constitute a valid investigation.

12 Sec. 3. CREATION OF TWO NEW POSITIONS WITHIN THE OFFICE OF  
13 PROFESSIONAL REGULATION

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

17 (1) one classified investigator; and

18 (2) one exempt attorney.

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

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

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

§ 2357. POWERS AND DUTIES OF THE EXECUTIVE DIRECTOR

(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:

\* \* \*

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

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

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

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

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

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

(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 <sup>and</sup> of 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 may be a selectboard or other elected or appointed body, at  
18           least for the conduct required to be reported to the Council under this  
19           subchapter.

*or person*

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

2 § 2362. REPORTS

3 (a) Within ten business days:

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

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

11 (3) Municipal police officers. A police chief appointed under 24 V.S.A.  
12 § 1931 shall notify the Council of the appointment or removal of a police  
13 officer under the police chief's direction and control.

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

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

20 (b) Notification required by this section shall include the name of the  
21 constable, police chief, police officer, deputy, or other law enforcement

1 officer; the date of appointment or removal; and the term of office or length  
2 of appointment, if any.

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

5 Sec. 7. REPEALS

6 The following are repealed in Title 20:

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

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

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

11 Sec. 2. TRANSITIONAL PROVISIONS TO IMPLEMENT THIS ACT

12 (a) Effective internal affairs programs.

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

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

20 (b) ~~Alleged law enforcement officer unprofessional conduct. The~~  
21 ~~provisions of 20 V.S.A. chapter 151, subchapter 2 (unprofessional conduct) in~~

1 ~~Sec. 1 of this act shall apply to law enforcement officer conduct alleged to~~  
2 ~~have been committed on and after the effective date of that subchapter.~~

3 [Repealed.]

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

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

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

15 (f) ~~Annual report of Executive Director. Annually, on or before~~  
16 ~~January 15, beginning in the year 2019 and ending in the year 2022, the~~  
17 ~~Executive Director of the Vermont Criminal Justice Training Council shall~~  
18 ~~report to the General Assembly regarding the Executive Director's analysis of~~  
19 ~~the implementation of this act and any recommendations he or she may have~~  
20 ~~for further legislative action. [Repealed.]~~

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

7 \* \* \* Vermont State Police \* \* \*

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

9 § 1923. INTERNAL INVESTIGATION

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

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

18 \* \* \*

19 (d) Records of the Office of Internal Investigation shall be confidential,  
20 except:

1 (1) the State Police Advisory Commission shall, at any time, have full  
2 and free access to such records;

3 (2) the Commissioner shall deliver such materials from the records of  
4 the Office as may be necessary to appropriate prosecutorial authorities having  
5 jurisdiction;

6 (3) the Director of the State Police or the Chair of the State Police  
7 Advisory Commission shall report to the ~~Vermont Criminal Justice Training~~  
8 ~~Council as required by section 2403 of this title~~ Office of Professional  
9 Regulation as required by 26 V.S.A. § 5332; and

10 (4) the State Police Advisory Commission shall, in its discretion, be  
11 entitled to report to such authorities as it may deem appropriate or to the  
12 public, or both, to ensure that proper action is taken in each case.

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

14 Sec. 10. TRANSITIONAL PROVISIONS

15 ✓ (a) ~~Transfer of regulation~~ On the effective date of this act, a person  
16 certified as a law enforcement officer by the Vermont Criminal Justice  
17 Training Council under the provisions of 20 V.S.A. chapter 151 shall be  
18 deemed licensed as a law enforcement officer by the Office of Professional  
19 Regulation under the provisions of 26 V.S.A. chapter 103.

20 (b) Alleged law enforcement officer unprofessional conduct. The  
21 unprofessional conduct provisions applicable to law enforcement officers set



1 forth in Sec. 2 of this act shall apply to law enforcement officer conduct  
2 alleged to have been committed on and after the effective date of this act.

3 Sec. 11. CONFORMING REVISIONS

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

11 Sec. 12. EFFECTIVE DATE

12 This act shall take effect on July 1, 2018.

(a) This section and sections 1, 3, 4, 5, 6, 7 and 8 shall take effect on passage.

(b) The advisory council created in sec. 2, 3 V.S.A. § 5312, shall be appointed within 60 days of the effective date of this act. The authority of the secretary to

adopt rules as set forth in sec 2, 3 V.S.A. § 5322, and elsewhere in this act, shall

(c) sections 2 and 7 shall take effect January

1, 2019.

late effect on passage

