

Journal of the Senate

MONDAY, JUNE 22, 2020

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Pledge of Allegiance

The President then led the members of the Senate in the pledge of allegiance.

Roll Call

The roll of the Senate was thereupon called by the Secretary, John H. Bloomer, Jr., and it appeared that the following Senators were present.

Addison District	Senator Christopher A. Bray Senator Ruth Ellen Hardy
Bennington District	Senator Brian A. Campion Senator Richard W. Sears, Jr.
Caledonia District	Senator Joseph C. Benning Senator M. Jane Kitchel
Chittenden District	Senator Timothy R. Ashe Senator Philip E. Baruth Senator Deborah J. Ingram Senator Virginia V. Lyons Senator Christopher A. Pearson Senator Michael D. Sirotkin
Essex-Orleans District	Senator John S. Rodgers Senator Robert A. Starr
Franklin District	Senator Randolph D. Brock Senator Corey. J. Parent
Grand Isle District	Senator Richard T. Mazza
Lamoille District	Senator Richard A. Westman
Orange District	Senator Mark A. MacDonald

Rutland District	Senator Brian P. Collamore Senator Cheryl Mazzariello Hooker Senator James L. McNeil
Washington District	Senator Ann E. Cummings Senator Andrew J. Perchlik Senator Anthony Pollina
Windham District	Senator Rebecca A. Balint Senator Jeanette K. White
Windsor District	Senator Alison Clarkson Senator Richard J. McCormack Senator Alice W. Nitka

Bill Referred to Committee on Appropriations

H. 942.

House bill of the following title, appearing on the Calendar for notice, and carrying an appropriation or requiring the expenditure of funds, under the rule, was referred to the Committee on Appropriations:

An act relating to the Transportation Program and miscellaneous changes to laws related to transportation.

Bills Referred

House bills of the following titles were severally read the first time and referred:

H. 962.

An act relating to the duration of temporary relief from abuse orders.
To the Committee on Judiciary.

H. 966.

An act relating to COVID-19 funding and assistance for broadband connectivity, housing, and economic relief.

To the Committee on Appropriations.

Consideration Resumed; Bill Ordered to Lie

S. 237.

Consideration was resumed on Senate bill entitled:

An act relating to promoting affordable housing.

Thereupon, pending the question, Shall the bill be amended as recommended by Senators Bray, Ashe, Balint, Baruth, Campion, Clarkson, Hardy, Hooker, Lyons, MacDonald, Sirotkin and White in the *first*, *second*, *third* and *fourth* recommendation of amendments?, Senator McCormack requested to divide the question.

Thereupon, the bill was amended as recommended by Senators Bray, Ashe, Balint, Baruth, Campion, Clarkson, Hardy, Hooker, Lyons, MacDonald, Sirotkin and White in the *first* and *second* recommendation of amendment.

Thereupon, the bill was amended as recommended by Senators Bray, Ashe, Balint, Baruth, Campion, Clarkson, Hardy, Hooker, Lyons, MacDonald, Sirotkin and White in the *third* and *fourth* recommendation of amendment.

Thereupon, Senator Bray, requested and was granted leave to withdraw the remainder of the *fifth* recommendation of amendment.

Thereupon, pending third reading of the bill, Senator McCormack moved to amend the bill as follows:

First: In Sec. 5, 10 V.S.A. § 6001, by striking out subdivision (35) in its entirety.

Second: By striking out Secs. 6, 10 V.S.A. § 6081, 7, repeals, and 8, 10 V.S.A. § 6090, in their entireties.

Third: In Sec. 10, 24 V.S.A. § 2793, by striking out subdivision (b)(1) in its entirety.

Fourth: In Sec. 12, 24 V.S.A. § 2793e, by striking out subdivision (c)(7)(C) in its entirety and inserting in lieu thereof the following:

(B)(C) Development in the neighborhood development areas that is lower than the minimum net residential density required by this subdivision (7) shall not qualify for the benefits stated in subsections (f) and (g) of this section. The district coordinator shall determine whether development meets this minimum net residential density requirement in accordance with subsection (f) of this section.

Fifth: In Sec. 12, 24 V.S.A. § 2793e, by striking out subdivisions (f)–(h) in their entireties and inserting in lieu thereof the following:

* * *

And by renumbering the remaining sections to be numerically correct.

Which was disagreed to on a roll call, Yeas 3, Nays 27.

Senator McCormack having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: McCormack, McNeil, Pollina.

Those Senators who voted in the negative were: Ashe, Balint, Baruth, Benning, Bray, Brock, Champion, Clarkson, Collamore, Cummings, Hardy, Hooker, Ingram, Kitchel, Lyons, MacDonald, Mazza, Nitka, Parent, Pearson, Perchlik, Rodgers, Sears, Sirotkin, Starr, Westman, White.

Thereupon, pending third reading of the bill, Senators Perchlik and Pearson moved to amend the bill by striking out Sec. 45, effective dates, and its reader assistance heading in its entirety and inserting in lieu thereof the following:

Sec. 45. 30 V.S.A. § 56 is added to read:

§ 56. STRETCH CODE IN DOWNTOWNS AND NEIGHBORHOOD DEVELOPMENT AREAS

Within a downtown development district or neighborhood development area, residential construction with 10 or more units or located on 10 or more acres shall meet or exceed the stretch codes established under this subchapter by the Department of Public Service.

* * * Effective Dates * * *

Sec. 46. EFFECTIVE DATES

(a)(1) This act shall take effect on July 1, 2020, except that:

(2) Sec. 34, 10 V.S.A. § 6086(a)(8), shall take effect on September 15, 2021;

(3) in Sec. 2, 24 V.S.A. § 4412(b), shall take effect on July 1, 2023; and

(4) Sec. 45, 30 V.S.A. § 56, shall take effect on April 1, 2021.

Which was disagreed to.

Thereupon, pending third reading of the bill, Senator Sirotkin moved to amend the bill by striking out Sec. 20, (homelessness prevention) in its entirety and inserting in lieu thereof the following:

Sec. 20. [Deleted.]

Which was agreed to.

Thereupon, pending third reading of the bill, Senators Bray, Balint, Baruth, Champion, Clarkson, Hardy, MacDonald and Sirotkin moved to amend the bill by striking out Sec. 6, 10 V.S.A. § 6081(p)(1), in its entirety and inserting in lieu thereof the following:

(p)(1) No permit or permit amendment is required for any subdivision, development, or change to a project that is located entirely within a downtown development district designated pursuant to 24 V.S.A. § 2793, if the change consists exclusively of any combination of mixed use and mixed income housing, and the cumulative changes within any continuous period of five years, commencing on or after the effective date of this subsection, remain below any applicable jurisdictional threshold specified in subdivision 6001(3)(A)(iv)(I) of this title or a neighborhood development area designated pursuant to 24 V.S.A. § 2793e. Existing permits in these areas may seek to be released from jurisdiction pursuant to subsection 6090(c) of this title. Notwithstanding 1 V.S.A. §213 and § 214, and until January 1, 2022, no permit is required for a recreational trail located within a downtown development district or a neighborhood development area if the trail was in existence prior to July 1, 2020.

Thereupon, pending the question, Shall the bill be amended as moved by Senators Bray, Balint, Baruth, Campion, Clarkson, Hardy, MacDonald and Sirotkin? Senator Parent raised a *point of order* under Sec. 402 of Mason's Manual of Legislative Procedure on the grounds that the amendment offered by Senators Bray, Balint, Baruth, Campion, Clarkson, Hardy, MacDonald and Sirotkin was *not germane* to the bill and therefore could not be considered by the Senate.

Thereupon, the President *sustained* the point of order and ruled that the amendment offered by Senators Bray, Balint, Baruth, Campion, Clarkson, Hardy, MacDonald and Sirotkin was *not germane* to the bill.

The President thereupon declared that the amendment offered by Senators Bray, Balint, Baruth, Campion, Clarkson, Hardy, MacDonald and Sirotkin could *not* be considered by the Senate and the amendment was ordered stricken.

Thereupon, pending the question, Shall the bill be read the third time?, Senator Ashe moved that the bill be ordered to lie.

Which was agreed to.

Bill Amended; Third Reading Ordered

S. 124.

Senator White, for the Committee on Government Operations, to which was referred Senate bill entitled:

An act relating to miscellaneous law enforcement amendments.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Vermont Criminal Justice Training Council * * *

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

§ 2351. CREATION AND PURPOSE OF COUNCIL

* * *

(b) The Council is created to encourage and assist municipalities, counties, and governmental agencies of this State in their efforts to improve the quality of law enforcement and citizen protection by maintaining a uniform standard of ~~recruitment~~ recruit and in-service training for law enforcement officers.

* * *

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

§ 2352. COUNCIL MEMBERSHIP

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

(A) the Commissioners of Public Safety, ~~of Corrections,~~ of Motor Vehicles, ~~and of Fish and Wildlife, and of Mental Health;~~

(B) the Attorney General;

(C) the Executive Director of the Department of State's Attorneys and Sheriffs;

(D) a member of the Vermont Troopers' Association or its successor entity, elected by its membership;

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

(E)(F) ~~five additional members appointed by the Governor.~~

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

~~(ii) The Governor shall solicit recommendations for appointment from the Vermont State's Attorneys Association, the Vermont State's Sheriffs Association, the Vermont Police Chiefs Association, and the Vermont Constables Association~~ a member of the Chiefs of Police Association of Vermont, appointed by the President of the Association;

(G) a member of the Vermont Sheriffs' Association, appointed by the President of the Association;

(H) a law enforcement officer appointed by the President of the Vermont State Employees Association;

(I) an employee of the Vermont League of Cities and Towns, appointed by the Executive Director of the League;

(J) an employee of the Vermont Center for Crime Victim Services, appointed by the Executive Director of the Center; and

(K) three public members who shall not be law enforcement officers or have a spouse, parent, child, or sibling who is a law enforcement officer, current legislators, or otherwise be employed in the criminal justice system, one of whom shall be appointed by the Speaker of the House, one of whom shall be appointed by the Senate Committee on Committees, and one of whom shall be appointed by the Governor.

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

* * *

(c) The public members of the Council set forth in subdivision (a)(1)(K) of this section shall be entitled to receive ~~no~~ per diem compensation for their services, but the other members of the Council shall not be entitled to such compensation; provided, however, that all members of the Council shall be allowed their actual and necessary ~~entitled to receive reimbursement of~~ expenses incurred in the performance of their duties. Per diem compensation and reimbursement of expenses under this subsection shall be made as permitted under 32 V.S.A. § 1010 from monies appropriated to the Council.

* * *

Sec. 3. TRANSITIONAL PROVISION TO ADDRESS NEW COUNCIL MEMBERSHIP

Any existing member of the Vermont Criminal Justice Training Council who will serve on the Council under its new membership as set forth in Sec. 2 of this act may serve the remainder of his or her term in effect immediately prior to the effective date of Sec. 2.

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

§ 2355. COUNCIL POWERS AND DUTIES

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

(1) the approval, or revocation thereof, of law enforcement officer training schools and off-site training programs, which shall include rules to identify and implement alternate routes to certification aside from the training provided at the Vermont Police Academy;

* * *

(b)(1) The Council shall conduct and administer training schools and offer courses of instruction for law enforcement officers and other criminal justice personnel. The Council shall offer courses of instruction for law enforcement officers in different areas of the State and shall strive to offer nonovernight courses whenever possible.

(2) The Council may also offer the basic officer's course for ~~pre-service~~ preservice students and educational outreach courses for the public, including firearms safety and use of force.

* * *

Sec. 5. 20 V.S.A. § 2358 is amended to read:

§ 2358. MINIMUM TRAINING STANDARDS; DEFINITIONS

* * *

(b) The Council shall offer or approve basic training and annual in-service training for each of the following three levels of law enforcement officer certification in accordance with the scope of practice for each level, and shall determine by rule the scope of practice for each level in accordance with the provisions of this section:

(1) Level I certification.

* * *

(2) Level II certification.

* * *

(3) Level III certification.

* * *

(c)(1) All programs required by this section shall be approved by the Council.

(2) The Council shall structure its programs so that on and after July 1, 2021, a Level II certified officer may use portfolio experiential learning or College Level Examination Program (CLEP) testing in order to transition to Level III certification, without such an officer needing to restart the certification process.

(3) Completion of a program shall be established by a certificate to that effect signed by the Executive Director of the Council.

* * *

Sec. 6. COUNCIL; REPORT ON CHANGES IN TRAINING OPTIONS;
RULE ADOPTION DEADLINE

(a) Report. On or before January 15, 2021, the Executive Director of the Vermont Criminal Justice Training Council shall report to the Senate and House Committees on Government Operations regarding the Council's:

(1) plan to replace some of its overnight law enforcement training requirements at the Robert H. Wood, Jr. Criminal Justice and Fire Service Training Center of Vermont (the Police Academy) with nonovernight training in other areas of the State, in accordance with 20 V.S.A. § 2355(b)(1) in Sec. 4 of this act; and

(2) changes in the structure of its programs to enable a law enforcement officer to transition from Level II to Level III certification as required by 20 V.S.A. § 2358(c)(2) in Sec. 5 of this act.

(b) Rules. On or before July 1, 2023, the Council shall finally adopt the rules regarding alternate routes to certification required by 20 V.S.A. § 2355(a)(1) in Sec. 4 of this act, unless that deadline is extended by the Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 843(c).

Sec. 7. 20 V.S.A. § 2361 is amended to read:

§ 2361. ADDITIONAL TRAINING

~~(a) Nothing in this chapter prohibits any State law enforcement agency, department, or office or any municipality or county of the State from providing additional training beyond basic training to its personnel where no certification is requested of or required by the Council or its Executive Director.~~

~~(b) The head of a State agency, department, or office, a municipality's chief of police, or a sheriff executive officer of a law enforcement agency may seek certification from the Council for any in-service training he or she, or his or her designee may provide to his or her employees law enforcement officers of his or her agency or of another agency, or both.~~

Sec. 8. 20 V.S.A. § 2362a is amended to read:

§ 2362a. POTENTIAL HIRING AGENCY; DUTY TO CONTACT
CURRENT OR FORMER AGENCY

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

~~(A) require that officer to execute a written waiver that explicitly authorizes the officer's:~~

(i) current law enforcement agency employer to disclose its analysis of the officer's performance at that agency, if the officer is still employed at that agency; or

(ii) last law enforcement agency employer to disclose the reason that officer is no longer employed by that agency, if the officer is not currently employed at an agency; and

(B) contact that former agency to ~~determine that reason~~ obtain that disclosure and provide to that agency a copy of that written waiver.

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

(b)(1)(A) If that current or former agency is a law enforcement agency in this State, the executive officer of that current or former agency or designee shall disclose to the potential hiring agency in writing its analysis of the officer's performance at that agency or the reason the officer is no longer employed by the former agency, as applicable.

(B) The executive officer or designee shall send a copy of the disclosure to the officer at the same time he or she sends it to the potential hiring agency.

(2) Such a current or former agency shall be immune from liability for its disclosure described in subdivision (1) of this subsection, unless such disclosure would constitute intentional misrepresentation or gross negligence.

* * *

Sec. 9. LAW ENFORCEMENT AGENCY; DUTY TO DISCLOSE

The requirement of a current law enforcement agency to disclose its analysis of its law enforcement officer's performance at the agency as set forth in 20 V.S.A. § 2362a in Sec. 8 of this act shall not apply if there is a binding nondisclosure agreement prohibiting that disclosure that was executed prior to the effective date of that section.

Sec. 10. 20 V.S.A. chapter 151 (Vermont Criminal Justice Training Council), subchapter 2 is amended to read:

Subchapter 2. Unprofessional Conduct

§ 2401. DEFINITIONS

As used in this subchapter:

(1) "Category A conduct" means:

(A) A felony.

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

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

- (i) simple assault, second offense;
- (ii) domestic assault;
- (iii) false reports and statements;
- (iv) driving under the influence, second offense;
- (v) violation of a relief from abuse order or of a condition of release;
- (vi) stalking;
- (vii) false pretenses;
- (viii) voyeurism;
- (ix) prostitution or soliciting prostitution;
- (x) distribution of a regulated substance;
- (xi) simple assault on a law enforcement officer; or
- (xii) possession of a regulated substance, second offense.

(2) "Category B conduct" means gross professional misconduct amounting to actions on duty or under color of authority, or both, that involve willful failure to comply with a State-required policy or substantial deviation from professional conduct as defined by the law enforcement agency's policy or if not defined by the agency's policy, then as defined by Council policy, such as and shall include:

- (A) sexual harassment involving physical contact or misuse of position;
- (B) misuse of official position for personal or economic gain;
- (C) excessive use of force under color of authority, ~~second~~ first offense;
- (D) biased enforcement; or
- (E) use of electronic criminal records database for personal, political, or economic gain.

* * *

§ 2403. LAW ENFORCEMENT AGENCIES; DUTY TO REPORT

- (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 credible 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.

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

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

* * *

* * * Vermont Crime Information Center * * *

Sec. 11. 20 V.S.A. § 2053 is amended to read:

§ 2053. COOPERATION WITH OTHER AGENCIES

(a) ~~The center~~ Center shall cooperate with other ~~state~~ State departments and agencies, municipal police departments, sheriffs, and other law enforcement officers in this ~~state~~ State and with federal and international law enforcement agencies to develop and carry on a uniform and complete ~~state~~ State, interstate, national, and international system of records of ~~criminal activities~~ commission of crimes and information.

(b)(1) All ~~state~~ State departments and agencies, municipal police departments, sheriffs, and other law enforcement officers shall cooperate with and assist the ~~center~~ Center in the establishment of a complete and uniform system of records relating to the commission of crimes, arrests, convictions, imprisonment, probation, parole, fingerprints, photographs, stolen property, and other matters relating to the identification and records of persons who have or who are alleged to have committed a crime, or who are missing persons, or who are fugitives from justice.

(2) In order to meet the requirements of subdivision (1) of this subsection, the Center shall establish and provide training on a uniform list of definitions to be used in entering data into a law enforcement agency's system of records, and every law enforcement officer shall use those definitions when entering data into his or her agency's system.

* * * Law Enforcement Advisory Board * * *

Sec. 12. LEAB; REPEAL FOR RECODIFICATION

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

Sec. 13. 20 V.S.A. § 1818 is added to read:

§ 1818. LAW ENFORCEMENT ADVISORY BOARD

(a) The Law Enforcement Advisory Board is created within the Department of Public Safety to advise the Commissioner of Public Safety, the Governor, and the General Assembly on issues involving the cooperation and coordination of all agencies that exercise law enforcement responsibilities. The Board shall review any matter that affects more than one law enforcement agency. The Board shall comprise the following members:

(1) the Commissioner of Public Safety;

(2) the Director of the Vermont State Police;

(3) the Director of the Enforcement Division of the Department of Fish and Wildlife;

(4) the Director of the Enforcement and Safety Division of the Department of Motor Vehicles;

- (5) the Chief of the Capitol Police Department;
 - (6) the Director of the Vermont Criminal Justice Services Division;
 - (7) a member of the Chiefs of Police Association of Vermont, appointed by the President of the Association;
 - (8) a member of the Vermont Sheriffs' Association, appointed by the President of the Association;
 - (9) a representative of the Vermont League of Cities and Towns, appointed by the Executive Director of the League;
 - (10) a member of the Vermont Police Association, appointed by the President of the Association;
 - (11) the Attorney General or designee;
 - (12) a State's Attorney appointed by the Executive Director of the Department of State's Attorneys and Sheriffs;
 - (13) the U.S. Attorney or designee;
 - (14) the Executive Director of the Vermont Criminal Justice Training Council;
 - (15) the Defender General or designee;
 - (16) one representative of the Vermont Troopers' Association or its successor entity, elected by its membership;
 - (17) a member of the Vermont Constables Association, appointed by the President of the Association; and
 - (18) a law enforcement officer, appointed by the President of the Vermont State Employees Association.
- (b) The Board shall elect a chair and a vice chair, which positions shall rotate among the various member representatives. Each member shall serve a term of two years. The Board shall meet at the call of the Chair. A quorum shall consist of 10 members, and decisions of the Board shall require the approval of a majority of those members present and voting.
- (c) The Board shall undertake an ongoing formal review process of law enforcement policies and practices with a goal of developing a comprehensive approach to providing the best services to Vermonters, given monies available. The Board shall also provide educational resources to Vermonters about public safety challenges in the State.
- (d)(1) The Board shall meet not fewer than six times a year to develop policies and recommendations for law enforcement priority needs, including

retirement benefits, recruitment of officers, training, homeland security issues, dispatching, and comprehensive drug enforcement.

(2) The Board shall present its findings and recommendations in brief summary form to the House and Senate Committees on Judiciary and on Government Operations annually on or before January 15.

Sec. 14. LEAB; RECODIFICATION DIRECTIVE

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

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

Sec. 15. LEAB; 2021 REPORT ON MUNICIPAL ACCESS TO LAW ENFORCEMENT SERVICES

As part of its annual report in the year 2021, the Law Enforcement Advisory Board shall specifically recommend ways that towns can increase access to law enforcement services.

* * * Department of Public Safety; Dispatch * * *

Sec. 16. 20 V.S.A. chapter 113 (Commissioner and Members), subchapter 1 is amended to read:

Subchapter 1. General Provisions

§ 1871. DEPARTMENT OF PUBLIC SAFETY; COMMISSIONER

(a) ~~The department of public safety~~ Department of Public Safety, created by 3 V.S.A. § 212, shall include a ~~commissioner of public safety~~ Commissioner of Public Safety.

(b) The head of the ~~department~~ Department shall be a ~~commissioner of public safety~~ the Commissioner of Public Safety, who shall be a citizen of the United States and shall be selected on the basis of training, experience and qualifications. The ~~commissioner~~ Commissioner shall be appointed by the ~~governor~~ Governor, with the advice and consent of the ~~senate~~, for a term of six years Senate.

* * *

(i) The ~~commissioner of public safety~~ Commissioner of Public Safety may enter into contractual arrangements to perform dispatching functions for ~~state~~ State, municipal, or other emergency services, establishing charges sufficient to recover the costs of dispatching. Dispatch positions ~~which~~ that are fully funded under such contracts may be authorized under the provisions of

32 V.S.A. § 5(b). The Commissioner shall adopt rules that set forth the rates for dispatch functions performed under this subsection.

(j) Charges collected under subsections (e), (f), and (i) of this section shall be credited to the Vermont ~~law telecommunications special fund~~ Law Telecommunications Special Fund and shall be available to the ~~department~~ Department to offset the costs of providing the services.

* * *

§ 1873. ~~REMOVAL OF COMMISSIONER~~

~~During his or her term of office, the governor may remove the commissioner upon charges preferred in writing and after hearing, which shall be a public hearing if the commissioner requests the same, upon the following grounds:~~

~~(1) Incompetency amounting to failure to perform his or her official duties competently;~~

~~(2) Misconduct in office which shall be construed to include:~~

~~(a) failure to be of good behavior;~~

~~(b) participation, directly or indirectly, in a political campaign, rally, caucus or other political gathering, other than to vote. [Repealed.]~~

* * *

§ 1875. RADIO COMMUNICATION SYSTEM

(a) ~~The commissioner~~ Commissioner shall establish a communication system as will best enable the ~~department~~ Department to carry out the purposes of this chapter. This shall include a radio set furnished, on written request, to the sheriff and ~~state's attorney~~ State's Attorney of each county on a memorandum receipt.

~~(b)(1)~~ (b)(1) ~~The commissioner~~ Commissioner may charge to all users of telecommunications services managed, maintained, or operated by the ~~department~~ Department for the benefit of the users a proportionate share of the actual cost of providing the services and products inclusive of administrative costs.

(2) Such charges shall be based on a pro rata allocation of the actual costs of services or products, determined in an equitable manner, which shall be representative of services provided to or system usage by individual units of government, including ~~state~~ State, local, and federal agencies or private nonprofit entities.

(3) Such charges shall be credited to the Vermont ~~communication system special fund~~ Law Telecommunications Special Fund and shall be available to the ~~department~~ Department to offset the costs of providing the services.

Sec. 17. DEPARTMENT OF PUBLIC SAFETY; DISPATCH RULES;
ADOPTION AND APPLICATION

The Department of Public Safety shall finally adopt the rules regarding dispatch rates required by 20 V.S.A. § 1871(i) set forth in Sec. 16 of this act on or before July 1, 2021, unless that deadline is extended by the Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 843(c). These rules shall provide a minimum of three years following final adoption before the dispatch rates set forth in the rules are imposed.

* * * Emergency Medical Services * * *

Sec. 18. 24 V.S.A. chapter 71 is amended to read:

CHAPTER 71. AMBULANCE SERVICES

Subchapter 1. Emergency Medical Services Districts

§ 2651. DEFINITIONS

As used in this chapter:

* * *

(14) ~~“State Board” means the State Board of Health. [Repealed.]~~

* * *

§ 2652. CREATION OF DISTRICTS

The ~~State Board~~ Department of Health may divide the State into emergency medical services districts, the number, size, and boundaries of which shall be determined by the ~~Board~~ Department in the interest of affording adequate and efficient emergency medical services throughout the State.

* * *

§ 2654. RECORDING DETERMINATION OF DISTRICTS

The ~~State Board~~ Department of Health shall cause to be recorded in the office of the Secretary of State a certificate containing its determination of emergency medical services districts.

* * *

§ 2656. DUTIES AND POWERS OF OFFICERS AND DIRECTORS

(a) The board of directors shall have full power to manage, control, and supervise the conduct of the district and to exercise in the name of the district all powers and functions belonging to the district, subject to such laws or ~~regulations~~ rules as may be applicable.

* * *

§ 2657. PURPOSES AND POWERS OF EMERGENCY MEDICAL SERVICES DISTRICTS

(a) It shall be the function of each emergency medical services district to foster and coordinate emergency medical services within the district, in the interest of affording adequate ambulance services within the district. Each emergency medical services district shall have powers that include the power to:

* * *

(6) monitor the provision of emergency medical services within the district and make recommendations to the ~~State Board~~ Department of Health regarding licensure, relicensure, and removal or suspension of licensure for ambulance vehicles, ambulance services, and first responder services;

* * *

(b) Two or more contiguous emergency medical services districts by a majority vote of the district board in each of the districts concerned may change the mutual boundaries of their emergency medical services districts. The district boards shall report all changes in district boundaries to the ~~State Board~~ Department of Health.

* * *

Subchapter 2. Licensing Operation of Affiliated Agencies

§ 2681. LICENSE REQUIRED; AMBULANCE LICENSE REQUIREMENT

(a) A person furnishing ambulance services or first responder services shall obtain a license to furnish services under this subchapter.

(b)(1) In order to obtain and maintain a license, an ambulance service shall be required to provide its services in a manner that does not discriminate on the basis of income, funding source, or severity of health needs, in order to ensure access to ambulance services within the licensee's service area.

(2) The Department of Health shall adopt rules in accordance with the provisions of subdivision (1) of this subsection.

§ 2682. POWERS OF ~~STATE BOARD~~ THE DEPARTMENT OF HEALTH

(a) The ~~State Board~~ Department of Health shall administer this subchapter and shall have power to:

* * *

§ 2683. TERM OF LICENSE

Full licenses shall be issued on forms to be prescribed by the ~~State Board~~ Department of Health for a period of three years beginning on January 1, or for the balance of any such three-year period. Temporary, conditional, or provisional licenses may also be issued by the ~~Board~~ Department.

* * *

Sec. 19. 18 V.S.A. § 9405 is amended to read:

§ 9405. STATE HEALTH IMPROVEMENT PLAN; HEALTH RESOURCE ALLOCATION PLAN

* * *

(b) The Green Mountain Care Board, in consultation with the Secretary of Human Services or designee, shall publish on its website the Health Resource Allocation Plan identifying Vermont's critical health needs, goods, services, and resources, which shall be used to inform the Board's regulatory processes, cost containment and statewide quality of care efforts, health care payment and delivery system reform initiatives, and any allocation of health resources within the State. The Plan shall identify Vermont residents' needs for health care services, programs, and facilities; the resources available and the additional resources that would be required to realistically meet those needs and to make access to those services, programs, and facilities affordable for consumers; and the priorities for addressing those needs on a statewide basis. The Board may expand the Plan to include resources, needs, and priorities related to the social determinants of health. The Plan shall be revised periodically, but not less frequently than once every four years.

(1) In developing the Plan, the Board shall:

(A) consider the principles in section 9371 of this title, as well as the purposes enumerated in sections 9401 and 9431 of this title;

(B) identify priorities using information from:

(i) the State Health Improvement Plan;

(ii) emergency medical services resources and needs identified by the EMS Advisory Committee in accordance with subsection 909(f) of this title;

(iii) the community health needs assessments required by section 9405a of this title;

~~(iii)~~(iv) available health care workforce information;

~~(iv)~~(v) materials provided to the Board through its other regulatory processes, including hospital budget review, oversight of accountable care organizations, issuance and denial of certificates of need, and health insurance rate review; and

~~(v)~~(vi) the public input process set forth in this section;

(C) use existing data sources to identify and analyze the gaps between the supply of health resources and the health needs of Vermont residents and to identify utilization trends to determine areas of underutilization and overutilization; and

(D) consider the cost impacts of fulfilling any gaps between the supply of health resources and the health needs of Vermont residents.

* * *

Sec. 20. 18 V.S.A. chapter 17 is amended to read:

CHAPTER 17. EMERGENCY MEDICAL SERVICES

* * *

§ 903. AUTHORIZATION FOR PROVISION OF EMERGENCY MEDICAL SERVICES

Notwithstanding any other provision of law, including provisions of 26 V.S.A. chapter 23, persons who are affiliated with an affiliated agency and licensed to provide emergency medical treatment pursuant to the requirements of this chapter and the rules adopted under it are hereby authorized to provide such care without further certification, registration, or licensing.

* * *

§ 904. ADMINISTRATIVE PROVISIONS

(a) In order to carry out the purposes and responsibilities of this chapter, the Department of Health may contract for the provision of specific services.

(b) The Secretary of Human Services, upon the recommendation of the Commissioner of Health, may ~~issue~~ adopt rules to carry out the purposes and responsibilities of this chapter.

* * *

§ 906. EMERGENCY MEDICAL SERVICES DIVISION;
RESPONSIBILITIES

To implement the policy of section 901 of this chapter, the Department of Health shall be responsible for:

(1) Developing and implementing minimum standards for training emergency medical personnel in basic life support and advanced life support, and licensing emergency medical personnel according to their level of training and competence. The Department shall establish by rule at least three levels of emergency medical personnel instructors and the education required for each level.

* * *

(7) Assisting hospitals in the development of programs ~~which that~~ will improve the quality of in-hospital services for persons requiring emergency medical care treatment.

* * *

(9) Establishing requirements for the collection of data by emergency medical personnel and hospitals as may be necessary to evaluate emergency medical care treatment.

(10) Establishing, by rule, license levels for emergency medical personnel. The Commissioner shall use the guidelines established by the National Highway Traffic Safety Administration (NHTSA) in the U.S. Department of Transportation as a standard or other comparable standards, except that a felony conviction shall not necessarily disqualify an applicant. The rules shall also provide that:

* * *

(B) An individual licensed by the Commissioner as an emergency medical technician, advanced emergency medical technician, or a paramedic, who is affiliated with an affiliated agency, shall be able to practice fully within the scope of practice for such level of licensure as defined by NHTSA's National EMS Scope of Practice Model consistent with the license level of the affiliated agency, and subject to the medical direction of the emergency medical services district medical advisor.

(C)(i) Unless otherwise provided under this section, an individual seeking any level of licensure shall be required to pass an examination approved by the Commissioner for that level of licensure, except that any psychomotor skills testing for emergency medical responder, or emergency medical technician licensure shall be accomplished either by the demonstration of those skills competencies as part of the education required for that license

level as approved by the Department or by the National Registry of Emergency Medical Technicians' psychomotor examination.

(ii) Written and practical examinations shall not be required for relicensure; however, to maintain licensure, all individuals shall complete a specified number of hours of continuing education as established by rule by the Commissioner. The Commissioner shall ensure that continuing education classes are available online and provided on a regional basis to accommodate the needs of volunteers and part-time individuals, including those in rural areas of the State.

* * *

(E) An applicant who has served as a hospital corpsman or a medic in the U.S. Armed Forces, or who is licensed as a registered nurse or a physician assistant shall be granted a permanent waiver of the training requirements to become a licensed emergency medical technician, an advanced emergency medical technician, or a paramedic, provided the applicant passes the applicable examination approved by the Commissioner for that level of licensure and is affiliated with an affiliated agency.

(F) An applicant who is registered on the National Registry of Emergency Medical Technicians as an emergency medical technician, an advanced emergency medical technician, or a paramedic shall be granted licensure as a Vermont emergency medical technician, an advanced emergency medical technician, or a paramedic without the need for further testing, provided he or she is affiliated with an affiliated agency or is serving as a medic with the Vermont National Guard.

* * *

(11) In addition to the licenses established under subdivision (10) of this section, the Department shall establish by rule an entry-level certification for Vermont EMS first responders.

* * *

§ 906b. ~~TRANSITIONAL PROVISION; CERTIFICATION TO LICENSURE~~

~~Every person certified as an emergency medical provider shall have his or her certification converted to the comparable level of licensure. Until such time as the Department of Health issues licenses in lieu of certificates, each certified emergency medical provider shall have the right to practice in accordance with his or her level of certification. [Repealed.]~~

* * *

§ 906d. RENEWAL REQUIREMENTS; SUNSET REVIEW

(a) Not less than once every five years, the Department shall review emergency medical personnel continuing education and other continuing competency requirements. The review results shall be in writing and address the following:

(1) the renewal requirements of the profession;

(2) the renewal requirements in other jurisdictions, particularly in the Northeast region;

(3) the cost of the renewal requirements for emergency medical personnel; and

(4) an analysis of the utility and effectiveness of the renewal requirements with respect to public protection.

(2) The Department shall amend its rules or propose any necessary statutory amendments to revise any emergency medical personnel continuing education and other continuing competency requirements that are not necessary for the protection of the public health, safety, or welfare.

* * *

§ 909. EMS ADVISORY COMMITTEE; EMS EDUCATION COUNCIL

(a) The Commissioner shall establish the Emergency Medical Services Advisory Committee to advise on matters relating to the delivery of emergency medical services (EMS) in Vermont.

* * *

(e) Annually, on or before January 1, the Committee shall report on the EMS system to the House Committees on Government Operations, on Commerce and Economic Development, and on Human Services and to the Senate Committees on Government Operations, on Economic Development, Housing and General Affairs, and on Health and Welfare. The Committee's reports shall include information on the following:

* * *

(6) the nature and costs of dispatch services for EMS providers throughout the State, including the annual number of mutual aid calls to an emergency medical service area that come from outside that area, and suggestions for improvement;

* * *

(f) In addition to its report set forth in subsection (e) of this section, the Committee shall identify EMS resources and needs in each EMS district and

provide that information to the Green Mountain Care Board to inform the Board's periodic revisions to the Health Resource Allocation Plan developed pursuant to subsection 9405(b) of this title.

(g) The Committee shall establish from among its members the EMS Education Council, which may:

(1) sponsor training and education programs required for emergency medical personnel licensure in accordance with the Department of Health's required standards for that training and education; and

(2) provide advice to the Department of Health regarding the standards for emergency medical personnel licensure and any recommendations for changes to those standards.

Sec. 21. 32 V.S.A. § 8557 is amended to read:

§ 8557. VERMONT FIRE SERVICE TRAINING COUNCIL

(a)(1) Sums for the expenses of the operation of training facilities and curriculum of the Vermont Fire Service Training Council not to exceed \$1,200,000.00 per year shall be paid to the Fire Safety Special Fund created by 20 V.S.A. § 3157 by insurance companies, writing fire, homeowners multiple peril, allied lines, farm owners multiple peril, commercial multiple peril (fire and allied lines), private passenger and commercial auto, and inland marine policies on property and persons situated within the State of Vermont within 30 days after notice from the Commissioner of Financial Regulation of such estimated expenses. Captive companies shall be excluded from the effect of this section.

* * *

(4) An amount not less than \$150,000.00 shall be specifically allocated to the Emergency Medical Services Special Fund established under 18 V.S.A. § 908 for the provision of training programs for certified Vermont EMS first responders and licensed emergency medical responders, emergency medical technicians, advanced emergency medical technicians, and paramedics.

* * *

Sec. 22. TRANSITIONAL EMS PROVISIONS

(a) Rules. Except as otherwise provided in this act, on or before July 1, 2021, the Department of Health shall finally adopt or amend the rules required by this act, unless that deadline is extended by the Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 843(c).

(b) Ambulance service licenses. The requirements for initial ambulance service licensure and renewal set forth in 24 V.S.A. § 2681(b) in Sec. 18 of

this act shall apply to initial ambulance service license and renewal applicants on and after July 1, 2021 or on and after the effective date of the Department of Health rules adopted pursuant to that section and subsection (a) of this section, whichever date is later.

(c) Existing EMS Instructor/Coordinator licensees. Any person who is licensed as an EMS Instructor/Coordinator under the Department of Health's Emergency Medical Service Rules in effect immediately prior to the effective date of the rules establishing the new levels of instructor licenses as required by 18 V.S.A. § 906(1) in Sec. 20 of this act shall be deemed to be licensed at the level that is consistent with the scope of practice of the new license levels.

(d) Development of Vermont EMS First Responder certification. The Department of Health shall consult with the EMS Advisory Committee, the University of Vermont's Initiative for Rural Emergency Medical Services, and any other relevant stakeholders in developing the new Vermont EMS First Responder certification required by 18 V.S.A. § 906(11) in Sec. 20 of this act so that certification is established on or before July 1, 2021.

(e) Sunset review of renewal requirements. Pursuant to 18 V.S.A. § 906d (renewal requirements; sunset review) set forth in Sec. 20 this act, the Department of Health shall conduct its first sunset review in conjunction with its rulemaking required by this act and thereafter propose any necessary statutory amendments in accordance with that section.

* * * Public Safety Planning * * *

Sec. 23. 20 V.S.A. § 6 is amended to read:

§ 6. LOCAL ORGANIZATION FOR EMERGENCY MANAGEMENT;
TOWN AND CITY PUBLIC SAFETY PLANS

(a) Each town and city of this ~~state~~ State is hereby authorized and directed to establish a local organization for emergency management in accordance with the ~~state emergency management plan~~ State Emergency Management Plan and program.

(1)(A) Except in a town that has a town manager in accordance with ~~chapter 37 of Title 24~~ V.S.A. chapter 37, the executive officer or legislative branch of the town or city is authorized to appoint a town or city emergency management director who shall have direct responsibility for the organization, administration, and coordination of the local organization for emergency management, subject to the direction and control of the executive officer or legislative branch.

(B) If the town or city that has not adopted the town manager form of government and the executive officer or legislative branch of the town or city

has not appointed an emergency management director, the executive officer or legislative branch shall be the town or city emergency management director.

(2) The town or city emergency management director may appoint an emergency management coordinator and other staff as necessary to accomplish the purposes of this chapter.

(b) Except as provided in subsection (d) of this section, each local organization for emergency management shall perform emergency management functions within the territorial limits of the town or city within which it is organized, and, in addition, shall conduct such functions outside of the territorial limits as may be required pursuant to the provisions of this chapter and in ~~accord~~ accordance with such regulations as the ~~governor~~ Governor may prescribe.

(c) Each local organization shall participate in the development of an all-hazards plan with the local emergency planning committee and the public safety district.

(d)(1) Each local organization shall annually notify the local emergency planning committee on forms provided by the ~~state emergency response commission~~ State Emergency Response Commission of its capacity to perform emergency functions in response to an all-hazards incident.

(2) Each local organization shall perform the emergency functions indicated on the most recently submitted form in response to an all-hazards incident.

(e) Each town and city legislative body shall adopt a public safety plan in accordance with this subsection that describes how the town or city will address the regular law enforcement, fire, emergency medical service, and dispatch resources, needs, scarcities, costs, and problems within the municipality unrelated to an all-hazards incident, which may include partnering with one or more other municipalities or entities to address those issues.

(1) Concurrently with its annual notification required under subsection (d) of this section, each local organization shall analyze the law enforcement, fire, emergency medical service, and dispatch resources, needs, scarcities, costs, and problems within the municipality and report that information to its legislative body.

(2) After receipt of that information, the legislative body:

(A) shall solicit and accept public comment on the current public safety plan;

(B) may consult with the municipal and regional planning commission, neighboring local organizations, and any other relevant law enforcement, fire, and emergency medical service entities in order to determine how those services may be provided and shared on a regional basis;

(C) shall propose any revisions to the current public safety plan that the legislative body deems necessary, and in that case, shall provide public notice of those proposed revisions and hold at least one public hearing on those proposed revisions not less than 30 days after the public notice of them; and

(D) shall finally adopt any revisions to the current public safety plan.

Sec. 24. TRANSITIONAL PROVISION; INITIAL PUBLIC SAFETY PLAN

Each town and city shall undertake the process to adopt a public safety plan as set forth in Sec. 23 of this act so that every town and city has adopted such a plan on or before July 1, 2023.

Sec. 25. AGENCY OF COMMERCE AND COMMUNITY DEVELOPMENT; REGIONAL PLANNING COMMISSIONS; PUBLIC SAFETY PLANNING GRANTS

(a) Appropriation. The sum of \$100,000.00 is appropriated to the Agency of Commerce and Community Development in fiscal year 2021 for three public safety planning grants described in subsection (b) of this section. The Agency shall award the grants in accordance with its procedure established under the Vermont Community Development Act.

(b) Public safety planning grants.

(1) Public safety planning grants are created for the purpose of fostering regional public safety planning.

(2) A regional organization, such as a regional planning commission, union municipal district, joint survey committee, or other qualified organization may apply to the Agency for a public safety planning grant for the purpose of planning the integration, consolidation, or regionalization of public safety functions within the organization's jurisdiction. A grant shall be for a maximum of three years and shall not exceed \$35,000.00, and shall be provided to grantees in different geographic regions of the State.

(3) A grantee shall be required to report annually on or before January 15 to the Senate and House Committees on Government Operations and on Appropriations regarding its planning process and expected result. Each report shall specifically provide data on and analyze the potential costs and savings of regional consolidation of public safety functions.

(4) As used in this section:

(A)(i) “Planning” means hiring personnel or contracting for services to determine the feasibility of or to establish the procedure to implement, or both, the integration, consolidation, or regionalization of public safety functions.

(ii) “Planning” does not mean implementing such integration, consolidation, or regionalization.

(B) “Public safety functions” means fire, police, emergency medical services, and dispatching services.

* * * Effective Dates * * *

Sec. 26. EFFECTIVE DATES

This act shall take effect on July 1, 2020

And that after passage the title of the bill be amended to read:

An act relating to governmental structures protecting the public health, safety, and welfare.

And that when so amended the bill ought to pass.

Senator Westman, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill be amended by striking out Sec. 25 (Agency of Commerce of Community Development; regional planning commissions; public safety planning grants) in its entirety and inserting in lieu thereof the following:

Sec. 25. [Deleted.]

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment of the Committee on Government Operations was amended as recommended by the Committee on Appropriations.

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Government Operations, as amended?, was decided in the affirmative.

Thereupon, third reading of the bill was ordered.

Adjournment

On motion of Senator Ashe, the Senate adjourned until nine o'clock and thirty minutes in the forenoon on Tuesday, June 23, 2020.