

No. 56. An act relating to the professional regulation of law enforcement officers by the Vermont Criminal Justice Training Council.

(H.22)

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

* * * Vermont Criminal Justice Training Council * * *

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

CHAPTER 151. VERMONT CRIMINAL JUSTICE TRAINING COUNCIL

Subchapter 1. General Provisions

§ 2351. CREATION AND PURPOSE OF COUNCIL

(a) In order to promote and protect the health, safety, and welfare of the public, it is in the public interest to provide for the creation of the Vermont Criminal Justice Training 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 ~~recruit~~ recruitment and in-service training for law enforcement officers; ~~including members of the Department of Public Safety, Capitol Police officers, municipal police officers, constables, correctional officers, prosecuting personnel, motor vehicle inspectors, State investigators employed on a full-time basis by the Attorney General, fish and game wardens, sheriffs and their deputies who exercise law enforcement powers pursuant to the provisions of 24 V.S.A. §§ 307 and 311, railroad police commissioned pursuant to 5 V.S.A.~~

~~chapter 68, subchapter 8, and police officers appointed to the University of Vermont's Department of Police Services.~~

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

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

§ 2351a. DEFINITIONS

As used in this chapter:

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

(2) "Law enforcement agency" means the employer of a law enforcement officer.

(3) "Law enforcement officer" means a member of the Department of Public Safety who exercises law enforcement powers; a member of the State Police; a Capitol Police officer; a municipal police officer; a constable who exercises law enforcement powers; a motor vehicle inspector; an employee of the Department of Liquor Control who exercises law enforcement powers; an investigator employed by the Secretary of State; a Board of Medical Practice investigator employed by the Department of Health; an investigator employed by the Attorney General or a State's Attorney; a fish and game warden; a sheriff; a deputy sheriff who exercises law enforcement powers; a railroad

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

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

§ 2352. ~~CREATION OF 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;

(B) the Attorney General;

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

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

(E) five additional members ~~so as to~~ 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.

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

* * *

§ 2354. COUNCIL MEETINGS

(a) The ~~council~~ Council shall meet at least once in each quarter of each year. Special meetings may be called by the ~~chairman~~ Chair or upon the written request of six members of the ~~council~~ Council.

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

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

(2) A person so designated shall have the same voting rights and responsibilities as the ~~ex-officio~~ member at such meeting or meetings ~~except,~~

but that ~~the~~ designee shall not automatically assume the member's place as an officer of the ~~board~~ Council.

§ 2355. COUNCIL POWERS AND DUTIES

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

* * *

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

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

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

(b) The Council shall conduct and administer training schools and offer courses of instruction for law enforcement officers and other criminal justice personnel. The Council may also offer the basic officer's course for pre-service students and educational outreach courses for the public, including firearms safety and use of force.

* * *

(f) The Council shall charge participants or employers of participants in law enforcement training programs as follows:

* * *

(2) The tuition fees for training not required under section 2358 of this chapter shall be set to reflect the actual costs for operation of the particular programs offered, with an additional \$30.00 entrance exam fee assessed on all training, except educational outreach courses for the public.

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§ 2358. MINIMUM TRAINING STANDARDS; DEFINITIONS

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

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

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

(3) [Repealed.]

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§ 2362. REPORTS

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

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

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

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

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

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

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

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

§ 2362a. POTENTIAL HIRING AGENCY; DUTY TO CONTACT

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 last law enforcement agency employer to disclose the reason that officer is no longer employed by that agency; and

(B) contact that former agency to determine that reason 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 former agency is a law enforcement agency in this State, the executive officer of that former agency or designee shall disclose to the potential hiring agency in writing the reason the officer is no longer employed by the former agency.

(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 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.

* * *

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:

(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 offense;

(D) biased enforcement; or

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

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

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

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

(C) falsification of Council documents;

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) An investigation shall not be valid if:

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

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

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

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

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

§ 2402. 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 an effective internal affairs program model policy that may be used by law enforcement agencies to meet the requirements of this section.

§ 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 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.

§ 2404. INVESTIGATIONS

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

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

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

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

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

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

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

§ 2405. COUNCIL SANCTION PROCEDURE

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

§ 2406. PERMITTED COUNCIL SANCTIONS

(a) Generally. The Council may impose any of the following sanctions on a law enforcement officer's certification upon its finding that a law enforcement officer committed unprofessional conduct:

(1) written warning;

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

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

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

(4) permanent revocation.

(b) Intended revocation; temporary voluntary surrender.

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

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

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

(2) If an officer fails to voluntarily surrender his or her certification in accordance with subdivision (1) of this subsection, the Council's original findings and decision shall take effect.

§ 2407. LIMITATION ON COUNCIL SANCTIONS; FIRST OFFENSE OF

CATEGORY B CONDUCT

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

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

§ 2408. INVALID INVESTIGATIONS

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

§ 2409. ACCESSIBILITY AND CONFIDENTIALITY

(a) It is the purpose of this section both to protect the reputation of law enforcement officers from public disclosure of unwarranted complaints against them and to fulfill the public's right to know of any action taken against a law

enforcement officer when that action is based on a determination of unprofessional conduct.

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

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

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

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

(B) a summary of the completed investigation; and

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

(A) the name and business addresses of the law enforcement officer;

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

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

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

(E) any stipulation filed with the Council; and

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

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

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

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

§ 2410. COUNCIL ADVISORY COMMITTEE

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

(1) The Committee shall specifically advise and assist the Council in developing procedures to ensure that allegations of unprofessional conduct by

law enforcement officers are investigated fully and fairly, and to ensure that appropriate action is taken in regard to those allegations.

(2) The Committee shall be advisory only and shall not have any decision-making authority.

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

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

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

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

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

§ 2411. COUNCIL RULES

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

Sec. 2. TRANSITIONAL PROVISIONS TO IMPLEMENT THIS ACT

(a) Effective internal affairs programs.

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

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

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

(c) Duty to disclose. The requirement for a former law enforcement agency to disclose the reason that a law enforcement officer is no longer employed by the agency as set forth in 20 V.S.A. § 2362a in Sec. 1 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.

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

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

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

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

* * * Vermont State Police * * *

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

§ 1812. DEFINITIONS

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

- (1) ~~“Commissioner;” means the commissioner of public safety;~~
Commissioner of Public Safety.
- (2) ~~“Department;” means the department of public safety; Department of~~
Public Safety.
- (3) ~~“Employee;” an employee assigned to a position other than that of~~
~~state police; means a person employed by the Department.~~
- (4) ~~“Member;” any employee of the department; means a sworn~~
employee assigned to the State Police.
- (5) ~~“State police, Police” an employee assigned to police duties and~~
means the sworn law enforcement officers who are employees of the
Department.

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

§ 1922. CREATION OF STATE POLICE ADVISORY COMMISSION;

MEMBERS; DUTIES

- (a) There is hereby created the ~~state police advisory commission~~ State
Police Advisory Commission, which shall provide advice and counsel to the

~~commissioner~~ Commissioner in carrying out his or her responsibilities for the management, supervision, and control of the Vermont ~~state police~~ State Police.

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

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

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

(e) To ensure that ~~state police~~ State Police officers are subject to fair and known practices, the ~~commission~~ Commission shall advise the ~~commissioner~~ Commissioner with respect to and review rules concerning promotion, grievances, transfers, internal investigations, and discipline.

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

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

§ 1923. INTERNAL INVESTIGATION

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

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

(b)(1) The ~~commissioner~~ Commissioner shall establish ~~an office of internal investigation~~ the Office of Internal Investigation within the ~~department~~ Department, which ~~office~~ shall investigate, or cause to be investigated, all allegations of misconduct by members of the ~~department~~ Department, except complaints lodged against members of the ~~internal investigation office~~ Office, which ~~complaints~~ shall be separately and independently investigated by officers designated for each instance by the ~~commissioner~~ Commissioner, with the approval of the ~~state police advisory commission~~ State Police Advisory Commission.

(2) The head of the ~~internal affairs unit~~ Office shall report all allegations and his or her findings as to such allegations to the ~~commissioner~~ Commissioner. The head of the ~~internal affairs unit~~ Office also shall

immediately report all allegations to the ~~state's attorney~~ State's Attorney of the county in which the incident took place, ~~to the attorney general~~ Attorney General, and ~~to the governor~~ Governor, unless the head of the ~~unit~~ Office makes a determination that the allegations do not include a violation of a criminal statute. The head of the ~~internal affairs unit~~ Office shall also report the disposition of all cases so reported to the ~~state's attorney~~ State's Attorney, ~~attorney general~~ Attorney General, and ~~governor~~ Governor.

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

(2) Failure of any member of the ~~department~~ Department to report to the ~~office of internal investigation~~ Office an allegation of misconduct known to ~~such~~ the member, shall be grounds for disciplinary action by the ~~commissioner~~ Commissioner, including dismissal.

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

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

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

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

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

* * * Effective Dates * * *

Sec. 6. EFFECTIVE DATES

This act shall take effect on July 1, 2018, except:

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

(2) the following shall take effect on July 1, 2017:

(A) in Sec. 1, 20 V.S.A. chapter 151 (Vermont Criminal Justice Training Council):

(i) § 2351 (creation and purpose of Council);

(ii) § 2351a (definitions);

(iii) § 2352 (Council membership);

(iv) § 2354 (Council meetings);

(v) § 2355 (Council powers and duties), except that subsection (a) shall take effect on July 1, 2018;

(vi) § 2358 (minimum training standards; definitions); and

(vii) § 2362a (potential hiring agency; duty to contact former agency);

(B) Sec. 3, 20 V.S.A. § 1812 (definitions); and

(C) Sec. 4, 20 V.S.A. § 1922 (creation of State Police Advisory Commission; members; duties).

Date Governor signed bill: June 5, 2017