

BAW; last updated 6/22/20

Overview of the Training, Certification, and Professional Regulation of Law Enforcement Officers

This document summarizes the training, certification, and professional regulation of law enforcement officers, which are issues the Senate Committee on Government Operations has been discussing for [S.124](#). See [the Committee’s law enforcement documents webpage](#). See esp. [the Committee’s outline of potential amendments](#). This document **highlights** specific issues relating to the Committee’s potential amendments.

I. Vermont Criminal Justice Training Council

A. Purpose

The Vermont Criminal Justice Council was created to “encourage and assist [Vermont governmental entities] in their efforts to improve the quality of law enforcement and citizen protection by maintaining a uniform standard of [recruit]¹ and in-service training for law enforcement officers.”²

The Council has two main functions:

- (1) **Training and Certification.** Establishing the training requirements and providing training to law enforcement officers (LEOs) so that they can become certified and maintain that certification, which authorizes them to practice as an LEO.
- (2) **Professional regulation.** Professionally regulating LEOs in accordance with standards of practice for the profession.

B. Membership

Via [20 V.S.A. § 2352](#), the Council is currently comprised of five *ex officio*s, two law enforcement appointees, and five gubernatorial appointees who are to broadly represent all aspects of law enforcement and the public.³

¹ Statute currently mistakenly uses “recruitment,” which is not correct; it was mistakenly changed from “recruit” in a prior act. [SGO’s S.124](#) in Sec. 1 would correct this.

² [20 V.S.A. § 2351\(a\)](#).

³ SGO’s S.124 would revise this membership.

II. Certification

A. Generally

[20 V.S.A. § 2351a](#) requires a person to be employed by a law enforcement agency in order to be a certified law enforcement officer. There are three levels of certification via [20 V.S.A. § 2358\(b\)](#):

- *Level I*, which is limited to security, transport, vehicle escorts, and traffic control. These officers may react in specified emergency situations, but must call upon an officer certified to respond and assume authority over the incident.
- *Level II*, which is limited to specified crimes. These officers may also practice in additional areas approved by the Council if they obtain special training or certification. These officers may also react in specified emergency situations, but if not within the officer's scope of practice, s/he must call upon an officer certified to respond and assume authority over the incident.
- *Level III*, which is full law enforcement authority.

B. State Good Standing Requirements for Any Regulated Professional

The State requires any person who is required to obtain a license, certification, or registration in order to practice a profession—which would include any person who wants to become a certified LEO—to sign a statement that the person is in good standing in regard to the following obligations, or else the authorization to practice the profession is prohibited from being initially issued or renewed:

1. **Unpaid judgments** issued by the Judicial Bureau or Criminal Division of the Superior Court for fines or penalties for a violation or criminal offense, [4 V.S.A. § 1110](#).
2. **Restitution orders**, [13 V.S.A. § 7043a](#).
3. **Child support**, [15 V.S.A. § 795](#).
4. **Taxes**, [32 V.S.A. § 3113](#), under penalties of perjury, with requirement to revoke or suspend the authority to practice the profession if not in compliance. Under subsec. (i) of this section, agencies of the State are also prohibited from hiring a person unless the person signs this declaration under the pains and penalties of perjury.

Potential SGO Q: Are recruits and certified LEOs required to answer these questions in order to become and remain certified?

C. Training Requirements

1. Overview

Law enforcement officer recruits obtain their initial certification through “basic training,” and once certified, an LEO is required to obtain “annual in-service training” to remain certified.

The Council is required to establish by rule basic and annual in-service training for LEOs in each of the three levels of certification, and is required to offer or approve that training. [20 V.S.A. § 2358\(a\) and \(b\)](#); [20 V.S.A. § 2355\(a\) and \(b\)](#). [20 V.S.A. § 2361\(b\)](#) allows agencies to seek certification from the Council for any in-service training they provide.

Statute controls some of the training that must be included in basic training and annual in-service training.

What follows is a summary of training requirements required by statute and by the Council.

2. Basic Training Requirements

Statute. Statute requires the following training as part of basic training in order to become certified:

- ***Anti-bias and fair and impartial policing policy*** [hours not specified], [20 V.S.A. § 2358\(e\)\(1\)](#).
- ***Search and rescue*** [hours not specified], approved by the Council and the Vermont Search and Rescue Council, [20 V.S.A. § 2365a](#).
- ***Animal cruelty response for Level II and III LEOs***, two hours on animal cruelty investigations, approved by the Council and the Animal Cruelty Investigation Advisory Board, [20 V.S.A. § 2365b](#).

Council requirements; Level I or II. Via [the Council’s Level II Basic Training webpage](#):

Recruits must complete a three-phase process:

1. *Phase one.* Minimum 80-hour academy.
2. *Phase two.* Minimum 50 hours of additional training in required and elective courses.

3. *Phase three.* 60 hours of field training with a Field Training Officer.

Council requirements; Level III. Via [the Council's Level III Basic Training webpage](#):

- Recruits must complete a comprehensive 16-week residential Basic Training Academy.
 - If they have no previous training, they also attend approximately three weeks of post-basic classes.
 - Individual agencies may also have a pre- or post-basic training program, or both.
- Classes run Monday-Friday, and during the week students are required to remain at the Academy.
- The Council's 16-week course consists of police discipline and academics. Curriculum includes criminal law, defensive tactics, conflict management/crisis intervention, community policing, investigative procedures, motor vehicle law, patrol procedures, and more.
- Athletics and physical training are mandatory.

VSP-specific basic training. [20 V.S.A. § 2364](#) provides that basic training programs for Vermont State Police officers – including curriculum, location, duration, and instructors and other personnel – shall be developed by the Commissioner of Public Safety and submitted to the Council for approval.

3. Annual In-Service Training Requirements

Statute. Statute requires the following:

- ***Anti-bias and fair and impartial policing policy*** refresher course every odd-numbered year [hours not specified], [20 V.S.A. § 2358\(e\)\(3\)](#).
 - [All LEOs had to receive at least four hours of this training by 12/31/18.]
- ***Domestic violence training*** required every other year in a program approved by the Council, [20 V.S.A. § 2365](#).
 - The Police Academy is required to employ a domestic violence trainer for the sole purpose of training on domestic violence issues. Funding for this position is transferred by the Center for Crime Victim Services from the Domestic and Sexual Violence Special Fund.

- [All LEOs had to receive at least eight hours of this training by 2011 in a program approved by the Council and Vt. Network Against Domestic and Sexual Violence.]

Council requirements; Levels I, II, and III. Via [the Council's Level I and II training webpage](#) and [the Council's Certification and Training Program webpage](#) Level I, II, and III certified officers must obtain a *minimum of 30 hours of training each year*, which includes firearms re-qualification and first aid training (unless currently certified), and the statutorily-required domestic violence training every other year.

4. *Mental Health and Electronic Control Device Training*

[20 V.S.A. § 2367](#) is in regard to electronic control device (taser) use policies and training, and mental health training. Specifically:

- **LEAB develops taser policy and training.** Subsec. (b) required the LEAB to develop a statewide policy on the use and training requirements for using tasers, *and required each agency to adopt this policy prior to any use or intent to use a taser.* This subsec. describes the required taser policy provisions.
- **Council coordinates taser training.** Subsec. (c) required the Council to adopt rules and develop training to meet this requirement.
 - *The Council is required to ensure that an LEO receives appropriate and sufficient training before being authorized to carry or use a taser.*
 - Subsec. (e) requires the Council to coordinate training initiatives with DMH re: law enforcement interventions, training for joint law enforcement and mental health crisis teams responses, and enhanced capacity for mental health emergency responses.
- **AG mental health training.** By 6/30/17, subsec. (d) required all LEOs to receive the Attorney General's training program described in [2004, Act No. 80](#), Sec. 13(a) to assist LEOs in their interactions with people exhibiting a mental health condition. The AG was required to consult with the Coalition for Disability Rights and other organizations in designing and implementing this training program.
- **Reporting on taser use.** Subsec. (f) requires each agency to report to the Council any incident involving the use of a taser.

III. Professional Regulation

A. Pre-2017, Act No. 56

[2017, Act No. 56](#) significantly revised the State’s professional regulation of law enforcement officers (LEOs). Prior to Act 56 – the unprofessional conduct provisions of which became effective on July 1, 2018 – the Vermont Criminal Justice Training Council could only decertify an LEO, and decertification was only possible if an LEO was convicted of a felony or did not comply with annual in-service training.⁴ These were the only bases for the State to take action against an LEO’s certification.

B. Current Law

2017, Act No. 56 added the statewide unprofessional conduct standards applicable to all LEOs that are now in current law. These provisions are now set forth in [20 V.S.A. chapter 151, subchapter 2](#) (Vermont Criminal Justice Training Council; unprofessional conduct).

To summarize, this subchapter defines LEO unprofessional conduct; requires a law enforcement agency to investigate allegations of LEO unprofessional conduct and report its findings to the Council; and permits the Council to impose a range of sanctions on an LEO’s certification.⁵ The following provides further details of these provisions.

Unprofessional conduct. Unprofessional conduct is separated into three categories, as defined in [20 V.S.A. § 2401\(1\)-\(3\)](#):

- *Category A* is re: crimes. It’s defined as any felony; a “misdemeanor that is committed while on duty and did not involve legitimate performance of duty,” and a specified list of misdemeanors if committed off-duty that includes domestic assault, DUI second offense, distributing a regulated substance, and possession of a regulated substance, second offense.
- *Category B* 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

⁴ See 2017, Act No. 56, former 20 V.S.A. § 2355(a)(11) and (12).

⁵ The Council is currently structured as a 12-member board of appointees. See [20 V.S.A. § 2352](#).

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” and includes a list of examples⁶ that includes misuse of official position for personal or economic gain, excessive use of force second offense,⁷ and biased enforcement.

- *Category C* relates to Council processes, and includes falsifying Council documents and intentional failure to conduct a valid investigation.

Investigations. Via [20 V.S.A. § 2404](#):

- Each law enforcement agency is required to conduct a “valid investigation” of any complaint alleging one of its LEOs committed Category A or B conduct, except that a law enforcement agency is required to refer to the Council any complaint made against the agency’s executive officer.
- If the Council receives a complaint, the Council refers it to the LEO’s agency (unless it’s re: the executive officer).
- The Council investigates allegations of Category C conduct.
- [20 V.S.A. § 2401\(6\)](#) defines “valid investigation.”

Effective internal affairs program. Via [20 V.S.A. § 2402](#), each agency must adopt an effective internal affairs program. 20 V.S.A. § 2401(4) defines this to include:

- Accepting complaints from any source
- Assigning an investigator to investigate whether an LEO violated agency rule or policy or State or federal law
- Policies re: a code of conduct and range of discipline
- Fairness in discipline
- **Civilian review**

⁶ [SGO’s S.124](#) would clarify that the current list shall constitute Category B, rather than the list being one of examples.

⁷ SGO’s S.124 would change this to excessive use of force, *first offense*.

Reporting to Council.

- Via [20 V.S.A. § 2403](#), each agency is required to report to the Council:
 - *Category A.* A finding of probable cause or decisions, findings of fact, or verdicts re: Category A.
 - *Category B.*
 - The agency receives a complaint “if deemed credible by the executive officer of the agency as a result of a valid investigation” that alleged an LEO committed Category B.⁸
 - The agency receives or issues a report the LEO committed Category B.
 - The agency receives or issues a decision or findings re: allegations the LEO committed Category B.
 - *Termination.* The agency terminates the LEO for Category A or B.
 - *Resignation.* The LEO resigns while under investigation for unprofessional conduct.
- The agency or chair of civilian review board provides along with the report any relevant documents associated with it, including any findings, decision, and the agency’s investigative report.

Council process for reviewing alleged unprofessional conduct; charges. *Potential SGO Qs:*

- What is the Council’s process for reviewing an agency’s required reports re: complaints of unprofessional conduct?
- What is the process for recommending whether an LEO should be charged with unprofessional conduct?

Council sanctions.

- Council conducts proceedings in accordance with VAPA, including summary suspension authority. [20 V.S.A. § 2405](#).
- Council may warn, suspend, or revoke an LEO’s certification. [20 V.S.A. § 2406](#).
- **Council is prohibited from sanctioning an LEO for a first offense of Category B.** [20 V.S.A. § 2407](#).

⁸ SGO’s S.124 would change this to a report if the agency “receives a credible complaint” alleging the LEO committed Category B.

Accessibility and confidentiality. [20 V.S.A. § 2409](#) requires the Council to maintain a public register of all complaints, but an LEO's identifying info is only made public once charges or a stipulation is filed.

- [Here is a link](#) to the Council's register.
 - As of 6/22/20, there are no complaints on [the register](#) that have risen to the level of charges or stipulation.
 - As of 6/22/20, there are 12 complaints on [the register](#) that do not identify the LEO. All of these cases have been closed without charges or sanctions.
 - All of them appear to relate to alleged Category B conduct.
 - At least eight complaints are indicated as substantiated.
 - In at least five of these, the officer resigned.
 - In at least two of these, the officer was terminated.
 - **Potential SGO Q:** How many of these relate to Category B conduct first offenses that the Council is prohibited from taking action on via [20 V.S.A. § 2407](#), and should there be exceptions to this prohibition, such as for conduct that should warrant suspension or revocation?

Council Advisory Committee. [20 V.S.A. § 2410](#) establishes the CAC to provide advice to the Council re: its professional regulation duties, and specifically to “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.”

- It is to be comprised of five gubernatorial appointees: four public members without an LEO connection and one retired LEO.
- **Potential SGO Q:** How is CAC used in practice? For ex., does it review reported allegations of unprofessional conduct?