

1 H.298

2 Introduced by Representatives White of Hartford and Christie of Hartford

3 Referred to Committee on

4 Date:

5 Subject: Law enforcement; use of force; administrative penalties

6 Statement of purpose of bill as introduced: This bill proposes to impose
7 administrative penalties on law enforcement officers convicted of the crime of
8 law enforcement use of prohibited restraint, increase transparency in the
9 imposition of administrative sanctions against law enforcement officers found
10 to have violated policy, and suspend administrative leave pay for law
11 enforcement officers under investigation.

12 An act relating to administrative penalties for law enforcement use of
13 excessive force

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

15 Sec. 1. 32 V.S.A. chapter 7, subchapter 7 is amended to read:

16 Subchapter 7. Forfeiture Of Public Employee Retirement Benefits

17 § 621. STATEMENT OF PURPOSE

18 It is the purpose of this subchapter to establish a procedure by which the
19 pension benefits of a public employee convicted of certain crimes may be
20 forfeited. Honorable public service is a condition precedent for a public

1 employee to receive retirement benefits, and any public employee who is
2 convicted of any of the designated crimes relating to his or her public office
3 shall be considered to have served dishonorably, and his or her retirement
4 benefits may be subject to forfeiture.

5 § 622. DEFINITIONS

6 As used in this subchapter:

7 (1) “Contribution” shall have the same meaning as “accumulated
8 contribution” set forth in 3 V.S.A. § 455(a)(1), 16 V.S.A. § 1931(1), and
9 24 V.S.A. § 5051(1), and shall include the sum of all amounts deducted from
10 the compensation of a member of any defined contribution plan under 3 V.S.A.
11 § 500 or 24 V.S.A. § 5070, and any earnings or losses on those contributions,
12 and the sum of all amounts deducted from the compensation of a member of
13 any other retirement plan of a municipality authorized under the Internal
14 Revenue Code, 26 U.S.C. § 401, and any earnings or losses on those
15 contributions.

16 (2) “Crime related to public office” means any of the following criminal
17 offenses if the offense is a felony and is committed in connection with
18 employment as a member:

19 (A) any offense under 13 V.S.A. chapter 21;

20 (B) false personation as defined in 13 V.S.A. § 2001;

21 (C) false pretenses or tokens as defined in 13 V.S.A. § 2002;

1 (D) grand larceny as defined in 13 V.S.A. § 2501;

2 (E) person holding property in official capacity or belonging to the
3 State or a municipality as defined in 13 V.S.A. § 2537;

4 (F) false claim as defined in 13 V.S.A. § 3016;

5 (G) a felony under the laws of the United States or any other state,
6 including a territory, commonwealth, the District of Columbia, or military,
7 federal, or tribal court, an element of which involves:

8 (i) a larceny;

9 (ii) an embezzlement;

10 (iii) the fraudulent conversion of money, property, or other
11 valuable things for personal or other use; or

12 (iv) an intent to defraud; or

13 (H) an attempt to commit, or aiding in the commission of, any
14 offense listed in this subdivision (2); or

15 (I) law enforcement use of prohibited restraint as defined in

16 13 V.S.A. § 1032.

17 (3) “Member” shall have the same meaning as in 3 V.S.A. § 455(a)(11),
18 16 V.S.A. § 1931(10), and 24 V.S.A. § 5051(13), and shall include anyone
19 participating in a defined contribution plan under 3 V.S.A. § 500 or 24 V.S.A.
20 § 5070, and any other retirement plan of a municipality authorized under the
21 Internal Revenue Code, 26 U.S.C. § 401.

1 (4) “Retirement benefits” shall have the same meaning as “pensions” as
2 defined in 3 V.S.A. § 455(a)(14), 16 V.S.A. § 1931(12), and 24 V.S.A.
3 § 5051(16), and shall also mean benefits derived from employer contributions
4 to defined contribution plans under 3 V.S.A. § 500 or 24 V.S.A. § 5070, and
5 benefits derived from employer contributions to any other retirement plan of a
6 municipality authorized under the Internal Revenue Code, 26 U.S.C. § 401.

7 * * *

8 Sec. 2. 20 V.S.A. § 2404 is amended to read:

9 § 2404. INVESTIGATIONS

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

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

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

20 (2)(A) The Council shall accept from any source complaints alleging a
21 law enforcement officer committed unprofessional conduct and, if the

1 Executive Director of the Council deems such a complaint credible, he or she
2 shall refer any complaints regarding Category A or Category B conduct to the
3 executive officer of the agency who employs that officer, and that agency shall
4 conduct a valid investigation.

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

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

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

15 (d) Administrative leave. Employees relieved from duty temporarily
16 during an investigation pursuant to this subchapter shall not receive pay during
17 the period of investigation. No internal affairs policy, collective bargaining
18 agreement, or other employment agreement entered into on or after July 1,
19 2021 shall contain any provision that limits the application of the provisions of
20 this section.

1 Sec. 3. 20 V.S.A. § 2406 is amended to read:

2 § 2406. PERMITTED COUNCIL SANCTIONS

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

6 (1) written warning;

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

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

14 (4) permanent revocation.

15 (b) Intended revocation; temporary voluntary surrender.

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

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

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

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

14 (c) The Council shall provide all permanent revocation information to the
15 National Decertification Index. The Council shall cooperate with the Index
16 and other states and territories to ensure officers who are decertified by the
17 Council are not hired as law enforcement officers in other jurisdictions.

18 (d) The Council shall maintain a publicly available database of sanctions
19 issued pursuant to this section on the Council's website. The database shall
20 include:

1 (1) the names of all decertified officers, the date of decertification, the
2 agency for which the officer last worked, and the reason for the decertification;
3 and

4 (2) the names of all officers who have been suspended, the beginning
5 and end dates of suspension, the agency for which the officer last worked, and
6 the reason for the suspension.

7 Sec. 4. EFFECTIVE DATES

8 (a) Sec. 2 (investigations) shall take effect on July 1, 2021 and shall apply
9 to all collective bargaining agreements for law enforcement officers that are
10 entered into on or after that date.

11 (b) The remainder of this act shall take effect on passage.