

# House Government Operations Committee

LAW ENFORCEMENT OFFICER CERTIFICATION AND  
PROFESSIONAL REGULATION

# Government operations committee jurisdiction

- General government structure
- Elections
- Lobbying
- Public safety
- Professional regulation 

# Professional regulation of law enforcement

- Law enforcement officers are professionally regulated by the Vermont Criminal Justice Council
- Governed by 20 V.S.A. ch. 151, subchapter 2.

# Creation and purpose of Council: 20 V.S.A. subchapter 1

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 basic training for law enforcement applicants and in-service training for law enforcement officers; and
- maintain statewide standards of law enforcement officer professional conduct by accepting and tracking complaints alleging officer unprofessional conduct, adjudicating charges of unprofessional conduct, and imposing sanctions on the certification of an officer who the Council finds has committed unprofessional conduct.

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

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.

## Chapter 151, subchapter 2: Unprofessional Conduct

### Law enforcement certification, generally

- VCJC (Council). The Vermont Criminal Justice Council certifies law enforcement officers. 20 V.S.A. §2358.
- Certification is required.
  - Unless the Council by rule waives certification, a person must be certified to exercise law enforcement authority. 20 V.S.A. §2358(a)
  - The option for an elected official (ie., a sheriff or constable) to exercise law enforcement authority without certification was repealed on July 1, 2012 via 2008 Act No. 195.

# Law enforcement officer definition

- Defined in 20 V.S.A. §2351a. This section requires a person to be employed by a law enforcement agency in order to be a certified law enforcement officer.
- "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 and Lottery 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; a police officer appointed to the University of Vermont's Department of Police Services; or the provost marshal or assistant provost marshal of the Vermont National Guard.

# Levels of certification: 20 V.S.A. §2358(b)

- Level I: 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: 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, they must call upon an officer certified to respond and assume authority over the incident.
- Level III: full law enforcement authority.

# Professional regulation

- The Council also professionally regulates LEOs under the provisions of 20 V.S.A. ch. 151, subch. 2(unprofessional conduct).
- This subchapter:
  - Defines what constitutes unprofessional conduct for all of the State's certified LEOs and organizes that conduct into 3 categories:
    - Category A (specified crimes);
    - Category B (gross professional misconduct); and
    - Category C (misconduct pertaining to Council processes or operations). 20 V.S.A. §2401.
  - Requires each agency to adopt an effective internal affairs program to manage complaints, investigate unprofessional conduct complaints, and report to the Council alleged unprofessional conduct



# Professional regulation, continued

- 20 V.S.A. ch. 151, subch. 2 (unprofessional conduct) also:
  - Permits the Council to warn, suspend, or revoke an LEO's certification upon a finding of unprofessional conduct, 20 V.S.A. §2406, except for first offenses of Category B conduct, 20 V.S.A. §2407.

# 2020 Act No. 147 (S.219): An act relating to addressing racial bias and excessive use of force by law enforcement

- Makes State grant funding to law enforcement contingent on the Sec. of Administration or designee confirming that the agency has complied with race data reporting requirements within the past six months.
- Requires the roadside stop data collected by law enforcement to include data on law enforcement use of force, including threatened force. Defines physical force to include use of force greater than that required to handcuff a compliant person. Requires that the data collected be sent to the Executive Director of Racial Equity, and that it be posted in a manner that is analyzable, accessible to the public, clear, and understandable.
- Amends unprofessional conduct parameters for law enforcement by adding the following new conduct to “category B” misconduct in the unprofessional conduct chapter:
  - Using a prohibited restraint on a person (defined as the use of any maneuver that applies pressure to the neck, throat, windpipe, or carotid artery that may prevent or hinder breathing, reduce intake of air, or impede the flow of blood or oxygen to the brain).
  - Failing to intervene and failing to report to a supervisor when an officer observes another officer using a prohibited restraint or otherwise using excessive force on a person.
- Creates a new crime prohibiting law enforcement from using certain types of restraints that cause serious bodily injury or death. Imposes a 20-year maximum prison sentence or 50k fine, or both.
- Requires the Department of Public Safety to equip all Vermont State Police with video recording devices by August 1, 2020.

## 2020 Act No. 165 (S.119): An act relating to a statewide standard and policy for law enforcement use of force

- Creates a statutory statewide standard for law enforcement use of force, including deadly force
- Directs the Department for Public Safety and the Executive Director of Racial Equity to report to the General Assembly in February, 2021 on the process and outcome of their work to develop a statewide model use of force policy for law enforcement
- Prohibits the Criminal Justice Council from offering or approving training on the use of prohibited restraints
- Amends the justifiable homicide statute to align it with the new standards for law enforcement use of force, taking effect July 1, 2021