

STATE OF VERMONT
EXECUTIVE DEPARTMENT
EXECUTIVE ORDER NO. 01-21

[Creation of the Agency of Public Safety]

WHEREAS, the Governor, pursuant to Vermont Constitution Chapter II, Section 3, and 3 V.S.A. Section 2001 and Section 2002, may make such changes in the organization of the Executive Branch or in the assignment of functions among its units as he considers necessary for efficient administration; and

WHEREAS, the Constitution of Vermont, Chapter II, Section 6 provides that no bill, resolution or other thing which shall have been passed by one house of the General Assembly shall have the effect of or be declared to be a law without the concurrence of the other, ensuring no action by a single house, committee or agent of the General Assembly may be binding on the Executive Branch; and

WHEREAS, any organizational changes made by the Governor, pursuant to 3 V.S.A. Section 2001 and Section 2002, shall be subject to disapproval by both houses of the General Assembly; and

WHEREAS, it is desirable to reorganize the agencies, departments and divisions of government by better coordinating certain activities and improve the coordination and effectiveness of services to the public; and

WHEREAS, the Department of Public Safety administers programs and provides services that share common functions, training, IT systems and equipment, public safety and policy interests and emergency response objectives with the Criminal Justice Council, E-911 Board, and the enforcement divisions of other state agencies and departments; and

WHEREAS, an Agency of Public Safety would be best positioned to elevate criminal justice to a Cabinet level by providing administrative and operational support for the state police training facilities and the Criminal Justice Council which would retain its independence and existing statutory duties and responsibilities for assisting local departments to achieve desired levels of certification and standardization now required for state aid, as well as investigating statewide incidents of police officer uses of force and police misconduct allegations; and

WHEREAS, the Department of Public Safety has been a leader in the State in the areas of Fair and Impartial policing and associated policy development, data collection and operational implementation, law enforcement training, technology and innovation; and

WHEREAS, in January 2020, the Department of Public Safety proposed an outline for modernizing policing and public safety in Vermont, which is based, in part, on more than 50 years of studies, reports and legislative drafts; and

WHEREAS, in June 2020, together with law enforcement and community leaders, DPS drafted a comprehensive 10-point strategy to accelerate progress in the organization of state law enforcement operations, modernizing our data collection and reporting technology; expanding alternative crisis response methodologies such as field mental health workers; providing enhanced statewide model policies in key areas, including use of force; modernizing hiring practices, training and supervisor selection; and developing community oversight models; and

WHEREAS, the goals of law enforcement modernization and reform and optimal government efficacy require a stronger and more direct alignment of State government law enforcement services, officer and executive training, recruitment and policy development and implementation; and

WHEREAS, dispatch services provided through the 911 Board and uniform law enforcement training and centralized reporting and investigations of conduct by the Vermont Criminal Justice Council can be more efficiently and cost-effectively supported and administered as part of an Agency of Public Safety, where additional opportunities for modernizing, reforming and standardizing service to Vermonters will be created; and

WHEREAS, the State could improve and more efficiently deliver law enforcement and emergency response services to the public through the reorganization of the Department of Public Safety into a single Agency of Public Safety; and

WHEREAS, the intent of this Executive Order is to provide a framework for the creation of an Agency of Public Safety within which the Executive and Legislative Branches can work together to establish mutually agreeable policy, structure and timeframes.

NOW THEREFORE, I, Philip B. Scott, by virtue of the authority vested in me as Governor of Vermont by the Constitution of the State of Vermont, Chapter II, Section 3, 3 V.S.A. § 209, 3 V.S.A. Chapter 41, 23 V.S.A. § 1 and 32 V.S.A. § 704a, do hereby create an Agency of Public Safety which shall be successor to the Department of Public Safety as follows:

1. The Agency of Public Safety is hereby created to directly align State government emergency management, fire safety, and law enforcement services, including emergency services, communications, technology and procurements, officer and executive training, recruitment and policy development and implementation.
2. All duties, obligations, responsibilities and authority, including all contracts, grant agreements, service level agreements and MOUs of the Department of Public Safety are hereby transferred to the Agency of Public Safety.
3. All financial assets and liabilities, including all appropriations associated with the positions transferred pursuant to paragraph 4 below, of the Department of Public Safety are hereby transferred to the Agency of Public Safety.
4. All authorized positions, functions, equipment, supplies and inventory of the Department of Public Safety are transferred to the Agency of Public Safety.

5. The positions of Commissioner of the Department of Public Safety and Deputy Commissioner of the Department of Public Safety are abolished and all the duties, responsibilities, and authority, including board, committee and council memberships, of the Commissioner and the Deputy Commissioner are hereby transferred to the Secretary of the Agency of Public Safety and the Deputy Secretary of the Agency of Public Safety, respectively.
6. The Secretary shall be responsible to the Governor and shall plan, coordinate and direct the functions vested in the Agency. The Secretary shall prepare and submit to the Governor an annual budget for the Agency.
7. Effective April 15, 2021, the Agency of Public Safety shall be headed by the Secretary appointed by the Governor with the advice and consent of the Senate.
8. Effective April 15, 2021, the Secretary of the Agency of Public Safety may appoint a Deputy Secretary, with the approval of the Governor, who shall be exempt from the classified service.
9. Effective April 15, 2021, the Agency of Public Safety shall consist of a Department of Fire Safety and Emergency Management, a Department of Law Enforcement and a Division of Support Services, as follows:
 - A. The Department of Fire Safety and Emergency Management shall be headed by a Commissioner of Fire Safety and Emergency Management appointed by the Secretary with the approval of the Governor. The Department of Fire Safety and Emergency Management shall be organized into four (4) Divisions, each reporting to the Commissioner of Fire Safety and Emergency Management:
 - 1) Homeland Security and Emergency Management;
 - 2) Inspection Division;
 - 3) Fire Safety Division
 - a) Investigation Unit
 - b) Prevention & Safety Unit; and
 - 4) Technical Response Unit
 - a) HazMat Team
 - b) USAR/Swiftwater Team.
 - B. The Department of Law Enforcement shall be headed by a Commissioner of Law Enforcement appointed by the Secretary with the approval of the Governor. Under this structure, the certified law enforcement officers serving in existing state government enforcement divisions shall serve under a single Agency and Department to ensure consistency of recruitment and hiring practices, training, policy application and adherence, internal investigation and discipline. The Department of Law Enforcement shall initially be organized into two (2) Divisions which shall report to the Commissioner of Law Enforcement, as follows:

- 1) Motor Vehicle Enforcement; and
- 2) Vermont State Police.

C. The Division of Support Services shall report directly to the Deputy Secretary of the Agency of Public Safety. The Division of Support Services shall be organized into the following operational units:

- 1) Administrative Division;
- 2) Communications Division – E-911, PSAPs, Radio Technology Unit;
- 3) Fleet Services Division;
- 4) Forensic Lab Division;
- 5) Training Division, which shall include the Fire Safety Training Council the Criminal Justice Council and the State fire and police training facilities; and
- 6) VT Crime Information Center, including the Sex Offender Registry.

The Commissioner of the Department of Fire Safety and Emergency Management and the Commissioner of Law Enforcement shall be exempt from the classified service.

10. As of April 15, 2021, the provisions of Title 20, and all other provisions of law referencing the Department of Public Safety or the Commissioner of Public Safety and the rules, policies and procedures of the Department of Public Safety shall be deemed to refer to and shall be applicable to the Agency of Public Safety and the Secretary of the Agency of Public Safety.

Criminal Justice Council

11. As of July 1, 2021, all duties, obligations, responsibilities and authority of the Criminal Justice Council under Title 20 Vermont Statutes Annotated, Chapter 151, including all contracts, grant agreements, service level agreements and MOUs of the Criminal Justice Council are hereby transferred to the Agency of Public Safety.
12. Notwithstanding the foregoing or anything to the contrary in this Executive Order, the Criminal Justice Council shall be the agency charged with carrying out the purposes of 20 V.S.A. § 2351(b) and all other duties, responsibilities and authority under Title 20 Vermont Statutes Annotated, Chapter 151.
13. As of July 1, 2021, all financial assets and liabilities of the Criminal Justice Council, including all appropriations associated with the positions transferred pursuant to paragraph 14 below, shall transfer to the Agency of Public Safety.
14. As of July 1, 2021, all authorized positions and equipment, supplies and inventory of the Criminal Justice Council are transferred to the Agency of Public Safety.
15. As of July 1, 2021, the Criminal Justice Council shall have the administrative, technical, and legal assistance of the Agency of Public Safety and may request the assistance of any Executive Branch Agency.

16. As of July 1, 2021, the Executive Director of the Criminal Justice Council shall be appointed by the Secretary of the Agency of Public Safety in consultation with the Criminal Justice Council, and subject to the approval of the Governor. The Executive Director of the Criminal Justice Council may appoint officers, employees, agents and consultants as he or she may deem necessary and prescribe their duties in consultation with the Criminal Justice Council, with the approval of the Secretary of the Agency of Public Safety.
17. As of July 1, 2021, in addition to the other duties imposed by law, the Executive Director shall perform such duties as may be assigned by the Council; provided, however, the Executive Director shall perform such administrative duties as may be assigned by the Secretary as required for the effective administration of the Council.
18. As of July 1, 2021, the rules of the Criminal Justice Council effective as of July 1, 2021 shall become a subtitle under the rules of the Agency of Public Safety, like the rules of the Vermont Fire Service Training Council.
19. Prior to April 15, 2021, the Commissioner of the Department of Public Safety shall consult with leadership of the General Assembly as well as the House and Senate Operations and Judiciary Committees on implementation of this Executive Order.
20. On or before November 15, 2021, the Secretary of the Agency of Public Safety shall report to the Governor, the leadership of the General Assembly and the House and Senate Operations and Judiciary Committees on the status of the organizational transition and recommend any legislative changes needed to continue an orderly and efficient organizational transition in accordance with this Executive Order.

Vermont Enhanced 911 Board

21. On such date as may be agreed by the General Assembly, but no later than July 1, 2022, all duties, obligations, responsibilities and authority of the Vermont Enhanced 911 Board (“911 Board”) under Title 30 Vermont Statutes Annotated, Chapter 87 and applicable rules, including all contracts, grant agreements, service level agreements and MOUs of the 911 Board shall be transferred to the Agency of Public Safety, Division of Operations.
22. Notwithstanding the foregoing or anything to the contrary in this Executive Order, the 911 Board shall be the agency charged with carrying out the duties, obligations, responsibilities and authority of Vermont Statutes Annotated, Title 30 Chapter 87.
23. Upon the transfer of the 911 Board in accordance with Section 21 above, all financial assets and liabilities of the 911 Board, including all appropriations associated with the positions transferred pursuant to paragraph 24 below, are hereby transferred to the Agency of Public Safety.

24. Upon the transfer of the 911 Board in accordance with Section 21 above, all authorized positions, functions, equipment supplies and inventory of the 911 Board are transferred to the Agency of Public Safety.
25. Upon the transfer of the 911 Board in accordance with Section 21 above, the 911 Board shall have the administrative, technical, and legal assistance of the Agency of Public Safety and may request the assistance of any Executive Branch Agency.
26. Upon the transfer of the 911 Board in accordance with Section 21 above, the Executive Director of the 911 Board shall be appointed by the Secretary of the Agency of Public Safety in consultation with the 911 Board, and subject to the approval of the Governor. The Executive Director of the 911 Board may appoint officers, employees, agents and consultants as he or she may deem necessary and prescribe their duties in consultation with the 911 Board, with the approval of the Secretary of the Agency of Public Safety.
27. Upon the transfer of the 911 Board in accordance with Section 21 above, in addition to the other duties imposed by law, the Executive Director shall perform such duties as may be assigned by the 911-Board; provided, however, the Executive Director shall perform such administrative duties as may be assigned by the Secretary as required for the effective administration of the 911 Board.
28. Upon the transfer of the 911 Board in accordance with Section 21 above, the rules of the 911 Board effective as of that date shall become a subtitle under the rules of the Agency of Public Safety.

Motor Vehicle Enforcement Officers

29. In accordance with 23 V.S.A. § 1, no later than July 1, 2022, all duties, obligations, responsibilities and authority of the certified law enforcement officers in the Department of Motor Vehicles (“DMV”) Enforcement Division under Title 19 and Title 23 Vermont Statutes Annotated, Chapter 15 and applicable rules, are hereby transferred to the Agency of Public Safety, Department of Law Enforcement, Division of Motor Vehicle Enforcement.
30. Upon the transfer of the DMV Enforcement Division in accordance with Section 29 above, all financial assets and liabilities of the DMV Enforcement Division, including all appropriations associated with the positions transferred pursuant to paragraph 31 below, are hereby transferred to the Agency of Public Safety, Department of Law Enforcement, Division of Motor Vehicle Enforcement.
31. Upon the transfer of the DMV Enforcement Division in accordance with Section 29 above, all authorized positions, functions, equipment, supplies and inventory of the DMV Enforcement Division, including all sworn officers, are transferred to the Agency of Public Safety Department of Law Enforcement, Division of Motor Vehicle Enforcement.
32. Upon the transfer of the DMV Enforcement Division in accordance with Section 29 above, the chief executive officer (Director) of the Department of Law Enforcement,

Division of Motor Vehicle Enforcement shall be appointed by the Secretary of the Agency of Public Safety, subject to the approval of the Governor. The chief executive officer shall be an exempt state employee and shall serve at the pleasure of the Secretary.

33. Upon the transfer of the DMV Enforcement Division in accordance with Section 29 above, the rules of the Agency of Transportation and DMV relating to the responsibilities and duties of enforcement officers effective as of that date shall be the rules of the Agency of Public Safety.
34. The Secretary of Public Safety, with the approval of the Secretary of Administration, shall determine the physical locations of the Departments and Divisions of the Agency of Public Safety.
35. The Secretary of the Agency of Public Safety shall further study the effectiveness, efficiency and delivery of State public safety law enforcement services and shall report to the Governor and the General Assembly on or before October 15, 2022 on the feasibility and advisability of transferring the operations of the Department of Fish and Wildlife certified law enforcement officers, Department of Liquor and Lottery certified law enforcement officers, the Capitol Police and the Department of Labor relating to V.O.S.H.A., Project WorkSAFE and Passenger Tramway Safety to the Agency of Public Safety.
36. On or before November 15, 2022, the Secretary of the Agency of Public Safety shall report to the Governor, the leadership of the General Assembly and the House and Senate Operations and Judiciary Committees on the status of the organizational transition and recommend any legislative changes needed to continue an orderly and efficient organizational transition in accordance with this Executive Order.
37. The Secretary of the Agency of Public Safety shall be a member of the Governor's Cabinet which shall consist of the Secretaries of the agencies as are created by law, as well as such Commissioners of the departments created by law as the Governor, in his judgment, shall appoint to be a member of the Cabinet.

This Executive Order shall be submitted to the General Assembly pursuant to 3 V.S.A. § 2002 and shall take effect on April 15, 2021, unless disapproved by both houses of the General Assembly.



WITNESS my name hereunto subscribed and the Great Seal of the State of Vermont hereunto affixed at Montpelier this 14th day of January, 2021.

A handwritten signature in blue ink, reading "Philip B. Scott", is written over a horizontal line.

Philip B. Scott
Governor

By the Governor:

A handwritten signature in black ink, reading "Brittney L. Wilson", is written over a horizontal line.

Brittney L. Wilson
Secretary of Civil and Military Affairs

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Date: January 14, 2021