



FY22 Budget Proposal

Vermont Criminal Justice Council
Vermont Police Academy

Report to the Vermont Legislature
House and Senate Committees on
Appropriations

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Vermont
Police
Academy

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The Vermont Criminal Justice Council (Council) is comprised of 24 members, twelve pre-existing members and twelve new members, which include seven Governor appointees and five new positions. The Council held its first meeting as a 24-member body on January 7, 2021. The Council member roster is included as part of this report. The Vermont Police Academy is a subset of the Council, with its Executive Director reporting to the Council Chair. The Vermont Police Academy is currently made up of twelve full-time positions. *An organization chart is also included in this report for reference.*

The Council welcomes the opportunity to engage in the meaningful change that presents itself with the onboarding of the new Council members and the new legislative mandates. These are exciting times as the Council works to harness the power, passion, and aptitude of each member to enhance existing and create new subcommittees in leading change

The Council has identified many areas of critical need, to include personnel and programmatic needs. Many of these needs are based upon unfunded legislative mandates, compounded by an inability for partner criminal justice organizations to assist the Vermont Police Academy with instructors who serve as subject matter experts, training assistants, and provide other ancillary support. Many agencies are experiencing staffing difficulties and are now unable to help as they have in the past.

If required to level fund at FY 2021 levels, we would struggle to meet many of the training demands of the Vermont Law Enforcement community for 2022 and would likely miss the mark on many of the legislative mandates as outlined within the incorporated legislative language.

The Council has identified the need for five additional positions. They are represented in the table below, followed by a detailed description of the responsibilities of each position.

PERSONNEL REQUESTS

The following costs are approximate costs that include benefits.

Professional Regulation Investigator	\$90,000
Staff Attorney (Professional Regulation)	\$110,000
Program Technician (VCJC)	\$75,000
K-9 Trainer (Academy)	\$100,000
Training Coordinator (Academy)	\$100,000

Throughout this report all legislative mandates will be highlighted in yellow. Those include impacts from Act 56 of 2017, S. 124, S. 119 (Use of Force) and S. 54 (Cannabis).

Professional Regulation: (ACT 56 of 2017 attached)

Act 56 of 2017, relating to the Professional Regulation of Law Enforcement Officers by the VCJC became effective July 1, 2018. During this past legislative session there was a lengthy discussion regarding the impact and the ability for the Council's capacity and capability to handle these investigations. Conversations included having these investigations becoming the statutory obligation of a state agency that had existing resources, such as the Secretary of State's Office, Office of Professional Regulation. Testimony was provided about a lack of resources within other organizations and at the end of the session the responsibility remained with the Council.

There is a distinct lack of capacity and capability in two distinct areas. The first is investigatory, and regardless of where this responsibility lies, it requires a minimum of one full-time professional regulation investigator. The second area of critical need is prosecutorial, with the need to hire a full-time staff attorney who can represent the newly enhanced 24-member Council.

The Council takes the responsibility of the professional regulation of Vermont's law enforcement officers seriously. The public deserves to know that the 1,502 Level III certified officers and 333 Level II certified officers, as well as their organizations, are being held accountable. The following provides a brief breakdown between the requirements for Level II and Level III certification.

Level I and II Certification: A Three-Phase Process

To obtain Level II (formerly Part-Time) certification, one must successfully complete a three-phase process. The Council has stipulated they must attend a minimum 80-hour academy (Phase One). Upon successful completion of Phase One, they must take a minimum 50 hours of additional training consisting of required and elective courses (Phase Two) and 60 hours in a Field Training and Evaluation Program with a Council certified Field Training Officer (Phase Three). To maintain their certification, Level II officers must have a minimum of 30 hours of training each year, which includes firearms re-qualification under the supervision of a Council-certified firearms instructor, first aid training (unless currently certified in first aid), and biennial Council-certified domestic violence training.

Level III: Basic Training

To obtain Level III (formerly Full-Time) certification, individuals attend a comprehensive 16-week residential Basic Training Academy. If they have no previous training, they also attend approximately three weeks of post-basic classes. In addition, individual police agencies may have a pre- and/or post-basic training program.

The Vermont Police Academy conducts two Level III basic training classes each year. The sixteen-week course is conducted in an environment consisting of both police discipline and academics, designed to prepare an individual for a career in policing. The curriculum includes Criminal Law, Defensive Tactics, Conflict Management/Crisis Intervention Training, Community Policing, Investigative Procedures, Motor Vehicle Law, Patrol Procedures and much more.

§ 2351. CREATION AND PURPOSE OF COUNCIL

(1) 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 recruitment basic training for law enforcement applicants and in-service training for law enforcement officers; and (2) 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.

Intake of reports, investigation, tracking, documentation, reporting outcomes, and guiding the adjudication of misconduct cases requires a significant amount of staff time each month, for which no funds were designated. As these cases are highly sensitive, they must be assigned to skilled administrators who can assure they are quickly and thoroughly investigated and concluded. The personnel at the Vermont Criminal Justice Council respect and believe in the importance of the task assigned but need additional capacity to carry out this addition to the mission.

Personnel needs related to Act 56, Professional Regulation

Staff Attorney

\$110,000

Approximately \$110,000, to include benefits. This position would report directly to the Executive Director. This position would provide a wide range of legal services to the Council, including general counsel advice related to rulemaking, the Open Meeting Law, the Public Records Act, record retention practices, personnel matters, legal staffing of each Council meeting, review of decisions to suspend and/or expel Police Academy recruits for conduct violations, drafting of contracts and grants, consultation regarding Police Academy training curricula and training delivery methods (including addressing areas of cultural awareness, implicit bias, de-escalation, and appropriate response to mental health conditions or

psychiatric disability), assistance in drafting Legislative reports, appearance in Legislative committees, review of Police Academy facility use agreements and forms, and drafting of Vermont Criminal Justice Council model policies (such as those related to fair and impartial policing, body camera use, acquisition of military equipment, and acquisition and use of facial recognition technology). In addition, this position would provide legal advice to the Executive Director, Council investigatory staff and the newly created Professional Regulation subcommittee regarding all ACT 56 (Category A, B and C) complaints and investigations, including investigations to be completed by Vermont law enforcement agencies and investigations to be completed by the Council itself. For any unprofessional conduct investigation resulting in charges filed with the Council, this position would also administratively prosecute the contested case proceeding, including engaging in discovery, filing pre-hearing motions, preparing witnesses for hearing, conducting direct and cross examination of witnesses, seeking admission of documentary evidence, presenting legal argument, and drafting proposed findings of fact and conclusions of law.

There are no current Vermont Criminal Justice Council staff members who have the capacity (time) and/or capability (training) to serve in this role. To date, the Council has received legal services support as available from an Assistant Attorney General who also provides general counsel services to a wide variety of other State departments, including the Department of Liquor and Lottery, the Department of Libraries, the Department of Buildings and General Services and the Military Department, and who further appears before (and who also supervises an AGO Unit before whom AAGs appear) the Vermont Labor Relations Board, the Vermont Human Rights Commission, the federal Equal Employment Opportunity Commission, and the Vermont Board of Medical Practice. As such, the present legal services capacity is already extremely limited and will be unable to meet the significantly expanded scope of Council responsibilities recently enacted by the Legislature.

Professional Regulation Investigator

\$90,000

Approximately \$90,000, to include benefits. This position would report directly to the Director of Administration and Compliance position of the Vermont Police Academy and work closely with the Executive Director. This position would be the primary investigator assigned to review all incoming ACT 56 (Category A and B) investigations that have been completed, as required, by all Vermont law enforcement agencies, in the form of a valid internal affairs investigation. This position would be directly responsible for the investigation and reporting to the Executive Director all category C violations, or for the investigation of allegations when the allegations are against the head of an organization.

This position will work closely with the staff attorney, the Council's newly created Professional Regulation sub-committee, and all Vermont law enforcement organizations. There are no current staff members who have the capacity (time) and/or capability (training) to serve in this role and this has resulted in dozens of Act 56 cases awaiting action.

VCJC Program Technician**\$75,000**

As evidenced by legislative demands outlined below, we would appreciate the opportunity to discuss the expansion of position number 5445001, formerly a part-time, temporary Program Services Clerk into a full-time (1.0 FTE), classified position with significantly expanded responsibility to support professional regulation processes, contract development and management, grants management support, public information planning, curriculum work and tracking regarding an alternative certification path, support of a freshly reorganized Council and supporting staff who are struggling to manage unfunded legislative mandates.

This position would be responsible for providing all support to each Council sub-committee and would serve as the conduit from those sub-committees to the larger Council. The position would publicly warn, assist with agenda building, and posting on the Vermont Criminal Justice Council's website, and take meeting minutes. The position would programmatically support all sub-committees and the larger 24-member Council with any needs.

The previously existing sub-committees include the following:

- Domestic Violence Committee
- Canine Committee
- Use-of-Force Committee
- Training Advisory Committee
- Highway Safety Committee
- Fair and Impartial Policing Committee

With the increased statutory obligations, the following sub-committees have been created:

- Professional Regulation sub-committee
- Waiver Sub-Committee (re-establish this committee)
- Comprehensive Training/Curriculum Review sub-committee
 - Will work directly with the Training Advisory Committee
- Entrance Requirements sub-committee (written exam, psychological profile)
- AD-Hoc Committees (example: Body Worn Camera policy)
 - Will work closely with the LEAB/others

Approximately \$75,000 would be required to fulfill this need, which includes benefits (step 1, family plan). **The amount of \$14,800 is already included in the FY22 proposed budget.**

Law Enforcement Certification and Training Coordinator **\$100,000**

In addition to existing pressures, and in consideration of recent legislative action taken that impacts the Vermont Police Academy, several critical needs have been identified.

Support from agencies we have partnered with over many years is significantly dwindling due to serious recruiting challenges in the current climate, as well as movements to defund the police in some areas. This has already been evidenced by a decrease in our Training Assistant cadre by about 50%. Efforts to recruit new instructors are often met with expressions of regret because departments do not have the staffing or funding to assist us. This places enormous added pressures on the Police Academy staff.

Concerns regarding police use of force training, use of de-escalation skills, and professional expectations as community guardians have sparked nationwide controversy and outrage. In an effort to respond to legislative and community expectations, the Vermont Police Academy would offer for consideration the hiring of a Law Enforcement Certification and Training Coordinator at a cost of around \$96,000 (with family plan, hired at Step 1 (if we had to hire into range a bit, closer to \$101,500 or more), to specifically address these areas of supreme importance. Officers at all levels would be served by this position that will focus on curriculum development and maintenance for instructor-level courses, Level III Basic, Level II Basic, and in-service. It would allow for a significant increase in regional and in-service course offerings and expanded training programming around de-escalation, mental health response, communication skills and instilling guardian philosophy. Additionally, this would afford staff to develop a more comprehensive training matrix, offering the introduction of a variety of more advanced courses that would apply to officers at various stages of their careers.

K9 Trainer

\$100,000

Police canines require a significant level of training to maintain certifications and specializations. They are a critical tool in apprehending dangerous subjects, detecting drugs, explosives, or evidence, as well as search and rescue efforts. All handlers and canines must attend Basic Canine Patrol school, occurring over several weeks, to achieve Council certification. The course includes intense obedience work, as a foundational skill. Subsequently, other skills are developed including agility, trailing, scent searches, apprehension, guarding prisoners, building searches (for unauthorized person), tactical advancement, and article searches (e.g. piece of clothing/evidence). This training is dynamic and intense, with several teams participating at one time. Basic Drug Detection is an additional certification process involving six weeks of additional training. Both certifications require attending regular recertification trainings to maintain.

To continue to develop the team's skillset, advanced training is needed. Several areas of need have been identified to include: wilderness tracking, urban tracking, tactical building searches (high-risk situations), working with tactical teams (flash bangs, smoke bombs), school shooting response, tactical tracking, decoy training (critical for canine safety) and more. These courses occur on and off-campus (e.g. in wilderness, overnight) and are each three to five days in length.

It is impossible for a single trainer to focus on all teams while setting up training courses (laying a trail or hiding scent articles). It is extremely time consuming to develop, coordinate, set up, and lead these courses. Furthermore, to deal with remedial training issues at the same time, is near impossible and detracts from the training day. The Vermont Police Academy has a significant need for a second person to join this program to reduce downtime and improve training outcomes for basic certifications and recertifications days. In addition, a second staff member in this program would prioritize the advanced-level training programs.

When the Academy does not provide advanced opportunities, handlers begin to look elsewhere, to other entities, often out-of-state, where we have no ability to influence or control the curriculum content, philosophy, or readiness of the handler and canine to receive it.

The Vermont Police Academy's K9 training program is so highly thought of in the Northeast, officers from the Royal Canadian Mounted Police, Maine, and most often, New Hampshire have applied and attended. As of late, the Academy has had to turn down applications from some of these out-of-state teams due to lack of staffing and the need to make Vermonters the priority. Unfortunately, this detracts from the fantastic benefits Vermont receives by networking and sharing information and opportunities with other professionals in the region. Some of the Academy's most dedicated, lead instructors have been from New Hampshire police departments. If they cannot train here, the Academy loses that instructor pipeline.

Canine handlers across Vermont have recognized the need for this training to the point that they have a member organization that has been paying for much of the related expenses because the Council has not been able to provide it. Though that may seem like a great solution, it provides no opportunity for Council oversight and direction. The Council has no authority over the choice of vendor, location or conditions, nor supervision of safety practices. Long-term planning is out of our hands and less organized.

PROGRAMMATIC NEEDS:

Entrance Testing	\$25,000
Professional Development	\$50,000
Use of Force	\$25,000
Equipment	\$100,000
Cannabis Act Training	\$20,000

Legislative Mandates

Basic and in-service training demands have increased. Professional development opportunities require expansion. All of Vermont's police agencies would benefit from opportunities to address supervision and leadership development, de-escalation training, mental health crisis response, fair and impartial policing concepts, and scenario-based training.

As evidenced by the Vermont Legislature's actions (see statutory language showcased/ highlighted in boxes below excerpted from S.124 and S.119), we are facing a tight deadline for exploring challenges and opportunities that will lead to significant change initiatives within the law enforcement profession. This work will impact every community in Vermont.

§ 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:

(4) Reporting allegations of law enforcement misconduct. The Office of Attorney General shall consult with the Council, the Human Rights Commission, the American Civil Liberties Union, statewide racial justice groups, statewide groups representing individuals with lived experience of a mental health condition or psychiatric disability, and other interested parties in order to identify a central point for reporting allegations of law enforcement officer misconduct, which may be the Council or another entity, and how those allegations should be handled.

- Requires administration and planning, stakeholder meetings, reporting, etc., that is currently unfunded, further demonstrating the need for the additional positions detailed above, specifically the staff attorney, professional regulation investigator and program technician. The Council is operating under the assumption that professional regulation will remain under its responsibility. As such, the creation of a Professional Regulation sub-committee will be formalized no later than the next VCJC meeting on January 20, 2021

Vermont Criminal Justice Council Professional Regulation Sub-Committee

Act 56 of 2017, relating to the Professional Regulation of Law Enforcement Officers by the VCJC became effective July 1, 2018. To help navigate this responsibility a Council sub-committee should be considered. This committee should consist of no more than five Council members. Members will assist the Executive Director with the guidance and investigation of professional regulation matters. This sub-committee will take the lead on the creation of procedural ground rules that will eventually become part of newly created Council rules.

20 V.S.A. § 2351

Sec. 8a. COUNCIL: REPORT ON RESOURCES NEEDED TO OPERATE

On or before January 15, 2021, the Executive Director of the Vermont Criminal Justice Council shall report to the House and Senate Committees on Appropriations and on Government Operations specifying the resources the Council needs to fully operate as set forth in law, including the resources it needs to implement the provisions of this act. The Executive Director shall specifically detail in this report any additional appropriations or positions it needs to fully operate and provide a narrative to explain the basis for those needs.

- Furthermore, S.124 highlighted a recognition that certification and professional regulation mandates expand the focus of this office beyond training. Therefore, “training” is removed from our name and 20 V.S.A. § 2351 restates the definition of the purpose, powers, and duties of the Council. Though the mission of promoting and protecting the health, safety, and welfare of the public through training and certifying all Vermont Law Enforcement Officers remains at its core, there are directives and nuances to be explored and addressed at the direction of the Legislature.

§ 2355. COUNCIL POWERS AND DUTIES

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

(1) the approval, or revocation thereof, of law enforcement officer training schools and off-site training programs, which shall include rules to identify and implement alternate routes to certification aside from the training provided at the Vermont Police Academy.

- Identify alternate routes to certification and off-site delivery of training schools requires an immense amount of study, planning, and gathering of resources. Furthermore, then establishing Rules to address these outcomes also taxes staff capacity. All police agencies in the State of Vermont will be impacted by changes to the certification process. For the Council to meet this demand, multiple staff members will be required to dedicate time to this exploration. A team of stakeholders, to include civilian members, will need to be developed and trained to steer this process in order to produce procedures that reflect on our mission of promoting and protecting the health, safety, and welfare of the public. Council staff will tackle this directive head-on but will require additional personnel to manage it.

§ 2355. COUNCIL POWERS AND DUTIES

(2) The Council shall structure its programs so that on and after July 1, 2021, a Level II certified officer may use portfolio experiential learning or College Level Examination Program (CLEP) testing in order to transition to Level III certification, without such an officer needing to restart the certification process.

- Constructing a path to certification via experiential learning is a completely new construct for the Council. Though serious conversations have occurred, much study is required before a sound procedure can be implemented. Significant curriculum work and assessment process development would be required. Intake, tracking, and guiding officers through this type of process also requires staff time. The testing process one would encounter through this path would include scenario-based assessments (which requires significant scheduling and logistics with teams of role players and evaluators, etc.). Staff who are taxed with current responsibilities, to include overnight duties at the Academy, cannot take this on without additional support.

Reestablish a Vermont Criminal Justice Council Waiver Sub-Committee

This is a complex area with no way of standardization as each case presented for a Level III waiver differs. This should be considered as a separate committee. In fact, a waiver sub-committee existed in the past and there are enough current annual requests to keep a standing committee busy. The sub-committee should determine the scope of work once established but the suggestion is that this committee focus on the more complex out-of-state waiver process, the Level II to III waiver discussion, and the appeal of any Rule 13 waiver issue. The Executive Director or the Director of Administration approve routine Rule 13 waivers on a consistent basis. For example, an officer on maternity leave might need a waiver as she would be unable to qualify on firearms until returning to duty in the next calendar year. This committee would be provided with a list of those routine waivers but should provide resources to address the more complex reviews.

§ 2355. COUNCIL POWERS AND DUTIES

(b)(1) The Council shall conduct and administer training schools and offer courses of instruction for law enforcement officers and other criminal justice personnel. The Council shall offer courses of instruction for law enforcement officers in different areas of the State and shall strive to offer nonovernight courses whenever possible.

- Though we offer in-service courses off-site, offering more opportunities will require additional staffing support. Personnel are strapped with management of Basic Training, which often leaves in-service needs lacking attention. The Training Advisory sub-committee will be tasked with exploring all options to determine efficacy.

**Sec. 8. COUNCIL; REPORT ON CHANGES IN TRAINING OPTIONS.
RULE ADOPTION DEADLINE**

(a) Report. On or before January 15, 2021, the Executive Director of the Vermont Criminal Justice Council shall provide a verbal progress report to the Senate and House Committees on Government Operations regarding the Council's:

(1) plan to replace some of its overnight law enforcement training requirements at the

Robert H. Wood, Jr. Criminal Justice and Fire Service Training Center of Vermont (the Police Academy), including its 16-week residential basic training, with nonovernight training and training in other areas of the State, in accordance with 20 V.S.A. § 2355(b)(1) in Sec. 6 of this act, and shall specifically address any plans it has to offer training by remote means; and (2) changes in the structure of its programs to enable a law enforcement officer to transition from Level II to Level III certification as required by 20 V.S.A. § 2358(c)(2) in Sec. 7 of this act.

(b) Rules. On or before July 1, 2023, the Council shall finally adopt the rules regarding alternate routes to certification required by 20 V.S.A. § 2355(a)(1) in Sec. 6 of this act, unless that deadline is extended by the Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 843(c).

Sec. 16. LAW ENFORCEMENT RECOMMENDATIONS

In order to further the goal of defining law enforcement officers as community guardians, the following entities shall report to the Senate and House Committees on Government Operations on or before January 15, 2021 on their progress in regard to the following topics, including any recommendations for legislative action, except that the Criminal Justice Council (Council) shall submit a verbal progress report to those Committees by that date and any recommendations for legislative action on or before March 15, 2021:

Screening & Testing:

(1) Law enforcement officer qualifications.

(A) The Law Enforcement Advisory Board shall recommend universal standards for interviewing and hiring new law enforcement officers in order to recognize applicant qualities that are desirable and those that are not. The Board shall specifically recommend standards that should apply to officers in a supervisory role.

(B) The Council shall consult with the Human Rights Commission, the American Civil Liberties Union, statewide racial justice groups, statewide groups representing individuals with lived experience of a mental health condition or psychiatric disability, and other relevant organizations and individuals in reviewing law enforcement applicants' current written, oral, and psychological examinations for cultural sensitivities and overall appropriateness.

Review of Applicant Testing:

\$50,000

Fortunately, the changes to the structure of the Council will provide for a thorough review process by the entities identified. However, development and implementation of a new testing process could be at significant cost. The development of a specific test(s) requiring scientific evaluation/study/validation will cost an estimated \$50,000.

The creation of a Vermont Criminal Justice Council Entrance Requirements Sub-Committee

The time has come to be able to deliver an online written examination that is relevant, contemporary, and with as few biases as humanly possible. This test should be able to be administered by an outside vendor who can ensure that it is being proctored properly and securely. The same goes for the psychological profile assessment. The Council should approve three or more tests that are deemed credible and allow agencies to administer this test directly, online. The agency would be responsible for ensuring this has been completed. Although not a part of S. 124 this same committee should look at Physical Fitness standards for the entrance exam, as the test is being reevaluated based upon national best practices.

This committee and the Council should also be aware of and discuss physical fitness testing requirements for all Level II certified officers. Level II certification currently does not require an officer to pass a physical fitness test. However, these same officers perform several of the same law enforcement responsibilities as those who are Level III certified.

Law enforcement officer training:

(A) The Council, in consultation with the Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel, the Human Rights Commission, the American Civil Liberties Union, statewide racial justice groups, statewide groups representing individuals with lived experience of a mental health condition or psychiatric disability, and other relevant stakeholders, shall review the current requirements for basic and annual in service training in order to determine whether appropriate training is provided in the areas of cultural awareness, implicit bias, de-escalation, and recognition of and appropriately responding to individuals with a mental health condition or psychiatric disability, and whether that training is embedded into training on other policing policies such as traffic stops and searches.

(B) In consideration of its analysis in subdivision (A) of this subdivision (2), and in reviewing current training requirements and how that training is used in practice, the Council shall recommend any amendments to statutorily required training that may not be necessary for all officers.

Placement of the Council and Changes to Training Process:

(C) The Council, Law Enforcement Advisory Board, and Department of Public Safety shall consult with the Vermont League of Cities and Towns and other interested stakeholders to determine whether:

(i) the Council should be reestablished within a State agency or other oversight entity; and

(ii) there should be more flexibility in the residential and field training required of law enforcement applicants, including whether applicants should be able to satisfy some aspects of basic training through experiential learning.

Comprehensive Training/Curriculum Review Committee

This area is so critically important and appears to be enough of a lift to review all existing curricula through the collective lens of Council members and subject matter experts. The staff from the Vermont Police Academy would likely be the same as the existing Training Advisory Committee, but with a more specific focus. Areas of focus will immediately include several areas identified within S. 124. It may be determined that this function be the responsibility of the Training Advisory Committee and this becomes the responsibility of that sub-committee.

Training Advisory Committee

The Training Advisory Committee (TAC) is comprised of representatives from throughout the Vermont Criminal Justice System. The TAC's primary charge is to conduct comprehensive reviews of new and updated curriculums for basic training and in-service academy programs (excluding those specifically charged to other Council sub-committees). The TAC recommends acceptance or denial of training programs to the Executive Director and in addition to these reviews, the TAC periodically conducts scheduled reviews of Level II and Level III training to ensure they are reflective of the current needs, legalities and best recommended practices encompassing modern policing. The TAC is responsible for review of academy instructor certification and re-certification requests in instances where extenuating circumstances arise causing staff to seek their counsel. In addition to these responsibilities, the TAC may undertake special assignments as tasked by the Executive Director.

Use of Force:

\$25,000

Statewide Model Policy - **S.119 (An act relating to a statewide standard and policy for law enforcement use of force)** requires implementation of a statewide model policy on a high-risk, high-liability area that will mandate related training be completed. We are currently statutorily obligated to have this in place July 1, 2021. However, the legislative session will not be over until shortly prior so we will have minimal time to create and disseminate the required training. While the policy will be in place the methodology for the delivery of training will require discussion with the legislature. If we are still operating in a restricted manner due to COVID this might well require the production of a training video and online training course available to all law enforcement in Vermont. To create a comprehensive video the cost will likely be up to \$25,000.

S.54 (Cannabis Bill):

\$20,000

This bill mandated a significant increase in in-service training, impacting departments all over the State. All officers in Vermont will require initial DUI training or recertification training to address saliva testing. Mandatory ARIDE training and related materials poses

another dramatic increase in need for our training materials budget. We cannot meet the mandate entirely by the deadline legislated, largely due to COVID-19 and lack of adjunct faculty availability.

As S.54 was written, the following is a summary of the impacts:

1. Curriculum update work would need to be completed to include all certified instructors. This involves multiple days of work, together and separately, by Academy staff and non-staff. These are the same personnel who are currently being taxed with requests to maintain training we are already offering.
2. An instructor certification school must take place to increase the current pool. The follow-on processes can take anywhere from 18 months to 4 years to complete and must commence in 2021.
3. As all officers are required to take ARIDE on or before December 31, 2021:
All officers who have not yet had DUI, a prerequisite certification, would be required to complete that first. About 400 officers are in need. We can only accommodate about 20-30 additional officers per year during the pandemic.
 - We may be able to increase ARIDE training opportunities by 60 – 80 per year. One thousand are in need per S.54. That number will decrease over time due to normal attrition rates.
4. If oral fluid testing becomes a reality, we would need to recertify all law enforcement officers in the State (aka Council authorization). This is for the protection of all citizens in ensuring the test is properly conducted and interpreted. It would also protect police agencies from liability and wasted court time should the officer not follow proper procedure.
 - a. Recertification of over 1500 officers, will take four or five years.

We cannot meet the December 31, 2021 deadline written in S.54. However, an estimated budget to address those mandates at an achievable pace will total a minimum of \$20,000. This increased expense will continue in the future and may grow.

Other Areas of S. 124

(B)(i) The Council shall recommend a model body camera policy for use by law enforcement agencies and officers.

The Council will continue to collaborate with the Department of Public Safety (DPS), and the Law Enforcement Advisory Board (LEAB), to update the current model policy to reflect best practices.

The following three areas within S. 124 are areas that the VCJC has not yet had the opportunity to address. The Council will collaborate with the LEAB, the Department of Public Safety, and others in all three areas.

(ii) After consulting with the Secretary of State, the Human Rights Commission, the American Civil Liberties Union, statewide racial justice groups, statewide groups representing individuals with lived experience of a mental health condition or psychiatric disability, and other interested parties, the Council shall specifically recommend policies for responding to public records requests for body camera footage, including any recommended timelines to respond, how and what footage should be redacted, length of footage retention, and storage.

(7) Military equipment. After an opportunity for community involvement and feedback, the Council shall recommend a statewide policy on law enforcement officers' acquisition of military equipment.

(8) Facial recognition technology. After analyzing any law enforcement needs to use facial recognition technology, analyzing any potential inaccuracies or other limitations in the capacities of that technology, including implicit biases, and an opportunity for community involvement and feedback, the Council shall recommend a statewide policy on law enforcement officers' acquisition and use of facial recognition technology, in light of the moratorium set forth in Sec. 14 of this act. If the Council will recommend the authority for officers to acquire and use facial recognition technology, the Council shall recommend a plan to mitigate any implicit bias that results from the use of that technology.

TRAINING PROGRAM NEEDS

Professional Development

\$50,000

In order for Vermont Police Academy staff to lead the State's (approximately 1,835) law enforcement professionals in training and best practices, they require training and professional development. In addition, Academy staff need to be able to fund the professional development of adjunct faculty who teach courses for the Academy without any reimbursement. Training is crucial to develop subject matter expertise and expand skillsets. This is particularly true as it relates to training in the support of law enforcement leadership, culture, bias, critical thinking, and problem solving, and stress and resilience. This type of professional development will ensure the Academy instructor cadre is teaching known best practices. The Council requests an annual operating budget of \$50,000 to ensure that all staff are best prepared to deliver the highest caliber of training to Vermont's law enforcement officers.

- Attend Professional conferences, such as the International Chiefs of Police (IACP), and the International Association of Directors of Law Enforcement Standards and Training (IADLEST) annual training conferences.
- Patrol procedures training to provide the best available training to recruits in this critically important area of instruction

- Various Train-the-Trainer (TTT) courses in a wide array of areas to certify Academy instructor cadre deliver best available training to our VT law enforcement professionals
- Force Science Survival Training

Equipment:

\$100,000

The current budget is approximately 92 percent dedicated to line items beyond our control, such as the food contract, fee for space, and salary and benefits. This leaves nearly zero available each fiscal year to replace old and dated equipment, purchase new training tools that would afford us the opportunity to advance the level of training delivered to Vermont law enforcement professionals, and other needed equipment.

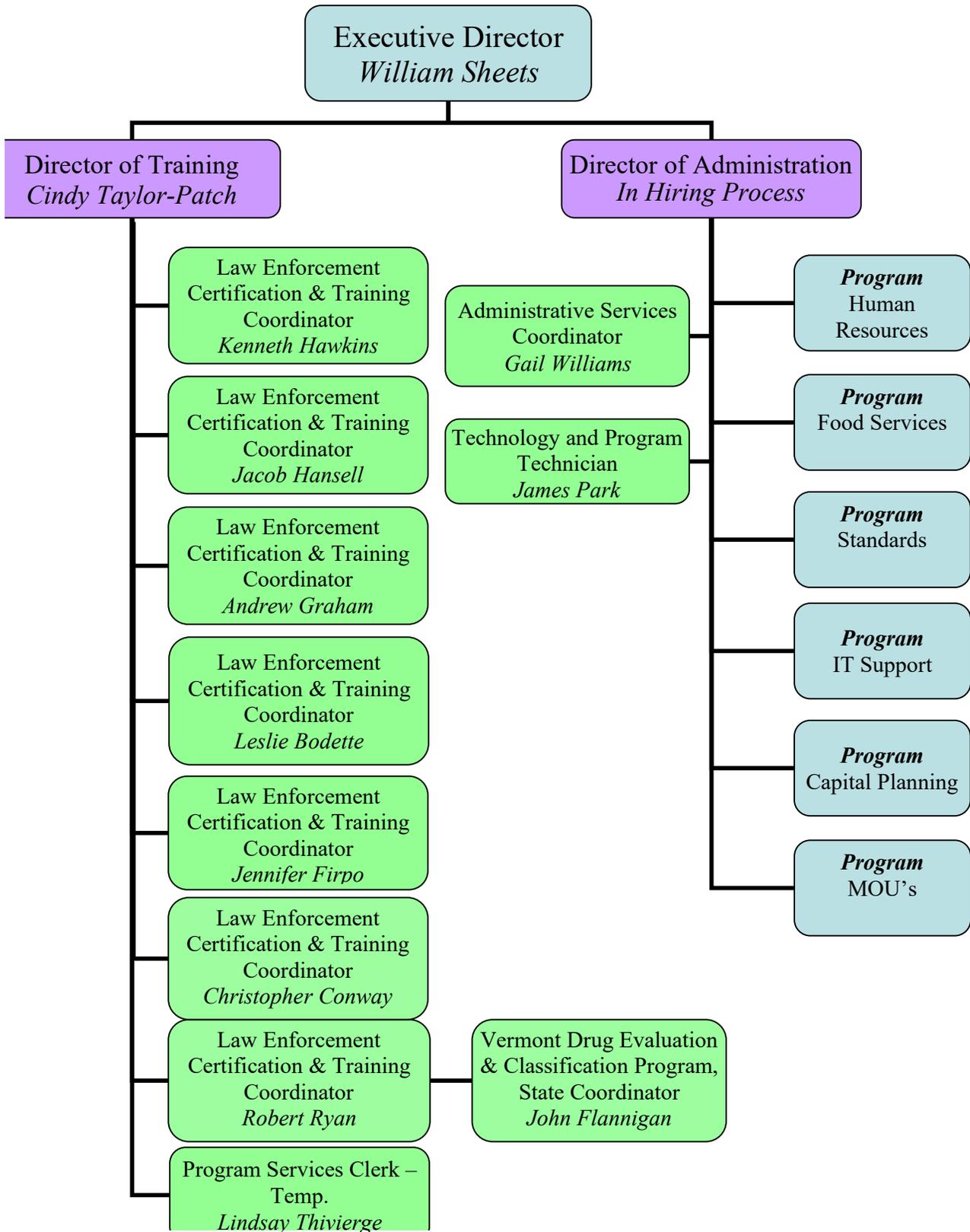
Examples of the routine equipment needs that would require \$100,000 annually include, but are not limited to, the following. Replacements in these areas would be on a rotational basis, likely every four or five years for most items.

- K-9 bite sleeves and other related safety items for our K-9 training program
- Laptops, projectors, iPads for staff and recruits in the 16-week basic training course
- Vehicles used by recruits during on-site training on the driving course and scenarios
- Safety Equipment for staff and students (Use of Force, firearms safety gear/body armor)
- Gym equipment for required physical fitness testing
- Gym mats for Use of Force training
- Simunition weapons for firearms training
- Video recording system for training scenarios for observational learning/feedback
- Uniforms for each recruit class
- Furniture, bedding, mattresses, etc.

APPENDIX A

VPA Table of Organization

Table of Organization Vermont Criminal Justice Training Council



APPENDIX B

B

VCJC Member Roster

Member	Organization	Proxy
William Sorrell	Governor Appointed	
Brian Searles	Governor Appointed	
Karim Chapman	Governor Appointed	
Tammy Boudah	Governor Appointed	
Maira Tungatarova	Governor Appointed	
Christopher Louras	Governor Appointed	
Shawn Pratt	Governor Appointed	
Michael Schirling	Commissioner of Public Safety	Major Ingrid Jonas
James Baker	Interim Commissioner Corrections	Heather Simons
Wanda Minoli	Commissioner of Public Motor Vehicles	Anthony Facos
Louis Porter	Commissioner of Fish & Wildlife	Col. Jason Batchelder Major Justin Stedman
Sarah Squirrell	Commissioner of Mental Health	Mourning Fox
TJ Donovan	Attorney General	David Scherr
John Campbell	E.D. States Attorney & Sheriff's	Erica Marthage
Xusana Davis	E.D. Racial Equity	
Erin Hodges	VT Troopers Association	
Michael Major	VT Police Association	
Christopher Brickell	VT Chief Association	
Mark Anderson	VT Sheriff's Association	
John Federico	VT State Employee Association	
Trevor Whipple	VT League of Cities and Towns	Gwynn Zakov
Chris Fenno	E.D. Center for Crime Victims Services	Elaine Boyce
Bor Yang	E.D Human Rights Commission	Cassandra Burdyshaw
Karen Tronsgard-Scott	E.D. VT Network DOMV/Sexual Violence	Sarah Robinson

APPENDIX C

VCJC Subcommittees 01/12/2021

C

Domestic Violence Committee:

The VCJTC Domestic Violence Committee was originally formed in 2008 to create an eight-hour domestic violence and VCJTC approved curriculum to meet training demands required through Act - 174, which added mandated domestic violence training for all Vermont law enforcement officers. Per 20 VSA §2365(a)... “to remain certified, law enforcement officers shall receive by 2011 at least eight hours of domestic violence training in a program approved by the Vermont Criminal Justice Training Council and the Vermont Network Against Domestic and Sexual Violence.” Hereafter, the Domestic Violence Committee was charged with developing new domestic violence related trainings that continue to meet the Act’s statutory requirements. Vermont law enforcement officers must receive domestic violence training every two years to maintain certification and this training is required during even number years.

Canine Committee:

The VCJTC Canine Committee is charged with oversight of the Vermont Police Canine Training Program. The Program’s mission is to develop canine teams that are useful and effective for their respective law enforcement agencies. The program provides basic and in-service level courses which are certified by the VCJTC. All training provided is based on practical, realistic, and field-related circumstances. Performance is monitored through formal training sessions and field observations to ensure remedial training is available when needed. The expertise of the instructional staff is available to all law enforcement agencies seeking development or improvements to canine programs. The committee ensures best practices consistent with current statute and caselaw are implemented within Vermont’s law enforcement canine community. Committee members assist with the evaluation, certification, re-certification, and other program needs as identified.

Use-of-Force Committee:

The Use-of-force Committee is composed of law enforcement professionals representing agencies from throughout Vermont; committee members range in rank from Officer to Chief. Members are appointed by the Executive Director. Committee members are advanced in their field and extremely knowledgeable in their arena of training, which includes the use of law enforcement firearms of all types and non-deadly use-of-force techniques and equipment. The committee has a myriad of responsibilities within its purview. Responsibilities include, but are not necessarily limited to the following:

- Reviewing and recommending curriculum(s) for use-of-force classes related to Level – I, Level – II, Level – III, and in-service law enforcement training
- Providing guidance to instructors throughout the state relative to use-of-force training

-
- Recommending changes and improvements for the facility regarding use-of-force training
 - Recommending standards for use-of-force instructors of all levels and disciplines
 - Providing input for the implementation of programs related to use-of-force
 - Reviewing special requests (i.e. – advanced levels of certification, time extensions, etc.) relative to use-of-force instructor certifications and re-certifications

Training Advisory Committee:

The Training Advisory Committee (TAC) is comprised of representatives from throughout the Vermont Criminal Justice System. The TAC's primary charge is to conduct comprehensive reviews of new and updated curriculums for basic training and in-service academy programs (excluding those specifically charged to other VCJTC sub-committees). The TAC recommends acceptance or denial of training programs to the Executive Director and in addition to these reviews, the TAC periodically conducts scheduled reviews of Level – II and Level – III training to ensure they are reflective of the current needs, legalities and best recommended practices encompassing modern policing. The TAC is responsible for review of academy instructor certification and re-certification requests in instances where extenuating circumstances arise causing staff to seek their counsel. In addition to these responsibilities, the TAC may undertake special assignments as tasked by the Executive Director.

Highway Safety Committee:

The Highway Safety Committee's membership is comprised of individuals with a range of expertise surrounding highway safety issues as related to law enforcement training. This committee is tasked with the review, implementation and oversight of law enforcement training matters related to highway safety. The committee reviews instructor certification requirements as required and addresses specific charges assigned by the Executive Director. The Highway Safety Committee's mission is to address law enforcement training relative to the following:

- Law enforcement vehicle operations
- Impaired driving enforcement to include alcohol and drugged driving, Drug Recognition Experts (DRE) and Advanced Roadside Impaired Driving Enforcement (ARIDE)
- Crash investigation
- Motor vehicle law
- Other issues tasked to the committee by the Executive Director relative to highway safety

Fair and Impartial Policing Sub-Committee:

The Fair and Impartial Policing Sub-Committee is comprised of law enforcement professionals representing agencies from throughout Vermont, as well as invested community stakeholders. One of this sub-committee's charges is to collaborate and disseminate mandatory biennial training as set forth in 20 VSA 2358(e)(3). This statute requires all law enforcement officers to receive Vermont Criminal Justice Training Council approved training relative to Fair and Impartial Policing during odd-numbered years. The Fair and Impartial Policing Sub-Committee is also tasked to review and update basic Fair and Impartial Policing Curriculum, to ensure relevance and alignment with current best practices.

VCJC Professional Regulation Sub-Committee

Act 56 of 2017, relating to the Professional Regulation of Law Enforcement Officers by the VCJC became effective July 1, 2018. To help navigate this responsibility a VCJC sub-committee should be considered. This committee should consist of no more than five VCJC members. Members will assist the Executive Director with the guidance and investigation of professional regulation matters. This sub-committee will take the lead on the creation of procedural ground rules that will eventually become part of newly created Council rules.

Reestablish a VCJC Waiver Sub-Committee

This is a complex area with no way of standardization as each case presented for a level III waiver differs. This should be considered as a separate committee. In fact, a waiver sub-committee existed in the past and there are enough annual requests to keep a standing committee busy. The sub-committee should determine the scope of work once established but the suggestion is that this committee focus on the more complex out-of-state waiver process, the level II to III waiver discussion and the appeal of any Rule 13 waiver issue. The Executive Director or the Director of Administration grant routine Rule 13 waivers on a consistent basis. For example, an Officer on maternity leave might need a waiver as she would be unable to qualify on firearms until returning to duty in the next calendar year. This committee would be provided with a list of those routine waivers but should provide resources to address the more complex reviews.

The creation of a VCJC Entrance Requirements Sub-Committee

The time has come to be able to deliver an online written examination that is relevant, contemporary and with as few biases as humanly possible. This test should be able to be administered by an outside vendor who can ensure that it is being proctored properly and securely. The same goes for the psychological profile assessment. The Council should approve three or more tests that are deemed credible and allow agencies to administer this test directly, online. The agency would be responsible for ensuring this has been completed. Although not a part of S. 124 this same committee should look at PT standards for the entrance exam, as the test is being reevaluated based upon national best practices.

Comprehensive Training/Curriculum Review Committee

This area is so critically important and appears to be enough of a lift to review all existing curriculum through the collective lens of Council members and subject matter experts. The staff from the Vermont Police Academy would likely be the same as the existing Training Advisory Committee, but with a more specific focus. Areas of focus will immediately include several areas identified within S. 124. It may be determined that this function be the responsibility of the Training Advisory Committee and this becomes the responsibility of that sub-committee.

APPENDIX D

ACT 56

D

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.

* * *

§ 2358. MINIMUM TRAINING STANDARDS; DEFINITIONS

* * *

(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.]

* * *

§ 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