

No. 124. An act relating to miscellaneous updates to the powers of the Vermont Criminal Justice Council and the duties of law enforcement officers.

(H.872)

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

Sec. 1. 20 V.S.A. § 2355 is amended to read:

§ 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) the contents and application of the Law Enforcement Officers'

Code of Conduct;

(12) permitting its Executive Director to grant up to a 60-day waiver to a law enforcement officer who has failed to meet ~~his or her~~ the officer's annual in-service training requirements but who is able to complete those training requirements within the time period permitted by the Executive Director; and

(13) Advanced Roadside Impaired Driving Enforcement training programs and requirements for Levels I, II, and III law enforcement certification, including minimum hours of training, prerequisites, and time periods for completion.

* * *

Sec. 2. 20 V.S.A. § 2371 is added to read:

§ 2371. STATEWIDE POLICY; LAW ENFORCEMENT OFFICERS' CODE
OF CONDUCT

(a) Creation and modification of Code. The Council shall create, implement, and modify by rule a statewide policy known as the Law Enforcement Officers' Code of Conduct or Code. This Code effectuates the principle that law enforcement officers serve the communities of Vermont and protect all persons against illegal acts in a manner consistent with the high degree of responsibility and respect for human dignity required by the profession.

(b) Application. Each law enforcement officer, as a condition for obtaining and maintaining certification, shall comply with the provisions of the Law Enforcement Officers' Code of Conduct.

(c) Code contents. The Law Enforcement Officers' Code of Conduct shall prohibit the following categories of conduct:

(1) criminal conduct, including conduct defined as "Category A conduct" in section 2401 of this title;

(2) untruthfulness, including in the course of criminal investigations, in law enforcement agencies' internal affairs investigations, in Council investigations, in matters before a tribunal, and in the preparation administration, or taking of any official examination conducted by a law enforcement agency of the Council;

(3) misuse of official position, including:

(A) sexual misconduct and harassment;

(B) misuse of property and evidence;

(C) solicitation, taking, and giving of bribes; and

(D) use of electronic criminal records database for personal, political, or economic gain;

(4) discrimination and biased enforcement;

(5) unlawful use of force while on duty or under the authority of the State, pursuant to section 2368 of this title, including failure to intervene and report to a supervisor observation of unlawful use of force by another law enforcement officer; and

(6) domestic violence, while on duty or off duty, including attempting to cause or causing physical harm to a family or household member, or placing a family or household member in fear of imminent serious physical harm, or violating the Domestic Violence Involving Law Enforcement Model Policy adopted pursuant to section 2365 of this title.

(d) Supplemental professional conduct policies.

(1) To the extent any provisions of this section or the adopted Code conflicts with the provisions of any law enforcement agency's own policies, the provisions of this chapter and the adopted Code shall prevail.

(2) A law enforcement agency may adopt additional professional conduct policies, provided that these are not in conflict with the provisions of this chapter or the adopted Code.

Sec. 3. LAW ENFORCEMENT OFFICERS' CODE OF CONDUCT;

ADOPTION

On or before December 31, 2024, the Council shall adopt by rule the Law Enforcement Officers' Code of Conduct.

Sec. 4. 20 V.S.A. § 2401 is amended to read:

§ 2401. DEFINITIONS

As used in this subchapter:

* * *

(2) "Category B conduct" means ~~gross professional misconduct amounting to actions on duty or under authority of the State, or both, that involve a 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, and shall include:~~ or the Law Enforcement Officers' Code of Conduct.

~~(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 authority of the State, first offense;~~

~~(D) biased enforcement;~~

~~(E) use of electronic criminal records database for personal, political, or economic gain;~~

~~(F) placing a person in a chokehold;~~

~~(G) failing to intervene and report to a supervisor when the officer observes another officer placing a person in a chokehold or using excessive force;~~

~~(H) while on duty or off duty, attempting to cause or causing physical harm to a family or household member, or placing a family or household member in fear of imminent serious physical harm; or~~

~~(I) while on duty or off duty, a violation of the Domestic Violence Involving Law Enforcement Model Policy adopted pursuant to section 2365 of this title.~~

* * *

Sec. 5. 20 V.S.A. § 2407 is amended to read:

§ 2407. LIMITATION ON COUNCIL SANCTIONS

(a) ~~Council sanctions; first offense~~ Offenses of Category A and ~~certain~~ Category ~~B~~ C conduct. After a valid investigation of Category A and Category ~~B~~ C conduct made pursuant to section 2404 of this title concludes, the Council may impose a sanction for a first or subsequent offense of: Category A or C conduct.

~~(1) Category A conduct as defined in subdivision 2401(1) of this title; or~~

~~(2) the following instances of Category B conduct as defined in subdivision 2401(2) of this title:~~

~~(A) sexual harassment involving physical contact pursuant to subdivision 2401(2)(A) of this title;~~

~~(B) excessive use of force under authority of the State pursuant to subdivision 2401(2)(C) of this title;~~

~~(C) placing a person in a chokehold pursuant to subdivision 2401(2)(F) of this title;~~

~~(D) failing to intervene and report to a supervisor when an officer observes another officer placing a person in a chokehold or using excessive force pursuant to subdivision 2401(2)(G) of this title;~~

~~(E) attempting to cause or causing physical harm to a family or household member, or placing a family or household member in fear of imminent serious physical harm pursuant to subdivision 2401(2)(H) of this title; or~~

~~(F) a violation of the Domestic Violence Involving Law Enforcement Model Policy adopted pursuant to section 2365 of this title pursuant to subdivision 2401(2)(I) of this title.~~

(b) First offense of Category B conduct. After a valid investigation of Category B conduct made pursuant to section 2404 of this title concludes, the Council may impose a sanction for a first offense of Category B conduct only to the extent the sanction does not surpass any disciplinary action taken against

the law enforcement officer by the law enforcement agency for the same alleged conduct, unless:

(1) the law enforcement officer is terminated for the same alleged conduct or resigns;

(2) the alleged conduct is committed by a law enforcement agency's executive officer;

(3) pursuant to section 2408 of this title, the law enforcement agency fails to conduct a valid investigation of the alleged conduct; or

(4) the disciplinary action taken against the law enforcement officer by the law enforcement agency is clearly unreasonable considering the following factors:

(A) the nature and seriousness of the offense;

(B) the law enforcement officer's job level, certification level, and type of employment;

(C) the law enforcement officer's past disciplinary record;

(D) the law enforcement officer's work record;

(E) the effect of the offense on the law enforcement officer's ability to perform satisfactorily;

(F) the consistency of the penalty with those imposed upon other similarly situated law enforcement officers;

(G) the consistency of the penalty with any applicable agency table of penalties;

(H) the notoriety of the offense or its impact on the reputation of the law enforcement agency or law enforcement agencies as a whole across the State;

(I) the clarity of notice;

(J) the potential for the law enforcement officer's rehabilitation;

(K) mitigating circumstances surrounding the offense; and

(L) the adequacy and effectiveness of alternative sanctions to deter such conduct in the future.

~~(c) Council action; second~~ Second or subsequent offense of ~~certain other~~ Category B conduct. After a valid investigation of Category B conduct made pursuant to section 2404 of this title concludes, the Council may impose a sanction for ~~an~~ a second or subsequent offense of Category B conduct ~~not specified in subdivision (a)(2) of this section only for the second or subsequent offense.~~

~~(e)~~(d) "Offense" defined. As used in this section, an "offense" means any offense committed by a law enforcement officer during the course of the law enforcement officer's certification, and includes any offenses committed during employment at a current or previous law enforcement agency.

Sec. 6. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 2 (20 V.S.A. § 2371), Sec. 4 (20 V.S.A. § 2401), and Sec. 5 (20 V.S.A. § 2407) shall take effect on January 1, 2025.

No. 124
2024

Page 9 of 9

Date Governor signed bill: May 29, 2024