1	H.251
2	Introduced by Representatives LaLonde of South Burlington and McCarthy of
3	St. Albans City
4	Referred to Committee on
5	Date:
6	Subject: Government operations; law enforcement; misconduct
7	Statement of purpose of bill as introduced: This bill proposes to add the
8	issuance of a Brady or Giglio letter as a basis of law enforcement misconduct
9	under the jurisdiction of the Vermont Criminal Justice Council. The bill also
10	provides the Council the ability to rescind a Brady or Giglio letter if the law
11	enforcement officer is exonerated after an evidentiary hearing.
12 13	An act relating to the issuance of a <i>Brady</i> or <i>Giglio</i> letter as misconduct under jurisdiction of the Vermont Criminal Justice Council
14	It is hereby enacted by the General Assembly of the State of Vermont:
15	Sec. 1. 20 V.S.A. § 2401 is amended to read:
16	§ 2401. DEFINITIONS
17	As used in this subchapter:
18	(1) "Category A conduct" means:
19	(A) A felony.

## BILL AS INTRODUCED 2023

1	(B) A misdemeanor that is committed while on duty and did not
2	involve the legitimate performance of duty.
3	(C) Any of the following misdemeanors, if committed off duty:
4	(i) simple assault, second offense;
5	(ii) domestic assault;
6	(iii) false reports and statements;
7	(iv) driving under the influence, second offense;
8	(v) violation of a relief from abuse order or of a condition of
9	release;
10	(vi) stalking;
11	(vii) false pretenses;
12	(viii) voyeurism;
13	(ix) prostitution or soliciting prostitution;
14	(x) distribution of a regulated substance;
15	(xi) simple assault on a law enforcement officer; or
16	(xii) possession of a regulated substance, second offense.
17	(2) "Category B conduct" means gross professional misconduct
18	amounting to actions on duty or under authority of the State, or both, that
19	involve willful failure to comply with a State-required policy or substantial
20	deviation from professional conduct as defined by the law enforcement

1	agency's policy or if not defined by the agency's policy, then as defined by
2	Council policy, and shall include:
3	(A) sexual harassment involving physical contact or misuse of
4	position;
5	(B) misuse of official position for personal or economic gain;
6	(C) excessive use of force under authority of the State, first offense;
7	(D) biased enforcement;
8	(E) use of electronic criminal records database for personal, political,
9	or economic gain;
10	(F) placing a person in a chokehold;
11	(G) failing to intervene and report to a supervisor when the officer
12	observes another officer placing a person in a chokehold or using excessive
13	force <u>; or</u>
14	(H) bias, untruthfulness, or other potentially exculpatory and
15	impeachment evidence resulting in the issuance of a Brady or Giglio letter by a
16	prosecutor.
17	* * *
18	Sec. 2. 20 V.S.A. § 2406 is amended to read:
19	§ 2406. PERMITTED COUNCIL SANCTIONS AND ACTIONS
20	* * *

1	(c) Rescindment of <i>Brady</i> or <i>Giglio</i> letter. If, after an evidentiary hearing,
2	the Council finds that a law enforcement officer's Brady or Giglio letter was
3	wrongly issued by a prosecutor, or the law enforcement officer is otherwise
4	exonerated of the claims contained in the letter, the Council may rescind the
5	letter and send notice to the issuing prosecutor of the rescindment.
6	Sec. 3. 20 V.S.A. § 2407 is amended to read:
7	§ 2407. LIMITATION ON COUNCIL SANCTIONS; FIRST OFFENSE OF
8	CATEGORY B CONDUCT
9	(a) Category B conduct; first offense. If a law enforcement agency
10	conducts a valid investigation of a complaint alleging that a law enforcement
11	officer committed a first offense of Category B conduct, the Council shall take
12	no action, except that the Council may take action for a first offense under
13	subdivision 2401(2)(C) (excessive use of force under authority of the State),
14	2401(2)(F) (placing a person in a chokehold), or 2401(2)(G) (failing to
15	intervene and report to a supervisor when an officer observes another officer
16	placing a person in a chokehold or using excessive force), or 2401(2)(H)
17	(issuance of a Brady or Giglio letter) of this chapter.
18	* * *
19	Sec. 4. EFFECTIVE DATE
20	This act shall take effect on July 1, 2023.