

1 H.476

2 Introduced by Committee on Government Operations and Military Affairs

3 Date:

4 Subject: Internal security and public safety; Vermont Criminal Justice Council;
5 law enforcement officer training

6 Statement of purpose of bill as introduced: This bill will require law
7 enforcement agencies and constables who exercise law enforcement authority
8 to adopt the Domestic Violence Involving Law Enforcement Model Policy and
9 any future updates to the Policy as well as require the Vermont Law
10 Enforcement Advisory Board to update the Domestic Violence Involving Law
11 Enforcement Model Policy. The bill will include on duty or off duty abuse of
12 a family or household member and on duty or off duty violation of the
13 Domestic Violence Involving Law Enforcement Model Policy as Category B
14 conduct. The bill will require the Vermont Criminal Justice Council to collect
15 and annually report aggregate data regarding domestic and sexual violence and
16 complaints of Category A and B conduct resulting in the filing of charges or
17 stipulations or the taking of disciplinary action.

18 An act relating to miscellaneous changes to law enforcement officer
19 training laws

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

2 ~~*** Domestic Violence Involving Law Enforcement Model Policy ***~~

3 Sec. 1. 20 V.S.A. § 2365 is amended to read:

4 § 2365. DOMESTIC VIOLENCE TRAINING; DOMESTIC VIOLENCE
5 INVOLVING LAW ENFORCEMENT MODEL POLICY

6 * * *

7 (d)(1) On or before July 1, 2024, every State, county, and municipal law
8 enforcement agency shall adopt the Domestic Violence Involving Law
9 Enforcement Model Policy issued by the Vermont Law Enforcement Advisory
10 Board.

11 (2) On or before July 1, 2024, every constable who exercises law
12 enforcement authority pursuant to 24 V.S.A. § 1936a and is certified pursuant
13 to section 2358 of this title shall adopt the Domestic Violence Involving Law
14 Enforcement Model Policy issued by the Vermont Law Enforcement Advisory
15 Board.

16 (3) Agencies and constables referenced in subdivisions (1) and (2) of
17 this subsection shall adopt any updated Domestic Violence Involving Law
18 Enforcement Model Policy issued by Vermont Law Enforcement Advisory
19 Board within six months following the issuance.

~~Sec. 2. DOMESTIC VIOLENCE INVOLVING LAW ENFORCEMENT~~

MODEL POLICY REVISION

(a) On or before January 1, 2024, the Vermont Law Enforcement Advisory Board, after receiving input from interested stakeholders, shall issue an updated Domestic Violence Involving Law Enforcement Model Policy.

(b) The updated Domestic Violence Involving Law Enforcement Model Policy shall:

(1) address domestic violence survivors' needs and leverage best practices in awareness, prevention, and investigation of domestic violence;

(2) identify existing support offered to any law enforcement agency employee or officer who is experiencing domestic violence;

(3) identify new means of supporting law enforcement agency employees or officers who are experiencing domestic violence;

(4) develop processes to protect the privacy of agency employees and officers experiencing domestic violence and to maintain the confidentiality of any information shared by these individuals; and

(5) amend or replace language found in 2010 Domestic Violence

Involving Law Enforcement Model Policy, section 3.8 (Member

Responsibilities), subdivision (4) to require a law enforcement agency

employee or officer subject to a final relief from abuse order pursuant to

15 V.S.A. § 1105 to immediately surrender all service weapons.

1 ~~Sec. 4-20 V.S.A. § 2407 is amended to read:~~

2 § 2407. LIMITATION ON COUNCIL SANCTIONS; FIRST OFFENSE OF
3 CATEGORY B CONDUCT

4 (a) Category B conduct; first offense. If a law enforcement agency
5 conducts a valid investigation of a complaint alleging that a law enforcement
6 officer committed a first offense of Category B conduct, the Council shall take
7 no action, except that the Council may take action for a first offense under
8 subdivision 2401(2)(C) (excessive use of force under authority of the State),
9 2401(2)(F) (placing a person in a chokehold), ~~or~~ 2401(2)(G) (failing to
10 intervene and report to a supervisor when an officer observes another officer
11 placing a person in a chokehold or using excessive force), 2401(2)(H) (while
12 on duty or off duty, attempting to cause or causing physical harm to a family
13 or household member, or placing a family or household member in fear of
14 imminent serious physical harm), or 2401(2)(I) (while on duty or off duty, a
15 violation of the Domestic Violence Involving Law Enforcement Model Policy
16 adopted pursuant to section 2365 of this title) of this chapter.

17 (b) "Offense" defined. As used in this section, an "offense" means any
18 offense committed by a law enforcement officer during the course of his or her
19 the law enforcement officer's certification, and includes any offenses
20 committed during employment at a current or previous law enforcement
21 agency.

1 ~~Sec. 5. 20 V.S.A. § 2409 is amended to read:~~

2 § 2409. ACCESSIBILITY AND CONFIDENTIALITY

3 * * *

4 (g)(1) The Council shall collect aggregate data on the number of:

5 (A) complaints received that involve domestic or sexual violence;

6 and

7 (B) the number of complaints for Category A and B conduct that
8 resulted in the filing of charges or stipulations or the taking of disciplinary
9 action.

10 (2) The Council shall provide a report of the aggregate data collected
11 pursuant to subdivision (1) of this subsection to the House Committees on
12 Judiciary and on Government Operations and Military Affairs and the Senate
13 Committees on Judiciary and on Government Operations annually on or before
14 January 15.

15 * * * Effective Date * * *

16 Sec. 6. EFFECTIVE DATE

17 ~~This act shall take effect on passage.~~

** * * Domestic Violence Involving Law Enforcement Model Policy * * **

Sec. 1. 20 V.S.A. § 2365 is amended to read:

§ 2365. DOMESTIC VIOLENCE TRAINING; DOMESTIC VIOLENCE

INVOLVING LAW ENFORCEMENT MODEL POLICY

* * *

(d)(1) On or before July 1, 2024, every State, county, and municipal law enforcement agency shall adopt the Domestic Violence Involving Law Enforcement Model Policy issued by the Vermont Law Enforcement Advisory Board.

(2) On or before July 1, 2024, every constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and is certified pursuant to section 2358 of this title shall adopt the Domestic Violence Involving Law Enforcement Model Policy issued by the Vermont Law Enforcement Advisory Board.

(3) Agencies and constables referenced in subdivisions (1) and (2) of this subsection shall adopt any updated Domestic Violence Involving Law Enforcement Model Policy issued by Vermont Law Enforcement Advisory Board within six months following the issuance.

Sec. 2. DOMESTIC VIOLENCE INVOLVING LAW ENFORCEMENT

MODEL POLICY REVISION

(a) On or before January 1, 2024, the Vermont Law Enforcement Advisory Board, after receiving input from interested stakeholders, shall issue an updated Domestic Violence Involving Law Enforcement Model Policy.

(b) The updated Domestic Violence Involving Law Enforcement Model Policy shall:

(1) address domestic violence survivors' needs and leverage best practices in awareness, prevention, and investigation of domestic violence;

(2) identify existing support offered to any law enforcement agency employee or officer who is the victim of or the person who committed domestic violence;

(3) identify new means of supporting law enforcement agency employees or officers who are the victims of or the persons who committed domestic violence;

(4) develop processes to protect the privacy of agency employees and officers who are the victims of domestic violence and to maintain the confidentiality of any information shared by these individuals; and

(5) amend or replace language found in 2010 Domestic Violence Involving Law Enforcement Model Policy, section 3.8 (Member Responsibilities), subdivision (4) to require a law enforcement agency employee or officer subject to a final relief from abuse order pursuant to 15 V.S.A. § 1103 to immediately surrender all service weapons.

** * * Officer Misconduct and Transparency of Information * * **

Sec. 3. 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 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:

* * *

(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. 4. 20 V.S.A. § 2407 is amended to read:

§ 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, except that the Council may take action for a first offense under~~

~~subdivision 2401(2)(C) (excessive use of force under authority of the State),
2401(2)(F) (placing a person in a chokehold), or 2401(2)(G) (failing to
intervene and report to a supervisor when an officer observes another officer
placing a person in a chokehold or using excessive force) of this chapter.~~

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

(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) Council action; 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 offense of Category B conduct not specified in subdivision (a)(2) of this section only for the second or subsequent offense.

(c) "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 the law enforcement officer's certification, and includes any offenses committed during employment at a current or previous law enforcement agency.

Sec. 4a. VERMONT CRIMINAL JUSTICE COUNCIL AUTHORITY;

REPORT

On or before December 15, 2023, the Vermont Criminal Justice Council, in consultation with the Department of Human Resources, the Office of Professional Regulation, and a nationally recognized organization that is a

subject matter expert in the field of law enforcement professional regulation, shall report to the House Committee on Government Operations and Military Affairs and the Senate Committee on Government Operations on the following:

(1) whether the current statutes pertaining to unprofessional conduct in 20 V.S.A. §§ 2401–2411 should be amended to apply to all off-duty conduct of law enforcement officers;

(2) whether the current statutes pertaining to unprofessional conduct in 20 V.S.A. §§ 2401–2411 should be amended to adjust the scope of Category B conduct that the Vermont Criminal Justice Council may take action on for a first offense; and

(3) any other recommendations as deemed appropriate by the Vermont Criminal Justice Council.

Sec. 5. 20 V.S.A. § 2409 is amended to read:

§ 2409. ACCESSIBILITY AND CONFIDENTIALITY

* * *

(g)(1) The Council shall collect aggregate data on the number of:

(A) complaints received that involve domestic or sexual violence; and

(B) the number of complaints for Category A and B conduct involving domestic or sexual violence that resulted in the filing of charges or stipulations or the taking of disciplinary action.

(2) The Council shall provide a report of the aggregate data collected pursuant to subdivision (1) of this subsection to the House Committees on Judiciary and on Government Operations and Military Affairs and the Senate Committees on Judiciary and on Government Operations annually on or before January 15.

** * * Vermont Criminal Justice Council Domestic Violence Training Position*

*Funding * * **

Sec. 5a. 20 V.S.A. § 2365 is amended to read:

§ 2365. DOMESTIC VIOLENCE TRAINING

** * **

(c) The Vermont Police Academy shall employ a domestic violence trainer for the sole purpose of training Vermont law enforcement and related practitioners on issues related to domestic violence. ~~Funding for this position shall be transferred by the Center for Crime Victim Services from the Domestic and Sexual Violence Special Fund created by 13 V.S.A. § 5360.~~

Sec. 5b. 13 V.S.A. § 5360 is amended to read:

§ 5360. DOMESTIC AND SEXUAL VIOLENCE SPECIAL FUND

A Domestic and Sexual Violence Special Fund is established, to be managed in accordance with 32 V.S.A. chapter 7, subchapter 5 and administered by the Center for Crime Victim Services created in section 5361 of this title. The revenues of the Fund shall consist of that portion of the

additional surcharge on penalties and fines imposed by section 7282 of this title deposited in the Domestic and Sexual Violence Special Fund and that portion of the town clerks' fee for issuing and recording civil marriage or civil union licenses in 32 V.S.A. § 1712(1) deposited in the Domestic and Sexual Violence Special Fund. The Fund may be expended by the Center for Crime Victim Services for budgeted grants to the Vermont Network against Domestic and Sexual Violence and for the Criminal Justice Training Council position dedicated to domestic violence training, pursuant to 20 V.S.A. § 2365(e).

** * * Effective Date * * **

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.