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H.872

An act relating to miscellaneous updates to the powers of the Vermont
Criminal Justice Council and the duties of law enforcement officers

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.

* * *

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

2 § 2371. STATEWIDE POLICY; LAW ENFORCEMENT OFFICERS' CODE
3 OF CONDUCT

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

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

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

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

18 (2) untruthfulness, including in the course of criminal investigations,
19 in law enforcement agencies' internal affairs investigations, in Council
20 investigations, in matters before a tribunal, and in the preparation

1 administration, or taking of any official examination conducted by a law
2 enforcement agency of the Council;

3 (3) misuse of official position, including:

4 (A) sexual misconduct and harassment;

5 (B) misuse of property and evidence;

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

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

9 (4) discrimination and biased enforcement;

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

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

19 (d) Supplemental professional conduct policies.

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

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

7 Sec. 3. LAW ENFORCEMENT OFFICERS’ CODE OF CONDUCT;

8 ADOPTION

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

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

12 § 2401. DEFINITIONS

13 As used in this subchapter:

14 * * *

15 (2) “Category B conduct” means ~~gross professional misconduct~~
16 ~~amounting to actions on duty or under authority of the State, or both, that~~
17 ~~involve a willful failure to comply with a State-required policy, or substantial~~
18 ~~deviation from professional conduct as defined by the law enforcement~~
19 ~~agency’s policy or if not defined by the agency’s policy, then as defined by~~
20 ~~Council policy, and shall include:~~ or the Law Enforcement Officers’ Code of
21 Conduct.

1 ~~(A) sexual harassment involving physical contact or misuse of~~
2 ~~position;~~

3 ~~(B) misuse of official position for personal or economic gain;~~

4 ~~(C) excessive use of force under authority of the State, first offense;~~

5 ~~(D) biased enforcement;~~

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

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

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

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

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

18 * * *

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

20 § 2407. LIMITATION ON COUNCIL SANCTIONS

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

6 (1) ~~Category A conduct as defined in subdivision 2401(1) of this title; or~~
7 (2) ~~the following instances of Category B conduct as defined in~~
8 ~~subdivision 2401(2) of this title:~~

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

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

13 (C) ~~placing a person in a chokehold pursuant to subdivision~~
14 ~~2401(2)(F) of this title;~~

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

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

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

4 (b) First offense of Category B conduct. After a valid investigation of
5 Category B conduct made pursuant to section 2404 of this title concludes, the
6 Council may impose a sanction for a first offense of Category B conduct only
7 to the extent the sanction does not surpass any disciplinary action taken against
8 the law enforcement officer by the law enforcement agency for the same
9 alleged conduct, unless:

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

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

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

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

19 (A) the nature and seriousness of the offense;

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

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

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

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

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

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

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

12 (I) the clarity of notice;

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

14 (K) mitigating circumstances surrounding the offense; and

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

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

1 ~~specified in subdivision (a)(2) of this section only for the second or subsequent~~
2 ~~offense.~~

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

7 Sec. 6. EFFECTIVE DATES

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