Introduced by Senators Sears and Campion

Referred to Committee on

Date:

Subject: Municipal law; law enforcement; civilian oversight

Statement of purpose of bill as introduced: This bill proposes to authorize municipalities to create civilian oversight boards to oversee law enforcement within its jurisdiction. Any board created has the authority to manage police departments in the same manner as a legislative body, town manager, or police chief. Additionally, a board has the power to receive, investigate, and adjudicate complaints of misconduct against law enforcement officers. The investigations are confidential unless certain exceptions apply, and any discipline shall be in accordance with applicable collective bargaining agreements.

An act relating to civilian oversight of law enforcement

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

Sec. 1. 24 V.S.A. § 1944 is added to read:

§ 1944. CIVILIAN OVERSIGHT BOARDS

(a) Definitions. As used in this section:
(1) “Law enforcement agency” means a municipal police department, a sheriff’s department, the provider of law enforcement services pursuant to an intermunicipal services agreement under section 1938 of this title, or the provider of law enforcement services for a union municipal district formed pursuant to section 4866 of this title or by municipal charter.

(2) “Law enforcement officer” means a member of a law enforcement agency.

(3) “Legislative body” has the same meaning as in section 2001 of this title.

(4) “Officer-involved death or serious bodily injury” means the death or serious bodily injury of an individual that results directly from an action of a law enforcement officer while the law enforcement officer is on duty or while the law enforcement officer is off duty but performing activities that are within the scope of the officer’s law enforcement duties.

(5) “Serious bodily injury” has the same meaning as in 13 V.S.A. § 1021.

(6) “Unprofessional conduct” has the same meaning as in 20 V.S.A. § 2401.

(b) Creation. The legislative body and, in its stead, the town manager, when appointed pursuant to chapter 37 of this title, of a municipality as defined
in section 2001 of this title may delegate the authority granted pursuant to
sections 1931–1934 of this title to a civilian oversight board.

(c) Powers and duties.

(1) In addition to the authority granted pursuant to sections 1931–1934
of this title, a civilian oversight board created under this section may receive,
investigate, and address:

(A) all grievances and complaints filed by members of the public
against a law enforcement agency within its jurisdiction;

(B) all complaints of unprofessional conduct;

(C) all incidents in which a law enforcement officer acting within the
officer’s scope of authority uses physical force upon another person that results
in death or serious bodily injury to the person;

(D) all incidents that result in an officer-involved death; and

(E) all incidents of alleged ill-treatment or misconduct that come to
the attention of the board, regardless of whether those cases are the subject of
any specific formal complaint or grievance.

(2) A board may contract with or hire an attorney licensed by the State
to provide legal services. Legal services may include the proper conduct of its
affairs, assistance to a board in the lawful and orderly conduct of its open
meetings, and other nondisciplinary business, such as making procedural and
parliamentary rulings. Each board may contract with or hire an attorney
licensed by the State to assist with conducting investigations or drafting reports.

(3) A board may contract with or hire investigators who have successfully met the standards of training for a Level III law enforcement officer under 20 V.S.A. chapter 151. An investigator contracted or hired by a board shall not have previously been affiliated with or employed by a law enforcement agency within a board’s jurisdiction.

(4) A board may hire or contract with staff to assist in administrative, secretarial, or any other services a board may deem necessary.

(5) A board shall hold meetings at its discretion. Any meetings held by a board shall be subject to the Vermont Open Meeting Law.

(6) A board shall hold hearings prior to disciplining or sanctioning a law enforcement officer within its jurisdiction. Any discipline or sanction issued by a board shall be in accordance any collective bargaining or employment agreement that may apply to the law enforcement officer. Any disciplinary hearings held by a board shall be subject to chapter 36 of this title.

(d) Investigations. Notwithstanding any statute or charter to the contrary, for the purpose of carrying out an investigation pursuant to this section, a board shall have the authority to:
(1) Request and receive any assistance and information from a law enforcement agency or officer that a board deems necessary for the discharge of its duties and responsibilities.

(2) Inspect and examine all law enforcement agency records and documents, including law enforcement officer personnel records, documents, and body camera footage, that a board deems relevant to any matter being investigated by a board.

(3) Administer oaths and issue subpoenas to compel the attendance or testimony of a witness or the production of any relevant evidence, including books, papers, documents, records, photographs, recordings, reports, and tangible objects maintained by a law enforcement agency within its municipality or region. If a witness refuses to attend, testify, or produce materials as required by the subpoena, a board or its designee may compel the witness to comply by petition to the Superior Court of proper jurisdiction pursuant to Rule 37 of the Vermont Rules of Civil Procedure.

(4) Contract with and designate external organizations to assist with or conduct investigations.

(5) Notwithstanding the provisions of 1 V.S.A. § 317, the content of any investigation, including the identity of a witness or victim, any procedure, testimony taken, document or other tangible evidence produced, or any answer
made under this section is confidential and not subject to disclosure as a public record or public document unless and until:

(A) confidentiality is waived by the person upon whom the investigative demand is made;

(B) disclosure is authorized by a Superior Court; or

(C) disclosure is made by a federal court or federal agency.

(e) Disposition of complaints; reports.

(1) A board may summarily dismiss a grievance or complaint filed by a member of the public pursuant this section only when a board determines that:

(A) the complainant’s interest is not sufficiently related to the subject matter of the grievance or complaint;

(B) the grievance or complaint is trivial, frivolous, irrelevant, without merit, or made in bad faith;

(C) resources are insufficient for an adequate investigation of the grievance or complaint; or

(D) the grievance or complaint is the subject of undue delay to justify an examination of its merit.

(2) A board shall issue a public report detailing its findings at the conclusion of an investigation of any matter within the authority of the board. The report shall articulate findings of fact relative to the matter, including any disciplinary decisions and personnel changes made by the law enforcement
agency, and recommendations relating to the disposition of the matter and any
associated sanction.

(A) An investigation concluding that a complaint or grievance
against a law enforcement agency or officer pursuant to this section could not
be substantiated shall detail the underlying reasons for the conclusion in the
public report. The investigation shall be closed but shall be archived and may
be used as an aggravating factor in any subsequent investigation by a board of
similar conduct by the same law enforcement officer that is substantiated.

(B) An investigation substantiating a complaint or grievance against
a law enforcement agency or officer pursuant to this section shall articulate the
nature of any substantiated conduct, identify the underlying deficiencies of the
close conduct, and contain the board’s sanction recommendation.

Sec. 2. 24 V.S.A. § 1934 is amended to read:

§ 1934. CONSTRUCTION

Notwithstanding any contrary provisions in any municipal charter, the
provisions of sections 1931–1933 and 1944 of this title shall control, unless a
municipality has charter provisions providing for tenure of police officers
during good behavior with removal only after hearing and for cause.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2023.