

1 TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred Senate Bill No. 285
3 entitled “An act relating to law enforcement interrogation policies” respectfully
4 reports that it has considered the same and recommends that the bill be
5 amended by striking out all after the enacting clause and inserting in lieu
6 thereof the following:

7 Sec. 1. LEGISLATIVE INTENT; LAW ENFORCEMENT

8 INTERROGATION POLICIES

9 It is the intent of the General Assembly to prevent false confessions and
10 wrongful convictions of individuals subject to law enforcement interrogation,
11 to progress towards a total prohibition of the use of deception in all forms of
12 interrogation, and to ultimately improve trust between Vermont’s communities
13 and law enforcement. To achieve these objectives, it is the further intent of the
14 General Assembly to create a minimum set of law enforcement interrogation
15 standards that incorporate evidence-based best practices by:

16 (1) prohibiting law enforcement’s use of threats, physical harm, and
17 deception during interrogations of persons under 20 years of age; and

18 (2) mandating that the Vermont Criminal Justice Council develop,
19 adopt, and enforce a statewide model interrogation policy that applies to all
20 Vermont law enforcement agencies and constables exercising law enforcement
21 authority pursuant to 24 V.S.A. § 1936.

1 Sec. 2. VERMONT CRIMINAL JUSTICE COUNCIL; MODEL
2 INTERROGATION POLICY

3 (a) On or before October 1, 2024, the Law Enforcement Advisory Board, in
4 consultation with the Office of the Attorney General, shall collaborate and
5 create a model interrogation policy that applies to all persons subject to various
6 forms of interrogation, including the following:

7 (1) custodial interrogations occurring in a place of detention;

8 (2) custodial interrogations occurring outside a place of detention;

9 (3) interrogations that are not considered custodial, regardless of
10 location; and

11 (4) the interrogation of individuals with developmental, intellectual, and
12 psychiatric disabilities; substance use disorder; and low literacy levels.

13 (b) The model interrogation policy shall prohibit the use of physical harm,
14 threats, and deception during custodial interrogations of persons under 20 years
15 of age.

16 (1) At a minimum, the model interrogation policy shall define
17 “deception” as the knowing communication of false facts about evidence or
18 unauthorized statements regarding leniency by a law enforcement officer to a
19 subject of custodial interrogation.

1 (2) The model interrogation policy shall also address other forms of
2 interrogation involving persons under 20 years of age wherein the use of
3 deception is prohibited.

4 (c) The model interrogation policy shall prohibit any training of law
5 enforcement officers that employs the use of deception, including the REID
6 Technique of Investigative Interviewing and Advanced Interrogation
7 Techniques.

8 (d)(1) On or before December 1, 2024, the Law Enforcement Advisory
9 Board shall submit the model interrogation policy to the Joint Legislative
10 Justice Oversight Committee and testify before the Committee.

11 (2) On or before January 1, 2025, the Vermont Criminal Justice Council,
12 in consultation with stakeholders, including the Agency of Human Services,
13 the Vermont League of Cities and Towns, and the Vermont Human Rights
14 Commission, shall update the Law Enforcement Advisory Board’s model
15 interrogation policy to establish one cohesive model policy for law
16 enforcement agencies and constables to adopt, follow, and enforce as part of
17 the agency’s or constable’s own interrogation policy.

18 Sec. 3. 20 V.S.A. § 2359 is amended to read:

19 § 2359. COUNCIL SERVICES CONTINGENT ON AGENCY

20 COMPLIANCE; GRANT ELIGIBILITY

1 (a) On and after January 1, 2022, a law enforcement agency shall be
2 prohibited from having its law enforcement applicants or officers trained by
3 the Police Academy or from otherwise using the services of the Council if the
4 agency is not in compliance with the requirements for collecting roadside stop
5 data under section 2366 of this chapter, the requirement to report to the Office
6 of Attorney General death or serious bodily injuries under 18 V.S.A.
7 § 7257a(b), or the requirement to adopt, follow, or enforce any policy required
8 under this chapter.

9 (b) On and after April 1, 2025, a law enforcement agency shall be
10 prohibited from receiving grants, or other forms of financial assistance, if the
11 agency is not in compliance with the requirement to adopt, follow, or enforce
12 the model interrogation policy established by the Council pursuant to section
13 2371 of this title.

14 (c) The Council shall adopt procedures to enforce the requirements of this
15 section, which may allow for waivers for agencies under a plan to obtain
16 compliance with this section.

17 Sec. 4. 20 V.S.A. § 2371 is added to read:

18 § 2371. STATEWIDE POLICY; INTERROGATION METHODS

19 (a) Definitions. As used in this section:

20 (1) “Custodial interrogation” has the same meaning as in 13 V.S.A.

21 § 5585.

1 (2) “Place of detention” has the same meaning as in 13 V.S.A. § 5585.

2 (b) Model policy contents.

3 (1) The Vermont Criminal Justice Council shall establish a model
4 interrogation policy that applies to all persons subject to various forms of
5 interrogation, including the following:

6 (A) custodial interrogations occurring in a place of detention;

7 (B) custodial interrogations occurring outside a place of detention;

8 (C) interrogations that are not considered custodial, regardless of
9 location; and

10 (D) the interrogation of individuals with developmental, intellectual,
11 and psychiatric disabilities; substance use disorder; and low literacy levels.

12 (2) The model interrogation policy shall prohibit the use of physical
13 harm, threats, and deception during custodial interrogations of persons under
14 20 years of age.

15 (A) At a minimum, the model interrogation policy shall define
16 “deception” as the knowing communication of false facts about evidence or
17 unauthorized statements regarding leniency by a law enforcement officer to a
18 subject of custodial interrogation.

19 (B) The model interrogation policy shall also address other forms of
20 interrogation involving persons under 20 years of age wherein the use of
21 deception is prohibited.

1 (3) The model interrogation policy shall prohibit any training of law
2 enforcement officers that employs the use of deception, including the Reid
3 Technique of Investigative Interviewing and Advanced Interrogation
4 Techniques.

5 (c) Policy adoption and updates.

6 (1) On or before April 1, 2025, each law enforcement agency and every
7 constable who exercises law enforcement authority pursuant to 24 V.S.A.
8 § 1936a and who is trained in compliance with section 2358 of this title shall
9 adopt, follow, and enforce an interrogation policy that includes each
10 component of the model interrogation policy established by the Council, and
11 each law enforcement officer or constable who exercises law enforcement
12 authority shall comply with the provisions of an agency's or a constable's
13 policy.

14 (2) On or before October 1, 2025, and every odd-numbered year
15 thereafter, the Vermont Criminal Justice Council, in consultation with others,
16 including the Office of the Attorney General, the Agency of Human Services,
17 and the Human Rights Commission, shall review and, if necessary, update the
18 model interrogation policy.

19 (d) Compliance. To encourage fair and consistent interrogation methods
20 statewide, the Vermont Criminal Justice Council, in consultation with the
21 Office of the Attorney General, shall review the policies of law enforcement

1 agencies and constables required to adopt a policy pursuant to subsection (c) of
2 this section to ensure that those policies establish each component of the model
3 policy on or before April 15, 2025. If the Council finds that a policy does not
4 meet each component of the model policy, it shall work with the law
5 enforcement agency or constable to bring the policy into compliance. If, after
6 consultation with its attorney or with the Council, or with both, the law
7 enforcement agency or constable fails to adopt a policy that meets each
8 component of the model policy, that agency or constable shall be deemed to
9 have adopted and shall follow and enforce the model policy established by the
10 Council.

11 (e) Training. The Council shall incorporate the provisions of this section
12 into the training it provides.

13 (f) Reporting.

14 (1) Annually, as part of their training report to the Council, every law
15 enforcement agency and every constable who exercises law enforcement
16 authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with
17 section 2358 of this title shall report to the Council whether the agency or
18 constable has adopted an interrogation policy in accordance with subsections
19 (c) and (d) of this section. The Vermont Criminal Justice Council shall
20 determine, as part of the Council's annual certification of training

1 requirements, whether current officers have received training on interrogation
2 methods as required by subsection (e) of this section.

3 (2) Annually, on or before July 1, the Vermont Criminal Justice Council
4 shall report to the House and Senate Committees on Judiciary regarding which
5 law enforcement agencies and officers have received training on interrogation
6 methods.

7 Sec. 5. EFFECTIVE DATES

8 This act shall take effect on July 1, 2024, except that Secs. 3 (council
9 services contingent on agency compliance; grant eligibility) and 4 (statewide
10 policy; interrogation methods) shall take effect on April 1, 2025.

11

12

13 (Committee vote: _____)

14

15

Senator _____

16

FOR THE COMMITTEE