

1 S.97

2 Introduced by Senator Vyhovsky

3 Referred to Committee on

4 Date:

5 Subject: Government operations; law enforcement; civilian oversight

6 Statement of purpose of bill as introduced: This bill proposes to create
7 municipal and regional civilian oversight bodies to receive, investigate, and
8 address complaints against a law enforcement agency or officer within their
9 jurisdiction. A board's investigation is in addition to the investigations that
10 may be conducted by a law enforcement agency and the Vermont Criminal
11 Justice Council. Each board is empowered to hire or contract with staff to
12 assist with its functions. Each board is authorized to draft a public report after
13 a substantiated investigation, and its recommendations can be given deference
14 by the Vermont Criminal Justice Council in its adjudication of unprofessional
15 conduct complaints against law enforcement officers. Each board is also
16 authorized to monitor law enforcement trends, make law enforcement training
17 recommendations to the Vermont Criminal Justice Council, and participate in
18 the collective bargaining process of the law enforcement agency within its
19 jurisdiction. The Vermont Criminal Justice Council is also mandated to
20 administer a grant program to assist municipalities and regions in

1 implementing their boards, which is supported by a \$500,000.00 appropriation
2 to the Council.

3 An act relating to creating municipal and regional civilian oversight of law
4 enforcement

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

6 Sec. 1. 20 V.S.A. § 2351a is amended to read:

7 § 2351a. DEFINITIONS

8 As used in this chapter:

9 * * *

10 (5) “Community police oversight board” has the same meaning as in
11 24 V.S.A. chapter 56.

12 Sec. 2. 20 V.S.A. § 2358 is amended to read:

13 § 2358. MINIMUM TRAINING STANDARDS; DEFINITIONS

14 * * *

15 (g) The Council shall not offer or approve, and a community police
16 oversight board shall not recommend, any training on the use of a chokehold as
17 defined in section 2401 of this chapter, except for training designed to identify
18 and prevent the use of chokeholds.

19 (h) A community police oversight board may make recommendations to
20 the Council concerning basic training and annual in-service training

1 requirements for the Council to offer or approve. If the Council does not adopt
2 a community police oversight board's recommendation, it shall provide the
3 board with its reasons in writing.

4 Sec. 3. 20 V.S.A. § 2401 is amended to read:

5 § 2401. DEFINITIONS

6 As used in this subchapter:

7 * * *

8 (4) "Effective internal affairs program" means that a law enforcement
9 agency does all of the following:

10 * * *

11 (E) ~~Civilian review. Provides for review of officer discipline by~~
12 ~~civilians, which may be a selectboard or other elected or appointed body, at~~
13 ~~least for the conduct required to be reported to the Council under this~~
14 ~~subchapter~~ Community police oversight board investigation. An agency must
15 report all complaints pursuant to subdivision (A) of this subdivision (4) to the
16 community police oversight board having jurisdiction within seven business
17 days after receiving the complaint. The agency shall permit and fully
18 cooperate with any action the community police oversight board may
19 undertake pursuant to its authority.

20 * * *

1 Sec. 4. 20 V.S.A. § 2403 is amended to read:

2 § 2403. LAW ENFORCEMENT AGENCIES; DUTY TO REPORT

3 (a)(1) The executive officer of a law enforcement agency or the chair of the
4 ~~agency's civilian review board~~ community police oversight board having
5 jurisdiction shall report to the Council within 10 business days if any of the
6 following occur in regard to a law enforcement officer of the agency:

7 (A) Category A.

8 (i) There is a finding of probable cause by a court that the officer
9 committed Category A conduct.

10 (ii) There is any decision or findings of fact or verdict regarding
11 allegations that the officer committed Category A conduct, including a judicial
12 decision and any appeal from a decision.

13 (iii) The agency receives a credible complaint against the officer
14 that alleges that the officer committed Category A conduct.

15 * * *

16 (2) As part of ~~his or her~~ the executive officer's report, the executive
17 officer of the agency or the chair of the ~~civilian review board~~ community
18 police oversight board having jurisdiction shall provide to the Council a copy
19 of any relevant documents associated with the report, including any findings,
20 decision, and the agency's investigative report.

1 (b) The Council and the community police oversight board having
2 jurisdiction shall provide a copy of any report and the relevant documents
3 provided with it to the Council Advisory Committee, which shall recommend
4 any appropriate action to take in regard to a law enforcement officer who is the
5 subject of that report. The Council Advisory Committee shall give deference
6 to any appropriate action recommended by the community police oversight
7 board.

8 (c) The Executive Director of the Council and the chair of the community
9 police oversight board having jurisdiction shall report to the Attorney General
10 and the State’s Attorney of jurisdiction any allegations that an officer
11 committed Category A conduct.

12 Sec. 5. 24 V.S.A. chapter 56 is added to read:

13 CHAPTER 56. COMMUNITY POLICE OVERSIGHT BOARDS

14 § 1944. DEFINITIONS

15 As used in this chapter:

16 (1) “BIPOC” means Black, Indigenous, and other Persons of Color.

17 (2) “Community police oversight board” means a board created pursuant
18 to section 1945 of this chapter.

19 (3) “Law enforcement agency” means a municipal police department, a
20 sheriff’s department, the provider of law enforcement services pursuant to an
21 intermunicipal services agreement under section 1938 of this title, or the

1 provider of law enforcement services for a union municipal district formed
2 pursuant to section 4865 of this title or by municipal charter.

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

5 (5) “Legislative body” means the mayor or other chief executive officer
6 and board of alderman of a city, the selectboard of a town, the trustees of a
7 village, or the designated representatives of a region as defined in subdivision
8 (8) of this section.

9 (6) “Municipal” or “municipality” means a city, town, or incorporated
10 village.

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

16 (8) “Region” or “regional” means the political subdivisions subject to an
17 intermunicipal police services agreement pursuant to section 1938 of this title
18 or participating in a union municipal district formed pursuant to section 4865
19 of this title or by municipal charter.

20 (9) “Serious bodily injury” has the same meaning as in 13 V.S.A.
21 § 1021.

1 (10) “Unprofessional conduct” has the same meaning as in 20 V.S.A.
2 § 2401.

3 § 1945. CREATION AND PURPOSE

4 (a) In order to promote and protect the health, safety, and welfare of the
5 public, it is in the public interest to provide for the creation of municipal and
6 regional community police oversight boards.

7 (b) Notwithstanding any statute or municipal charter to the contrary,
8 community police oversight boards shall be law enforcement oversight
9 mechanisms that receive and investigate all complaints against municipal and
10 regional law enforcement agencies and officers, publish public reports of their
11 investigations, and recommend sanctions for consideration and adjudication by
12 the Vermont Criminal Justice Council.

13 (c) Community police oversight boards may recommend to the Vermont
14 Criminal Justice Council continuing programs of instruction in up-to-date
15 methods of law enforcement and the administration of criminal justice.

16 (d) It is the responsibility of each community police oversight board to
17 engage with its municipal or regional community on an ongoing basis
18 regarding issues of community policing and strategies to improve policing in
19 its jurisdiction.

1 (e) Each community police oversight board shall participate in the
2 negotiation of collective bargaining agreements involving its municipal or
3 regional law enforcement officers.

4 (f) The provisions of this chapter shall supersede any provision of a
5 municipal charter to the contrary.

6 § 1946. COMMUNITY POLICE OVERSIGHT BOARD MEMBERSHIP

7 (a) Each community police oversight board shall consist of an odd number
8 of at least seven members appointed and approved by the legislative body of
9 the municipality or region. Each legislative body shall create a procedure for
10 appointment and approval of a board's membership in accordance with the
11 law. The members of the board shall serve for terms of three years.

12 (b) A legislative body shall solicit recommendations for board members
13 with diverse and historically marginalized backgrounds within its municipality
14 or region. A legislative body may appoint not more than one active or retired
15 law enforcement officer to the board. No member listed in subdivisions (1)–
16 (4) of this subsection shall have a spouse, domestic partner, parent, child, or
17 sibling who is a current or former law enforcement officer. Each board shall
18 include:

19 (1) At least two individuals with lived experience directly impacted by
20 law enforcement, which includes involvement with the criminal justice system.
21 One individual must be from the BIPOC community and the other must have

1 experience with homelessness, a physical or psychiatric disability, a mental
2 health condition, or a substance use disorder.

3 (2) At least one representative from a civil rights organization or its
4 designee.

5 (3) At least one individual with expertise in the fields of mental health,
6 juvenile justice, civil liberties, or disability rights.

7 (4) At least one State licensed attorney with experience in civil or
8 human rights violations.

9 (c) A legislative body shall appoint a chair of the board within its
10 jurisdiction from among the members set forth in subdivision (b)(1) of this
11 section.

12 (d) Membership on a board does not constitute the holding of an office for
13 any purpose, and members of a board shall not be required to take and file
14 oaths of office before serving on a board.

15 (e) The members of a board shall be entitled to receive per diem
16 compensation and reimbursement of expenses as permitted from monies
17 appropriated by each municipality or region.

18 (f) A member of a board shall not be disqualified from holding any public
19 office or employment and shall not forfeit any office or employment, by reason
20 of the member's appointment to a board, notwithstanding any statute,
21 ordinance, or charter to the contrary.

1 § 1947. MEETINGS

2 (a) Each board shall meet at least once each quarter of each year. Special
3 meetings may be called by the chair of a board or upon the written request of a
4 majority of a board's members.

5 (b) Each board shall adopt rules as to quorum and procedures with respect
6 to the conduct of its meetings and other affairs.

7 (c)(1) A member of a board may designate in writing a person within the
8 member's agency or association to attend a meeting or meetings of the
9 member's board. The designation shall be filed with the chair of the member's
10 board.

11 (2) A person so designated shall have the same voting rights and
12 responsibilities as the member at such meeting or meetings, but that designee
13 shall not automatically assume the member's place as an officer of the
14 member's board.

15 § 1948. POWERS AND DUTIES

16 (a) Notwithstanding the provisions of 20 V.S.A. chapter 151 or any statute
17 or municipal charter to the contrary, each board shall receive, investigate, and
18 address:

19 (1) all grievances and complaints filed by members of the public against
20 a law enforcement agency within its municipality or region;

21 (2) all complaints of unprofessional conduct;

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

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

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

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

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

20 (d) Each board may hire or contract with staff to assist in administrative,
21 secretarial, or any other services a board may deem necessary.

1 (e) Each board may analyze policing trends across the State based on
2 cumulative complaints, lawsuits, law enforcement incidents resulting in serious
3 bodily harm, and all other reporting deemed relevant. A board may collaborate
4 with boards from other jurisdictions within the State, the Vermont Criminal
5 Justice Council, or any other entities it deems appropriate to compile, analyze,
6 and publish such data. The data may be used to offer training
7 recommendations to the Vermont Criminal Justice Council.

8 (f) Each board may, in addition:

9 (1) accept and administer under this chapter and for its purposes
10 contributions, capital grants, gifts, services, and other financial assistance from
11 any individual, association, corporation, or other organization having an
12 interest in law enforcement accountability, and from its municipality, region,
13 State, and the United States and any of their agencies and instrumentalities,
14 corporate or otherwise;

15 (2) adopt rules to implement the provisions of this chapter; and

16 (3) perform such other acts as may be necessary or appropriate to carry
17 out the purposes of this chapter.

18 § 1949. INVESTIGATIONS

19 Notwithstanding any statute or charter to the contrary, for the purpose of
20 carrying out an investigation pursuant to this section, a board shall have the
21 authority to:

1 (1) Request and receive any assistance and information from a law
2 enforcement agency or officer that a board deems necessary for the discharge
3 of its duties and responsibilities.

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

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

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

18 § 1950. DISPOSITION OF COMPLAINTS; REPORTS

19 (a) A board may summarily dismiss a grievance or complaint filed by a
20 member of the public pursuant to subdivision 1948(a)(1) of this chapter only
21 when a board determines that:

1 (1) the complainant's interest is not sufficiently related to the subject
2 matter of the grievance or complaint;

3 (2) the grievance or complaint is trivial, frivolous, irrelevant, without
4 merit, or in bad faith; or

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

7 (b) A board shall issue a public report detailing its findings at the
8 conclusion of an investigation of any matter within the authority of the board.
9 The report shall articulate findings of fact relative to the matter, including any
10 disciplinary decisions and personnel changes made by the law enforcement
11 agency, and recommendations relating to the disposition of the matter and any
12 associated sanction. A board's report shall be given deference by the Vermont
13 Criminal Justice Council in its adjudication of an unprofessional conduct
14 complaint and any related sanction pursuant to 20 V.S.A. chapter 151,
15 subchapter 2.

16 (1) An investigation concluding that a complaint or grievance against a
17 law enforcement agency or officer pursuant to section 1948 of this chapter
18 could not be substantiated shall detail the underlying reasons for the conclusion
19 in the public report. The investigation shall be closed but shall be archived and
20 may be used as an aggravating factor in any subsequent investigation by a

1 board of similar conduct by the same law enforcement agency or officer that is
2 substantiated.

3 (2) An investigation substantiating a complaint or grievance against a
4 law enforcement agency or officer pursuant to section 1948 of this chapter
5 shall articulate the nature of any substantiated conduct, identify the underlying
6 deficiencies of the conduct, and contain the board's sanction recommendation
7 to be considered by the Vermont Criminal Justice Council pursuant to this
8 subsection.

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

14 (1) confidentiality is waived by the person upon whom the investigative
15 demand is made;

16 (2) disclosure is authorized by a Superior Court; or

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

18 Sec. 6. 21 V.S.A. chapter 22 is amended to read:

19 CHAPTER 22. VERMONT MUNICIPAL LABOR RELATIONS ACT

20 * * *

1 § 1722. DEFINITIONS

2 As used in this chapter:

3 * * *

4 (13) “Municipal employer” means a city, town, village, fire district,
5 lighting district, consolidated water district, housing authority, union municipal
6 district, community police oversight board as used in 24 V.S.A. chapter 56 or
7 its designee, or any of the political subdivisions of the State of Vermont that
8 employs five or more employees as defined in this section.

9 * * *

10 § 1725. COLLECTIVE BARGAINING PROCEDURE

11 * * *

12 (b) The municipal employer shall be represented in the bargaining by its
13 legislative body or its designated representative or representatives. If the
14 municipal employer is a supervisory district or supervisory union, it shall be
15 represented by the school board negotiations council, and the bargaining unit
16 shall be represented by the school employees’ negotiations council. If the
17 bargaining unit includes a municipal public safety employee, as defined in
18 subdivision 1722(22)(C) of this chapter, the municipal employer shall include
19 representation from the relevant community police oversight board as used in
20 24 V.S.A. chapter 56 or its designee.

21 * * *

1 Sec. 7. 20 V.S.A. § 2372 is added to read:

2 § 2372. COMMUNITY POLICE OVERSIGHT GRANT PROGRAM

3 (a) A grant program is established to assist municipalities and regions to
4 administer a community police oversight board created pursuant to 24 V.S.A.
5 chapter 56. The grant program is designed to assist a community police
6 oversight board to hire, train, and otherwise support its members, staff, and
7 contractors in administering the powers and duties of the board.

8 (b) The Vermont Criminal Justice Council shall establish procedures and
9 guidelines by which it shall solicit and review proposals for grants, award
10 grants, and monitor and evaluate the administration of grants awarded pursuant
11 to this section.

12 Sec. 8. APPROPRIATION

13 The sum of \$500,000.00 is appropriated from the General Fund to the
14 Vermont Criminal Justice Council to administer the community police
15 oversight grant program pursuant to 20 V.S.A. § 2372.

16 Sec. 9. EFFECTIVE DATE

17 This act shall take effect on July 1, 2025.