

1 H.660

2 Introduced by Representatives Vyhovsky of Essex, Christie of Hartford, Cina  
3 of Burlington, Colburn of Burlington, Colston of Winooski,  
4 Mulvaney-Stanak of Burlington, Small of Winooski, and  
5 Surprenant of Barnard

6 Referred to Committee on

7 Date:

8 Subject: Government operations; law enforcement; civilian oversight

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

1 the collective bargaining process of the law enforcement agency within its  
2 jurisdiction.

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 (b) The Council shall offer or approve basic training and annual in-service  
16 training for each of the ~~following~~ three levels of law enforcement officer  
17 certification outlined in this subsection in accordance with the scope of  
18 practice for each level, and shall determine by rule the scope of practice for  
19 each level in accordance with this section: A community police oversight  
20 board may make recommendations to the Council concerning basic training

1 and annual in-service training requirements for the Council to offer or approve.

2 If the Council does not adopt a community police oversight board's

3 recommendation, it shall provide the board with its reasons in writing. The

4 training requirements for the three levels of law enforcement officer

5 certification are as follows:

6 \* \* \*

7 (g) The Council shall not offer or approve, and a community police

8 oversight board shall not recommend, any training on the use of a chokehold as

9 defined in section 2401 of this chapter, except for training designed to identify

10 and prevent the use of chokeholds.

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

12 § 2401. DEFINITIONS

13 As used in this subchapter:

14 \* \* \*

15 (4) "Effective internal affairs program" means that a law enforcement

16 agency does all of the following:

17 \* \* \*

18 (E) ~~Civilian review. Provides for review of officer discipline by~~

19 ~~civilians, which may be a selectboard or other elected or appointed body, at~~

20 ~~least for the conduct required to be reported to the Council under this~~

21 ~~subchapter~~ Community police oversight board investigation. Promptly report

1 all complaints pursuant to subdivision (4)(A) of this section to the community  
2 police oversight board having jurisdiction. The agency shall permit and fully  
3 cooperate with any action the community police oversight board may  
4 undertake pursuant to its authority.

5 \* \* \*

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

7 § 2403. LAW ENFORCEMENT AGENCIES; DUTY TO REPORT

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

12 (A) Category A.

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

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

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

20 \* \* \*

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

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

13           (c) The Executive Director of the Council and the Chair of the community  
14 police oversight board having jurisdiction shall report to the Attorney General  
15 and the State's Attorney of jurisdiction any allegations that an officer  
16 committed Category A conduct.

17       Sec. 5. 20 V.S.A. § 2410 is amended to read:

18       § 2410. COUNCIL ADVISORY COMMITTEE

19           (a) Creation. There is created the Council Advisory Committee to provide  
20 advice to the Council regarding its duties under this subchapter.

1           (1) The Committee shall specifically advise and assist the Council in  
2           developing procedures to ensure that allegations of unprofessional conduct by  
3           law enforcement officers are investigated fully and fairly, and to ensure that  
4           appropriate action is taken in regard to those allegations. The Committee shall  
5           consider any report submitted by a community police oversight board in the  
6           exercise of its duties under this section.

7   \* \* \*

8           (c) Assistance. The Executive Director of the Council or designee shall  
9           attend Committee meetings as a resource for the Committee. The Chair of a  
10          community police oversight board shall attend Committee meetings if the  
11          Committee is advising and assisting with an incident within the jurisdiction of  
12          the community police oversight board.

13   \* \* \*

14          Sec. 6. 24 V.S.A. chapter 56 is added to read:

15                   CHAPTER 56. COMMUNITY POLICE OVERSIGHT BOARDS

16           § 1944. DEFINITIONS

17           As used in this chapter:

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

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

1           (3) “Law enforcement agency” means a municipal police department, a  
2           sheriff’s department, the provider of law enforcement services pursuant to an  
3           intermunicipal services agreement under section 1938 of this title, or the  
4           provider of law enforcement services for a union municipal district pursuant to  
5           section 4866 of this title.

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

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

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

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

19           (8) “Region” or “regional” means the political subdivisions subject to an  
20           intermunicipal police services agreement pursuant to section 1938 of this title

1 or participating in a union municipal district pursuant to section 4866 of this  
2 title.

3 (9) “Serious bodily injury” has the same meaning as in 13 V.S.A.  
4 § 1021.

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

7 § 1945. CREATION AND PURPOSE

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

11 (b) Community police oversight boards are law enforcement oversight  
12 mechanisms that shall receive and investigate all complaints against municipal  
13 and regional law enforcement agencies and officers and publish public reports  
14 of its investigations and any recommended sanctions for consideration and  
15 adjudication by the Vermont Criminal Justice Council.

16 (c) Community police oversight boards shall offer to the Vermont Criminal  
17 Justice Council continuing programs of instruction in up-to-date methods of  
18 law enforcement and the administration of criminal justice.

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



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

4       § 1946. COMMUNITY POLICE OVERSIGHT BOARD MEMBERSHIP

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

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

17               (1) at least one individual from the BIPOC community;

18               (2) at least one individual with a lived experience directly impacted by  
19       law enforcement, which includes involvement with the criminal justice system  
20       combined with homelessness, physical or psychiatric disability, mental health  
21       condition, or a substance use disorder;

1           (3) at least one representative from a civil rights organization or its  
2           designee;

3           (4) at least one individual with expertise in the fields of mental health,  
4           juvenile justice, civil liberties, or disability rights; and

5           (5) at least one State licensed attorney with experience civil or human  
6           rights violations.

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

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

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

16          (f) A member of a board shall not be disqualified from holding any public  
17          office or employment and shall not forfeit any office or employment, by reason  
18          of the member's appointment to a board, notwithstanding any statute,  
19          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, each board  
17    shall receive, investigate, and address:

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

20           (2) all complaints of unprofessional conduct;

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

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

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

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

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

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

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

10       (f) Each board may, in addition:

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

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

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

1     § 1949. INVESTIGATIONS

2           For the purpose of carrying out an investigation pursuant to this section, a  
3     board shall have the authority to:

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

7           (2) Notwithstanding any other provision of law, inspect and examine all  
8     law enforcement agency records and documents, including law enforcement  
9     officer personnel records, documents, and body camera footage, that a board  
10    deems relevant to any matter being investigated by a board.

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

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

1     § 1950. DISPOSITION OF COMPLAINTS; REPORTS

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

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

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

9           (3) resources are insufficient for an adequate investigation of the  
10    grievance or complaint; or

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

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

1           (1) An investigation concluding that a complaint or grievance against a  
2           law enforcement agency or officer pursuant to section 1948 of this chapter  
3           could not be substantiated shall detail the underlying reasons for the conclusion  
4           in the public report. The investigation shall be closed but shall be archived and  
5           may be used as an aggravating factor in any subsequent investigation by a  
6           board of similar conduct by the same law enforcement agency or officer that is  
7           substantiated.

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

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

19           (1) confidentiality is waived by the person upon whom the investigative  
20           demand is made;

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





1 subdivision 1722(22)(C) of this chapter, the municipal employer shall include  
2 representation from the relevant community police oversight board as used in  
3 24 V.S.A. chapter 56 or its designee.

4 \* \* \*

5 Sec. 8. EFFECTIVE DATE

6 This act shall take effect on July 1, 2023.