

1 S.17

2 Introduced by Senators Sears, Hardy, Baruth, Campion, Clarkson, Hashim,

3 Ram Hinsdale, Vyhovsky, Watson and White

4 Referred to Committee on Judiciary

5 Date: January 17, 2023

6 Subject: Municipal and county government; counties; county officers; powers

7 and duties; sheriffs

8 Statement of purpose of bill as introduced: This bill proposes to add

9 subcategories of unprofessional conduct for law enforcement officers

10 reviewable by the Vermont Criminal Justice Council, prohibit sheriffs from

11 collecting compensation for administration of contracts or related services,

12 repeal the penalty for refusal to assist a sheriff, and require the Secretary of

13 State and the Department of State's Attorneys and Sheriffs to review and

14 report on the number of sheriff's departments.

15 An act relating to sheriff reforms

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

17 ~~\*\*\* Unprofessional Conduct of Law Enforcement Officers Reviewable by the~~

18 ~~Vermont Criminal Justice Council \*\*\*~~

19 ~~Sec. 1. 20 V.S.A. § 2401 is amended to read.~~

1 § 2401. DEFINITIONS

2 Terms used in this subchapter:

3 \* \* \*

4 (2) "Category B conduct" means gross professional misconduct  
5 amounting to actions on duty or under authority of the State, or both, that  
6 involve willful failure to comply with a State-required policy or substantial  
7 deviation from professional conduct as defined by the law enforcement  
8 agency's policy or, if not defined by the agency's policy, then as defined by  
9 Council policy, and shall include any one or more of the following:

10 (A) sexual harassment involving physical contact or misuse of  
11 position;

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

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

14 (D) biased enforcement;

15 (E) use of electronic criminal records database for personal, political,  
16 or economic gain;

17 (F) placing a person in a chokehold;

18 (G) failing to intervene and report to a supervisor when the officer  
19 observes another officer placing a person in a chokehold or using excessive  
20 force,

1 ~~(H) gross negligence or willful misconduct in the performance of~~  
2 ~~duties; and~~

3 ~~(I) abuse of the powers granted through law enforcement officer~~  
4 ~~certification pursuant to section 2358 of this title.~~

5 \* \* \*

6 \* \* \* Sheriff Contracts \* \* \*

7 Sec. 2. 24 V.S.A. § 291a is amended to read:

8 § 291a. CONTRACTS

9 \* \* \*

10 (b) A contract made with a ~~town~~ municipality or county to provide law  
11 enforcement or related services shall contain provisions governing the  
12 following subjects as best suit the needs of the parties:

13 \* \* \*

14 (4) the type, frequency, and information to be contained in reports  
15 submitted by the sheriff's department to the ~~town~~ municipality or county;

16 \* \* \*

17 (c) A contract under this section ~~may~~ shall not contain provisions for  
18 compensation to the sheriff for administration of the contract and related  
19 services. ~~No compensation may be paid to a sheriff for administration of the~~  
20 ~~contract or related services unless the contract sets forth in writing the rate or~~  
21 ~~method of calculation for the compensation and a schedule of payment;~~

1 ~~provided that a sheriff's compensation for administration shall not exceed five~~  
2 ~~percent of the contract.~~ A sheriff's rate of compensation shall be at a rate  
3 equivalent to other employees of the department who provide similar services  
4 under the contract. Compensation to the sheriff shall be made in accordance  
5 with the schedule set forth in the contract, but in no event may a sheriff be  
6 compensated for administration of the contract and related services unless the  
7 compensation is made in the same calendar year in which the revenue was  
8 received by the department under the contract.

9 \* \* \*

10 \* \* \* Duties as Peace Officer \* \* \*

11 Sec. 3. 24 V.S.A. § 299 is amended to read:

12 § 299. DUTIES AS PEACE OFFICER

13 A sheriff shall preserve the peace, ~~and suppress, with force and strong hand,~~  
14 ~~if necessary, unlawful disorder~~ using force only as permitted pursuant to 20  
15 V.S.A. chapter 151. ~~He or she~~ A sheriff may apprehend, without warrant,  
16 ~~persons~~ individuals assembled in disturbance of the peace, and bring them  
17 before a the Criminal Division of the Superior Court, which shall proceed with  
18 such ~~person~~ individuals as with ~~persons~~ individuals brought before it by  
19 process issued by ~~such~~ the court.

20 \* \* \* Repeal of Penalty for Refusal to Assist a Sheriff \* \* \*

21 ~~SEC. 4. REPEAL OF PENALTY FOR REFUSAL TO ASSIST A SHERIFF~~

1 ~~24 V.S.A. § 201 (penalty for refusal to assist) is repealed.~~

2 \* \* \* Report \* \* \*

3 Sec. 5. REVIEW OF NUMBER OF SHERIFF'S DEPARTMENTS; REPORT

4 On or before January 1, 2024, the Secretary of State and the Department of  
5 State's Attorneys and Sheriffs shall report to the House Committee on  
6 Government Operations and Military Affairs and the Senate Committee on  
7 Government Operations with findings and any recommendations for legislative  
8 action on:

9 (1) the necessary number of sheriff's departments in the State; and

10 (2) the precise boundaries of any proposed district in which a sheriff's  
11 department is to be established.

12 \* \* \* Effective Date \* \* \*

13 Sec. 6. EFFECTIVE DATE

14 ~~This act shall take effect on passage.~~

*\* \* \* Unprofessional Conduct of Law Enforcement Officers Reviewable by the  
Vermont Criminal Justice Council \* \* \**

*Sec. 1. 20 V.S.A. § 2401 is amended to read:*

*§ 2401. DEFINITIONS*

*As used in this subchapter:*

*\* \* \**

*(2) "Category B conduct" means gross professional misconduct amounting to actions on duty or under authority of the State, or both, that involve willful failure to comply with a State-required policy or substantial deviation from professional conduct as defined by the law enforcement agency's policy or, if not defined by the agency's policy, then as defined by Council policy, and shall include:*

- (A) *sexual harassment involving physical contact or misuse of position;*
- (B) *misuse of official position for personal or economic gain;*
- (C) *excessive use of force under authority of the State, first offense;*
- (D) *biased enforcement;*
- (E) *use of electronic criminal records database for personal, political, or economic gain;*
- (F) *placing a person in a chokehold;*
- (G) *failing to intervene and report to a supervisor when the officer observes another officer placing a person in a chokehold or using excessive force;*
- (H) *gross negligence or willful misconduct in the performance of duties; and*
- (I) *abuse of the powers granted through law enforcement officer certification pursuant to section 2358 of this title.*

\* \* \*

\* \* \* Audits \* \* \*

~~Sec. 2. 24 V.S.A. § 290 is amended to read:~~

~~§ 290. COUNTY SHERIFF'S DEPARTMENT~~

~~\* \* \*~~

~~(b) Full-time State deputy sheriffs whose primary responsibility is transportation of prisoners and persons with a mental condition or psychiatric disability shall be paid by the State of Vermont. The positions and their funding shall be assigned to the Department of State's Attorneys and Sheriffs. The Executive Director shall have the authority to determine job duties for the position, assignment of positions to county, regular and temporary work locations, assistance to other State agencies and departments, timesheet systems, daily work logs, and to have final approval of personnel matters, including, but not limited to, approval for hiring, paygrade assignment, hiring rate, discipline, and termination. The sheriffs shall have an Executive Committee of not more than five current sheriffs, elected for a two-year term by a vote of the sheriffs held not later than January 15, for a term starting February 1. The Executive Committee shall have a Chair, Vice-Chair, Secretary-Treasurer, and two members at large. The Executive Committee shall meet at least quarterly to provide input to the Department of State's Attorneys and sheriffs regarding budget, legislation, personnel and policies, and the~~

~~ignment of positions, when vacancies arise, for efficient use of resources.~~

~~\* \* \*~~

~~(d) Upon the election of a sheriff-elect who is not the incumbent sheriff, or upon notice of the resignation of the sheriff, an announcement that the incumbent sheriff will not seek re-election or an announcement that the incumbent sheriff intends to resign, whichever occurs earliest, all financial disbursements from the accounts of the department, including the transfer of real or personal property, or other assets, of the department, shall be co-signed by the sheriff and the assistant judges. A report of all financial disbursements or transfers made pursuant to this subsection shall be forwarded by the assistant judges to the Auditor of Accounts within 15 days of completion of the out-going sheriff's duties following the sheriff leaving office.~~

~~Sec. 2. 24 V.S.A. § 290 is amended to read:~~

~~§ 290. COUNTY SHERIFF'S DEPARTMENT~~

~~\* \* \*~~

~~(d) Upon the election of a sheriff-elect who is not the incumbent sheriff, or upon notice of the resignation of the sheriff, an announcement that the incumbent sheriff will not seek reelection, or an announcement that the incumbent sheriff intends to resign, whichever occurs earliest, all financial disbursements from the accounts of the department, including the transfer of real or personal property, or other assets, of the department, shall be co-signed by the sheriff and the assistant judges. A report of all financial disbursements or transfers made pursuant to this subsection shall be forwarded by the assistant judges to the Auditor of Accounts within 15 days of completion of the out-going sheriff's duties following the sheriff leaving office.~~

~~Sec. 3. 24 V.S.A. § 290b is amended to read:~~

~~§ 290b. AUDITS~~

~~\* \* \*~~

~~(b) The Auditor of Accounts shall adopt and sheriffs shall comply with a uniform system of accounts, controls, and procedures for the sheriff's department, which accurately reflects the receipt and disbursement of all funds by the department, the sheriff, and all employees of the department. The uniform system shall include:~~

~~\* \* \*~~

~~(8) procedures and controls which that identify revenues received from public entities through appropriations or grants from the federal, State, or local governments from revenues received through contracts with private~~

~~entities; and~~

~~(9) procedures to notify the Auditor of Accounts and the Department of State's Attorneys and Sheriffs of the establishment and activities of any nonpublic organization of which the sheriff or any employee of the sheriff is a director and that has a mission or purpose of supplementing the efforts of the sheriff's department; and~~

~~(10) other procedures and requirements as the Auditor of Accounts deems necessary.~~

~~(c) The Auditor of Accounts and his or her the Auditor's designee may at any time examine the records, accounts, books, papers, contracts, reports, and other materials of the county sheriff departments as they pertain to the financial transactions, obligations, assets, and receipts of that department. The Auditor or his or her designee shall conduct an audit of the accounts for a sheriff's department whenever the incumbent sheriff leaves office, and the auditor shall charge for the any associated costs of the report pursuant to in the same manner described in 32 V.S.A. § 168(b).~~

\* \* \*

Sec. 4. 24 V.S.A. § 314 is added to read:

§ 314. CONFLICT OF INTEREST; APPEARANCE OF CONFLICT OF INTEREST

(a) As used in this section, "conflict of interest" means an interest of a sheriff or deputy sheriff that is in conflict with the proper discharge of the sheriff's or deputy sheriff's official duties due to a significant personal or financial interest of the sheriff or deputy sheriff, of a person within the sheriff's or deputy sheriff's immediate family, of the sheriff's or deputy sheriff's business associate, or of an organization of which the sheriff or deputy sheriff is affiliated. "Conflict of interest" does not include any interest that is not greater than that of any other persons generally affected by the outcome of a matter.

(b) A sheriff or deputy sheriff shall avoid any conflict of interest or the appearance of a conflict of interest. Except as otherwise provided in subsections (c) of this section, when confronted with a conflict of interest or an appearance of a conflict of interest, a sheriff or deputy sheriff shall disclose the conflict of interest to the Sheriff's Executive Committee, recuse themselves from the matter, and not take further action on the matter.

(c) A conflict of interest may be approved by the majority vote of the Sheriff's Executive Committee only if the material facts of the conflict of interest are disclosed or known to the Sheriff's Executive Committee. If a



conflict of interest is approved, the sheriff or deputy sheriff may then act on the matter at issue.

~~(c) The standard operating procedures manual or policy manual created by the Department of State's Attorneys and Sheriffs may impose additional requirements relating to conflicts of interest on sheriffs and deputy sheriffs.~~

(d) The Department of State's Attorneys and Sheriffs shall establish procedures for handling ethics complaints from any source based on the procedures set forth in 3 V.S.A. § 1223. The procedures shall be included in any standard operating procedures manual or policy manual followed by sheriffs and deputy sheriff pursuant to subsection 293(c) of this title.

(e) Nothing in this section shall require a sheriff or deputy sheriff to disclose confidential information or information that is otherwise privileged under law.

*\* \* \* Sheriff Contracts \* \* \**

*Sec. 5. 24 V.S.A. § 291a is amended to read:*

*§ 291a. CONTRACTS*

*\* \* \**

*(b) A contract made with a town, city, village, or county to provide law enforcement or related services shall contain provisions governing the following subjects as best suit the needs of the parties:*

*\* \* \**

*(4) the type, frequency, and information to be contained in reports submitted by the sheriff's department to the town, city, village, or county;*

*\* \* \**

~~*(c) A contract under this section may contain provisions for compensation to the sheriff for administration of the contract and related services. No compensation may be paid to a sheriff for administration of the contract or related services unless the contract sets forth in writing the rate or method of calculation for the compensation and a schedule of payment; provided that a sheriff's compensation for administration shall not exceed five percent of the contract. A sheriff's rate of compensation shall be at a rate equivalent to other employees of the department who provide similar services under the contract. Compensation to the sheriff shall be made in accordance with the schedule set forth in the contract but in no event may a sheriff be compensated for administration of the contract and related services unless the compensation is made in the same calendar year in which the revenue was received by the department under the contract. A contract under this section may contain*~~

provisions for an administrative overhead fee at a rate not to exceed five percent of the contract. Funds derived from contract administrative overhead fees shall be kept in a separate account held by the sheriff's department and used by the sheriff's department only for the costs of necessary departmental expenses not covered by State or county funds, including the cost of vehicles, uniforms, equipment, training, and professional services. Funds derived from contract administrative overhead fees shall not be used for sheriff, sheriff deputy, or other departmental employee compensation, bonuses, salary supplements, retirement contributions, or employment benefits.

\* \* \*

~~(f) An agreement or contract for sheriff's departments to provide law enforcement or security services to county and State courthouses shall be subject to a single, statewide contracted rate of pay for such services over all county and State courthouses. The rate of pay shall be \$51.00 per hour beginning on July 1, 2023. The contract amount that was in effect for the immediately preceding year shall be increased by the unadjusted percentage change in the CPI figure from the last reporting date available next prior to the beginning month of the next fiscal year for which the adjustment is made. Should the percentage change be negative, the State reserves the right to adjust the yearly contract amount accordingly. As used in this subsection, "CPI" means the Consumer Price Index for all urban consumers, designated as "CPI-U," in the northeast region, as published by the U.S. Department of Labor, Bureau of Labor Statistics.~~

(f) An agreement or contract for sheriff's departments to provide law enforcement or security services to county and State courthouses shall be subject to a single, statewide contracted rate of pay for such services over all county and State courthouses.

Sec. 5a. USE OF ADMINISTRATIVE OVERHEAD FUNDS IN 2023  
AND 2024

Notwithstanding 24 V.S.A. § 291a(c), in calendar years 2023 and 2024, a sheriff's department may use funds derived from contract administrative overhead fees to make supplemental salary payments to a sheriff of not more than 50 percent of the annual compensation for a sheriff, provided that the sheriff has been in office at least two years, and to any employee of a sheriff's department or a sheriff that has been in office less than two years of not more than 10 percent of the annual compensation for the employee. Funds derived from contract administrative overhead fees shall not be used for any other bonus or supplemental employment benefit payment.

\* \* \* Sheriff Duties \* \* \*

Sec. 6. 24 V.S.A. § 293 is amended to read:

§ 293. DUTIES

(a) A sheriff so commissioned and sworn shall serve and execute lawful writs, warrants, and processes directed to ~~him or her~~ the sheriff, according to the precept thereof, and do all other things pertaining to the office of sheriff.

(b) A sheriff shall maintain a ~~detailed~~ record of the sheriff's work schedule, including work days, leave taken, and any remote work performed outside the sheriff's district for a period of more than three days.

(c) Each sheriff's department shall comply with the provisions of the standard operating procedures manuals and policy manuals created and maintained by the Department of State's Attorneys and Sheriffs.

(d) Sheriff's departments providing law enforcement services in the county in which an individual who has a relief from abuse order pursuant to 15 V.S.A. § 1103 resides shall have a duty to assist in the retrieval of personal belongings of the individual and that individual's dependents from the individual's residence. A sheriff's department shall not seek a fee from the individual being assisted in the retrieval of personal belongings from the residence or any representative of that individual.

Sec. 7. 24 V.S.A. § 293(e) is added to read:

(e) A sheriff shall provide a minimum of one deputy sheriff, certified as a law enforcement officer in accordance with 20 V.S.A. § 2358, for law enforcement and security services for each county and State courthouse within the sheriff's county of jurisdiction in accordance with section 291a of this title.

Sec. 8. 24 V.S.A. § 299 is amended to read:

§ 299. DUTIES AS PEACE OFFICER

A sheriff shall preserve the peace, ~~and suppress, with force and strong hand, if necessary, unlawful disorder using force only as permitted pursuant to 20 V.S.A. chapter 151. He or she~~ A sheriff may apprehend, without warrant, ~~persons~~ individuals assembled in disturbance of the peace, and bring them before ~~a~~ the Criminal Division of the Superior Court, which shall proceed with such ~~person~~ individuals as with ~~persons~~ individuals brought before it by process issued by ~~such~~ the court.

*\* \* \* Repeal of Penalty for Refusal to Assist a Sheriff \* \* \**

Sec. ~~10~~ 9. REPEAL OF PENALTY FOR REFUSAL TO ASSIST A SHERIFF

24 V.S.A. § 301 (penalty for refusal to assist) is repealed.

*\* \* \* Sheriff's Departments Oversight Task Force and Report \* \* \**

*Sec. ~~10~~ 10. SHERIFF'S DEPARTMENTS OVERSIGHT TASK FORCE;  
REPORT*

*(a) Creation. There is created the Sheriff's Departments Oversight Task Force to examine issues in implementing reforms and accountability across Vermont Sheriff's Department.*

*(b) Membership. The Sheriff's Departments Oversight Task Force shall be composed of the following members:*

*(1) one member appointed by the Department of State's Attorneys and Sheriffs;*

*(2) one member appointed by the Department of Human Resources;*

*(3) one member appointed by the Attorney General's Office;*

*(4) one member appointed by the Vermont Sheriffs' Association;*

*(5) one member appointed by the State Auditor;*

*(6) one member appointed by the Vermont Criminal Justice Council;*

*(7) one member appointed by the Vermont Association of County Judges;*

*(8) one member of an organization focused on law enforcement reform, who shall be appointed by the Speaker of the House; and*

*(9) one member of a different organization focused on law enforcement reform, who shall be appointed by the Senate Committee on Committees.*

~~*(c) Powers and duties. The Sheriff's Departments Oversight Task Force shall consider issues relating to oversight of sheriffs' departments, including the following:*~~

~~*(1) creating and maintaining policies and best practices to be included in standard operating procedures manuals and policy manuals;*~~

~~*(2) increasing efficiency and equity in the delivery of public safety services by sheriff's departments;*~~

~~*(3) the compensation structure and levels of sheriffs, deputies, and departmental staff, including salaries, overtime, retirement, benefits, and bonuses;*~~

~~*(4) the duties of sheriffs, as related to both law enforcement and administration of sheriff's departments;*~~

~~*(5) oversight of sheriffs, as related to both conduct and administration of sheriff's departments;*~~

~~(4) creating a sustainable funding model for sheriff's departments that is not based on contracts for services; and~~

~~(7) reorganizing the Department of State's Attorneys and Sheriffs to better provide oversight and support for state's attorneys and sheriffs.~~

(c) Powers and duties. The Sheriff's Departments Oversight Task Force shall consider issues relating to oversight of sheriff's departments, including the following:

(1) creating and maintaining policies and best practices to be included in standard operating procedures manuals and policy manuals;

(2) increasing efficiency and equity in the delivery of public safety services by sheriff's departments;

~~(2) the compensation structure and levels of sheriffs, deputies, and departmental staff, including salaries, overtime, retirement, benefits, and bonuses;~~

(3) the compensation structure and levels of sheriffs, deputies, and departmental staff, including salaries, overtime, retirement, benefits, and bonuses, and the appropriate employment status of courthouse security deputies;

(4) the duties of sheriffs, as related to both law enforcement and administration of sheriff's departments;

(5) oversight of sheriffs, as related to both conduct and administration of sheriff's departments;

(6) creating a sustainable funding model for sheriff's departments that is not based on contracts for services;

(7) reorganizing the Department of State's Attorneys and Sheriffs to better provide oversight and support for State's Attorneys and sheriffs; and

(8) determining the scope and timing of public sector management training that sheriffs should receive upon election and on a continuing basis to ensure departmental operations and management of public funds are consistent with generally accepted standards.

(d) Assistance. The Sheriff's Departments Oversight Task Force shall have the administrative, technical, and legal assistance of the Department of State's Attorneys and Sheriffs.

(e) Report. On or before November 15, 2023, the Sheriff's Departments Oversight Task Force shall report to the House Committee on Government Operations and Military Affairs and the Senate Committee on Government

Operations with its findings and any recommendations for legislative action.

(f) Meetings.

(1) The member of the Sheriff's Departments Oversight Task Force designated by the Department of State's Attorneys and Sheriffs shall call the first meeting of the Sheriff's Departments Oversight Task Force to occur on or before July 1, 2023.

(2) The Sheriff's Departments Oversight Task Force shall select a chair from among its members at the first meeting.

(3) A majority of the members of the Sheriff's Departments Oversight Task Force shall constitute a quorum.

(4) The Sheriff's Departments Oversight Task Force shall cease to exist on July 1, 2024.

(g) Compensation and reimbursement.

The members of the public Sheriff's Departments Oversight Task Force who are appointed from an organization focused on law enforcement reform shall be entitled to per diem compensation as permitted under 32 V.S.A. § 1010 for not more than five meetings, provided that those members are not paid for their services by the organization for which the member is representing on the Sheriff's Departments Oversight Task Force. These payments shall be made from monies appropriated to the Department of State's Attorneys and Sheriffs.

(h) Appropriation. The sum of \$1,000.00 is appropriated to the Department of State's Attorneys and Sheriffs from the General Fund in fiscal year 2024 for per diem compensation for members of the Committee.

\* \* \* Effective Dates \* \* \*

Sec. ~~10~~ 11. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 7 (adding 24 V.S.A. § 293(e)) shall take effect on July 1, 2024.