

1 S.192

2 Introduced by Senator White

3 Referred to Committee on Government Operations

4 Date: January 3, 2018

5 Subject: Professions and occupations; law enforcement officers; Office of

6 Professional Regulation; Vermont Criminal Justice Training Council

7 Statement of purpose of bill as introduced: This bill proposes to transfer the

8 professional regulation of law enforcement officers from the Vermont Criminal

9 Justice Training Council to the Office of Professional Regulation.

10 An act relating to transferring the professional regulation of law
11 enforcement officers from the Vermont Criminal Justice Training Council
12 to the Office of Professional Regulation

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

14 ~~*** Transfer to OPP ***~~

15 Sec. 1. 3 V.S.A. § 122 is amended to read:

16 § 122. OFFICE OF PROFESSIONAL REGULATION

17 The Office of Professional Regulation is created within the Office of the
18 Secretary of State. The Office shall have a director who shall be appointed by
19 the Secretary of State and shall be an exempt employee. The following boards
20 ~~or professions are attached to the Office of Professional Regulation.~~

1 of release:

2 (vi) stalking;

3 (vii) false pretenses;

4 (viii) voyeurism;

5 (ix) prostitution or soliciting prostitution;

6 (x) distribution of a regulated substance;

7 (xi) simple assault on a law enforcement officer; or

8 (xii) possession of a regulated substance, second offense.

9 (2) “Category B conduct” means gross professional misconduct

10 amounting to actions on duty or under color of authority, or both, that involve

11 willful failure to comply with a State-required policy or substantial deviation

12 from professional conduct as defined by the law enforcement agency’s policy

13 or if not defined by the agency’s policy, then as defined by rules adopted by

14 the Office, such as:

15 (A) sexual harassment involving physical contact or misuse of

16 position;

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

18 (C) excessive use of force under color of authority, second offense;

19 (D) biased enforcement; or

20 (E) use of an electronic criminal records database for personal,

21 political, or economic gain.

1 (3) "Category C conduct" means any allegation of misconduct
2 pertaining to Office or Council processes or operations, including:
3 (A) intentionally exceeding the scope of practice for an officer's
4 certification level;
5 (B) knowingly making material false statements or reports to the
6 Office or Council;
7 (C) falsification of Office or Council documents;
8 (D) intentional interference with Office or Council investigations,
9 including intimidation of witnesses or misrepresentations of material facts;
10 (E) material false statements about certification or licensure status to
11 a law enforcement agency;
12 (F) knowing employment of an individual in a position or for duties
13 for which the individual lacks proper certification;
14 (G) intentional failure to conduct a valid investigation or file a report
15 as required by this chapter; or
16 (H) failure to complete annual in-service training required by the
17 Council.
18 (4) "Certification" means the document issued by the Council that
19 verifies that a law enforcement officer has successfully completed the
20 Council's initial basic training or annual in-service training requirements, or
21 such a document issued by another entity with training requirements

1 ~~substantially similar to those of the Council as determined by the Director.~~

2 (5) "Council" means the Vermont Criminal Justice Training Council.

3 (6) "Director" means the Director of the Office of Professional
4 Regulation.

5 (7) "Effective internal affairs program" means that a law enforcement
6 agency does all of the following:

7 (A) Complaints. Accepts complaints against its law enforcement
8 officers from any source.

9 (B) Investigators. Assigns an investigator to determine whether an
10 officer violated an agency rule or policy or State or federal law.

11 (C) Policies. Has language in its policies or applicable collective
12 bargaining agreement that outlines for its officers expectations of employment
13 or prohibited activity, or both, and provides due process rights for its officers
14 in its policies. These policies shall establish a code of conduct and a
15 corresponding range of discipline.

16 (D) Fairness in discipline. Treats its accused officers fairly, and
17 decides officer discipline based on just cause, a set range of discipline for
18 offenses, consideration of mitigating and aggravating circumstances, and its
19 policies' due process rights.

20 (E) Civilian review. Provides for review of officer discipline by
21 civilians, which may be a selectboard or other elected or appointed body, at

1 ~~least for the conduct required to be reported to the Office under this chapter.~~

2 (8) “Executive officer” means the highest-ranking law enforcement
3 officer of a law enforcement agency.

4 (9) “Law enforcement agency” means the employer of a law
5 enforcement officer.

6 (10) “Law enforcement officer” means a member of the Department of
7 Public Safety who exercises law enforcement powers; a member of the State
8 Police; a Capitol Police officer; a municipal police officer; a constable who
9 exercises law enforcement powers; a motor vehicle inspector; an employee of
10 the Department of Liquor Control who exercises law enforcement powers; an
11 investigator employed by the Secretary of State; a Board of Medical Practice
12 investigator employed by the Department of Health; an investigator employed
13 by the Attorney General or a State’s Attorney; a fish and game warden; a
14 sheriff; a deputy sheriff who exercises law enforcement powers; a railroad
15 police officer commissioned pursuant to 5 V.S.A. chapter 68, subchapter 8; or
16 a police officer appointed to the University of Vermont’s Department of Police
17 Services.

18 (11) “License” means a current authorization granted by the Director,
19 permitting the practice as a law enforcement officer.

20 (12) “Office” means the Office of Professional Regulation.

21 ~~(13) “Unprofessional conduct” means Category A, B, or C conduct.~~

1 (14)(A) "Valid investigation" means an investigation conducted
2 pursuant to a law enforcement agency's established or accepted procedures.

3 (B) An investigation shall not be valid if:

4 (i) the agency has not adopted an effective internal affairs
5 program;

6 (ii) the agency refuses, without any legitimate basis, to conduct an
7 investigation;

8 (iii) the agency intentionally did not report allegations to the
9 Office as required;

10 (iv) the agency attempts to cover up the misconduct or takes an
11 action intended to discourage or intimidate a complainant; or

12 (v) the agency's executive officer is the officer accused of
13 misconduct.

14 § 5303. PROHIBITIONS; OFFENSES

15 (a) It shall be a violation of this chapter for any person, including any
16 corporation, association, or individual, to:

17 (1) sell or fraudulently obtain or furnish any law enforcement degree,
18 diploma, certification, license, or any other related document or record or to
19 aid or abet therein;

20 (2) practice law enforcement under cover of any degree, diploma,
21 registration, certification, license, or related document or record illegally or

1 ~~fraudulently obtained or signed or issued unlawfully or under fraudulent~~
2 ~~representation;~~

3 ~~(3) practice as a law enforcement officer unless licensed or otherwise~~
4 ~~authorized to do so under the provisions of this chapter;~~

5 ~~(4) represent himself or herself as being licensed or otherwise~~
6 ~~authorized by this State to practice as a law enforcement officer or use in~~
7 ~~connection with a name any words, letters, signs, or figures that imply that a~~
8 ~~person is a law enforcement officer when not licensed or otherwise authorized~~
9 ~~under this chapter;~~

10 ~~(5) practice as a law enforcement officer during the time a license or~~
11 ~~authorization issued under this chapter is suspended or revoked; or~~

12 ~~(6) employ an unlicensed or unauthorized person to practice as a law~~
13 ~~enforcement officer.~~

14 ~~(b) Any person violating this section shall be subject to the penalties~~
15 ~~provided in 3 V.S.A. § 127.~~

16 § 5304. EXEMPTIONS

17 The following shall not require a license under this chapter:

18 (1) The furnishing of assistance in the case of an emergency or disaster.

19 (2) The practice of a law enforcement officer who is employed by the
20 U.S. government or any bureau, division, or agency of it while in the discharge
21 of his or her official duties.

1 ~~(3) The practice of any other occupation or profession by a person duly~~
2 ~~licensed or otherwise authorized under the laws of this State.~~

3 Subchapter 2. Administration

4 § 5311. DUTIES OF THE DIRECTOR

5 (a) The Director shall:

6 (1) provide general information to applicants for license as law
7 enforcement officers;

8 (2) receive applications for licensure and provide licenses to applicants
9 qualified under this chapter;

10 (3) administer fees as established by law;

11 (4) refer all disciplinary matters to an administrative law officer;

12 (5) renew, revoke, and reinstate licenses as ordered by an administrative
13 law officer; and

14 (6) explain appeal procedures to licensed law enforcement officers and
15 to applicants, and complaint procedures to the public.

16 (b) The Director may adopt rules appropriate to perform his or her duties
17 under this chapter and to administer the provisions of this chapter.

18 § 5312. ADVISOR APPOINTEES

19 (a)(1) In consultation with the Executive Director of the Council, the
20 Secretary of State shall appoint three persons for five-year staggered terms to
21 serve at the Secretary's pleasure as advisors in matters relating to law

1 ~~enforcement. One of the initial appointments shall be for less than a five-year~~
2 ~~term.~~

3 ~~(2) An appointee shall have not less than three years' experience as a~~
4 ~~law enforcement officer immediately preceding appointment; shall be licensed~~
5 ~~as a law enforcement officer in Vermont; and shall be actively engaged in the~~
6 ~~practice of law enforcement in this State during incumbency.~~

7 ~~(b) The Director shall seek the advice of the law enforcement advisor~~
8 ~~appointees in carrying out the provisions of this chapter.~~

9 Subchapter 3. Licenses

10 § 5321. ELIGIBILITY FOR LICENSURE

11 An applicant for licensure shall demonstrate that he or she has a current,
12 valid certification.

13 § 5322. LICENSURE RENEWAL

14 (a)(1) In order to renew his or her license, a law enforcement officer shall
15 demonstrate that he or she has a current, valid certification. A license shall be
16 renewed biennially upon application and payment of the required fee. Failure
17 to comply with the provisions of this section shall result in suspension of all
18 privileges granted to the licensee, beginning on the expiration date of the
19 license.

20 (2) A license that has lapsed shall be renewed upon payment of the
21 renewal fee and the late renewal penalty.

1 ~~(b) The Director may adopt rules necessary for the protection of the public~~
2 to assure the Director that an applicant whose license has lapsed or who has
3 not worked for more than three years as a law enforcement officer is
4 professionally qualified for licensure renewal. Conditions imposed under this
5 subsection shall be in addition to the requirements of subsection (a) of this
6 section.

7 § 5323. APPLICATIONS

8 Applications for licensure and license renewal shall be on forms provided
9 by the Director. Each application shall contain a statement under oath showing
10 the applicant's education, experience, and other pertinent information and shall
11 be accompanied by the required fee.

12 § 5324. LICENSURE GENERALLY

13 The Director shall issue a license or renew a license, upon payment of the
14 fees required under this chapter, to an applicant or licensee who has
15 satisfactorily met all the requirements of this chapter.

16 § 5325. FEES

17 Applicants and persons regulated under this chapter shall pay those fees set
18 forth in 3 V.S.A. § 125(b).

19 Subchapter 4. Investigations, Reports, and Unprofessional
20 Conduct Sanctions

21 § 5331. INVESTIGATIONS

1 ~~(a) Agency investigations of Category A and B conduct.~~

2 (1)(A) Each law enforcement agency shall conduct a valid investigation
3 of any complaint alleging that a law enforcement officer employed by the
4 agency committed Category A or Category B conduct. An agency shall
5 conclude its investigation even if the officer resigns from the agency during
6 the course of the investigation.

7 (B) Notwithstanding the provisions of subdivision (A) of this
8 subdivision (1), a law enforcement agency shall refer to the Office any
9 unprofessional conduct complaints made against a law enforcement officer
10 who is the executive officer of that agency.

11 (2)(A) The Office shall accept from any source complaints alleging a
12 law enforcement officer committed unprofessional conduct and, if the Director
13 deems such a complaint credible, he or she shall refer any complaints
14 regarding Category A or Category B conduct to the executive officer of the
15 agency who employs that officer, and that agency shall conduct a valid
16 investigation.

17 (B) Notwithstanding the provisions of subdivision (A) of this
18 subdivision (2), the Office shall cause to be conducted an alternate course of
19 investigation if the allegation is in regard to a law enforcement officer who is
20 the executive officer of the agency.

21 ~~(b) Exception to an agency's valid investigation. Notwithstanding a law~~

1 enforcement agency's valid investigation of a complaint, the Office may
2 investigate that complaint or cause the complaint to be investigated if the
3 officer resigned before a valid investigation had begun or was completed.

4 (c) Office and Council investigations of Category C conduct.

5 (1) The Office shall investigate allegations of Category C conduct
6 pertaining to Office processes.

7 (2) The Council shall investigate allegations of Category C conduct
8 pertaining to Council processes.

9 § 5332. LAW ENFORCEMENT AGENCIES; DUTY TO REPORT

10 (a)(1) The executive officer of a law enforcement agency or the chair of
11 the agency's civilian review board shall report to the Office within 10 business
12 days if any of the following occur in regard to a law enforcement officer of the
13 agency:

14 (A) Category A.

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

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

20 (B) Category B.

21 (i) The agency receives a complaint against the officer that, if

1 deemed credible by the executive officer of the agency as a result of a valid
2 investigation, alleges that the officer committed Category B conduct.

3 (ii) The agency receives or issues any of the following:

4 (I) a report or findings of a valid investigation finding that the
5 officer committed Category B conduct; or

6 (II) any decision or findings, including findings of fact or
7 verdict, regarding allegations that the officer committed Category B conduct,
8 including a hearing officer decision, arbitration, administrative decision, or
9 judicial decision, and any appeal therefrom.

10 (C) Termination. The agency terminates the officer for Category A
11 or Category B conduct.

12 (D) Resignation. The officer resigns from the agency while under
13 investigation for unprofessional conduct.

14 (2) As part of his or her report, the executive officer of the agency or
15 the chair of the civilian review board shall provide to the Office a copy of any
16 relevant documents associated with the report, including any findings,
17 decision, and the agency's investigative report.

18 (b) The Director shall report to the Attorney General and the State's
19 Attorney of jurisdiction any allegations that an officer committed Category A
20 conduct.

21 § 5555. PERMITTED OFFICE SANCTIONS

1 ~~(a) Generally. The Office may impose any of the following sanctions on a~~
2 law enforcement officer's license upon its finding that a law enforcement
3 officer committed unprofessional conduct:

4 (1) written warning;

5 (2) suspension, but to run concurrently with the length and time of any
6 suspension imposed by a law enforcement agency with an effective internal
7 affairs program, which shall amount to suspension for time already served if
8 an officer has already served a suspension imposed by his or her agency with
9 such a program;

10 (3) revocation, with the option of relicensure at the discretion of the
11 Office; or

12 (4) permanent revocation.

13 (b) Intended revocation; temporary voluntary surrender.

14 (1)(A) If, after an evidentiary hearing, the Office intends to revoke a
15 law enforcement officer's license due to its finding that the officer committed
16 unprofessional conduct, the Office shall issue a decision to that effect.

17 (B) Within 10 business days from the date of that decision, such an
18 officer may voluntarily surrender his or her license if there is a pending labor
19 proceeding related to the Office's unprofessional conduct findings.

20 (C) A voluntary surrender of an officer's license shall remain in
21 effect until the labor proceeding and all appeals are finally adjudicated or until

1 the officer requests a final sanction hearing, whichever occurs first, and
2 thereafter until the Office's final sanction hearing on the matter. At that
3 hearing, the Office may modify its findings and decision on the basis of
4 additional evidence, but shall not be bound by any outcome of the labor
5 proceeding.

6 (2) If an officer fails to voluntarily surrender his or her license in
7 accordance with subdivision (1) of this subsection, the Office's original
8 findings and decision shall take effect.

9 § 5334. LIMITATION ON OFFICE SANCTIONS; FIRST OFFENSE OF
10 CATEGORY B CONDUCT

11 (a) Category B conduct; first offense. If a law enforcement agency
12 conducts a valid investigation of a complaint alleging that a law enforcement
13 officer committed a first offense of Category B conduct, the Office shall take
14 no action.

15 (b) "Offense" defined. As used in this section, an "offense" means any
16 offense committed by a law enforcement officer during the course of his or her
17 licensure, and includes any offenses committed during employment at a
18 previous law enforcement agency.

19 § 5335. INVALID INVESTIGATIONS

20 Nothing in this subchapter shall prohibit the Office from causing a
21 complaint to be investigated or taking disciplinary action on an officer's

1 ~~license if the Office determines that a law enforcement agency's investigation~~
2 ~~of the officer's conduct did not constitute a valid investigation.~~

3 Sec. 3. CREATION OF TWO NEW POSITIONS WITHIN THE OFFICE OF
4 PROFESSIONAL REGULATION

5 (a) To support the administration of law enforcement officer professional
6 regulation set forth in Sec. 2 of this act, there is created the following positions
7 within the Secretary of State's Office of Professional Regulation:

8 (1) one classified investigator; and

9 (2) one exempt attorney.

10 (b) Any funding necessary to support the positions created under
11 subsection (a) of this section shall be derived from the Office's Professional
12 Regulatory Fee Fund, with no General Fund dollars.

13 * * * Council Revisions * * *

14 Sec. 4. 20 V.S.A. § 2357 is amended to read:

15 § 2357. POWERS AND DUTIES OF THE EXECUTIVE DIRECTOR

16 (a) The Executive Director of the Council, on behalf of the Council, shall
17 have the following powers and duties, subject to the supervision of the Council
18 and to be exercised only in accordance with rules adopted under this chapter:

19 * * *

20 (b) The Executive Director shall collaborate with the Office of Professional
21 Regulation to alert the Office of

1 (1) persons who have successfully obtained or renewed their
2 certification; and

3 (2) the reports made under section 2362 of this chapter.

4 Sec. 5. 20 V.S.A. § 2360 is added to read:

5 § 2360. LAW ENFORCEMENT AGENCIES; DUTY TO ADOPT AN
6 EFFECTIVE INTERNAL AFFAIRS PROGRAM

7 (a) Each law enforcement agency shall adopt an effective internal affairs
8 program in order to manage complaints regarding the agency's law
9 enforcement officers.

10 (b) The Council shall create and maintain an effective internal affairs
11 program model policy that may be used by law enforcement agencies to meet
12 the requirements of this section.

13 (c) As used in this section, an "effective internal affairs program" means
14 that a law enforcement agency does all of the following:

15 (1) Complaints. Accepts complaints against its law enforcement
16 officers from any source.

17 (2) Investigators. Assigns an investigator to determine whether an
18 officer violated an agency rule or policy or State or federal law.

19 (3) Policies. Has language in its policies or applicable collective
20 bargaining agreement that outlines for its officers expectations of employment
21 or prohibited activity, or both, and provides due process rights for its officers

1 ~~in its policies. These policies shall establish a code of conduct and a~~
2 ~~corresponding range of discipline.~~

3 (4) Fairness in discipline. Treats its accused officers fairly, and decides
4 officer discipline based on just cause, a set range of discipline for offenses,
5 consideration of mitigating and aggravating circumstances, and its policies'
6 due process rights.

7 (5) Civilian review. Provides for review of officer discipline by
8 civilians, which may be a selectboard or other elected or appointed body, at
9 least for the conduct required to be reported to the Council under this
10 subchapter.

11 Sec. 6. 20 V.S.A. § 2362 is amended to read:

12 § 2362. REPORTS

13 (a) Within ten business days:

14 (1) Elected constables. A town, village, or city clerk shall notify the
15 Council, on a form provided by the Council, of the election, appointment to
16 fill a vacancy under 24 V.S.A. § 963, expiration of term, or reelection of any
17 constable.

18 (2) Appointed constables and police chiefs. The legislative body of a
19 municipality or its designee shall notify the Council of the appointment or
20 removal of a constable or police chief.

21 ~~(3) Municipal police officers. A police chief appointed under 24 V.S.A.~~

1 ~~§ 1931 shall notify the Council of the appointment or removal of a police~~
2 officer under the police chief's direction and control.

3 (4) State law enforcement officers. The appointing authority of a State
4 agency employing a law enforcement officer shall notify the Council of the
5 appointment or removal of a law enforcement officer employed by that
6 agency.

7 (5) Sheriffs' officers. A sheriff shall notify the Council of the
8 appointment or removal of a deputy or other law enforcement officer
9 employed by that sheriff's department.

10 (b) Notification required by this section shall include the name of the
11 constable, police chief, police officer, deputy, or other law enforcement
12 officer; the date of appointment or removal; and the term of office or length
13 of appointment, if any.

14 ~~(c) A report required by this section may be combined with any report~~
15 ~~required under subchapter 2 of this chapter.~~

16 Sec. 7. REPEALS

17 The following are repealed in Title 20:

18 (1) In chapter 151 (Vermont Criminal Justice Training Council), the
19 subchapter 1 (General Provisions) designation.

20 (2) In chapter 151, subchapter 2 (Unprofessional Conduct).

21 ~~Sec. 8. 2017 Acts and Resolves No. 56, Sec. 2 is amended to read.~~

1 ~~Sec. 2. TRANSITIONAL PROVISIONS TO IMPLEMENT THIS ACT.~~

2 (a) Effective internal affairs programs.

3 (1) Law enforcement agencies. On or before July 1, 2018, each law
4 enforcement agency shall adopt an effective internal affairs program in
5 accordance with ~~20 V.S.A. § 2402(a) in Sec. 1 of this act~~ § 2360(a).

6 (2) Vermont Criminal Justice Training Council. On or before
7 April 1, 2018, the Vermont Criminal Justice Training Council shall adopt an
8 effective internal affairs program model policy in accordance with
9 20 V.S.A. § 2402(b) ~~in Sec. 1 of this act~~ § 2360(b).

10 (b) ~~Alleged law enforcement officer unprofessional conduct.~~ The
11 provisions of ~~20 V.S.A. chapter 151, subchapter 2 (unprofessional conduct) in~~
12 ~~Sec. 1 of this act shall apply to law enforcement officer conduct alleged to~~
13 ~~have been committed on and after the effective date of that subchapter.~~

14 [Repealed.]

15 (c) Duty to disclose. The requirement for a former law enforcement
16 agency to disclose the reason that a law enforcement officer is no longer
17 employed by the agency as set forth in 20 V.S.A. § 2362a in Sec. 1 of this act
18 shall not apply if there is a binding nondisclosure agreement prohibiting that
19 disclosure that was executed prior to the effective date of that section.

20 (d) ~~Council rules.~~ The Vermont Criminal Justice Training Council may
21 ~~adopt rules in accordance with 20 V.S.A. § 2411 (Council rules) in Sec. 1 of~~

1 ~~this act prior to the effective date of that section. [Repealed.]~~

2 ~~(e) Council Advisory Committee. The Governor shall make appointments~~
3 ~~to the Council Advisory Committee set forth in 20 V.S.A. § 2410 in Sec. 1 of~~
4 ~~this act prior to the effective date of that section. [Repealed.]~~

5 ~~(f) Annual report of Executive Director. Annually, on or before~~
6 ~~January 15, beginning in the year 2019 and ending in the year 2022, the~~
7 ~~Executive Director of the Vermont Criminal Justice Training Council shall~~
8 ~~report to the General Assembly regarding the Executive Director's analysis of~~
9 ~~the implementation of this act and any recommendations he or she may have~~
10 ~~for further legislative action. [Repealed.]~~

11 ~~(g) Council, OPR; joint report. On or before October 1, 2017, the~~
12 ~~Executive Director of the Vermont Criminal Justice Training Council and the~~
13 ~~Director of the Office of Professional Regulation (Office) shall consult with~~
14 ~~law enforcement stakeholders and report to the Senate and House Committees~~
15 ~~on Government Operations on a proposal for the Office to perform duties~~
16 ~~related to the professional regulation of law enforcement officers.~~

17 * * * Vermont State Police * * *

18 Sec. 9. 20 V.S.A. § 1923 is amended to read:

19 § 1923. INTERNAL INVESTIGATION

20 (a)(1) The State Police Advisory Commission shall advise and assist the
21 ~~Commissioner in developing and making known routine procedures to ensure~~

1 ~~that allegations of misconduct by State Police officers are investigated fully~~
2 and fairly, and to ensure that appropriate action is taken with respect to such
3 allegations.

4 (2) The Commissioner shall ensure that the procedures described in
5 subdivision (1) of this subsection constitute an effective internal affairs
6 program in order to comply with section ~~2402~~ 2360 of this title.

7 * * *

8 (d) Records of the Office of Internal Investigation shall be confidential,
9 except:

10 (1) the State Police Advisory Commission shall, at any time, have full
11 and free access to such records;

12 (2) the Commissioner shall deliver such materials from the records of
13 the Office as may be necessary to appropriate prosecutorial authorities having
14 jurisdiction;

15 (3) the Director of the State Police or the Chair of the State Police
16 Advisory Commission shall report to the ~~Vermont Criminal Justice Training~~
17 Council as required by section 2403 of this title Office of Professional
18 Regulation as required by 26 V.S.A. § 5332; and

19 (4) the State Police Advisory Commission shall, in its discretion, be
20 entitled to report to such authorities as it may deem appropriate or to the
21 ~~public, or both, to ensure that proper action is taken in each case.~~

1 ~~*** Transitional Provisions, Conforming Revisions, and Effective Date ***~~

2 Sec. 10. TRANSITIONAL PROVISIONS

3 (a) Transfer of regulation. On the effective date of this act, a person
4 certified as a law enforcement officer by the Vermont Criminal Justice
5 Training Council under the provisions of 20 V.S.A. chapter 151 shall be
6 deemed licensed as a law enforcement officer by the Office of Professional
7 Regulation under the provisions of 26 V.S.A. chapter 103.

8 (b) Alleged law enforcement officer unprofessional conduct. The
9 unprofessional conduct provisions applicable to law enforcement officers set
10 forth in Sec. 2 of this act shall apply to law enforcement officer conduct
11 alleged to have been committed on and after the effective date of this act.

12 Sec. 11. CONFORMING REVISIONS

13 When preparing the Vermont Statutes Annotated for publication, the Office
14 of Legislative Council shall replace references to law enforcement officers
15 certified by the Vermont Criminal Justice Training Council under 20 V.S.A.
16 chapter 151 with references to law enforcement officers licensed by the Office
17 of Professional Regulation under 26 V.S.A. chapter 103 and make substantially
18 similar revisions as needed for consistency with Secs. 1-3 of this act, provided
19 the revisions have no other effect on the meaning of the affected statutes.

20 Sec. 12. EFFECTIVE DATE

21 ~~This act shall take effect on July 1, 2018.~~

** * * Transfer to OPR * * **

Sec. 1. 3 V.S.A. § 122 is amended to read:

§ 122. OFFICE OF PROFESSIONAL REGULATION

The Office of Professional Regulation is created within the Office of the Secretary of State. The Office shall have a director who shall be appointed by the Secretary of State and shall be an exempt employee. The following boards or professions are attached to the Office of Professional Regulation:

** * **

(48) Law Enforcement Officers

Sec. 2. 26 V.S.A. chapter 103 is added to read:

CHAPTER 103. LAW ENFORCEMENT OFFICERS

Subchapter 1. General Provisions

§ 5301. PURPOSE AND EFFECT

In order to safeguard the life and health of the people of this State, a person shall not practice, or offer to practice, as a law enforcement officer unless currently licensed under this chapter.

§ 5302. DEFINITIONS

As used in this chapter:

(1) "Category A conduct" means:

(A) A felony.

(B) A misdemeanor that is committed while on duty and did not involve the legitimate performance of duty.

(C) Any of the following misdemeanors, if committed off duty:

(i) simple assault, second offense;

(ii) domestic assault;

(iii) false reports and statements;

(iv) driving under the influence, second offense;

(v) violation of a relief from abuse order or of a condition of release;

(vi) stalking;

(vii) false pretenses;

(viii) voyeurism;

- (ix) prostitution or soliciting prostitution;
- (x) distribution of a regulated substance;
- (xi) simple assault on a law enforcement officer; or
- (xii) possession of a regulated substance, second offense.

(2) "Category B conduct" means gross professional misconduct amounting to actions on duty or under color of authority, 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 rules adopted by the Office, such as:

- (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 color of authority, second offense;
- (D) biased enforcement; or
- (E) use of an electronic criminal records database for personal, political, or economic gain.

(3) "Category C conduct" means any allegation of misconduct pertaining to Office or Council processes or operations, including:

- (A) intentionally exceeding the scope of practice for an officer's certification level;
- (B) knowingly making material false statements or reports to the Office or Council;
- (C) falsification of Office or Council documents;
- (D) intentional interference with Office or Council investigations, including intimidation of witnesses or misrepresentations of material facts;
- (E) material false statements about certification or licensure status to a law enforcement agency;
- (F) knowing employment of an individual in a position or for duties for which the individual lacks proper certification;
- (G) intentional failure to conduct a valid investigation or file a report as required by this chapter; or
- (H) failure to complete annual in-service training required by the Council.

(4) “Certification” means the document issued by the Council that verifies that a law enforcement officer has successfully completed the Council’s initial basic training or annual in-service training requirements, or such a document issued by another entity with training requirements substantially similar to those of the Council as determined by the Director.

(5) “Council” means the Vermont Criminal Justice Training Council.

(6) “Director” means the Director of the Office of Professional Regulation.

(7) “Effective internal affairs program” means that a law enforcement agency does all of the following:

(A) Complaints. Accepts complaints against its law enforcement officers from any source.

(B) Investigators. Assigns an investigator to determine whether an officer violated an agency rule or policy or State or federal law.

(C) Policies. Has language in its policies or applicable collective bargaining agreement that outlines for its officers expectations of employment or prohibited activity, or both, and provides due process rights for its officers in its policies. These policies shall establish a code of conduct and a corresponding range of discipline.

(D) Fairness in discipline. Treats its accused officers fairly and decides officer discipline based on just cause, a set range of discipline for offenses, consideration of mitigating and aggravating circumstances, and its policies’ due process rights.

(E) Civilian review. Provides for review of officer discipline by civilians, which shall be a selectboard or other elected or appointed body or person, at least for the conduct required to be reported to the Office under this chapter. The assistant judges of a county shall appoint a committee of at least three and up to five civilians, who shall be selected from among elected officials who reside in the county, to review the discipline imposed on officers by the sheriff.

(8) “Executive officer” means the highest-ranking law enforcement officer of a law enforcement agency.

(9) “Law enforcement agency” means the employer of a law enforcement officer.

(10) “Law enforcement officer” means a member of the Department of Public Safety who exercises law enforcement powers; a member of the State Police; a Capitol Police officer; a municipal police officer; a constable who

exercises law enforcement powers; a motor vehicle inspector; an employee of the Department of Liquor Control who exercises law enforcement powers; an investigator employed by the Secretary of State; a Board of Medical Practice investigator employed by the Department of Health; an investigator employed by the Attorney General or a State's Attorney; a fish and game warden; a sheriff; a deputy sheriff who exercises law enforcement powers; a railroad police officer commissioned pursuant to 5 V.S.A. chapter 68, subchapter 8; or a police officer appointed to the University of Vermont's Department of Police Services.

(11) "License" means a current authorization granted by the Director, permitting the practice as a law enforcement officer.

(12) "Office" means the Office of Professional Regulation.

(13) "Unprofessional conduct" means Category A, B, or C conduct.

(14)(A) "Valid investigation" means an investigation conducted pursuant to a law enforcement agency's established or accepted procedures.

(B) An investigation shall not be valid if:

(i) the agency has not adopted an effective internal affairs program;

(ii) the agency refuses, without any legitimate basis, to conduct an investigation;

(iii) the agency intentionally did not report allegations to the Office as required;

(iv) the agency attempts to cover up the misconduct or takes an action intended to discourage or intimidate a complainant; or

(v) the agency's executive officer is the officer accused of misconduct.

§ 5303. PROHIBITIONS; OFFENSES

(a) It shall be a violation of this chapter for any person, including any corporation, association, or individual, to:

(1) sell or fraudulently obtain or furnish any law enforcement degree, diploma, certification, license, or any other related document or record or to aid or abet therein;

(2) practice law enforcement under cover of any degree, diploma, registration, certification, license, or related document or record illegally or fraudulently obtained or signed or issued unlawfully or under fraudulent representation;

(3) practice as a law enforcement officer unless licensed or otherwise authorized to do so under the provisions of this chapter;

(4) represent himself or herself as being licensed or otherwise authorized by this State to practice as a law enforcement officer or use in connection with a name any words, letters, signs, or figures that imply that a person is a law enforcement officer when not licensed or otherwise authorized under this chapter;

(5) practice as a law enforcement officer during the time a license or authorization issued under this chapter is suspended or revoked; or

(6) employ an unlicensed or unauthorized person to practice as a law enforcement officer.

(b) Any person violating this section shall be subject to the penalties provided in 3 V.S.A. § 127.

§ 5304. EXEMPTIONS

The following shall not require a license under this chapter:

(1) The furnishing of assistance in the case of an emergency or disaster.

(2) The practice of a law enforcement officer who is employed by the U.S. government or any bureau, division, or agency of it while in the discharge of his or her official duties.

(3) The practice of any other occupation or profession by a person duly licensed or otherwise authorized under the laws of this State.

Subchapter 2. Administration

§ 5311. DUTIES OF THE DIRECTOR

(a) The Director shall:

(1) provide general information to applicants for license as law enforcement officers;

(2) receive applications for licensure and provide licenses to applicants qualified under this chapter;

(3) administer fees as established by law;

(4) refer all disciplinary matters to an administrative law officer;

(5) renew, revoke, and reinstate licenses as ordered by an administrative law officer; and

(6) explain appeal procedures to licensed law enforcement officers and to applicants and complaint procedures to the public.

(b) The Director may adopt rules appropriate to perform his or her duties under this chapter and to administer the provisions of this chapter.

§ 5312. ADVISOR APPOINTEES

(a)(1) The Secretary of State shall appoint three persons for five-year staggered terms to serve at the Secretary's pleasure as advisors in matters relating to law enforcement. One of the initial appointments shall be for less than a five-year term. The Secretary shall consider representation among small, medium, and large agencies as factors in making the appointments.

(2) An advisor appointee shall have not less than three years' experience as a law enforcement officer immediately preceding appointment; shall be licensed as a law enforcement officer in Vermont; and shall be actively engaged in the practice of law enforcement in this State during incumbency.

(b) The Director shall seek the advice of the law enforcement advisor appointees in carrying out the provisions of this chapter.

Subchapter 3. Licenses

§ 5321. ELIGIBILITY FOR LICENSURE

An applicant for licensure shall demonstrate that he or she has a current, valid certification.

§ 5322. LICENSURE RENEWAL

(a) In order to renew his or her license, a law enforcement officer shall demonstrate that he or she has a current, valid certification. A license shall be renewed biennially upon application and payment of the required fee. Failure to comply with the provisions of this section shall result in suspension of all privileges granted to the licensee, beginning on the expiration date of the license.

(b) A license that has lapsed shall be renewed upon payment of the renewal fee and any applicable late renewal penalty pursuant to 3 V.S.A. § 127(d).

§ 5323. APPLICATIONS

Applications for licensure and license renewal shall be on forms provided by the Director. Each application shall contain a statement under oath showing the applicant's certification and other pertinent information required by law and shall be accompanied by the required fee.

§ 5324. LICENSURE GENERALLY

(a) The Director shall issue a license or renew a license, upon payment of the fees required under this chapter, to an applicant or licensee who has satisfactorily met all the requirements of this chapter.

(b)(1) The actions and legal authority of a law enforcement officer employed by a law enforcement agency or elected to a law enforcement office whose license has expired and who acts with the apparent authority of a license issued under this chapter shall be valid at law, notwithstanding the failure to renew the license.

(2) The provisions of this subsection shall only apply during the 30-day reinstatement period described in subdivision (c)(2) of this section.

(c)(1) The Director shall provide written notice that the officer's license has expired to the officer, the officer's executive officer, if any, and the Council.

(2) The effective date of a license that was renewed during the 30 days following license expiration shall relate back to the date the license expired, up to the date the license was reinstated, and the license shall be deemed legally valid during that timeframe.

§ 5325. FEES

Applicants and persons regulated under this chapter shall pay those fees set forth in 3 V.S.A. § 125(b).

§ 5326. CONFIDENTIALITY OF PERSONAL INFORMATION

A law enforcement officer's home address and personal telephone number and email address produced or acquired under this chapter shall be kept confidential and are exempt from public inspection and copying under the Public Records Act.

Subchapter 4. Investigations, Reports, and Unprofessional Conduct Sanctions

§ 5331. INVESTIGATIONS

(a) Agency investigations of Category A and B conduct.

(1)(A) Each law enforcement agency shall conduct a valid investigation of any complaint alleging that a law enforcement officer employed by the agency committed Category A or Category B conduct. An agency shall conclude its investigation even if the officer resigns from the agency during the course of the investigation.

(B) Notwithstanding the provisions of subdivision (A) of this subdivision (1), a law enforcement agency shall refer to the Office any unprofessional conduct complaints made against a law enforcement officer who is the executive officer of that agency.

(2)(A) The Office shall accept from any source complaints alleging a law enforcement officer committed unprofessional conduct and, if the Director

deems such a complaint credible, he or she shall refer any complaints regarding Category A or Category B conduct to the executive officer of the agency who employs that officer, and that agency shall conduct a valid investigation.

(B) Notwithstanding the provisions of subdivision (A) of this subdivision (2), the Office shall cause to be conducted an alternate course of investigation if the allegation is in regard to a law enforcement officer who is the executive officer of the agency.

(b) Exception to an agency's valid investigation. Notwithstanding a law enforcement agency's valid investigation of a complaint, the Office may investigate that complaint or cause the complaint to be investigated if the officer resigned before a valid investigation had begun or was completed.

(c) Office and Council investigations of Category C conduct.

(1) The Office shall investigate allegations of Category C conduct pertaining to Office processes.

(2) The Council shall investigate allegations of Category C conduct pertaining to Council processes.

§ 5332. LAW ENFORCEMENT AGENCIES; DUTY TO REPORT

(a)(1) The executive officer of a law enforcement agency or the chair of the agency's civilian review board shall report to the Office within 10 business days if any of the following occur in regard to a law enforcement officer of the agency:

(A) Category A.

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

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

(B) Category B.

(i) The agency receives a complaint against the officer that, if deemed credible by the executive officer of the agency as a result of a valid investigation, alleges that the officer committed Category B conduct.

(ii) The agency receives or issues any of the following:

(I) a report or findings of a valid investigation finding that the officer committed Category B conduct; or

(II) any decision or findings, including findings of fact or

verdict, regarding allegations that the officer committed Category B conduct, including a hearing officer decision, arbitration, administrative decision, or judicial decision, and any appeal therefrom.

(C) Termination. The agency terminates the officer for Category A or Category B conduct.

(D) Resignation. The officer resigns from the agency while under investigation for unprofessional conduct.

(2) As part of his or her report, the executive officer of the agency or the chair of the civilian review board shall provide to the Office a copy of any relevant documents associated with the report, including any findings, decision, and the agency's investigative report. The information provided shall be treated as a complaint under the provisions of 3 V.S.A. § 131.

(b) The Director shall report to the Attorney General and the State's Attorney of jurisdiction any allegations that an officer committed Category A conduct.

§ 5333. PERMITTED OFFICE SANCTIONS

(a) Generally. The Office may impose any of the following sanctions on a law enforcement officer's license upon its finding that a law enforcement officer committed unprofessional conduct:

(1) written warning;

(2) suspension, but to run concurrently with the length and time of any suspension imposed by a law enforcement agency with an effective internal affairs program, which shall amount to suspension for time already served if an officer has already served a suspension imposed by his or her agency with such a program;

(3) revocation, with the option of relicensure at the discretion of the Office; or

(4) permanent revocation.

(b) Intended revocation; temporary voluntary surrender.

(1)(A) If, after an evidentiary hearing, the Office intends to revoke a law enforcement officer's license due to its finding that the officer committed unprofessional conduct, the Office shall issue a decision to that effect.

(B) Within 10 business days from the date of that decision, such an officer may voluntarily surrender his or her license if there is a pending labor proceeding related to the Office's unprofessional conduct findings.

(C) A voluntary surrender of an officer's license shall remain in effect

until the labor proceeding and all appeals are finally adjudicated or until the officer requests a final sanction hearing, whichever occurs first, and thereafter until the Office's final sanction hearing on the matter. At that hearing, the Office may modify its findings and decision on the basis of additional evidence, but shall not be bound by any outcome of the labor proceeding.

(2) If an officer fails to voluntarily surrender his or her license in accordance with subdivision (1) of this subsection, the Office's original findings and decision shall take effect. However, if the final adjudication of the labor proceeding is inconsistent with the Office's findings and decision, at the officer's request, the Director may, in his or her discretion, order that the Office's findings and decision be reconsidered.

§ 5334. LIMITATION ON OFFICE SANCTIONS; FIRST OFFENSE OF CATEGORY B CONDUCT

(a) Category B conduct; first offense. If a law enforcement agency conducts a valid investigation of a complaint alleging that a law enforcement officer committed a first offense of Category B conduct, the Office shall take no action.

(b) "Offense" defined. As used in this section, an "offense" means any offense committed by a law enforcement officer during the course of his or her licensure, and includes any offenses committed during employment at a previous law enforcement agency.

§ 5335. INVALID INVESTIGATIONS

Nothing in this subchapter shall prohibit the Office from causing a complaint to be investigated or taking disciplinary action on an officer's license if the Office determines that a law enforcement agency's investigation of the officer's conduct did not constitute a valid investigation.

Sec. 3. CREATION OF TWO NEW POSITIONS WITHIN THE OFFICE OF PROFESSIONAL REGULATION

(a) To support the administration of law enforcement officer professional regulation set forth in Sec. 2 of this act, there is created the following positions within the Secretary of State's Office of Professional Regulation:

(1) one classified investigator; and

(2) one exempt attorney.

(b) Any funding necessary to support the positions created under subsection (a) of this section shall be derived from the Office's Professional Regulatory Fee Fund, with no General Fund dollars.

* * * Council Revisions * * *

Sec. 4. 20 V.S.A. § 2357 is amended to read:

§ 2357. POWERS AND DUTIES OF THE EXECUTIVE DIRECTOR

(a) The Executive Director of the Council, on behalf of the Council, shall have the following powers and duties, subject to the supervision of the Council and to be exercised only in accordance with rules adopted under this chapter:

** * **

(b) The Executive Director shall collaborate with the Office of Professional Regulation to alert the Office of:

(1) persons who have successfully obtained or renewed their certification; and

(2) the reports made under section 2362 of this chapter.

Sec. 5. 20 V.S.A. § 2360 is added to read:

§ 2360. LAW ENFORCEMENT AGENCIES; DUTY TO ADOPT AN EFFECTIVE INTERNAL AFFAIRS PROGRAM

(a) Each law enforcement agency shall adopt an effective internal affairs program in order to manage complaints regarding the agency's law enforcement officers.

(b) The Council shall create and maintain an effective internal affairs program model policy that may be used by law enforcement agencies to meet the requirements of this section.

(c) As used in this section, an "effective internal affairs program" means that a law enforcement agency does all of the following:

(1) Complaints. Accepts complaints against its law enforcement officers from any source.

(2) Investigators. Assigns an investigator to determine whether an officer violated an agency rule or policy or State or federal law.

(3) Policies. Has language in its policies or applicable collective bargaining agreement that outlines for its officers expectations of employment or prohibited activity, or both, and provides due process rights for its officers in its policies. These policies shall establish a code of conduct and a corresponding range of discipline.

(4) Fairness in discipline. Treats its accused officers fairly, and decides officer discipline based on just cause, a set range of discipline for offenses, consideration of mitigating and aggravating circumstances, and its policies' due process rights.

(5) Civilian review. Provides for review of officer discipline by civilians, which shall be a selectboard or other elected or appointed body or person, at least for the conduct required to be reported to the Office of Professional Regulation under 26 V.S.A. chapter 103. The assistant judges of a county shall appoint a committee of at least three and up to five civilians, who shall be selected from among elected officials who reside in the county, to review the discipline imposed on officers by the sheriff.

Sec. 6. 20 V.S.A. § 2362 is amended to read:

§ 2362. REPORTS

(a) Within ten business days:

(1) Elected constables. A town, village, or city clerk shall notify the Council, on a form provided by the Council, of the election, appointment to fill a vacancy under 24 V.S.A. § 963, expiration of term, or reelection of any constable.

(2) Appointed constables and police chiefs. The legislative body of a municipality or its designee shall notify the Council of the appointment or removal of a constable or police chief.

(3) Municipal police officers. A police chief appointed under 24 V.S.A. § 1931 shall notify the Council of the appointment or removal of a police officer under the police chief's direction and control.

(4) State law enforcement officers. The appointing authority of a State agency employing a law enforcement officer shall notify the Council of the appointment or removal of a law enforcement officer employed by that agency.

(5) Sheriffs' officers. A sheriff shall notify the Council of the appointment or removal of a deputy or other law enforcement officer employed by that sheriff's department.

(b) Notification required by this section shall include the name of the constable, police chief, police officer, deputy, or other law enforcement officer; the date of appointment or removal; and the term of office or length of appointment, if any.

~~(c) A report required by this section may be combined with any report required under subchapter 2 of this chapter.~~

Sec. 7. REPEALS

The following are repealed in Title 20:

(1) In chapter 151 (Vermont Criminal Justice Training Council), the subchapter 1 (General Provisions) designation.

(2) In chapter 151, subchapter 2 (Unprofessional Conduct).

Sec. 8. 2017 Acts and Resolves No. 56, Sec. 2 is amended to read:

Sec. 2. TRANSITIONAL PROVISIONS TO IMPLEMENT THIS ACT

(a) Effective internal affairs programs.

(1) Law enforcement agencies. On or before July 1, 2018, each law enforcement agency shall adopt an effective internal affairs program in accordance with 20 V.S.A. § 2402(a) in Sec. 1 of this act § 2360(a).

(2) Vermont Criminal Justice Training Council. On or before April 1, 2018, the Vermont Criminal Justice Training Council shall adopt an effective internal affairs program model policy in accordance with 20 V.S.A. § 2402(b) in Sec. 1 of this act § 2360(b).

~~(b) Alleged law enforcement officer unprofessional conduct.—The provisions of 20 V.S.A. chapter 151, subchapter 2 (unprofessional conduct) in Sec. 1 of this act shall apply to law enforcement officer conduct alleged to have been committed on and after the effective date of that subchapter. [Repealed.]~~

~~(c) Duty to disclose. The requirement for a former law enforcement agency to disclose the reason that a law enforcement officer is no longer employed by the agency as set forth in 20 V.S.A. § 2362a in Sec. 1 of this act shall not apply if there is a binding nondisclosure agreement prohibiting that disclosure that was executed prior to the effective date of that section.~~

~~(d) Council rules.—The Vermont Criminal Justice Training Council may adopt rules in accordance with 20 V.S.A. § 2411 (Council rules) in Sec. 1 of this act, prior to the effective date of that section. [Repealed.]~~

~~(e) Council Advisory Committee.—The Governor shall make appointments to the Council Advisory Committee set forth in 20 V.S.A. § 2410 in Sec. 1 of this act prior to the effective date of that section. [Repealed.]~~

~~(f) Annual report of Executive Director. Annually, on or before January 15, beginning in the year 2019 and ending in the year 2022, the Executive Director of the Vermont Criminal Justice Training Council shall report to the General Assembly regarding the Executive Director's analysis of the implementation of this act and any recommendations he or she may have for further legislative action. [Repealed.]~~

(g) Council, OPR; joint report. On or before October 1, 2017, the Executive Director of the Vermont Criminal Justice Training Council and the Director of the Office of Professional Regulation (Office) shall consult with law enforcement stakeholders and report to the Senate and House Committees

on Government Operations on a proposal for the Office to perform duties related to the professional regulation of law enforcement officers.

** * * Vermont State Police * * **

Sec. 9. 20 V.S.A. § 1923 is amended to read:

§ 1923. INTERNAL INVESTIGATION

(a)(1) The State Police Advisory Commission shall advise and assist the Commissioner in developing and making known routine procedures to ensure that allegations of misconduct by State Police officers are investigated fully and fairly, and to ensure that appropriate action is taken with respect to such allegations.

(2) The Commissioner shall ensure that the procedures described in subdivision (1) of this subsection constitute an effective internal affairs program in order to comply with section ~~2402~~ 2360 of this title.

** * **

(d) Records of the Office of Internal Investigation shall be confidential, except:

(1) the State Police Advisory Commission shall, at any time, have full and free access to such records;

(2) the Commissioner shall deliver such materials from the records of the Office as may be necessary to appropriate prosecutorial authorities having jurisdiction;

(3) the Director of the State Police or the Chair of the State Police Advisory Commission shall report to the ~~Vermont Criminal Justice Training Council as required by section 2403 of this title~~ Office of Professional Regulation as required by 26 V.S.A. § 5332; and

(4) the State Police Advisory Commission shall, in its discretion, be entitled to report to such authorities as it may deem appropriate or to the public, or both, to ensure that proper action is taken in each case.

** * * Transitional Provisions, Conforming Revisions, and Effective Date * * **

Sec. 10. TRANSITIONAL PROVISIONS

(a) Transfer of regulation. On the effective date of this act, a person certified as a law enforcement officer by the Vermont Criminal Justice Training Council under the provisions of 20 V.S.A. chapter 151 shall be deemed licensed as a law enforcement officer by the Office of Professional Regulation under the provisions of 26 V.S.A. chapter 103 upon payment of the initial license fee set forth in 26 V.S.A. § 5325 in Sec. 2 of this act.

(b) Alleged law enforcement officer unprofessional conduct. The unprofessional conduct provisions applicable to law enforcement officers set forth in Sec. 2 of this act shall apply to law enforcement officer conduct alleged to have been committed on and after the effective date of this act.

Sec. 11. CONFORMING REVISIONS

When preparing the Vermont Statutes Annotated for publication, the Office of Legislative Council shall replace references to law enforcement officers certified by the Vermont Criminal Justice Training Council under 20 V.S.A. chapter 151 with references to law enforcement officers licensed by the Office of Professional Regulation under 26 V.S.A. chapter 103 and make substantially similar revisions as needed for consistency with Secs. 1-3 of this act, provided the revisions have no other effect on the meaning of the affected statutes.

Sec. 12. IMPLEMENTATION

(a) The advisor appointees created in Sec. 2, in 26 V.S.A. § 5312, shall be appointed within 60 days of the effective date of this section.

(b) The Director of the Office of Professional Regulation may adopt rules in accordance with the provisions of Sec. 2 of this act prior to the effective date of that section.

Sec. 13. EFFECTIVE DATES

(a) The following sections shall take effect on January 1, 2019:

- (1) Sec. 1 (amending 3 V.S.A. § 122);
- (2) Sec. 2 (adding 26 V.S.A. chapter 103);
- (3) Sec. 9 (amending 20 V.S.A. § 1923);
- (4) Sec. 10 (transitional provisions); and
- (5) Sec. 11 (conforming revisions).

(b) The following sections shall take effect on July 1, 2018:

- (1) Sec. 6 (amending 20 V.S.A. § 2362); and
- (2) Sec. 7 (repeals), except that in 20 V.S.A. § 2355 (Council powers and duties), subdivision (a)(11) (decertification of persons who have been convicted of a felony subsequent to their certification as law enforcement officers) shall be repealed on January 1, 2019.

(c) This section and the following sections shall take effect on passage:

- (1) Sec. 3 (creating positions in the Office of Professional Regulation);
- (2) Sec. 4 (amending 20 V.S.A. § 2357);

- (3) Sec. 5 (adding 20 V.S.A. § 2360);
- (4) Sec. 8 (amending 2017 Acts and Resolves No. 56, Sec. 2); and
- (5) Sec. 12 (implementation).