

REPORT ON THE RECOMMENDED IMPLEMENTATION OF H.765

**An Act Relating to Establishing New Levels of Law Enforcement
Officer Certification**

January 2015



VERMONT CRIMINAL JUSTICE TRAINING COUNCIL

Sec. 8. VERMONT CRIMINAL JUSTICE TRAINING COUNCIL; RECOMMENDED
TRANSITION BETWEEN DIFFERENT LEVELS OF LAW ENFORCEMENT OFFICER
CERTIFICATION

On or before January 15, 2015, the Vermont Criminal Justice Training Council shall submit to the House and Senate Committees on Government Operations:

(1) the Council's recommendation regarding the manner in which a law enforcement officer should be able to transition to a different level of law enforcement officer certification, once the officer has obtained one of the levels of certification described in Sec. 5 of this act, 20 V.S.A. § 2358 (minimum training standards; definitions); and

(2) after consulting with the Vermont Police Association, Inc., the Chiefs of Police Association of Vermont, the Vermont Constables Association, the Vermont Sheriffs' Association, Inc., and a representative from the Department of Public Safety, any Council recommendation regarding whether there should be any changes to the scope of practice for any of the levels of law enforcement officer certification described in Sec. 5 of this act, 20 V.S.A. § 2358.

Summary

H.765 can be considered as the most significant change to Vermont law enforcement in decades. Based on the concerns of the legislature as well as law enforcement executives, H.765 was passed into law and changes the certification levels of law enforcement officers. As the result of numerous meetings with law enforcement executives and other stake holders since the passage of H.765, the following additional recommendations are made:

As passed, H.765 provides for the elimination of full time and part time certified officers to be replaced by Level I, Level II and Level III certification. It provides for a specific scope of authority for Level I and Level II officers.

1. **Recommendation # 1:** The VCJTC recommends an expanded scope of authority for Level II to include additional laws that were determined should be included in Level II.
2. **Recommendation # 2:** The VCJTC recommends that through the rule making process, a Level IIC be created. This level is for those current part time certified officers meeting a rigid minimum standard and would be grant an expanded scope of authority. This expanded scope of authority is still limited compared to the scope of authority of a Level III certified officer and will not be granted to any Level II certified officers beyond July 1, 2015.
3. **Recommendation # 3:** The VCJTC may through the waiver process, grant a specific Level III authority to a Level I or Level II officer based on a rigid set of criteria.
4. **Recommendation # 4:** The VCJTC recommends that any transition from a Level II to Level III require at a minimum, a full time academy, either in Vermont or other state that meets the minimum Vermont standards. There is currently a waiver process in place and there is no reason to change the policy.

Recommendation # 1: The VCJTC recommends an expanded scope of authority for Level II to include additional laws that were determined should be included in Level II.

A primary concern when discussing the Level II scope of authority is that after July 1, 2015, this scope of practice will be the maximum that can be obtained. The Level II as expanded will better meet the future needs of law enforcement executives.

The statutes in bold and underlined are the added laws and investigative authority.

7 V.S.A. § 658 (sale or furnishing to minors; enabling consumption by minors)

13 V.S.A. chapter 7 (advertisements);

13 V.S.A. chapter 8 (humane and proper treatment of animals);

13 V.S.A. chapter 11 §505 (fourth degree arson)

13 V.S.A. chapter 11 §508 (setting fires)

13 V.S.A. chapter 11 §509 (attempts)

13 V.S.A. chapter 19, subchapter 1 (riots);

13 V.S.A. §§ 1022 (noise in the nighttime), 1023 (simple assault), **1025 (recklessly endangering another person)**, **1026 (disorderly conduct)**, **1027 (disturbing peace by use of telephone or other electronic communications)**, **1030 (violation of an abuse prevention order, an order against stalking or sexual assault, or a protective order concerning contact with a child)**, 1031 (interference with access to emergency services), **1042 (domestic assault) and 1062 (stalking)**.

13 V.S.A. chapter 35 (escape);

13 V.S.A. chapter 41 (false alarms and reports);

13 V.S.A. chapter 45 (flags and ensigns);

13 V.S.A. chapter 47 (frauds);

13 V.S.A. chapter 49 (fraud in commercial transactions);

13 V.S.A. chapter 51 (gambling and lotteries);

13 V.S.A. chapter 57 (larceny and embezzlement), except for subchapter 2 (embezzlement);

13 V.S.A. chapter 67 (public justice and public officers)(XVII) 13 V.S.A. chapter 69 (railroads);

13 V.S.A. chapter 77 (trees and plants);

13 V.S.A. chapter 81 (trespass and malicious injuries to property);

13 V.S.A. chapter 83 (vagrants);

13 V.S.A. chapter 85 (weapons);

18 V.S.A. chapter 84 §4231(a) (cocaine possession)

18 V.S.A. chapter 84 §4232(a) (LSD possession)

18 V.S.A. chapter 84 §4233(a) (heroin possession)

18 V.S.A. chapter 84 §4234(a) (depressant, stimulant, and narcotic drugs possession)

18 V.S.A. chapter 84 §4234a(a) (methamphetamine possession)

18 V.S.A. chapter 84 §4235(b) (hallucinogenic possession)

18 V.S.A. chapter 84 §4233(a) (ecstasy possession)

18 V.S.A. chapter 89 (drug paraphernalia §4476 (offenses and penalties)

21 V.S.A. chapter 9 §692(c)(2) (penalties: failure to insure; stop work orders)

23 V.S.A. All Misdemeanors

Motor vehicle accident investigations to include property damage and injuries

Recommendation # 2: The VCJTC recommends that through the rule making process, a Level IIC be created. This level is for those current part time certified officers meeting a rigid minimum standard and would grant an expanded scope of authority. This expanded scope of authority is still limited compared to the scope of authority of a Level III certified officer and will not be granted to any Level II certified officers beyond July 1, 2015.

The original intent of H.765 was to provide safeguards for part time certified officers. The grandfathering clause was removed and as such, the implementation of a Level IIC rewards those officers that meet a rigid standard and have significant experience as a part time certified officer.

The minimum standards for award of Level IIC is as follows:

1. On July 1, 2015, the part time certified officer has a minimum of three years' experience
2. The officer has worked a minimum of 3000 hours between 3 and 5 years
3. Duties performed primarily consisted of investigation and enforcement of motor vehicle, criminal, juvenile and drug offenses
4. The Chief's or Sheriff's endorsement.

The scope of authority includes all Level II and the following.

9 V.S.A. Chapter 82 Scrap Metal Processors Subsection 3023 (b) Penalties

13 V.S.A. Chapter 3 Abortion

13 V.S.A. Chapter 5 Adultery and Bigamy

13 V.S.A. Chapter 13 Subsection 608 Assault and Robbery

13 V.S.A. Chapter 19 Subsection 1024 Aggravated Assault

13 V.S.A. Chapter 19 Subsection 1028 Assault on a law enforcement officer, fire fighter, emergency medical personnel member or health care worker to include assault with bodily fluids

13 V.S.A. Chapter 19 Subsection 1028a Assault of correctional officer with bodily fluids

13 V.S.A. Chapter 19 Subsection 1043 First degree aggravated domestic assault

13 V.S.A. Chapter 19 Subsection 1044 Second degree aggravated domestic assault

13 V.S.A. Chapter 19 Subsection 1063 Aggravated stalking

13 V.S.A. Chapter 21 Bribery

13 V.S.A. Chapter 23 Burglary

13 V.S.A. Chapter 25 Subsection 1301 Contributing to the delinquency of a minor

13 V.S.A. Chapter 25 Subsection 1311 Unlawful sheltering; aiding a runaway child

13 V.S.A. Chapter 28 Abuse, Neglect and Exploitation of Vulnerable Adults

13 V.S.A. Chapter 29 Conspiracy

13 V.S.A. Chapter 31 Discrimination

13 V.S.A. Chapter 37 Explosives

All except Subsection 1601 and 1602

13 V.S.A. Chapter 39 Extortion and Threats
 13 V.S.A. Chapter 43 Forgery and Counterfeiting
 13 V.S.A. Chapter 56 Custodial Interference
 13 V.S.A. Chapter 57 Larceny and Embezzlement
 13 V.S.A. Chapter 59 Lewdness and Prostitution
 13 V.S.A. Chapter 63 Obscenity
 13 V.S.A. Chapter 65 Perjury
 13 V.S.A. Chapter 75 Treason
 13 V.S.A. Chapter 76 Weapons of Mass Destruction
 13 V.S.A. Chapter 87 Computer Crimes
 18 V.S.A. Chapter 29 Offenses Against Public Health
 18 V.S.A. Chapter 82 Labeling of Food and Drugs
 18 V.S.A. Chapter 84 Subsection 4228 Unlawful Manufacture, Distribution, Dispensing or Sale of a Non-Controlled Drug or Substance
 18 V.S.A. Chapter 84 Subsection 4230(c) Marijuana Possession By a Person Under 21 Years of Age, Third or Subsequent Offense, Crime
 18 V.S.A. Chapter 84 Marijuana Possession By a Person Under 16 Years of Age, Delinquency
 18 V.S.A. Chapter 84 Subsection 4231 (b) Cocaine Selling or Dispensing
 18 V.S.A. Chapter 84 Subsection 4232(b) LSD Selling or Dispensing
 18 V.S.A. Chapter 84 Subsection 4233(b) Heroin Selling or Dispensing
 18 V.S.A. Chapter 84 Subsection 4234(b) Depressant, Stimulant and Narcotic Drugs Selling or Dispensing
 18 V.S.A. Chapter 84 Subsection 4234a(b) Methamphetamine Selling or Dispensing
 18 V.S.A. Chapter 84 Subsection 4235(c) Hallucinogenic Drugs Selling or Dispensing
 18 V.S.A. Chapter 84 Subsection 4235a(b) Ecstasy Selling or Dispensing
 18 V.S.A. Chapter 84 Subsection 4236 Manufacture or Cultivation
 18 V.S.A. Chapter 84 Subsection 4237 Selling or Dispensing to a Minor; Selling on School Grounds
 18 V.S.A. Chapter 85 Sub-Chapter 3 Miscellaneous Subsection 4250 Penalties of Dispensing or Selling Regulated Drugs in a Dwelling

Recommendation # 3: The VCJTC may through the waiver process, grant a specific Level III authority to a Level II officer based on a rigid set of criteria.

Upon application of a Chief or Sheriff, the Waiver Committee may grant any single Level III offense to a Level II or Level IIC law enforcement officer based on the following:

1. The officer has a defined and documented expertise in a particular skill.
2. A clearly defined departmental need for the waiver to enable assignment to a specialized duty position

Recommendation # 4: The VCJTC recommends that any transition from a Level II to Level III require at a minimum, a full time academy, either in Vermont or other state that meets the minimum Vermont standards. There is currently a waiver process in place and there is no reason to change the policy.

This subject was discussed at length and the final recommendation is that the Level III certification requires a full academy either in Vermont or as now, a waiver based on full time certification from another state. A consideration given for the Special Certification, Recommendation # 3 is that the needs of a law enforcement executive can be met by a Level II with special skills. There is no need for a transition without full academy training.