

1 H.492

2 Introduced by Representatives Morris of Bennington, Christie of Hartford, and
3 Gonzalez of Winooski

4 Referred to Committee on

5 Date:

6 Subject: Law enforcement; fair and impartial policing; Racial Justice
7 Oversight Board

8 Statement of purpose of bill as introduced: This bill proposes to establish the
9 Racial Justice Oversight Board to manage and oversee the implementation of
10 racial justice reform across the State.

11 An act relating to the Racial Justice Oversight Board

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

13 Sec. 1. 3 V.S.A. § 168 is added to read:

14 § 168. RACIAL JUSTICE OVERSIGHT BOARD

15 (a) The Racial Justice Oversight Board is established. The Board shall be
16 organized and have the duties and responsibilities as provided in this section.
17 The Board shall be organized within the Office of the Attorney General, and
18 members of the Board shall be drawn from throughout the State and from
19 diverse racial, ethnic, religious, age, sexual orientation, and socioeconomic

1 backgrounds, and shall have had experience working to implement racial
2 justice reform.

3 (b) The Board shall comprise the following 12 members:

4 (1) four members to represent the interests of communities of color
5 throughout the State, appointed by the Attorney General;

6 (2) the Executive Director of the Vermont Criminal Justice Training
7 Council or designee;

8 (3) the Attorney General or designee;

9 (4) the Defender General or designee;

10 (5) the Executive Director of the State's Attorneys and Sheriffs or
11 designee;

12 (6) the Chief Administrative Judge or designee;

13 (7) the Commissioner of Corrections or designee;

14 (8) the Executive Director of the Vermont Human Rights Commission
15 or designee; and

16 (9) the Executive Director of the Vermont chapter of the ACLU or
17 designee.

18 (c) The terms of members shall be four years. As terms of currently
19 serving members expire, appointments of successors shall be in accord with
20 the provisions of subsection (b) of this section. Appointments of members to
21 fill vacancies or expired terms shall be made by the authority that made the

1 initial appointment to the vacated or expired term. Members of the Board shall
2 be eligible for reappointment.

3 (d) Members of the Board shall elect biennially by majority vote the Chair
4 of the Board. Members of the Board shall receive no compensation for their
5 services, but shall be entitled to reimbursement for expenses in the manner and
6 amount provided to employees of the State.

7 (e) Seven members shall constitute a quorum of the Board. Once a quorum
8 has been established, the vote of a majority of the members present at the time
9 of the vote shall be an act of the Board.

10 (f) The Board shall conduct management and oversight of the
11 implementation of racial justice reform across the State, including within the
12 criminal justice system, by managing and overseeing the collection of race-
13 based data, ensuring such data are publicly available, and developing policies
14 and trainings to address systemic implicit bias. In furtherance of that
15 responsibility, the Board shall have the authority to:

16 (1) ensure law enforcement compliance with the requirements of
17 20 V.S.A. § 2366;

18 (2) continually review the data collected pursuant to 20 V.S.A. § 2366 to
19 measure State progress toward a fair and impartial system of law enforcement;

20 (3) provide recommendations to the Criminal Justice Training Council
21 and the Vermont Bar Association, based on the latest social science research

1 and best practices in law enforcement and criminal justice, on a model training
2 and policy for law enforcement, prosecutors, public defenders, judges, and
3 correctional officers to recognize and address implicit bias, and conduct
4 oversight of the statewide adoption and implementation of such policies and
5 trainings;

6 (4) provide recommendations to the Criminal Justice Training Council,
7 based on the latest social science research and best practices in law
8 enforcement, on a model training and policy on the use of force in policing;

9 (5) in collaboration with the Criminal Justice Training Council:

10 (A) oversee the incorporation of implicit bias training into the
11 requirements of basic training pursuant to 20 V.S.A. § 2358; and

12 (B) oversee the implementation of the refresher trainings as required
13 by 20 V.S.A. § 2358(e);

14 (6) educate and inform businesses, educational institutions, State and
15 local governments, and the general public about the nature and scope of racial
16 discrimination and the systemic and institutionalized nature of race-based bias;

17 (7) advise and consult with the Executive and Legislative Branches
18 of State government on the assessment of racial impact of policies and
19 legislation; and

20 (8) on or before January 15, 2018, and annually thereafter, report to the
21 General Assembly, and provide as a part of that report recommendations on:

1 (A) methods of oversight and professional regulation of the criminal
2 justice system, including a statewide program for civilian oversight of law
3 enforcement;

4 (B) processes and methodologies to achieve an independent
5 prosecutorial body for investigating and prosecuting law enforcement
6 misconduct;

7 (C) instituting a public complaint process to address misconduct in
8 the criminal justice system;

9 (D) expanding jurisdiction of the Board to address institutionalized
10 racism in education, health services access, employment, and housing policy;

11 (E) prohibiting racial profiling, including any associated penalties;

12 (F) requiring law enforcement to expand its race data collection
13 practices to include data on law enforcement stops based on reasonable
14 suspicion or probable cause and law enforcement use of force during
15 interactions with civilians; and

16 (G) amending the Vermont Constitution to clarify that slavery in any
17 form is prohibited.

18 (g) No part of any funds appropriated to the Board by the General
19 Assembly shall, in the absence of express authorization by the General
20 Assembly, be used directly or indirectly for legislative or administrative
21 advocacy. The Board shall review and amend as necessary all existing

1 contracts and grants to ensure compliance with this subsection. As used in this
2 subsection, legislative or administrative advocacy means employment of a
3 lobbyist as defined in 2 V.S.A. chapter 11, or employment of, or establishment
4 of, or maintenance of, a lobbyist position whose primary function is to
5 influence legislators or State officials with respect to pending legislation or
6 regulations.

7 Sec. 2. 20 V.S.A. § 2358(e) is amended to read:

8 (e)(1) The criteria for all minimum training standards under this section
9 shall include anti-bias, appropriate use of force, and deescalation training
10 approved by the Vermont Criminal Justice Training Council and training on
11 the State, county, or municipal law enforcement agency's fair and impartial
12 policing policy, adopted pursuant to subsection 2366(a) of this title.

13 (2) On or before December 31, 2018, law enforcement officers shall
14 receive a minimum of four hours of training as required by this subsection.

15 (3) In order to remain certified, law enforcement officers shall receive a
16 refresher course on the training required by this subsection during every odd-
17 numbered year in a program approved by the Vermont Criminal Justice
18 Training Council.

19 (4) All training completed by law enforcement officers shall be reported
20 to the Criminal Justice Training Council and the Racial Justice Oversight

1 Board on or before April 1, 2018, and annually thereafter, and shall be made
2 publicly available.

3 Sec. 4. 20 V.S.A. § 2366 is amended to read:

4 § 2366. LAW ENFORCEMENT AGENCIES; FAIR AND IMPARTIAL
5 POLICING POLICY; RACE DATA COLLECTION

6 (a)(1) On or before January 1, 2016, the Criminal Justice Training Council,
7 in consultation with stakeholders, including the Vermont League of Cities and
8 Towns, the Vermont Human Rights Commission, and Migrant Justice, shall
9 create a model fair and impartial policing policy. On or before July 1, 2016,
10 every State, local, county, and municipal law enforcement agency and every
11 constable who exercises law enforcement authority pursuant to 24 V.S.A.
12 § 1936a and who is trained in compliance with section 2358 of this title shall
13 adopt ~~a fair and impartial policing policy that includes, at a minimum, the~~
14 ~~elements of the Criminal Justice Training Council model~~ fair and impartial
15 policing policy in its entirety.

16 (2) On or before July 1, 2017 and annually thereafter, the Criminal
17 Justice Training Council, in consultation with the Vermont League of Cities
18 and Towns, the Vermont Human Rights Commission, the Vermont chapter of
19 the ACLU, Migrant Justice, Justice for All, the Racial Justice Oversight Board,
20 and law enforcement shall review and update the model fair and impartial
21 policing policy.

1 (b) If a law enforcement agency or constable that is required to adopt a
2 policy pursuant to subsection (a) of this section fails to do so on or before
3 July 1, 2016, that agency or constable shall be deemed to have adopted, and
4 shall follow and enforce, the model policy issued by the Criminal Justice
5 Training Council.

6 (c) On or before September 15, 2014, and annually thereafter as part of
7 their annual training report to the Council, every State, county, and municipal
8 law enforcement agency and every constable who exercises law enforcement
9 authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with
10 section 2358 of this title shall report to the Council and to the Racial Justice
11 Oversight Board whether the agency or officer has adopted a fair and impartial
12 policing policy in accordance with subsections (a) and (b) of this section. The
13 Criminal Justice Training Council shall determine, as part of the Council's
14 annual certification of training requirements, whether current officers have
15 received training on fair and impartial policing as required by 20 V.S.A.
16 § 2358(e).

17 (d) On or before October 15, 2014, and annually thereafter on April 1, the
18 Criminal Justice Training Council shall report to the ~~House and Senate~~
19 ~~Committees on Judiciary~~ Racial Justice Oversight Board which departments
20 and officers have adopted a fair and impartial policing policy, and whether
21 officers have received training on fair and impartial policing. The Racial

1 Justice Oversight Board shall report this information to the House and Senate
2 Committees on Judiciary annually on or before May 1.

3 (e)(1) On or before September 1, 2014, every State, county, and municipal
4 law enforcement agency shall collect roadside stop data consisting of the
5 following:

6 (A) the age, gender, and race of the driver;

7 (B) the reason for the stop;

8 (C) the type of search conducted, if any;

9 (D) the evidence located, if any; and

10 (E) the outcome of the stop, including whether:

11 (i) a written warning was issued;

12 (ii) a citation for a civil violation was issued;

13 (iii) a citation or arrest for a misdemeanor or a felony occurred; or

14 (iv) no subsequent action was taken.

15 (2) Law enforcement agencies shall work with the ~~Criminal Justice~~
16 ~~Training Council~~ Racial Justice Oversight Board and a vendor chosen by the
17 ~~Council Board~~ with the goals of collecting uniform data, adopting uniform
18 storage methods and periods, and ensuring that data can be analyzed.

19 Roadside stop data, as well as reports and analysis of roadside stop data, shall
20 be public.

1 (3) On or before September 1, 2016 and annually thereafter, law
2 enforcement agencies shall provide the data collected under this subsection to
3 the Racial Justice Oversight Board or a vendor chosen by the ~~Criminal Justice~~
4 ~~Training Council~~ Board under subdivision (2) of this subsection or, in the
5 event the vendor is unable to continue receiving data under this section, to the
6 ~~Council~~ Board. Law enforcement agencies shall provide the data collected
7 under this subsection in an electronic format specified by the receiving entity.

8 (4) The data provided pursuant to subdivision (3) of this subsection shall
9 be posted electronically in a manner that is analyzable and accessible to the
10 public on the receiving agency's website.

11 Sec. 5. EFFECTIVE DATE

12 This act shall take effect on passage.