

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~~

2 ~~shall 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~~
19 ~~to measure State progress toward a fair and impartial system of law~~
20 ~~enforcement;~~

21 ~~(3) provide recommendations to the Criminal Justice Training Council~~

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

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

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

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

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

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

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

21 (8) on or before January 15, 2018, and annually thereafter, report to the

1 ~~General Assembly, and provide as a part of that report recommendations on:~~

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

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

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

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

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

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

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

19 (g) No part of any funds appropriated to the Board by the General
20 Assembly shall, in the absence of express authorization by the General

21 Assembly, be used directly or indirectly for legislative or administrative

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

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

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

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

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

20 (4) All training completed by law enforcement officers shall be reported
21 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.

21 ~~(3) On or before September 1, 2016 and annually thereafter, law~~

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

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

10 Sec. 5. EFFECTIVE DATE

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

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

§ 168. RACIAL JUSTICE BOARD

(a) The Racial Justice Board is established. The Board shall be organized and have the duties and responsibilities as provided in this section. The Board shall be organized within the Office of the Attorney General which shall provide the Board with administrative and professional support, and members of the Board shall be drawn from throughout the State and from diverse racial, ethnic, religious, age, gender, sexual orientation, and socioeconomic backgrounds, and shall have had experience working to implement racial justice reform.

(b) The Board shall comprise the following 15 members:

(1) five members to represent the interests of communities of color throughout the State, appointed by the Attorney General, including:

(A) a member with expertise in implicit bias;

(B) a member with expertise in education;

(C) a member with expertise in labor and employment;

(D) a member with expertise in health care; and

(E) a member with expertise in economic development;

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

(3) the Attorney General or designee;

(4) the Defender General or designee;

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

(6) the Chief Superior Judge or designee;

(7) the Commissioner of Corrections or designee;

(8) the Commissioner of Public Safety or designee;

(9) a representative of the Vermont Police Association;

(10) the Executive Director of the Vermont Human Rights Commission or designee; and

(11) the Executive Director of the Vermont chapter of the ACLU or

designee.

(c) The members of the Board appointed under subdivision (b)(1) of this section shall serve staggered four-year terms. As terms of currently serving members expire, appointments of successors shall be in accord with the provisions of subsection (b) of this section. Appointments of members to fill vacancies or expired terms shall be made by the authority that made the initial appointment to the vacated or expired term. Members of the Board shall be eligible for reappointment. Members of the Board shall serve no more than three consecutive terms in any capacity.

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

(d) Members of the Board shall elect biennially by majority vote the Chair of the Board. Members of the Board who are not State employees or whose participation is not supported through their employment or association shall receive per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010, to be provided by the Office of the Attorney General. The Board may meet up to three times per year.

(e) A majority of the members of the Board shall constitute a quorum, and all action shall be taken upon a majority vote of the members present and

voting.

(f) The Board shall undertake an ongoing formal review of racial justice reform across the State, including within the systems of education, labor and employment, housing, health care, economic development, and criminal and juvenile justice, by monitoring the collection and publication of race-based data, recommending policies and trainings to address systemic implicit bias, and evaluating racial justice policies, practices, and results statewide, including determining whether there is variation across the State and the cause of any such variation. In furtherance of that responsibility, the Board shall:

(1) review and make recommendations to address persistent racial disparities in statewide systems of education, labor and employment, economic development, health care, and housing;

(2) review and make recommendations regarding statewide criminal and juvenile justice reform, including:

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

(B) providing recommendations to the Criminal Justice Training Council and the Vermont Bar Association, based on the latest social science research and best practices in law enforcement and criminal and juvenile justice, on model trainings and policies for law enforcement, judges,

correctional officers, and attorneys, including prosecutors and public defenders, to recognize and address implicit bias; and

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

(3) educate and engage with communities, businesses, educational institutions, State and local governments, and the general public about the nature and scope of racial discrimination and the systemic and institutionalized nature of race-based bias, and on progress made toward racial justice;

(4) at the Board's discretion, provide the Executive and Legislative Branches of State government with an assessment of the disparate racial impact of a proposed policy or legislation; and

(5) on or before January 15, 2018, and ~~biannually~~ biennially thereafter, report to the General Assembly, and provide as a part of that report recommendations to address systemic implicit bias in Vermont, including:

(A) a public complaint process to address perceived implicit bias across all systems of State government;

(B) prohibiting racial profiling, including any associated penalties;

(C) expanding law enforcement race data collection practices to include data on nontraffic stops by law enforcement; and

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

*Sec. 2. CRIMINAL JUSTICE TRAINING COUNCIL; REPORTING TO
THE RACIAL JUSTICE BOARD*

The Criminal Justice Training Council shall, on a regular and ongoing basis, report to the Racial Justice Board regarding:

(1) the adoption and implementation of the Board's recommended implicit bias trainings and policies pursuant to 3 V.S.A. § 168(f)(2)(B);

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

(3) the implementation of the refresher trainings as required by 20 V.S.A. § 2358(e).

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.