

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred House Bill No. 492
3 entitled “An act relating to Racial Justice Oversight Board” respectfully reports
4 that it has considered the same and recommends that the bill be amended by
5 striking out all after the enacting clause and inserting in lieu thereof the
6 following:

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

8 § 168. RACIAL JUSTICE OVERSIGHT BOARD

9 (a) The Racial Justice Oversight Board is established. The Board shall be
10 organized and have the duties and responsibilities as provided in this section.
11 The Board shall be organized within the Office of the Attorney General, and
12 members of the Board shall be drawn from throughout the State and from
13 diverse racial, ethnic, religious, age, sexual orientation, and socioeconomic
14 backgrounds, and shall have had experience working to implement racial
15 justice reform.

16 (b) The Board shall comprise the following 14 members:

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

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

21 (3) the Attorney General or designee;

1 (4) the Defender General or designee;

2 (5) the Executive Director of the State’s Attorneys and Sheriffs or
3 designee;

4 (6) the Chief Superior Judge or designee;

5 (7) the Commissioner of Corrections or designee;

6 (8) the Commissioner of Public Safety or designee;

7 (9) the Director of the Vermont State Police or designee;

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

10 (11) the Executive Director of the Vermont chapter of the ACLU or
11 designee.

12 (c) The terms of members shall be four years. As terms of currently
13 serving members expire, appointments of successors shall be in accord with
14 the provisions of subsection (b) of this section. Appointments of members to
15 fill vacancies or expired terms shall be made by the authority that made the
16 initial appointment to the vacated or expired term. Members of the Board shall
17 be eligible for reappointment.

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

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

4 (f) The Board shall undertake an ongoing formal review of racial justice
5 reform across the State, including within the systems of criminal and juvenile
6 justice, by monitoring the collection and publication of race-based data,
7 recommending policies and trainings to address systemic implicit bias, and
8 evaluating racial justice policies, practices, and results statewide, including
9 determining whether there is variation across the State and the cause of any
10 such variation. In furtherance of that responsibility, the Board shall:

11 (1) monitor law enforcement compliance with the requirements of
12 20 V.S.A. § 2366;

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

15 (3) provide recommendations to the Criminal Justice Training Council
16 and the Vermont Bar Association, based on the latest social science research
17 and best practices in law enforcement and criminal and juvenile justice, on
18 model trainings and policies for law enforcement, prosecutors, public
19 defenders, judges, and correctional officers to recognize and address implicit
20 bias;

1 (4) monitor the adoption and implementation of the Board’s
2 recommended implicit bias trainings and policies pursuant to subdivision (3) of
3 this subsection, and advise the Vermont Bar Association and Criminal Justice
4 Training Council on progress towards statewide adoption and implementation;

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

8 (6) in collaboration with the Criminal Justice Training Council:

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

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

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

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

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

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

4 (B) instituting a public complaint process to address misconduct in
5 the systems for criminal and juvenile justice;

6 (C) expanding jurisdiction of the Board to address institutionalized
7 racism in education, health services access, employment, and housing policy;

8 (D) prohibiting racial profiling, including any associated penalties;

9 (E) requiring law enforcement to expand its race data collection
10 practices to include data on non-traffic stops by law enforcement and all use of
11 force interactions with civilians; and

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

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

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

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

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

5 (4) All training completed by law enforcement officers shall be reported
6 to the Criminal Justice Training Council and the Racial Justice Oversight
7 Board on or before April 1, 2018, and annually thereafter, and shall be made
8 publicly available.

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

10 § 2366. LAW ENFORCEMENT AGENCIES; FAIR AND IMPARTIAL
11 POLICING POLICY; RACE DATA COLLECTION

12 (a)(1) On or before January 1, 2016, the Criminal Justice Training Council,
13 in consultation with stakeholders, including the Vermont League of Cities and
14 Towns, the Vermont Human Rights Commission, and Migrant Justice, shall
15 create a model fair and impartial policing policy. On or before July 1, 2016,
16 every State, local, county, and municipal law enforcement agency and every
17 constable who exercises law enforcement authority pursuant to 24 V.S.A.
18 § 1936a and who is trained in compliance with section 2358 of this title shall
19 adopt ~~a fair and impartial policing policy that includes, at a minimum, the~~
20 ~~elements of the Criminal Justice Training Council model~~ fair and impartial
21 policing policy in its entirety.

1 (2) On or before October 1, 2017 and every odd-numbered year
2 thereafter, the Criminal Justice Training Council, in consultation with the
3 Office of the Attorney General, the Vermont League of Cities and Towns, the
4 Vermont Human Rights Commission, the Vermont chapter of the ACLU,
5 Migrant Justice, Justice for All, the Racial Justice Oversight Board, and law
6 enforcement shall review and, if necessary, update the model fair and impartial
7 policing policy.

8 (b)(1) Every law enforcement agency and constable that is required to adopt
9 a policy pursuant to subsection (a) of this section shall submit its new or
10 modified policy to the Attorney General, who shall determine whether the
11 policy complies with the requirements of subsection (a) of this subsection.

12 (2) If a law enforcement agency or constable that is required to adopt a
13 policy pursuant to subsection (a) of this section fails to do so on or before
14 July 1, 2016, or the Attorney General determines that the policy does not
15 comply with the requirements of subsection (a) of this section, that agency or
16 constable shall be deemed to have adopted, and shall follow and enforce, the
17 model policy issued by the Criminal Justice Training Council.

18 (c) On or before September 15, 2014, and annually thereafter as part of
19 their annual training report to the Council, every State, county, and municipal
20 law enforcement agency and every constable who exercises law enforcement
21 authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with

1 section 2358 of this title shall report to the Council and to the Racial Justice
2 Oversight Board whether the agency or officer has adopted a fair and impartial
3 policing policy in accordance with subsections (a) and (b) of this section. The
4 Criminal Justice Training Council shall determine, as part of the Council's
5 annual certification of training requirements, whether current officers have
6 received training on fair and impartial policing as required by 20 V.S.A.
7 § 2358(e).

8 (d) On or before October 15, 2014, and annually thereafter on April 1, the
9 Criminal Justice Training Council shall report to the ~~House and Senate~~
10 ~~Committees on Judiciary~~ Racial Justice Oversight Board which departments
11 and officers have adopted a fair and impartial policing policy, and whether
12 officers have received training on fair and impartial policing. The Racial
13 Justice Oversight Board shall report this information to the House and Senate
14 Committees on Judiciary annually on or before May 1.

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

- 18 (A) the age, gender, and race of the driver;
- 19 (B) the reason for the stop;
- 20 (C) the type of search conducted, if any;
- 21 (D) the evidence located, if any; and

- 1 (E) the outcome of the stop, including whether:
- 2 (i) a written warning was issued;
- 3 (ii) a citation for a civil violation was issued;
- 4 (iii) a citation or arrest for a misdemeanor or a felony occurred; or
- 5 (iv) no subsequent action was taken.

6 (2) Law enforcement agencies shall work with the ~~Criminal Justice~~
7 ~~Training Council~~ Racial Justice Oversight Board and a vendor chosen by the
8 ~~Council Board~~ with the goals of collecting uniform data, adopting uniform
9 storage methods and periods, and ensuring that data can be analyzed.
10 Roadside stop data, as well as reports and analysis of roadside stop data, shall
11 be public.

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

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

1 Sec. 4. EFFECTIVE DATE

2 This act shall take effect on passage.

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9 (Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE