

**H.492 Side-by-side Summary**  
**House Judiciary Committee**  
**March 29, 2017**

Sec.	H.492 As Introduced	H.492 House Judiciary Amendment Draft 1.3
1	<p><u>§ 168. RACIAL JUSTICE OVERSIGHT BOARD</u></p> <p><u>(a) The Racial Justice Oversight 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, and members of the Board shall be drawn from throughout the State and from diverse racial, ethnic, religious, age, sexual orientation, and socioeconomic backgrounds, and shall have had experience working to implement racial justice reform.</u></p> <p><u>(b) The Board shall comprise the following 12 members:</u></p> <p><u>(1) four members to represent the interests of communities of color throughout the State, appointed by the Attorney General;</u></p> <p><u>(2) the Executive Director of the Vermont Criminal Justice Training Council or designee;</u></p> <p><u>(3) the Attorney General or designee;</u></p> <p><u>(4) the Defender General or designee;</u></p> <p><u>(5) the Executive Director of the State’s Attorneys and Sheriffs or designee;</u></p> <p><u>(6) the Chief Administrative Judge or designee;</u></p>	<p><u>§ 168. RACIAL JUSTICE OVERSIGHT BOARD</u></p> <p><u>(a) The Racial Justice Oversight 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, and members of the Board shall be drawn from throughout the State and from diverse racial, ethnic, religious, age, sexual orientation, and socioeconomic backgrounds, and shall have had experience working to implement racial justice reform.</u></p> <p><u>(b) The Board shall comprise the following 15 members:</u></p> <p><u>(1) five members to represent the interests of communities of color throughout the State, appointed by the Attorney General;</u></p> <p><u>(2) the Executive Director of the Vermont Criminal Justice Training Council or designee;</u></p> <p><u>(3) the Attorney General or designee;</u></p> <p><u>(4) the Defender General or designee;</u></p> <p><u>(5) the Executive Director of the State’s Attorneys and Sheriffs or designee;</u></p> <p><u>(6) the Chief Superior Judge or designee;</u></p>

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<p><u>(7) the Commissioner of Corrections or designee;</u> <u>(8) the Executive Director of the Vermont Human Rights Commission or designee; and</u> <u>(9) the Executive Director of the Vermont chapter of the ACLU or designee.</u></p> <p><u>(c) The terms of members shall be four years. 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.</u></p> <p><u>(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.</u></p> <p><u>(e) Seven members shall constitute a quorum of the</u></p>	<p><u>(7) the Commissioner of Corrections or designee;</u> <u>(8) the Commissioner of Public Safety or designee;</u> <u>(9) a representative of the Vermont Police Association;</u> <u>(10) the Executive Director of the Vermont Human Rights Commission or designee; and</u> <u>(11) the Executive Director of the Vermont chapter of the ACLU or designee.</u></p> <p><u>(c) The terms of members shall be four years. 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.</u></p> <p><u>(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.</u></p> <p><u>(e) Seven members shall constitute a quorum of the Board.</u></p>
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<p><u>Board. Once a quorum has been established, the vote of a majority of the members present at the time of the vote shall be an act of the Board.</u></p> <p><u>(f) The Board shall conduct management and oversight of the implementation of racial justice reform across the State, including within the criminal justice system, by managing and overseeing the collection of race-based data, ensuring such data are publicly available, and developing policies and trainings to address systemic implicit bias. In furtherance of that responsibility, the Board shall have the authority to:</u></p> <p><u>(1) ensure law enforcement compliance with the requirements of 20 V.S.A. § 2366;</u></p> <p><u>(2) continually review the data collected pursuant to 20 V.S.A. § 2366 to measure State progress toward a fair and impartial system of law enforcement;</u></p> <p><u>(3) provide 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 justice, on a model training and</u></p>	<p><u>Once a quorum has been established, the vote of a majority of the members present at the time of the vote shall be an act of the Board.</u></p> <p><u>(f) The Board shall undertake an ongoing formal review of racial justice reform across the State, including within the systems of 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:</u></p> <p><u>(1) monitor law enforcement compliance with the requirements of 20 V.S.A. § 2366;</u></p> <p><u>(2) continually review the data collected pursuant to 20 V.S.A. § 2366 to measure State progress toward a fair and impartial system of law enforcement;</u></p> <p><u>(3) provide 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</u></p>
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<p><u>policy for law enforcement, prosecutors, public defenders, judges, and correctional officers to recognize and address implicit bias, and conduct oversight of the statewide adoption and implementation of such policies and trainings;</u></p> <p>(4) <u>provide 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;</u></p> <p>(5) <u>in collaboration with the Criminal Justice Training Council:</u></p> <p>(A) <u>oversee the incorporation of implicit bias training into the requirements of basic training pursuant to 20 V.S.A. § 2358; and</u></p> <p>(B) <u>oversee the implementation of the refresher trainings as required by 20 V.S.A. § 2358(e);</u></p> <p>(6) <u>educate and inform businesses, educational</u></p>	<p><u>trainings and policies for law enforcement, prosecutors, public defenders, judges, and correctional officers to recognize and address implicit bias;</u></p> <p>(4) <u>monitor the adoption and implementation of the Board’s recommended implicit bias trainings and policies pursuant to subdivision (3) of this subsection, and advise the Vermont Bar Association and Criminal Justice Training Council on progress towards statewide adoption and implementation;</u></p> <p>(5) <u>provide 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;</u></p> <p>(6) <u>in collaboration with the Criminal Justice Training Council:</u></p> <p>(A) <u>monitor</u> the incorporation of implicit bias training into the requirements of basic training pursuant to 20 V.S.A. § 2358; and</p> <p>(B) <u>monitor</u> the implementation of the refresher trainings as required by 20 V.S.A. § 2358(e);</p> <p>(7) <u>educate and inform businesses, educational</u></p>
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<p><u>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;</u></p> <p><u>(7) advise and consult with the Executive and Legislative Branches of State government on the assessment of racial impact of policies and legislation; and</u></p> <p><u>(8) on or before January 15, 2018, and annually thereafter, report to the General Assembly, and provide as a part of that report recommendations on:</u></p> <p><u>(A) methods of oversight and professional regulation of the criminal justice system, including a statewide program for civilian oversight of law enforcement;</u></p> <p><u>(B) processes and methodologies to achieve an independent prosecutorial body for investigating and prosecuting law enforcement misconduct;</u></p> <p><u>(C) instituting a public complaint process to address misconduct in the criminal justice system;</u></p> <p><u>(D) expanding jurisdiction of the Board to address institutionalized racism in education, health services access, employment, and housing policy;</u></p>	<p><u>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;</u></p> <p><u>(8) advise and consult with the Executive and Legislative Branches of State government on the assessment of racial impact of policies and legislation; and</u></p> <p><u>(9) on or before January 15, 2018, and annually thereafter, report to the General Assembly, and provide as a part of that report recommendations on:</u></p> <p><u>(A) methods of oversight and professional regulation of the systems for criminal and juvenile justice, including a statewide program for civilian oversight of law enforcement;</u></p> <p><u>(B) instituting a public complaint process to address misconduct in the systems for criminal and juvenile justice;</u></p> <p><u>(C) expanding jurisdiction of the Board to address institutionalized racism in education, health services access, employment, and housing policy;</u></p>
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<p><u>(E) prohibiting racial profiling, including any associated penalties;</u></p> <p><u>(F) requiring law enforcement to expand its race data collection practices to include data on law enforcement stops based on reasonable suspicion or probable cause and law enforcement use of force during interactions with civilians; and</u></p> <p><u>(G) amending the Vermont Constitution to clarify that slavery in any form is prohibited.</u></p> <p><u>(g) No part of any funds appropriated to the Board by the General Assembly shall, in the absence of express authorization by the General Assembly, be used directly or indirectly for legislative or administrative advocacy. The Board shall review and amend as necessary all existing contracts and grants to ensure compliance with this subsection. As used in this subsection, legislative or administrative advocacy means employment of a lobbyist as defined in 2 V.S.A. chapter 11, or employment of, or establishment of, or maintenance of, a lobbyist position whose primary function is to influence legislators or State officials with respect to pending legislation or regulations.</u></p>	<p><u>(D) prohibiting racial profiling, including any associated penalties;</u></p> <p><u>(E) requiring law enforcement to expand its race data collection practices to include data on non-traffic stops by law enforcement; and</u></p> <p><u>(F) amending the Vermont Constitution to clarify that slavery in any form is prohibited.</u></p>
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2	<p>(e)(1) The criteria for all minimum training standards under this section shall include anti-bias, <u>appropriate use of force, and deescalation</u> training approved by the Vermont Criminal Justice Training Council and training on the State, county, or municipal law enforcement agency’s fair and impartial policing policy, adopted pursuant to subsection 2366(a) of this title.</p> <p>(2) On or before December 31, 2018, law enforcement officers shall receive a minimum of four hours of training as required by this subsection.</p> <p>(3) In order to remain certified, law enforcement officers shall receive a refresher course on the training required by this subsection during every odd-numbered year in a program approved by the Vermont Criminal Justice Training Council.</p> <p>(4) <u>All training completed by law enforcement officers shall be reported to the Criminal Justice Training Council and the Racial Justice Oversight Board on or before April 1, 2018, and annually thereafter, and shall be made publicly available.</u></p>	<p>(e)(1) The criteria for all minimum training standards under this section shall include anti-bias, <u>appropriate use of force, and deescalation</u> training approved by the Vermont Criminal Justice Training Council and training on the State, county, or municipal law enforcement agency’s fair and impartial policing policy, adopted pursuant to subsection 2366(a) of this title.</p> <p>(2) On or before December 31, 2018, law enforcement officers shall receive a minimum of four hours of training as required by this subsection.</p> <p>(3) In order to remain certified, law enforcement officers shall receive a refresher course on the training required by this subsection during every odd-numbered year in a program approved by the Vermont Criminal Justice Training Council.</p> <p>(4) <u>All training completed by law enforcement officers shall be reported to the Criminal Justice Training Council and the Racial Justice Oversight Board on or before <b>January 15, 2019</b>, and annually thereafter, and shall be made publicly available.</u></p>
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<p>3</p>	<p>§ 2366. LAW ENFORCEMENT AGENCIES; FAIR AND IMPARTIAL POLICING POLICY; RACE DATA COLLECTION</p> <p>(a)(1) On or before January 1, 2016, the Criminal Justice Training Council, in consultation with stakeholders, including the Vermont League of Cities and Towns, the Vermont Human Rights Commission, and Migrant Justice, shall create a model fair and impartial policing policy. On or before July 1, 2016, every State, local, county, and municipal law enforcement agency and every constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of this title shall adopt a fair and impartial policing policy that includes, at a minimum, the elements of the Criminal Justice Training Council model <u>fair and impartial policing policy in its entirety</u>.</p> <p>(2) On or before July 1, 2017 and annually thereafter, <u>the Criminal Justice Training Council, in consultation with the Vermont League of Cities and Towns, the Vermont Human Rights Commission, the Vermont chapter of the ACLU, Migrant Justice, Justice for All, the Racial Justice</u></p>	<p>§ 2366. LAW ENFORCEMENT AGENCIES; FAIR AND IMPARTIAL POLICING POLICY; RACE DATA COLLECTION</p> <p>(a)(1) On or before January 1, 2016, the Criminal Justice Training Council, in consultation with stakeholders, including the Vermont League of Cities and Towns, the Vermont Human Rights Commission, and Migrant Justice, shall create a model fair and impartial policing policy. On or before July 1, 2016, every State, local, county, and municipal law enforcement agency and every constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of this title shall adopt a fair and impartial policing policy that includes, at a minimum, the elements of the Criminal Justice Training Council model <u>fair and impartial policing policy in its entirety</u>.</p> <p>(2) On or before <b>October</b> 1, 2017 and <b>every odd-numbered year</b> thereafter, the Criminal Justice Training Council, in consultation with the <b>Office of the Attorney General</b>, the Vermont League of Cities and Towns, the Vermont Human Rights Commission, the Vermont chapter of</p>
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<p><u>Oversight Board, and law enforcement shall review and update the model fair and impartial policing policy.</u></p> <p>(b) If a law enforcement agency or constable that is required to adopt a policy pursuant to subsection (a) of this section fails to do so on or before July 1, 2016, that agency or constable shall be deemed to have adopted, and shall follow and enforce, the model policy issued by the Criminal Justice Training Council.</p> <p>(c) On or before September 15, 2014, and annually thereafter as part of their annual training report to the Council, every State, county, and municipal law enforcement agency and every constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of this title shall report to the Council <u>and to the Racial Justice Oversight Board</u> whether the agency or officer has adopted a fair and impartial policing policy in accordance with subsections (a) and (b) of this section. The Criminal Justice Training Council shall determine, as part of the Council’s annual certification of training requirements, whether current</p>	<p><u>the ACLU, Migrant Justice, Justice for All, the Racial Justice Oversight Board, and law enforcement shall review and, <b>if necessary,</b> update the model fair and impartial policing policy.</u></p> <p><del>(b) If a law enforcement agency or constable that is required to adopt a policy pursuant to subsection (a) of this section fails to do so on or before July 1, 2016, that agency or constable shall be deemed to have adopted, and shall follow and enforce, the model policy issued by the Criminal Justice Training Council. [Deleted.]</del></p> <p>(c) On or before September 15, 2014, and annually thereafter as part of their annual training report to the Council, every State, county, and municipal law enforcement agency and every constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of this title shall report to the Council <u>and to the Racial Justice Oversight Board</u> whether the agency or officer has adopted a fair and impartial policing policy in accordance with subsections (a) and (b) of this section. The Criminal Justice Training Council shall determine, as part of the Council’s annual certification of training requirements, whether current officers have received</p>
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<p>officers have received training on fair and impartial policing as required by 20 V.S.A. § 2358(e).</p> <p>(d) On or before October 15, 2014, and annually thereafter on April 1, the Criminal Justice Training Council shall report to the <del>House and Senate Committees on Judiciary</del> <u>Racial Justice Oversight Board</u> which departments and officers have adopted a fair and impartial policing policy, and whether officers have received training on fair and impartial policing. <u>The Racial Justice Oversight Board shall report this information to the House and Senate Committees on Judiciary annually on or before May 1.</u></p> <p>(e)(1) On or before September 1, 2014, every State, county, and municipal law enforcement agency shall collect roadside stop data consisting of the following:</p> <ul style="list-style-type: none"> <li>(A) the age, gender, and race of the driver;</li> <li>(B) the reason for the stop;</li> <li>(C) the type of search conducted, if any;</li> <li>(D) the evidence located, if any; and</li> <li>(E) the outcome of the stop, including whether: <ul style="list-style-type: none"> <li>(i) a written warning was issued;</li> <li>(ii) a citation for a civil violation was issued;</li> </ul> </li> </ul>	<p>training on fair and impartial policing as required by 20 V.S.A. § 2358(e).</p> <p>(d) On or before October 15, 2014, and annually thereafter on April 1, the Criminal Justice Training Council shall report to the <del>House and Senate Committees on Judiciary</del> <u>Racial Justice Oversight Board</u> which departments and officers have adopted a fair and impartial policing policy, and whether officers have received training on fair and impartial policing. <u>The Racial Justice Oversight Board shall report this information to the House and Senate Committees on Judiciary annually on or before May 1.</u></p> <p>(e)(1) On or before September 1, 2014, every State, county, and municipal law enforcement agency shall collect roadside stop data consisting of the following:</p> <ul style="list-style-type: none"> <li>(A) the age, gender, and race of the driver;</li> <li>(B) the reason for the stop;</li> <li>(C) the type of search conducted, if any;</li> <li>(D) the evidence located, if any; and</li> <li>(E) the outcome of the stop, including whether: <ul style="list-style-type: none"> <li>(i) a written warning was issued;</li> <li>(ii) a citation for a civil violation was issued;</li> </ul> </li> </ul>
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<p>(iii) a citation or arrest for a misdemeanor or a felony occurred; or</p> <p>(iv) no subsequent action was taken.</p> <p>(2) Law enforcement agencies shall work with the <del>Criminal Justice Training Council</del> <u>Racial Justice Oversight Board</u> and a vendor chosen by the <del>Council</del> <u>Board</u> with the goals of collecting uniform data, adopting uniform storage methods and periods, and ensuring that data can be analyzed. Roadside stop data, as well as reports and analysis of roadside stop data, shall be public.</p> <p>(3) On or before September 1, 2016 and annually thereafter, law enforcement agencies shall provide the data collected under this subsection to the <u>Racial Justice Oversight Board</u> or a vendor chosen by the <del>Criminal Justice Training Council</del> <u>Board</u> under subdivision (2) of this subsection or, in the event the vendor is unable to continue receiving data under this section, to the <del>Council</del> <u>Board</u>. Law enforcement agencies shall provide the data collected under this subsection in an electronic format specified by the receiving entity.</p>	<p>(iii) a citation or arrest for a misdemeanor or a felony occurred; or</p> <p>(iv) no subsequent action was taken.</p> <p>(2) Law enforcement agencies shall work with the <u>Criminal Justice Training Council, the Racial Justice Oversight Board, and a vendor chosen by the Council in consultation with the Board</u> with the goals of collecting uniform data, adopting uniform storage methods and periods, and ensuring that data can be analyzed. Roadside stop data, as well as reports and analysis of roadside stop data, shall be public.</p> <p>(3) On or before September 1, 2016 and annually thereafter, law enforcement agencies shall provide the data collected under this subsection to the <del>vendor chosen by the Criminal Justice Training Council and the Racial Justice Oversight Board</del> or a vendor chosen by the <u>Council in consultation with the Board</u> under subdivision (2) of this subsection or, in the event the vendor is unable to continue receiving data under this section, to the <u>Council</u>. Law enforcement agencies shall provide the data collected under this subsection in an electronic format specified by the</p>
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	<p>(4) The data provided pursuant to subdivision (3) of this subsection shall be posted electronically in a manner that is analyzable and accessible to the public on the receiving agency’s website.</p>	<p>receiving entity.</p> <p>(4) The data provided pursuant to subdivision (3) of this subsection shall be posted electronically in a manner that is analyzable and accessible to the public on the receiving agency’s website.</p>
4	<p><u>This act shall take effect on passage.</u></p>	<p><u>This act shall take effect on passage.</u></p>