

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~~ Advisory Board”
4 respectfully reports that it has considered the same and recommends that the
5 bill be amended by striking out all after the enacting clause and inserting in
6 lieu thereof the following:

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

8 § 168. RACIAL JUSTICE ~~OVERSIGHT~~ ADVISORY BOARD

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

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

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

- 19 (A) a member with expertise in implicit bias;
20 (B) a member with expertise in education;
21 (C) a member with expertise in labor and employment;

Commented [A1]: Consistent with its mandate, this Board should be advisory. Oversight means or strongly implies supervision or overall control. Alternatively, it could be called simply the Racial Justice Board

Commented [A2]: The Board's make up set forth in subsection (b) does not appear to achieve this goal.

Commented [A3]: Should the AG as a member of the Board have authority to appoint five other members of the Board? It potentially creates the appearance of a conflict of interest or could raise unnecessary questions regarding the AG's appointments.

- 1 (D) a member with expertise in health care; and
- 2 (E) a member with expertise in economic development;
- 3 (2) the Executive Director of the Vermont Criminal Justice Training
4 Council or designee;
- 5 (3) the Attorney General or designee;
- 6 (4) the Defender General or designee;
- 7 (5) the Executive Director of the State’s Attorneys and Sheriffs or
8 designee;
- 9 (6) the Chief Superior Judge or designee;
- 10 (7) the Commissioner of Corrections or designee;
- 11 (8) the Commissioner of Public Safety or designee;
- 12 (9) a representative of the Vermont Police Association;
- 13 (10) a representative of the Vermont Sheriffs’ Association;
- 14 (11) a representative of the Vermont Chiefs of Police Association;
- 15 (12) the Executive Director of the Vermont Human Rights
16 Commission or designee; and
- 17 (11) the Executive Director of the Vermont chapter of the ACLU or
18 designee.
- 19 (c) The terms of members shall be four years. As terms of currently
20 serving members expire, appointments of successors shall be in accord with
21 the provisions of subsection (b) of this section. Appointments of members to

1 fill vacancies or expired terms shall be made by the authority that made the
2 initial appointment to the vacated or expired term. Members of the Board shall
3 be eligible for reappointment.

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

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

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

20 (1) ~~determine to what extent there exists~~ ~~review and make~~
21 ~~recommendations to address persistent~~ racial disparities in statewide systems

1 of education, labor and employment, economic development, health care, and
2 housing;

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

5 ~~(A) continually reviewing the data collected pursuant to 20 V.S.A.~~
6 ~~§ 2366 and make recommendations based on such review; to measure State~~
7 ~~progress toward a fair and impartial system of law enforcement;~~

8 ~~(3B) providing~~ recommendations to the Criminal Justice Training
9 Council and the Vermont Bar Association, based on the latest social science
10 research and best practices in law enforcement and criminal and juvenile
11 justice, on model trainings and policies for law enforcement, prosecutors,
12 public defenders, judges, and correctional officers to recognize and address
13 implicit bias; ~~and~~

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

17 (43) educate and engage with communities, businesses, educational
18 institutions, State and local governments, and the general public about the
19 nature and scope of racial discrimination and the ~~systemic and institutionalized~~
20 nature of race-based bias, and on progress made towards racial justice;

Commented [A4]: This seems outside the purview of this Board and may unnecessarily usurp the authority of the VCJTC, which has particular expertise in this area.

1 ~~(54)~~ at the Board’s discretion, provide the Executive and Legislative
2 Branches of State government with an assessment of the ~~potential~~ disparate
3 racial impact of a proposed policy or legislation; and

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

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

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

10 ~~(C) expanding law enforcement race data collection practices to include~~
11 ~~data on non-traffic stops by law enforcement; and~~

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

14 Sec. 2. CRIMINAL JUSTICE TRAINING COUNCIL; REPORTING TO
15 THE RACIAL JUSTICE ~~OVERSIGHT~~ADVISORY BOARD

16 The Criminal Justice Training Council shall, on a ~~yearly regular and~~
17 ~~ongoing~~ basis, report to the Racial Justice ~~Oversight~~Advisory Board regarding:

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

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

Commented [A5]: This implies or could be interpreted that the VCJTC is required to adopt and implement any recommendations made by the Board.

1 (3) the implementation of the refresher trainings as required by
2 20 V.S.A. § 2358(e); and

3 ~~(4) the Council's efforts to establish methods of oversight and~~
4 ~~professional regulation of the systems for criminal and juvenile justice,~~
5 ~~including a statewide program for civilian oversight of law enforcement.~~

6 Sec. 3. EFFECTIVE DATE

7 This act shall take effect on passage.

Commented [A6]: This provision appears beyond the statutory authority of the VCJTC as set forth in 20 VSA §§ 2351 and 2355. These statutory provisions limit the powers and duties of the VCJTC to the regulation and qualifications of law enforcement officers. Establishing "methods of oversight and professional regulation of the systems for criminal and juvenile justice" is a far broader mandate and could include the courts, the State's Attorneys, Public Defenders, and Probation and Parole. There also does not seem to be any statutory authority for the VCJTC to create or even make recommendations regarding civilian oversight of law enforcement.

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14 (Committee vote: _____)

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16 Representative _____

17 FOR THE COMMITTEE