

1 TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred Senate Bill No. 116
3 entitled “An act relating to the Racial Justice Oversight Board” respectfully
4 reports that it has considered the same and recommends that the bill be
5 amended by striking out all after the enacting clause and inserting in lieu
6 thereof the following:

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

8 § 168. RACIAL DISPARITIES IN THE CRIMINAL JUSTICE SYSTEM

9 ADVISORY PANEL

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

17 (b) The Panel shall comprise the following 18 members:

18 (1) five members, drawn from a diverse background to represent the
19 interests of communities of color throughout the State, who have had
20 experience working to implement racial justice reform, appointed by the
21 Attorney General;

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

1 vacancies or expired terms shall be made by the authority that made the initial
2 appointment to the vacated or expired term. Members of the Panel shall be
3 eligible for reappointment. Members of the Panel shall serve no more than two
4 consecutive terms in any capacity.

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

12 (e) A majority of the members of the Panel shall constitute a quorum, and
13 all action shall be taken upon a majority vote of the members present and
14 voting.

15 (f) The Board shall undertake an ongoing formal review of racial justice
16 reform across the State, including within the State systems of education, labor
17 and employment, housing, health care, economic development, and criminal
18 and juvenile justice, by monitoring the collection and publication of race based
19 data, recommending policies and trainings to address systemic implicit bias,
20 and evaluating racial justice policies, practices, and results statewide, including

1 ~~determining whether there is variation across the State and the cause of any~~
2 ~~such variation. In furtherance of that responsibility, the Board shall:~~

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

6 (f) The Panel shall review and provide **non-binding** recommendations to
7 address **systemic** racial disparities in statewide systems of criminal and
8 juvenile justice, including:

9 (1) continually reviewing the data collected pursuant to 20 V.S.A.
10 § 2366 to measure State progress toward a fair and impartial system of law
11 enforcement;

12 (2) providing **non-binding** recommendations to the Criminal Justice
13 Training Council and the Vermont Bar Association, based on the latest social
14 science research and best practices in law enforcement and criminal and
15 juvenile justice, on data collection and model trainings and policies for law
16 enforcement, judges, correctional officers, and attorneys, including prosecutors
17 and public defenders, to recognize and address implicit bias; and

18 (3) providing **non-binding** recommendations to the Criminal Justice
19 Training Council, based on the latest social science research and best practices
20 in law enforcement, on data collection and a model training and policy on the
21 use of force in policing; and

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

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

8 ~~(4) on or before January 15, 2018, and biennially thereafter, report to the~~
9 ~~General Assembly, and provide as a part of that report recommendations to~~
10 ~~address systemic implicit bias in Vermont's criminal and juvenile justice~~
11 ~~system, including whether to:~~

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

14 ~~(B) prohibit racial profiling, including implementing any associated~~
15 ~~penalties;~~

16 ~~(C) expand law enforcement race data collection practices to include~~
17 ~~data on nontraffic stops by law enforcement; and~~

18 ~~(D) expand jurisdiction of the Panel to address institutionalized~~
19 ~~racism in education, health services access, employment, housing policy, and~~
20 ~~economic develop. The Panel shall undertake the review and recommendation~~
21 ~~pursuant to this subdivision (D) in consultation with the Vermont Human~~

1 Rights Commission and the Attorney General. ~~amend the Vermont~~
2 ~~Constitution to clarify that slavery in any form is prohibited.~~

3 Sec. 2. 20 V.S.A. § 2358 is amended to read:

4 § 2358. MINIMUM TRAINING STANDARDS; DEFINITIONS

5 * * *

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

11 (2) On or before December 31, 2018, law enforcement officers shall
12 receive a minimum of four hours of training as required by this subsection.
13 Subdivision (e)(3) effective January 1, 2019.

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

18 (4) The Criminal Justice Training Council shall, on an annual basis,
19 report to the Racial Disparities in the Criminal Justice System Advisory Panel
20 regarding:

1 (A) the adoption and implementation of the Panel’s recommended
2 data collection methods and implicit bias trainings and policies pursuant to 3
3 V.S.A. § 168(f)(2)(B);

4 (B) the incorporation of implicit bias training into the requirements of
5 basic training pursuant to this subsection; and

6 (C) the implementation of all trainings as required by this subsection.

7 Sec. 3. 20 V.S.A. § 2366(f) is added to read:

8 (f) Nothing in this section is intended to prohibit or impede any public
9 agency from complying with the lawful requirements of 8 U.S.C. §§ 1373 and
10 1644. To the extent any State or local law enforcement policy or practice
11 conflicts with the lawful requirements of 8 U.S.C. §§ 1373 and 1644, said
12 policy or practice is, to the extent of such conflict, abolished.

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

14 § 2366. LAW ENFORCEMENT AGENCIES; FAIR AND IMPARTIAL
15 POLICING POLICY; RACE DATA COLLECTION

16 ~~(a)(1) On or before January 1, 2016, the Criminal Justice Training Council,~~
17 ~~in consultation with stakeholders, including the Vermont League of Cities and~~
18 ~~Towns, the Vermont Human Rights Commission, and Migrant Justice, shall~~
19 ~~create a model fair and impartial policing policy. On or before July 1, 2016~~
20 March 1, 2018, every State, local, county, and municipal law enforcement
21 agency and every constable who exercises law enforcement authority pursuant

1 to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of
2 this title shall adopt a fair and impartial policing policy that includes, at a
3 minimum, ~~the elements~~ each component of the Criminal Justice Training
4 ~~Council~~ Council's model fair and impartial policing policy.

5 (2) On or before October 1, 2018, and every even-numbered year
6 thereafter, the Criminal Justice Training Council, in consultation with others,
7 including the Attorney General and the Human Rights Commission, shall
8 review and, if necessary, update the model fair and impartial policing policy.

9 (b) To encourage consistent fair and impartial policing practices statewide,
10 the Criminal Justice Training Council, in consultation with the Office of the
11 Attorney General, shall review the policies of law enforcement agencies and
12 constables required to adopt a policy pursuant to subsection (a) of this section
13 to ensure those policies establish each component of the model policy on or
14 before April 15, 2018. If a the Council finds that a policy does not meet each
15 component of the model policy, it shall work with the law enforcement agency
16 or constable to bring the policy into compliance. If, after consultation with its
17 attorney, the Council, or both, the law enforcement agency or constable that is
18 required to adopt a policy pursuant to subsection (a) of this section fails to do
19 so adopt a policy that meets each component of the model policy on or before
20 July 1, 2016, that agency or constable shall be deemed to have adopted, and

1 shall follow and enforce, the model policy issued by the ~~Criminal Justice~~
2 ~~Training~~ Council.

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

13 (d) ~~On or before October 15, 2014, and annually thereafter~~ Annually on
14 April 1, the Criminal Justice Training Council shall report to the House and
15 Senate Committees on Judiciary which departments and officers have adopted
16 a fair and impartial policing policy, and whether officers have received training
17 on fair and impartial policing.

18 * * *

19 Sec. 5. CRIMINAL JUSTICE TRAINING COUNCIL; FAIR AND
20 IMPARTIAL POLICING POLICY

1 (a) On or before October 1, 2017, the Criminal Justice Training Council, in
2 consultation with the Attorney General, shall review and modify the model fair
3 and impartial policing policy to the extent necessary to bring the policy into
4 compliance with 8 U.S.C. §§ 1373 and 1644.

5 (b) On or before January 1, 2018, the Criminal Justice Training Council, in
6 consultation with stakeholders, including the Vermont League of Cities and
7 Towns, the Vermont Human Rights Commission, and Migrant Justice, shall
8 update its model fair and impartial policing policy to provide one cohesive
9 model policy for law enforcement agencies and constables to adopt as a part of
10 the agency or constable’s own fair and impartial policing policy pursuant to
11 20 V.S.A. § 2366(a)(1).

12 Sec. 6. EFFECTIVE DATES

13 This act shall take effect on passage, except that Sec. 4 (law enforcement
14 agencies; fair and impartial policing policy; race data collection) shall take
15 effect on March 1, 2018.

16 and that after passage the title of the bill be amended to read: “An act relating
17 to the Racial Disparities in the Criminal Justice System Advisory Panel”

18

19 (Committee vote: _____)

20

21

Senator _____

1

FOR THE COMMITTEE