



TO: House and Senate Committees on the Judiciary
FROM: Jay Diaz, Staff Attorney, ACLU-VT
DATE: February 10, 2017
SUBJECT: ACLU-VT requested amendments to H. 228 / S. 79

Below are the ACLU's requested amendments to H. 228 / S. 79. These amendments below cover the issues of 1) defining a registration 2) ensuring the registry section is meaningful, 3) ensuring that one person is not solely in charge of local decisionmaking regarding agreements between police and the federal government, and 4) ensuring that Vermont protects immigrant communities equally to all others. For questions or comments, please do not hesitate to contact me via email jdiaz@acluvt.org, work phone at 802-223-6304, or cell at 201-694-4105.

Sec. 2. 20 V.S.A. § 4652 is added to read:

(a) For the purposes of this section,

(1) "Personally identifying information" means information concerning a person's sex, sexual orientation, gender identity, marital status, race, color, religion, national origin, immigration status, age, or disability;

(2) "Registration" means the act of making a list, catalogue, schedule, database or register based on sexual orientation, gender identity, race, color, religion, national origin, immigration status, or disability.

(b) Upon the effective date of this legislation, no employee or agent of a state, county or municipal government agency shall:

(1) Collect information regarding the private religious beliefs, practices, or affiliation of any individual for the purpose of registration.

(2) Provide or disclose to **local, state, or** federal government authorities personally identifiable information for the purpose of the registration of individuals **by any local, state, or federal entity, agency, or department.**

(3) Use agency money, facilities, property, equipment, or personnel to assist in creating or enforcing any **local, state, or** federal government program for the registration of individuals.

(4) Provide or disclose to local, state, or federal government authorities personally identifiable information of individuals absent a showing of probable cause that the person has committed a felony.

(c) Any agreements in existence on the effective date of this section that make any agency or department information or database available in conflict with the terms of this chapter are terminated on that date to the extent of the conflict.

(d) Nothing in this section is intended to interfere with the lawful operation of Sections 1373 and 1644 of Title 8 of the United States Code. To the extent any state or local law enforcement policy or practice conflicts with the lawful operation of Sections 1373 and 1644 of Title 8 of the United States Code, said policy or practice is, to the extent of such conflict, abolished.

(e) Nothing in this section is intended to prevent any state, county or municipal agency from exchanging aggregated, ~~deidentified~~ **anonymized** information with other local, state, or federal agencies.

Sec. 3. 20 V.S.A. § 4653 – Governor Authorized to Enter into Agreements Pursuant to 8 U.S.C. § 1357(g) and 19 U.S.C. § 1401(i) – is added to read:

(a) Only the Governor may enter into a Memorandum of Agreement or other agreement pursuant to 8 U.S.C. § 1357(g) or 19 U.S.C. §1401(i),

(1) in the case of non-state law enforcement agencies, with advice and consent of the municipality’s legislative body;

(2) in the case of state law enforcement agencies, with advice and consent of the Vermont legislature.

~~(b) A state, county or municipal law enforcement agency may enter into a Memorandum of Agreement pursuant to 8 U.S.C. § 1357(g) or 19 U.S.C. § 1401(i) where necessary to preserve the public safety or welfare of Vermonters after a declaration of state or national emergency.~~

New Section

Sec. 4. 20 V.S.A. § 2366(a) is amended to read -

(a) 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, 20167, 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~~ **all** elements of the Vermont Criminal Justice Training Council model policy.