

1 TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred House Bill No. 308
3 entitled “An act relating to a committee to reorganize and reclassify Vermont’s
4 criminal statutes” respectfully reports that it has considered the same and
5 recommends that the Senate propose to the House that the bill be amended by
6 striking out all after the enacting clause and inserting in lieu thereof the
7 following:

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

9 § 168. RACIAL DISPARITIES IN THE CRIMINAL AND JUVENILE
10 JUSTICE SYSTEM ADVISORY PANEL

11 (a) The Racial Disparities in the Criminal and Juvenile Justice System
12 Advisory Panel is established. The Panel shall be organized and have the
13 duties and responsibilities as provided in this section. The Panel shall be
14 organized within the Office of the Attorney General, and shall consult with the
15 Vermont Human Rights Commission, the Vermont chapter of the ACLU, the
16 Vermont Police Association, the Vermont Sheriffs’ Association, the Vermont
17 Association of Chiefs of Police, and others.

18 (b) The Panel shall comprise the following 13 members:

19 (1) five members, drawn from a diverse background to represent the
20 interests of communities of color throughout the State, who have had

1 experience working to implement racial justice reform, appointed by the
2 Attorney General;

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; and

12 (9) the Commissioner of Children and Families.

13 (c) The members of the Panel appointed under subdivision (b)(1) of this
14 section shall serve staggered four-year terms. As terms of currently serving
15 members expire, appointments of successors shall be in accord with the
16 provisions of subsection (b) of this section. Appointments of members to fill
17 vacancies or expired terms shall be made by the authority that made the initial
18 appointment to the vacated or expired term. Members of the Panel shall be
19 eligible for reappointment. Members of the Panel shall serve no more than two
20 consecutive terms in any capacity.

1 (d) Members of the Panel shall elect biennially by majority vote the Chair
2 of the Panel. Members of the Panel who are not State employees or whose
3 participation is not supported through their employment or association shall
4 receive per diem compensation and reimbursement of expenses pursuant to 32
5 V.S.A. § 1010, to be provided by the Office of the Attorney General. The
6 Office of the Attorney General shall provide the Panel with administrative and
7 professional support.

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

11 (f) The Panel shall review and provide recommendations to address
12 systemic racial disparities in statewide systems of criminal and juvenile justice,
13 including:

14 (1) continually reviewing the data collected pursuant to 20 V.S.A.
15 § 2366 to measure State progress toward a fair and impartial system of law
16 enforcement;

17 (2) providing recommendations to the Criminal Justice Training Council
18 and the Vermont Bar Association, based on the latest social science research
19 and best practices in law enforcement and criminal and juvenile justice, on data
20 collection and model trainings and policies for law enforcement, judges,

1 correctional officers, and attorneys, including prosecutors and public
2 defenders, to recognize and address implicit bias; and

3 (3) providing recommendations to the Criminal Justice Training
4 Council, based on the latest social science research and best practices in law
5 enforcement, on data collection and a model training and policy on de-
6 escalation and the use of force in the criminal and juvenile justice system; and

7 (4) educating and engaging with communities, businesses, educational
8 institutions, State and local governments, and the general public about the
9 nature and scope of racial discrimination in the criminal and juvenile justice
10 system;

11 (5) monitor progress on the recommendations from the 2016 report of
12 the Attorney General’s Working Group on Law Enforcement Community
13 Interactions; and

14 (6) on or before January 15, 2018, and biennially thereafter, report to the
15 General Assembly, and provide as a part of that report recommendations to
16 address systemic implicit bias in Vermont’s criminal and juvenile justice
17 system, including:

18 (A) how to institute a public complaint process to address perceived
19 implicit bias across all systems of State government;

20 (B) whether and how to prohibit racial profiling, including
21 implementing any associated penalties; and

- 1 (A) the adoption and implementation of the Panel’s recommended
2 data collection methods and trainings and policies pursuant to 3 V.S.A. § 168
3 (f)(2) and (3);
- 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. SECRETARY OF ADMINISTRATION; PROPOSAL

8 The Secretary of Administration shall develop a proposal to identify and
9 address racial disparities within the State systems of education, labor and
10 employment, access to housing and health care, and economic development.
11 The Secretary shall report on the proposal to the House and Senate Committees
12 on Judiciary on or before January 15, 2018.

13 Sec. 4. 20 V.S.A. § 2366(f) is added to read:

14 (f) Nothing in this section is intended to prohibit or impede any public
15 agency from complying with the lawful requirements of 8 U.S.C. §§ 1373 and
16 1644. To the extent any State or local law enforcement policy or practice
17 conflicts with the lawful requirements of 8 U.S.C. §§ 1373 and 1644, said
18 policy or practice is, to the extent of such conflict, abolished.

1 Sec. 5. CRIMINAL JUSTICE TRAINING COUNCIL; FAIR AND
2 IMPARTIAL POLICING POLICY

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

7 (b) On or before January 1, 2018, the Criminal Justice Training Council, in
8 consultation with stakeholders, including the Vermont League of Cities and
9 Towns, the Vermont Human Rights Commission, and Migrant Justice, shall
10 update its model fair and impartial policing policy to provide one cohesive
11 model policy for law enforcement agencies and constables to adopt as a part of
12 the agency or constable's own fair and impartial policing policy pursuant to
13 20 V.S.A. § 2366(a)(1).

14 Sec. 6. 20 V.S.A. § 2366 is amended to read:

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

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

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

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

10 (b) To encourage consistent fair and impartial policing practices statewide,
11 the Criminal Justice Training Council, in consultation with the Office of the
12 Attorney General, shall review the policies of law enforcement agencies and
13 constables required to adopt a policy pursuant to subsection (a) of this section
14 to ensure those policies establish each component of the model policy on or
15 before April 15, 2018. If a the Council finds that a policy does not meet each
16 component of the model policy, it shall work with the law enforcement agency
17 or constable to bring the policy into compliance. If, after consultation with its
18 attorney, the Council, or both, the law enforcement agency or constable that is
19 required to adopt a policy pursuant to subsection (a) of this section fails to do
20 so adopt a policy that meets each component of the model policy on or before
21 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 * * *

1 Sec. 7. EFFECTIVE DATES

2 This act shall take effect on passage, except that Sec. 6 (law enforcement
3 agencies; fair and impartial policing policy; race data collection) shall take
4 effect on March 1, 2018.

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

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14 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE