TO THE HONORABLE SENATE:

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

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

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

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

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

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

(2) the Executive Director of the Vermont Criminal Justice Training Council or designee;

(3) the Attorney General or designee;

(4) the Defender General or designee;

(5) the Executive Director of the State’s Attorneys and Sheriffs or designee;

(6) the Chief Superior Judge or designee;

(7) the Commissioner of Corrections or designee;

(8) the Commissioner of Public Safety or designee; and

(9) the Commissioner of Children and Families.

(c) The members of the Panel appointed under subdivision (b)(1) of this section shall serve staggered four-year terms. 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 Panel shall be eligible for reappointment. Members of the Panel shall serve no more than two consecutive terms in any capacity.
(d) Members of the Panel shall elect biennially by majority vote the Chair of the Panel. Members of the Panel who are not State employees or whose participation is not supported through their employment or association shall receive per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010, to be provided by the Office of the Attorney General. The Office of the Attorney General shall provide the Panel with administrative and professional support.

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

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

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

(2) providing 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 data collection and model trainings and policies for law enforcement, judges,
correctional officers, and attorneys, including prosecutors and public
defenders, to recognize and address implicit bias; and

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

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

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

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

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

(B) whether and how to prohibit racial profiling, including
implementing any associated penalties; and
(C) whether to expand law enforcement race data collection practices
to include data on nontraffic stops by law enforcement.

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

§ 2358. MINIMUM TRAINING STANDARDS; DEFINITIONS

* * *

(e)(1) The criteria for all minimum training standards under this section
shall include anti-bias 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.

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

(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.

(4) The Criminal Justice Training Council shall, on an annual basis,
report to the Racial Disparities in the Criminal and Juvenile Justice System
Advisory Panel regarding:
(A) the adoption and implementation of the Panel’s recommended data collection methods and trainings and policies pursuant to 3 V.S.A. § 168

(f)(2) and (3);

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

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

Sec. 3. SECRETARY OF ADMINISTRATION; PROPOSAL

The Secretary of Administration shall develop a proposal to identify and address racial disparities within the State systems of education, labor and employment, access to housing and health care, and economic development.

The Secretary shall report on the proposal to the House and Senate Committees on Judiciary on or before January 15, 2018.

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

(f) Nothing in this section is intended to prohibit or impede any public agency from complying with the lawful requirements of 8 U.S.C. §§ 1373 and 1644. To the extent any State or local law enforcement policy or practice conflicts with the lawful requirements of 8 U.S.C. §§ 1373 and 1644, said policy or practice is, to the extent of such conflict, abolished.
Sec. 5. CRIMINAL JUSTICE TRAINING COUNCIL; FAIR AND IMPARTIAL POLICING POLICY

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

(b) On or before January 1, 2018, 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 update its model fair and impartial policing policy to provide one cohesive model policy for law enforcement agencies and constables to adopt as a part of the agency or constable’s own fair and impartial policing policy pursuant to 20 V.S.A. § 2366(a)(1).

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

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

(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 March 1, 2018, every State, local, county, and municipal law enforcement agency or constable’s own fair and impartial policing policy.
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 each component of the Criminal Justice Training
Council’s model fair and impartial policing policy.

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

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

(c) On or before September 15, 2014, and annually thereafter Annually, 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 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 training on fair and impartial policing as required by 20 V.S.A. § 2358(e).

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

* * *
Sec. 7. EFFECTIVE DATES

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

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

(Committee vote: _____________)

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Senator _________________

FOR THE COMMITTEE