

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 JUSTICE BOARD

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

19 (A) a member with expertise in implicit bias;

20 (B) a member with expertise in education;

- 1           (C) a member with expertise in labor and employment;
- 2           (D) a member with expertise in health care; and
- 3           (E) a member with expertise in economic development;
- 4           (2) the Executive Director of the Vermont Criminal Justice Training  
5 Council or designee;
- 6           (3) the Attorney General or designee;
- 7           (4) the Defender General or designee;
- 8           (5) the Executive Director of the State’s Attorneys and Sheriffs or  
9 designee;
- 10          (6) the Chief Superior Judge or designee;
- 11          (7) the Commissioner of Corrections or designee;
- 12          (8) the Commissioner of Public Safety or designee;
- 13          (9) a representative of the Vermont Police Association;
- 14          (10) the Executive Director of the Vermont Human Rights Commission  
15 or designee; and
- 16          (11) the Executive Director of the Vermont chapter of the ACLU or  
17 designee.
- 18          (c) The members of the Board 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

1 provisions of subsection (b) of this section. Appointments of members to fill  
2 vacancies or expired terms shall be made by the authority that made the initial  
3 appointment to the vacated or expired term. Members of the Board shall be  
4 eligible for reappointment. Members of the Board shall serve no more than  
5 three consecutive terms in any capacity.

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

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

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

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

4           (2) review and make recommendations to address persistent racial  
5           disparities in statewide systems of criminal and juvenile justice, including:

6                   (A) continually reviewing the data collected pursuant to 20 V.S.A.  
7                   § 2366 to measure State progress toward a fair and impartial system of law  
8                   enforcement;

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

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

19                  (3) educate and engage with communities, businesses, educational  
20                  institutions, State and local governments, and the general public about the

1 nature and scope of racial discrimination and the systemic and institutionalized

2 nature of race-based bias, and on progress made toward racial justice;

3 (4) at the Board’s discretion, provide the Executive and Legislative

4 Branches of State government with an assessment of the disparate racial

5 impact of a proposed policy or legislation; and

6 (5) on or before January 15, 2018, and biannually thereafter, report to

7 the General Assembly, and provide as a part of that report recommendations to

8 address systemic implicit bias in Vermont, including whether to:

9 (A) institute a public complaint process to address perceived implicit

10 bias across all systems of State government;

11 (B) prohibit racial profiling, including implementing any associated

12 penalties;

13 (C) expand law enforcement race data collection practices to include

14 data on nontraffic stops by law enforcement; and

15 (D) amend the Vermont Constitution to clarify that slavery in any

16 form is prohibited.

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

18 § 2358. MINIMUM TRAINING STANDARDS; DEFINITIONS

19 \* \* \*

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

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

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

13 (4) The Criminal Justice Training Council shall, on an annual basis,  
14 report to the Racial Justice Board regarding:

15 (A) the adoption and implementation of the Board's recommended  
16 data collection methods and implicit bias trainings and policies pursuant to 3  
17 V.S.A. § 168(f)(2)(B);

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

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

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

4           (f) Nothing in this section is intended to prohibit or impede any public  
5 agency from complying with the lawful requirements of 8 U.S.C. §§ 1373 and  
6 1644. To the extent any State or local law enforcement policy or practice  
7 conflicts with the lawful requirements of 8 U.S.C. §§ 1373 and 1644, said  
8 policy or practice is, to the extent of such conflict, abolished.

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

10 § 2366. LAW ENFORCEMENT AGENCIES; FAIR AND IMPARTIAL  
11 POLICING POLICY; RACE DATA COLLECTION

12           ~~(a)(1) On or before January 1, 2016, the Criminal Justice Training Council,~~  
13 ~~in consultation with stakeholders, including the Vermont League of Cities and~~  
14 ~~Towns, the Vermont Human Rights Commission, and Migrant Justice, shall~~  
15 ~~create a model fair and impartial policing policy. On or before July 1, 2016~~  
16 March 1, 2018, every State, local, county, and municipal law enforcement  
17 agency and every constable who exercises law enforcement authority pursuant  
18 to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of  
19 this title shall adopt a fair and impartial policing policy that includes, at a

1 minimum, ~~the elements~~ each component of the Criminal Justice Training  
2 Council Council's model fair and impartial policing policy.

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

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



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

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

16   \* \* \*

17     **Sec. 5. CRIMINAL JUSTICE TRAINING COUNCIL; FAIR AND**  
18                                   **IMPARTIAL POLICING POLICY**

19           (a) On or before October 1, 2017, the Criminal Justice Training Council, in  
20     consultation with the Attorney General, shall review and modify the model fair

1 and impartial policing policy to the extent necessary to bring the policy into  
2 compliance with 8 U.S.C. §§ 1373 and 1644.

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

10 Sec. 6. EFFECTIVE DATES

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

14 and that after passage the title of the bill be amended to read: “An act relating  
15 to the Racial Justice Board”

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17 (Committee vote: \_\_\_\_\_)

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\_\_\_\_\_

19

Senator \_\_\_\_\_

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FOR THE COMMITTEE