

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 Remove expertise requirements

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

7 (3) the Attorney General or designee;

8 (4) the Defender General or designee;

9 (5) the Executive Director of the State's Attorneys and Sheriffs or
10 designee;

11 (6) the Chief Superior Judge or designee;

12 (7) the Commissioner of Corrections or designee;

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

14 (9) a representative of the Vermont Police Association;

15 (10) the Executive Director of the Vermont Human Rights Commission
16 or designee; and

17 (11) the Executive Director of the Vermont chapter of the ACLU or
18 designee.

19 (c) The members of the Board appointed under subdivision (b)(1) of this
20 section shall serve staggered four-year terms. As terms of currently serving

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

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

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

14 (f) The Board shall undertake an ongoing formal review of racial justice
15 reform across the State, including within the State systems of education, labor
16 and employment, housing, health care, economic development, and criminal
17 and juvenile justice, by monitoring the collection and publication of race-based
18 data, recommending policies and trainings to address systemic implicit bias,
19 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; **Is this what we want to do or are we**
6 **limiting the scope to criminal justice system.**

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

9 (A) 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 (B) providing recommendations to the Criminal Justice Training
13 Council and the Vermont Bar Association, based on the latest social science
14 research and best practices in law enforcement and criminal and juvenile
15 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 (C) providing recommendations to the Criminal Justice Training
19 Council, based on the latest social science research and best practices in law

1 enforcement, **on data collection and** a model training and policy on the use of
2 force in policing;

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

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

10 (5) on or before January 15, 2018, and biannually thereafter, report to
11 the General Assembly, and provide as a part of that report recommendations to
12 address systemic implicit bias in Vermont, including **whether or how to:**

13 **(A) methods of oversight and professional regulation of the systems**
14 **for criminal and juvenile justice, including a statewide program for civilian**
15 **oversight of law enforcement; Insert**

16 **(B) institute a public complaint process to address perceived implicit**
17 **bias across all systems of State government; **How! Leg already decided the****
18 **IF. Act 134 2012 asked LEAB for recommendations on the how 5 years**
19 **ago. No follow-up completed**

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

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

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

10 (A) the adoption and implementation of the Board’s recommended
11 ~~data collection methods and~~ implicit bias trainings and ~~policies~~ pursuant to 3
12 V.S.A. § 168(f)(2)(B); **Training Only (20 2358)**

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

15 (C) the implementation of ~~the refresher~~ all trainings as required by
16 this subsection.

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

18 (f) Nothing in this section is intended to prohibit or impede any public
19 agency from complying with the lawful requirements of 8 U.S.C. §§ 1373 and
20 1644. To the extent any State or local law enforcement policy or practice

1 conflicts with the lawful requirements of 8 U.S.C. §§ 1373 and 1644, said
2 policy or practice is, to the extent of such conflict, abolished.

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

4 § 2366. LAW ENFORCEMENT AGENCIES; FAIR AND IMPARTIAL
5 POLICING POLICY; RACE DATA COLLECTION

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

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

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

15 (c) ~~On or before September 15, 2014, and annually thereafter~~ Annually, as
16 part of their annual training report to the Council, every State, county, and
17 municipal law enforcement agency and every constable who exercises law
18 enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in
19 compliance with section 2358 of this title shall report to the Council whether
20 the agency or officer has adopted a fair and impartial policing policy in

1 accordance with subsections (a) and (b) of this section. The Criminal Justice
2 Training Council shall determine, as part of the Council’s annual certification
3 of training requirements, whether current officers have received training on fair
4 and impartial policing as required by 20 V.S.A. § 2358(e).

5 (d) ~~On or before October 15, 2014, and annually thereafter~~ Annually on
6 April 1, the Criminal Justice Training Council shall report to the ~~House and~~
7 ~~Senate Committees on Judiciary Board~~ which departments and officers have
8 adopted a fair and impartial policing policy, and whether officers have
9 received training on fair and impartial policing The Racial Justice Oversight
10 Board shall report this information to the House and Senate Committees on
11 Judiciary annually on or before May 1.

12 **Report to the Racial Justice Oversight Board**

13 (e)
14 (4) The Council will ensure that the Racial Justice Oversight Board has
15 access to all agency race traffic stop data and the data is updated on an annual
16 basis at a minimum. The Racial Justice Oversight Board shall report progress
17 made on data collection the overall data disparity status of all LE agencies to
18 the House and Senate Committees on Judiciary annually on or before May 1.

19 **This is how we measure our progress in addressing racial disparities**

20 * * *

Grey = changes requested by Committee
Yellow = changes requested by Mark Hughes
(Draft No. 2.1 – S.116)
4/11/2017 - BNH - 05:08 PM

1 (Committee vote: _____)

2

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Senator _____

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FOR THE COMMITTEE