Introduced by Representatives Cina of Burlington, Christie of Hartford, Colston of Winooski, Cordes of Lincoln, and Gonzalez of Winooski

Referred to Committee on

Date:

Subject: Crimes; racial profiling; Human Rights Commission; community justice centers

Statement of purpose of bill as introduced: This bill proposes to 1) prohibit racial profiling; 2) redefine the operational structure and process of the Human Rights Commission; and 3) require the community justice centers to provide education regarding the Human Rights Commission complaint process.

An act relating to addressing racial bias

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 13 V.S.A. § 1455a is added to read:

§ 1455a. RACIAL PROFILING PROHIBITED

(a) As used in this section, “racial profiling” means:

(1) the disparate treatment of any person solely on the basis of perceived race or ethnic origin by a law enforcement officer acting in an official capacity; or
(2) a law enforcement officer forming a basis of probable cause to
detain, arrest, or cite an individual or conduct an investigatory stop of a motor
vehicle solely on the basis of the individual’s perceived race or ethnicity.

(b) No law enforcement officer as defined in 23 V.S.A. § 4(11) shall
engage in racial profiling.

(c) A law enforcement officer who violates subsection (b) of this section
shall be imprisoned not more than three years or fined not more than
$10,000.00, or both.

Sec. 2. 13 V.S.A. § 1457 is amended to read:

§ 1457. CIVIL LIABILITY AND ENFORCEMENT

Independent of any criminal prosecution or the result thereof, any person
suffering damage, loss, or injury as a result of conduct prohibited by
section 1455, 1455a, or 1456 of this title may bring an action for injunctive
relief, compensatory and punitive damages, costs and reasonable attorney’s
fees, and other appropriate relief against any person who engaged in such
conduct.

Sec. 3. 9 V.S.A. § 4551 is amended to read:

§ 4551. HUMAN RIGHTS COMMISSION; MEMBERS; COMPENSATION

(a) The Human Rights Commission is hereby established. It shall consist
of five members to be appointed by the Governor, with the advice and consent
of the Senate, who shall designate one member to be its Chair. No, not more
than three members of whom shall be of the same political party. At least one member shall be of a racial minority. The members shall be drawn from diverse backgrounds to represent the interests of communities of color, the lesbian, gay, bisexual, and transgender community, and the disabled community, and shall have experience working to implement social justice reform. Members shall be appointed as follows:

(1) two members to be appointed by the Governor, with the advice and consent of the Senate;

(2) one member to be appointed by the Committee on Committees; and

(3) two members to be appointed by the Speaker of the House, who shall designate one member to be its Chair.

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Sec. 4. HUMAN RIGHTS COMMISSION MEMBERSHIP; TRANSITION PROVISION

As terms of currently serving members of the Human Rights Commission expire, appointments of successors shall be in accord with the provisions of this section. The first expired term or vacated membership shall be replaced with an appointment by the Speaker of the House; the second expired term or vacated membership shall be replaced with an appointment by the Committee on Committees; the third expired term shall be replaced with an appointment by the Governor, with the advice and consent of the Senate; the fourth expired
term or vacated membership shall be replaced with an appointment by the Speaker of the House; and the fifth expired term or vacated membership shall be replaced with an appointment by the Governor, with the advice and consent of the Senate.

Sec. 5. 9 V.S.A. § 4552 is amended to read:

§ 4552. DUTIES; JURISDICTION

(a) The Commission shall endeavor through public education to increase awareness of the importance of full civil and human rights for each inhabitant of this State. The Commission shall also examine and evaluate generally the effectiveness of this chapter as well as the existence of practices of discrimination which detract from the enjoyment of full civil and human rights and shall recommend measures designed to protect those rights.

(b)(1) The Commission shall have jurisdiction to investigate and enforce complaints of unlawful discrimination in violation of chapter 139 of this title, and discrimination in public accommodations and in the rental and sale of real estate. The Commission shall also have jurisdiction when the party complained against is a State agency in matters for which the Attorney General would otherwise have jurisdiction under subsection (c) of this section.

(2) In any case relating to unlawful discrimination or sexual harassment in violation of 21 V.S.A. § 495 et seq. that the Commission has jurisdiction over pursuant to this subsection, it shall include a statement setting forth the
prohibition against retaliation pursuant to 21 V.S.A. § 495(a)(8) with any
formal complaint that is sent to a respondent.

(c) All complaints of unlawful discrimination in violation of 21 V.S.A.
§§ 495 et seq. and 710, the Fair Employment Practices Act and the provisions
for workers’ compensation discrimination, respectively, and of 21 V.S.A.
§ 471 et seq. shall be referred to the Attorney General’s office for investigation
and enforcement.

(d) The Commission shall maintain a separation of roles of litigators and
investigators to avoid inadvertent sharing of confidential information.

Sec. 6. 9 V.S.A. § 4554(c) is amended to read:

(c) Upon receipt of such complaint under subsection (a) or (b) of this
section, the Commission or its designated representative shall make every
reasonable effort to resolve the matter by informal means prior to a
determination whether there are reasonable grounds to believe that unlawful
discrimination has occurred. The Commission or its designated representative
shall conduct such preliminary investigation as it deems necessary to
determine whether there are reasonable grounds to believe that unlawful
discrimination has occurred. In conducting an investigation, the Commission
or its designated representative shall have access at all reasonable times to
premises, records, documents, individuals, and other evidence or possible
sources of evidence and may examine, record, and copy those materials and
take and record the testimony or statements of such persons as are reasonably necessary. The Commission shall make every reasonable effort to interview each relevant and noncumulative witness identified by a party. If a witness is interviewed, a summary of the witness statement shall be included in any report prepared in connection with the complaint. Such statement shall be taken into consideration in determining whether or not there are reasonable grounds to believe that unlawful discrimination has occurred. [Repealed.]

Sec. 7. 24 V.S.A. § 1965 is amended to read:

§ 1965. DUTIES OF THE COMMUNITY JUSTICE CENTERS

Each community justice center:

(1) shall work in close coordination with State agencies, law enforcement agencies, State’s Attorneys, social service providers, victim advocacy organizations, and other community resources in administering the programs defined in subdivision 1964(a)(3) of this title;

(2) shall, in collaboration with State and local agencies, provide training on the restorative justice process to citizen volunteers to enable their participation in the local community justice center;

(3) may address quality of life issues in the community it serves by providing informational and educational resources to the community; and

(4) may apply for funding from private foundations, other governmental sources, or other sources;
(5) shall provide information and assistance regarding the Human Rights Commission complaint process, including how to file a complaint with the Commission and assistance in complaint preparation;

(6) shall collect data regarding the number of complaints each local community justice center refers to the Human Rights Commission; and

(7) shall provide community education and outreach on the jurisdiction of the Human Rights Commission.

Sec. 8. EFFECTIVE DATE

This act shall take effect on passage.