

1 H.887

2 Introduced by Representatives Colburn of Burlington, Burke of Brattleboro,
3 Cina of Burlington, Cordes of Lincoln, Gonzalez of Winooski,
4 Lippert of Hinesburg, Rachelson of Burlington, and White of
5 Hartford

6 Referred to Committee on

7 Date:

8 Subject: Law enforcement; Criminal Justice Training Council; fair and
9 impartial policing policy

10 Statement of purpose of bill as introduced: This bill proposes to require the
11 Criminal Justice Training Council to amend the model fair and impartial
12 policing policy to prohibit information sharing between law enforcement and
13 federal immigration authorities.

14 An act relating to the model fair and impartial policing policy

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

16 Sec. 1. 20 V.S.A. § 2366 is amended to read:

17 § 2366. LAW ENFORCEMENT AGENCIES; FAIR AND IMPARTIAL
18 POLICING POLICY; RACE DATA COLLECTION

19 (a)(1) On or before March 1, 2018, every State, county, and municipal law
20 enforcement agency and every constable who exercises law enforcement

1 authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with
2 section 2358 of this title shall adopt a fair and impartial policing policy that
3 includes each component of the Criminal Justice Training Council's model fair
4 and impartial policing policy. Such agencies and constables may include
5 additional restrictions on agency members' communication and involvement
6 with federal immigration authorities or communications regarding citizenship
7 or immigration status. Agencies and constables may not adopt a policy that
8 allows for greater communication or involvement with federal immigration
9 authorities than is permitted under the model policy.

10 (2) On or before January 1 of every even-numbered year, the Criminal
11 Justice Training Council, in consultation with others, including the Attorney
12 General and the Human Rights Commission, shall review and, if necessary,
13 update the model fair and impartial policing policy. If the policy is updated,
14 the Council, in consultation with the Office of the Attorney General, shall
15 follow the procedure set forth in subsection (b) of this section and shall have
16 six months after January 1 to complete that procedure.

17 (b) The Criminal Justice Training Council, in consultation with the Office
18 of the Attorney General, shall review the policies of law enforcement agencies
19 and constables required to adopt a policy pursuant to subsection (a) of this
20 section, to ensure those policies comply with subdivision (a)(1) of this section.
21 If the Council, in consultation with the Office of the Attorney General, finds

1 that a policy does not comply with subdivision (a)(1) of this section, it shall
2 work with the law enforcement agency or constable to bring the policy into
3 compliance. If, after consultation with the Council and the Office of the
4 Attorney General, the law enforcement agency or constable fails to adopt a
5 policy that complies with subdivision (a)(1) of this section on or before July 1,
6 2019, that agency or constable shall be deemed to have adopted, and shall
7 follow and enforce, the model policy issued by the Council. ~~A finding of~~
8 ~~compliance with subdivision (a)(1) shall not constitute a finding of compliance~~
9 ~~with any other applicable law.~~

10 (c) Annually, as part of their annual training report to the Council, every
11 State, county, and municipal law enforcement agency and every constable who
12 exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is
13 trained in compliance with section 2358 of this title shall report to the Council
14 whether the agency or officer has adopted a fair and impartial policing policy
15 in accordance with subsections (a) and (b) of this section. The Criminal
16 Justice Training Council shall determine, as part of the Council's annual
17 certification of training requirements, whether current officers have received
18 training on fair and impartial policing as required by 20 V.S.A. § 2358(e).

19 (d) Annually, on or before July 1, the Criminal Justice Training Council
20 shall report to the House and Senate Committees on Judiciary regarding which

1 departments and officers have adopted a fair and impartial policing policy and
2 whether officers have received training on fair and impartial policing.

3 * * *

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, that~~
8 ~~policy or practice is, to the extent of the conflict, abolished. [Repealed.]~~

9 Sec. 2. 20 V.S.A. § 4651 is amended to read:

10 § 4651. PROHIBITED DISCLOSURE OF PERSONALLY IDENTIFYING
11 INFORMATION

12 (a) As used in this section:

13 (1) “Personally identifying information” means information concerning
14 a person’s sex, sexual orientation, gender identity, marital status, race, color,
15 religion, national origin, immigration status, age, or disability.

16 (2) “Public agency” has the same meaning as in 1 V.S.A. § 317 and
17 shall include all officers, employees, agents, and independent contractors of the
18 public agency.

19 (b) A public agency shall not:

1 (1) collect information regarding the religious beliefs, practices, or
2 affiliation of any individual for the purpose of registration of an individual
3 based on his or her religious beliefs, practices, or affiliations;

4 (2) knowingly disclose personally identifying information to any federal
5 agency or official for the purpose of registration of an individual based on his
6 or her personally identifying information; or

7 (3) use public agency money, facilities, property, equipment, or
8 personnel to assist in creating or enforcing any federal government program for
9 the registration of an individual based on his or her personally identifying
10 information.

11 (c) Any section, term, or provision of an agreement in existence on the
12 effective date of this section that conflicts with subsection (b) of this section
13 shall be invalidated on that date to the extent of the conflict.

14 (d) ~~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. [Repealed.]~~

19 (e) Nothing in this section is intended to prohibit or impede any public
20 agency from disclosing or exchanging aggregated information that cannot be

1 used to identify an individual with any other public agency or federal agency
2 or official.

3 Sec. 3. CRIMINAL JUSTICE TRAINING COUNCIL; MODEL FAIR AND
4 IMPARTIAL POLICING POLICY; INFORMATION SHARING

5 (a) On or before August 1, 2020, the Criminal Justice Training Council
6 shall amend the model fair and impartial policing policy required by 20 V.S.A.
7 § 2366 to prohibit law enforcement sharing information about an individual
8 with federal immigration authorities unless necessary to an ongoing
9 investigation of a felony, for which there is probable cause, and the
10 investigation is unrelated to the enforcement of federal civil immigration law.

11 (b) On or before December 1, 2020, as part of their annual training report
12 to the Council, every State, county, and municipal law enforcement agency and
13 every constable who exercises law enforcement authority pursuant to
14 24 V.S.A. § 1936a and who is trained in compliance with 20 V.S.A. § 2358
15 shall report to the Council whether the agency or officer has adopted a fair and
16 impartial policing policy in accordance with subsection (a) of this section.

17 (c) On or before January 1, 2021, the Criminal Justice Training Council, in
18 consultation with the Attorney General and the Human Rights Commission,
19 shall review the policies of law enforcement agencies and constables required
20 to adopt a policy pursuant to 20 V.S.A. § 2366 to ensure those policies comply
21 with subsection (a) of this section. If the Council, in consultation with the

1 Office of the Attorney General, finds that a policy does not comply with
2 subsection (a) of this section, it shall work with the law enforcement agency or
3 constable to bring the policy into compliance. If, after consultation with the
4 Council and the Office of the Attorney General, the law enforcement agency or
5 constable fails to adopt a policy that complies with subsection (a) of this
6 section on or before February 1, 2021, that agency or constable shall be
7 deemed to have adopted, and shall follow and enforce, the model policy issued
8 by the Council.

9 Sec. 4. EFFECTIVE DATE

10 This act shall take effect on passage.