

1 TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred Senate Bill No. 219
3 entitled “An act relating to impose additional review on the approval of State
4 grant funding to law enforcement agencies to ensure compliance with race data
5 reporting requirements” respectfully reports that it has considered the same and
6 recommends that the bill be amended by striking out all after the enacting
7 clause and inserting in lieu thereof the following:

8 * * * Law Enforcement Race Data Collection * * *

9 Sec. 1. 3 V.S.A. § 2222 is amended to read:

10 § 2222. POWERS AND DUTIES; BUDGET AND REPORT

11 * * *

12 (k) The Secretary of Administration or designee shall review all grants
13 from an agency of the State to a local law enforcement agency or constable,
14 and all such grants shall be subject to the approval of the Secretary or designee.
15 The Secretary or designee shall approve the grant only if the law enforcement
16 agency or constable has complied with the race data reporting requirements set
17 forth in 20 V.S.A. § 2366(e) within six months prior to the Secretary’s or
18 designee’s review.

1 Sec. 2. SECRETARY OF ADMINISTRATION; NOTICE TO LAW
2 ENFORCEMENT AGENCIES

3 On or before August 1, 2020, the Secretary of Administration shall issue a
4 notice to all Vermont law enforcement agencies and constables that the
5 provisions of 3 V.S.A. § 2222(k) become effective on January 1, 2021, and
6 that, beginning on that date, State grant funding for law enforcement shall be
7 contingent on the agency or constable complying the requirements of 20
8 V.S.A. § 2366(e).

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

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

12 * * *

13 (e)(1) On or before September 1, 2014, every State, county, and municipal
14 law enforcement agency shall collect roadside stop data consisting of the
15 following:

- 16 (A) the age, gender, and race of the driver;
- 17 (B) the reason for the stop;
- 18 (C) the type of search conducted, if any;
- 19 (D) the evidence located, if any; ~~and~~
- 20 (E) the outcome of the stop, including whether physical force was
21 employed or threatened in effectuating the stop, and if so, the type of force

1 employed and whether the force resulted in bodily injury or death, and

2 whether:

3 (i) a written warning was issued;

4 (ii) a citation for a civil violation was issued;

5 (iii) a citation or arrest for a misdemeanor or a felony occurred; or

6 (iv) no subsequent action was taken.

7 (2) Law enforcement agencies shall work with the Executive Director of
8 Racial Equity, the Criminal Justice Training Council, and a vendor chosen by
9 the Council with the goals of collecting uniform data, adopting uniform storage
10 methods and periods, and ensuring that data can be analyzed. Roadside stop
11 data, as well as reports and analysis of roadside stop data, shall be public.

12 (3) On or before September 1, 2016 and annually thereafter, law
13 enforcement agencies shall provide the data collected under this subsection to
14 the Executive Director of Racial Equity and the vendor chosen by the Criminal
15 Justice Training Council under subdivision (2) of this subsection or, in the
16 event the vendor is unable to continue receiving data under this section, to the
17 Council. Law enforcement agencies shall provide the data collected under this
18 subsection in an electronic format specified by the receiving entity.

19 (4) The data provided pursuant to subdivision (3) of this subsection shall
20 be posted electronically in a manner that is analyzable, user-friendly, and

1 accessible to the public on the receiving agency’s website. The receiving
2 agency shall also report the data annually to the General Assembly.

3 (5) As used in this subsection, “physical force” shall refer to the force
4 employed by a law enforcement officer to compel a person’s compliance with
5 the officer’s instructions, including contact controls, compliance techniques,
6 defensive tactics, and deadly force.

7 (f) Nothing in this section is intended to prohibit or impede any public
8 agency from complying with the lawful requirements of 8 U.S.C. §§ 1373 and
9 1644. To the extent any State or local law enforcement policy or practice
10 conflicts with the lawful requirements of 8 U.S.C. §§ 1373 and 1644, that
11 policy or practice is, to the extent of the conflict, abolished.

12 *** Prohibited Restraints; Unprofessional Conduct ***

13 Sec. 4. 20 V.S.A. chapter 151 (Vermont Criminal Justice Training Council),
14 subchapter 2 is amended to read:

15 Subchapter 2. Unprofessional Conduct

16 § 2401. DEFINITIONS

17 As used in this subchapter:

18 (1) “Category A conduct” means:

19 (A) A felony.

20 (B) A misdemeanor that is committed while on duty and did not
21 involve the legitimate performance of duty.

1 (C) Any of the following misdemeanors, if committed off duty:

2 (i) simple assault, second offense;

3 (ii) domestic assault;

4 (iii) false reports and statements;

5 (iv) driving under the influence, second offense;

6 (v) violation of a relief from abuse order or of a condition of
7 release;

8 (vi) stalking;

9 (vii) false pretenses;

10 (viii) voyeurism;

11 (ix) prostitution or soliciting prostitution;

12 (x) distribution of a regulated substance;

13 (xi) simple assault on a law enforcement officer; or

14 (xii) possession of a regulated substance, second offense.

15 (2) “Category B conduct” means gross professional misconduct

16 amounting to actions on duty or under color of authority of the State, or both,

17 that involve willful failure to comply with a State-required policy or substantial

18 deviation from professional conduct as defined by the law enforcement

19 agency’s policy or if not defined by the agency’s policy, then as defined by

20 Council policy, ~~such as~~ and shall include:

1 (A) sexual harassment involving physical contact or misuse of
2 position;

3 (B) misuse of official position for personal or economic gain;

4 (C) excessive use of force under ~~color of authority~~ of the State,
5 ~~second~~ first offense;

6 (D) biased enforcement; ~~or~~

7 (E) use of electronic criminal records database for personal, political,
8 or economic gain;

9 (F) placing a person in a prohibited restraint; or

10 (G) failing to intervene when the officer observes another officer
11 placing a person in a prohibited restraint or using excessive force.

12 * * *

13 (5) “Unprofessional conduct” means Category A, B, or C conduct.

14 * * *

15 (7) “Prohibited restraint” means the use of any maneuver on a person
16 that applies pressure to the neck, throat, windpipe, or carotid artery that may
17 prevent or hinder breathing, reduce intake of air, or impede the flow of blood
18 or oxygen to the brain.

19 * * *

20 § 2407. LIMITATION ON COUNCIL SANCTIONS; FIRST OFFENSE OF
21 CATEGORY B CONDUCT

1 (a) Category B conduct; first offense. If a law enforcement agency
2 conducts a valid investigation of a complaint alleging that a law enforcement
3 officer committed a first offense of Category B conduct, the Council shall take
4 no action, except that the Council may take action for a first offense under
5 subdivision 2401(2)(F) (placing a person in a prohibited restraint) or
6 2401(2)(G) (failing to intervene when an officer observes another officer
7 placing a person in a prohibited restraint or using excessive force) of this
8 chapter.

9 * * *

10 Sec. 5. 13 V.S.A. § 1032 is added to read:

11 § 1032. LAW ENFORCEMENT USE OF PROHIBITED RESTRAINT

12 (a) As used in this section:

13 (1) “Law enforcement officer” shall have the same meaning as in 20
14 V.S.A. § 2351a.

15 (2) “Serious bodily injury” shall have the same meaning as in section
16 1021 of this title.

17 (3) “Prohibited restraint” means the use of any maneuver on a person
18 that applies pressure to the neck, throat, windpipe, or carotid artery that may
19 prevent or hinder breathing, reduce intake of air, or impede the flow of blood
20 or oxygen to the brain.

1 (b) A law enforcement officer acting in the officer’s capacity as law
2 enforcement who employs a prohibited restraint on a person that causes serious
3 bodily injury to or death of the person shall be imprisoned for not more than 20
4 years or fined not more than \$50,000.00, or both.

5 (c) Nothing in this section shall be construed to limit or restrict the
6 availability of the justifiable homicide defense pursuant to 13 V.S.A. § 2305.

7 * * * Body Cameras * * *

8 Sec. 6. 20 V.S.A. § 1818 is added to read:

9 § 1818. EQUIPMENT OF OFFICERS WITH VIDEO RECORDING

10 DEVICES

11 The Department shall ensure that every Department law enforcement officer
12 who exercises law enforcement powers is equipped with a body camera or
13 other video recording device on his or her person and that the device is
14 recording whenever the officer has contact with the public for law enforcement
15 purposes.

16 Sec. 7. DEPARTMENT OF PUBLIC SAFETY; VIDEO RECORDING

17 DEVICES; ONGOING COSTS

18 The Department of Public Safety shall immediately initiate the acquisition
19 and deployment of video recording devices to comply with the requirements of
20 20 V.S.A. § 1818. The ongoing costs of the devices that cannot be
21 accommodated within the Department’s budget shall be included in the

1 Department’s FY21 budget proposal to the General Assembly in August of
2 2020.

3 * * * Effective Dates * * *

4 Sec. 8. EFFECTIVE DATES

5 (a) Sec. 1 (powers and duties; budget and report) of this act shall take effect
6 on January 1, 2021.

7 (b) Sec. 6 (equipment of officers with video recording devices) shall
8 take effect on August 1, 2020.

9 (c) The remaining sections shall take effect on passage.

10 and that after passage the title of the bill be amended to read: “An act
11 relating to addressing racial bias and excessive use of force by law
12 enforcement”

13
14 (Committee vote: _____)

15

16

17

Senator _____

FOR THE COMMITTEE