

S.254

An act relating to recovering damages for Article 11 violations by law enforcement and a report on qualified immunity.

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. REPORT ON ACCESS TO CIVIL JUSTICE REMEDIES AND LAW
ENFORCEMENT QUALIFIED IMMUNITY IN VERMONT

(a) On or before November 15, 2022, the Office of Legislative Counsel shall submit a written legal analysis to the Senate Committee on Judiciary, the House Committee on Judiciary, and the Joint Legislative Justice Oversight Committee concerning the impact of the doctrine of qualified immunity on access to civil justice remedies in the State of Vermont and the U.S. Court of Appeals for the Second Circuit. In particular, the analysis shall identify:

(1) the origins of the doctrine of qualified immunity and its present interpretation and application by the State courts of Vermont;

(2) existing constitutional, statutory, and common law causes of action for redressing the alleged misconduct of Vermont law enforcement under Vermont law;

(3) existing immunities from suit concerning allegations of Vermont law enforcement misconduct under Vermont law;

(4) existing defenses to liability concerning allegations of Vermont law

enforcement misconduct under Vermont law;

(5) existing statutory and common law limitations on damages concerning allegations of Vermont law enforcement misconduct under Vermont law;

(6) the applicability of the doctrine of qualified immunity to all certified law enforcement officers;

(7) the level of specificity necessary for a statute to be considered clearly established law pursuant to a qualified immunity analysis under Vermont law;

(8) the difference between remedies available pursuant to a direct private right of action based on self-executing provisions of the Vermont Constitution and remedies available in an action pursuant to 42 U.S.C § 1983; and

(9) a survey of states that maintain a central database of all final judgments and settlements paid by a law enforcement agency for allegations of law enforcement officer misconduct.

(b) The written analysis shall be confined to legal analysis and shall not make any policy recommendations.

(c) In the preparation of the legal analysis, the Office of Legislative Counsel shall have the administrative, technical, and legal assistance of the Office of the Vermont Attorney General, the Office of the Vermont Defender

General, the Center for Justice Reform at Vermont Law School, and other stakeholders interested in assisting with the report.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

and that after passage the title of the bill be amended to read: “An act relating to a report on qualified immunity”