

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred Senate Bill No. 254
3 entitled “An act relating to recovering damages for Article 11 violations by law
4 enforcement and a report on qualified immunity” respectfully reports that it has
5 considered the same and recommends that the House propose to the Senate that
6 the bill be amended by striking out all after the enacting clause and inserting in
7 lieu thereof the following:

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

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

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

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

21 (3) existing immunities from suit concerning allegations of Vermont law

1 enforcement misconduct under Vermont law;

2 (4) existing defenses to liability concerning allegations of Vermont law
3 enforcement misconduct under Vermont law;

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

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

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

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

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

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

21 (c) In the preparation of the legal analysis, the Office of Legislative

1 Counsel shall have the administrative, technical, and legal assistance of the
2 Office of the Vermont Attorney General, the Office of the Vermont Defender
3 General, the Center for Justice Reform at Vermont Law School, and other
4 stakeholders interested in assisting with the report.

5 Sec. 2. EFFECTIVE DATE

6 This act shall take effect on July 1, 2022.

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

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15 (Committee vote: _____)

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Representative _____

FOR THE COMMITTEE