

1 TO THE HONORABLE SENATE:

2 The Committee on Government Operations to which was referred Senate
3 Bill No. 250 entitled “An act relating to enhanced administrative and judicial
4 accountability of law enforcement officers” respectfully reports that it has
5 considered the same and recommends that

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

7 § 2366. LAW ENFORCEMENT AGENCIES; FAIR AND IMPARITAL
8 POLICING POLICY; ~~RACE~~ DATA COLLECTION

9 * * *

10 (e)(1) On or before September 1, ~~2014~~ 2022, every State, county, and
11 municipal law enforcement agency shall collect all data concerning law
12 enforcement encounters, including roadside stop data consisting of the
13 following:

14 (A) the age, gender, and race of the driver;

15 (B) the grounds for the stop;

16 (C) the grounds for the search and the type of search conducted, if
17 any;

18 (D) the evidence located, if any;

19 (E) the outcome of the stop, including whether physical force was
20 employed or threatened during the stop, and if so, the type of force employed
21 and whether the force resulted in bodily injury or death, and whether:

- 1 (i) a written warning was issued;
- 2 (ii) a citation for a civil violation was issued;
- 3 (iii) a citation or arrest for a misdemeanor or a felony occurred; or
- 4 (iv) no subsequent action was taken.

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

10 (3) On or before ~~September~~ July 1, 2016 2023 and annually thereafter,
11 law enforcement agencies shall provide all data collected by the agency,
12 including the data collected under this subsection, to the Executive Director of
13 Racial Equity and the vendor chosen by the Criminal Justice Council under
14 subdivision (2) of this subsection or, in the event the vendor is unable to
15 continue receiving data under this section, to the Council. Law enforcement
16 agencies shall provide the data collected under this subsection in an electronic
17 format specified by the receiving entity.

18 (4) The data provided pursuant to subdivision (3) of this subsection shall
19 be posted electronically in a manner that is analyzable and accessible to the
20 public on the receiving agency's website and clear and understandable. ~~The~~
21 ~~receiving agency shall also report the data annually to the General Assembly.~~

1 (b) Database. The Vermont Criminal Justice Council shall maintain a
2 database cataloging any potential impeachment information concerning a law
3 enforcement officer. Potential impeachment information may include:

4 (1) any finding of misconduct that reflects upon the truthfulness or
5 possible bias of the law enforcement officer, including a finding of a lack of
6 candor during a criminal, civil, or administrative inquiry or proceeding;

7 (2) any past or pending criminal charge brought against the law
8 enforcement officer;

9 (3) any allegation of misconduct bearing upon truthfulness, bias, or
10 integrity that is the subject of a pending investigation;

11 (4) any prior findings by a judge that a law enforcement officer testified
12 untruthfully, made a knowing false statement in writing, engaged in an
13 unlawful search or seizure, illegally obtained a confession, or engaged in other
14 misconduct;

15 (5) any misconduct finding or pending misconduct allegation that either
16 cases a substantial doubt upon the accuracy of any witness, including witness
17 testimony, that a prosecutor intends to rely on to prove an element of any crime
18 charged, or that might have a significant bearing on the admissibility of
19 prosecution evidence;

20 (6) information that may be used to suggest that the law enforcement
21 officer is biased for or against a defendant; or

1 (7) information that reflects that the law enforcement officer’s ability to
2 perceive and recall truth is impaired.

3 (c) Duty to report. A law enforcement agency’s executive officer or
4 designee shall report any information required to be cataloged under this
5 section to the Council within 10 business days after discovering the
6 information.

7 (d) Accessibility. The database shall be accessible to the State’s Attorney
8 of any county of this State or designee and the Attorney General of this State
9 or designee for the purpose of complying with the disclosure obligations of
10 *Giglio v. United States*, 405 U.S. 150 (1972), and its progeny. This database
11 shall not be accessible to anyone not listed in this subsection.

12 (e) Confidentiality. The database, documents, materials, or other
13 information in possession or control of the Council that are obtained by or
14 reported to the Council under this section shall be confidential by law and
15 privileged, shall not be subject to subpoena, and shall not be subject to
16 discovery or admissible in evidence in any private civil action. The Council is
17 authorized to use the database, or related documents, materials, or other
18 information, in furtherance of the Council’s official duties. Unless otherwise
19 authorized by law, the Council shall not disclose the database or make related
20 documents, materials, or other information public without the prior written
21 consent of the law enforcement agency and the law enforcement officer.

1 Neither the Council nor any person who received documents, materials, or
2 other information shared under this section shall be required to testify in any
3 private civil action concerning the database or any confidential documents,
4 materials, or information subject to this section. Nothing in the section shall
5 exempt the Council, a State’s Attorney, or the Attorney General from
6 disclosing public records pursuant to 1 V.S.A. chapter 5, subchapter 3.

7 Sec. 4. 13 V.S.A. § 5585 is amended to read:

8 § 5585. ELECTRONIC RECORDING OF A CUSTODIAL
9 INTERROGATION

10 (a) As used in this section:

11 (1) “Custodial interrogation” means any interrogation:

12 (A) involving questioning by a law enforcement officer that is
13 reasonably likely to elicit an incriminating response from the subject; and

14 (B) in which a reasonable person in the subject’s position would
15 consider ~~himself or herself~~ the person to be in custody, starting from the
16 moment a person should have been advised of ~~his or her~~ the person’s Miranda
17 rights and ending when the questioning has concluded.

18 * * *

19 (b)(1) A custodial interrogation that occurs in a place of detention
20 concerning the investigation of a felony violation of ~~chapter 53 (homicide) or~~
21 ~~72 (sexual assault)~~ of this title shall be electronically recorded in its entirety.

1 (1) concerning when providing false facts about evidence to a suspect
2 during an interview conducted after the commission of a crime results in an
3 involuntary confession or admission to the crime;

4 (2) regarding when confessions or admissions to crimes procured by
5 providing a defendant with false facts should be inadmissible;

6 (3) concerning the appropriate age and circumstances to prohibit coercive
7 techniques in cases involving juveniles;

8 (4) concerning the use of the interrogation and interviewing techniques,
9 including the Reid Technique of Investigative Interviews and Advanced
10 Interrogation Techniques, by law enforcement; and

11 (4) and legislation, initiatives, or programs for the General Assembly and
12 law enforcement to consider to improve current practices.

13 (b) In preparation of the report, the Committee shall have the
14 administrative, technical, and legal assistance of its selected entity, the
15 Vermont Criminal Justice Council, the Council of State Government, and any
16 other stakeholders interested in assisting with the report.

17 Sec. 6. EFFECTIVE DATES

18 (a) Sec. 3 (law enforcement database) shall take effect on January 1, 2023.

19 (b) The remainder of this act shall take effect on July 1, 2022.

20

21

1

2

3 (Committee vote: _____)

4

5

Senator _____

6

FOR THE COMMITTEE