

1 TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred Senate Bill No. 254
3 entitled “An act relating to creating a private right of action against law
4 enforcement officers for violating rights established under Vermont law”
5 respectfully reports that it has considered the same and recommends that the
6 bill be amended by striking out all after the enacting clause and inserting in
7 lieu thereof the following:

8 Sec. 1. 12 V.S.A. chapter 190 is added to read:

9 CHAPTER 190. VIOLATIONS OF ARTICLE 11 OF THE VERMONT
10 CONSTITUTION BY LAW ENFORCEMENT

11 § 5607. STANDARD TO RECOVER DAMAGES

12 (a) It is the intent of the General Assembly to codify the principle
13 established by the Vermont Supreme Court in *Zullo v. State*, 2019 VT 1 as a
14 burden that a plaintiff must prove to obtain damages in an action brought
15 against any Vermont law enforcement agency for a violation of Article 11 of
16 the Constitution of the State of Vermont.

17 (b) As used in this chapter, “law enforcement agency” has the same
18 meaning as in 20 V.S.A. § 2351a.

19 § 5608. RECORD OF CASE DISPOSITION

20 Each law enforcement agency shall maintain a record of all final judgments
21 and settlements paid by the law enforcement agency for claims made pursuant

1 to this chapter and attach a copy of the complaint to each record. All
2 judgments, settlements, and their underlying complaints are subject to public
3 disclosure unless an exemption applies pursuant to 1 V.S.A. § 317. Any
4 record disclosed shall include the name of the law enforcement agency and the
5 monetary amount paid pursuant to the judgment or settlement.

6 Sec. 2. REPORT ON ACCESS TO CIVIL JUSTICE REMEDIES AND LAW
7 ENFORCEMENT QUALIFIED IMMUNITY IN VERMONT

8 (a) On or before November 15, 2022, the Office of Legislative Counsel
9 shall submit a written report to the Senate Committee on Judiciary, the House
10 Committee on Judiciary, and the Joint Legislative Justice Oversight Committee
11 concerning the impact of the doctrine of qualified immunity on access to civil
12 justice remedies for people wrongfully harmed by bad-faith policing and
13 violations of civil rights in the State of Vermont. In particular, the report shall
14 identify:

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

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

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

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

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

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

8 (b) In the preparation of the report, the Office of Legislative Counsel shall
9 have the administrative, technical, and legal assistance of the Office of the
10 Vermont Attorney General, the Office of the Vermont Defender General, the
11 Center for Justice Reform at Vermont Law School, and other stakeholders
12 interested in assisting with the report.

13 Sec. 3. EFFECTIVE DATE

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

15
16 (Committee vote: _____)

17 _____

18 Senator _____

19 FOR THE COMMITTEE