

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 damages-limiting
13 principle established by the Vermont Supreme Court in *Zullo v. State*, 2019 VT
14 1 as a burden that a plaintiff must prove to obtain damages in an action brought
15 against any Vermont State, county, or municipal law enforcement officer or
16 agency for a violation of Article 11 of the Constitution of the State of Vermont.

17 (b) The common law defense of qualified immunity shall not be a bar to
18 any action seeking damages brought against a law enforcement officer for a
19 violation of Article 11.

1 § 5608. RECORD OF CASE DISPOSITION

2 (a) Each law enforcement agency shall maintain a record of all final
3 judgments and settlements paid by the law enforcement agency for claims
4 made pursuant to this chapter and attach a copy of the complaint to each
5 record. All judgments, settlements, and their underlying complaints are subject
6 to public disclosure unless an exemption applies pursuant to 1 V.S.A. § 317.
7 Any record disclosed shall include the name of the law enforcement agency
8 and the monetary amount paid pursuant to the judgment or settlement. All
9 personally identifiable information contained in a judgment or settlement shall
10 be redacted prior to disclosure.

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

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

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

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

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

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

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

11 (6) the applicability of the doctrine of qualified immunity to Vermont
12 State-level law enforcement officers, county-level law enforcement officers,
13 and municipal-level law enforcement officers.

14 (b) In the preparation of the report, the Office of Legislative Counsel shall
15 have the administrative, technical, and legal assistance of the Office of the
16 Vermont Attorney General, the Office of the Vermont Defender General, the
17 Center for Justice Reform at Vermont Law School, and other stakeholders
18 interested in assisting with the report.

19 Sec. 3. EFFECTIVE DATE

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

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1 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE