

1 S.254

2 Senators Sears and White move that the report of the Committee on
3 Judiciary be amended as follows:

4 First: In Sec. 1, 12 V.S.A. chapter 190, in section 5607, by striking out
5 subsection (a) in its entirety and inserting in lieu thereof a new subsection (a)
6 to read as follows:

7 (a) It is the intent of the General Assembly to codify the common law
8 principle for a plaintiff seeking damages for an alleged violation of Article 11
9 of the Vermont Constitution as established by the Vermont Supreme Court's
10 decision in *Zullo v. State*, 2019 VT 1 and apply it uniformly as a burden that a
11 plaintiff must prove to recover damages in an action brought against any
12 Vermont law enforcement agency alleging a violation of Article 11.

13 Second: In Sec. 1, 12 V.S.A. chapter 190, in section 5607, by adding a new
14 subsection (b) to read as follows:

15 (b) A plaintiff seeking damages against any Vermont law enforcement
16 agency directly under Article 11 of the Vermont Constitution based on a law
17 enforcement officer's alleged violation of that constitutional provision must
18 show that:

19 (1) the law enforcement officer committed a violation of Article 11 of
20 the Vermont Constitution;

1 (2) there is no meaningful alternative in the context of the particular
2 case; and

3 (3) the law enforcement officer knew or should have known that the
4 officer violated clearly established law or the officer acted in bad faith.

5 and by relettering the remaining subsection to be alphabetically correct.

6 Third: In Sec. 2, report on access to civil justice remedies and law
7 enforcement qualified immunity in Vermont, by adding a new subsection (b) to
8 read as follows:

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

11 and by relettering the remaining subsection to be alphabetically correct.

12 and that after passage the title of the bill be amended to read: “An act
13 relating to recovering damages for Article 11 violations by law enforcement
14 and a report on qualified immunity ”