

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Government Operations to which was referred Senate  
3 Bill No. 250 entitled “An act relating to law enforcement data collection and  
4 interrogation” respectfully reports that it has considered the same and  
5 recommends that the House propose to the Senate that the bill be amended by  
6 striking out all after the enacting clause and inserting in lieu thereof the  
7 following:

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

9 § 2366. LAW ENFORCEMENT AGENCIES; FAIR AND IMPARTIAL  
10 POLICING POLICY; ~~RACE~~ DATA COLLECTION

11 \* \* \*

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

16 (A) the age, gender, and race of the ~~driver~~ individual;

17 (B) the grounds for the stop;

18 (C) the grounds for the search and the type of search conducted, if

19 any;

20 (D) the evidence located, if any;

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

4 (i) a written warning was issued;

5 (ii) a citation for a civil violation was issued;

6 (iii) a citation or arrest for a misdemeanor or a felony occurred; or

7 (iv) no subsequent action was taken.

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

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



1 information consistently and appropriately under the obligations of *Giglio v.*  
2 *United States*, 405 U.S. 150 (1972), and its progeny.

3 (b) Membership. The Giglio Database Study Committee shall be  
4 composed of the following members:

5 (1) two current members of the House of Representatives, not from the  
6 same political party, who shall be appointed by the Speaker of the House;

7 (2) two current members of the Senate, not from the same political  
8 party, who shall be appointed by the President Pro Tempore;

9 (3) the Commissioner of the Department of Public Safety or designee;

10 (4) the Executive Director of the Vermont Criminal Justice Council or  
11 designee;

12 (5) the President of the Vermont Sheriffs' Association or designee;

13 (6) the President of the Vermont Association of Chiefs of Police or  
14 designee;

15 (7) the Executive Director of the Vermont Office of Racial Equity;

16 (8) the Attorney General or designee;

17 (9) the Executive Director of the Department of State's Attorneys and  
18 Sheriffs or designee; and

19 (10) the Defender General or designee.

20 (c) Powers and duties. The Giglio Database Study Committee shall study  
21 the appropriate structure and process to administer a law enforcement officer

1 information database designed to facilitate the disclosure of potential  
2 impeachment information by prosecutors pursuant to legal obligations. The  
3 Committee shall study the following:

4 (1) the appropriate department or agency to manage and administer the  
5 database;

6 (2) the type and scope of information maintained in the database;

7 (3) any gatekeeping functions used to review information before it is  
8 entered into the database;

9 (4) any due process procedures to dispute information entered into the  
10 database;

11 (5) how to securely maintain the database;

12 (6) the appropriate access to the database;

13 (7) the confidentiality of the information maintained in, or accessed  
14 from, the database; and

15 (8) the resources necessary to effectively administer and maintain the  
16 database.

17 (d) Report. On or before December 1, 2022, the Giglio Database Study  
18 Committee shall submit a written report with legislative recommendations to  
19 the House and Senate Committees on Government Operations.

1       (e) Assistance. The Giglio Database Study Committee shall have the  
2       administrative, technical, and legal assistance of the Vermont Criminal Justice  
3       Council and any other stakeholders interested in assisting with the report.

4       (f) Meetings.

5           (1) The Executive Director of the Office of Racial Equity or designee  
6       shall call the first meeting of the Committee to occur on or before July 15,  
7       2022.

8           (2) The Executive Director of the Office of Racial Equity shall select a  
9       chair from among its members at the first meeting.

10          (3) The Committee shall meet six times.

11          (4) A majority of the membership shall constitute a quorum.

12          (5) The Giglio Database Study Committee shall cease to exist on  
13       December 15, 2022.

14       (g) Compensation and reimbursement. For attendance at meetings during  
15       adjournment of the General Assembly, a legislative member of the Giglio  
16       Database Study Committee shall be entitled to per diem compensation  
17       pursuant to 2 V.S.A. § 23 for not more than six meetings. These payments  
18       shall be made from monies appropriated to the General Assembly.

19       Sec. 3. 13 V.S.A. § 5585 is amended to read as follows:

20       § 5585. ELECTRONIC RECORDING OF A CUSTODIAL

21               INTERROGATION

1 (a) As used in this section:

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

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

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

9 \* \* \*

10 (3) “Place of detention” means a building or a police station that is a  
11 place of operation for the State police, a municipal police department, county  
12 sheriff department, or other law enforcement agency that is owned or operated  
13 by a law enforcement agency at which persons are or may be questioned in  
14 connection with criminal offenses or detained temporarily in connection with  
15 criminal charges pending a potential arrest or citation.

16 (4) “Statement” means an oral, written, sign language, or nonverbal  
17 communication.

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

1 place of detention concerning the investigation of a felony or misdemeanor  
2 violation of this title shall be electronically recorded in its entirety.

3 (2) In consideration of best practices, law enforcement shall strive to  
4 record simultaneously both the interrogator and the person being interrogated.

5 (c)(1) The following are exceptions to the recording requirement in  
6 subsection (b) of this section:

7 (A) exigent circumstances;

8 (B) a person's refusal to be electronically recorded;

9 (C) interrogations conducted by other jurisdictions;

10 (D) a reasonable belief that the person being interrogated did not  
11 commit a felony or misdemeanor violation of ~~chapter 53 (homicide) or 72~~  
12 ~~(sexual assault)~~ of this title and, therefore, an electronic recording of the  
13 interrogation was not required;

14 (E) the safety of a person or protection of ~~his or her~~ the person's  
15 identity; and

16 (F) equipment malfunction.

17 \* \* \*

18 Sec. 4. STUDY ON DECEPTIVE AND COERCIVE METHODS OF LAW  
19 ENFORCEMENT INTERROGATION; REPORT

1       (a) The Joint Legislative Justice Oversight Committee shall study the use  
2       of deceptive and coercive interrogation tactics employed by law enforcement  
3       in the State of Vermont. In particular, the study shall consider:

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

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

9               (3) the appropriate age and circumstances to prohibit coercive  
10       techniques in cases involving juveniles;

11              (4) the use of the interrogation and interviewing techniques, including  
12       the Reid Technique of Investigative Interviews and Advanced Interrogation  
13       Techniques, by law enforcement; and

14              (5) legislation, initiatives, or programs for the General Assembly and  
15       law enforcement to consider to improve current practices.

16       (b) The Committee shall have the administrative and technical assistance of  
17       the Office of Legislative Counsel. The Committee shall have the legal  
18       assistance of the American Civil Liberties Union of Vermont and any other  
19       stakeholders interested in assisting with the study and report. The Committee  
20       shall submit a report on the study in the form of proposed legislation on or  
21       before December 1, 2022.

1 Sec. 5. 20 V.S.A. § 2222 is amended to read:

2 § 2222. FEDERAL LAW ENFORCEMENT OFFICERS; POWER OF  
3 ARREST FOR VERMONT CRIMES

4 (a) For purposes of this section, “a certified federal law enforcement  
5 officer” means a federal law enforcement officer who:

6 (1) is employed as a law enforcement officer of the federal government  
7 as:

8 (A) a special agent, border patrol agent, or immigration inspector of  
9 the Immigration and Naturalization Service, U.S. Department of Justice; ~~or~~

10 (B) an officer or inspector of the U.S. Customs Service of the  
11 Department of the Treasury; ~~and~~ or

12 (C) a special agent, inspector, or member of the police service of the  
13 U.S. Department of Veterans Affairs;

14 (2) has satisfactorily completed a course of study in Vermont laws and  
15 criminal procedures approved by the Vermont Criminal Justice Council, at the  
16 expense of the officer’s agency;

17 (3) has been certified by the Commissioner of Public Safety pursuant to  
18 subsection (b) of this section; and

19 (4) has taken an oath administered by the Commissioner of Public  
20 Safety or by the Commissioner’s designee to uphold the Constitution of the  
21 State of Vermont.

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Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

(Committee vote: \_\_\_\_\_)

\_\_\_\_\_

Representative \_\_\_\_\_

FOR THE COMMITTEE