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H.649

Introduced by Representative Burrows of West Windsor

Referred to Committee on

Date:

Subject: General provisions; Truth and Reconciliation Commission

Statement of purpose of bill as introduced: This bill proposes to extend the time for the Truth and Reconciliation Commission to complete its work by 10 months; to establish a panel with authority to fill vacancies on the Commission and to remove or reprimand commissioners for cause; to create certain exemptions from the Open Meeting Law for meetings of the Commission and to permit commissioners to confer with each other; and to create a duty of confidentiality for participants in affinity groups organized by the Commission.

An act relating to the Vermont Truth and Reconciliation Commission

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 2022 Acts and Resolves No. 128, Sec. 4 is amended to read:

Sec. 4. REPEAL

1 V.S.A. chapter 25 (Truth and Reconciliation Commission) is repealed on ~~July 1, 2026~~ May 1, 2027.

1 Sec. 2. 1 V.S.A. § 903 is amended to read:

2 § 903. COMMISSIONERS

3 \* \* \*

4 (c) The term of each commissioner shall begin on the date of appointment  
5 and end on ~~July 1, 2026~~ May 1, 2027.

6 Sec. 3. 1 V.S.A. § 904 is amended to read:

7 § 904. SELECTION PANEL; MEMBERSHIP; DUTIES

8 (a)~~(1)~~ The Selection Panel shall be composed of ~~seven members selected~~  
9 ~~on or before September 1, 2022 by a majority vote of the following~~ five  
10 members:

11 ~~(A)~~(1) the Executive Director of Racial Equity or designee;

12 ~~(B)~~(2) the Executive Director of the Vermont Center for Independent  
13 Living or designee;

14 ~~(C)~~(3) an individual, who shall not be a current member of the  
15 General Assembly, appointed by the Speaker of the House;

16 ~~(D)~~(4) an individual, who shall not be a current member of the  
17 General Assembly, appointed by the Committee on Committees; and

18 ~~(E)~~(5) an individual appointed by the Chief Justice of the Vermont  
19 Supreme Court.

20 ~~(2) The individuals identified in subdivision (1) of this subsection:~~

1           ~~(A) shall hold their first meeting on or before August 1, 2022 at the~~  
2           ~~call of the individual appointed by the Chief Justice of the Vermont Supreme~~  
3           ~~Court; and~~

4           ~~(B) are encouraged to appoint individuals to the Selection Panel who~~  
5           ~~include members of the populations and communities identified pursuant to~~  
6           ~~subdivisions 902(b)(1)(A)–(D) of this chapter and who are diverse with respect~~  
7           ~~to socioeconomic status, work, education, geographic location, gender, and~~  
8           ~~sexual identity.~~

9           ~~(3) Individuals selected pursuant to subdivision (1) of this subsection~~  
10          ~~who are not employees of the State of Vermont and who are not otherwise~~  
11          ~~compensated or reimbursed for their attendance shall be entitled to per diem~~  
12          ~~compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010~~  
13          ~~for not more than two meetings. These payments shall be made from amounts~~  
14          ~~appropriated to the Truth and Reconciliation Commission.~~

15          (b)(1) The Selection Panel shall select and appoint the commissioners of  
16          the Truth and Reconciliation Commission as provided pursuant to section 905  
17          of this chapter.

18          (2) To enable it to carry out its duty to select and appoint the  
19          commissioners of the Truth and Reconciliation Commission as provided  
20          pursuant to section 905 of this chapter, the Panel may:

1           (A) adopt procedures as necessary to carry out the duties set forth in  
2 section 905 of this chapter; and

3           (B) ~~establish and maintain a principal office;~~

4           (C) ~~meet and hold hearings at any place in this State; and~~

5           (D) ~~hire temporary staff to provide administrative assistance during~~  
6 ~~the period from September 1, 2022 through January 15, 2023, provided that if~~  
7 ~~the Panel extends the time to select commissioners pursuant to subdivision~~  
8 ~~905(e)(1) of this chapter, it may retain staff to provide administrative~~  
9 ~~assistance through March 31, 2023.~~

10          (c) The term of each member of the Panel shall begin on the date of  
11 appointment and end on ~~January 15, 2023, except if the Panel extends the time~~  
12 ~~to select commissioners pursuant to subdivision 905(e)(1) of this chapter, the~~  
13 ~~term of the Panel members shall end on March 31, 2023~~ May 1, 2027.

14          (d) The Panel shall select a chair and a vice chair from among its members.

15          (e)(1) Meetings shall be held at the call of the Chair or at the request of  
16 four or more members of the Panel.

17          (2) A majority of the current membership of the Panel shall constitute a  
18 quorum, and actions of the Panel may be authorized by a majority of the  
19 members present and voting at a meeting of the Panel.

20          (f) Members of the Panel who are not otherwise compensated by the State  
21 shall be entitled to per diem compensation and reimbursement of expenses

1 pursuant to 32 V.S.A. § 1010 for ~~not more than 20 meetings during fiscal year~~  
2 2023 meetings to carry out the Panel's duties pursuant to this section and  
3 sections 905 and 905a of this chapter. These payments shall be made from  
4 amounts appropriated to the Truth and Reconciliation Commission.

5 (g) The Panel shall have the administrative and legal assistance of the Truth  
6 and Reconciliation Commission.

7 (h)(1) A member of the Panel that is not serving ex officio may be removed  
8 by the appropriate appointing authority for incompetence, failure to discharge  
9 the member's duties, malfeasance, or illegal acts.

10 (2) A vacancy occurring on the Panel shall be filled by the appropriate  
11 appointing authority for the remainder of the term.

12 Sec. 4. 1 V.S.A. § 905 is amended to read:

13 § 905. SELECTION OF COMMISSIONERS

14 \* \* \*

15 (d) The Panel shall fill any vacancy occurring among the commissioners  
16 for the remainder of the term in the manner set forth in subsections (a) and (b)  
17 of this section.

1 Sec. 5. 1 V.S.A. § 905a is added to read:

2 § 905a. REMOVAL OR REPRIMAND OF COMMISSIONERS FOR  
3 MISCONDUCT

4 The Selection Panel may, after notice and an opportunity for a hearing,  
5 reprimand or remove a commissioner for incompetence, failure to discharge  
6 the commissioner's duties, malfeasance, illegal acts, or other actions that the  
7 Panel determines would substantially and materially harm the credibility of the  
8 Truth and Reconciliation Commission or its ability to carry out its work  
9 pursuant to the provisions of this chapter. Notwithstanding subdivision  
10 904(e)(2) of this chapter, the reprimand or removal of a commissioner shall  
11 only be authorized by a vote of the majority of the members of the Panel.

12 Sec. 6. 1 V.S.A. § 906 is amended to read:

13 § 906. POWERS AND DUTIES OF THE COMMISSIONERS

14 \* \* \*

15 (b) Powers. To carry out its duties pursuant to this chapter, the  
16 commissioners may:

17 \* \* \*

18 (13) Establish affinity groups in which individuals who have  
19 experienced institutional, structural, or systemic discrimination or are a  
20 member of a population or community that has experienced institutional,

1 structural, or systemic discrimination may participate for purposes of sharing  
2 experiences and providing mutual support.

3 Sec. 7. 1 V.S.A. § 908 is amended to read:

4 § 908. REPORTS

5 (a) On or before ~~January~~ October 15, 2024, the Commission shall submit to  
6 the Governor and General Assembly an interim report on the Commission's  
7 progress to date, the committees established pursuant to subdivision 906(a)(1)  
8 of this chapter and the scope and objectives of their work, emerging themes  
9 and issues that the Commission has identified, and, if available, any  
10 preliminary findings and recommendations for legislative or other action that  
11 the Commission believes should be prioritized to address instances of  
12 institutional, structural, and systemic discrimination identified by the  
13 Commission.

14 (b)(1) On or before ~~June~~ April 15, ~~2026~~ 2027, the Commission shall submit  
15 a final report incorporating the findings and recommendations of each  
16 committee. Each report shall detail the findings and recommendations of the  
17 relevant committee and shall include recommendations for actions that can be  
18 taken to eliminate ongoing instances of institutional, structural, and systemic  
19 discrimination and to address the harm caused by historic instances of  
20 institutional, structural, and systemic discrimination.





1 the Commission to elect to have their interview conducted in a manner that  
2 protects the individual's privacy and to have any recording of the interview  
3 kept confidential by the Commission. Any other record or document produced  
4 in relation to an interview conducted pursuant to this subdivision (d)(1) shall  
5 only be available to the public in an anonymized form that does not reveal the  
6 identity of any individual.

7 \* \* \*

8 Sec. 9. 1 V.S.A. § 911 is added to read:

9 § 911. COMMISSION MEETINGS; ALTERNATIVE PROCEDURES;

10 EXCEPTION TO OPEN MEETING LAW

11 (a) Notwithstanding subsection 312(a) of this title:

12 (1) a quorum or more of the commissioners may attend a regular,  
13 special, or emergency meeting by electronic or other means without being  
14 physically present at a designated meeting location;

15 (2) the Commission shall not be required to designate a physical  
16 meeting location where the public may attend; and

17 (3) the members and staff of the public body shall not be required to be  
18 physically present at a designated meeting location.

19 (b) When the Commission meets electronically pursuant to subsection (a)  
20 of this section, the Commission shall, except as otherwise provided pursuant to  
21 subsection 909(d) of this chapter:

1           (1) use technology that permits the attendance of the public through  
2           electronic or other means;

3           (2) allow the public to access the meeting by telephone;

4           (3) video record and livestream the meeting; and

5           (4) post information that enables the public to directly access and  
6           participate in meetings electronically and include this information in the  
7           published agenda for each meeting.

8           (c)(1) As used in this subsection, “closed meeting” means a meeting of the  
9           Commission that is livestreamed and video recorded but that is otherwise  
10           closed for purposes of physical or digital access and participation of the public.

11           (2) Upon a finding by the Commission that there are material threats to  
12           the health or safety of the Commission, its staff, witnesses, or invitees, the  
13           Commission may hold a closed meeting. The Commission may allow its staff,  
14           counsel, and any persons who are subjects of the discussion or whose  
15           information is needed to access the closed meeting.

16           (3) The Commission shall include in the agenda for a closed meeting  
17           information that allows the public to directly access a livestream of the  
18           meeting. The video recording of any closed meeting shall be posted and made  
19           available for inspection or copying under the Public Records Act. The  
20           Commission shall not be required to livestream or video record any portions of  
21           a closed meeting that are held in executive session pursuant to 1 V.S.A. § 313.

1        (d) Notwithstanding any provision of chapter 5, subchapter 2 of this title,  
2        the deliberations of a quorum or more of the members of the Commission shall  
3        not be subject to the Vermont Open Meeting Law.

4        Sec. 10. 1 V.S.A. § 912 is added to read:

5        § 912. AFFINITY GROUP SESSIONS; DUTY OF CONFIDENTIALITY

6        (a) The meetings and sessions of affinity groups established pursuant to  
7        subdivision 906(b)(13) of this chapter shall be confidential and privileged.  
8        Commission staff and participants in an affinity group session shall be subject  
9        to a duty of confidentiality and shall keep confidential any information gained  
10       during an affinity group session.

11       (b) A person who attended an affinity group session may bring a private  
12       action in Civil Division of the Superior Court for damages resulting from a  
13       breach of the duty of confidentiality covering affinity group sessions.

14       (c) This section shall not be construed to limit or otherwise affect the  
15       application of the common law duty of confidentiality to affinity group  
16       sessions and any action that may be brought based on a breach of that duty.

17       Sec. 11. APPROPRIATION

18       The sum of \$1,100,000.00 is appropriated from the General Fund to the  
19       Truth and Reconciliation Commission in fiscal year 2025 for the operating  
20       expenses of the Commission.

- 1 Sec. 12. EFFECTIVE DATE
- 2 This act shall take effect on passage.