

1 SPECIAL SESSION

2 S.5

3 Introduced by Committee on Government Operations

4 Date: June 7, 2018

5 Subject: Government operations; systemic racism

6 Statement of purpose of bill as introduced: This bill proposes to establish the
7 Executive Director of Racial Equity and the Racial Equity Advisory Panel to
8 combat systemic bias across the systems of State government.

9 ~~An act relating to the mitigation of systemic racism~~

10 *An act relating to racial equity in State government*

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

12 Sec. 1. LEGISLATIVE INTENT

13 It is the intent of the General Assembly to promote racial justice reform
14 throughout the State by mitigating systemic racism in all systems of State
15 government and creating a culture of inclusiveness.

16 Sec. 2. 3 V.S.A. § 2102 is amended to read:

17 § 2102. POWERS AND DUTIES

18 (a) The Governor's Cabinet shall adopt and implement a program of
19 continuing coordination and improvement of the activities carried on at all

1 levels of State and local government.

2 (b) The Cabinet shall work collaboratively with the Executive Director of
3 Racial Equity and shall provide the Director with access to all relevant records
4 and information as permitted by law.

5 Sec. 3. 3 V.S.A. chapter 68 is added to read:

6 CHAPTER 68. EXECUTIVE DIRECTOR OF RACIAL EQUITY

7 § 5001. POSITION

8 (a) There is created within the Executive Branch the position of Executive
9 Director of Racial Equity to identify and work to eradicate systemic racism
10 within State government.

11 (b) The Executive Director of Racial Equity shall have the powers and
12 duties enumerated within section 2102 of this title and shall work
13 collaboratively with and act as a liaison between the Governor's Workforce
14 Equity and Diversity Council, the Vermont Human Rights Commission, and
15 the Governor's Cabinet.

16 (c) The Executive Director shall be housed within and have the
17 administrative, legal, and technical support of the Agency of Administration.

18 (d) The Executive Director shall report to and be under the general
19 supervision of the Governor, or, to the extent such supervisory authority is
20 delegated, the Secretary of Administration. The Administration shall not
21 prevent or prohibit the Executive Director from initiating, carrying out, or

1 completing the duties of the Executive Director as set forth in section 5003 of
2 this title.

3 § 5002. RACIAL EQUITY ADVISORY PANEL

4 (a) The Racial Equity Advisory Panel is established. The Panel shall be
5 organized and have the duties and responsibilities as provided in this section.
6 The Panel shall have the administrative, legal, and technical support of the
7 Agency of Administration.

8 (b)(1) The Panel shall consist of five members, as follows:

9 (A) one member appointed by the Committee on Committees who
10 shall not be a current legislator;

11 (B) one member appointed by the Speaker of the House who shall
12 not be a current legislator;

13 (C) one member appointed by the Chief Justice of the Supreme Court
14 who shall not be a current legislator;

15 (D) one member appointed by the Governor who shall not be a
16 current legislator; and

17 (E) one member appointed by the Human Rights Commission who
18 shall not be a current legislator.

19 (2) Members shall be drawn from diverse backgrounds to represent the
20 interests of communities of color throughout the State, have experience
21 working to implement racial justice reform and, to the extent possible,

1 represent geographically diverse areas of the State.

2 (3) The term of each member shall be three years, except, so that the
3 term of one regular member expires in each ensuing year of the members first
4 appointed, one shall serve a term of: one year, to be appointed by the Human
5 Rights Commission; two years, to be appointed by the Governor; three years,
6 to be appointed by the Speaker of the House; four years, to be appointed by the
7 Committee on Committees; and five years, to be appointed by the Chief
8 Justice of the Supreme Court. As terms of currently serving members expire,
9 appointments of successors shall be in accord with the provisions of this
10 subsection. Appointments of members to fill vacancies or expired terms shall
11 be made by the authority that made the initial appointment to the vacated or
12 expired term. Members shall serve until their successors are elected or
13 appointed. Members shall serve not more than three consecutive terms in any
14 capacity.

15 (4) Members of the Panel shall elect by majority vote the Chair of the
16 Panel, who shall serve for a term of three years after the implementation
17 period. Members of the Panel shall be appointed on or before September 1,
18 2018 in order to prepare as they deem necessary for the establishment of the
19 Panel, including the election of the Chair of the Panel. Terms of members
20 shall officially begin on January 1, 2019.

21 (c) The Panel shall have the following duties and responsibilities:

1 (1) work with the Executive Director of Racial Equity to implement the
2 reforms identified as necessary in the comprehensive organizational review as
3 required by subsection 5003(a) of this title;

4 (2) advise the Executive Director to ensure ongoing compliance with the
5 purpose of this chapter, and advise the Governor on strategies for remediating
6 systemic racial disparities in statewide systems of government; and

7 (3) on or before January 15, 2020, and annually thereafter, report to the
8 House and Senate Committees on Government Operations on:

9 (A) the extent to which the State is achieving the performance targets
10 and measures as developed pursuant to section 5003(c) of this title; and

11 (B) the nature and quality of the collaboration between the
12 Governor's Cabinet and the Executive Director.

13 (d) Each member of the Panel shall be entitled to per diem compensation
14 and reimbursement of expenses pursuant to 32 V.S.A. § 1010.

15 § 5003. DUTIES OF EXECUTIVE DIRECTOR OF RACIAL EQUITY

16 (a) The Executive Director of Racial Equity (Director) shall work with the
17 agencies and departments to implement a program of continuing coordination
18 and improvement of activities in State government in order to combat systemic
19 racial disparities and measure progress toward fair and impartial governance,
20 including:

21 (1) overseeing a comprehensive organizational review to identify

1 systemic racism in each of the three branches of State government and
2 inventory systems in place that engender racial disparities;

3 (2) managing and overseeing the statewide collection of race-based data
4 to determine the nature and scope of racial discrimination within all systems of
5 State government; and

6 (3) developing a model fairness and diversity policy and reviewing and
7 making recommendations regarding the fairness and diversity policies held by
8 all State government systems.

9 (b) Pursuant to section 2102 of this title, the Director shall work
10 collaboratively with State agencies and departments to gather relevant existing
11 data and records necessary to carry out the purpose of this chapter and to
12 develop best practices for remediating systemic racial disparities throughout
13 State government.

14 (c) The Director shall work with the agencies and departments and with the
15 Chief Performance Officer to develop performance targets and performance
16 measures for the General Assembly, the Judiciary, and the agencies and
17 departments to evaluate respective results in improving systems. These
18 performance measures shall be included in the agency's or department's
19 quarterly reports to the Director, and the Director shall include each agency's
20 or department's performance targets and performance measures in his or her
21 annual reports to the General Assembly.

1 (d) The Director shall, in consultation with the Department of Human
2 Resources and the agencies and departments, develop and conduct trainings for
3 agencies and departments regarding the nature and scope of systemic racism
4 and the institutionalized nature of race-based bias. Nothing in this subsection
5 shall be construed to discharge the existing duty of the Department of Human
6 Resources to conduct trainings.

7 (e) The Director shall periodically report to the Racial Equity Advisory
8 Panel on the progress towards carrying out the duties as established by this
9 section.

10 (f) On or before January 15, 2020, and annually thereafter, the Director
11 shall report to the House and Senate Committees on Government Operations
12 demonstrating the State's progress in identifying and remediating systemic
13 racial bias within State government.

14 § 5004. INFORMATION; DISCLOSURE AND CONFIDENTIALITY

15 (a) Confidentiality of records.

16 (1) Any records transmitted to or obtained by the Executive Director of
17 Racial Equity and the Racial Equity Advisory Panel that are exempt from
18 public inspection and copying under the Public Records Act shall remain
19 exempt and shall be kept confidential to the extent required by law.

20 (2) Draft reports, working papers, and internal correspondence between
21 the Director and the Panel shall be exempt from public inspection and copying

1 under the Public Records Act and shall be kept confidential. The completed
2 reports shall be public records.

3 (b) Exceptions.

4 (1) The Director and Panel members may make records available to
5 each other, the Governor, and the Governor's Cabinet as necessary to fulfill
6 their duties as set forth in this chapter. They may also make records pertaining
7 to any alleged violations of antidiscrimination statutes available to any State or
8 federal law enforcement agency authorized to enforce such statutes.

9 (2) Absent a court order for good cause shown or the prior written
10 consent of an individual providing information or lawfully obtained records to
11 the Director or the Panel, the Director and Panel Members may decline to
12 disclose:

13 (A) the identity of the individual if good cause exists to protect his or
14 her confidentiality; and

15 (B) materials pertaining to the individual, including written
16 communications among the individual, the Director, and the Panel and
17 recordings, notes, or summaries reflecting interviews or discussions among the
18 individual, the Director, and the Panel.

1 § 5005. NOMINATION AND APPOINTMENT PROCESS

2 (a) The Racial Equity Advisory Panel shall select for consideration by the
3 Panel, by majority vote, provided that a quorum is present, from the
4 applications for the position of Executive Director of Racial Equity as many
5 candidates as it deems qualified for the position.

6 (b) The Panel shall submit to the Governor the names of the candidates
7 deemed most qualified to be appointed to fill the position.

8 (c) The Governor shall make the appointment to the Executive Director
9 position from the list of qualified candidates submitted pursuant to subsection
10 (b) of this section. The names of candidates submitted and not selected shall
11 remain confidential.

12 Sec. 4. AUTHORIZATION FOR EXECUTIVE DIRECTOR OF RACIAL
13 EQUITY POSITION

14 One new permanent, exempt position of Executive Director of Racial
15 Equity is created within the Agency of Administration.

16 Sec. 5. EXECUTIVE DIRECTOR OF RACIAL EQUITY; RACIAL EQUITY
17 ADVISORY PANEL; FUNDING SOURCE; SURCHARGE;

18 REPEAL

19 (a) Surcharge.

20 (1) Notwithstanding the provisions of 3 V.S.A. § 2283(c) setting forth
21 the purpose and rate of charges collected in the Human Resource Services

1 Internal Service Fund, in fiscal year 2019, a surcharge of up to 1.65 percent,
2 and in fiscal year 2020 and thereafter, a surcharge of up to 3.3 percent, but not
3 greater than the cost of both the Racial Equity Advisory Panel and the position
4 of Executive Director of Racial Equity set forth in Sec. 3 of this act, on the
5 per-position portion of the charges authorized in 3 V.S.A. § 2283(c)(2) shall be
6 assessed to all Executive Branch agencies, departments, and offices and shall
7 be paid by all assessed entities solely with State funds.

8 (2) The amount collected shall be accounted for within the Human
9 Resource Services Internal Service Fund and used solely for the purposes of
10 funding the Racial Equity Advisory Panel and the position of the Executive
11 Director of Racial Equity set forth in Sec. 3 of this act.

12 (b) Repeal. This section shall be repealed on June 30, 2024.

13 Sec. 6. FISCAL YEAR 2019 APPROPRIATION

14 There is appropriated to the Agency of Administration from the Human
15 Resource Services Internal Service Fund for fiscal year 2019 the amount of
16 \$75,000.00 for the Racial Equity Advisory Panel and the position of Executive
17 Director of Racial Equity.

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Sec. 7. SECRETARY OF ADMINISTRATION; RACIAL EQUITY

ADVISORY PANEL; EXECUTIVE DIRECTOR OF RACIAL
EQUITY; REPORT

(a) On or before September 1, 2018, the Racial Equity Advisory Panel shall be appointed.

(b) On or before November 1, 2018, the Racial Equity Advisory Panel shall, in consultation with the Secretary of Administration and with the assistance and advice of the Department of Human Resources, have developed and posted a job description for the Executive Director of Racial Equity.

(c) On or before January 1, 2019, the Racial Equity Advisory Panel shall submit to the Governor the names of the candidates for the Executive Director of Racial Equity position.

(d) On or before February 1, 2019, the Governor shall appoint the Executive Director of Racial Equity.

(e) On or before May 1, 2019, the Executive Director of Racial Equity shall update the House and Senate Committees on Government Operations regarding how best to complete a comprehensive organizational review to identify systemic racism pursuant to 3 V.S.A. § 5003 and potential private and public sources of funding to achieve the review.

Sec. 8. REPEAL

1 On June 30, 2024:

2 (1) Sec. 3 of this act (creating the Executive Director of Racial Equity
3 and Racial Equity Advisory Panel in 3 V.S.A. chapter 68) is repealed and the
4 Executive Director position and Panel shall cease to exist; and

5 (2) Sec. 4 of this act (authorization for the Executive Director of Racial
6 Equity position) is repealed.

7 Sec. 9. EFFECTIVE DATE

8 This act shall take effect on passage.