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S.281

Introduced by Senator Ingram

Referred to Committee on Government Operations

Date: January 3, 2018

Subject: Law enforcement; government operations; systemic racism

Statement of purpose of bill as introduced: This bill proposes to establish the Systemic Racism Mitigation Oversight and Equity Review Board to combat systemic bias across the systems of State government.

~~An act relating to the Systemic Racism Mitigation Oversight and Equity Review Board~~

*An act relating to the mitigation of systemic racism*

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

~~Sec. 1. 3 V.S.A., chapter 68 is added to read:~~

CHAPTER 68. SYSTEMIC RACISM MITIGATION OVERSIGHT AND  
EQUITY REVIEW BOARD

§ 5001. PURPOSE

(a) It is the intent of the General Assembly to create an independent board to promote racial justice reform throughout the State by:

(1) providing education on systemic racism and how to combat it;

(2) mitigating systemic racism in all systems of State government and

public education; and

~~(3) creating a centralized platform for race-based data collection and~~

1 ~~overseeing its collection and dissemination.~~

2 § 5002. BOARD MEMBERSHIP; AUTHORITY

3 (a) On July 1, 2018, the Systemic Racism Mitigation Oversight and Equity  
4 Review Board is established and shall consist of a chair and ten other  
5 members.

6 (b) The Board shall comprise the following 11 members:

7 (1) the Executive Director of the Vermont Criminal Justice Training  
8 Council or designee;

9 (2) the Attorney General or designee;

10 (3) the Defender General or designee;

11 (4) the Executive Director of the Vermont Human Rights Commission  
12 or designee;

13 (5) the Chief Superior Judge or designee;

14 (6) the Commissioner of Corrections or designee;

15 (7) the Commissioner for Children and Families or designee;

16 (8) two members of the House of Representatives, not both from the  
17 same political party, who shall be appointed by the Speaker of the House; and

18 (9) two members of the Senate, not both from the same political party,  
19 who shall be appointed by the Committee on Committees.

20 (c) The terms of members shall be four years. As terms of currently  
21 serving members expire, appointments of successors shall be in accord with

1 ~~the provisions of subsection (b) of this section. Appointments of members to~~  
2 fill vacancies or expired terms shall be made by the authority that made the  
3 initial appointment to the vacated or expired term. Members of the Board  
4 shall be eligible for reappointment.

5 (d) Members of the Board shall elect biennially by majority vote the Chair  
6 of the Board. Members of the Board shall receive no compensation for their  
7 services, but shall be entitled to reimbursement for expenses in the manner and  
8 amount provided to employees of the State. The Board may meet not more  
9 than 12 times per year.

10 (e) Six members shall constitute a quorum of the Board. When a quorum  
11 has been established, the vote of a majority of the members present at the time  
12 of the vote shall be an act of the Board.

13 § 5003. DUTIES

14 (a) The Board shall conduct management and oversight of the mitigation of  
15 systemic racism across the systems of State government by:

16 (1) reviewing and making recommendations on the fairness and  
17 diversity policies of the Office of the Attorney General, the Vermont Bar  
18 Association, the Department of State's Attorneys and Sheriffs, the General  
19 Assembly, and the Office of the Governor;

20 (2) managing and overseeing the statewide collection of race-based data  
21 and ensuring such data are publicly available,

1 (3) providing training for State agencies, local governments, educational  
2 institutions, businesses, and the public regarding the nature and scope of racial  
3 discrimination and the systemic and institutionalized nature of race-based  
4 bias; and

5 (4) advise and consult with the Executive and Legislative Branches  
6 of State government on the assessment of racial impact of policies and  
7 legislation.

8 (b) On or before January 15, 2019, and annually thereafter, the Board shall  
9 report to the General Assembly with recommendations on how to mitigate  
10 systemic racism across the State.

11 Sec. 2. SYSTEMIC RACISM OVERSIGHT AND EQUITY REVIEW  
12 BOARD; 2019 REPORT

13 (a) On or before January 15, 2019, the Systemic Racism Oversight and  
14 Equity Review Board shall report to the General Assembly pursuant to  
15 3 V.S.A. § 5003, and the report shall include a recommendation regarding any  
16 staff necessary for the administration and operation of the Board's duties.

17 Sec. 3. REPEAL

18 3 V.S.A. § 168 (Racial Disparities in the Criminal and Juvenile Justice  
19 System Advisory Panel) is repealed on July 1, 2019.

20 Sec. 4. EFFECTIVE DATE

21 This act shall take effect on passage.

Sec. 1. LEGISLATIVE INTENT

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

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

§ 2102. POWERS AND DUTIES

(a) The Governor's Cabinet shall adopt and implement a program of continuing coordination and improvement of the activities carried on at all levels of State and local government.

(b) The Cabinet shall work collaboratively with the Chief Civil Rights Officer and shall provide the Chief with access to all relevant records and information.

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

CHAPTER 68. CHIEF CIVIL RIGHTS OFFICER

§ 5001. POSITION

(a) There is created within the Executive Branch an independent position named the Chief Civil Rights Officer to identify and work to eradicate systemic racism within State government.

(b) The Chief Civil Rights Officer shall have the powers and duties enumerated within section 2102 of this title, but shall operate independently of the Governor's Cabinet.

(c) The Chief Civil Rights Officer shall not be attached to any State department or agency, but shall be housed within and have administrative, legal, and technical support of the Agency of Administration.

§ 5002. CIVIL RIGHTS ADVISORY PANEL

(a) The Civil Rights Advisory Panel is established. The Panel shall be organized and have the duties and responsibilities as provided in this section. The Panel may consult with the Governor's Workforce Equity and Diversity Council, the Vermont Human Rights Commission, and others. The Panel shall have administrative, legal, and technical support of the Agency of Administration.

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

(A) one member appointed by the Senate Committee on Committees who shall not be a current senator;

(B) one member appointed by the Speaker of the House who shall not

~~be a current representative;~~

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

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

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

~~(2) Members shall have experience working to implement racial justice reform and, to the extent possible, represent geographically diverse areas of the State. At least three members shall be persons of color.~~

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

~~(4) Members of the Panel shall elect by majority vote the Chair of the Panel, who shall serve for a term of three years after the implementation period.~~

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

~~(1) appoint the Chief Civil Rights Officer;~~

~~(2) work with the Chief Civil Rights Officer to implement the reforms identified as necessary in the comprehensive organizational review as required by section 5003(a) of this title;~~

~~(3) oversee and advise the Chief to ensure ongoing compliance with the purpose of this chapter; and~~

~~(4) on or before January 15, 2020, and annually thereafter, report to the House and Senate Committees on Government Operations.~~

~~(d) Only the Panel may remove the Chief Civil Rights Officer. The Panel shall adopt rules pursuant to chapter 25 of this title to define the basis and~~

~~process for removal.~~

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

~~§ 5003. DUTIES OF CHIEF CIVIL RIGHTS OFFICER~~

~~(a) The Chief Civil Rights Officer shall work with the agencies and departments to implement a program of continuing coordination and improvement of activities in State government in order to combat systemic racial disparities and measure progress toward fair and impartial governance, including:~~

~~(1) oversee a comprehensive organizational review to identify systemic racism in each of the three branches of State government and inventory systems in place that engender racial disparities, which may be completed by a consultant or outside vendor; and~~

~~(2) manage and oversee the statewide collection of race-based data to determine the nature and scope of racial discrimination within all systems of State government.~~

~~(b) Pursuant to section 2102 of this title, work collaboratively with State agencies and departments to gather relevant existing data and records necessary to carry out the purpose of this chapter.~~

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

~~(d) The Chief shall, in consultation with the Department of Human Resources and the agencies and departments, develop and conduct trainings for agencies and departments. Nothing in this subsection shall be construed to discharge the existing duty of the Department of Human Resources to conduct trainings.~~

~~(e) In order to enforce the provisions of this chapter and empower the Chief to perform his or her duties, the Chief may issue subpoenas, administer oaths and take the testimony of any person under oath, and require production of data, papers, and records. Any subpoena or notice to produce may be served by registered or certified mail or in person by an agent of the Chief. Service by registered or certified mail shall be effective three business days after~~

~~calling. Any subpoena or notice to produce shall provide at least six business days' time from service within which to comply, except that the Chief may shorten the time for compliance for good cause shown. Any subpoena or notice to produce sent by registered or certified mail, postage prepaid, shall constitute service on the person to whom it is addressed. Each witness who appears before the Chief under subpoena shall receive a fee and mileage as provided for witnesses in civil cases in Superior Courts; provided, however, any person subject to the Chief's authority shall not be eligible to receive fees or mileage under this section.~~

~~Sec. 4. AUTHORIZATION FOR CHIEF CIVIL RIGHTS OFFICER  
POSITION~~

~~One new permanent, exempt position of Chief Civil Rights Officer is created within the Agency of Administration.~~

~~Sec. 4a. CHIEF CIVIL RIGHTS OFFICER; CIVIL RIGHTS ADVISORY  
PANEL; FUNDING SOURCE; SURCHARGE; REPEAL~~

~~(a) Surcharge.~~

~~(1) Notwithstanding the provisions of 3 V.S.A. § 2283(c) setting forth the purpose and rate of charges collected in the Human Resource Services Internal Service Fund, in fiscal year 2019, a surcharge of up to 1.65 percent, and in fiscal year 2020 and thereafter, a surcharge of up to 3.3 percent, but no greater than the cost of both the Civil Rights Advisory Panel and the position of Chief Civil Rights Officer set forth in Sec. 3 of this act, on the per-position portion of the charges authorized in 3 V.S.A. § 2283(c)(2) shall be assessed to all Executive Branch agencies, departments, and offices and shall be paid by all assessed entities solely with State funds.~~

~~(2) The amount collected shall be accounted for within the Human Resource Services Internal Service Fund and used solely for the purposes of funding the Civil Rights Advisory Panel and the position of the Chief Civil Rights Officer set forth in Sec. 3 of this act.~~

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

~~Sec. 5. FISCAL YEAR 2019 APPROPRIATION~~

~~There is appropriated to the Agency of Administration from the General Fund for fiscal year 2019 the amount of \$75,000.00 for the Civil Rights Advisory Panel and the position of Chief Civil Rights Officer.~~

~~Sec. 6. SECRETARY OF ADMINISTRATION; CIVIL RIGHTS  
ADVISORY PANEL; CHIEF CIVIL RIGHTS OFFICER; REPORT~~

~~(a) On or before September 1, 2018, the Civil Rights Advisory Panel shall~~

~~is appointed.~~

~~(b) On or before November 1, 2018, the Civil Rights Advisory Panel shall, in consultation with the Secretary of Administration and the Department of Human Resources, have developed and posted a job description for the Chief Civil Rights Officer.~~

~~(c) On or before January 1, 2019, the Civil Rights Advisory Panel shall appoint the Chief Civil Rights Officer.~~

~~(d) On or before April 1, 2019, the Chief Civil Rights Officer 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. 6a. REPEAL

On June 30, 2024:

(1) Sec. 3 of this act (creating the Chief Civil Rights Officer and Civil Rights Advisory Panel in 3 V.S.A. chapter 68) is repealed and the Officer position and Panel shall cease to exist; and

(2) Sec. 4 of this act (authorization for Chief Civil Rights Officer position) is repealed.

Sec. 7. EFFECTIVE DATE

This act shall take effect on passage.

Sec. 1. LEGISLATIVE INTENT

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

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

§ 2102. POWERS AND DUTIES

(a) The Governor's Cabinet shall adopt and implement a program of continuing coordination and improvement of the activities carried on at all levels of State and local government.

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

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

CHAPTER 68. EXECUTIVE DIRECTOR OF RACIAL EQUITY

§ 5001. POSITION

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

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

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

§ 5002. RACIAL EQUITY ADVISORY PANEL

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

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

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

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

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

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

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

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

(3) The term of each member shall be three years, except, so that the term of one regular member expires in each ensuing year of the members first appointed, one shall serve a term of: one year, to be appointed by the Human Rights Commission; two years, to be appointed by the Governor; three years,

to be appointed by the Speaker of the House; four years, to be appointed by the Senate Committee on Committees; and five years, to be appointed by the Chief Justice of the Supreme Court. As terms of currently serving members expire, appointments of successors shall be in accord with the provisions of this subsection. Appointments of members to fill vacancies or expired terms shall be made by the authority that made the initial appointment to the vacated or expired term. Members shall serve until their successors are elected or appointed. Members shall serve not more than three consecutive terms in any capacity.

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

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

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

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

(d) Only the Panel may remove the Executive Director of Racial Equity. The Panel shall adopt rules pursuant to chapter 25 of this title to define the basis and process for removal.

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

#### § 5003. DUTIES OF EXECUTIVE DIRECTOR OF RACIAL EQUITY

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

(1) overseeing a comprehensive organizational review to identify systemic racism in each of the three branches of State government and inventory systems in place that engender racial disparities;

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

(3) developing a model fairness and diversity policy and review and make recommendations regarding the fairness and diversity policies held by all State government systems.

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

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

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

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

#### § 5004. INFORMATION; DISCLOSURE AND CONFIDENTIALITY

(a) Confidentiality of records.

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

(2) Draft reports, working papers, and internal correspondence between the Director and the Panel shall be exempt from public inspection and copying under the Public Records Act and shall be kept confidential. The completed reports shall be public records.

(b) Exceptions.

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

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

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

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

§ 5005. NOMINATION AND APPOINTMENT PROCESS

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

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

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

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

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

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

(a) Surcharge.

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

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

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

#### Sec. 6. FISCAL YEAR 2019 APPROPRIATION

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

#### 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*

*On June 30, 2024:*

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

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

*Sec. 9. EFFECTIVE DATE*

*This act shall take effect on passage.*