

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Government Operations to which was referred Senate
3 Bill No. 281 entitled “An act relating to mitigation of systemic racism”
4 respectfully reports that it has considered the same and recommends that the
5 House propose to the Senate that the bill be amended by striking out all after
6 the enacting clause and inserting in lieu thereof the following:

7 Sec. 1. LEGISLATIVE INTENT

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

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

12 § 2102. POWERS AND DUTIES

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

16 (b) The Cabinet shall work collaboratively with the Executive Director of
17 Racial Equity and shall provide the Director with access to all relevant records
18 and information.

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

2 CHAPTER 68. EXECUTIVE DIRECTOR OF RACIAL EQUITY

3 § 5001. POSITION

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

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

13 (c) The Executive Director of Racial Equity shall not be attached to any
14 State department or agency, but shall be housed within and have
15 administrative, legal, and technical support of the Agency of Administration.

16 § 5002. RACIAL EQUITY ADVISORY PANEL

17 (a) The Racial Equity Advisory Panel is established. The Panel shall be
18 organized and have the duties and responsibilities as provided in this section.
19 The Panel may consult with the Governor's Workforce Equity and Diversity
20 Council, the Vermont Human Rights Commission, and others. The Panel shall

1 have administrative, legal, and technical support of the Agency of
2 Administration.

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

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

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

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

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

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

14 (2) Members shall be drawn from diverse backgrounds to represent the
15 interests of communities of color throughout the State, have experience
16 working to implement racial justice reform and, to the extent possible,
17 represent geographically diverse areas of the State. At least three members
18 shall be persons of color.

19 (3) The term of each member shall be three years, except that of the
20 members first appointed, one each shall serve a term of one year, to be
21 appointed by the Human Rights Commission; two years, to be appointed by

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

11 (4) Members of the Panel shall elect by majority vote the Chair of the
12 Panel, who shall serve for a term of three years after the implementation
13 period. Members of the Panel shall be appointed on or before September 1,
14 2018 in order to prepare as they deem necessary for the establishment of the
15 Panel, including the election of the Chair of the Panel. Terms of members
16 shall officially begin on January 1, 2019.

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

18 (1) appoint the Executive Director of Racial Equity;

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

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

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

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

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

11 § 5003. DUTIES OF EXECUTIVE DIRECTOR OF RACIAL EQUITY

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

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

1 (2) manage and oversee the statewide collection of race based data to
2 determine the nature and scope of racial discrimination within all systems of
3 State government create a strategy for implementing a centralized platform for
4 race-based data collection and manage the aggregation, correlation, and public
5 dissemination of the data; and

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

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

13 (c) The Director shall work with the agencies and departments and with the
14 Chief Performance Officer to develop performance targets and performance
15 measures for the General Assembly, the Judiciary, and the agencies and
16 departments to evaluate respective results in improving systems. These
17 performance measures shall be included in the agency's or department's
18 quarterly reports to the Director, and the Director shall include each agency's
19 or department's performance targets and performance measures in his or her
20 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) On or before January 15, 2020, and annually thereafter, report to the
8 House and Senate Committees on Government Operations demonstrating the
9 State's progress in identifying and remediating systemic racial bias within
10 State government.

11 (e) In order to enforce the provisions of this chapter and empower the Chief
12 to perform his or her duties, the Chief may issue subpoenas, administer oaths
13 and take the testimony of any person under oath, and require production of
14 data, papers, and records. Any subpoena or notice to produce may be served
15 by registered or certified mail or in person by an agent of the Chief. Service by
16 registered or certified mail shall be effective three business days after mailing.
17 Any subpoena or notice to produce shall provide at least six business days²
18 time from service within which to comply, except that the Chief may shorten
19 the time for compliance for good cause shown. Any subpoena or notice to
20 produce sent by registered or certified mail, postage prepaid, shall constitute
21 service on the person to whom it is addressed. Each witness who appears

1 before the Chief under subpoena shall receive a fee and mileage as provided
2 for witnesses in civil cases in Superior Courts; provided, however, any person
3 subject to the Chief's authority shall not be eligible to receive fees or mileage
4 under this section.

5 § 5004. NOMINATION AND APPOINTMENT PROCESS

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

10 (b) The Panel shall submit to the Governor the names of the three
11 candidates it deems most qualified to be appointed to fill the position.

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

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

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

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

1 (a) Surcharge.

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

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

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

16 Sec. 6. FISCAL YEAR 2019 APPROPRIATION

17 There is appropriated to the Agency of Administration from the General Fund
18 for fiscal year 2019 the amount of \$75,000.00 for the Racial Justice Advisory
19 Panel and the position of Executive Director of Racial Equity.

20 Sec. 7. SECRETARY OF ADMINISTRATION; RACIAL JUSTICE

1 ADVISORY PANEL; EXECUTIVE DIRECTOR OF RACIAL
2 EQUITY; REPORT

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

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

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

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

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

1 Sec. 8. REPEAL

2 On June 30, 2024:

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

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

8 Sec. 9. EFFECTIVE DATE

9 This act shall take effect on passage.

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16 (Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE