

## Sec. 1. LEGISLATIVE FINDINGS Act 134, 2012

(1) The general assembly finds that: 3 (1) In 2010, the United States Census counted a total Vermont population of 625,741, of which 95.3 percent were white, 1.0 percent African-American, 1.5 percent Hispanic/Latino, 1.3 percent Asian, 0.4 percent American Indian, 0.3 percent other and 1.7 percent reporting that they were of two or more undisclosed races.

(2) The Vermont Department of Corrections (DOC) reported in its Facts and Figures: FY2010 that by November 2010, African-Americans made up 10.3 percent of Vermont inmates—more than ten times the rate that African Americans appear in the general population of Vermont. In the same report, DOC reported that on June 1, 2001, 5.1 percent of Vermont inmates were identified as African-American. DOC data show that the percentage of African-Americans incarcerated in Vermont has been steadily increasing since 1993, far surpassing the growth rate for any other racial group.

(3) A 2003 study by the Vermont Center for Justice Research (“the 17 Center”), Exploring the Dynamics of Race and Crime Using Vermont NIBRS Data by Bill Clements, using arrest data from 1993–2000, found that African-Americans experienced a significantly higher arrest rate (69 percent) than whites (57 percent), Asians (53 percent) or Native Americans (62 percent). In that study, regression analysis suggested that as a result of race, African-American males were 1.5 times and African-American females were 2.26 times more likely to be arrested than their white counterparts.

(4) A 2007 Center study, Felony Sentencing in Vermont: 2001–2006 by Robin Adler, found that nonwhite felony defendants were more likely to be sentenced to incarceration than white defendants even after controlling for all other variables.

(5) Discretionary decision-making by a variety of criminal justice professionals may result in racial disparities in criminal justice systems. In every step of the criminal justice process, persons exercise discretion, including:

- (A) the initial investigation by law enforcement;
- (B) the decision to lodge or release on citation;
- (C) the decision by prosecutors to file a particular charge;
- (D) the prosecutor’s bail recommendation;
- (E) the judge’s bail decision;
- (F) the plea negotiation process;
- (G) the defendant’s decision whether to exercise the right to a trial by jury;
- (H) the prosecutor’s sentencing recommendation;
- (I) the judge’s sentencing decision as to a jail or probationary sentence;
- (J) the department of corrections’ programming decision, supervision practices, and its recommendation to release on parole; and
- (K) the parole board’s decision whether to grant parole.

(6) Vermont has become, and will continue to become, more racially diverse.

(7) Tolerance and concern for all people regardless of race, color, or national origin has long been part of the legacy of Vermont, the first state to outlaw slavery and a leader in prohibiting discrimination in public accommodation, employment, banking and insurance, education, and housing.

(8) It is critically important that officials from all three branches of government have access to the data and the analysis of that data to be able to knowledgeably investigate and assess the extent of racial and ethnic disparities in Vermont’s criminal justice system. This assessment is necessary to identify practices of criminal justice professionals that have a disparate impact on racial and ethnic minorities, so that remedies can be fashioned to address such practices promptly and effectively.