

Racial Justice Reform Coalition Proposed Amendment to S.281, dated January 31,
2017

Introduced by Senator Ingram

Referred to Committee on
Date:

Subject: Law enforcement; government operations; systemic racism

Statement of purpose of bill as introduced: This bill proposes a bill relating to the
Equity Commission for the Mitigation of Systemic Racism.

An act relating to the Equity Commission for 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. EQUITY COMMISSION FOR THE MITIGATION OF
SYSTEMIC RACISM

§ 5001. PURPOSE

(a) It is the intent of the General Assembly to create an independent Equity
Commission to mitigate systemic racism in all systems of state government and
public education throughout the state by:

(1) managing and overseeing the state-wide collection of race-based data and
ensuring such data are publicly available;

(2) creating and disseminating Model Fairness and Diversity Policy in
.....conjunction with stakeholders
in state government and public education; and

(3) providing model Systemic Racism Awareness Training and Education on
and how to combat it;

Racial Justice Reform Coalition Proposed Amendment to S.281, dated January 31, 2017

(4) advising all state government and public education institutions on systemic racism.

§ 5002. COMMISSION MEMBERSHIP; AUTHORITY

(a) On July 1, 2018, the Equity Commission for the Mitigation of Systemic Racism is established and shall consist of five members to be appointed by the Speaker of the House, with the advice and consent of the House Judiciary Committee, who shall designate one member to be its Chair. No more than three members shall be of the same political party. At least three members shall be of a racial minority.

(b) The members of the Commission shall be appointed for terms of five years each, except that of the members first appointed, the Speaker shall designate one for a term of one year, one for a term of two years, one for a term of three years and one for a term of four years. A member of the Commission appointed to fill a vacancy occurring other than by expiration of a term shall be appointed only for the unexpired portion of the term. Members of the Commission shall be eligible for reappointment.

(c) A member of the Commission whose term has expired or who resigned during a term shall be eligible to act as an alternate at the request of the Executive Director of the Commission if necessary to convene a quorum of the Commission. The alternate shall not be involved in setting the policies of the Commission.

Racial Justice Reform Coalition Proposed Amendment to S.281, dated January 31, 2017

(e) Each member of the Commission, including an alternate who is called to act, shall receive compensation as provided by 32 V.S.A. § 1010 with a maximum of \$1,000.00 a year, and shall be entitled to expenses actually and necessarily incurred in the performance of his or her duties.

(f) Three members of the Commission shall constitute a quorum. Alternate members may not make up a majority of a quorum.

(g) The sum of \$_____ is appropriated to the Commission from the General Fund in fiscal year 2019 for Executive Director salary, per diem compensation, and reimbursement of expenses for members of the Commission.

§ 5003. DUTIES AND POWERS

(a) The Commission shall manage and oversee the mitigation of systemic racism across the systems of state government and public schools by:

(1) creating a strategy for implementation of a centralized platform for race-based data collection;

(2) managing centralized data aggregation, correlation and public dissemination;

(3) developing a model Fairness and Diversity Policy and reviewing and making recommendations on the fairness and diversity policies of the all state systems and public schools;

(4) developing a training program for all state systems, public schools and the general public regarding the nature and scope of systemic racism and institutionalized nature of race-based bias, and

Racial Justice Reform Coalition Proposed Amendment to S.281, dated January 31, 2017

(5) advising and consulting with the Executive and Legislative Branches of State government on the assessment of the racial impact of policies and legislation.

(6) reporting back to the legislature on the progress of the Commission on or before January 31, 2019 and annually thereafter

(b) The powers of the Commission shall include the following:

(1) to maintain an office and hire employees as necessary to carry out its duties;

(2) to acquire on a contractual or other basis such necessary legal, technical, or research expertise and support services as it may require for the discharge of its duties;

(3) to publish periodic reports documenting the legal, economic, social, and political status, and other concerns of people of color in Vermont;

(4) to utilize such voluntary and uncompensated services of private individuals, agencies, and organizations as may, from time to time, be offered and needed;

(5) to accept and solicit funds, including any gifts, donations, grants, or bequests or any federal funds, for any Commission-related purposes.

§ 5004.

(a) The Commission shall:

Racial Justice Reform Coalition Proposed Amendment to S.281, dated January 31, 2017

(1) establish functional, and operational requirements in the development and deployment of an automated centralized system to aggregate and correlate all reported race data by June 30, 2019 (appropriations).

(2) create a Fairness and Diversity Model Policy and make it available to all state government and public education organizations by October 1, 2018.

(3) create global best practices, a training framework and standards for Systemic Racism Training and Education by January 1, 2019.

(b) State government and public education organizations shall work in consultation with the Commission to: _____

(1) create high impact, high discretion race data collection strategies, to include defining specific data to be collected by December 31, 2018 and submit collected race data to the Commission by April 1, 2019. (This should somehow be outcome-based) Standards-based.

(2) create a policy that comports to the Commission Model Policy and ensure that such policy is submitted to the Commission for review by March 1, 2019.

(3) create training plans and conduct Systemic Racism Training and Education to comport to the Commissions training framework and report on such training to the Commission on June 30, 2019 and annually thereafter.

Sec. 2. 20 V.S.A. 2366 is amended to add:

Racial Justice Reform Coalition Proposed Amendment to S.281, dated January 31, 2017

(e)(1) On or before June 30, 2019, every State, county, and municipal law enforcement agency shall collect roadside stop data consisting of the following:

(E) the type of use of force employed, if any

Sec. 3. 20 V.S.A. is amended to add:

§ 2368. Appropriate Use of Force, De-escalation and Cross-cultural Awareness

Policy

(a) On or before October 1, 2018, the Criminal Justice Training Council, in consultation with stakeholders, including the Vermont League of Cities and Towns, the Vermont Human Rights Commission, and Migrant Justice, shall create a model Appropriate Use of Force, De-escalation and Cross-cultural Awareness Policy. On or before January 1, 2019, every State, local, county, and municipal law enforcement agency and every constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of this title shall adopt a Appropriate Use of Force, De-escalation and Cross-cultural Awareness Policy that includes, at a minimum, the elements of the Criminal Justice Training Council model policy.

(b) If a law enforcement agency or constable that is required to adopt a policy pursuant to subsection (a) of this section

Racial Justice Reform Coalition Proposed Amendment to S.281, dated January 31, 2017

fails to do so on or before January 1, 2019, that agency or constable shall be deemed to have adopted, and shall follow and enforce, the model policy issued by the Criminal Justice Training Council.

(c) On or before September 15, 2019, and annually thereafter as part of their annual training report to the Council, every State, county, and municipal law enforcement agency and every constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of this title shall report to the Council whether the agency or officer has adopted a Appropriate Use of Force, De-escalation and Cross-cultural Awareness Policy in accordance with subsections (a) and (b) of this section. The Criminal Justice Training Council shall determine, as part of the Council's annual certification of training requirements, whether current officers have received training on Appropriate Use of Force, De-escalation and Cross-cultural Awareness Policy as required by 20 V.S.A. § 2358(f).

(d) On or before October 15, 2019, and annually thereafter on April 1, the Criminal Justice Training Council shall report to the House and Senate Committees on Judiciary which

Racial Justice Reform Coalition Proposed Amendment to S.281, dated January 31, 2017

departments and officers have adopted a Appropriate Use of Force, De-escalation and Cross-cultural Awareness Policy, and whether officers have received training on the Appropriate Use of Force, De-escalation and Cross-cultural Awareness Policy

(e) On or before October 1, 2019, and every even-numbered year thereafter, the Criminal Justice Training Council, in consultation with others, including the Attorney General and the Human Rights Commission, shall review and, if necessary, update the model Appropriate Use of Force, De-escalation and Cross-cultural Awareness Policy.

Sec. 4. 20 V.S.A. § 2358 amended to add:

(f)(1) The criteria for all minimum training standards under this section shall include Appropriate Use of Force, De-escalation and Cross Cultural Awareness' training approved by the Vermont Criminal Justice Training Council and training on the State, county, or municipal law enforcement agency's Appropriate Use of Force Policy, adopted pursuant to subsection 2368(a) of this title.

(2) On or before March 31, 2019, law enforcement officers shall receive a minimum of four hours of training as required by this subsection.

(3) In order to remain certified, law enforcement officers shall receive a refresher course on the training required by this subsection every year in a program approved by the Vermont Criminal Justice Training Council.

Racial Justice Reform Coalition Proposed Amendment to S.281, dated January 31, 2017

(4) The Criminal Justice Training Council shall, on an annual basis, report to the Equity Commission and the Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel regarding:

(A) the adoption and implementation of the Panel's recommended data collection methods and trainings and policies pursuant to 20 V.S.A. 2366.

(B) the incorporation of Appropriate Use of Force, De-escalation and cross cultural Awareness training into the requirements of basic training pursuant to this subsection;

(C) the implementation of all trainings as required by this subsection.

Sec. 5. 13 V.S.A. is amended:

~~§ 1454~~ **§ 1453.** Statement of Purpose

~~§ 1454.~~ **§ 1454.** Racial Profiling Prohibited

(a) As used in this section, “racial profiling” shall mean the disparate treatment of any person solely on the basis of race or ethnic origin by a law enforcement officer acting in an official capacity.

(b) No law enforcement officer as defined in 23 V.S.A. § 4(11) shall engage in racial profiling.

(c) The race or ethnicity of an individual shall not be the sole factor in determining the existence of probable cause to place a person in custody or arrest a person or in justifying the detention of an individual or the investigatory stop of a motor vehicle.

Racial Justice Reform Coalition Proposed Amendment to S.281, dated January 31, 2017

(d) A law enforcement officer who violates subsection (b) of this section shall be imprisoned not more than three years or fined not more than \$10,000.00, or both.

§ 1457. Civil liability and enforcement

Independent of any criminal prosecution or the result thereof, any person suffering damage, loss or injury as a result of conduct prohibited by sections ~~14554~~ ~~or~~ through 1456 of this title may bring an action for injunctive relief, compensatory and punitive damages, costs and reasonable attorneys fees, and other appropriate relief against any person who engaged in such conduct.

Sec. 6. 9 V.S.A. Chapter 141 is amended:

§ 4551. Human Rights Commission; members; compensation

a) The Human Rights Commission is hereby established. It shall consist of five members. One member shall be appointed by the Governor, with the advice and consent of the Senate; one member shall be appointed by the Senate, with the advise and consent of the House of Representatives, and three members shall be appointed by the House of Representatives, who shall designate one member to be its Chair. No more than three members shall be of the same political party. At least two members shall identify as people of color; at least two members shall identify as women; there shall be at least one person identifying as a member of the communities of LGBTQIA and disabled.

§ 4552. Duties; jurisdiction

(a) The Commission shall maintain a separation of roles of litigators and investigators to ensure the avoidance of inadvertent sharing of processes.

Racial Justice Reform Coalition Proposed Amendment to S.281, dated January 31, 2017

leading to conference conciliation and persuasion decisions by the commission.

(b) Appropriations

The sum of \$ _____ is appropriated to the Commission from the General Fund in fiscal year 2019 for Outreach Coordinator and Litigator salary, per diem compensation, and reimbursement of expenses for members of the Commission.

§ 4554. Complaint; investigation and conciliation

(a) ~~Upon receipt of such complaint under subsection (a) or (b) of this section, the Commission or its designated representative shall make every reasonable effort to resolve the matter by informal means prior to a determination whether there are reasonable grounds to believe that unlawful discrimination has occurred.~~

(b) ~~(c)~~

(c) ~~(d)~~

(d) ~~(e)~~

(e) ~~(f)~~

(f) ~~(g)~~

Sec. 7. EFFECTIVE DATE

This act shall take effect on passage.