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H.546

Introduced by Representatives Grad of Moretown, Christie of Hartford,
LaLonde of South Burlington, and Colston of Winooski
Referred to Committee on

Date:

Subject: Executive Branch; Agency of Administration; Executive Director of
Racial Equity; racial justice statistics

Statement of purpose of bill as introduced: This bill proposes to create the
Division of Racial Justice Statistics within the Agency of Administration.

An act relating to racial justice statistics

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

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

~~CHAPTER 68. EXECUTIVE DIRECTOR OFFICE OF RACIAL EQUITY~~

~~Subchapter 1. Executive Director of Racial Equity~~

~~* * *~~

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

~~* * *~~

~~(e) The Director shall oversee the Division of Racial Justice Statistics~~

~~(Division) established in subchapter 2 of this chapter.~~

1 ~~(1) The Director shall have general charge of the Division and may~~
2 ~~appoint employees as necessary to carry out the purposes of this chapter.~~

3 ~~(2) The Director may, in consultation with the Racial Justice Statistics~~
4 ~~Advisory Council, hire a deputy director to oversee the administration and~~
5 ~~operation of the Division.~~

6 ~~(3) The Director may apply for grant funding, if available, to advance or~~
7 ~~support any responsibility within the Division's jurisdiction.~~

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

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

15 * * *

16 Subchapter 2. Division of Racial Justice Statistics

17 § 5011. DIVISION OF RACIAL JUSTICE STATISTICS; CREATION;

18 PURPOSE

19 (a) Creation. There is created within the Office of Racial Equity the
20 Division of Racial Justice Statistics to collect and analyze data related to

1 ~~systemic racial bias and disparities within the criminal and juvenile justice~~
2 ~~systems.~~

3 (b) Purpose. The mission of the Division is to collect and analyze data
4 relating to racial disparities with the intent to center racial equity throughout
5 these efforts. The purpose of the Division is to create, promote, and advance a
6 system and structure that provides access to appropriate data and information,
7 ensuring that privacy interests are protected and principles of transparency and
8 accountability are clearly expressed. The data are to be used to inform policy
9 decisions that work toward the amelioration of racial disparities across various
10 systems of State government.

11 § 5012. DUTIES

12 (a) The Division shall have the following duties:

13 (1) Work collaboratively with, and have the assistance of, all State and
14 local agencies and departments for purposes of collecting all data related to
15 systemic racial bias and disparities within the criminal and juvenile justice
16 systems.

17 (2) Collect and analyze the data related to systemic racial bias and
18 disparities within the criminal and juvenile justice systems.

19 ~~(3) Conduct justice information sharing gap analyses.~~

1 (4) Maintain an inventory of justice technology assets and a data
2 dictionary to identify elements and structure of databases and relationships, if
3 any, to other databases.

4 (5) Develop a justice technology strategic plan, which shall be updated
5 annually. The justice technology strategic plan shall include identification and
6 prioritization of data needs and requirements to fulfill new or emerging data
7 research proposals or operational enhancements.

8 (6) Make recommendations for designing and implementing interfaces
9 and other technology solutions to address the needs identified in the justice
10 technology strategic plan.

11 (7) Develop interagency agreements and memorandums of
12 understanding for data sharing and publish public use files.

13 (8) Report its data, analyses, and recommendations to the Racial Justice
14 Statistics Advisory Council on a monthly basis.

15 (9) On or before January 15, 2023, and annually thereafter, report its
16 data, analyses, and recommendations to the House and Senate Committees on
17 Judiciary and on Government Operations.

18 (b) To carry out its duties under this subchapter, the Division shall adopt
19 procedural and substantive rules in accordance with the provisions of 3 V.S.A.
20 Chapter 25.

1 § 5013. DATA GOVERNANCE

2 (a) Data collection. The Division shall establish, by rule, the data to be
3 collected to carry out the duties of this subchapter.

4 (1) Data collected pursuant to this subchapter are not public records
5 subject to Vermont's Public Records Law, 1 V.S.A. § 315 et seq, and data
6 release shall be governed exclusively by data sharing agreements or
7 memoranda of understanding or in the form of public use files.

8 (2) The Division shall be granted access to the data of any State agency
9 or department it designates, by rule, as necessary for the Division to perform
10 the requirements and objectives of this subchapter. The Division may access
11 the data of a non-State entity pursuant to a data sharing agreement or
12 memorandum of understanding with the entity.

13 (3) The Division shall work with the Agency of Digital Services on the
14 collection and retention of data, data governance, and data security issues and
15 may contract with a third party vendor for the storage, management, and
16 retention of the data if so recommended by the Agency of Digital Services.

17 (4) The Division shall consult with the Racial Disparities in the
18 Criminal and Juvenile Justice Systems Advisory Panel and the Racial Justice
19 Statistics Advisory Council when establishing which data shall be collected
20 pursuant to this subchapter.

1 ~~(b) Data analysis. The Division shall analyze the data collected pursuant to~~
2 ~~this subchapter in order to:~~

3 ~~(1) identify the stages of the criminal and juvenile justice systems at~~
4 ~~which racial bias and disparities are most likely to occur;~~

5 ~~(2) organize and synthesize the data in a cohesive and logical manner so~~
6 ~~that it can be best presented and understood; and~~

7 ~~(3) present the data to the Racial Justice Statistics Advisory Council as~~
8 ~~required under this subchapter.~~

9 ~~(c) Data governance policy. The Division shall develop and adopt a data~~
10 ~~governance policy and shall establish:~~

11 ~~(1) a system or systems to standardize the collection and retention of the~~
12 ~~data collected pursuant to this subchapter; and~~

13 ~~(2) methods to permit sharing and communication of the data between~~
14 ~~the State agencies, local agencies, and external researchers, including the use~~
15 ~~of data sharing agreements.~~

16 ~~(d) Data retention. The Division shall recommend to State and local~~
17 ~~agencies evidence-based practices and standards for the collection and~~
18 ~~retention of racial justice data.~~

19 ~~(e) Publicly available data.~~

20 ~~(1) The Division shall maintain a public-facing website and dashboard~~
21 ~~that maximizes the transparency of the Division's work and ensures the ability~~

1 ~~of the public and historically impacted communities to review and understand~~
2 the data collected by the Division and its analyses.

3 (2) The Division shall develop public use data files.

4 § 5014. RACIAL JUSTICE STATISTICS ADVISORY COUNCIL

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

9 (b) Membership.

10 (1) Appointments. The Council shall consist of 18 members, as
11 follows:

12 (A) two members of the General Assembly, one to be appointed by
13 the Committee on Committees and one to be appointed by the Speaker of the
14 House;

15 (B) the Chief Justice of the Supreme Court or designee;

16 (C) the Attorney General or designee;

17 (D) the Defender General or designee;

18 (E) the Executive Director of the Department of State's Attorneys
19 and Sheriffs or designee;

20 (F) the Commissioner of Public Safety or designee;

21 ~~(G) the Commissioner for Children and Families or designee,~~

1 ~~(H) the Commissioner of Corrections or designee;~~

2 (I) the Secretary of Education or designee;

3 (J) the Executive Director of the Human Rights Commission or

4 designee;

5 (K) an individual with substantive expertise in community-based

6 research on racial equity, to be appointed by the Governor; and

7 (L) six individuals who have experienced one or more of the

8 following situations:

9 (i) facing eviction;

10 (ii) violence, discrimination, or criminal conduct, including law

11 enforcement misconduct;

12 (iii) moving to Vermont as an immigrant or refugee;

13 (iv) effects of racial disparities and discipline policies within the

14 educational system; or

15 (v) participation in treatment programs addressing mental health,

16 substance abuse, and reentry programs; and

17 (vi) appointments shall be made by the following entities, each of

18 which shall appoint one member: NAACP, Vermont Racial Justice Alliance,

19 Migrant Justice, AALV Inc., Vermont Commission on Native American

20 Affairs, and Outright Vermont.

1 ~~(2) Qualifications. Members shall be drawn from diverse backgrounds~~
2 ~~to represent the interests of communities of color and other historically~~
3 ~~disadvantaged communities throughout the State and, to the extent possible,~~
4 ~~have experience working to implement racial justice reform and represent~~
5 ~~geographically diverse areas of the State.~~

6 ~~(3) Terms. The term of each member shall be four years. As terms of~~
7 ~~currently serving members expire, appointments of successors shall be in~~
8 ~~accord with the provisions of this section. Appointments of members to fill~~
9 ~~vacancies or expired terms shall be made by the authority that made the initial~~
10 ~~appointment to the vacated or expired term. Members shall serve until their~~
11 ~~successors are elected or appointed. Members shall serve not more than two~~
12 ~~consecutive terms in any capacity.~~

13 ~~(4) Chair and terms. Members of the Council shall elect by majority~~
14 ~~vote the Chair of the Council. Members of the Council shall be appointed on~~
15 ~~or before November 1, 2022 in order to prepare as they deem necessary for the~~
16 ~~establishment of the Council, including the election of the Chair of the~~
17 ~~Council. Terms of members shall officially begin on January 1, 2023.~~

18 ~~(c) Duties. The Council shall have the following duties and~~
19 ~~responsibilities:~~

20 ~~(1) work with and assist the Director or designee to implement the~~
21 ~~requirements of this subchapter,~~

1 ~~(2) advise the Director to ensure ongoing compliance with the purpose~~
2 of this subchapter;

3 (3) evaluate the data and analyses received from the Division and make
4 recommendations to the Division as a result of the evaluations; and

5 (4) on or before January 15, 2023 and annually thereafter, report to the
6 House and Senate Committees on Judiciary and on Government Operations
7 on:

8 (A) its findings regarding systemic racial bias and disparities within
9 the criminal and juvenile justice systems based upon the data and analyses the
10 Council receives from the Division pursuant to subdivision 5012(a)(8) of this
11 subchapter; and

12 (B) a status report on progress made and recommendations for
13 further action, including legislative proposals, to address systemic racial bias
14 and disparities within the criminal and juvenile justice systems.

15 (d) Meetings. The Council shall meet monthly.

16 (e) Compensation. Each member of the Council shall be entitled to per
17 diem compensation and reimbursement of expenses pursuant to 32 V.S.A.
18 § 1010.

19 Sec. 2. RACIAL JUSTICE STATISTICS ADVISORY COUNCIL;

20 ~~IMPLEMENTATION~~

1 ~~(a) First meeting. The first meeting of the Racial Justice Statistics~~
2 Advisory Council shall be called by the Director of Racial Equity or designee.
3 All subsequent meetings shall be called by the Chair.

4 (b) Staggered terms. Notwithstanding Sec. 1 of this act, the initial terms of
5 the Council members beginning on January 1, 2023 shall be as follows:

6 (1) Members appointed pursuant to 3 V.S.A. § 5014(b)(1)(A)–(E) shall
7 be appointed to a two-year term.

8 (2) Members appointed pursuant to 3 V.S.A. § 5014(b)(1)(F)–(K) shall
9 be appointed to a three-year term.

10 (3) Members appointed pursuant to 3 V.S.A. § 5014(b)(1)(L) shall be
11 appointed to a four-year term.

12 Sec. 3. APPROPRIATION

13 In fiscal year 2023, \$539,960.00 is appropriated from the General Fund to
14 the Office of Racial Equity for the Division of Racial Justice Statistics.

15 Sec. 4. EFFECTIVE DATE

16 ~~This act shall take effect on July 1, 2022.~~

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

CHAPTER 68. EXECUTIVE DIRECTOR OFFICE OF RACIAL EQUITY

Subchapter 1. Executive Director of Racial Equity

** * **

§ 5003. DUTIES OF EXECUTIVE DIRECTOR OF RACIAL EQUITY

* * *

(e) The Director shall oversee the Division of Racial Justice Statistics (Division) established in subchapter 2 of this chapter.

(1) The Director shall have general charge of the Division and may appoint employees as necessary to carry out the purposes of this chapter.

(2) The Director may apply for grant funding, if available, to advance or support any responsibility within the Division's jurisdiction.

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

(f)(g) 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.

* * *

Subchapter 2. Division of Racial Justice Statistics

§ 5011. DIVISION OF RACIAL JUSTICE STATISTICS; CREATION;

PURPOSE

(a) Creation. There is created within the Office of Racial Equity the Division of Racial Justice Statistics to collect and analyze data related to

systemic racial bias and disparities within the criminal and juvenile justice systems.

(b) Purpose. The mission of the Division is to collect and analyze data relating to racial disparities with the intent to center racial equity throughout these efforts. The purpose of the Division is to create, promote, and advance a system and structure that provides access to appropriate data and information, ensuring that privacy interests are protected and principles of transparency and accountability are clearly expressed. The data are to be used to inform policy decisions that work toward the amelioration of racial disparities across various systems of State government.

§ 5012. DUTIES

(a) The Division shall have the following duties:

(1) Work collaboratively with, and have the assistance of, all State and local agencies and departments for purposes of collecting all data related to systemic racial bias and disparities within the criminal and juvenile justice systems.

(2) Collect and analyze the data related to systemic racial bias and disparities within the criminal and juvenile justice systems.

(3) Conduct justice information sharing gap analyses.

(4) Maintain an inventory of justice technology assets and a data dictionary to identify elements and structure of databases and relationships, if any, to other databases.

(5) Develop a justice technology strategic plan, which shall be updated annually. The justice technology strategic plan shall include identification and prioritization of data needs and requirements to fulfill new or emerging data research proposals or operational enhancements.

(6) Develop interagency agreements and memorandums of understanding for data sharing and publish public use files.

(7) Report its data, analyses, and recommendations to the Racial Justice Statistics Advisory Council on a monthly basis.

(b) On or before January 15, 2023, and annually thereafter, the Division shall report its data, analyses, and recommendations to the House and Senate Committees on Judiciary and on Government Operations. The report may include an operational assessment of the Division's structure and staffing levels, and any recommendations for necessary adjustments.

(c) To carry out its duties under this subchapter, the Division may adopt procedural and substantive rules in accordance with the provisions of chapter 25 of this title.

§ 5013. DATA GOVERNANCE

(a) Data collection. In consultation with the Racial Disparities in the Criminal and Juvenile Justice Systems Advisory Panel and the Racial Justice Statistics Advisory Council, the Division shall establish the data to be collected to carry out the duties of this subchapter.

(1) Any data or records transmitted to or obtained by the Division 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. A State or local agency or department that transmits data or records to the Division shall be the sole records custodian for purposes of responding to requests for the data or records. The Division may direct any request for these data or records to the transmitting agency or department for response, provided that the Division shall respond to a Public Records Act request for nonidentifying data used by the Division for preparation of the reports required by subdivision 5012(a)(7) and subsection 5012(b) of this title.

(2) The Division shall identify which State agencies or departments possess the data necessary for the Division to perform the requirements and objectives of this subchapter. An agency or department identified pursuant to this subdivision shall, upon request, provide the Division with any data that the Division determines is relevant to its purpose under subsection 5011(b) of this title, provided that the Office of the Defender General shall not be required to

make any disclosures that would violate 1 V.S.A. § 317(c)(3). The Division may access the data of a non-State entity pursuant to a data sharing agreement or memorandum of understanding with the entity.

(3) The Division shall, pursuant to section 218 of this title, establish, maintain, and implement an active and continuing management program for its records and information, including data, with support and services provided by the Vermont State Archives and Records Administration pursuant to section 117 of this title and the Agency of Digital Services pursuant to section 3301 of this title.

(b) Data analysis. The Division shall analyze the data collected pursuant to this subchapter in order to:

(1) identify the stages of the criminal and juvenile justice systems at which racial bias and disparities are most likely to occur;

(2) organize and synthesize the data in a cohesive and logical manner so that it can be best presented and understood; and

(3) present the data to the Racial Justice Statistics Advisory Council as required under this subchapter.

(c) Data governance policy. The Division shall develop and adopt a data governance policy and shall establish:

(1) a system or systems to standardize the collection and retention of the data collected pursuant to this subchapter; and

(2) methods to permit sharing and communication of the data between the State agencies, local agencies, and external researchers, including the use of data sharing agreements.

(d) Data collection. The Division shall recommend to State and local agencies evidence-based practices and standards for the collection of racial justice data.

(e) Publicly available data.

(1) The Division shall maintain a public-facing website and dashboard that maximizes the transparency of the Division's work and ensures the ability of the public and historically impacted communities to review and understand the data collected by the Division and its analyses.

(2) The Division shall develop public use data files.

§ 5014. RACIAL JUSTICE STATISTICS ADVISORY COUNCIL

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

(b) Membership.

(1) Appointments. The Council shall consist of seven members, as follows:

(A) an individual with substantive expertise in community-based research on racial equity, to be appointed by the Governor; and

(B)(i) six individuals who have experience with or knowledge about one or more of the following situations:

(I) facing eviction;

(II) violence, discrimination, or criminal conduct, including law enforcement misconduct;

(III) moving to Vermont as an immigrant or refugee;

(IV) effects of racial disparities and discipline policies within the educational system; or

(V) participation in treatment programs addressing mental health, substance use disorder, and reentry programs; and

(ii) appointments made pursuant to this subdivision (B) shall be made by the following entities, each of which shall appoint one member:

NAACP, Vermont Racial Justice Alliance, Migrant Justice, AALV Inc., Vermont Commission on Native American Affairs, and Outright Vermont.

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

(3) Terms. The term of each member shall be four years. As terms of currently serving members expire, appointments of successors shall be in accord with the provisions of this section. 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 appointed. Members shall serve not more than two consecutive terms in any capacity.

(4) Chair and terms. Members of the Council shall elect by majority vote the Chair of the Council. Members of the Council shall be appointed on or before November 1, 2022 in order to prepare as they deem necessary for the establishment of the Council, including the election of the Chair of the Council. Terms of members shall officially begin on January 1, 2023.

(c) Liaisons. The following entities shall each make available a person to serve as a liaison with the Council for purposes of providing consultation as needed:

(1) the Supreme Court;

(2) the Office of the Attorney General;

(3) the Office of the Defender General;

(4) the Department of State's Attorneys and Sheriffs;

(5) the Department of Public Safety;

(6) the Department for Children and Families;

(7) the Department of Corrections;

(8) the Agency of Education;

(9) the Human Rights Commission; and

(10) the Center for Crime Victims Services.

(d) Duties. The Council shall have the following duties and responsibilities:

(1) work with and assist the Director or designee to implement the requirements of this subchapter;

(2) advise the Director to ensure ongoing compliance with the purpose of this subchapter;

(3) evaluate the data and analyses received from the Division and make recommendations to the Division as a result of the evaluations; and

(4) on or before January 15, 2023 and annually thereafter; report to the House and Senate Committees on Judiciary and on Government Operations on:

(A) its findings regarding systemic racial bias and disparities within the criminal and juvenile justice systems based upon the data and analyses the Council receives from the Division pursuant to subdivision 5012(a)(7) of this subchapter; and

(B) a status report on progress made and recommendations for further action, including legislative proposals, to address systemic racial bias and disparities within the criminal and juvenile justice systems.

(e) Meetings. The Council shall meet monthly.

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

(g) This section shall be repealed on June 30, 2027.

Sec. 2. RACIAL JUSTICE STATISTICS ADVISORY COUNCIL;

IMPLEMENTATION

(a) First meeting. The first meeting of the Racial Justice Statistics Advisory Council shall be called by the Director of Racial Equity or designee.

All subsequent meetings shall be called by the Chair.

(b) Staggered terms. Notwithstanding Sec. 1 of this act, the initial terms of the Council members beginning on January 1, 2023 shall be as follows:

(1) Members appointed pursuant to 3 V.S.A. § 5014(b)(1)(A) and (b)(1)(B)(i)(I) shall be appointed to a two-year term.

(2) Members appointed pursuant to 3 V.S.A. § 5014(b)(1)(B)(i)(II) and (III) shall be appointed to a three-year term.

(3) Members appointed pursuant to 3 V.S.A. § 5014(b)(1)(B)(i)(IV) and (V) shall be appointed to a four-year term.

Sec. 3. DIVISION OF RACIAL JUSTICE STATISTICS; POSITIONS

The following new positions are created in the Division of Racial Justice Statistics:

(1) one full-time, exempt Division lead, who shall be an Information Technology Data Analyst; and

(2) two full-time, exempt Information Technology Data Analysts, at a level to be determined by the Division.

Sec. 4. APPROPRIATION

The following appropriations shall be made in fiscal year 2023:

(1) \$363,000.00 from the General Fund to the Office of Racial Equity for the Division of Racial Justice Statistics.

(2) \$3,360.00 from the General Fund to the Office of Racial Equity for per diem compensation and reimbursement of expenses under 32 V.S.A. § 1010 for members of the Racial Justice Statistics Advisory Council established by 13 V.S.A. § 5014.

(3) \$520,300.00 from the General Fund to the Agency of Digital Services to assist and support the Division of Racial Justice Statistics in the Office of Racial Equity.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2022.