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H.317

Representative Christie of Hartford moves that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

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

Chapter 68. EXECUTIVE DIRECTOR OF RACIAL EQUITY; RACIAL

JUSTICE STATISTICS

Subchapter 1. Executive Director of Racial Equity

* * *

Subchapter 2. Racial Justice Statistics

Sec. 1. 3 V.S.A. § 168a is added to read:

§ 168a. Bureau of Racial Justice Statistics

(a) There is created within the Executive Branch the Bureau of Racial Justice Statistics to collect and analyze data related to systemic racial bias and disparities within the criminal and juvenile justice systems. The Bureau shall be organized within and governed by the Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel.

(b)(1) The Bureau shall 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.

1 (2) For purposes of collecting data related to systemic racial bias and
2 disparities within the criminal and juvenile justice systems, the Bureau shall
3 facilitate collaboration between the following entities:

4 (A) the Vermont Crime Research Group;

5 (B) the Vermont Chief Performance Officer;

6 (C) the Vermont Chief Data Officer;

7 (D) the National Center for Restorative Justice;

8 (E) the University of Vermont; and

9 (F) any other entity that would be of assistance to the Bureau.

10 (c) The Bureau shall coordinate the collaboration of the entities identified
11 in subdivision (b)(2) of this section for purposes of collecting the following
12 data related to systemic racial bias and disparities within the juvenile justice
13 system:

14 (1) demographic data for offenders, parents or guardians of offenders,
15 attorneys, judges, guardians ad litem, Department of Children and Families
16 (DCF) and law enforcement officers, and witnesses;

17 (2) data regarding offenders' encounters with law enforcement officers,
18 DCF staff, mandatory reporters, school staff, and school resource officers,
19 including:

20 (A) the location of the encounter and with whom it occurred;

- 1 (B) whether initial encounters resulted in release, citations, or
2 custodial arrests;
- 3 (C) the basis for initial arrests;
- 4 (D) the level and length of detention prior to the initial court
5 appearance;
- 6 (E) reports by mandated reporters; and
- 7 (F) data regarding particular schools' encounters with justice-
8 involved youth;
- 9 (3) pre- and post-charge diversion and community justice program data,
10 including:
- 11 (A) referral rates and the entity making the referral;
- 12 (B) acceptance and rejection data;
- 13 (C) the length of the program and completion and failure rates; and
- 14 (D) the type, location, and outcomes for any risk assessment tools
15 used;
- 16 (4) delinquency petition data, including initial and amended charges,
17 challenges to charges, and pre-merits dispositions by the court;
- 18 (5) defense counsel data, including the counsel's legal experience and
19 the offender's access to and assignment of defense counsel during all stages of
20 the proceeding;

1 (6) data regarding pretrial detention, release, and discharge from
2 custody, including custody status; conditions of release; level, place, and
3 duration of detentions; custody reviews; status changes; and the number of
4 placement changes;

5 (7) plea agreement data, including offers made, total numbers of
6 agreements entered into, and elements of final agreements;

7 (8) disposition data, including:

8 (A) length of time until final disposition;

9 (B) minimum and maximum sentences; location and level of
10 detentions; fines, fees, and restitution; probation terms and conditions; and
11 other disposition alternatives; and

12 (9) data regarding sanctions and disciplinary actions against juvenile
13 justice system participants, including law enforcement officers, prosecutors,
14 defense counsel, judges, and Department of Corrections (DOC) and DCF
15 officers.

16 (d) The Bureau shall coordinate the collaboration of the entities identified
17 in subdivision (b)(2) of this section for purposes of collecting the following
18 data related to systemic racial bias and disparities within the adult criminal
19 justice system:

20 (1) demographic data for defendants, attorneys, judges, jurors, DOC and
21 law enforcement officers, and witnesses;

1 (2) Pre-charge data, including:

2 (A) initial encounters with law enforcement officers resulting in
3 release, citation, or custodial arrests;

4 (B) custodial arrests resulting in bail or conditions of release; and

5 (C) length of pre-arraignment detentions;

6 (3) diversion and community justice program data, including the number
7 of cases eligible for referral, the number of cases referred, and acceptance and
8 completion rates;

9 (4) charging data, including the circumstances around the charges, initial
10 and amended charges filed, challenges to charges, and pre-trial dispositions
11 relating to charges;

12 (5) defense counsel data, including the counsel’s legal experience and
13 the offender’s access to and assignment of defense counsel during all stages of
14 the proceeding;

15 (6) post charge diversion and treatment program data, including:

16 (A) referral rates and the entity making the referral;

17 (B) acceptance and rejection data;

18 (C) the length of the program and completion and failure rates; and

19 (D) the type, location, and outcomes for any risk assessment tools
20 used;

21 (7) pretrial detention and release data, including:

1 (A) conditions of release, bail amounts, and defendants held without
2 bail;

3 (B) bail reviews and changes to pre-trial detention status or
4 conditions of release; and

5 (C) revocation of bail or conditions of release;

6 (8) plea agreement data, including offers made, total numbers of
7 agreements entered into, and elements of final agreements;

8 (9) sentencing data, including:

9 (A) length of time until final sentence;

10 (B) minimum and maximum sentences; location and level of
11 detentions; fines, fees, and restitution; probation terms and conditions; and
12 other disposition alternatives; and

13 (10) data regarding sanctions and disciplinary actions against juvenile
14 justice system participants, including law enforcement officers, prosecutors,
15 defense counsel, judges, and DOC and DCF officers.

16 (e) The Bureau, in consultation with the entities identified in subdivision
17 (b)(2) of this section, shall analyze the data collected pursuant to this section in
18 order to:

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

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

3 (f) The Bureau, in consultation with the entities identified in subdivision
4 (b)(2) of this section, shall:

5 (1) develop a system to standardize the data collected pursuant to this
6 section;

7 (2) propose methods to permit sharing and communication of the data
8 between the State and local agencies and departments that collect and retain it;
9 and

10 (3) recommend evidence-based practices and standards for collection
11 and retention of racial justice data.

12 (g) The Bureau shall maintain a public-facing website and dashboard that
13 maximizes the transparency of the Bureau’s work and assures the ability of the
14 public and historically impacted communities to review and understand the
15 data collected by the Bureau and its analysis.

16 (h)~~(4)~~ On or before December 15, 2021 and monthly thereafter, the Bureau
17 shall report its data, analyses, and recommendations to the ~~Panel~~ Bureau of
18 Racial Justice Statistics Subcommittee established by subsection 168(g) of this
19 title in the Racial Disparities in the Criminal and Juvenile Justice System
20 Advisory Panel.

1 ~~(2) On or before January 15, 2022 and annually thereafter, the Bureau~~
2 ~~shall report its data, analyses, and recommendations to the House and Senate~~
3 ~~Committees on Judiciary and on Government Operations.~~

4 ~~§ 5102. BUREAU OF RACIAL JUSTICE STATISTICS ADVISORY~~

5 ~~————— PANEL~~

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

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

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

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

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

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

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

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

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

19 (4) Members of the Panel shall elect by majority vote the Chair of the
20 Panel, who shall serve for a term of three years after the implementation
21 period. Members of the Panel shall be appointed on or before September 1,

1 ~~2021 in order to prepare as they deem necessary for the establishment of the~~
2 ~~Panel, including the election of the Chair of the Panel. Terms of members~~
3 ~~shall officially begin on January 1, 2022.~~

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

5 ~~(1) work with and assist the Executive Director of the Bureau of Racial~~
6 ~~Justice Statistics to implement the requirements of section 5001 of this title;~~

7 ~~(2) advise the Executive Director to ensure ongoing compliance with the~~
8 ~~purpose of this chapter;~~

9 ~~(3) evaluate the data and analyses received from the Bureau pursuant to~~
10 ~~subdivision 5001(f)(1) of this title and make recommendations to the Bureau as~~
11 ~~a result of the evaluations; and~~

12 ~~(4) on or before January 15, 2022 and annually thereafter, report to the~~
13 ~~House and Senate Committees on Judiciary and on Government Operations on:~~

14 ~~(A) its findings regarding systemic racial bias and disparities within~~
15 ~~the criminal and juvenile justice systems based upon the data and analyses the~~
16 ~~Panel receives from the Bureau pursuant to subdivision 5001(f)(1) of this title;~~
17 ~~and~~

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

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

3 Sec. 2. 3 V.S.A. § 168 is amended to read:

4 **§ 168. RACIAL DISPARITIES IN THE CRIMINAL AND JUVENILE**
5 **JUSTICE SYSTEM ADVISORY PANEL**

6 (a) The Racial Disparities in the Criminal and Juvenile Justice System
7 Advisory Panel is established. The Panel shall be organized and have the duties
8 and responsibilities as provided in this section. The Panel shall be organized
9 within the Office of the Attorney General and shall consult with the Vermont
10 Human Rights Commission, the Vermont chapter of the ACLU, the Vermont
11 Police Association, the Vermont Sheriffs' Association, the Vermont
12 Association of Chiefs of Police, and others.

13 (b) The Panel shall comprise the following ~~13~~ 14 members:

14 (1) five members, drawn from diverse backgrounds to represent the
15 interests of communities of color throughout the State, who have had
16 experience working to implement racial justice reform, appointed by the
17 Attorney General;

18 (2) the Executive Director of the Vermont Criminal Justice Council or
19 designee;

20 (3) the Attorney General or designee;

21 (4) the Defender General or designee;

1 (5) the Executive Director of the State’s Attorneys and Sheriffs or
2 designee;

3 (6) the Chief Superior Judge or designee;

4 (7) the Commissioner of Corrections or designee;

5 (8) the Commissioner of Public Safety or designee; **and**

6 (9) the Commissioner for Children and Families or designee; **and**

7 **(10) the Executive Director of Racial Equity.**

8 (c) The members of the Panel appointed under subdivision (b)(1) of this
9 section shall serve staggered four-year terms. As terms of currently serving
10 members expire, appointments of successors shall be in accord with the
11 provisions of subsection (b) of this section. Appointments of members to fill
12 vacancies or expired terms shall be made by the authority that made the initial
13 appointment to the vacated or expired term. Members of the Panel shall be
14 eligible for reappointment. Members of the Panel shall serve no more than two
15 consecutive terms in any capacity.

16 (d) Members of the Panel shall elect biennially by majority vote the Chair
17 of the Panel. Members of the Panel who are not State employees or whose
18 participation is not supported through their employment or association shall
19 receive per diem compensation and reimbursement of expenses pursuant to 32
20 V.S.A. § 1010, to be provided by the Office of the Attorney General. The

1 Office of the Attorney General shall provide the Panel with administrative and
2 professional support. The Panel may meet up to ten times per year.

3 (e) A majority of the members of the Panel shall constitute a quorum, and
4 all action shall be taken upon a majority vote of the members present and
5 voting.

6 (f) The Panel shall review and provide recommendations to address
7 systemic racial disparities in statewide systems of criminal and juvenile justice,
8 including:

9 (1) continually reviewing the data collected pursuant to 20 V.S.A. § 2366
10 to measure State progress toward a fair and impartial system of law
11 enforcement;

12 (2) providing recommendations to the Criminal Justice Council and the
13 Vermont Bar Association, based on the latest social science research and best
14 practices in law enforcement and criminal and juvenile justice, on data
15 collection and model trainings and policies for law enforcement, judges,
16 correctional officers, and attorneys, including prosecutors and public
17 defenders, to recognize and address implicit bias;

18 (3) providing recommendations to the Criminal Justice Council, based on
19 the latest social science research and best practices in law enforcement, on data
20 collection and a model training and policy on de-escalation and the use of force
21 in the criminal and juvenile justice system;

1 (4) educating and engaging with communities, businesses, educational
2 institutions, State and local governments, and the general public about the
3 nature and scope of racial discrimination in the criminal and juvenile justice
4 system;

5 (5) monitoring progress on the recommendations from the 2016 report of
6 the Attorney General’s Working Group on Law Enforcement Community
7 Interactions; and

8 (6) on or before January 15, 2018, and biennially thereafter, reporting to
9 the General Assembly, and providing as a part of that report recommendations
10 to address systemic implicit bias in Vermont’s criminal and juvenile justice
11 system, including:

12 (A) how to institute a public complaint process to address perceived
13 implicit bias across all systems of State government;

14 (B) whether and how to prohibit racial profiling, including
15 implementing any associated penalties; and

16 (C) whether to expand law enforcement race data collection practices
17 to include data on nontraffic stops by law enforcement.

18 (g)(1) The Panel shall establish a Bureau of Racial Justice Statistics
19 Subcommittee, which shall have the duties and responsibilities provided for in
20 this subsection. The Subcommittee shall consist of 5 Panel members selected
21 by the Chair with the advice and consent of the Panel.

1 (2) The Panel Subcommittee shall have the following duties and
2 responsibilities:

3 (A) work with and assist the Executive Director of the Bureau of
4 Racial Justice Statistics to implement the requirements of section ~~5001~~ 168a of
5 this title;

6 (B) advise the Executive Director to ensure ongoing compliance with
7 the purpose of this chapter;

8 (C) evaluate the data and analyses received from the Bureau pursuant
9 to subdivision ~~5001(f)(1)~~ 168a(h) of this title and make recommendations to
10 the Bureau as a result of the evaluations; and

11 (D) on or before January 15, 2022 and annually thereafter, report to
12 the House and Senate Committees on Judiciary and on Government Operations
13 on:

14 (i) its findings regarding systemic racial bias and disparities within
15 the criminal and juvenile justice systems based upon the data and analyses the
16 Panel Subcommittee receives from the Bureau pursuant to subdivision
17 ~~5001(f)(1)~~ 168a(h) of this title; and

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

21

1 Sec. 2. BUREAU OF RACIAL JUSTICE STATISTICS; POSITIONS

2 The following new permanent positions are created in the Bureau of Racial
3 Justice Statistics within the Racial Disparities in the Criminal and Juvenile
4 Justice Systems Advisory Panel:

5 (1) one full-time, exempt Executive Director of the Bureau, who shall be
6 an Information Technology Data Analyst; and

7 (2) two full-time, exempt Information Technology Data Analysts; and

8 (2) one full-time, classified Administrative Assistant.

9 Sec. 3. APPROPRIATION

10 In fiscal year 2022, \$539,960.00 is appropriated from the General Fund to
11 the Bureau of Racial Justice Statistics in the Agency of Administration Racial
12 Disparities in the Criminal and Juvenile Justice Systems Advisory Panel.

13 Sec. 4. EFFECTIVE DATE

14 This act shall take effect on July 1, 2022.

15