

DRAFT FOR DISCUSSION

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on General, Housing, and Military Affairs to which was
3 referred House Bill No. 96 entitled “An act relating to creating the Truth and
4 Reconciliation Commission Development Task Force” respectfully reports that
5 it has considered the same and recommends that the bill be amended by
6 striking out all after the enacting clause and inserting in lieu thereof the
7 following:

8 Sec. 1. INTENT

9 It is the intent of the General Assembly to establish the Vermont Truth and
10 Reconciliation Commission to:

11 (1) examine and begin the process of dismantling [State-sanctioned?]
12 institutional, structural, and systemic discrimination in Vermont, both past and
13 present;

14 (2) establish a public record of [State-sanctioned?] institutional,
15 structural, and systemic discrimination in Vermont; and

16 (3) identify potential actions that can be taken by the State to repair the
17 damage caused by [State-sanctioned?] institutional, structural, and systemic
18 discrimination in Vermont and prevent the recurrence of such discrimination in
19 the future.

20 Sec. 2. 1 V.S.A. chapter 25 is added to read:

21 CHAPTER 25. TRUTH AND RECONCILIATION COMMISSION

DRAFT FOR DISCUSSION

1 § 901. DEFINITIONS

2 As used in this chapter:

3 (1) “Commission” means the Vermont Truth and Reconciliation
4 Commission, including its commissioners, committees, and staff.

5 (2) “Consultation” means a meaningful and timely process of seeking,
6 discussing, and considering carefully the views of others in a manner that is
7 cognizant of all parties’ cultural values and, where feasible, seeking agreement.

8 (3) “Panel” means the Selection Panel established pursuant to section
9 904 of this chapter.

10 (4) “Record” means any written or recorded information, regardless of
11 physical form or characteristics.

12 § 902. VERMONT TRUTH AND RECONCILIATION COMMISSION;
13 ESTABLISHMENT; ORGANIZATION

14 (a) There is created and established a body corporate and politic to be
15 known as the Vermont Truth and Reconciliation Commission to carry out the
16 provisions of this chapter. The Truth and Reconciliation Commission is
17 constituted a public instrumentality exercising public and essential government
18 functions and the exercise by the Commission of the power conferred by this
19 chapter shall be deemed and held to be the performance of an essential
20 governmental function.

DRAFT FOR DISCUSSION

1 (b)(1) The Commission shall consist of three commissioners appointed
2 pursuant to section 905 of this chapter and shall include one or more
3 committees established by the commissioners to examine [State-sanctioned?]
4 institutional, structural, and systemic discrimination experienced by each of the
5 following populations in Vermont:

6 (A) individuals who identify as Native American or Indigenous;

7 (B) individuals with a disability [change to more appropriate
8 terminology?];

9 (C) individuals of color; and

10 (D) in the commissioners' discretion, other populations that have
11 experienced institutional, structural, and systemic discrimination.

12 (2) Each committee shall consist of the commissioners and citizen
13 [different term?] members appointed by the commissioners in consultation
14 with appropriate stakeholders.

15 § 903. COMMISSIONERS

16 (a) Commissioners shall be full-time State employees and shall be exempt
17 from the State classified system.

18 (b) The commissioners shall receive compensation equal to one-half that of
19 a Superior Court Judge.

20 (c)(1) The term of each commissioner shall begin on the date of
21 appointment and end on July 1, 2026.

DRAFT FOR DISCUSSION

1 (2) Commissioners may be removed by the Selection Panel for
2 incompetence, failure to discharge the commissioner’s duties, malfeasance, or
3 illegal acts.

4 (3) A vacancy occurring during the term of a commissioner shall be
5 filled by the Panel for the remainder of the unexpired term.

6 § 904. SELECTION PANEL; MEMBERSHIP; DUTIES

7 (a)(1) The Selection Panel shall be composed of seven members selected
8 on or before September 1, 2022 [Change date?] by a majority vote of the
9 following stakeholders:

10 (A) the Executive Director of Racial Equity or designee;

11 (B) the Executive Director of the Human Rights Commission or
12 designee;

13 (C) four individuals representing the Native American Indian tribes
14 recognized pursuant to 1 V.S.A. chapter 23, one from each recognized tribe,
15 who shall be appointed according to a procedure determined by the tribe;

16 (D) two individuals appointed by the Vermont Commission of Native
17 American Affairs, who shall identify as a Native American Indian but shall not
18 be a member of a tribe recognized by the State pursuant to 1 V.S.A.
19 chapter 23;

DRAFT FOR DISCUSSION

1 (E) an individual with a developmental disability [change to more
2 appropriate terminology or just “an individual...”?], appointed by the Green
3 Mountain Self Advocates;

4 (F) an individual with a psychiatric disability [change to more
5 appropriate terminology or just “an individual...”?], appointed by the Vermont
6 Psychiatric Survivors;

7 (G) an individual who has a disability or advocates for individuals
8 with a disability, or both [change to more appropriate terminology or just “an
9 individual...”?], appointed by the Vermont Developmental Disability Council;

10 (H) an individual who has a disability or advocates for individuals
11 with a disability, or both [change to more appropriate terminology or just “an
12 individual...”?], appointed by the Vermont Center for Independent Living;

13 (I) an individual who has a disability or advocates for individuals
14 with a disability, or both [change to more appropriate terminology or just “an
15 individual...”?], appointed by the Vermont Coalition for Disability Rights;

16 (J) an individual appointed by the Racial Equity Advisory Panel;

17 (K) an individual jointly appointed by the Champlain Area, Rutland
18 Area, and Windham County branches of the NAACP [should the NAACP
19 chapters separately appoint three individuals instead of jointly appointing
20 one?];

21 (L) an individual appointed by Black Lives Matter of Vermont;

DRAFT FOR DISCUSSION

- 1 (M) an individual appointed by Justice For All;
- 2 (N) an individual appointed by the Vermont Racial Justice Alliance;
- 3 (O) an individual appointed by the Association of African Americans
4 Living in Vermont;
- 5 (P) an individual appointed by the New Americans Advisory
6 Council;
- 7 (Q) an individual appointed by the Clemmons Family Farm;
- 8 (R) an individual appointed by Migrant Justice;
- 9 (S) an individual appointed by the Peace and Justice Center;
- 10 (T) an individual appointed by the Root Social Justice Center;
- 11 (U) an individual appointed by the Vermont Partnership for Fairness
12 and Diversity;
- 13 (V) an individual appointed by the U.S. Committee for Refugees and
14 Immigrants Vermont;
- 15 (W) an individual appointed by MadFreedom;
- 16 (X) an individual appointed by Pathways Vermont;
- 17 (Y) an individual appointed by Another Way Community Center;
- 18 (Z) an individual appointed by Alyssum Peer Respite;
- 19 (AA) a current member of the House of Representatives appointed by
20 the Speaker of the House; and

DRAFT FOR DISCUSSION

1 (BB) a current member of the Senate appointed by the Committee on
2 Committees.

3 (2) The stakeholders shall hold their first meeting on or before August 1,
4 2022 at the call of the Executive Director of the Human Rights Commission.

5 (3) Stakeholders shall be entitled to per diem compensation and
6 reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than
7 two meetings [more?].

8 (b)(1) The Selection Panel shall select and appoint the commissioners of
9 the Truth and Reconciliation Commission as provided pursuant to section 905
10 of this chapter.

11 (2) To enable it to carry out its duty to select and appoint the
12 commissioners of the Truth and Reconciliation Commission as provided
13 pursuant to section 905 of this chapter, the Panel may:

14 (A) adopt procedures as necessary to carry out the duties set forth in
15 section 905 of this chapter;

16 (B) establish and maintain a principal office;

17 (C) meet and hold hearings at any place in this State; and

18 (D) hire temporary staff to work during the period from September 1,
19 2022 through December 31, 2022.

20 (3) [Add language permitting commission to conduct a criminal history
21 record check?]

DRAFT FOR DISCUSSION

1 (c)(1) The term of each member of the Panel shall begin on the date of
2 appointment and end on July 1, 2026.

3 (2) Members of the Panel may be removed by a majority vote of the
4 stakeholders identified in subdivision (a)(1) of this section for incompetence,
5 failure to discharge the member’s duties, malfeasance, or illegal acts.

6 (3) A vacancy occurring during the term of a member of the Panel shall
7 be filled by the stakeholders identified in subdivision (a)(1) of this section for
8 the remainder of the unexpired term.

9 (d) The Panel shall select a chair and a vice chair from among its members.

10 (e)(1) Meetings shall be held at the call of the Chair or at the request of
11 four or more members of the Panel.

12 (2) A majority of the current membership of the Panel shall constitute a
13 quorum, and actions of the Panel may be authorized by a majority of the
14 members present and voting at a meeting of the Panel.

15 (f) Notwithstanding 32 V.S.A. § 1010, members shall be entitled to per
16 diem compensation of \$.00 [Amount needs to be determined] plus
17 reimbursement of expenses for attendance at not more than 20 meetings during
18 calendar year 2022 and for additional meetings from January 1, 2023 through
19 July 1, 2026 as necessary to carry out its duties. These payments shall be made
20 from the Truth and Reconciliation Commission Special Fund.

DRAFT FOR DISCUSSION

1 § 905. **SELECTION OF COMMISSIONERS**

2 (a)(1) On or before December 31, 2022, the Selection Panel shall select
3 three individuals to serve as the commissioners of the Vermont Truth and
4 Reconciliation Commission.

5 (2) In carrying out its duty to select the commissioners, the Panel shall:

6 (A) **Establish** a public, transparent, and simple process for candidates
7 to apply to serve as a commissioner.

8 (B) **Publicize** the application process, deadlines, and requirements to
9 serve as a commissioner through media outlets, civil society organizations, and
10 any other forms of public outreach that the Panel determines to be appropriate.

11 (C) **Solicit** nominations for individuals to serve as commissioners
12 from civil society organizations in Vermont whose work relates to the mission
13 of the Commission.

14 (D) **Invite** Vermont residents to submit applications to serve as
15 commissioners.

16 (E) **Publish** the names of all applicants who have applied to serve as
17 commissioners **[all finalists?]** and provide not less than 30 days for members of
18 the public to submit **comments on** the suitability of any applicant **[finalist?]** to
19 serve as a commissioner. **Public comments regarding an applicant [finalist?]**
20 **shall only be considered by the Panel if the comment includes the name and**
21 **contact information of the commenter. Comments received by the Panel shall**

DRAFT FOR DISCUSSION

1 be exempt from public inspection and copying pursuant to the Public Records
2 Act and shall be kept confidential, except that comments that may be
3 detrimental to an applicant's [finalist's?] application shall be shared with the
4 applicant [finalist?] and the applicant [finalist?] shall be provided with an
5 opportunity to provide the Panel with a response to the comment.

6 (F) Hold one or more public hearings to provide an opportunity for
7 members of the public to comment on the suitability of any finalist to serve as
8 a commissioner.

9 (G) Hold private [public?] interviews for each individual selected by
10 the Panel as a finalist for selection as a commissioner.

11 (H) Take any other actions that the Panel deems appropriate or
12 necessary to carry out its duties in relation to the selection of commissioners.

13 (3) The three commissioners selected by the Panel shall:

14 (A) be residents of Vermont;

15 (B) not be members of the Selection Panel;

16 (C) have knowledge of the problems and challenges facing racial,
17 Indigenous, tribal, and disabled populations in Vermont;

18 (D) have experience advocating in relation to the issues of racial,
19 Indigenous, tribal, or disabled populations in Vermont;

DRAFT FOR DISCUSSION

1 (E) have demonstrated leadership in programs or activities to
2 improve opportunities for racial, Indigenous, tribal, or disabled populations in
3 Vermont; and

4 (F) satisfy any additional criteria established by the Panel.

5 (b) Not later than 5 days after selecting the commissioners pursuant to
6 subsection (a) of this section, the Panel shall submit a brief report to the
7 Governor and the General Assembly identifying the commissioners. The
8 names of the commissioners shall be made available to the public on the same
9 day that the report is submitted.

10 (c)(1) If the Panel is unable identify three suitable applicants by December
11 31, 2022, the Panel may by a majority vote extend the time to select
12 commissioners to March 31, 2023.

13 (2) If the Panel extends the time to select commissioners pursuant to this
14 subsection, the Panel shall, on or before January 5, 2023, submit a brief written
15 report the House Committee on General, Housing, and Military Affairs and the
16 Senate Committee on Economic Development, Housing and General Affairs
17 providing notice of its decision to extent the time to select commissioners and
18 its reasons for doing so and identifying any changes to the provisions of this
19 chapter that may be necessary to enable the Panel to successfully identify and
20 select commissioners.

DRAFT FOR DISCUSSION

1 § 906. POWERS AND DUTIES OF THE COMMISSIONERS

2 (a) Duties. The commissioners shall:

3 (1) establish, in consultation with the stakeholders identified in
4 subdivision 904(a)(1) of this chapter and other stakeholders in the
5 commissioners' discretion, committees to examine institutional, structural, and
6 systemic discrimination [caused or permitted by State laws and policies that
7 has been] experienced by each of the following populations in Vermont:

8 (A) individuals who identify as Native American or Indigenous;

9 (B) individuals with a disability [change to more appropriate
10 terminology?];

11 (C) individuals of color; and

12 (D) in the commissioners' discretion, other populations that have
13 experienced institutional, structural, and systemic discrimination in Vermont
14 [caused or permitted by State laws and policies];

15 (2) determine, in consultation with the stakeholders identified in
16 subdivision 904(a)(1) of this chapter [, historians, social scientists, experts in
17 restorative justice,] and other stakeholders in the commissioners' discretion,
18 the scope and objectives of the work to be carried out by each committee
19 established pursuant to subdivision (1) of this subsection;

DRAFT FOR DISCUSSION

1 (3) develop and implement a process for each committee established
2 pursuant to subdivision (1) of this subsection to fulfill the objectives
3 established pursuant to subdivision (2) of this subsection;

4 (4) work with the committees and Commission staff to carry out
5 research, public engagement, and other work necessary to:

6 (A) identify and examine historic and ongoing institutional,
7 structural, and systemic discrimination against members of racial, Indigenous,
8 tribal, and disabled populations in Vermont [that has been caused or permitted
9 by State laws and policies];

10 (B) determine the current status of members of racial, Indigenous,
11 tribal, and disabled populations in Vermont; and

12 (C) satisfy the scope of work and the objectives established pursuant
13 to subdivision (1) of this subsection (a);

14 (5) work with the committees and Commission staff to promote,
15 implement, and coordinate programs and activities to create and improve
16 opportunities for or to eliminate disparities experienced by the populations that
17 are the subject of the committees' work;

18 (6) work with the committees and Commission staff to promote,
19 implement, and coordinate educational programs related to historic and
20 ongoing institutional, structural, and systemic discrimination against members
21 of the populations that are the subject of the committees' work;

DRAFT FOR DISCUSSION

1 (7) work in consultation with the stakeholders identified in subdivision
2 904(a)(1) of this chapter [, experts in restorative justice,] and, in the
3 commissioners’ discretion, other stakeholders to ensure that the work of the
4 Commission is open, transparent, inclusive, and meaningful;

5 (8) seek gifts, donations, and grants from public and private sources to
6 support the Commission and its work; and

7 (9) supervise the work of the Executive Director of the Commission.

8 (b) Powers. To carry out its duties pursuant to this chapter, the
9 commissioners may:

10 (1) Adopt rules in accordance with 3 V.S.A. chapter 25 as necessary to
11 implement the provisions of this chapter.

12 (2) Adopt procedures as necessary to carry out the duties set forth in
13 subsection (a) of this section.

14 (3) Establish and maintain a principal office.

15 (4) Meet and hold hearings at any place in this State.

16 (5) Consult with local, national, and international experts on issues
17 related to discrimination, truth and reconciliation, and restorative justice.

18 (6) Interview and take statements from members of racial, Indigenous,
19 tribal, and disabled populations in Vermont; members of the public; and
20 persons with knowledge of the institutional, structural, and systemic
21 discrimination experienced by such populations.

DRAFT FOR DISCUSSION

1 (7) Study, research, investigate, and report on the impact of State actions
2 in relation to racial, Indigenous, tribal, disabled, and, in the Commissioners’
3 discretion, other populations in Vermont. If the Commission determines that
4 the actions constituted institutional, structural, and systemic discrimination
5 against a population, regardless of whether the discrimination was intentional
6 or adversely impacted a population, the Commission may propose legislative
7 or administrative action to the General Assembly or Governor, as appropriate,
8 to remedy the impacts on the population.

9 (8) Enter into cooperative agreements with private organizations or
10 individuals or with any agency or instrumentality of the United States or of this
11 State to carry out the provisions of this chapter.

12 (9) Make and execute legal documents necessary or convenient for the
13 exercise of its powers and duties under this chapter.

14 (10) Hire consultants and independent contractors to assist the
15 Commission in carrying out the provisions of this chapter.

16 (11) Take any other actions necessary to carry out the provisions of this
17 chapter.

18 § 907. EXECUTIVE DIRECTOR; DUTIES

19 (a) The Commissioners shall appoint an Executive Director, who shall be
20 an individual with experience in relation to racial justice or advocating on
21 behalf of historically disadvantaged groups. The Executive Director shall be a

DRAFT FOR DISCUSSION

1 full-time State employee, shall be exempt from the State classified system, and
2 shall serve at the pleasure of the commissioners.

3 (b) The Executive Director shall be responsible for the following:

4 (1) supervising and administering the implementation of the provisions
5 of this chapter on behalf of the commissioners;

6 (2) assisting the commissioners in carrying out their duties;

7 (3) ensuring that the Commission has the resources and staff assistance
8 necessary to collect historical materials, take statements from individuals, hold
9 public hearings and events, and prepare and publish reports and other
10 documents;

11 (4) facilitating communications between the Commission and
12 stakeholders and members of the public;

13 (5) hiring staff, including researchers and administrative and legal
14 professionals, as necessary to carry out the duties of the Commission; and

15 (6) preparing an annual budget for submission to the commissioners.

16 § 908. REPORTS

17 (a) On or before January 15, 2024, the Commission shall submit to the
18 Governor and General Assembly an interim report on the Commission's
19 progress to date, the committees established pursuant to subdivision 906(a)(1)
20 of this chapter and the scope and objectives of their work, emerging themes
21 and issues that the Commission has identified, and, if available, any

DRAFT FOR DISCUSSION

1 preliminary findings and recommendations for legislative or other action that
2 the Commission believes should be prioritized to address instances of
3 institutional, structural, and systemic discrimination identified by the
4 Commission.

5 (b)(1) On or before June 15, 2026, the Commission shall submit final
6 reports from each committee established pursuant to subdivision 906(a)(1) of
7 this chapter [Alternative: ...a final report incorporating the findings and
8 recommendations of each committee...]. Each report shall detail the findings
9 and recommendations of the relevant committee and shall include
10 recommendations for actions that can be taken to eliminate ongoing instances
11 of institutional, structural, and systemic discrimination and to address the harm
12 caused by historic instances institutional, structural, and systemic
13 discrimination.

14 (2) The Commission shall, on or before January 15, 2026, make a draft
15 of the final report publicly available and provide copies of the draft to each of
16 the stakeholders identified in subdivision 904(a)(1) of this chapter. The
17 Commission shall provide the stakeholders and members of the public with not
18 less than 60 days to review the draft and provide comments on it. The
19 Commission shall consider fully all comments submitted in relation to the draft
20 and shall include with the final version of the report a summary of all
21 comments received and a concise statement of the reasons why the

DRAFT FOR DISCUSSION

1 Commission decided to incorporate or reject any proposed changes.

2 Comments submitted in relation to the final report shall be made available to
3 the public in a manner that complies with the requirements of section 910 of
4 this chapter.

5 (c) The Commission may, in its discretion, issue additional reports to the
6 Governor, General Assembly, and public.

7 § 909. TRUTH AND RECONCILIATION COMMISSION SPECIAL FUND

8 (a) There is established the Truth and Reconciliation Commission Special
9 Fund, which shall be managed in accordance with 32 V.S.A. chapter 7,
10 subchapter 5. The Fund shall consist of amounts appropriated by the State and
11 any gifts or grants received by the Vermont Truth and Reconciliation
12 Commission. The Fund shall be available to the commissioners to carry out
13 the work of the Commission pursuant to this chapter and to the Selection Panel
14 to carry out its duties pursuant to this chapter.

15 (b) The commissioners may seek and accept gifts, donations, and grants
16 from any source, public or private, to be dedicated for deposit into the Fund.

17 (c) All interest earned on Fund balances shall be credited to the Fund.

18 **§ 910. ACCESS TO INFORMATION; CONFIDENTIALITY**

19 **(a) Access to State records and information.**

20 **(1) The Commission shall have access to and the right to copy any**
21 **record or other information held by all executive, administrative, and judicial**

DRAFT FOR DISCUSSION

1 agencies and departments and all instrumentalities of the State. All executive,
2 administrative, and judicial agencies and departments and all instrumentalities
3 of the State shall cooperate with the Commission with respect to any request
4 for access to any record or other information and shall provide all records or
5 other information requested by the Commission to the extent permitted by law.

6 (2) The Commission shall keep confidential any information received
7 from an executive, administrative, or judicial agency or department or an
8 instrumentality of the State that is confidential or is exempt from the Public
9 Records Act.

10 (b) Confidentiality requirements.

11 (1) Except as otherwise provided pursuant to subsection (c) of this
12 section, information and records acquired by or provided to the Commission
13 that would in any manner reveal an individual's identity shall be kept
14 confidential and shall be exempt from public inspection and copying under the
15 Public Records Act.

16 (2) The Commission shall not include the personally identifying
17 information of any individual in any report that it produces without the
18 express, written consent of the individual.

19 (c) Exceptions.

20 (1) Except as provided in subdivision (2) of this subsection, information
21 and records acquired by or provided to the Commission shall only be available

DRAFT FOR DISCUSSION

1 to the public in an anonymized form that does not reveal the identity of any
2 individual.

3 (2) Information or records acquired by or provided to the Commission
4 may be disclosed in a manner that would reveal the identity of an individual if
5 that individual has provided their express, written consent to the disclosure of
6 the information or record in a manner that would reveal their identity.

7 (d) Private proceedings.

8 (1) The Commission shall permit any individual who is interviewed by
9 the Commission to elect to have their interview conducted in a manner that
10 protects the individual's privacy and to have any recording of the interview
11 kept confidential by the Commission. Any other record or document produced
12 in relation to an interview conducted pursuant to this subdivision (d)(1) shall
13 only be available to the public in an anonymized form that does not reveal the
14 identity of any individual.

15 (2) The Commission shall adopt procedures and safeguards to ensure to
16 the greatest extent possible that it does not conduct any interview in a manner
17 that is open to the public if the interview will reveal the identities of
18 individuals other than the interviewee without the express, written consent of
19 those individuals.

DRAFT FOR DISCUSSION

1 Sec. 3. APPROPRIATION

2 The sum of \$ _____ is appropriated to the Truth and Reconciliation
3 Commission Special Fund in fiscal year 2023.

4 Sec. 4. REPEAL

5 1 V.S.A. chapter 25 (Truth and Reconciliation Commission) is repealed on
6 July 1, 2026.

7 Sec. 5. EFFECTIVE DATE

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

9 and that after passage the title of the bill be amended to read: “An act
10 relating to creating the Vermont Truth and Reconciliation Commission”

11

12

13 (Committee vote: _____)

14

15

16

Representative _____

FOR THE COMMITTEE