

1 TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred House Bill No. 546  
3 entitled “An act relating to racial justice statistics” respectfully reports that it  
4 has considered the same and recommends that the Senate propose to the House  
5 that the bill be amended by striking out all after the enacting clause and  
6 inserting in lieu thereof the following:

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

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

9 Subchapter 1. Executive Director of Racial Equity

10 \* \* \*

11 § 5003. DUTIES OF EXECUTIVE DIRECTOR OF RACIAL EQUITY

12 \* \* \*

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

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

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

19 (e)(f) The Director shall periodically report to the Racial Equity Advisory  
20 Panel Racial Disparities in the Criminal and Juvenile Justice Systems Advisory

1 Panel and the Racial Equity Advisory Panel on the progress toward carrying  
2 out the duties as established by this section.

3 ~~(f)~~(g) On or before January 15, 2020, and annually thereafter, the Director  
4 shall report to the House and Senate Committees on Government Operations  
5 demonstrating the State’s progress in identifying and remediating systemic  
6 racial bias within State government.

7 \* \* \*

8 Subchapter 2. Division of Racial Justice Statistics

9 § 5011. DIVISION OF RACIAL JUSTICE STATISTICS; CREATION;

10 PURPOSE

11 (a) Creation. There is created within the Office of Racial Equity the  
12 Division of Racial Justice Statistics to collect and analyze data related to  
13 systemic racial bias and disparities within the criminal and juvenile justice  
14 systems.

15 (b) Purpose. The mission of the Division is to collect and analyze data  
16 relating to racial disparities with the intent to center racial equity throughout  
17 these efforts. The purpose of the Division is to create, promote, and advance a  
18 system and structure that provides access to appropriate data and information,  
19 ensuring that privacy interests are protected and principles of transparency and  
20 accountability are clearly expressed. The data are to be used to inform policy

1 decisions that work toward the amelioration of racial disparities across various  
2 systems of State government.

3 § 5012. DUTIES

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

5 (1) Work collaboratively with, and have the assistance of, all State and  
6 local agencies and departments identified pursuant to subdivision 5013(a)(2) of  
7 this title for purposes of collecting all data related to systemic racial bias and  
8 disparities within the criminal and juvenile justice systems.

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

11 (3) Conduct justice information sharing gap analyses.

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

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

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

1           (7) Report its data, analyses, and recommendations to the Racial Justice  
2 Statistics Advisory Council Racial Disparities in the Criminal and Juvenile  
3 Justice Systems Advisory Panel on a monthly basis.

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

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

12           § 5013. DATA GOVERNANCE

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

17           (1) Any data or records transmitted to or obtained by the Division that  
18 are exempt from public inspection and copying under the Public Records Act  
19 shall remain exempt and shall be kept confidential to the extent required by  
20 law. A State or local agency or department that transmits data or records to the  
21 Division shall be the sole records custodian for purposes of responding to

1 requests for the data or records. The Division may direct any request for these  
2 data or records to the transmitting agency or department for response, provided  
3 that the Division shall respond to a Public Records Act request for  
4 nonidentifying data used by the Division for preparation of the reports required  
5 by subdivision 5012(a)(7) and subsection 5012(b) of this title.

6 (2) The Division shall identify which State and local agencies or  
7 departments possess the data necessary for the Division to perform the  
8 requirements and objectives of this subchapter. An agency or department  
9 identified pursuant to this subdivision shall, upon request, provide the Division  
10 with any data that the Division determines is relevant to its purpose under  
11 subsection 5011(b) of this title, provided that the Office of the Defender  
12 General shall not be required to make any disclosures that would violate 1  
13 V.S.A. § 317(c)(3). The Division may access the data of a identify non-State  
14 entities that possess the data necessary for the Division to perform the  
15 requirements and objectives of this subchapter and have access to the data of  
16 an identified entity pursuant to a data sharing agreement or memorandum of  
17 understanding with the entity.

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

1 117 of this title and the Agency of Digital Services pursuant to section 3301 of  
2 this title.

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

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

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

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

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

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

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

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

21 (e) Publicly available data.

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

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

6           ~~§ 5014. RACIAL JUSTICE STATISTICS ADVISORY COUNCIL~~

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

11           ~~(b) Membership.~~

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

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

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

18                   ~~(I) facing eviction;~~

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

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

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

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

5 ~~(ii) appointments made pursuant to this subdivision (B) shall be~~  
6 ~~made by the following entities, each of which shall appoint one member:~~  
7 ~~NAACP, Vermont Racial Justice Alliance, Migrant Justice, AALV Inc.,~~  
8 ~~Vermont Commission on Native American Affairs, and Outright Vermont.~~

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

14 ~~(3) Terms. The term of each member shall be four years. As terms of~~  
15 ~~currently serving members expire, appointments of successors shall be in~~  
16 ~~accord with the provisions of this section. Appointments of members to fill~~  
17 ~~vacancies or expired terms shall be made by the authority that made the initial~~  
18 ~~appointment to the vacated or expired term. Members shall serve until their~~  
19 ~~successors are appointed. Members shall serve not more than two consecutive~~  
20 ~~terms in any capacity.~~



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

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

9           ~~(1) the Supreme Court;~~

10          ~~(2) the Office of the Attorney General;~~

11          ~~(3) the Office of the Defender General;~~

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

13          ~~(5) the Department of Public Safety;~~

14          ~~(6) the Department for Children and Families;~~

15          ~~(7) the Department of Corrections;~~

16          ~~(8) the Agency of Education;~~

17          ~~(9) the Human Rights Commission; and~~

18          ~~(10) the Center for Crime Victims Services.~~

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

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

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

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

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

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

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

16 ~~(e) Meetings. The Council shall meet monthly.~~

17 ~~(f) Compensation. Each member of the Council shall be entitled to per~~  
18 ~~diem compensation and reimbursement of expenses pursuant to 32 V.S.A.~~  
19 ~~§ 1010.~~

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

21 ~~Sec. 2. RACIAL JUSTICE STATISTICS ADVISORY COUNCIL;~~

1 ~~IMPLEMENTATION~~

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

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

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

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

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

13 Sec. 3. DIVISION OF RACIAL JUSTICE STATISTICS; POSITIONS

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

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

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

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

1 § 168. RACIAL DISPARITIES IN THE CRIMINAL AND JUVENILE  
2 JUSTICE SYSTEM ADVISORY PANEL

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

10 (b) The Panel shall comprise the following 16 members:

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

15 (2) the Executive Director of the Vermont Criminal Justice Council or  
16 designee;

17 (3) the Attorney General or designee;

18 (4) the Defender General or designee;

19 (5) the Executive Director of the State's Attorneys and Sheriffs or  
20 designee;

21 (6) the Chief Superior Judge or designee;

- 1 (7) the Commissioner of Corrections or designee;
- 2 (8) the Commissioner of Public Safety or designee;
- 3 (9) the Commissioner for Children and Families or designee;
- 4 (10) the Executive Director of Racial Equity or designee; and
- 5 (11) two members, drawn from diverse backgrounds to represent the
- 6 interests of communities of color throughout the State, who have had
- 7 experience working in information technology or data collection systems,
- 8 appointed by the Executive Director of Racial Equity.

9 \* \* \*

10 (f) The Panel shall review and provide recommendations to address

11 systemic racial disparities in statewide systems of criminal and juvenile justice,

12 including:

13 (1) continually reviewing the data collected pursuant to 20 V.S.A. § 2366

14 to measure State progress toward a fair and impartial system of law

15 enforcement;

16 (2) providing recommendations to the Criminal Justice Council and the

17 Vermont Bar Association, based on the latest social science research and best

18 practices in law enforcement and criminal and juvenile justice, on data

19 collection and model trainings and policies for law enforcement, judges,

20 correctional officers, and attorneys, including prosecutors and public

21 defenders, to recognize and address implicit bias;

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

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

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

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

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

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

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

1           (g)(1) The Panel shall work and consult with the Division of Racial Justice  
2           Statistics in the office of Racial Equity as required by 3 V.S.A. chapter 68,  
3           subchapter 2. The Panel’s work with the Division shall include:

4                   (A) working with and assisting the Director of Racial Equity or  
5           designee to implement the requirements of this subchapter 2;

6                   (B) advising the Director of Racial Equity to ensure ongoing  
7           compliance with the purposes of subchapter 2; and

8                   (C) evaluating the data and analyses received from the Division and  
9           make recommendations to the Division as a result of the evaluations.

10           (2)(A) For purposes of conducting the work required by subdivision (1)  
11           of this subsection, the Panel shall establish and work in consultation with a  
12           subcommittee consisting of six individuals who have experience with or  
13           knowledge about one or more of the following situations:

14                   (i) facing eviction;

15                   (ii) violence, discrimination, or criminal conduct, including law  
16           enforcement misconduct;

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

18                   (iv) effects of racial disparities and discipline policies within the  
19           educational system; or

20                   (v) participation in treatment programs addressing mental health,  
21           substance use disorder, and reentry programs.

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

7           (C) As used in this subdivision, “consultation” means a meaningful  
8           and timely process of seeking, discussing, and considering carefully the views  
9           of others in a manner that is cognizant of all parties’ cultural values.

10           Sec. 4. APPROPRIATION

11           The following appropriations shall be made in fiscal year 2023:

12           (1) \$363,000.00 from the General Fund to the Office of Racial Equity  
13           for the Division of Racial Justice Statistics.

14           (2) \$3,360.00 from the General Fund to the Office of ~~Racial Equity~~ the  
15           Attorney General for per diem compensation and reimbursement of expenses  
16           under 32 V.S.A. § 1010 for members of the ~~Racial Justice Statistics Advisory~~  
17           ~~Council~~ Racial Disparities in the Criminal and Juvenile Justice System  
18           Advisory Panel subcommittee established by ~~13 V.S.A. § 5014~~ 3 V.S.A.  
19           § 168(g)(2).



1           (3) \$520,300.00 from the General Fund to the Agency of Digital  
2           Services to assist and support the Division of Racial Justice Statistics in the  
3           Office of Racial Equity.

4           Sec. 5. EFFECTIVE DATE

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

6           (Committee vote: \_\_\_\_\_)

7           \_\_\_\_\_

8           Senator \_\_\_\_\_

9           FOR THE COMMITTEE