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H.649

An act relating to the Vermont Truth and Reconciliation Commission

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

Sec. 1. 2022 Acts and Resolves No. 128, Sec. 4 is amended to read:

Sec. 4. REPEAL

1 V.S.A. chapter 25 (Truth and Reconciliation Commission) is repealed on
~~July 1, 2026~~ May 1, 2027.

Sec. 2. 1 V.S.A. § 903 is amended to read:

§ 903. COMMISSIONERS

* * *

(c) The term of each commissioner shall begin on the date of appointment
and end on ~~July 1, 2026~~ May 1, 2027.

Sec. 3. 1 V.S.A. § 904 is amended to read:

§ 904. SELECTION PANEL; MEMBERSHIP; DUTIES

(a)~~(1)~~ The Selection Panel shall be composed of ~~seven members selected~~
~~on or before September 1, 2022 by a majority vote of the following~~ five
members:

~~(A)~~(1) the Executive Director of Racial Equity or designee;

~~(B)~~(2) the Executive Director of the Vermont Center for Independent
Living or designee;

1 ~~(C)~~(3) an individual, who shall not be a current member of the
2 General Assembly, appointed by the Speaker of the House;

3 ~~(D)~~(4) an individual, who shall not be a current member of the
4 General Assembly, appointed by the Committee on Committees; and

5 ~~(E)~~(5) an individual appointed by the Chief Justice of the Vermont
6 Supreme Court.

7 ~~(2) The individuals identified in subdivision (1) of this subsection:~~

8 ~~(A) shall hold their first meeting on or before August 1, 2022 at the~~
9 ~~call of the individual appointed by the Chief Justice of the Vermont Supreme~~
10 ~~Court; and~~

11 ~~(B) are encouraged to appoint individuals to the Selection Panel who~~
12 ~~include members of the populations and communities identified pursuant to~~
13 ~~subdivisions 902(b)(1)(A)–(D) of this chapter and who are diverse with respect~~
14 ~~to socioeconomic status, work, education, geographic location, gender, and~~
15 ~~sexual identity.~~

16 ~~(3) Individuals selected pursuant to subdivision (1) of this subsection~~
17 ~~who are not employees of the State of Vermont and who are not otherwise~~
18 ~~compensated or reimbursed for their attendance shall be entitled to per diem~~
19 ~~compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010~~
20 ~~for not more than two meetings. These payments shall be made from amounts~~
21 ~~appropriated to the Truth and Reconciliation Commission.~~

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

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

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

9 (B) ~~establish and maintain a principal office;~~

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

11 (D) ~~hire temporary staff to provide administrative assistance during~~
12 ~~the period from September 1, 2022 through January 15, 2023, provided that if~~
13 ~~the Panel extends the time to select commissioners pursuant to subdivision~~
14 ~~905(e)(1) of this chapter, it may retain staff to provide administrative~~
15 ~~assistance through March 31, 2023.~~

16 (c) The term of each member of the Panel shall begin on the date of
17 appointment and end on ~~January 15, 2023, except if the Panel extends the time~~
18 ~~to select commissioners pursuant to subdivision 905(e)(1) of this chapter, the~~
19 ~~term of the Panel members shall end on March 31, 2023~~ May 1, 2027.

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

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

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

6 (f) Members of the Panel who are not otherwise compensated by the State
7 shall be entitled to per diem compensation and reimbursement of expenses
8 pursuant to 32 V.S.A. § 1010 for ~~not more than 20 meetings during fiscal year~~
9 2023 meetings to carry out the Panel's duties pursuant to this section and
10 sections 905 and 905a of this chapter. These payments shall be made from
11 amounts appropriated to the Truth and Reconciliation Commission.

12 (g) The Panel shall have the administrative and legal assistance of the Truth
13 and Reconciliation Commission.

14 (h)(1) A member of the Panel that is not serving ex officio may be removed
15 by the appropriate appointing authority for incompetence, failure to discharge
16 the member's duties, malfeasance, or illegal acts.

17 (2) A vacancy occurring on the Panel shall be filled by the appropriate
18 appointing authority for the remainder of the term.

19 Sec. 4. 1 V.S.A. § 905 is amended to read:

20 § 905. SELECTION OF COMMISSIONERS

21 * * *

1 (d) The Panel shall fill any vacancy occurring among the commissioners
2 within 60 days after the vacancy occurs in the manner set forth in subsections
3 (a) and (b) of this section. A commissioner appointed to fill a vacancy
4 pursuant to this subsection shall be appointed to serve for the balance of the
5 unexpired term.

6 Sec. 5. APPOINTMENT TO FILL EXISTING COMMISSION VACANCY

7 The Selection Panel established pursuant to 1 V.S.A. § 905 shall fill the
8 vacancy existing on the Truth and Reconciliation Commission on the effective
9 date of this act not later than 60 days after the appointive members of the Panel
10 are appointed.

11 Sec. 6. 1 V.S.A. § 905a is added to read:

12 § 905a. REMOVAL OR REPRIMAND OF COMMISSIONERS FOR
13 MISCONDUCT

14 The Selection Panel may, after notice and an opportunity for a hearing,
15 reprimand or remove a commissioner for incompetence, failure to discharge
16 the commissioner's duties, malfeasance, illegal acts, or other actions that the
17 Panel determines would substantially and materially harm the credibility of the
18 Truth and Reconciliation Commission or its ability to carry out its work
19 pursuant to the provisions of this chapter. Notwithstanding subdivision
20 904(e)(2) of this chapter, the reprimand or removal of a commissioner shall
21 only be authorized by a vote of the majority of the members of the Panel.

1 Sec. 7. 1 V.S.A. § 906 is amended to read:

2 § 906. POWERS AND DUTIES OF THE COMMISSIONERS

3 * * *

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

6 * * *

7 (13)(A) Establish groups in which individuals who have experienced
8 institutional, structural, or systemic discrimination or are a member of a
9 population or community that has experienced institutional, structural, or
10 systemic discrimination may participate for purposes of sharing experiences
11 and providing mutual support.

12 (B) Commissioners shall not participate in any meeting or session of
13 a group established pursuant to this subdivision (13).

14 (C) Groups established pursuant to this subdivision (13) may
15 continue to exist after the date on which the Commission ceases to exist,
16 provided that after that date Commission staff shall no longer provide any
17 assistance or services to the groups and Commission funds shall no longer be
18 spent in support of the groups.

19 Sec. 8. 1 V.S.A. § 908 is amended to read:

20 § 908. REPORTS

21 * * *

1 (b)(1) On or before ~~June~~ April 15, ~~2026~~ 2027, the Commission shall submit
2 a final report incorporating the findings and recommendations of each
3 committee. Each report shall detail the findings and recommendations of the
4 relevant committee and shall include recommendations for actions that can be
5 taken to eliminate ongoing instances of institutional, structural, and systemic
6 discrimination and to address the harm caused by historic instances of
7 institutional, structural, and systemic discrimination.

8 (2) The Commission shall, on or before ~~January~~ October 15, 2026, make
9 a draft of the final report publicly available and provide copies of the draft to
10 interested parties from the populations and communities identified pursuant to
11 subdivision 902(b)(1) of this chapter and other interested parties. The
12 Commission shall provide the interested parties and members of the public
13 with not less than 60 days to review the draft and provide comments on it. The
14 Commission shall consider fully all comments submitted in relation to the draft
15 and shall include with the final version of the report a summary of all
16 comments received and a concise statement of the reasons why the
17 Commission decided to incorporate or reject any proposed changes.
18 Comments submitted in relation to the final report shall be made available to
19 the public in a manner that complies with the requirements of section ~~910~~ 909
20 of this chapter.

21 * * *

1 Sec. 9. 1 V.S.A. § 909 is amended to read:

2 § 909. ACCESS TO INFORMATION; CONFIDENTIALITY

3 * * *

4 (d) Private proceedings.

5 (1) The Notwithstanding any provision of chapter 5, subchapter 2 of this
6 title, the Vermont Open Meeting Law, or section 911 of this chapter to the
7 contrary, the Commission shall permit any individual who is interviewed by
8 the Commission to elect to have their interview conducted in a manner that
9 protects the individual's privacy and to have any recording of the interview
10 kept confidential by the Commission. Any other record or document produced
11 in relation to an interview conducted pursuant to this subdivision (d)(1) shall
12 only be available to the public in an anonymized form that does not reveal the
13 identity of any individual.

14 * * *

15 Sec. 10. 1 V.S.A. § 911 is added to read:

16 § 911. LIMITED ACCESS COMMISSION MEETINGS; EXCEPTION TO
17 OPEN MEETING LAW

18 (a)(1) As used in this subsection, "limited access meeting" means a
19 meeting of the Commission that is livestreamed and video recorded to which
20 access and participation by members of the general public is limited as
21 provided in this subsection.

1 (2) Upon a finding by the Commission that there are material threats to
2 the health or safety of the Commission, its staff, witnesses, or invitees, the
3 Commission may hold a limited access meeting. During a limited access
4 meeting, the Commission may restrict attendance at the meeting, whether the
5 attendance is in person or by electronic or other means, and participation in the
6 meeting to:

7 (A) Commission staff and legal counsel;

8 (B) persons who are providing testimony or information to the
9 Commission during the meeting;

10 (C) members of the media; and

11 (D) other persons whose presence the Commission determines is
12 needed at the meeting.

13 (3)(A) The Commission shall include in the agenda for a limited access
14 meeting information that allows the public to directly access a livestream of
15 the meeting. The video recording of any limited access meeting shall be
16 posted and made available for inspection or copying under the Public Records
17 Act.

18 (B) The Commission shall not be required to livestream or video
19 record any portions of a limited access meeting that are held in executive
20 session pursuant to 1 V.S.A. § 313.

1 (4) Limited access meetings shall only be conducted electronically to
2 the extent that electronic meetings are permitted for public bodies and in a
3 manner that is consistent with applicable laws governing electronic meetings
4 of public bodies.

5 (5) The Commission shall provide an opportunity for public comment
6 related to the topics listed on the agenda of any limited access meeting and any
7 other issues or topics that are discussed during a limited access meeting. Any
8 public comment received shall be included in the record of the limited access
9 meeting.

10 (b)(1) Notwithstanding any provision of chapter 5, subchapter 2 of this
11 title, the deliberations of a quorum or more of the members of the Commission
12 shall not be subject to the Vermont Open Meeting Law.

13 (2) The Commission shall periodically post to the Commission's
14 website a short summary of the deliberative meetings held by the
15 commissioners pursuant to this subsection.

16 (3) As used in this subsection, "deliberations" has the same meaning as
17 in 1 V.S.A. § 310(2).

18 Sec. 11. LEGISLATIVE INTENT

19 It is the intent of the General Assembly that:

20 (1) the Truth and Reconciliation Commission work in an open,
21 transparent, and inclusive manner to ensure the credibility and integrity of its

1 work and strive to maximize opportunities to conduct its business in public
2 meetings;

3 (2) specific exceptions to the Open Meeting Law, in recognition of the
4 highly sensitive nature of the Truth and Reconciliation Commission's charge,
5 will enable the Commission to carry out its duties in a manner that:

6 (A) preserves the safety of participants in the Commission's work;

7 (B) does not perpetuate or exacerbate harm experienced by
8 participants; and

9 (C) protects participants from additional trauma; and

10 (3) limited access meetings held by the Truth and Reconciliation
11 Commission pursuant to 1 V.S.A. § 911 shall be:

12 (A) utilized only when necessary to ensure the safety of the
13 proceedings and to protect persons who may have experienced trauma who
14 come before the Commission; and

15 (B) conducted in a manner that is trauma-informed and best ensures
16 the safety of all participants.

17 Sec. 12. 1 V.S.A. § 912 is added to read:

18 § 912. GROUP SESSIONS; DUTY OF CONFIDENTIALITY

19 (a) The sessions of groups established pursuant to subdivision 906(b)(13)
20 of this chapter shall be confidential and privileged. Participants in a group
21 session, including Commission staff or individuals whom the Commission

1 contracts with to facilitate group sessions, shall be subject to a duty of
2 confidentiality and shall keep confidential any information gained during a
3 group session.

4 (b) A person who attended a group session may bring a private action in the
5 Civil Division of the Superior Court for damages resulting from a breach of the
6 duty of confidentiality established pursuant to this section.

7 (c) This section shall not be construed to limit or otherwise affect the
8 application of a common law duty of confidentiality to group sessions and any
9 action that may be brought based on a breach of that duty.

10 (d) Nothing in this section shall be construed to prohibit the limited
11 disclosure of information to specific persons under the following
12 circumstances:

13 (1) The disclosure:

14 (A) relates to a threat or statement of a plan made during a group
15 session that the individual reasonably believes is likely to result in death or
16 bodily injury to themselves or others or damage to the property of themselves
17 or another person; and

18 (B) is made to law enforcement authorities or another person that is
19 reasonably able to prevent or lessen the threat.

20 (2) The disclosure is based on a reasonable suspicion of abuse or neglect
21 of a child or vulnerable adult and a report is made in accordance with the

1 provisions of 33 V.S.A. § 4914 or 33 V.S.A. § 6903 or to comply with another
2 law.

3 (e) The Commission shall ensure that all participants in a group session are
4 provided with notice of the provisions of this section, including any rights and
5 obligations of participants that are established pursuant to this section.

6 (f) As used in this section, “group session” means any meeting of a group
7 established pursuant to subdivision 906(b)(13) of this chapter for purposes of
8 the participants sharing or discussing their experiences and providing mutual
9 support. “Group session” does not include any gathering of the participants in
10 a group established pursuant to subdivision 906(b)(13) of this chapter that
11 includes one or more members of the Commission.

12 Sec. 13. [Deleted.]

13 Sec. 14. EFFECTIVE DATE

14 This act shall take effect on passage.