

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Government Operations and Military Affairs to which
3 was referred House Bill No. 649 entitled “An act relating to the Vermont Truth
4 and Reconciliation Commission” respectfully reports that it has considered the
5 same and recommends that the bill be amended by striking out all after the
6 enacting clause and inserting in lieu thereof the following:

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

8 Sec. 4. REPEAL

9 1 V.S.A. chapter 25 (Truth and Reconciliation Commission) is repealed on
10 ~~July 1, 2026~~ May 1, 2027.

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

12 § 903. COMMISSIONERS

13 * * *

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

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

17 § 904. SELECTION PANEL; MEMBERSHIP; DUTIES

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

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

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

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

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

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

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

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

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

18 ~~(3) Individuals selected pursuant to subdivision (1) of this subsection~~
19 ~~who are not employees of the State of Vermont and who are not otherwise~~
20 ~~compensated or reimbursed for their attendance shall be entitled to per diem~~
21 ~~compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010~~

1 ~~for not more than two meetings. These payments shall be made from amounts~~
2 ~~appropriated to the Truth and Reconciliation Commission.~~

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

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

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

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

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

13 (D) ~~hire temporary staff to provide administrative assistance during~~
14 ~~the period from September 1, 2022 through January 15, 2023, provided that if~~
15 ~~the Panel extends the time to select commissioners pursuant to subdivision~~
16 ~~905(c)(1) of this chapter, it may retain staff to provide administrative~~
17 ~~assistance through March 31, 2023.~~

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

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

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

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

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

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

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

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

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

21 § 905. SELECTION OF COMMISSIONERS

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

Sec. 5. APPOINTMENT TO FILL EXISTING COMMISSION VACANCY

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

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

§ 905a. REMOVAL OR REPRIMAND OF COMMISSIONERS FOR MISCONDUCT

The Selection Panel may, after notice and an opportunity for a hearing, reprimand or remove a commissioner for incompetence, failure to discharge the commissioner’s duties, malfeasance, illegal acts, or other actions that the Panel determines would substantially and materially harm the credibility of the Truth and Reconciliation Commission or its ability to carry out its work pursuant to the provisions of this chapter. Notwithstanding subdivision

1 904(e)(2) of this chapter, the reprimand or removal of a commissioner shall
2 only be authorized by a vote of the majority of the members of the Panel.

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

4 § 906. POWERS AND DUTIES OF THE COMMISSIONERS

5 * * *

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

8 * * *

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

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

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

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

2 § 908. REPORTS

3 * * *

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

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

1 the public in a manner that complies with the requirements of section ~~910~~ 909
2 of this chapter.

3 * * *

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

5 § 909. ACCESS TO INFORMATION; CONFIDENTIALITY

6 * * *

7 (d) Private proceedings.

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

17 * * *

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

19 § 911. **LIMITED ACCESS COMMISSION MEETINGS; EXCEPTION TO**
20 **OPEN MEETING LAW**

1 (a)(1) As used in this subsection, “limited access meeting” means a
2 meeting of the Commission that is livestreamed and video recorded to which
3 physical or digital access by members of the general public is limited as
4 provided in this subsection (a).

5 (2) Upon a finding by the Commission that there are material threats to
6 the health or safety of the Commission, its staff, witnesses, or invitees, the
7 Commission may hold a limited access meeting. During a limited access
8 meeting, the Commission may restrict attendance at the meeting, whether in
9 person or electronically, and participation in the meeting to:

10 (A) Commission staff and legal counsel;

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

13 (C) members of the media; and

14 (D) other persons whose presence the Commission determines is
15 needed at the meeting.

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

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

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

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

11 **Sec. 11. LEGISLATIVE INTENT**

12 It is the intent of the General Assembly that limited access meetings held by
13 the Truth and Reconciliation Commission pursuant to 1 V.S.A. § 911 shall:

14 **(1)** utilized only when necessary to ensure the safety of the proceedings
15 and to protect person who may have experienced trauma who come before the
16 Commission; and

17 **(2)** conducted in a manner that is trauma-informed and best ensures the
18 safety of all participants.

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

20 **§ 912. GROUP SESSIONS; DUTY OF CONFIDENTIALITY**

1 (a) The sessions of groups established pursuant to subdivision 906(b)(13)
2 of this chapter shall be confidential and privileged. Participants in a group
3 session, including Commission staff or individuals whom the Commission
4 contracts with to facilitate group sessions, shall be subject to a duty of
5 confidentiality and shall keep confidential any information gained during a
6 group session.

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

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

13 (d) Nothing in this section shall be construed to prohibit the limited
14 disclosure of information to specific persons under the following
15 circumstances:

16 (1) The disclosure:

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

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

3 (2) The disclosure is based on a reasonable suspicion of abuse or neglect
4 of a child or vulnerable adult and a report is made in accordance with the
5 provisions of 33 V.S.A. § 4914 or 33 V.S.A. § 6903 or to comply with another
6 law.

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

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

16 **Sec. 13.** APPROPRIATION

17 The sum of \$1,100,000.00 is appropriated from the General Fund to the
18 Truth and Reconciliation Commission in fiscal year 2025 for the operating
19 expenses of the Commission.

20 **Sec. 14.** EFFECTIVE DATE

21 This act shall take effect on passage.

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(Committee vote: _____)

Representative _____

FOR THE COMMITTEE

DRAFT