

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9 1 V.S.A. chapter 25 (Truth and Reconciliation Commission) is repealed on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. 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 904(e)(2) of this chapter, the reprimand or removal of a commissioner shall only be authorized by a vote of the majority of the members of the Panel.

Sec. 6. 1 V.S.A. § 906 is amended to read:

§ 906. POWERS AND DUTIES OF THE COMMISSIONERS

* * *

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

3 * * *

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

9 (B) Commissioners shall not participate in any meeting or session of
10 a group established pursuant to this section.

11 Sec. 7. 1 V.S.A. § 908 is amended to read:

12 § 908. REPORTS

13 * * *

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

1 the Commission to elect to have their interview conducted in a manner that
2 protects the individual’s privacy and to have any recording of the interview
3 kept confidential by the Commission. Any other record or document produced
4 in relation to an interview conducted pursuant to this subdivision (d)(1) shall
5 only be available to the public in an anonymized form that does not reveal the
6 identity of any individual.

7 * * *

8 Sec. 9. 1 V.S.A. § 911 is added to read:

9 § 911. COMMISSION MEETINGS; ALTERNATIVE PROCEDURES;

10 EXCEPTION TO OPEN MEETING LAW

11 (a)(1) As used in this subsection, “closed meeting” means a meeting of the
12 Commission that is livestreamed and video recorded but that is otherwise
13 closed for purposes of physical or digital access and participation of the public.

14 (2) Upon a finding by the Commission that there are material threats to
15 the health or safety of the Commission, its staff, witnesses, or invitees, the
16 Commission may hold a closed meeting. The Commission may allow its staff,
17 counsel, and any persons who are subjects of the discussion or whose
18 information is needed to access the closed meeting.

19 (3) The Commission shall include in the agenda for a closed meeting
20 information that allows the public to directly access a livestream of the
21 meeting. The video recording of any closed meeting shall be posted and made

1 available for inspection or copying under the Public Records Act. The
2 Commission shall not be required to livestream or video record any portions of
3 a closed meeting that are held in executive session pursuant to 1 V.S.A. § 313.

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

7 Sec. 10. 1 V.S.A. § 912 is added to read:

8 § 912. GROUP SESSIONS; DUTY OF CONFIDENTIALITY

9 (a) The sessions of groups established pursuant to subdivision 906(b)(13)
10 of this chapter shall be confidential and privileged. Participants in a group
11 session or meeting, including Commission staff or individuals whom the
12 Commission contracts with to facilitate group sessions, shall be subject to a
13 duty of confidentiality and shall keep confidential any information gained
14 during a group session.

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

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

1 (d) Nothing in this section shall be construed to prohibit the limited
2 disclosure of information to specific persons under the following
3 circumstances:

4 (1) The disclosure:

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

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

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

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

18 (f) As used in this section, “group session” means any meeting of a group
19 established pursuant to subdivision 906(b)(13) of this chapter for purposes of
20 the participants of sharing or discussing their experiences and providing
21 mutual support. “Group session” does not include any gathering of the

1 participants in a group established pursuant to subdivision 906(b)(13) of this
2 chapter that includes one or more members of the Commission.

3 Sec. 11. APPROPRIATION

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

7 Sec. 12. EFFECTIVE DATE

8 This act shall take effect on passage.

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(Committee vote: _____)

Representative _____

FOR THE COMMITTEE