

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 institutional,
12 structural, and systemic discrimination in Vermont, both past and present, that
13 has been caused or permitted by State laws and policies;

14 (2) establish a public record of institutional, structural, and systemic
15 discrimination in Vermont that has been caused or permitted by State laws and
16 policies; and

17 (3) identify potential actions that can be taken by the State to repair the
18 damage caused by institutional, structural, and systemic discrimination in
19 Vermont that has been caused or permitted by State laws and policies and
20 prevent the recurrence of such discrimination in the future.

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

2 CHAPTER 25. TRUTH AND RECONCILIATION COMMISSION

3 § 901. DEFINITIONS

4 As used in this chapter:

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

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

10 (3) “Panel” means the Selection Panel established pursuant to section
11 904 of this chapter.

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

14 § 902. VERMONT TRUTH AND RECONCILIATION COMMISSION;
15 ESTABLISHMENT; ORGANIZATION

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

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1 chapter shall be deemed and held to be the performance of an essential
2 governmental function.

3 (b)(1) The Commission shall consist of three commissioners appointed
4 pursuant to section 905 of this chapter and shall include one or more
5 committees established by the commissioners to examine institutional,
6 structural, and systemic discrimination caused or permitted by State laws and
7 policies experienced by each of the following populations and communities in
8 Vermont:

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

10 (B) individuals with a physical or mental disability and the families
11 of individuals with a physical or mental disability;

12 (C) individuals of color;

13 (D) individuals with French Canadian, French-Indian, or other mixed
14 ethnic or racial heritage; and

15 (E) in the commissioners' discretion, other populations and
16 communities that have experienced institutional, structural, and systemic
17 discrimination caused or permitted by State laws and policies.

18 (2) Each committee shall consist of the commissioners and members
19 appointed by the commissioners in consultation with the populations and
20 communities identified pursuant to subdivision (1) of this subsection.

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1 (3) Nothing in this subsection shall be construed to require the
2 Commission to examine institutional, structural, and systemic discrimination
3 experienced by the populations and communities identified in subdivision (1)
4 of this subsection in isolation or separately from each other.

5 (4) [Additional parameters for committees and committee members?]

6 § 903. COMMISSIONERS

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

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

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

13 § 904. SELECTION PANEL; MEMBERSHIP; DUTIES

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

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

17 (B) the Executive Director of the Human Rights Commission or
18 designee;

19 (C) a current member of the House of Representatives [one member,
20 who shall not be a current member of the General Assembly,] [an individual]
21 appointed by the Speaker of the House;

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1 (D) a current member of the Senate [one member, who shall not be a
2 current member of the General Assembly,] [an individual] appointed by the
3 Committee on Committees; and

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

6 (2) The individuals identified in subdivision (1) of this subsection shall
7 hold their first meeting on or before August 1, 2022 at the call of the Executive
8 Director of the Human Rights Commission.

9 (3) The members of the General Assembly selected pursuant to
10 subdivision (1) of this subsection shall be entitled to per diem compensation
11 and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than
12 two meetings. Other individuals identified in subdivision (1) of this subsection
13 who are not employees of the State of Vermont and who are not otherwise
14 compensated or reimbursed for their attendance shall be entitled to per diem
15 compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010
16 for not more than two meetings.

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

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

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

6 (B) establish and maintain a principal office;

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

8 (D) hire temporary staff to provide administrative assistance during
9 the period from September 1, 2022 through December 31, 2022, provided that
10 if the Panel extends the time to select commissioners pursuant to subdivision
11 905(c)(1) of this chapter, it may retain staff to provide administrative
12 assistance through March 31, 2023.

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

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

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

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

4 (f) Notwithstanding 32 V.S.A. § 1010, members shall be entitled to per
5 diem compensation of \$ _____.00 [Amount needs to be determined] plus
6 reimbursement of expenses for attendance at not more than 20 meetings during
7 fiscal year 2023. These payments shall be made from the Truth and
8 Reconciliation Commission Special Fund.

9 § 905. SELECTION OF COMMISSIONERS

10 (a)(1) Except as otherwise provided pursuant to subdivision (c)(1) of this
11 section, the Selection Panel shall, on or before December 31, 2022, select three
12 individuals to serve as the commissioners of the Vermont Truth and
13 Reconciliation Commission.

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

15 (A) Establish a public, transparent, and simple process for candidates
16 to apply to serve as a commissioner.

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

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1 (C) Solicit nominations for individuals to serve as commissioners
2 from civil society organizations in Vermont whose work relates to the mission
3 of the Commission.

4 (D) Invite Vermont residents to submit applications to serve as
5 commissioners.

6 (E) Publish the names of all applicants who have applied to serve as
7 commissioners and provide not less than 30 days for members of the public to
8 submit comments on the suitability of any applicant to serve as a
9 commissioner. Public comments regarding an applicant shall only be
10 considered by the Panel if the comment includes the name and contact
11 information of the commenter. Comments received by the Panel shall be
12 exempt from public inspection and copying pursuant to the Public Records Act
13 and shall be kept confidential, except that comments that may be detrimental to
14 an applicant’s application shall be shared with the applicant and the applicant
15 shall be provided with an opportunity to provide the Panel with a response to
16 the comment.

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

20 (G) Hold public interviews for each individual selected by the Panel
21 as a finalist for selection as a commissioner.

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1 (H) Conduct criminal history record checks for finalists.

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

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

5 (A) be residents of Vermont;

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

7 (C) have knowledge of the problems and challenges facing the
8 populations and communities identified pursuant to subdivision 902(b)(1)(A)–
9 (D) of this chapter;

10 (D) have experience advocating in relation to the issues of the
11 populations and communities identified pursuant to subdivision 902(b)(1)(A)–
12 (D) of this chapter in Vermont;

13 (E) have demonstrated leadership in programs or activities to
14 improve opportunities for the populations and communities identified pursuant
15 to subdivision 902(b)(1)(A)–(D) of this chapter; and

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

17 (b) Not later than five days after selecting the commissioners pursuant to
18 subsection (a) of this section, the Panel shall submit a brief report to the
19 Governor and the General Assembly identifying the commissioners. The
20 names of the commissioners shall be made available to the public on the same
21 day that the report is submitted.

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1 (c)(1) If the Panel is unable identify three suitable applicants on or before
2 December 31, 2022, the Panel may by a majority vote extend the time to select
3 commissioners to March 31, 2023.

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

12 § 906. POWERS AND DUTIES OF THE COMMISSIONERS

13 (a) Duties. The commissioners shall:

14 (1) establish, in consultation with the populations and communities
15 identified pursuant to subdivision 902(b)(1) of this chapter and other interested
16 parties in the commissioners' discretion, committees to examine institutional,
17 structural, and systemic discrimination caused or permitted by State laws and
18 policies that has been experienced by the populations and communities
19 identified pursuant to subdivision 902(b)(1) of this chapter.

20 (2) determine, in consultation with the populations and communities
21 identified pursuant to subdivision 902(b)(1) of this chapter, historians, social

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1 scientists, experts in restorative justice, and other interested parties in the
2 commissioners’ discretion, the scope and objectives of the work to be carried
3 out by each committee established pursuant to subdivision (1) of this
4 subsection;

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

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

10 (A) identify and examine historic and ongoing institutional,
11 structural, and systemic discrimination against members of the populations and
12 communities identified pursuant to subdivision 902(b)(1) of this chapter that
13 has been caused or permitted by State laws and policies;

14 (B) determine the current status of members of the populations and
15 communities identified pursuant to subdivision 902(b)(1) of this chapter; and

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

18 (5) work with the committees and Commission staff to promote,
19 implement, and coordinate programs and activities to create and improve
20 opportunities for or to eliminate disparities experienced by the populations and
21 communities that are the subject of the committees’ work;

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1 (6) work with the committees and Commission staff to promote,
2 implement, and coordinate educational programs related to historic and
3 ongoing institutional, structural, and systemic discrimination against members
4 of the populations and communities that are the subject of the committees’
5 work;

6 (7) work in consultation with the populations and communities
7 identified pursuant to subdivision 902(b)(1) of this chapter, experts in
8 restorative justice, and, in the commissioners’ discretion, other interested
9 parties to ensure that the work of the Commission is open, transparent,
10 inclusive, and meaningful;

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

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

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

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

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

20 (3) Establish and maintain a principal office.

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

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

3 (6) Interview and take statements from members of the populations and
4 communities identified pursuant to subdivision 902(b)(1) of this chapter;
5 members of the public; and persons with knowledge of the institutional,
6 structural, and systemic discrimination experienced by such populations and
7 communities.

8 (7) Study, research, investigate, and report on the impact of State laws
9 and policies on populations and communities identified pursuant to subdivision
10 902(b)(1) of this chapter. If the Commission determines that the actions
11 constituted institutional, structural, and systemic discrimination against a
12 population or community, regardless of whether the discrimination was
13 intentional or adversely impacted the population or community, the
14 Commission may propose legislative or administrative action to the General
15 Assembly or Governor, as appropriate, to remedy the impacts on the
16 population or community.

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

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

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

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

5 § 907. EXECUTIVE DIRECTOR; DUTIES

6 (a) The Commissioners shall appoint an Executive Director, who shall be
7 an individual with experience in relation to racial justice or advocating on
8 behalf of historically disadvantaged groups. The Executive Director shall be a
9 full-time State employee, shall be exempt from the State classified system, and
10 shall serve at the pleasure of the commissioners.

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

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

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

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

19 (4) facilitating communications between the Commission and members
20 of the populations and communities identified pursuant to subdivision
21 902(b)(1) of this chapter, interested parties, and members of the public;

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

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

4 § 908. REPORTS

5 (a) On or before January 15, 2024, the Commission shall submit to the
6 Governor and General Assembly an interim report on the Commission’s
7 progress to date, the committees established pursuant to subdivision 906(a)(1)
8 of this chapter and the scope and objectives of their work, emerging themes
9 and issues that the Commission has identified, and, if available, any
10 preliminary findings and recommendations for legislative or other action that
11 the Commission believes should be prioritized to address instances of
12 institutional, structural, and systemic discrimination identified by the
13 Commission.

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

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

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

16 § 909. TRUTH AND RECONCILIATION COMMISSION SPECIAL FUND

17 (a) There is established the Truth and Reconciliation Commission Special
18 Fund, which shall be managed in accordance with 32 V.S.A. chapter 7,
19 subchapter 5. The Fund shall consist of amounts appropriated by the State and
20 any gifts, donations, or grants received by the Vermont Truth and
21 Reconciliation Commission. The Fund shall be available to the commissioners

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1 to carry out the work of the Commission pursuant to this chapter and to the
2 Selection Panel to carry out its duties pursuant to this chapter.

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

5 § 910. ACCESS TO INFORMATION; CONFIDENTIALITY

6 (a) Access to State records and information.

7 (1) The Commission shall have access to and the right to copy any
8 record or other information held by all executive, administrative, and judicial
9 agencies and departments and all instrumentalities of the State. All executive,
10 administrative, and judicial agencies and departments and all instrumentalities
11 of the State shall cooperate with the Commission with respect to any request
12 for access to any record or other information and shall provide all records or
13 other information requested by the Commission to the extent permitted by law.

14 (2) The Commission shall keep confidential any information received
15 from an executive, administrative, or judicial agency or department or an
16 instrumentality of the State that is confidential or is exempt from the Public
17 Records Act.

18 (b) Confidentiality requirements.

19 (1) Except as otherwise provided pursuant to subsection (c) of this
20 section, information and records acquired by or provided to the Commission
21 that would in any manner reveal an individual's identity shall be kept

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1 confidential and shall be exempt from public inspection and copying under the
2 Public Records Act.

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

6 (c) Exceptions.

7 (1) Except as provided in subdivision (2) of this subsection, information
8 and records acquired by or provided to the Commission shall only be available
9 to the public in an anonymized form that does not reveal the identity of any
10 individual.

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

15 (d) Private proceedings.

16 (1) The Commission shall permit any individual who is interviewed by
17 the Commission to elect to have their interview conducted in a manner that
18 protects the individual's privacy and to have any recording of the interview
19 kept confidential by the Commission. Any other record or document produced
20 in relation to an interview conducted pursuant to this subdivision (d)(1) shall

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

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

8 Sec. 3. APPROPRIATION

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

11 Sec. 4. REPEAL

12 1 V.S.A. chapter 25 (Truth and Reconciliation Commission) is repealed on
13 July 1, 2026.

14 Sec. 5. EFFECTIVE DATE

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

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

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(Committee vote: _____)

Representative _____

FOR THE COMMITTEE

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