

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 and the Racial Disparities in the Criminal and Juvenile Justice Systems

1 Advisory Panel on the progress toward carrying out the duties as established
2 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 and the Racial Disparities in the Criminal and
3 Juvenile 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 adopt
10 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
13 1 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 within the Office of Racial Equity to serve in an advisory capacity to the
9 Division of Racial Justice Statistics. The Council shall be organized and have
10 the duties and responsibilities as provided in this section. The Council shall
11 have the administrative, legal, and technical support of the Agency of
12 Administration.

13 (b) Membership.

14 (1) Appointments. The Council shall consist of seven members, as
15 follows:

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

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

20 (I) facing eviction;

1 (II) violence, discrimination, or criminal conduct, including law
2 enforcement misconduct;

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

4 (IV) effects of racial disparities and discipline policies within
5 the educational system; or

6 (V) participation in treatment programs addressing mental
7 health, substance use disorder, and reentry programs; and

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

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

17 (3) Terms. The term of each member shall be four years. As terms of
18 currently serving members expire, appointments of successors shall be in
19 accord with the provisions of this section. Appointments of members to fill
20 vacancies or expired terms shall be made by the authority that made the initial
21 appointment to the vacated or expired term. Members shall serve until their

1 successors are appointed. Members shall serve not more than two consecutive
2 terms in any capacity.

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

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

11 (1) the Supreme Court;

12 (2) the Office of the Attorney General;

13 (3) the Office of the Defender General;

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

15 (5) the Department of Public Safety;

16 (6) the Department for Children and Families;

17 (7) the Department of Corrections;

18 (8) the Agency of Education;

19 (9) the Human Rights Commission; and

20 (10) the Center for Crime Victims Services.

1 (c) Duties. The Council shall have the following duties and
2 responsibilities:

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

5 (2) advise the Director to ensure ongoing compliance with the purpose
6 of this subchapter;

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

9 (4) report monthly to on its findings and recommendations regarding the
10 work of the Division to the Racial Disparities in the Criminal and Juvenile
11 Justice Systems Advisory Panel; and

12 (5) on or before January 15, 2023 and annually thereafter, report to the
13 House and Senate Committees on Judiciary and on Government Operations on:

14 (A) its findings regarding systemic racial bias and disparities within
15 the criminal and juvenile justice systems based upon the data and analyses the
16 Council receives from the Division pursuant to subdivision 5012(a)(7) of this
17 subchapter; and

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

21 (e) Meetings. The Council shall meet monthly.

1 (f) Compensation. Each member of the Council shall be entitled to per
2 diem compensation and reimbursement of expenses pursuant to 32 V.S.A.
3 § 1010.

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

5 **§ 5015. COUNCIL SERVICES CONTINGENT ON AGENCY**

6 **COMPLIANCE**

7 (a) On and after July 1, 2023, a law enforcement agency shall be prohibited
8 from having its law enforcement applicants or officers trained by the Vermont
9 Police Academy or from otherwise using the services of the Vermont Criminal
10 Justice Council if the agency is not in compliance with the requirements for
11 providing data to the Division of Racial Justice Statistics pursuant to
12 subdivision 5013(a)(2) of this chapter.

13 (b) The Council shall adopt procedures to enforce the requirements of this
14 section, which may allow for waivers for agencies under a plan to obtain
15 compliance with this section.

16 (c) As used in this section:

17 (1) “Law enforcement agency” means the employer of a law
18 enforcement officer.

19 (2) “Law enforcement officer” means a member of the Department of
20 Public Safety who exercises law enforcement powers; a member of the State
21 Police; a Capitol Police officer; a municipal police officer; a constable who

1 exercises law enforcement powers; a motor vehicle inspector; an employee of
2 the Department of Liquor and Lottery who exercises law enforcement powers;
3 an investigator employed by the Secretary of State; a Board of Medical
4 Practice investigator employed by the Department of Health; an investigator
5 employed by the Attorney General or a State’s Attorney; a fish and game
6 warden; a sheriff; a deputy sheriff who exercises law enforcement powers; a
7 railroad police officer commissioned pursuant to 5 V.S.A. chapter 68,
8 subchapter 8; a police officer appointed to the University of Vermont’s
9 Department of Police Services; or the provost marshal or assistant provost
10 marshal of the Vermont National Guard.

11 Sec. 2. RACIAL JUSTICE STATISTICS ADVISORY COUNCIL;

12 IMPLEMENTATION

13 (a) First meeting. The first meeting of the Racial Justice Statistics
14 Advisory Council shall be called by the Director of Racial Equity or designee.
15 All subsequent meetings shall be called by the Chair.

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

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

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

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

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

4 The following new positions are created in the Division of Racial Justice
5 Statistics:

6 (1) one full-time, exempt Division ~~lead~~ leader, who shall be an
7 Information Technology Data Analyst; and

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

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 for
15 per diem compensation and reimbursement of expenses under 32 V.S.A.
16 § 1010 for members of the Racial Justice Statistics Advisory Council
17 established by 13 V.S.A. § 5014; and

18 (3) \$520,300.00 from the General Fund to the Agency of Digital
19 Services to assist and support the Division of Racial Justice Statistics in the
20 Office of Racial Equity.

1 Sec. 5. EFFECTIVE DATE

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

3

4 (Committee vote: _____)

5

6

Senator _____

7

FOR THE COMMITTEE