

1 S.120

2 Introduced by Senators Ingram, Hardy and Pearson

3 Referred to Committee on

4 Date:

5 Subject: Government operations; Executive Director of Racial Equity

6 Statement of purpose of bill as introduced: This bill proposes to make various  
7 changes to the chapter governing the Executive Director of Racial Equity,  
8 including changing the title to Commissioner of Racial Equity and expanding  
9 the duties of the Commissioner to include working to eradicate systemic  
10 racism within Vermont's system of public education.

11 An act relating to the Executive Director of Racial Equity

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

13 Sec. 1. 3 V.S.A. § 2102 is amended to read:

14 § 2102. POWERS AND DUTIES

15 (a) The Governor's Cabinet shall adopt and implement a program of  
16 continuing coordination and improvement of the activities carried on at all  
17 levels of State and local government.

18 (b) The Cabinet shall work collaboratively with the ~~Executive Director~~  
19 Commissioner of Racial Equity and shall provide the ~~Director~~ Commissioner  
20 with access to all relevant records and information as permitted by law.

1 Sec. 2. 3 V.S.A. chapter 68 is amended to read:

2 CHAPTER 68: ~~EXECUTIVE DIRECTOR~~ COMMISSIONER OF RACIAL  
3 EQUITY

4 § 5001. POSITION

5 (a) There is created within the Executive Branch the position of ~~Executive~~  
6 ~~Director~~ Commissioner of Racial Equity to identify and work to eradicate  
7 systemic racism within State government and public education.

8 (b) The ~~Executive Director~~ Commissioner of Racial Equity shall have the  
9 powers and duties enumerated within section 2102 of this title and shall work  
10 collaboratively with and act as a liaison between the Governor's Workforce  
11 Equity and Diversity Council, the Vermont Human Rights Commission, and  
12 the Governor's Cabinet.

13 (c) The ~~Executive Director~~ Commissioner shall be housed within and have  
14 the administrative, legal, and technical support of the Agency of  
15 Administration.

16 (d) The ~~Executive Director~~ Commissioner shall report to and be under the  
17 general supervision of the Governor, or, to the extent such supervisory  
18 authority is delegated, the Secretary of Administration. The Administration  
19 shall not prevent or prohibit the ~~Executive Director~~ Commissioner from  
20 initiating, carrying out, or completing the duties of the ~~Executive Director~~  
21 Commissioner as set forth in section 5003 of this title.

1 § 5002. RACIAL EQUITY ADVISORY PANEL

2 (a) The Racial Equity Advisory Panel is established. The Panel shall be  
3 organized and have the duties and responsibilities as provided in this section.  
4 The Panel shall have the administrative, legal, and technical support of the  
5 Agency of Administration.

6 (b)(1) The Panel shall consist of five members, as follows:

7 (A) one member appointed by the Committee on Committees who  
8 shall not be a current legislator;

9 (B) one member appointed by the Speaker of the House who shall not  
10 be a current legislator;

11 (C) one member appointed by the Chief Justice of the Supreme Court  
12 who shall not be a current legislator;

13 (D) one member appointed by the Governor who shall not be a  
14 current legislator; and

15 (E) one member appointed by the Human Rights Commission who  
16 shall not be a current legislator.

17 (2) Members shall be drawn from diverse backgrounds to represent the  
18 interests of communities of color throughout the State, have experience  
19 working to implement racial justice reform and, to the extent possible,  
20 represent geographically diverse areas of the State.

1           (3) The term of each member shall be three years, except, so that the  
2 term of one regular member expires in each ensuing year of the members first  
3 appointed, one shall serve a term of: one year, to be appointed by the Human  
4 Rights Commission; two years, to be appointed by the Governor; three years,  
5 to be appointed by the Speaker of the House; four years, to be appointed by the  
6 Committee on Committees; and five years, to be appointed by the Chief Justice  
7 of the Supreme Court. As terms of currently serving members expire or in the  
8 event that a currently serving member does not serve out his or her appointed  
9 term, appointments of successors shall be in accord with the provisions of this  
10 subsection. Appointments of members to fill vacancies or expired terms shall  
11 be made by the authority that made the initial appointment to the vacated or  
12 expired term. Members shall serve until their successors are elected or  
13 appointed. Members shall serve not more than three consecutive terms in any  
14 capacity.

15           (4) Members of the Panel shall elect by majority vote the Chair of the  
16 Panel, who shall serve for a term of three years after the implementation  
17 period. Members of the Panel shall be appointed on or before September 1,  
18 2018 in order to prepare as they deem necessary for the establishment of the  
19 Panel, including the election of the Chair of the Panel. Terms of members  
20 shall officially begin on January 1, 2019.

21           (c) The Panel shall have the following duties and responsibilities:

1 (1) work with the ~~Executive Director~~ Commissioner of Racial Equity to  
2 implement the reforms identified as necessary in the comprehensive  
3 organizational review as required by subsection 5003(a) of this title;

4 (2) advise the ~~Executive Director~~ Commissioner to ensure ongoing  
5 compliance with the purpose of this chapter, and advise the Governor on  
6 strategies for remediating systemic racial disparities in statewide systems of  
7 government; and

8 (3) on or before January 15, 2020, and annually thereafter, report to the  
9 House and Senate Committees on Government Operations on:

10 (A) the extent to which the State is achieving the performance targets  
11 and measures as developed pursuant to subsection 5003(c) of this title; and

12 (B) the nature and quality of the collaboration between the  
13 Governor's Cabinet and the ~~Executive Director~~ Commissioner.

14 (d) Each member of the Panel shall be entitled to per diem compensation  
15 and reimbursement of expenses pursuant to 32 V.S.A. § 1010.

16 § 5003. DUTIES OF ~~EXECUTIVE DIRECTOR~~ COMMISSIONER OF  
17 RACIAL EQUITY

18 (a) The ~~Executive Director~~ Commissioner of Racial Equity (~~Director~~)  
19 (Commissioner) shall work with the agencies and departments to implement a  
20 program of continuing coordination and improvement of activities in State

1 government and public education in order to combat systemic ~~racial disparities~~  
2 racism and measure progress toward fair and impartial governance, including:

3 (1) overseeing a comprehensive organizational review to identify  
4 systemic racism in each of the three branches of State government and  
5 inventory systems in place that engender ~~racial disparities~~ racism;

6 (2) managing and overseeing the statewide collection of race-based data  
7 to determine the nature and scope of ~~racial discrimination~~ systemic racism  
8 within all systems of State government; ~~and~~

9 (3) developing a model fairness and diversity policy and reviewing and  
10 making recommendations regarding the fairness and diversity policies held by  
11 all State government systems and public schools;

12 (4) developing a training program for all State government systems and  
13 public schools regarding the nature and scope of systemic racism and the  
14 institutionalized nature of race-based bias;

15 (5) creating a strategy for implementing a centralized platform for race-  
16 based data collection and managing the aggregation, correlation, and public  
17 dissemination of the data; and

18 (6) advising the Executive and Legislative Branches of State  
19 government on the impact of policies and legislation to ensure the ongoing  
20 mitigation of systemic racism.

1 (b) Pursuant to section 2102 of this title, the ~~Director~~ Commissioner shall  
2 work collaboratively with State agencies and departments to gather relevant  
3 existing data and records necessary to carry out the purpose of this chapter and  
4 to develop best practices for remediating systemic ~~racial disparities~~ racism  
5 throughout State government and public education.

6 (c) The ~~Director~~ Commissioner shall work with the agencies and  
7 departments and with the Chief Performance Officer to develop performance  
8 targets and performance measures for the General Assembly, the Judiciary, and  
9 the agencies and departments to evaluate respective results in improving  
10 systems. These performance measures shall be included in the agency's or  
11 department's quarterly reports to the ~~Director~~ Commissioner, and the ~~Director~~  
12 Commissioner shall include each agency's or department's performance  
13 targets and performance measures in his or her annual reports to the General  
14 Assembly.

15 (d) The ~~Director~~ Commissioner shall, in consultation with the Department  
16 of Human Resources and the agencies and departments, develop and conduct  
17 trainings for agencies and departments regarding the nature and scope of  
18 systemic racism and the institutionalized nature of race-based bias. Nothing in  
19 this subsection shall be construed to discharge the existing duty of the  
20 Department of Human Resources to conduct trainings.

1 (e) The ~~Director~~ Commissioner shall periodically report to the Racial  
2 Equity Advisory Panel on the progress toward carrying out the duties as  
3 established by this section.

4 (f) On or before January 15, 2020, and annually thereafter, the ~~Director~~  
5 Commissioner shall report to the House and Senate Committees on  
6 Government Operations demonstrating the State's progress in identifying and  
7 remediating systemic racial bias within State government.

8 § 5004. INFORMATION; DISCLOSURE AND CONFIDENTIALITY

9 (a) Confidentiality of records.

10 (1) Any records transmitted to or obtained by the ~~Executive Director~~  
11 Commissioner of Racial Equity and the Racial Equity Advisory Panel that are  
12 exempt from public inspection and copying under the Public Records Act shall  
13 remain exempt and shall be kept confidential to the extent required by law.

14 (2) Draft reports, working papers, and internal correspondence between  
15 the ~~Director~~ Commissioner and the Panel shall be exempt from public  
16 inspection and copying under the Public Records Act and shall be kept  
17 confidential. The completed reports shall be public records.

18 (b) Exceptions.

19 (1) The ~~Director~~ Commissioner and Panel members may make records  
20 available to each other, the Governor, and the Governor's Cabinet as necessary  
21 to fulfill their duties as set forth in this chapter. They may also make records



1       pertaining to any alleged violations of antidiscrimination statutes available to  
2       any State or federal law enforcement agency authorized to enforce such  
3       statutes.

4               (2) Absent a court order for good cause shown or the prior written  
5       consent of an individual providing information or lawfully obtained records to  
6       the ~~Director~~ Commissioner or the Panel, the ~~Director~~ Commissioner and Panel  
7       Members may decline to disclose:

8                       (A) the identity of the individual if good cause exists to protect his or  
9       her confidentiality; and

10                      (B) materials pertaining to the individual, including written  
11       communications among the individual, the ~~Director~~ Commissioner, and the  
12       Panel and recordings, notes, or summaries reflecting interviews or discussions  
13       among the individual, the ~~Director~~ Commissioner, and the Panel.

14       § 5005. NOMINATION AND APPOINTMENT PROCESS

15               (a) The Racial Equity Advisory Panel shall select for consideration by the  
16       Panel, by majority vote, provided that a quorum is present, from the  
17       applications for the position of ~~Executive Director~~ Commissioner of Racial  
18       Equity as many candidates as it deems qualified for the position.

19               (b) The Panel shall submit to the Governor the names of the candidates  
20       deemed most qualified to be appointed to fill the position.

1           (c) The Governor shall make the appointment to the ~~Executive Director~~  
2           Commissioner position from the list of qualified candidates submitted pursuant  
3           to subsection (b) of this section. The names of candidates submitted and not  
4           selected shall remain confidential.

5           Sec. 3. EFFECTIVE DATE

6           This act shall take effect on passage.