

1 H.649

2 Introduced by Representative Burrows of West Windsor

3 Referred to Committee on

4 Date:

5 Subject: General provisions; Truth and Reconciliation Commission

6 Statement of purpose of bill as introduced: This bill proposes to extend the
7 time for the Truth and Reconciliation Commission to complete its work by 10
8 months; to establish a panel with authority to fill vacancies on the Commission
9 and to remove or reprimand commissioners for cause; to create certain
10 exemptions from the Open Meeting Law for meetings of the Commission and
11 to permit commissioners to confer with each other; and to create a duty of
12 confidentiality for participants in affinity groups organized by the
13 Commission.

14 An act relating to the Vermont Truth and Reconciliation Commission

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

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

17 Sec. 4. REPEAL

18 1 V.S.A. chapter 25 (Truth and Reconciliation Commission) is repealed on

19 ~~July 1, 2026 May 1, 2027~~

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

2 § 903. COMMISSIONERS

3 * * *

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

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

7 § 904. SELECTION PANEL; MEMBERSHIP; DUTIES

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

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

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

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

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

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

20 ~~(2) The individuals identified in subdivision (1) of this subsection.~~

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

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

9 ~~(3) Individuals selected pursuant to subdivision (1) of this subsection~~
10 ~~who are not employees of the State of Vermont and who are not otherwise~~
11 ~~compensated or reimbursed for their attendance shall be entitled to per diem~~
12 ~~compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for~~
13 ~~not more than two meetings. These payments shall be made from amounts~~
14 ~~appropriated to the Truth and Reconciliation Commission.~~

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

18 ~~(2) To enable it to carry out its duty to select and appoint the~~
19 ~~commissioners of the Truth and Reconciliation Commission as provided~~
20 ~~pursuant to section 905 of this Chapter, the Panel may.~~

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

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

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

5 ~~(D) hire temporary staff to provide administrative assistance during~~
6 ~~the period from September 1, 2022 through January 15, 2023, provided that if~~
7 ~~the Panel extends the time to select commissioners pursuant to subdivision~~
8 ~~905(c)(1) of this chapter, it may retain staff to provide administrative~~
9 ~~assistance through March 31, 2023.~~

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

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

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

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

20 (f) Members of the Panel who are not otherwise compensated by the State
21 ~~shall be entitled to per diem compensation and reimbursement of expenses~~

1 ~~pursuant to 32 V.S.A. § 1010 for not more than 20 meetings during fiscal year~~
2 2025 meetings to carry out the Panel's duties pursuant to this section and
3 sections 905 and 905a of this chapter. These payments shall be made from
4 amounts appropriated to the Truth and Reconciliation Commission.

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

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

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

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

13 § 905. SELECTION OF COMMISSIONERS

14 * * *

15 (d) The Panel shall fill any vacancy occurring among the commissioners
16 for the remainder of the term in the manner set forth in subsections (a) and (b)
17 of this section.

1 ~~Sec. 5. 1 V.S.A. § 905a is added to read:~~

2 § 905a. REMOVAL OR REPRIMAND OF COMMISSIONERS FOR
3 MISCONDUCT

4 The Selection Panel may, after notice and an opportunity for a hearing,
5 reprimand or remove a commissioner for incompetence, failure to discharge
6 the commissioner's duties, malfeasance, illegal acts, or other actions that the
7 Panel determines would substantially and materially harm the credibility of the
8 Truth and Reconciliation Commission or its ability to carry out its work
9 pursuant to the provisions of this chapter. Notwithstanding subdivision
10 904(e)(2) of this chapter, the reprimand or removal of a commissioner shall
11 only be authorized by a vote of the majority of the members of the Panel.

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

13 § 906. POWERS AND DUTIES OF THE COMMISSIONERS

14 * * *

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

17 * * *

18 (13) Establish affinity groups in which individuals who have
19 experienced institutional, structural, or systemic discrimination or are a
20 member of a population or community that has experienced institutional,

1 ~~structural, or systemic discrimination may participate for purposes of sharing~~
2 experiences and providing mutual support.

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

4 § 908. REPORTS

5 (a) On or before ~~January~~ October 15, 2024, the Commission shall submit to
6 the 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~~ April 15, ~~2026~~ 2027, the Commission shall
15 submit 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 ~~(2) The Commission shall, on or before January October 15, 2026,~~
2 make a draft of the final report publicly available and provide copies of the
3 draft to interested parties from the populations and communities identified
4 pursuant to subdivision 902(b)(1) of this chapter and other interested parties.

5 The Commission shall provide the interested parties and members of the
6 public with not less than 60 days to review the draft and provide comments on
7 it. The Commission shall consider fully all comments submitted in relation to
8 the draft 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 ~~940~~ 909
13 of this chapter.

14 * * *

15 Sec. 8. 1 V.S.A. § 909 is amended to read:

16 § 909. ACCESS TO INFORMATION; CONFIDENTIALITY

17 * * *

18 (d) Private proceedings.

19 (1) ~~The~~ Notwithstanding any provision of chapter 5, subchapter 2 of this
20 title, the Vermont Open Meeting Law, or section 911 of this chapter to the
21 contrary, the Commission shall permit any individual who is interviewed by

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) Notwithstanding subsection 312(a) of this title:

12 (1) a quorum or more of the commissioners may attend a regular,
13 special, or emergency meeting by electronic or other means without being
14 physically present at a designated meeting location.

15 (2) the Commission shall not be required to designate a physical
16 meeting location where the public may attend; and

17 (3) the members and staff of the public body shall not be required to be
18 physically present at a designated meeting location.

19 (b) When the Commission meets electronically pursuant to subsection (a)
20 of this section, the Commission shall, except as otherwise provided pursuant to
21 subsection 909(d) of this chapter.

1 ~~(1) use technology that permits the attendance of the public through~~
2 electronic or other means;

3 (2) allow the public to access the meeting by telephone;

4 (3) video record and livestream the meeting; and

5 (4) post information that enables the public to directly access and
6 participate in meetings electronically and include this information in the
7 published agenda for each meeting.

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

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

16 (3) The Commission shall include in the agenda for a closed meeting
17 information that allows the public to directly access a livestream of the
18 meeting. The video recording of any closed meeting shall be posted and made
19 available for inspection or copying under the Public Records Act. The
20 Commission shall not be required to livestream or video record any portion of
21 a closed meeting that are held in executive session pursuant to F.V.S.A. § 315.

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

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

5 § 912. AFFINITY GROUP SESSIONS; DUTY OF CONFIDENTIALITY

6 (a) The meetings and sessions of affinity groups established pursuant to
7 subdivision 906(b)(13) of this chapter shall be confidential and privileged.
8 Commission staff and participants in an affinity group session shall be subject
9 to a duty of confidentiality and shall keep confidential any information gained
10 during an affinity group session.

11 (b) A person who attended an affinity group session may bring a private
12 action in Civil Division of the Superior Court for damages resulting from a
13 breach of the duty of confidentiality covering affinity group sessions.

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

17 Sec. 11. APPROPRIATION

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

1
2

~~Sec. 12. EFFECTIVE DATE
This act shall take effect on passage.~~

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

Sec. 4. REPEAL

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

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

§ 903. COMMISSIONERS

** * **

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

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

§ 904. SELECTION PANEL; MEMBERSHIP; DUTIES

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

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

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

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

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

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

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

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

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

~~(3) Individuals selected pursuant to subdivision (1) of this subsection
who are not employees of the State of Vermont and who are not otherwise
compensated or reimbursed for their attendance shall be entitled to per diem
compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for
not more than two meetings. These payments shall be made from amounts
appropriated to the Truth and Reconciliation Commission.~~

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

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

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

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

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

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

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

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

~~(c)(1) Meetings shall be held at the call of the Chair or at the request of four or more members of the Panel.~~

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

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

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

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

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

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

§ 905. SELECTION OF COMMISSIONERS

~~(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 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. 7. 1 V.S.A. § 906 is amended to read:

§ 906. POWERS AND DUTIES OF THE COMMISSIONERS

** * **

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

** * **

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

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

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

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

§ 908. REPORTS

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

~~(2) The Commission shall, on or before January October 15, 2026, make a draft of the final report publicly available and provide copies of the draft to interested parties from the populations and communities identified pursuant to subdivision 902(b)(1) of this chapter and other interested parties. The Commission shall provide the interested parties and members of the public with not less than 60 days to review the draft and provide comments on it. The Commission shall consider fully all comments submitted in relation to the draft and shall include with the final version of the report a summary of all comments received and a concise statement of the reasons why the Commission decided to incorporate or reject any proposed changes. Comments submitted in relation to the final report shall be made available to the public in a manner that complies with the requirements of section 910 909 of this chapter.~~

~~* * *~~

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

~~§ 909. ACCESS TO INFORMATION; CONFIDENTIALITY~~

~~***~~

~~(d) Private proceedings.~~

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

~~***~~

~~See 10 V.S.A. § 911 is added to read:~~

~~§ 911. LIMITED ACCESS COMMISSION MEETINGS; EXCEPTION TO~~

~~OPEN MEETING LAW~~

~~(a)(1) As used in this subsection, "limited access meeting" means a meeting of the Commission that is livestreamed and video recorded to which access and participation by members of the general public is limited as provided in this subsection.~~

~~(2) Upon a finding by the Commission that there are material threats to the health or safety of the Commission, its staff, witnesses, or invitees, the Commission may hold a limited access meeting. During a limited access meeting, the Commission may restrict attendance at the meeting, whether the attendance is in person or by electronic or other means, and participation in the meeting to:~~

~~(A) Commission staff and legal counsel;~~

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

~~(C) members of the media; and~~

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

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

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

~~(4) Limited access meetings shall only be conducted electronically to the extent that electronic meetings are permitted for public bodies and in a manner~~

~~that is consistent with applicable laws governing electronic meetings of public
bodies.~~

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

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

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

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

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

(A) Commission staff and legal counsel;

(B) persons who are providing testimony or information to the
Commission during the meeting.

~~(C) members of the media; and~~

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

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

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

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

~~(5) The Commission shall provide an opportunity for public comment related to the topics listed on the agenda of any limited access meeting and any other issues or topics that are discussed during a limited access meeting. Any public comment received shall be included in the record of the limited access meeting.~~

~~(b)(1) Notwithstanding any provision of chapter 5, subchapter 2 of this title, the deliberations of a quorum or more of the members of the Commission shall not be subject to the Vermont Open Meeting Law.~~

~~(2) The Commission shall periodically post to the Commission's website a short summary of the deliberative meetings held by the commissioners pursuant to this subsection.~~

~~(3) As used in this subsection, "deliberations" has the same meaning as in 1 V.S.A. § 310(2).~~

~~Sec. 11. LEGISLATIVE INTENT~~

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

~~(1) utilized only when necessary to ensure the safety of the proceedings and to protect persons who may have experienced trauma who come before the Commission; and~~

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

Sec. 11. LEGISLATIVE INTENT

It is the intent of the General Assembly that:

~~(1) the Truth and Reconciliation Commission work in an open, transparent, and inclusive manner to ensure the credibility and integrity of it~~

~~work and strive to maximize opportunities to conduct its business in public meetings;~~

~~(2) specific exceptions to the Open Meeting Law, in recognition of the highly sensitive nature of the Truth and Reconciliation Commission's charge, will enable the Commission to carry out its duties in a manner that:~~

~~(A) preserves the safety of participants in the Commission's work;~~

~~(B) does not perpetuate or exacerbate harm experienced by participants; and~~

~~(C) protects participants from additional trauma; and~~

~~(3) limited access meetings held by the Truth and Reconciliation Commission pursuant to 1 V.S.A. § 911 shall be:~~

~~(A) utilized only when necessary to ensure the safety of the proceedings and to protect persons who may have experienced trauma who come before the Commission; and~~

~~(B) conducted in a manner that is trauma-informed and best ensures the safety of all participants.~~

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

~~§ 912. GROUP SESSIONS; DUTY OF CONFIDENTIALITY~~

~~(a) The sessions of groups established pursuant to subdivision 906(b)(13) of this chapter shall be confidential and privileged. Participants in a group session, including Commission staff or individuals whom the Commission~~

~~contracts with to facilitate group sessions, shall be subject to a duty of confidentiality and shall keep confidential any information gained during a group session.~~

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

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

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

~~(1) The disclosure:~~

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

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

~~(2) The disclosure is based on a reasonable suspicion of abuse or neglect of a child or vulnerable adult and a report is made in accordance with~~

~~the provisions of 22 V.S.A. § 1211 or 22 V.S.A. § 6202 or to comply with another law.~~

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

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

~~Sec. 13. APPROPRIATION~~

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

Sec. 13. [Deleted.]

Sec. 14. EFFECTIVE DATE

~~This act shall take effect on passage.~~

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

Sec. 4. REPEAL

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

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

§ 903. COMMISSIONERS

** * **

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

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

§ 904. SELECTION PANEL; MEMBERSHIP; DUTIES

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

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

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

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

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

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

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

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

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

~~(3) Individuals selected pursuant to subdivision (1) of this subsection who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than two meetings. These payments shall be made from amounts appropriated to the Truth and Reconciliation Commission.~~

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

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

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

(B) establish and maintain a principal office;

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

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

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

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

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

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

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

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

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

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

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

§ 905. SELECTION OF COMMISSIONERS

* * *

(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 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. 7. 1 V.S.A. § 906 is amended to read:

§ 906. POWERS AND DUTIES OF THE COMMISSIONERS

* * *

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

~~(1) Adopt rules in accordance with 3 V.S.A. chapter 25 as necessary to implement the provisions of this chapter. [Repealed.]~~

* * *

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

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

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

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

§ 908. REPORTS

* * *

(b)(1) On or before ~~June~~ April 15, ~~2026~~ 2027, the Commission shall submit a final report incorporating the findings and recommendations of each committee. Each report shall detail the findings and recommendations of the

relevant committee and shall include recommendations for actions that can be taken to eliminate ongoing instances of institutional, structural, and systemic discrimination and to address the harm caused by historic instances of institutional, structural, and systemic discrimination.

(2) The Commission shall, on or before ~~January~~ October 15, 2026, make a draft of the final report publicly available and provide copies of the draft to interested parties from the populations and communities identified pursuant to subdivision 902(b)(1) of this chapter and other interested parties. The Commission shall provide the interested parties and members of the public with not less than 60 days to review the draft and provide comments on it. The Commission shall consider fully all comments submitted in relation to the draft and shall include with the final version of the report a summary of all comments received and a concise statement of the reasons why the Commission decided to incorporate or reject any proposed changes. Comments submitted in relation to the final report shall be made available to the public in a manner that complies with the requirements of section ~~910~~ 909 of this chapter.

(3) The draft and final report shall include:

(A) a bibliography of all sources, interviews, and materials utilized in preparing the report;

(B) a summary of the interviews utilized in preparing the report, including the total number of interviews, and whether each interview was

public or confidential, and whether a transcript or summary, or both, is available for each interview; and

(C) information regarding where members of the public can access and obtain copies of the sources and materials utilized in preparing the report, including the transcripts or summaries of interviews.

* * *

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

§ 909. ACCESS TO INFORMATION; CONFIDENTIALITY

* * *

(d) Private proceedings.

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

* * *

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

§ 911. DELIBERATIVE DISCUSSIONS; EXCEPTION TO OPEN

MEETING LAW

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

(b) The Commission shall regularly post to the Commission's website a short summary of all deliberative meetings held by the commissioners pursuant to this subsection.

(c)(1) As used in this section, "deliberations" means weighing, examining, and discussing information gathered by the Commission and the reasons for and against an act or decision.

(2) "Deliberations" expressly excludes:

(A) taking evidence, except as otherwise provided pursuant to section 909 of this chapter;

(B) hearing arguments for or against an act or decision of the Commission;

(C) taking public comment; and

(D) making any decision related to an act or the official duties of the Commission.

Sec. 11. LEGISLATIVE INTENT

It is the intent of the General Assembly that:

(1) the Truth and Reconciliation Commission work in an open, transparent, and inclusive manner to ensure the credibility and integrity of its work and strive to maximize opportunities to conduct its business in public meetings;

(2) specific exceptions to the Open Meeting Law, in recognition of the highly sensitive nature of the Truth and Reconciliation Commission's charge, will enable the Commission to carry out its duties in a manner that:

(A) preserves the safety of participants in the Commission's work;

(B) does not perpetuate or exacerbate harm experienced by participants; and

(C) protects participants from additional trauma.

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

§ 912. GROUP SESSIONS; DUTY OF CONFIDENTIALITY

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

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

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

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

(1) The disclosure:

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

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

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

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

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

Sec. 13. EFFECTIVE DATE

This act shall take effect on passage.