

SENATE No. 2071

The Commonwealth of Massachusetts

PRESENTED BY:

Adam G. Hinds

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act promoting racial equity within state government.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Adam G. Hinds</i>	<i>Berkshire, Hampshire, Franklin and Hampden</i>	
<i>Tami L. Gouveia</i>	<i>14th Middlesex</i>	<i>3/4/2021</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>3/5/2021</i>

SENATE No. 2071

By Mr. Hinds, a petition (accompanied by bill, Senate, No. 2071) of Adam G. Hinds, Tami L. Gouveia and Joanne M. Comerford for legislation to promote racial equity within state government. State Administration and Regulatory Oversight.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act promoting racial equity within state government.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. The General Laws, as appearing in the 2018 Official Edition, are hereby
2 amended, by adding after Chapter 18C, the following new Chapter:-

3 Chapter 18D. Office of Racial Equity

4 Section 1. As used in this chapter, the following words shall have the following meanings
5 unless the context clearly requires otherwise:

6 “Antiracism”, taking action against racial hatred, racial bias, systemic racism, and the
7 oppression of marginalized groups to promote equality amongst all populations.

8 “Executive director”, the head of the Office of Antiracism.

9 “Racial Equity”, equality among people of all races.

10 “Racial Injustice”, inequality among people of differing races.

11 Section 2. There shall be an office of antiracism which shall be independent of any
12 supervision or control by any executive agency. The office shall:

13 (a) coordinate across all agencies and branches of government to promote antiracist
14 policy and works to undo the harmful effects of racism in all aspects of life including in
15 healthcare, finance, education, housing, environmental policy, and the justice system;

16 (b) regularly audit all state agencies to examine their work in promoting antiracism; and

17 (c) issue annual reports pursuant to section 10 of this chapter.

18 The office shall act to investigate and ensure that the government is proactive in
19 undertaking antiracist work to promote the betterment of all citizens of Massachusetts.

20 Section 3. The office of antiracism shall be led by an executive director. The executive
21 director shall be the administrative head of the office and shall devote full-time to the duties of
22 the office. The executive director shall be appointed by a majority vote of the attorney general,
23 auditor, and governor from a list of 3 nominees submitted by a nominating committee to
24 recommend an executive director. The nominating committee shall consist of: 5 members
25 including: The Senate President or designee, the Speaker of the House or Designee, The
26 President of the Boston Branch of the National Association for the Advancement of Colored
27 People (NAACP) or designee, The Executive Director of the American Civil Liberties Union,
28 Massachusetts office or designee, and the President of the Massachusetts Immigrant Refugee &
29 Advocacy Coalition (MIRA) or designee. The work of the nominating committee shall be
30 coordinated by the attorney general's office.

31 Any person appointed to the position of executive director shall be selected without
32 regard to political affiliation and on the basis of integrity and demonstrated ability and
33 knowledge of antiracist studies and policy. The executive director may, subject to appropriation,
34 appoint such other personnel as the executive director deems necessary for the efficient
35 management of the office.

36 The executive director shall serve for a term of 5 years. In case of a vacancy in the
37 position of the executive director, a successor shall be appointed in the same manner to begin a
38 new 5 year term. No person shall be appointed as executive director for more than 2 terms during
39 the course of their lifetime.

40 The executive director may only be removed from office for cause by a majority vote of
41 the attorney general, the state auditor, and the governor. Such cause must include substantial
42 neglect of duty, gross misconduct, or conviction of a crime. The cause for removal of an
43 executive director shall be stated in writing and shall be sent to the clerks of the senate and house
44 of representatives and to the governor at the time of removal and shall be a public document.

45 Section 4. The executive director shall regularly convene a coordinating council. The
46 coordinating council shall, at minimum, consist of the executive director, who shall serve as
47 chair, the secretary of health and human services, the secretary of public safety and security, the
48 secretary of education, the secretary of energy and environmental affairs, the secretary of
49 transportation, the secretary of housing and economic development, the state auditor, the state
50 treasurer, and the secretary of the commonwealth. Other members may be added to the council
51 upon the recommendation of the executive director, subject to ratification by a majority vote of
52 the council.

53 The executive director shall convene the coordinating council at least quarterly at which
54 time members of the council shall issue reports on the work being done within their agencies to
55 promote racial equity. The executive director shall, in turn, provide recommendations to
56 members of the council on how to further this work.

57 The executive director may consult with or request the assistance of members of the
58 coordinating council with respect to the duties and responsibilities of the office; provided
59 however, that any request for assistance shall not place requirements on any member of the
60 council to fulfill the request.

61 The coordinating council shall annually set the salary of the executive director; provided
62 however, that such salary shall not exceed 90 per cent of the salary of the chief justice of the trial
63 court, nor shall the salary be lowered once established.

64 Section 5. The executive director shall regularly perform audits of all agencies of the
65 state, including the legislature, the judiciary, constitutional officers, and quasi-public agencies
66 that are not directly answerable to the executive office. The audits shall examine:

67 (a) regulations and policies promulgated by the office that affect the general public, with
68 consideration of whether they inflict disproportionate harm and racial injustice;

69 (b) workplace climate and whether the agency promotes racial justice for its own
70 employees; and

71 (c) other matters as may be deemed necessary by the executive director.

72 In completing an audit, the executive director may solicit feedback from employees, the
73 general public, and any other stakeholder group deemed necessary to complete the function of
74 the audit.

75 A state employee shall submit to interview as requested by the executive director. The
76 supervisor of the employee shall make accommodations for the employee to submit to the
77 interview and shall not deduct time away from earned sick, vacation, or personal time.

78 Section 6. The executive director shall, upon request of the Speaker of the House, the
79 Senate President, or the Governor, review and offer recommendations on legislation pending
80 before either branch of the legislature. The executive director shall submit a report of its findings
81 to the Clerk of the House or Senate within 10 days of receiving the request. The report shall
82 include:

83 (a) A review of the impacts the legislation would have on furthering the government's
84 work in promoting antiracism and ensuring racial equity; and

85 (b) Any recommendations for amendments or redrafts to the legislation, as applicable, so
86 that it does not lead to racial injustice.

87 The executive director may also issue a report on any piece of legislation currently
88 pending before the General Court at their discretion, without being requested to do so by the
89 Senate President, Speaker of the House, or the Governor. In doing so, the executive director may
90 submit their findings to the clerk of the house or senate, the speaker of the house, the senate
91 president, the governor, and any chairperson or other member of the legislature as deemed
92 relevant by the executive director.

93 Section 7. The executive director or their designee shall have access at any and all
94 reasonable times to any facility that is operated, licensed or funded by a legislative, executive,
95 judicial, or quasi-public agency, and shall have unrestricted access to all electronic information
96 systems, records, reports, materials, and employees in order to better understand the agency's
97 work in promoting antiracist policy. The executive director shall have access to relevant records
98 held by any clerk of the court systems, the senate, house of representatives, governor's office,
99 including the right to inspect and copy, without cost. The executive director shall be bound by
100 any limitations on the use or release of information imposed by law upon the party furnishing
101 such information.

102 Section 8. No discriminatory or retaliatory action shall be taken against any person who
103 communicates with or provides information to the office.

104 Section 9. The executive director shall develop internal procedures appropriate for the
105 effective performance of their duties. The executive director may, subject to chapter 30A, adopt,
106 amend, or repeal such rules and regulations as are deemed necessary to carry out the functions of
107 the office.

108 Section 10. The executive director shall report annually to the governor, the president of
109 the senate, the speaker of the house, the attorney general, the state auditor, the state treasurer, the
110 chief justice of the supreme judicial court, and any other agency head deemed appropriate on the
111 findings of the office with respect to the work of the government to actively promote antiracist
112 policy. The report shall include recommendations about how to improve policies and any
113 findings where policy implemented by an agency promoted racial inequity. The report shall be
114 made public.

115 Section 11. The following provisions apply to information and records obtained,
116 reviewed or maintained by the executive director:

117 (a) Notwithstanding any general or special law to the contrary, the disclosure of
118 information to the office of racial equity and antiracism shall not be prohibited. Any information
119 deemed confidential by the disclosing party or the executive director shall be permitted and said
120 information shall not be made public. The executive director shall ensure that no information
121 submitted for their review is disseminated to parties outside the office.

122 (b) Information, documents, and records of the executive director and their office shall
123 not be subject to subpoena, discovery, or introduction into evidence in any civil or criminal
124 proceeding.

125 (c) Statical compilations of data which do not contain any information that would permit
126 the identification of any person may be disclosed to the public.

127 Section 12. No person employed by or contracted by or volunteering for the office shall
128 be subject to suit directly, derivatively, or by way of contribution or indemnification for any civil
129 damages under the laws of the commonwealth resulting from any act or omission performed
130 during or in connection with the discharge of their duties within the scope of their employment
131 or appointment, unless such act or failure to act was committed with gross negligence,
132 maliciously, or in bad faith.