House Calendar

Tuesday, March 21, 2023

77th DAY OF THE BIENNIAL SESSION

House Convenes at 10:00 A.M.

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ORDERS OF THE DAY

ACTION CALENDAR

Third Reading

H. 470

An act relating to miscellaneous amendments to alcoholic beverage laws

Committee Bill for Second Reading

H. 471

An act relating to technical and administrative changes to Vermont's tax laws

(Rep. Branagan of Georgia will speak for the Committee on Ways and Means.**)**

Favorable with Amendment

H. 55

An act relating to miscellaneous unemployment insurance amendments

Rep. Mulvaney-Stanak of Burlington, for the Committee on Commerce and Economic Development, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 21 V.S.A. § 1301 is amended to read:

§ 1301. DEFINITIONS

~~The following words and phrases, as~~ As used in this chapter~~, shall have the following meanings unless the context clearly requires otherwise~~:

* * *

(25) "Son," "daughter," and "child" include an individual's biological child, foster child, adoptive child, stepchild, a child for whom the individual is listed as a parent on the child's birth certificate, a legal ward of the individual, a child of the individual's spouse, or a child that the individual has day-to-day responsibilities to care for and financially support.

(26) "Spouse" includes an individual's domestic partner or civil union partner.

Sec. 2. 21 V.S.A. § 1301 is amended to read:

As used in this chapter:

* * *

(5) "Employer" includes:

(A) Any employing unit ~~which, after December 31, 1971~~ that in any calendar quarter in either the current or preceding calendar year paid for service in employment, as ~~hereinafter~~ defined pursuant to subdivision (6) of this section, wages of $1,500.00 or more, or for some portion of a day in each of 20 different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, had in employment~~, as hereinafter defined,~~ at least one individual (irrespective of whether the same individual was in employment in each such day). When an employing unit described in either this subdivision or subdivision (5)(B) of this section, becomes an employer within any calendar year, it shall be subject to this chapter for the whole of ~~such~~ the calendar year.

(B)(i) Any employing unit for which service in employment for a religious, charitable, educational, or other organization as defined in subdivision (6)(A)(ix) of this section is performed after December 31, 1971~~;~~, except as provided in subdivision (5)(C) of this section.

* * *

(6)(A)(i) "Employment," subject to the other provisions of this subdivision (6), means service within the jurisdiction of this State~~, performed prior to January 1, 1978, which was employment as defined in this subdivision prior to such date and, subject to the other provisions of this subdivision, service performed after December 31, 1977,~~ performed by an employee, as defined in subsections 3306(i) and (o) of the Federal Unemployment Tax Act, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, expressed or implied. Services partly within and partly ~~without~~ outside this State may by election as ~~hereinbefore~~ provided in subdivision (5)(E)(i) of this section be treated as if wholly within the jurisdiction of this State. ~~And whenever~~ If an employing unit ~~shall have~~ has elected to come under the provisions of a similar act of a state where a part of the services of an employee are performed, the Commissioner, upon ~~his or her approval of said~~ approving the election as to ~~any such~~ the employee, may treat the services covered by ~~said approved~~ the election as having been performed wholly ~~without~~ outside the jurisdiction of this State.

* * *

(ix) The term "employment" shall also include service for any employing unit ~~which is~~ performed ~~after December 31, 1971~~ by an individual

in the employ of a religious, charitable, educational, or other organization ~~but only~~ if~~:~~

~~(I)~~ the service is excluded from "employment" as defined in the Federal Unemployment Tax Act solely by reason of ~~section~~ subdivision 3306(c)(8) of that act~~; and~~

~~(II) the organization had four or more individuals in employment for some portion of a day in each of 20 different weeks, whether or not such weeks were consecutive, within either the current or preceding calendar year, regardless of whether they were employed at the same moment of time~~.

Sec. 3. 21 V.S.A. § 1321 is amended to read:

§ 1321. CONTRIBUTIONS; TAXABLE WAGE BASE CHANGES

* * *

(c)(1) Financing benefits paid to employees of nonprofit organizations.

(A) Benefits paid to employees of nonprofit organizations shall be financed in accordance with the provisions of this subsection (c).

(B) ~~For the purposes of~~ As used in this subsection (c), ~~a~~ "nonprofit organization" ~~is~~ means an organization ~~(~~, or group of organizations~~)~~, described in Section 501(c)(3) of the U.S. Internal Revenue Code ~~which~~ that is exempt from income tax under Section 501(a) of ~~such~~ the Internal Revenue Code.

(2) Liability for contributions and election of reimbursement. Any nonprofit organization ~~which~~ that, pursuant to subdivision 1301(5)(B)(i) of this ~~title~~ chapter, is~~,~~ or becomes~~,~~ subject to this chapter ~~on or after January 1, 1972~~ shall pay contributions under the provisions of this section~~,~~ unless it elects, in accordance with this subsection, to pay to the Commissioner~~,~~ for the Unemployment Insurance Trust Fund~~,~~ an amount equal to the amount of regular benefits and of one-half of the extended benefits paid~~,~~ that is attributable to service in the employ of ~~such~~ the nonprofit organization~~,~~ to individuals for weeks of unemployment ~~which~~ that begin during the effective period of ~~such~~ the election.

(A) ~~Any nonprofit organization which is, or becomes, subject to this chapter on January 1, 1972 may elect to become liable for payments in lieu of contributions for a period of not less than one calendar year beginning with January 1, 1972 provided it files with the Commissioner a written notice of its election within the 30-day period immediately following such date or within a like period immediately following April 16, 1971, whichever occurs later.~~ [Repealed.]

(B) Any nonprofit organization ~~which~~ that becomes subject to this chapter ~~after January 1, 1972~~ may elect to become liable for payments in lieu of contributions for a period of not less than 12 months ~~beginning with the date on which such subjectivity begins~~ by filing a written notice of its election with the Commissioner not later than 30 days immediately following the date of the determination ~~of such subjectivity~~ that the organization is subject to this chapter.

(C) Any nonprofit organization ~~which~~ that makes an election in accordance with ~~subdivisions (c)(2)(A) and~~ subdivision (B) of this ~~section will~~ subdivision (c)(2) shall continue to be liable for payments in lieu of contributions until it files with the Commissioner a written notice terminating its election not later than 30 days prior to the beginning of the calendar year for which ~~such~~ the termination shall first be effective.

(D) Any nonprofit organization ~~which~~ that has been paying contributions under this chapter ~~for a period subsequent to January 1, 1972~~ may ~~change to a reimbursable basis~~ elect to become liable for payments in lieu of contributions by filing with the Commissioner not later than 30 days prior to the beginning of any calendar year a written notice of election to become liable for payments in lieu of contributions. ~~Such~~ An election under this subdivision (c)(2)(D) shall not be terminable by the organization for that year and the next year.

(E) The Commissioner may for good cause extend the period within which a notice of election, or a notice of termination, must be filed and may permit an election to be retroactive ~~but not any earlier than with respect to benefits paid after December 31, 1969~~.

(F) The Commissioner, in accordance with ~~such~~ any applicable rules ~~as~~ adopted by the Board ~~may prescribe~~, shall notify each nonprofit organization of any determination ~~which he or she may make of~~ that the Commissioner makes with regard to its status as an employer and ~~of~~ the effective date of any election ~~which it~~ that the organization makes and of any termination of ~~such~~ an election. ~~Such~~ The determinations shall be subject to reconsideration and to appeal and review in accordance with the provisions of section 1337a of this title.

(3) Reimbursement payments. Payments in lieu of contributions shall be made in accordance with the provisions of this subdivision, including either subdivision (A) or ~~subdivision~~ (B).

(A) At the end of each calendar quarter, or at the end of any other period as determined by the Commissioner, the Commissioner shall bill each nonprofit organization, or group of ~~such~~ nonprofit organizations, ~~which~~ that

has elected to make payments in lieu of contributions for an amount equal to the full amount of regular benefits plus one-half of the amount of extended benefits paid during ~~such~~ the quarter or other prescribed period that is attributable to service in the employ of ~~such~~ the organization.

(B)(i) Each nonprofit organization that has elected payments in lieu of contributions may request permission to make ~~such~~ payments as provided in this subdivision (c)(3)(B). ~~Such method of payment~~ Payment pursuant to the provisions of this subdivision (c)(3)(B) shall become effective upon approval of the Commissioner.

(ii) At the end of each calendar quarter, the Commissioner shall bill each nonprofit organization approved to make payments pursuant to the provisions of this subdivision (c)(3)(B) for an amount representing ~~one of the following:~~

~~(I) For 1972, two-tenths of one percent of its total payroll for 1971.~~

~~(II) For years after 1972, such~~ a percentage of its total payroll for the immediately preceding calendar year ~~as~~ that the Commissioner ~~shall determine. The determination shall be~~ determines to be appropriate based ~~each year~~ on the average benefit costs attributable to service in the employ of nonprofit organizations during the preceding calendar year.

~~(III) For~~ The Commissioner may determine a different rate for any organization ~~which~~ that did not pay wages throughout the four calendar quarters of the preceding calendar year~~, such percentage of its payroll during that year as the Commissioner shall determine~~.

(iii) At the end of each calendar year, the Commissioner may modify the quarterly percentage of payroll thereafter payable by the nonprofit organization in order to minimize excess or insufficient payments.

(iv) At the end of each calendar year, the Commissioner shall determine whether the total of payments for ~~such~~ the year made by a nonprofit organization is less than, or in excess of, the total amount of regular benefits plus one-half of the amount of extended benefits paid to individuals during ~~such~~ the taxable year based on wages attributable to service in the employ of ~~such~~ the organization. Each nonprofit organization whose total payments for ~~such~~ the year are less than the amount ~~so~~ determined shall be liable for payment of the unpaid balance to the Trust Fund in accordance with subdivision (3)(C) of this subsection (c). If the total payments exceed the amount so determined for the taxable year, all or a part of the excess shall, at the election of the nonprofit organization, be refunded from the Trust Fund or

retained in the Trust Fund as part of the payments ~~which~~ that may be required for the next calendar year.

(C) Payment of any bill rendered under subdivision (2) or ~~subdivision~~ (3) of this subsection (c) shall be made not later than 30 days after the bill is mailed to the last known address of the nonprofit organization or is otherwise delivered to it~~,~~ unless there has been an application for redetermination by the Commissioner or a petition for hearing before a referee in accordance with subdivision (3)(E) of this subsection (c).

(D) Payments made by any nonprofit ~~corporation~~ organization under the provisions of this section shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of the organization.

(E)(i) The amount due specified in any bill from the Commissioner shall be conclusive on the organization unless, not later than 30 days after the date of the bill, the organization files an application for reconsideration by the Commissioner, or a petition for a hearing before a referee, setting forth the grounds for ~~such~~ the application or petition.

(ii) The Commissioner shall promptly review and reconsider the amount due specified in the bill and shall thereafter issue a redetermination in any case in which ~~such~~ an application for redetermination has been filed. Any such redetermination shall be conclusive on the organization unless, not later than 30 days after the date of the redetermination, the organization files a petition for a hearing before a referee~~,~~ setting forth the grounds for the petition.

(iii) Proceedings on the petition for a hearing before a referee on the amount of a bill rendered under this section or a redetermination of ~~such~~ the amount shall be in accordance with the provisions of section 1331 of this title, and the decision of the referee shall be subject to the provisions of that section. Review of the decision of the referee by the Employment Security Board shall be in accordance with, and its decision shall be subject to, the provisions of section 1332 of this title.

(F) Any employer, including the State of Vermont ~~which~~, that makes payments in lieu of contributions under this section shall be subject to the provisions of sections 1314, 1322, 1328, 1329, 1334, and 1336 of this title as follows:

(i) ~~that~~ The employer shall be liable for any reports ~~as~~ required by the Commissioner ~~may require~~ pursuant to sections 1314 and 1322 of this title~~;~~.

(ii) ~~that~~ The employer shall be liable for any penalty imposed pursuant to sections 1314 and 1328 of this title~~;~~.

(iii) ~~that~~ The employer shall be liable for the same interest on past due payments pursuant to subsection 1329(a) of this title~~;~~.

(iv) ~~that~~ The employer shall be subject to a civil action for the collection of past due payments as if those payments were contributions pursuant to subsections 1329(b) and 1334(a) of this title~~; and~~.

(v) ~~that~~ The employer shall be subject to ~~those~~ actions for the collection of past due payments as if those payments were contributions pursuant to subsections 1329(c) and (d)~~,~~ and 1334(b) and (c)~~,~~ and section 1336 of this title; however, those provisions shall not apply to the State of Vermont.

(4) Authority to terminate elections. If any nonprofit organization is delinquent in making payments in lieu of contributions as required under this subsection, the Commissioner may terminate ~~such~~ the organization's election to make payments in lieu of contributions as of the beginning of the next taxable year, and the termination shall be effective for that and the next taxable year.

(5) Allocation of benefit costs.

(A) Each employer that is liable for payments in lieu of contributions shall pay to the Commissioner for the Trust Fund the amount of regular benefits plus the amount of one-half of extended benefits paid that are attributable to service in the employ of ~~such~~ the employer.

(B) If benefits paid to an individual are based on wages paid by more than one employer and one or more of ~~such~~ the employers are liable for payments in lieu of contributions, the amount payable to the Trust Fund by each employer that is liable for ~~such~~ payments in lieu of contributions shall be ~~determined in accordance with subdivisions (5)(A) and (B) of this subsection (c):~~

~~(A) Proportionate allocation when fewer than all base-period employers are liable for reimbursement. If benefits paid to an individual are based on wages paid by one or more employers that are liable for payments in lieu of contributions and on wages paid by one or more employers who are liable for contributions, the amount of benefits payable by each employer that is liable for payments in lieu of contributions shall be~~ an amount ~~which~~ that bears the same ratio to the total benefits paid to the individual as the total base-period wages paid to the individual by ~~such~~ the employer bear to the total base-period wages paid to the individual by all of ~~his or her~~ the individual's base-period employers.

~~(B) Proportionate allocation when all base-period employers are liable for reimbursement. If benefits paid to an individual are based on wages paid by two or more employers that are liable for payments in lieu of contributions, the amount of benefits payable by each employer shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base-period wages paid to the individual by the employer bear to the total base-period wages paid to the individual by all of his or her base-period employers.~~

(6) Group accounts. Two or more employers that have become liable for payments in lieu of contributions, in accordance with the provisions of this section and section 1380 of this title, may file a joint application to the Commissioner for the establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of ~~such~~ the employers. Each application shall identify and authorize a group representative to act as the group's agent for the purpose of this section. Upon ~~his or her~~ approval of the application, the Commissioner shall establish a group account for ~~such~~ the employers effective as of the beginning of the calendar quarter in which ~~he or she~~ the Commissioner receives the application and shall notify the group's representative of the effective date of the account. The account shall remain in effect for not less than two years and thereafter until terminated at the discretion of the Commissioner or upon application by the group. Upon establishment of the account, each member of the group shall be liable for payments in lieu of contributions with respect to each calendar quarter in the amount that bears the same ratio to the total benefits paid in ~~such~~ the quarter that are attributable to service performed in the employ of all members of the group as the total wages paid for service in employment by ~~such~~ the member in ~~such~~ the quarter bear to the total wages paid during ~~such~~ the quarter for service performed in the employ of all members of the group. The Board shall ~~prescribe regulations~~ adopt rules as it deems necessary with respect to applications for establishment, maintenance, and termination of group accounts that are authorized by this subdivision, for addition of new members to, and withdrawal of active members from, such accounts, and for the determination of the amounts that are payable under this ~~section~~ subsection by members of the group and the time and manner of ~~such~~ the payments.

(7) ~~Notwithstanding any of the foregoing provisions of this section, any nonprofit organization that prior to January 1, 1969, paid contributions required by this section, and, pursuant to subsection (c) of this section, elects within 30 days after January 1, 1972, to make payments in lieu of contributions, shall not be required to make any such payment on account of any regular or extended benefits paid, on the basis of wages paid by such organization to individuals for weeks of unemployment which begin on and~~

~~after the effective date of the election until the total amount of benefits equals the amount (1) by which the contributions paid by the organization with respect to the two-year period before the effective date of the election under subsection (b) of this section exceed (2) the total amount of unemployment benefits paid for the same period that were attributable to service performed in the employ of the organization and were charged to the experience rating record of the organization.~~ [Repealed.]

* * *

(f) Any employer who makes payments in lieu of contributions under the provisions of this section is considered to be self-insuring and shall pay to the Commissioner for the Unemployment Compensation Trust Fund ~~such~~ any amounts ~~as~~ the Commissioner finds to be due under this chapter, including benefits paid but denied on appeal or benefits paid in error ~~which~~ that cannot be properly charged either against another employer who makes payments in lieu of contributions or against the experience-rating record of another employer who pays contributions. Benefits improperly paid where repayment by the claimant is ordered pursuant to subsection 1347(a) or (b) of this title will be credited to the employer's account when repayment from the claimant is actually received by the Commissioner.

Sec. 4. NONPROFIT AND MUNICIPAL REIMBURSABLE EMPLOYERS; EDUCATION; OUTREACH

(a) On or before October 1, 2023, the Commissioner of Labor, in consultation with the Vermont League of Cities and Towns, Common Good Vermont, United Way of Northwest Vermont, and other interested stakeholders, shall develop information and education materials for nonprofit and municipal employers regarding the unemployment insurance system. At a minimum, the materials shall:

(1) explain the options available to nonprofit and municipal employers, including paying regular unemployment insurance contributions, reimbursing the Unemployment Insurance Trust Fund for attributable unemployment insurance costs, and, with respect to nonprofit employers, quarterly payments of estimated unemployment insurance costs;

(2) identify the potential benefits and drawbacks of each of the options identified in subdivision (1) of this subsection;

(3) provide information on how a nonprofit or municipal employer can evaluate its potential liability under each of the options identified in subdivision (1) of this subsection;

(4) provide information developed by the Vermont League of Cities and Towns, Common Good Vermont, United Way of Northwest Vermont, and other interested stakeholders regarding how a nonprofit or municipal employer can plan and budget for the potential expenses associated with each of the options identified in subdivision (1) of this subsection; and

(5) provide additional information regarding the Unemployment Insurance program and related laws that the Commissioner determines, in consultation with the Vermont League of Cities and Towns, Common Good Vermont, United Way of Northwest Vermont, and other interested stakeholders, to be helpful or necessary for nonprofit and municipal employers.

(b)(1) The informational and educational materials developed pursuant to subsection (a) of this section shall be made available on the Department's website and shall, in coordination with the Secretary of State, Common Good Vermont, United Way of Northwest Vermont, the Vermont League of Cities and Towns, and other interested stakeholders, be shared directly with Vermont nonprofit and municipal employers to the extent practicable.

(2) The Secretary of State shall assist the Commissioner of Labor in identifying and contacting all active Vermont nonprofit employers. The Office of the Secretary of State shall also make available on its website a link to the information and educational materials provided on the Department of Labor's website pursuant to this section.

(c) The Department of Labor, in collaboration with the Vermont League of Cities and Towns, Common Good Vermont, United Way of Northwest Vermont, and other interested stakeholders, shall hold one or more informational sessions to present the materials and information developed pursuant to subsection (a) of this section to nonprofit employers and municipal employers. At least one session shall be held on or before November 1, 2023. Each session shall allow for both in-person and remote participation and shall be recorded. Recordings shall be made available to the public and to stakeholder organizations for distribution to their members.

Sec. 5. 2021 Acts and Resolves No. 183, Sec. 59(b)(6) is amended to read:

(6) Sec. 52g (prospective repeal of unemployment insurance benefit increase) shall take effect ~~upon the payment of a~~ when the cumulative ~~total~~ amount of additional benefits paid pursuant to 21 V.S.A. § 1338(e) ~~when,~~ compared to the rate at which benefits would have been paid under the formula set forth in 21 V.S.A. § 1338(e) on June 30, 2025 ~~equal to $92,000,000.00,~~ plus the ~~difference between $8,000,000.00 and the~~ amount of additional benefits paid ~~out~~ pursuant to section 52b~~, if any~~, compared to the amount that

would have been paid pursuant to the provisions of 21 V.S.A. § 1338(f)(1) on June 30, 2022, equals $100,000,000.00 and shall apply to benefit weeks beginning after that date.

Sec. 6. UNEMPLOYMENT DUE TO URGENT, COMPELLING, OR NECESSITOUS CIRCUMSTANCES; COVERAGE; IMPACT; REPORT

(a) On or before January 15, 2024, the Commissioner of Labor shall submit a written report prepared in consultation with the Joint Fiscal Office to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs regarding the potential impact of extending eligibility for unemployment insurance benefits to individuals who separate from employment due to urgent, compelling, or necessitous circumstances, including the individual's injury or illness, to obtain or recover from medical treatment, to escape domestic or sexual violence, to care for a child following an unexpected loss of child care, or to care for an ill or injured family member.

(b) The report shall include:

(1) a list of states in which individuals who separate from employment due to circumstances similar to those described in subsection (a) of this section are eligible for unemployment insurance and shall identify the specific circumstances for separation from employment in each identified state for which there is no waiting period or period of disqualification related to the circumstance;

(2) information, to the extent it is available, regarding the number of approved claims in the states identified pursuant to subdivision (1) of this subsection where the individual separated from employment due to circumstances similar to those described in subsection (a) of this section;

(3) an estimate of the projected range of additional approved claims per year in Vermont if individuals who separate from employment due to circumstances similar to those described in subsection (a) of this section are made eligible for unemployment insurance;

(4) an estimate of the range of potential impacts on the Unemployment Insurance Trust Fund of making individuals who separate from employment due to circumstances similar to those described in subsection (a) of this section eligible for unemployment insurance; and

(5) any recommendations for legislative action.

Sec. 7. DOMESTIC AND SEXUAL VIOLENCE SURVIVORS'

TRANSITIONAL EMPLOYMENT PROGRAM; UTILIZATION; REPORT

On or before January 15, 2024, the Commissioner of Labor shall submit a written report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs regarding the utilization of the Domestic and Sexual Violence Survivors' Transitional Employment Program. The report shall include information regarding the utilization of the Program during the past 10 years, a summary of the Department's efforts to make members of the public aware of the Program and improve access to it, how the identified changes have impacted utilization of the Program in comparison to prior years, any potential ways to further increase awareness and utilization of the Program, and any suggestions for legislative action to improve awareness or utilization of the Program.

Sec. 8. 21 V.S.A. § 1256 is added to read:

§ 1256. NOTIFICATION TO THE PUBLIC

The Department shall take reasonable measures to provide information to the public about the Program, including publishing information on the Department's website and providing timely materials related to the Program to public agencies of the State and organizations that work with domestic and sexual violence survivors, including law enforcement, State's Attorneys, community justice centers, the Center for Crime Victim Services, the Vermont Network Against Domestic and Sexual Violence (the Network), and any others deemed appropriate by the Commissioner in consultation with the Network.

Sec. 9. EFFECTIVE DATES

(a) This section and Secs. 1, 3, 4, 5, 6, 7, and 8 shall take effect on July 1, 2023.

(b) Sec. 2 shall take effect on July 1, 2024.

(Committee Vote: 9-0-2)

Rep. Anthony of Barre City, for the Committee on Ways and Means, recommends the bill ought to pass when amended as recommended by the Committee on Commerce and Economic Development.

(Committee Vote: 11-0-1)

H. 171

An act relating to adult protective services

Rep. Noyes of Wolcott, for the Committee on Human Services, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 33 V.S.A. chapter 69, subchapter 1 is amended to read:

Subchapter 1. Reports of Abuse of Vulnerable Adults

§ 6901. PURPOSE

(a) The purpose of this chapter is to:

(1) protect vulnerable adults whose health and welfare may be adversely affected through abuse, neglect, or exploitation; ~~provide a temporary or permanent nurturing and safe environment for vulnerable adults when necessary; and for these purposes to require the reporting of suspected abuse, neglect, and exploitation of vulnerable adults and the investigation of such reports and provision of services, when needed; and to intervene in the family or substitute care situation only when necessary to ensure proper care and protection of a vulnerable adult or to carry out other statutory responsibilities~~

(2) recognize and accommodate the barriers for vulnerable adults that may impair both their response to maltreatment and the ability to substantiate allegations of maltreatment; and

(3) require the reporting of suspected abuse, neglect, and exploitation of vulnerable adults, the investigation of such reports, and the establishment of protective services, when needed.

(b) The provision of protective services under this chapter shall not cause undue harm or violate the individual's autonomy and shall provide opportunities for the vulnerable adult's preferences to be considered.

§ 6902. DEFINITIONS

As used in this chapter:

(1) "Abuse" means:

(A) Any medical treatment ~~of a vulnerable adult that places life, health, or welfare in jeopardy or is likely to result in impairment of health~~ that purposely, knowingly, recklessly, or negligently places the life, health, or welfare of a vulnerable adult in jeopardy or is likely to result in impairment of health to the vulnerable adult.

(B) Any conduct committed ~~with an intent or reckless disregard that such conduct~~ purposely, knowingly, or recklessly that is likely to cause unnecessary harm, unnecessary pain, or unnecessary suffering to a vulnerable adult or places the life, health, or welfare of a vulnerable adult in jeopardy or is likely to result in impairment of health to the vulnerable adult.

(C) ~~Unnecessary or unlawful confinement or unnecessary or unlawful restraint of a vulnerable adult~~ Confinement, seclusion, restraint, or interference with the freedom of movement of a vulnerable adult, unless necessary to ensure the health and safety or the vulnerable adults or others.

(D)(i) Any sexual activity or acts of a sexual nature with a vulnerable adult by a caregiver ~~who volunteers for or is paid by a caregiving facility or program~~. This definition shall not apply to a consensual relationship between a vulnerable adult and a spouse or household member as defined in 15 V.S.A. § 1101, ~~nor~~ or to a consensual relationship between a vulnerable adult and a caregiver hired, supervised, and directed by the vulnerable adult.

(ii) Any sexual activity or acts of a sexual nature ~~such as fondling, exposure of genitals, and lewd and lascivious conduct~~ with a vulnerable adult when the vulnerable adult does not consent or when the individual knows or should know that the vulnerable adult is incapable of resisting or consenting to the sexual activity due to age, disability, or fear of retribution or hardship, regardless of whether the individual has actual knowledge of the adult's status as a vulnerable adult.

(E) ~~Intentionally subjecting a vulnerable adult to behavior that should reasonably be expected to result in intimidation, fear, humiliation, degradation, agitation, disorientation, or other forms of serious emotional distress~~ Purposely or recklessly subjecting a vulnerable adult to behavior that a reasonable person would expect to result in serious emotional or psychological distress, including intimidation, fear, humiliation, degradation, agitation, or disorientation.

(F) Administration, or threatened administration, of a drug~~,~~ or substance~~, or preparation~~ to a vulnerable adult for a purpose other than legitimate and lawful medical or therapeutic treatment.

(G) Wrongful denial or withholding of necessary medication, care, durable medical equipment, or treatment.

(H) Use of deception, force, threat, undue influence, harassment, duress, or fraud to induce a vulnerable adult to request or consent to receive or refuse treatment.

(2) "Activities of daily living" means dressing and undressing, bathing, personal hygiene, bed mobility, toilet use, transferring, mobility in and around the home, communication, and eating.

(3) "Acts of a sexual nature" means fondling, exposure of genitals, and lewd and lascivious conduct.

(4) "Adult" means any individual who is 18 years of age or older.

(5) "Alleged perpetrator" means the individual alleged to have abused, neglected, or exploited the alleged victim.

(6) "Alleged victim" means the individual who is alleged to have been abused, neglected, or exploited by the alleged perpetrator.

(7) "Assessment" means a process by which Adult Protective Services gathers additional information to determine if an investigation should be opened.

(8) "Care" means subsistence, medical services, personal care services, mental health services, or rehabilitative services and includes assistance with activities of daily living or instrumental activities of daily living.

(9) "Caregiver" means:

(A) a person~~, agency, facility, or other organization~~ with a designated responsibility for providing ~~subsistence or medical or other care to an adult who is an elder or has a disability, who has assumed the responsibility voluntarily, by contract, or by an order of the court; or a person providing care, including medical care, custodial care, personal care, mental health services, rehabilitative services, or any other kind of care provided that is required because of another's age or disability~~ care to another;

(B) a worker or employee in a facility or program that provides care to an adult who is an elder or has a disability and who has assumed the responsibility voluntarily, by contract, or by an order of the court; or

(C) a person providing care to a person that is required because of the person's age or disability.

~~(3)~~(10) "Commissioner" means the Commissioner of Disabilities, Aging, and Independent Living.

~~(4)~~(11) "Department" means the Department of Disabilities, Aging, and Independent Living.

~~(5)~~(12) "Employer" means a person or organization who employs or contracts with one or more individuals to care for vulnerable adults, on either a paid or volunteer basis.

~~(6)~~(13) "Exploitation" means:

(A) willfully or knowingly using, withholding, transferring, or disposing of funds or property of a vulnerable adult without or in excess of legal authority ~~for the wrongful profit or advantage of another~~ to the detriment of a vulnerable adult;

(B) purposeful unauthorized access, sharing, or use of identifying information, image or likeness, personal accounts, or documents of a vulnerable adult without or in excess of legal authority to the detriment of the vulnerable adult or for the wrongful profit or advantage of another;

(C) breach of duty by a guardian, agent, or other fiduciary to the detriment of a vulnerable adult;

(D) acquiring or attempting to acquire possession or control of or an interest in funds or property of a vulnerable adult through the use of deception, force, threat, undue influence, harassment, duress, or fraud;

~~(C)~~(E) ~~the act of forcing or compelling a vulnerable adult against his or her will to perform services for the profit or advantage of another~~ refusing to return or surrender possession or control of an interest in funds or property of a vulnerable adult upon the request of a vulnerable adult or the vulnerable adult's representative;

~~(D)~~(F) ~~any sexual activity with a vulnerable adult when the vulnerable adult does not consent or when the actor knows or should know that the vulnerable adult is incapable of resisting or declining consent to the sexual activity due to age or disability or due to fear of retribution or hardship, whether or not the actor has actual knowledge of vulnerable status~~ knowingly failing to use a vulnerable adult's income and assets for the necessities required for that vulnerable adult's support and maintenance;

(G) influencing or persuading a vulnerable adult to perform services with substandard compensation for the profit or advantage of another.

(14) "Expungement" means the removal of an individual's name and associated identifying information from the Adult Abuse Registry.

(15) "Instrumental activities of daily living" means meal preparation, medication management, phone use, money management, household maintenance, housekeeping, laundry, shopping, transportation, and care of adaptive equipment.

(16) "Interested person" means a representative of the vulnerable adult; Adult Protective Services staff; the Commissioner of Disabilities, Aging, and Independent Living; or the Commissioner's designee.

(17) "Investigative summary report" means the document that summarizes the investigation conducted by Adult Protective Services and includes a recommendation to substantiate or unsubstantiate the investigated allegations against the alleged perpetrator.

(18) "Lewd or lascivious conduct" has the same meaning as in 13 V.S.A. § 1375.

(19) "Maltreatment" means abuse, neglect, or exploitation as defined in this section. "Maltreatment" does not include self-neglect.

(20) "Mandatory reporter" means an individual with an obligation to report allegations of maltreatment of vulnerable adults pursuant to 6903 of this title.

~~(7)~~(21)(A) "Neglect" means purposeful ~~or~~, knowing, reckless, or negligent failure or omission by a caregiver that has resulted in, or could be expected to result in, physical or psychological harm, including a failure or omission to:

(i) provide care or arrange for goods or services necessary to maintain the health or safety of a vulnerable adult, including food, clothing, medicine, shelter, supervision, and medical services, unless the caregiver is acting pursuant to the wishes of the vulnerable adult or ~~his or her~~ the vulnerable adult's representative, or an advance directive, as defined in 18 V.S.A. § 9701;

(ii) make a reasonable effort, in accordance with the authority granted the caregiver, to protect a vulnerable adult from abuse, neglect, or exploitation by others;

(iii) carry out a plan of care for a vulnerable adult ~~when such failure results in or could reasonably be expected to result in physical or psychological harm or a substantial risk of death to the vulnerable adult~~, unless the caregiver is acting pursuant to the wishes of the vulnerable adult or ~~his or her~~ the vulnerable adult's representative, or an advance directive, as defined in 18 V.S.A. § 9701; or

(iv) report significant changes in the health status of a vulnerable adult to a physician, nurse, or immediate supervisor, when the caregiver is employed by an organization that offers, provides, or arranges for personal care.

(B) Neglect ~~may be repeated conduct or a single incident that has resulted in or could be expected to result in physical or psychological harm, as a result of subdivision (A)(i), (ii), or (iii) of this subdivision (7)~~ does not include self-neglect.

~~(8)~~(22) "Plan of care" ~~includes a duly~~ means a medically approved plan of treatment, protocol, individual care plan, rehabilitative plan, plan to address activities of daily living, or similar procedure describing the care, treatment, or services ~~to be provided~~ to address a vulnerable adult's physical, psychological, or rehabilitative needs.

~~(9)~~(23) "Protective services" means services, actions, measures, or ~~intervention~~ interventions that ~~will,~~ are intended, through voluntary agreement or through appropriate court action, to prevent further neglect, abuse, or exploitation of a vulnerable adult. Such services may include ~~supervision, guidance, counseling,~~ referrals, petitioning for relief from abuse, or petitioning for the appointment of a guardian~~, and, when necessary, assistance in the securing of safe and sanitary living accommodations~~. ~~However, nothing in this chapter gives the Commissioner authority to place the vulnerable adult in a State school or hospital, except pursuant to 18 V.S.A. chapter 181 or 206.~~

(24) "Provider" means an individual, organization, or entity that provides care to adults known to be vulnerable.

(25) "Recommendation for substantiation" means that an investigation has been conducted and the Adult Protective Services investigator has concluded that the preponderance of the evidence discovered in the course of the investigation would lead a reasonable person to believe that the alleged perpetrator abused, neglected, or exploited the vulnerable adult.

(26) "Report" means the statements provided to Adult Protective Services from a reporter alleging that a vulnerable adult has been abused, neglected, or exploited.

(27) "Reporter" means the person who has submitted a report to Adult Protective Services.

~~(10)~~(28) "Representative" means a court-appointed guardian, ~~or~~ an agent acting under an advance directive executed pursuant to 18 V.S.A. chapter 231, or an agent under a power of attorney, unless otherwise specified in the terms of the ~~advance directive~~ power of attorney.

(29)(A) "Self-neglect" means an adult's inability, due to physical or mental impairment or diminished capacity, to perform essential self-care tasks including:

(i) obtaining essential food, clothing, shelter, and medical care;

(ii) obtaining goods and services necessary to maintain physical health, mental health, or general safety; or

(iii) managing one's own financial affairs.

(B) The term "self-neglect," which is not maltreatment by another and is distinct from the definition of "neglect," excludes individuals who make a conscious and voluntary choice not to provide for certain basic needs as a matter of lifestyle, personal preference, or religious belief and who understand the consequences of their decision.

~~(11)~~(30) "Sexual activity" means a sexual act as defined in 13 V.S.A. § 3251~~,~~ other than appropriate medical care or personal hygiene~~, or lewd and lascivious conduct~~.

~~(12)~~(31) "Substantiated ~~report~~" means that the Commissioner or the Commissioner's designee has determined, after the investigation, that a report ~~is based upon accurate and reliable information that would lead a reasonable person to believe~~ demonstrates, by a preponderance of the evidence, that the vulnerable adult has been abused, neglected, or exploited by the alleged perpetrator.

(32) "Unsubstantiated" means that an investigation has been conducted without a recommendation of substantiation. "Unsubstantiated" does not imply that maltreatment of a vulnerable adult by an alleged perpetrator did or did not occur. Reasons for unsubstantiation include:

(A) the Adult Protective Services investigator's conclusion that the preponderance of the evidence would not lead a reasonable person to believe that the alleged perpetrator had abused, neglected, or exploited the vulnerable adult;

(B) evidence that the alleged victim is not vulnerable;

(C) evidence that maltreatment did not occur; or

(D) a lack of sufficient evidence to demonstrate that the alleged victim meets the definition of a vulnerable adult or that maltreatment occurred.

~~(13)~~(33) "Volunteer" means an individual who, without compensation, provides services through a private or public organization.

~~(14)~~(34) "Vulnerable adult" means any person 18 years of age or older who:

(A)(i) is a resident of a facility required to be licensed under chapter 71 of this title;

~~(B)~~(ii) is a resident of a psychiatric hospital or a psychiatric unit of a hospital;

~~(C)~~(B) ~~has been~~ was receiving assistance with personal care services for more than one month from a designated home health agency ~~certified by~~

~~the Vermont Department of Health~~ or from a person or organization that offers, provides, or arranges for personal care; or

~~(D)~~(C) regardless of residence or whether any type of service is received, ~~is impaired due to~~ has a physical, mental, or developmental disability; infirmities as a result of brain damage~~,~~ or a mental condition; infirmities of aging~~, mental condition, or physical, psychiatric, or developmental disability~~; or is determined to be clinically eligible to receive Long-Term Care Medicaid waiver services resulting in:

(i) ~~that results in some~~ impairment of the individual's ability to ~~provide for his or her own care without assistance, including the provision of food, shelter, clothing, health care, supervision, or management of finances~~ independently engage in activities of daily living or instrumental activities of daily living or to provide for some aspect of the adult's own personal care without assistance; or

(ii) ~~because of the disability or infirmity, the individual has an impaired~~ some impairment of the adult's ability to protect ~~himself or herself~~ the adult from abuse, neglect, or exploitation.

§ 6903. REPORTING SUSPECTED ABUSE, NEGLECT, AND EXPLOITATION OF VULNERABLE ADULTS

(a) ~~Any of the following, other than a crisis worker acting pursuant to 12 V.S.A. § 1614 and the State Long-Term Care Ombudsman or a representative of the Office, as defined in section 7501 of this title, who knows of or has received information of abuse, neglect, or exploitation of a vulnerable adult or who has reason to suspect that any vulnerable adult has been abused, neglected, or exploited shall report or cause a report to be made in accordance with the provisions of section 6904 of this title within 48 hours:~~ All employees, contractors, volunteers, or grantees who directly provide health care, law enforcement, caregiving, counseling, education, or social services to adults~~, other than a crisis worker acting pursuant to 12 V.S.A. § 1614 and the State Long-Term Ombudsman or a designee of the Office, as defined in section 7501 of this title,~~ who know of information of abuse, neglect, or exploitation of a vulnerable adult or who have reason to suspect that any vulnerable adult has been abused, neglected, or exploited shall report in accordance with the provisions of section 6904 of this title within two business days.

(1) ~~all employees, contractors, and grantees of the Agency of Human Services who are involved in caregiving;~~ If an individual listed in this subsection is a direct witness to evidence of abuse, neglect, or exploitation, the

individual shall report or be party to a report that is made on behalf of multiple mandatory reporters.

(2) ~~a physician, osteopath, chiropractor, physician assistant, nurse, medical examiner, licensed nursing assistant, emergency medical services personnel, dentist, or psychologist;~~ If an individual listed in this subsection knows of abuse, neglect, or exploitation of a vulnerable adult or has actual knowledge that any vulnerable adult has been abused, neglected, or exploited, the individual shall report unless the individual has reason to believe that the evidence of abuse, neglect, or exploitation has already been reported.

(3) ~~a school teacher, school librarian, school administrator, school guidance counselor, school aide, school bus driver, or school employee or school contractor who works regularly with students;~~ Except as provided in subdivision (4) of this subsection (a), an individual listed in this subsection (a) shall not refuse to make a report required by this section on the grounds that making the report would violate a privilege or disclose a confidential communication.

(4) A crisis worker acting pursuant to 12 V.S.A. § 1614 and the State Long-Term Care Ombudsman or a designee of the Office, as defined in section 7501 of this title, shall not be required to make a report under this subsection (a) if the report would be based upon information received in a communication that is:

(i) made to a crisis worker or State Long-Term Care Ombudsman or a designee of the Office acting in the individual's professional capacity; and

(ii) intended by the parties to be confidential at the time the communication is made.

~~(4) a mental health professional, social worker, person or organization that offers, provides, or arranges for personal care for vulnerable adults; caregiver employed by a vulnerable adult; employee of or contractor involved in caregiving for a community mental health center; law enforcement officer; or individual who works regularly with vulnerable adults and who is an employee of an adult day care center, area agency on aging, senior center, or meal program designed primarily to serve vulnerable adults;~~

~~(5) a hospital, nursing home, residential care home, home health agency, or any entity providing nursing or nursing-related services for remuneration; intermediate care facility for adults with developmental disabilities; therapeutic community residence, group home, developmental home, school or contractor involved in caregiving; or an operator or employee of any of these facilities or agencies.~~

(b) Any other concerned person not listed in subsection (a) of this section who knows of or has received a complaint of abuse, neglect, or exploitation of a vulnerable adult or who has reason to suspect that any vulnerable adult has been abused, neglected, or exploited may report or cause a report to be made in accordance with the provisions of section 6904 of this title.

(c) The identity of a person who makes a report under this section shall be kept confidential unless:

(1) the person making the report consents to disclosure;

(2) a judicial proceeding results from the report; ~~or~~

(3) a court, after a hearing, finds probable cause to believe the report was not made in good faith and orders the Department to disclose the person's identity; or

(4) the reporter is listed in subdivision (a)(1) of this section, in which case the reporter's information may be shared with other investigative bodies as necessary to conduct the investigation.

§ 6904. NATURE AND CONTENT OF REPORT; TO WHOM MADE

A report shall be made ~~orally or in writing~~ to the Commissioner or the Commissioner's designee ~~as soon as possible, but in no event later than 48 hours thereafter~~. ~~The report may also be made to a law enforcement officer. If an oral report is made by telephone or otherwise, the Commissioner or designee shall request that it be followed within one week by a report in writing. Reports shall contain~~ To be considered a report to the Commissioner or designee, it shall contain the name and address of the reporter as well as the names and addresses of the vulnerable adult and persons responsible for ~~his or her~~ the vulnerable adult's care, if known; the age of the vulnerable adult; the nature of ~~his or her~~ the vulnerable adult's disability; the nature and extent of the vulnerable adult's abuse, neglect, or exploitation together with any evidence of previous abuse, neglect, or exploitation of the vulnerable adult; and any other information that the reporter believes might be helpful in establishing the cause of any injuries or reasons for the abuse, neglect, or exploitation as well as in protecting the vulnerable adult. If the reporter is in possession of documentation that establishes the alleged victim's conditions, needs, or services, that shall be included in the report. Any evidence of maltreatment shall also be cited in the report. If a report of abuse, neglect, or exploitation involves the acts or omissions of the Commissioner or employees of ~~that~~ the Department, then such reports shall be directed to the Secretary of ~~the~~ Human Services, who shall cause the report to be investigated by appropriate staff other than staff of the Department.

* * *

§ 6906. ASSESSMENT AND INVESTIGATION

(a) Report of maltreatment.

(1) ~~The Commissioner shall cause an investigation to commence within 48 hours after receipt of a report made pursuant to section 6904 of this title~~ Upon receipt of a report of maltreatment, the Department shall determine whether the report constitutes an allegation of abuse, neglect, or exploitation as defined in section 6902 of this title. The Department shall respond to reports of alleged abuse, neglect, or exploitation that occurred in Vermont and to out-of-State conduct when the vulnerable adult is a resident of Vermont.

(2) ~~The Commissioner shall keep the reporter and the alleged victim informed during all stages of the investigation, and shall:~~

~~(A) Notify the reporter, the victim, and the victim's legal representative, if any, in writing if Adult Protective Services or the Division of Licensing and Protection decides not to investigate the report. The notification shall be provided within five business days after the decision is made and shall inform the reporter that he or she may ask the Commissioner to review the decision.~~

~~(B) Notify the reporter, the victim, and the victim's legal representative, if any, in writing if Adult Protective Services or the Division of Licensing and Protection refers the report to another agency. The notification shall be provided within five business days after the referral is made.~~

~~(C) Notify the reporter, the victim, and the victim's legal representative, if any, in writing of the outcome of the investigation. The notification shall be provided within five business days after the decision is made and shall inform the reporter that he or she may ask the Commissioner to review the decision~~ The Department shall determine whether to conduct an assessment or an investigation, as provided for in this section, or whether to screen out the report. An assessment may be used to determine whether an investigation is necessary. The Department shall begin either an assessment or an investigation within one business day in all cases in which the alleged victim has experienced a life-threatening or severe injury; requires hospitalization as a result of maltreatment; was the alleged victim of sexual abuse; or is experiencing ongoing harm. The Department shall initiate an assessment or an investigation within two business days after the day of the receipt of all other accepted reports made pursuant to section 6904 of this title. The Department shall collect the following demographic information about the alleged victim and alleged perpetrator, if available, if an assessment or

investigation is opened: gender, race, age, ethnicity, sexual orientation, gender identity, and disability status.

(3) The decision to conduct an assessment shall include consideration of the following factors:

(A) the severity of any alleged maltreatment and any injuries;

(B) the relationship between the alleged victim and alleged perpetrator;

(C) the known history of the report; and

(D) the detail and specificity of information provided in the report regarding the alleged victim's vulnerability and the alleged maltreatment.

(4) The Department shall investigate when an accepted report involves allegations indicating serious maltreatment or ongoing risk of harm to the alleged victim. The Department may investigate any report of maltreatment Adult Protective Services receives.

(5) The Department shall begin an immediate investigation if, at any time during an assessment, it appears that an investigation is appropriate.

(6) To the extent permitted by law, the Department may collaborate with law enforcement, health care and service providers, and other departments and agencies in Vermont and other jurisdictions to evaluate the risk to the vulnerable adult and may enter into reciprocal agreements with law enforcement, other departments and agencies, and other jurisdictions to further the purposes of this section. In no event shall the Department disclose information to other divisions, departments, or agencies unless such a disclosure is necessary to further the express purpose of this section.

(b) Assessment. ~~The investigation shall include, except where inclusion would jeopardize the health, welfare, or safety of the vulnerable adult:~~

(1) ~~a visit to the reported victim's place of residence or place of custody and to the location of the reported abuse, neglect, or exploitation;~~

~~(2) interviews with any available witnesses to the alleged abuse, neglect, or exploitation;~~ An assessment, to the extent that is reasonable under the facts and circumstances provided in a report, shall include the following:

~~(3)~~(A) an interview with the reporter ~~of the alleged abuse, neglect, or exploitation~~ and the alleged victim, which shall focus on ensuring the immediate safety of the alleged victim and mitigating the future risk of harm to the alleged victim in the current environment;

~~(4) an interview with the reported victim, which interview may take place without the approval of the vulnerable adult's parents, guardian, or caregiver, but cannot take place over the objection of the reported victim; and~~

~~(5) an opportunity for the person who allegedly abused, neglected, or exploited to be interviewed.~~

(B) a determination as to whether the alleged victim meets the definition of a vulnerable adult and whether the allegations, if true, meet the statutory definition of abuse, neglect, or exploitation, or any combination thereof; and

(C) in collaboration with the alleged victim, the identification of resources and protective service needs that reduce the risk of future abuse, neglect, or exploitation and improve or restore the care and safety of the alleged victim.

(2) Services offered during or at the conclusion of an assessment can only be implemented through voluntary agreement or court action.

(3) If the assessment is closed without resulting in an investigation, there shall be no finding of abuse, neglect, or exploitation. However, the Department shall document the outcome of the assessment.

(4) The Department shall provide written notice to the victim, and the victim's representative who is not the subject of the assessment, of the outcome of the assessment.

(c) Investigation. ~~Upon completion of the investigation, a written report describing all evidence obtained and recommending a finding of substantiated or unsubstantiated shall be submitted to the Commissioner or designee for final resolution. If the recommendation is for a finding of substantiated the person shall be given notice of the recommendation, and the evidence that forms the basis of the recommendation, and shall be notified of how a substantiated report might be used. The person shall be offered an opportunity to dispute the recommendation and may, within 15 days of notification, request an administrative hearing in front of the Commissioner or designee. Following the hearing, or if no hearing is requested within 15 days of notification, the Commissioner or designee shall make a finding of substantiated or unsubstantiated, and notify the person of the decision and of the right to appeal.~~

~~(d) Within 30 days of notification that a report has been substantiated, a person against whom a complaint has been lodged may apply to the Human Services Board for relief on the grounds that it is unsubstantiated. The Board shall hold a fair hearing under 3 V.S.A. § 3091. Unless the Commissioner~~

~~agrees otherwise, the fair hearing shall be given priority by the Board and an expedited hearing shall be provided, with a decision issued promptly thereafter.~~

~~(e) If a report is found to be unsubstantiated, the records shall be retained as part of the confidential records of the Department of Disabilities, Aging, and Independent Living. If no court proceeding is brought pursuant to subdivision 6903(c)(3) of this title within six years of the date of the notice to the person against whom the complaint was lodged, the records relating to the unsubstantiated report shall be destroyed after notice to such person, unless he or she requests that the records not be destroyed.~~

~~(f) If an appeal is filed pursuant to subsection (d) of this section or to a court, the name of the individual shall not be added to the Registry until a substantiated finding of abuse, neglect, or exploitation becomes final.~~

(1) The Department shall:

(A) Notify the reporter in writing if Adult Protective Services decides not to investigate or to conduct an assessment of the report. The notification shall be provided within five business days after the decision is made and shall inform the reporter that the reporter may ask the Commissioner to review the decision.

(B) Notify the alleged victim, and the alleged victim's representative, if any, in writing of the outcome of the investigation. The notification shall be provided within five business days after the decision has been made and shall inform the alleged victim or the alleged victim's representative that the alleged victim or the alleged victim's representative may ask the Commissioner to review the decision.

(2) The investigation shall include, except where inclusion would jeopardize the health, welfare, or safety of the vulnerable adult:

(A) An interview with the alleged victim, which may take place without the approval of the alleged victim's parents, guardian, or caregiver, but cannot take place over the objection of the alleged victim.

(B) An opportunity for the person who allegedly abused, neglected, or exploited the alleged victim to be interviewed. If the person declines to be interviewed, either through given notice or failure to respond, the alleged perpetrator shall be notified that the alleged perpetrator's declination may be noted in the investigation and may be taken into account in any potential appeal process.

(3) Upon completion of the investigation, the investigative summary describing pertinent evidence obtained during the course of the investigation

and recommending a substantiation or unsubstantiation shall be submitted to the Commissioner or designee. Prior to substantiation, the Department shall interview the alleged perpetrator unless the alleged perpetrator declines. The investigative summary shall include a recommendation of whether placement on the Registry is appropriate. If the recommendation is for substantiation, the alleged perpetrator shall be given written notice by certified mail of the recommendation and a summary of the evidence that forms the basis of the recommendation and shall be notified of any remedial options that may exist and how a substantiated report might be used. The alleged perpetrator may seek an administrative review of the Department's intention to place the alleged perpetrator's name on the Registry by notifying the Department within 14 calendar days after the date listed on the Department's notice of the right to an administrative review. The Commissioner may grant an extension past the 14-day period for good cause, not to exceed 28 calendar days after the date listed on the Department's notice.

(4) The administrative review of the Department's intention to substantiate may be stayed if there is a related case pending in the Criminal or Family Division of the Superior Court that arose out of the same incident of abuse, neglect, or exploitation that resulted in the recommendation for substantiation. During the period the administrative review is stayed, if the Department's intent is to place the alleged perpetrator's name on the Registry, it shall add the alleged perpetrator's name to the Registry with a notation that the case is pending. Upon resolution of the Superior Court criminal or family case, the alleged perpetrator may exercise the alleged perpetrator's right to review under this section by notifying the Department in writing within 28 calendar days after the related court case, including any appeals, has been fully adjudicated. If the alleged perpetrator fails to notify the Department within 28 calendar days, the Department's decision shall become final, and no further review under this subsection is required.

(A) The Department shall hold an administrative review within 28 calendar days after receipt of the request for review. At least 14 calendar days prior to the administrative review, the Department shall provide to the alleged perpetrator requesting an administrative review the following: the redacted investigation file, which means only the portion of the investigation file relevant to an Adult Protective Services recommendation, redacted as necessary to minimize disclosure of any confidential information; notice of time and place of the administrative review; and administrative review procedures, including information that may be submitted and mechanisms for providing information.

(B) At the administrative review, the alleged perpetrator who requested the review shall be provided with the opportunity to present documentary evidence or other information that supports the alleged perpetrator's position and provides information to the reviewer in making the most accurate decision regarding the allegation. In determining the weight to be given any such evidence or information, the administrative reviewer shall consider whether the alleged perpetrator had an opportunity to present the evidence or information to the investigator during the investigation and, if so, the reasons for the failure to present the evidence or information at that time. The Department shall have the burden of proving that, based upon a preponderance of evidence, it concluded that a reasonable person would believe that the vulnerable adult has been abused, neglected, or exploited by that alleged perpetrator. The administrative review may be held remotely by telephone or through electronic means by mutual agreement of the parties.

(C) The Department shall establish an administrative case review unit within the Department and may contract for the services of administrative reviewers. An administrative reviewer shall be a neutral and independent arbiter who has no prior involvement in the original investigation of the allegation.

(5) Within seven calendar days after the completed review, the administrative reviewer shall:

(A) reject the Department's recommendation of substantiation;

(B) accept the Department's recommendation of substantiation; or

(C) defer any recommendation and direct the Department to further investigate upon the recommendation of the administrative reviewer.

(6) If the administrative reviewer accepts the Department's recommendation of substantiation, a Registry record shall be made within two business days. If the administrative reviewer rejects the Department's recommendation of substantiation, no Registry record shall be made.

(7) Within seven calendar days of the decision to reject or accept the recommendation of substantiation or to defer the substantiation in accordance with subdivision (5) of this subsection, the administrative reviewer shall provide notice to the alleged perpetrator of the administrative reviewer's decision. If the administrative reviewer accepts the Department's recommendation of substantiation, the notice shall advise the alleged perpetrator of the right to appeal the administrative reviewer's decision to the Human Services Board.

(8)(A) If no administrative review is requested, the Department's recommendation in the case shall be final, and the alleged perpetrator shall have no further right of review under this section.

(B) The Commissioner may grant an exception and permit such an administrative review upon good cause shown. Good cause may include an acquittal or dismissal of a criminal charge arising from the incident of abuse, neglect, or exploitation.

(9) In exceptional circumstances, the Commissioner, in the Commissioner's sole and nondelegable discretion, may reconsider any decision made by an administrative reviewer. A Commissioner's decision that imposes a penalty or creates a Registry record may be appealed to the Human Services Board.

(10) Within 30 calendar days after the date of the notice advising that a report has been substantiated, an alleged perpetrator against whom a complaint has been lodged may apply to the Human Services Board for relief on the grounds that it is unsubstantiated. The Human Services Board shall hold a fair hearing under 3 V.S.A. § 3091. Unless the Commissioner agrees otherwise, the hearing shall be given priority by the Human Services Board, and an expedited hearing shall be provided, not later than 30 calendar days after the date of the notice advising that a report has been substantiated, and a decision shall be issued within seven calendar days after the hearing.

(11) If a report is found to be unsubstantiated, the records shall be retained as part of the confidential records of the Department. If no court proceeding is brought pursuant to section 6903 of this title within six years following the date of the notice to the alleged perpetrator against whom the complaint was lodged, the records relating to the unsubstantiated report may be destroyed.

~~(g)~~(12) If the Human Services Board ~~or a court~~ reverses a substantiated finding, the Commissioner shall remove all information ~~in accordance with subsection (e) of this section~~ from the Registry.

~~(h)~~(13)(A) When a final determination has been made, the Commissioner shall inform the vulnerable adult or ~~his or her~~ the vulnerable adult's representative~~, the reporter, and, if the report is substantiated, the current employer of the individual, of the outcome of the investigation and any subsequent proceedings~~ in writing.

(B) When a final determination of substantiation has been made, the Department shall also inform the perpetrator's current employer, if known, in writing of the outcome of the investigation and any subsequent proceedings.

§ 6907. REMEDIAL ACTION

(a) ~~Coordinated treatment plan~~ Protective services. If the investigation produces evidence that the vulnerable adult has been abused, neglected, or exploited, ~~the Commissioner shall arrange for the provision of protective services in accordance with a written coordinated treatment plan~~ and protective services are not in place, the Department shall pursue available protective services.

(b) Consent to services.

(1) Protective services shall be provided only with the consent of the vulnerable adult~~, his or her~~; the vulnerable adult's guardian, agent under power of attorney, or agent under advance directive; or through appropriate court action. If the vulnerable adult does not consent, protective services shall not be provided, unless provision of protective services is ~~court-ordered~~ court ordered.

(2)(A) In the event that the vulnerable adult's guardian is the person responsible for the abuse, neglect, or exploitation, and the guardian ~~does not consent to the investigation or receipt of protective services, the Commissioner may petition for removal of the guardian~~ refuses consent to the investigation or the alleged victim's protective services, the investigator may seek review of the guardian's refusal by filing a motion with the Probate Division of the Superior Court pursuant 14 V.S.A. § 3062(c).

(B) In the event that the vulnerable adult's agent under power of attorney is the person responsible for the abuse, neglect, or exploitation, and the agent refuses to consent to the investigation or the alleged victim's protective services, the investigator may seek review of the agent's refusal by filing a petition in Superior Court pursuant to 14 V.S.A. § 3510(b).

(C) In the event that the vulnerable adult's agent under advance directive is the person responsible for the abuse, neglect, or exploitation, and the agent does not consent to the investigation or the receipt of protective services, the investigator may file a petition in Probate Court pursuant to 18 V.S.A. § 9718 to seek review under subdivision (b)(3) of that section as to whether the refusal is consistent with the authority granted to the agent in the advance directive.

(3) Failure to consent to protective services, either by the vulnerable adult or the vulnerable adult's guardian, agent under power of attorney, or agent under advance directive shall not automatically end an investigation of an alleged perpetrator.

* * *

§ 6909. RETALIATORY ACTION BY EMPLOYER PROHIBITED

No employer or supervisor may discharge; demote; transfer; reduce pay, benefits, or work privileges; prepare a negative work performance evaluation; or take any other action detrimental to any employee who files a good faith report in accordance with the provisions of this chapter, by reason of the report. Any person making a report under this chapter shall have a civil cause of action for appropriate compensatory and punitive damages against any person who causes detrimental changes in the employment status of the reporting party by reason of ~~his or her~~ making a report. Nothing in this section grants immunity to a person reporting the person's own perpetration of maltreatment.

§ 6910. INTERFERENCE BY CAREGIVER

If consent to receive protective services has been obtained in accordance with section 6907 of this title and the Commissioner has reasonable cause to believe that the caregiver is interfering with the provision of those protective services, the ~~Commissioner~~ Department may petition the Superior Court for an order enjoining the caregiver from interfering with the provision of protective services. The petition shall present facts to show that the vulnerable adult is in need of protective services, that ~~he or she or his or her guardian~~ the vulnerable adult or the vulnerable adult's representative consents to the receipt of protective services, and that the caregiver has interfered with the provision of protective services. If the court, after hearing, finds that the vulnerable adult requires and consents to protective services, and has been prevented by ~~his or her~~ the vulnerable adult's caregiver from receiving protective services~~,~~ the court may issue an order enjoining the caregiver from further interference. ~~The court may modify the terms of the coordinated treatment plan.~~

§ 6911. RECORDS OF ABUSE, NEGLECT, AND EXPLOITATION

(a) Access to records.

(1) ~~Information obtained through reports and investigations, including the identity of the reporter, shall remain confidential and shall not be released absent a court order, except as follows:~~ Subject to confidentiality or privilege protections, the Department's Adult Protective Services shall have access to any records or documents, including client-identifying information, financial records, and medical and psychological records, necessary to the performance of the Department's duties under this chapter. The duties include the investigation of abuse, neglect, or exploitation or the provision of protective services to a vulnerable adult. A person, agency, or institution that has a record or document that the Department needs to perform its duties under this chapter shall, without unnecessary delay, make the record or document

available to the Department. ~~Providing access to records relevant to an investigation by the Department or law enforcement under this provision shall not be deemed a violation of any confidential communication privilege. Access to any records that would violate attorney-client privilege shall not be provided without a court order.~~ For the purposes of this subsection, "financial records" does not include records developed or maintained by the Department of Financial Regulation.

(2) The Department is exempt from the payment of a fee otherwise required or authorized by law to obtain a financial record from a person, agency, or institution or a medical record, including a mental health record, from a hospital or health care provider if the request for a record is made in the course of an investigation by the Department.

(3) If the Department cannot obtain access to a record or document that is necessary to properly investigate or to perform another duty under this chapter, the Department may petition the Superior Court for access to the record or document.

(4) On good cause shown, the court shall order the person, agency, or institution in possession or control of a record or document to allow the Department to have access to that record or document under the terms and conditions prescribed by the court.

(5) A person, agency, or institution in possession or control of a requested record or document is entitled to notice and a hearing on a petition filed under this section.

(6) Access to a confidential record under this section does not constitute a waiver of confidentiality.

(7) ~~A person shall not be held criminally or civilly liable for disclosing or providing information or records to the Department pursuant to this subsection.~~ A person who in good faith makes an alleged victim's information or a copy of the information available to an investigator in accordance with this section shall be immune from civil or criminal liability for disclosure of the information unless the person's actions constitute negligence, recklessness, or intentional misconduct. Nothing in this section shall be construed to provide civil or criminal immunity to a person suspected of having abused, neglected, or exploited a vulnerable adult.

(b) Confidentiality of reports and documents.

(1)(A)~~(i) The investigative report~~ Information obtained through reports to and assessments and investigations conducted by the Department, including the identity of the reporter, shall be confidential and shall not be released

absent a court order, except the final investigative summary report shall be disclosed only to:

~~(I)~~(i) the Commissioner or person designated to receive such records;

~~(II)~~(ii) persons assigned by the Commissioner to investigate reports;

~~(III)~~(iii) the ~~person reported to have abused, neglected, or exploited a vulnerable adult~~ alleged perpetrator;

~~(IV)~~(iv) the vulnerable adult or ~~his or her~~ the vulnerable adult's representative;

~~(V)~~(v) the Office of Professional Regulation when deemed appropriate by the Commissioner;

~~(VI)~~(vi) the Secretary of Education when deemed appropriate by the Commissioner;

~~(VII)~~(vii) the Commissioner for Children and Families or designee for purposes of review of expungement petitions filed pursuant to section 4916c of this title;

~~(VIII)~~(viii) the Commissioner of Financial Regulation when deemed appropriate by the Commissioner for an investigation related to financial exploitation;

~~(IX)~~(ix) a law enforcement agency; and

~~(X)~~(x) the State's Attorney, or the Office of the Attorney General, when the Department believes there may be grounds for criminal prosecution or civil enforcement action, or in the course of a criminal or a civil investigation.

~~(ii)~~(B) When disclosing information pursuant to this subdivision (1), reasonable efforts shall be made to limit the information to the minimum necessary to accomplish the intended purpose of the disclosure, and no other information, including the identity of the reporter, shall be released absent a court order.

~~(B)~~(2) Relevant information may be disclosed to the Secretary of Human Services, or the Secretary's designee, for the purpose of remediating or preventing abuse, neglect, or exploitation; to assist the Agency in its monitoring and oversight responsibilities; and in the course of a relief from abuse proceeding, guardianship proceeding, or any other court proceeding when the Commissioner deems it necessary to protect the victim, and the

victim or ~~his or her~~ the victim's representative consents to the disclosure. When disclosing information pursuant to this subdivision, reasonable efforts shall be made to limit the information to the minimum necessary to accomplish the intended purpose of the disclosure, and no other information, including the identity of the reporter, shall be released absent a court order. Disclosures necessary to conduct Adult Protective Services investigations or to make referrals to law enforcement agencies, or to divisions or grantees of the Department, shall be permitted, but reasonable efforts shall be made to limit the information to the minimum necessary to accomplish the intended purpose of the disclosure.

(3) Notwithstanding subdivision (a)(1) of this section, financial information made available to an adult protective services investigator pursuant to this section may be used only in a judicial or administrative proceeding or investigation directly related to a report required or authorized under this chapter. Relevant information may be disclosed to the Secretary of Human Services, pursuant to subdivision (2) of this subsection.

~~(C) Relevant information may be disclosed to a Family Division of the Superior Court, upon the request of that court, in any proceeding in which:~~

~~(i) a parent of a child challenges a presumption of parentage under 15C V.S.A. § 402(b)(3); or~~

~~(ii) a parent of a child contests an allegation that he or she fostered or supported a bonded and dependent relationship between the child and a person seeking to be adjudicated a de facto parent under 15C V.S.A. § 501(a)(2).~~

~~(2) Notwithstanding subdivision (1)(A) of this subsection, financial information made available to an adult protective services investigator pursuant to section 6915 of this title may be used only in a judicial or administrative proceeding or investigation directly related to a report required or authorized under this chapter. Relevant information may be disclosed to the Secretary of Human Services pursuant to subdivision (1)(B) of this subsection, and may also be disclosed to the Commissioner of Financial Regulation when the investigation relates to financial exploitation of a vulnerable adult~~

~~(b)~~(c) The ~~Commissioner~~ Department shall maintain a registry of substantiated caregivers that shall contain the following information:

(1) ~~the names of all the individuals found on the basis of a substantiated report to have abused, neglected, or exploited a vulnerable adult; the date of the finding; and the nature of the finding. In addition, the Commissioner shall require that, aside from a person's name, at least one other personal identifier~~

~~is listed in the Registry to prevent the possibility of misidentification~~ the date and nature of the finding;

(2) the names of individuals convicted of a crime pursuant to 13 V.S.A. § 1383; and

(3) in addition, aside from a caregiver's name, at least one other personal identifier to prevent the possibility of misidentification.

~~(c)~~(d) Disclosure of Registry information.

(1) The Commissioner or designee may disclose Registry information only to:

~~(1)~~(A) The State's Attorney or the Attorney General.

~~(2)~~(B) The public as required by the Nursing Home Reform Act of 1986 and regulations promulgated under the Act.

~~(3)~~(C) An employer if such information is used to determine whether to hire or retain a specific individual providing care, custody, treatment, transportation, or supervision of children or vulnerable adults. ~~"Employer,"~~ Notwithstanding section 6902 of this chapter, "employer," as used in this section, means a person or organization who employs or contracts with one or more individuals to care for or provide transportation services to children or vulnerable adults, on either a paid or volunteer basis. The employer may submit a request concerning a current employee, volunteer, grantee, or contractor or an individual to whom the employer has given a conditional offer of a contract, volunteer position, or employment. ~~The request shall be accompanied by a release signed by the current or prospective employee, volunteer, grantee, or contractor.~~ If that individual has a record of a substantiated report, the ~~Commissioner~~ Department shall provide the Registry information to the employer.

~~(4)~~(D) An individual seeking to determine if the individual's own name is on the Registry.

(E) A person or organization serving vulnerable adults by assisting with employer functions; offering, providing, or arranging for home sharing; or providing personal care services, developmental services, or mental health services for vulnerable adults. The person or organization may submit a request concerning an individual who has applied to provide such services or an individual who is already so engaged. ~~The request shall be in writing and shall be accompanied by a release from the person applying for or already providing such services.~~ If the person has a record of a substantiated report, the Commissioner shall provide the Registry information.

~~(5)~~(F) The Commissioner for Children and Families or designee for purposes related to:

~~(A)~~(i) the licensing or registration of facilities and individuals regulated by the Department for Children and Families; and

~~(B)~~(ii) the Department's child protection obligations under chapters 49–59 of this title.

~~(6)~~(G) The Commissioner of Health or the Commissioner's designee for purposes related to oversight and monitoring of persons who are served by or compensated with funds provided by the Department of Health, including persons to whom a conditional offer of employment has been made.

~~(7)~~(H) Upon request or when relevant to other states' adult protective services offices.

~~(8)~~(I) The Board of Medical Practice for the purpose of evaluating an applicant, licensee, or holder of certification pursuant to 26 V.S.A. § 1353.

~~(9)~~(J) The Secretary of Education or the Secretary's designee, for purposes related to the licensing of professional educators pursuant to 16 V.S.A. chapter 5, subchapter 4 and chapter 51.

~~(10)~~(K) The Office of Professional Regulation for the purpose of evaluating an applicant, licensee, holder of a certification, or registrant for possible unprofessional conduct, where appropriate.

~~(11)~~(L) A Family Division of the Superior Court upon request of that court if it is involved in any proceeding in which:

~~(A)~~(i) a parent of a child challenges a presumption of parentage under 15C V.S.A. § 402(b)(3); or

~~(B)~~(ii) a parent of a child contests an allegation that ~~he or she~~ the parent fostered or supported a bonded and dependent relationship between the child and a person seeking to be adjudicated a de facto parent under 15C V.S.A. § 501(a)(2).

(2) The request for disclosure of Registry information pursuant to subdivisions (1)(C), (1)(E)–(G), and (1)(I)–(K) of this subsection shall be in writing and accompanied by a release from the person applying for or already providing services to children or vulnerable adults.

~~(d)~~(e) An employer providing transportation services to children or vulnerable adults may disclose Registry records obtained pursuant to subdivision ~~(c)(3)~~(d)(1)(C) of this section to the Agency of Human Services or its designee for the sole purpose of auditing the records to ensure compliance

with this chapter. An employer shall provide such records at the request of the Agency or its designee. Only Registry records regarding individuals who provide direct transportation services or otherwise have direct contact with children or vulnerable adults may be disclosed.

~~(e)~~(f) A person may, at any time, apply to the Human Services Board for relief if ~~he or she~~ the person has reasonable cause to believe that the contents of the Registry or investigative records are being misused.

~~(f)~~(g) A person may at any time apply to the Department for expungement of ~~his or her~~ the person's name from the Registry. The ~~petitioner~~ person shall have the burden of showing why ~~his or her~~ the person's name should be expunged from the Registry. The Department shall consider the person's completion of ~~a restorative justice process~~ reparation and rehabilitation in determining whether the person's name should be expunged from the Registry.

~~(g) Any person who violates this section shall be fined not more than $500.00.~~

~~(h) Volunteers shall be considered employees for purposes of this section.~~

* * *

§ 6913. PENALTIES; ABUSE; NEGLECT; EXPLOITATION; MANDATORY REPORTER'S FAILURE TO REPORT

(a) Whenever the ~~Commissioner~~ Department finds, after notice and hearing, that a person has committed sexual abuse as defined in subdivision 6902(1)(D) of this title, ~~sexual exploitation as defined in subdivision 6902(6)(D),~~ exploitation as defined in subdivision ~~6902(6)(A) or (B)~~ 6902(13) of this title in an amount in excess of $500.00, abuse that causes grievous injury to or the death of a vulnerable adult, or neglect that causes grievous injury to or the death of a vulnerable adult, the ~~Commissioner~~ Department may impose an administrative penalty of not more than ~~$10,000.00~~ $25,000.00 for each violation. The ~~Commissioner~~ Department shall notify the Office of Professional Regulation, or any other professional licensing board applicable to the violator, of any decision made pursuant to this subsection.

(b) The Department shall investigate allegations that a mandated reporter has failed to make a required report when it appears that an investigation is appropriate. Whenever the ~~Commissioner~~ Department finds, after notice and hearing, that a mandatory reporter, as defined in ~~subdivisions 6903(a)(1), (2), (3), (4), and (5)~~ subsection 6903(a) of this title, has willfully violated the provisions of ~~subsection~~ subdivision 6903(a)(1), the ~~Commissioner~~ Department may impose an administrative penalty not to exceed ~~$500.00~~ $1,000.00 per violation. For purposes of this subsection, every 24 hours that a

report is not made beyond the period for reporting required by ~~subsection~~ section 6903~~(a)~~ shall constitute a new and separate violation, and a mandatory reporter shall be liable for an administrative penalty of not more than ~~$500.00~~ $1,000.00 for each 24-hour period, not to exceed a maximum penalty of ~~$5,000.00~~ $25,000.00 per reportable incident.

(c) Whenever the Department finds that a mandatory reporter willfully or knowingly withheld information, or provided false or inaccurate information, the Department may impose an administrative penalty not to exceed $1,000.00 per violation.

(d) A person who is aggrieved by a decision under subsection (a) ~~or~~, (b), or (c) of this section may appeal that decision to the Superior Court, where either party may request trial by jury.

§ 6914. ACCESS TO CRIMINAL RECORDS

(a) ~~The Commissioner may obtain from the Vermont Crime Information Center the record of convictions of any person to the extent that the Commissioner has determined by rule that such information is necessary to protect vulnerable adults~~ The Commissioner may obtain from the Vermont Crime Information Center the record of convictions of any person to the extent that the Commissioner has determined that such information is necessary to protect vulnerable adults.

(b) ~~An employer may ask the Commissioner to obtain from the Vermont Crime Information Center the record of convictions of a person who is a current employee, volunteer, or contractor, or a person to whom the employer has given a conditional offer of a contract, volunteer position, or employment. The request shall be in writing and shall be accompanied by a release by the current or prospective contractor or employee. If the person has a record of convictions, the Commissioner shall inform the employer of the date and type of conviction.~~

~~(c) A person or organization serving vulnerable adults by assisting with employer functions, offering, providing, or arranging for home sharing, personal care services, developmental services, or mental health services for vulnerable adults, may submit a request to the Commissioner concerning an individual who has applied to provide such services or an individual who is already so engaged. The request shall be in writing, and shall be accompanied by a release from the individual applying for or already providing such services. If the individual has a record of convictions, the Commissioner shall inform the person or organization submitting the request of the date and type of conviction.~~

~~(d)~~ The Commissioners of Disabilities, Aging, and Independent Living, of Health, and of Mental Health or their designees may, for the protection of vulnerable adults or for purposes related to oversight and monitoring of persons who are served by or compensated with funds provided by the Departments of Disabilities, Aging, and Independent Living, of Health, and of Mental Health, ask the Vermont Crime Information Center for the record of convictions of a person who is a current employee, volunteer, or contractor, or a person to whom the employer has given a conditional offer of a contract, volunteer position, or employment. If the individual has a record of convictions, the Vermont Crime Information Center shall inform the appropriate ~~Commissioner, or the Commissioner's designee,~~ department of the date and type of conviction.

~~(e)~~(c) Information released to an employer under this section shall not be released or disclosed by the employer to any person. Any person who violates this subsection shall be fined not more than $500.00.

~~(f) Volunteers shall be considered employees for purposes of this section.~~

~~(g) [Repealed.]~~

§ 6915. ACCESS TO FINANCIAL INFORMATION

(a) As used in this chapter:

(1) "A person having custody or control of the financial information" means:

(A) a bank as defined in 8 V.S.A. § 11101;

(B) a credit union as defined in 8 V.S.A. § 30101;

(C) a broker-dealer or investment advisor, as those terms are defined in 9 V.S.A. § 5102; or

(D) a mutual fund as defined in 8 V.S.A. § 3461.

(2) "Capacity" means an individual's ability to make and communicate a decision regarding the issue that needs to be decided.

(3) "Financial information" means an original or copy of, or information derived from:

(A) a document that grants signature authority over an account held at a financial institution;

(B) a statement, ledger card, or other record of an account held at a financial institution that shows transactions in or with respect to that account;

(C) a check, clear draft, or money order that is drawn on a financial institution or issued and payable by or through a financial institution;

(D) any item, other than an institutional or periodic charge, that is made under an agreement between a financial institution and another person's account held at a financial institution;

(E) any information that relates to a loan account or an application for a loan;

(F) information pertaining to an insurance or endowment policy, annuity contract, contributory or noncontributory pension fund, mutual fund, or security, as defined in 9 V.S.A. § 5102; or

(G) evidence of a transaction conducted directly or by electronic or telephonic means, including surveillance video, access logs, IP addresses, and any other digital logs, documents, and metadata.

(4) "Financial institution" means any financial services provider licensed, registered, or otherwise authorized to do business in Vermont, including a bank, credit union, broker-dealer, investment advisor, mutual fund, or investment company.

(b)(1) A person having custody or control of the financial information of a vulnerable adult shall make the information or a copy of the information available to an Adult Protective Services investigator upon receipt of ~~a court order or receipt of~~ the investigator's written request or, in the instances described in subsections (d) and (e) of this section, upon receipt of a court order.

~~(1)~~(2) The request shall include a statement signed by the account holder, if ~~he or she~~ the account holder has capacity, or the account holder's guardian with financial powers or agent under a power of attorney consenting to the release of the information to the investigator.

~~(2)~~(c) If the vulnerable adult lacks capacity and does not have a guardian or agent, or if the vulnerable adult lacks capacity and ~~his or her~~ the vulnerable adult's guardian or agent is the alleged perpetrator, the request shall include a statement signed by the investigator asserting that all of the following conditions exist:

~~(A)~~(1) The account holder is an alleged victim of abuse, neglect, or financial exploitation.

~~(B)~~(2) The alleged victim lacks the capacity to consent to the release of the financial information.

~~(C)~~(3) Law enforcement is not involved in the investigation or has not requested a subpoena for the information.

~~(D)~~(4) The alleged victim will suffer imminent harm if the investigation is delayed while the investigator obtains a court order authorizing the release of the information.

~~(E)~~(5) Immediate enforcement activity that depends on the information would be materially and adversely affected by waiting until the alleged victim regains capacity.

~~(F)~~(6) The Commissioner ~~of Disabilities, Aging, and Independent Living~~ has personally reviewed the request and confirmed that the conditions set forth in ~~subdivisions (A) through (E) of this subdivision (2)~~ this subsection have been met and that disclosure of the information is necessary to protect the alleged victim from abuse, neglect, or financial exploitation.

~~(c)~~(d) If a guardian refuses to consent to the release of the alleged victim's financial information, the investigator may seek review of the guardian's refusal by filing a motion with the Probate Division of the Superior Court pursuant to 14 V.S.A. § 3062(c).

~~(d)~~(e) If an agent under a power of attorney refuses to consent to the release of the alleged victim's financial information, the investigator may file a petition in Superior Court pursuant to 14 V.S.A. § 3510(b) to compel the agent to consent to the release of the alleged victim's financial information.

~~(e)~~(f) The investigator shall include a copy of the written request in the alleged victim's case file.

~~(f)~~(g) The person having custody or control of the financial information shall not require the investigator to provide details of the investigation to support the request for production of the information.

~~(g)~~(h) The information requested and released shall be used only to investigate the allegation of abuse, neglect, or financial exploitation or for the purposes set forth in subdivision ~~6911(a)(1)(B)~~ 6911(b)(3) of this title and shall not be used against the alleged victim.

~~(h)~~(i) The person having custody or control of the financial information shall provide the information to the investigator as soon as possible but, absent extraordinary circumstances, ~~no~~ not later than 10 business days following receipt of the investigator's written request or receipt of a court order or subpoena requiring disclosure of the information.

~~(i)~~(j) A person who in good faith makes an alleged victim's financial information or a copy of the information available to an investigator in

accordance with this section shall be immune from civil or criminal liability for disclosure of the information unless the person's actions constitute gross negligence, recklessness, or intentional misconduct. Nothing in this section shall be construed to provide civil or criminal immunity to a person suspected of having abused, neglected, or exploited a vulnerable adult.

~~(j) The person having custody or control of the financial information of an alleged victim may charge the Department of Disabilities, Aging, and Independent Living no more than the actual cost of providing the information to the investigator and shall not refuse to provide the information until payment is received. A financial institution shall not charge the Department for the information if the financial institution would not charge if the request for the information had been made directly by the account holder.~~

* * *

§ 6917. WRITTEN COMMUNICATIONS

Any written communications from the Department, an administrative reviewer, or the Human Services Board to the alleged victim or to the alleged perpetrator shall use plain language.

§ 6918. RULEMAKING

The Commissioner shall adopt rules pursuant to 3 V.S.A. chapter 25 to implement this subchapter, including:

(1) conducting referrals on intakes, including:

(A) required referrals; and

(B) referrals on intake reports not accepted for assessment or investigation;

(2) conducting assessments, including:

(A) the components of an assessment;

(B) the determinations of an assessment; and

(C) timelines required for the assessment; and

(3) conducting investigations, including:

(A) the components of an investigation;

(B) the determinations of an investigation; and

(C) timelines required for the investigation.

Sec. 2. 33 V.S.A. chapter 69, subchapter 2 is amended to read:

Subchapter 2. ~~Abuse~~ Maltreatment Prevention for Vulnerable Adults

* * *

§ 6932. JURISDICTION AND VENUE

(a) The Family Division of the Superior Court shall have jurisdiction over proceedings under this subchapter.

(b) Emergency orders under section 6936 of this title may be issued by a judge of the Criminal, Civil, or Family Division of the Superior Court.

(c) Proceedings under this subchapter may be commenced in the county in which the ~~plaintiff~~ vulnerable adult resides. If the vulnerable adult has left the residence to avoid abuse, neglect, or exploitation, the ~~plaintiff~~ vulnerable adult shall have the option to bring an action in the county of the previous residence or the county of the new residence.

§ 6933. REQUEST FOR RELIEF

(a) A vulnerable adult, Adult Protective Services staff, or an interested person on behalf of a vulnerable adult may seek relief from abuse, neglect, or exploitation by filing a petition requesting one or ~~both~~ more of the following orders:

(1) an order that the defendant refrain from abusing, neglecting, or exploiting the vulnerable adult;

(2) an order that the defendant immediately vacate the household;

(3) an order that the defendant shall not contact or communicate with the vulnerable adult either directly or through a third party;

(4) an order that the defendant shall not come within a fixed distance from the vulnerable adult;

(5) an order that the defendant shall not ~~follow or~~ stalk, as defined in 12 V.S.A. § 5131, the vulnerable adult;

(6) an order to deliver care plans, medicines, physicians' orders, and medical records to the vulnerable adult or the vulnerable adult's representative;

(7) an order to cooperate in the transfer of the vulnerable adult's care to ensure the vulnerable adult's safety and well-being;

(8) an order to immediately return any cash, checks, money, or property belonging to the vulnerable adult in the defendant's possession;

(9) an order to immediately return any personal documentation regarding the vulnerable adult, including identification documents, insurance information, financial records, and immigration documentation;

(10) an order that the defendant shall not access, dispose of, take, or transfer funds, accounts, or property from the vulnerable adult or any account in the name of the vulnerable adult;

(11) an order to cease any access, sharing, or use of identifying information, image, or likeness of the vulnerable adult;

(12) an order regarding possession, care, and control of any animal owned, possessed, leased, kept, or held as a pet by the vulnerable adult; and

(13) such other orders as deemed necessary to protect the vulnerable adult.

(b) No filing fee shall be required.

§ 6934. NOTICE

Except as provided in section 6936 of this title, the court shall grant relief only after notice to the defendant and a hearing. If the petition is made by an interested person, notice shall be provided to the vulnerable adult and the court shall determine whether the vulnerable adult is capable of expressing ~~his or her~~ the vulnerable adult's wishes with respect to the petition and, if so, whether the vulnerable adult wishes to pursue the petition. If the court determines that the vulnerable adult is capable of expressing ~~his or her~~ the vulnerable adult's opinion and does not wish to pursue the petition, the court shall dismiss the petition.

* * *

Sec. 3. 18 V.S.A. § 9718 is amended to read:

§ 9718. PETITION FOR REVIEW BY THE PROBATE DIVISION OF THE SUPERIOR COURT

(a) A petition may be filed in the Probate Division of the Superior Court under this section by:

(1) a principal, guardian, agent, ombudsman, a mental health patient representative, or interested individual other than one identified in an advance directive, pursuant to subdivision 9702(a)(10) of this title, as not authorized to bring an action under this section;

(2) a social worker or health care provider employed by or directly associated with the health care provider, health care facility, or residential care facility providing care to the principal;

(3) the Defender General if the principal is in the custody of the Department of Corrections;

(4) a representative of the State-designated protection and advocacy system if the principal is in the custody of the Department of Mental Health; ~~or~~

(5) an individual or entity identified in an advance directive, pursuant to subdivision 9702(a)(10) of this title, as authorized to bring an action under this section; or

(6) Adult Protective Services, for the purposes of reviewing the authority of the agent under 33 V.S.A. § 6907(b)(3) to refuse protective services under 33 V.S.A. § 6907(b)(2)(C).

* * *

Sec. 4. ADULT PROTECTIVE SERVICES; FINANCIAL PROTECTIONS

On or before November 1, 2023, the Department of Disabilities, Aging, and Independent Living, in collaboration with the Department of Financial Regulation and representatives of financial institutions as defined in 33 V.S.A. § 6915, shall submit a report to House Committee on Human Services and to the Senate Committee on Health and Welfare providing proposed legislative changes to protect vulnerable adults from financial abuse, neglect, and exploitation.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

(Committee Vote: 9-1-1)

Favorable

H. 110

An act relating to extending the sunset under 30 V.S.A. § 248a

Rep. Patt of Worcester, for the Committee on Environment and Energy, recommends the bill ought to pass.

(Committee Vote: 10-0-1)

NOTICE CALENDAR

Committee Bill for Second Reading

H. 473

An act relating to radiologist assistants

(Rep. Houghton of Essex Junction will speak for the Committee on Health Care.**)**

H. 476

An act relating to miscellaneous changes to law enforcement officer training laws

(Rep. Boyden of Cambridge will speak for the Committee on Government Operations and Military Affairs.**)**

Favorable with Amendment

H. 31

An act relating to aquatic nuisance control

Rep. Bongartz of Manchester, for the Committee on Environment and Energy, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. AQUATIC NUISANCE CONTROL STUDY COMMITTEE; REPORT

(a) Creation. The Aquatic Nuisance Control Study Committee is created to assess the environmental and public health effects of the use of pesticides, chemicals other than pesticides, biological controls, and other controls in comparison to the efficacy of their use in controlling aquatic nuisances.

(b) Membership. The Aquatic Nuisance Control Study Committee shall be composed of the following members:

(1) two current members of the House of Representatives, who shall be appointed by the Speaker of the House;

(2) two current members of the Senate, who shall be appointed by the Committee on Committees;

(3) the Commissioner of Health or designee;

(4) a scientist from the Department of Fish and Wildlife, appointed by the Commissioner of Fish and Wildlife; and

(5) a scientist from the Department of Environmental Conservation, appointed by the Commissioner of Environmental Conservation.

(c) Powers and duties. The Aquatic Nuisance Control Study Committee shall submit to the Vermont General Assembly recommendations regarding whether and when pesticides, chemicals other than pesticides, or biological controls should be used to control aquatic nuisances in Vermont. The recommendations of the Committee shall include:

(1) a summary of the use of pesticides, chemicals other than pesticides, and biological controls in the lakes and ponds of Vermont since January 1, 2000, including the types of pesticides, chemicals other than pesticides, and biological controls approved for use and why they were approved instead of nonchemical controls;

(2) an assessment of the use of pesticides, chemicals other than pesticides, or biological controls on the nontarget environment or nontarget species; and

(3) recommended legislative changes to the aquatic nuisance control requirements under 10 V.S.A. chapter 50 to:

(A) implement the use of pesticides, chemicals other than pesticides, or biological controls in a more precautionary manner that ensures the protection of State waters and is designed to protect fish, reptiles, amphibians, and all other aquatic biota;

(B) establish the appropriate standard for approval of the use of pesticides, chemicals other than pesticides, and biological controls for aquatic nuisance control;

(C) amend the process for the application of an aquatic nuisance control permit in a manner that improves the opportunity for interested parties to participate in the permitting process and that ensures full transparency in the permitting process; and

(D) provide other changes that the Study Committee determines are necessary or appropriate for implementation of effective aquatic nuisance control in the State.

(d) Assistance. The Aquatic Nuisance Control Study Committee shall have the administrative, technical, and legal assistance of the Agency of Natural Resources.

(e) Report. On or before December 15, 2023, the Aquatic Nuisance Control Study Committee shall submit a written report to the House Committee on Environment and Energy and the Senate Committee on Natural Resources and Energy with its findings and recommendations.

(f) Meetings.

(1) The Commissioner of Environmental Conservation or designee shall call the first meeting of the Aquatic Nuisance Control Study Committee to occur on or before July 31, 2023.

(2) The Committee shall select a chair from among its members at the first meeting.

(3) A majority of the membership shall constitute a quorum.

(4) The Aquatic Nuisance Control Study Committee shall cease to exist on April 1, 2024.

(g) Compensation and reimbursement. For attendance at meetings during adjournment of the General Assembly, a legislative member of the Aquatic Nuisance Control Study Committee serving in the member's capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 23 for not more than eight meetings. These payments shall be made from monies appropriated to the General Assembly.

(h) Definitions. As used in this section:

(1) "Aquatic nuisance" has the same meaning as in 10 V.S.A. § 1452.

(2) "Pesticide" has the same meaning as "economic poison" in 6 V.S.A. § 911.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 8-2-1)

H. 102

An act relating to the Art in State Buildings Program

Rep. Headrick of Burlington, for the Committee on Corrections and Institutions, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. REPEAL

29 V.S.A. chapter 2 (art in State buildings) is repealed.

Sec. 2. 29 V.S.A. chapter 2 is added to read:

CHAPTER 2. ART IN STATE BUILDINGS

§ 41. PURPOSE AND INTENT

(a) Purpose. The State of Vermont recognizes that public art improves the character and quality of State buildings; enhances the workplace of State employees by creating an environment of distinction, enjoyment, and pride; and adds value to the cultural, aesthetic, and economic vitality of the State.

(b) Intent. It is the intent of the General Assembly to support Vermont artists and the benefits of public art by providing ongoing funding for the commissioning of works of art for installation in State buildings and facilities.

§ 42. DEFINITIONS

As used in this chapter:

(1) "Addition" means any new construction that increases the height or floor area of an existing building or facility.

(2) "Art selection panel" means a Council-appointed group of individuals consisting of the Department of Buildings and General Services project manager, the project architect, a representative or representatives from the occupant agency or agencies, the community, and arts professionals who forward recommendations of artwork to the Advisory Committee for final approval.

(3) "Commissioner" means the Commissioner of Buildings and General Services.

(4) "Contracting agency" means the administrative unit of State government responsible for securing the preparation of plans and specifications of a State building or facility for the purpose of negotiating or advertising for bids for the construction of such building or facility.

(5) "Council" means the Vermont Council on the Arts, Inc.

(6) "Mixed media" means any combination of two or more types of materials used to create a single work of art in two or three dimensions.

(7) "Occupant agency" means that public entity that has or will have principal authority to use or occupy a public building.

(8) "Project cost" means the budgeted cost of a construction or renovation project, which may include an addition, excluding the cost of design and of land acquisition or land improvement.

(9) "Project site" means any State building or facility undergoing new construction or renovation, which may include an addition, with a total project cost of $1,000,000.00 or more that is funded from an appropriation or appropriations in one or more capital construction act and has been recommended for consideration by the Commissioner pursuant to this chapter.

(10) "State building or facility" means any State building, facility, permanent structure, park, or appurtenant structure thereof, wholly or partially enclosed, owned or leased by State government, that is to be constructed or renovated, which may include an addition, in part or totally with funds from any appropriation from the capital construction act. The term does not include highways, airport runways, or taxi ways, hangars, railroad tracks, sidings or yards, garages, sheds, warehouses, heating plants, sewers, parking lots, bridges, highway garages, or buildings used for storage or that are of a

temporary nature. The term does not include buildings or facilities owned by units of local government, including school districts.

(11) "Work of art" means an original creation of visual art in sculpture, paintings, graphic arts, mosaics, photography, crafts, calligraphy, mixed media, or any other creation that the Advisory Committee deems a visual art. Works of art may be attached to the structure of a State building or facility or may be detached within or outside the structure.

§ 43. ART IN STATE BUILDINGS PROGRAM

(a) Program established. There is established the Art in State Buildings Program to authorize the State to fund and contract for the design, purchase, commission, fabrication, installation, and integration of permanent works of art during the design of new construction or renovation, which may include an addition, of State buildings and facilities. Works of art may be donated to the Program pursuant to the guidelines established in subdivision (b)(2) of this section, provided the donation meets the purpose and intent of the Program as described in section 41 of this chapter.

(b) Administration.

(1) The Vermont Council on the Arts, in coordination with the Department of Buildings and General Services and the Art in State Buildings Advisory Committee, shall administer the Program.

(2) The Commissioner of Buildings and General Services shall establish procedures to administer this chapter, including procedures for communicating with artists interested in donating works of art to the Program and the acceptance of donated works of art to the Program, pursuant to the requirements of 32 V.S.A. § 5.

(3) The Council shall establish contract procedures for commissioning with artists for the design and creation of works of art.

(c) Project site selection process.

(1) On or before July 1 each year, the Commissioner of Buildings and General Services shall recommend to the Council project sites for consideration under this chapter for the installation of artwork. In recommending a project site to the Council, the Commissioner shall give priority to buildings and facilities that are frequently visited by members of the public.

(2) The Commissioner and the Council shall present the recommendations to the Art in State Buildings Advisory Committee for final approval.

(d) Project design.

(1) Upon final selection for any approved project site, the contracting agency, in coordination with the Department of Buildings and General Services, shall:

(A) notify the architect of the provisions of this chapter, including the architect's participation on the art selection panel; and

(B) notify the Commissioner and the Council of the selection of the architect and the details of the project.

(2) The Commissioner of Buildings and General Services shall:

(A) ensure that early in the building design phase, the architect will discuss the potential placement and form of artwork with the art selection panel and the selected artist, and that bid specifications will inform potential contractors of the artwork to be installed in the building or facility; and

(B) assist occupant and contracting agencies in locating liability insurance for artwork when necessary.

(e) Artist selection process.

(1) Upon final approval of any project site by the Advisory Committee pursuant to subdivision (c)(2) of this section, the Council shall facilitate a process with the appointed art selection panel that will result in a recommendation of an artist or artist team for each project selected for installation of artwork. Priority in acquisitions and commissions of works of art shall be given to Vermont artists.

(2) The artist or artist team shall collaborate with the design team and the art selection panel during the initial design phase of the project.

(3) The Council shall arrange contracts with artists and order payments from the Art Acquisition Fund for the design and fabrication of such works of art.

(f) Installation of works of art. The Commissioner of Buildings and General Services and the Council shall review the final installation and placement of works of art.

(g) Ownership of works of art. The State of Vermont shall be the sole owner of all works of art acquired or commissioned through the Program. Title shall vest in the State upon completion of installation and final acceptance of the work of art.

§ 44. ADVISORY COMMITTEE

(a) Establishment. There is established the Art in State Buildings Advisory Committee to oversee the administration of the Program.

(b) Members. The Advisory Committee shall consist of the following or designee:

(1) the Commissioner of Buildings and General Services;

(2) the Director of the Arts Council;

(3) the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions;

(4) the State Curator; and

(5) the Chair of the Vermont Board of Architects.

(c) Powers and duties. The Committee shall:

(1) provide final approval of project sites and works of art; and

(2) establish guidelines for the selection, acquisition, and commission of works of art.

(d) Compensation and reimbursements. Legislative members of the Committee shall be entitled to per diem compensation and expense reimbursement for attending Committee meetings pursuant to the provisions of 2 V.S.A. § 23.

§ 45. ART ACQUISITION FUND

(a) Creation. The Art Acquisition Fund, administered by the Council, is created to finance the design, construction, integration, and purchase or commissioning of works of art for the Art in State Buildings Program.

(b) Source of funds. The Fund shall be composed of any amounts transferred or appropriated to it by the General Assembly.

(c) Use of funds. Amounts in the Fund shall be expended upon order of the Council for the acquisition or commissioning of works of art and administration of the Program.

(d) Fund balances. Any balance remaining at the end of the fiscal year shall remain in the Fund.

(e) Administration costs. In each fiscal year, the Council may use not more than 15 percent of funds transferred or appropriated to the Fund for the expenses of administering this chapter.

(f) Funding requests. The Commissioner of Buildings and General Services shall include in the Department's proposed biennial capital budget

request, as described in 32 V.S.A. § 310, a separate line item of not less than $75,000.00 in any single fiscal year for the Art Acquisition Fund.

Sec. 3. 29 V.S.A. § 154a is amended to read:

§ 154a. STATE CURATOR

(a) Creation. The position of State Curator is created within the Department of Buildings and General Services.

(b) Duties. The State Curator's responsibilities shall include:

(1) oversight of the historical integrity of the State House;

(2) interpretation of the State House to the visiting public through exhibits, publications, tours, and other means of communication;

(3) acquisition, management, and care of State collections of art, historic artifacts, and furnishings, provided that all items obtained for the State House are acquired pursuant to the collections policy adopted pursuant to subsection (c) of this section; ~~and~~

(4) oversight and management of the State's historic and contemporary art and collections in other State buildings and on State property; and

(5) maintenance and conservation of works of art acquired or commissioned by the State pursuant to chapter 2 of this title.

* * *

(e) Funding. The Curator, upon approval of the Commissioner of Buildings and General Services, is authorized to purchase artwork for the permanent State collection with funds appropriated to the Department for that or other purposes in any capital construction act.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 11-0-0)

Rep. Taylor of Colchester, for the Committee on Ways and Means, recommends the bill ought to pass when amended as recommended by the Committee on Corrections and Institutions.

(Committee Vote: 12-0-0)

H. 125

An act relating to boards and commissions

Rep. Mrowicki of Putney, for the Committee on Government Operations and Military Affairs, recommends the bill be amended as follows:

First: By inserting a new section to be Sec. 2a to read as follows:

Sec. 2a. GOVERNMENT ACCOUNTABILITY; SUMMER GOVERNMENT ACCOUNTABILITY COMMITTEE; REPORT

(a) Creation. There is created the Summer Government Accountability Committee to reexamine the principle of government accountability in the Legislative Branch.

(b) Membership. The Summer Government Accountability Committee shall be composed of the following members:

(1) four current members of the House of Representatives, not from the same political party, who shall be appointed by the Speaker of the House; and

(2) four current members of the Senate, not from the same political party, who shall be appointed by the Committee on Committees.

(c) Powers and duties. The Summer Government Accountability Committee shall consider the issue of accountability in the Legislative Branch, including the following:

(1) ways to ensure that the Legislative Branch is accountable to the people of Vermont by creating new processes and metrics by which to measure accountability;

(2) ways to ensure equity in pay across commissions, boards, and joint legislative committees based on the nature of the service and required skill level; and

(3) codifying mechanisms for controlling and restraining the increasing number of commissions, boards, and joint legislative committees.

(d) Assistance. For purposes of scheduling meetings and preparing recommended legislation, the Summer Government Accountability Committee shall have the assistance of the Office of Legislative Operations and the Office of Legislative Counsel.

(e) Report. On or before January 15, 2024, the Summer Government Accountability Committee shall report to the House Committee on Government Operations and Military Affairs and the Senate Committee on Government Operations with any recommendations for legislative action.

(f) Meetings.

(1) A member of the House of Representatives designated by the Speaker of the House shall call the first meeting of the Summer Government Accountability Committee to occur on or before July 1, 2023.

(2) The Summer Government Accountability Committee shall select a chair from among its members at the first meeting.

(3) A majority of the members of the Summer Government Accountability Committee shall constitute a quorum.

(4) The Summer Government Accountability Committee shall cease to exist on November 1, 2024.

(g) Compensation and reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, the members of the Summer Government Accountability Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 23 for not more than four meetings. These payments shall be made from monies appropriated to the General Assembly.

Second: In Sec. 101, 18 V.S.A. § 4201, by striking out subsection (45) in its entirety and inserting in lieu thereof a new subsection (45) to read as follows:

(45) "Benchmark unlawful dosage" means the maximum recommended therapeutic dose, or maximum daily dose, as determined by the Department by rule.

Third: In Sec. 140, effective dates, by striking out "and Sec. 137 (amending 30 V.S.A. § 8015), shall take effect on June 30, 2025" and inserting in lieu thereof "and Sec. 137 (amending 30 V.S.A. § 8015) shall take effect on June 30, 2027."

(Committee Vote: 11-0-1)

Rep. Branagan of Georgia, for the Committee on Ways and Means, recommends the bill ought to pass when amended as recommended by the Committee on Government Operations and Military Affairs.

(Committee Vote: 11-0-1)

H. 158

An act relating to the beverage container redemption system

Rep. Morris of Springfield, for the Committee on Environment and Energy, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. chapter 53 is amended to read:

CHAPTER 53. BEVERAGE CONTAINERS; DEPOSIT-REDEMPTION SYSTEM

§ 1521. DEFINITIONS

As used in this chapter:

(1) "Beverage" means ~~beer or other malt beverages and mineral waters, mixed wine drink, soda water and carbonated soft~~ all drinks in liquid form and intended for human consumption, except for milk, dairy products, plant-based beverages, infant formula, meal replacement drinks, or nonalcoholic cider. ~~"Beverage" also means liquor and ready-to-drink spirits beverage.~~

(2) ~~"Biodegradable material" means material that is capable of being broken down by bacteria into basic elements.~~ [Repealed.]

(3) "Container" means the individual~~,~~ and separate~~,~~ bottle, can, or jar~~, or carton~~ composed of glass, aluminum or other metal, ~~paper, plastic,~~ polyethylene terephthalate, high density polyethylene, or any combination of those materials, and containing a ~~consumer product~~ beverage. This definition ~~shall~~ does not include ~~containers made of biodegradable material~~ noncarbonated beverage containers with a volume greater than two and one-half liters and carbonated beverage containers with a volume greater than three liters.

(4) "Distributor" means every person who engages in the sale of consumer products in containers to a dealer in this State, including any manufacturer who engages in such sales. Any dealer or retailer who sells, at the retail level, beverages in containers without having purchased them from a person otherwise classified as a distributor ~~shall be~~ is a distributor.

(5) "Manufacturer" means every person bottling, canning, packing, or otherwise filling containers for sale to distributors or dealers.

(6) "Recycling" means the process of sorting, cleansing, treating, and reconstituting waste and other discarded materials for the purpose of reusing the materials in the same or altered form.

(7) "Redemption center" means a store or other location where any person may, during normal business hours, redeem the amount of the deposit for any empty beverage container labeled or certified pursuant to section 1524 of this title.

(8) "Secretary" means the Secretary of Natural Resources.

(9) "Mixed wine drink" means a beverage containing wine and more than 15 percent added plain, carbonated, or sparkling water and that contains added natural or artificial blended material, such as fruit juices, flavors, flavoring, adjuncts, coloring, or preservatives; that contains not more than 16 percent alcohol by volume; or other similar product marketed as a wine cooler.

(10) "Liquor" means spirits as defined in 7 V.S.A. § 2.

(11) "Cider" has the same meaning as in 7 V.S.A. § 2.

(12) "Hard kombucha" means a fermented beverage produced from a mixture of steeped tea and sugar, combined with a culture of yeast strains and bacteria, that has an alcohol content of 0.5 percent or more alcohol by volume.

(13) "Plant-based beverage" means a liquid intended for human consumption that imitates dairy milk, consists of plant material suspended in water, and the primary protein source in the beverage is from plant material or a derivative of plant materials. Plant-based beverages include beverages made from rice, soy, nuts, oats, and hemp.

(14) "Vinous beverages" means all fermented beverages of any name or description manufactured or obtained for sale from the natural sugar content of fruits or other agricultural product, containing sugar, the total alcoholic content of which is not less than one percent nor more than 16 percent by volume at 60 degrees Fahrenheit. As used in this section, "vinous beverages" does not mean cider, hard kombucha, or a mixed wine drink.

§ 1522. BEVERAGE CONTAINERS; DEPOSIT

(a) Except with respect to beverage containers that contain liquor, a deposit of not less than five cents shall be paid by the consumer on each beverage container sold at the retail level and refunded to the consumer upon return of the empty beverage container. With respect to beverage containers that contain a vinous beverage, a deposit of 15 cents shall be paid by the consumer on each beverage container sold at the retail level and refunded to the consumer upon return of the empty beverage container. With respect to beverage containers of volume greater than 50 ml. that contain liquor, a deposit of 15 cents shall be paid by the consumer on each beverage container sold at the retail level and refunded to the consumer upon return of the empty beverage container. The

difference between liquor bottle deposits collected and refunds made is hereby retained by the Liquor Control Enterprise Fund for administration of this subsection. Beginning on January 15, 2024 and annually thereafter, the Commissioner of Liquor and Lottery shall report to the Secretary of Natural Resources:

(1) the amount and tonnage of liquor bottles that the Department of Liquor and Lottery collected in the previous calendar year; and

(2) the redemption rate for liquor bottles in the previous calendar year.

(b) A retailer or a person operating a redemption center who redeems beverage containers shall be reimbursed by the manufacturer or distributor of such beverage containers in an amount that is three and one-half cents per container for containers of beverage brands that are part of a commingling program and ~~four~~ five cents per container for containers of beverage brands that are not part of a commingling program.

(c) [Repealed.]

(d) ~~Containers shall be redeemed during no fewer than 40 hours per week during the regular operating hours of the establishment.~~ [Repealed.]

§ 1522a. ~~RULES~~

~~The Secretary may adopt rules, in accordance with 3 V.S.A. chapter 25, necessary for the administration of this chapter. These rules may include the following:~~

~~(1) Provisions to ensure that beverage containers not labeled in accordance with section 1524 of this title are not redeemed.~~

~~(2) Provisions to ensure that beverage containers are commingled.~~

~~(3) Administrative penalties for the failure by a redemption center or retailer to remove beverage containers that are not labeled prior to pickup by a distributor or manufacturer. Penalties may include nonpayment of the deposit and handling fee established under section 1522 of this title for a reasonable period of time and for the number of beverage containers that were not labeled.~~

~~(4) Any other provision that may be necessary for the implementation of this chapter.~~ [Repealed.]

§ 1523. ACCEPTANCE OF BEVERAGE CONTAINERS

(a) Except as provided in section 1522 of this title:

(1) A retailer shall not refuse to accept from any person any empty beverage containers, labeled in accordance with section 1524 of this title, of the kind, size, and brand sold by the retailer, or refuse to pay to that person the refund value of a beverage container as established by section 1522 of this title, except as provided in subsection (b) of this section.

(2) A manufacturer or distributor may not refuse to pick up from a retailer that sells its product or a person operating a certified redemption center any empty beverage containers, labeled in accordance with section 1524 of this title, of the kind, size, and brand sold by the manufacturer or distributor, or refuse to pay the retailer or a person operating a redemption center the refund value of a beverage container as established by section 1522 of this title.

(b) A retailer~~, with the prior approval of the Secretary,~~ may refuse to redeem beverage containers if a ~~redemption center or centers are established that serve the public need~~ stewardship plan that meets the requirements of section 1532 of this title has been implemented by the producer responsibility organization in the State and the retailer's building is less than 5,000 square feet.

(c) A retailer ~~or~~ that is not exempt, a person operating a redemption center, or any other point of redemption may only refuse to redeem beverage containers that are not clean~~,~~ or are broken~~,~~ and shall not redeem beverage containers that are not labeled in accordance with section 1524 of this title.

§ 1524. LABELING

(a)(1) Every beverage container sold or offered for sale at retail in this State shall clearly indicate by embossing ~~or,~~ imprinting on the normal product label, or ~~in the case of a metal beverage container on the top of the container,~~ other approved method secured to the container the word "Vermont" or the letters "VT" and ~~the refund value of the container~~ one of the following in not less than one-eighth inch type size or such other alternate indications as may be approved by the Secretary:

(A) the refund value of the container;

(B) the words "refund value"; or

(C) the letters "RV".

(2) The label shall be on the top lid of the beverage container, the side of the beverage container, or in a clearly visible location on the beverage container. This subsection does not prohibit including names or abbreviations of other states with deposit legislation comparable to this chapter.

(b) Each beverage container sold or offered for sale in the State that has a deposit pursuant to section 1522 of this title shall include a Universal Product Code and barcode. Each distributor shall provide the Universal Product Code and barcode as part of its beverage registration or within 60 days following March 1, 2025, whichever occurs first.

(c) The Commissioner of Liquor and Lottery may allow, in the case of liquor bottles, a conspicuous, adhesive sticker to be attached to indicate the deposit information required in subsection (a) of this section, provided that the size, placement, and adhesive qualities of the sticker are as approved by the Commissioner. The stickers shall be affixed to the bottles by the manufacturer, except that liquor that is sold in the State in quantities less than 100 cases per year may have stickers affixed by personnel employed by the Division of Liquor Control.

~~(c) This section shall not apply to permanently labeled beverage containers~~.

(d) The Secretary may allow a manufacturer, a distributor, or a retailer of vinous beverage containers to attach a conspicuous adhesive sticker to the beverage containers to indicate the deposit information required in subsection (a) of this section, provided that the size, placement, and adhesive qualities of the sticker are as approved by the Secretary. If the Secretary allows the use of an adhesive sticker under this subsection, the sticker shall be affixed by the manufacturer, the distributor, or the retailer.

* * *

§ 1527. ~~PENALTY~~

~~A person who violates a provision of this chapter shall be fined not more than $1,000.00 for each violation.~~ [Repealed.]

* * *

§ 1529. REDEMPTION CENTER CERTIFICATION

A person operating a redemption center may obtain a certification from the Secretary. A redemption center certification shall include the following:

(1) Specification of the name and location of the facility~~;~~

(2) ~~If the certified redemption center redeems more than 250,000 containers per year, a requirement that the certified redemption center shall participate in an approved commingling agreement; and~~

~~(3)~~ Additional conditions, requirements, and restrictions as the Secretary may deem necessary to implement the requirements of this chapter. This may

include requirements concerning reporting, recording, and inspections of the operation of the site.

* * *

§ 1531. MANUFACTURER PARTICIPATION IN PRODUCER RESPONSIBILITY ORGANIZATION

(a) No manufacturer or distributor may sell or distribute a beverage container in this State without participating in a Secretary-approved producer responsibility organization.

(b) On or before January 1, 2024, manufacturers of beverage containers sold or distributed within the State shall apply to the Secretary to form a producer responsibility organization to fulfill the requirement of manufacturers under this chapter.

(c) The Secretary may approve, for a period not longer than 10 years, the producer responsibility organization, provided that:

(1) the producer responsibility organization has the capacity to administer the requirements of a stewardship plan required by section 1532 of this title; and

(2) the producer responsibility organization does not create any unreasonable barriers to joining the producer responsibility organization and shall take into the consideration the needs of small manufacturers that do not generate a significant volume of containers.

(d) After approval, the producer responsibility organization shall maintain a website that identifies:

(1) the name and principal business address of each manufacturer participating in the producer responsibility organization; and

(2) the name of each beverage and the container size covered by the stewardship plan.

(e) If the producer responsibility organization fails to implement the requirements of this chapter, the rules adopted by the Secretary, or an approved stewardship plan, the Secretary may dissolve the producer responsibility organization.

(f) If no producer responsibility organization is formed, the Secretary shall either require the formation of the producer responsibility organization or adopt and administer a plan that meets the requirements of section 1532 of this title. If the Secretary administers the plan adopted under section 1532, the Secretary shall charge each manufacturer the costs of plan administration, the

Agency's oversight costs, and a recycling market development assessment of 10 percent of the plan's total cost to be deposited in the Solid Waste Management Assistance Account of the Waste Management Assistance Fund, for the purpose of providing grants to develop markets to recycle materials.

(g) The producer responsibility organization shall reimburse the Agency of Natural Resources for all oversight costs in administering this chapter.

(h) Manufacturers and distributors of liquor are exempt from the requirements of this section and the requirement to implement a stewardship plan under section 1532 of this title.

§ 1532. STEWARDSHIP PLAN; MINIMUM REQUIREMENTS

(a) Plan elements. On or before October 1, 2024, an approved producer responsibility organization shall submit a stewardship plan to the Secretary. A stewardship plan shall, at a minimum, meet all of the following requirements of this section:

(1) Convenience of collection. A plan shall ensure that consumers have convenient opportunities to redeem beverage containers. The plan shall take reasonable efforts to site points of redemption equitably across all regions of the State to allow for convenient and reasonable access of all Vermonters to redemption opportunities. A plan shall document how redemption services will be available to consumers as follows:

(A) at least three points of redemption per county that provide an immediate return of a deposit to a consumer unless a waiver is granted by the Secretary;

(B) at least one point of redemption per municipality with a population of 7,000 or more persons that provides an immediate return of a deposit to a consumer unless a waiver is granted by the Secretary; and

(C) how sites of redemption are or will be sited in areas with high population density or located in centers designated under 24 V.S.A. chapter 76A.

(2) Fair operation and compensation to redemption centers. The plan shall satisfy all of the following requirements.

(A) The plan shall describe how all locations that redeem beverage containers are fairly compensated for their participation in the collection program.

(B) There shall not be barriers to the participation in the collection program for a redemption center, except for restrictions that are authorized by the Secretary.

(C) The plan shall describe how management and sorting of containers at redemption centers is minimized. The plan shall document how brand sorting will be eliminated at points of redemption.

(D) The plan shall describe how materials will be picked up from redemption centers on a timely basis.

(E) The plan shall maximize the use of existing infrastructure when establishing points of collection under subdivision (1) of this subsection (a).

(3) Education to consumers. The plan shall describe what education efforts will be undertaken to increase the number of beverage containers redeemed in the State.

(4) Consultation with stakeholders. The producer responsibility organization shall consult with stakeholders on the development of the plan. The plan shall include processes for regular consultation, which shall not be less than annually, with stakeholders including the Agency, redemption centers, municipal and private recycling organizations, and other stakeholders.

(b) Reporting. At a frequency required by the Secretary but not less than annually, the producer responsibility organization shall report the following to the Secretary:

(1) the name, address, and business hours of each redemption center participating in the approved stewardship plan;

(2) the amount, in containers and tons, and material type of beverage containers redeemed under the plan and the redemption rate by the following categories of:

(A) vinous beverage containers; and

(B) all other beverage containers;

(3) the location and amount of beverage container material that was recycled and what products that beverage container material was recycled into;

(4) the carbon impacts associated with the administration of the stewardship plan;

(5) the costs associated with administration of the stewardship plan, including the costs of collection, management, and transportation of redeemed containers and the amount received for commodities;

(6) a description of any improvements made in the reporting year to increase ease and convenience for consumers to return beverage containers for redemption;

(7) efforts taken by or on behalf of the manufacturer or distributor to reduce environmental impacts throughout the product life cycle and to increase reusability or recyclability at the end of the life cycle by material type;

(8) efforts taken by or on behalf of the producer responsibility organization to improve the environmental outcomes of the program by improving operational efficiency, such as reduction of truck trips through improved material handling or compaction or the increased use of refillable containers in a local refilling system;

(9) a description and copies of educational materials and educational strategies the producer uses for the purposes of this program; and

(10) any additional information required by the Secretary.

(c) Secretary of Natural Resources approval. The plan shall be submitted to the Secretary, and, after concluding that the elements of the plan will maximize diversion of recyclable materials, provide convenience to users, and create a more circular economy, the Secretary's approval pursuant to this subsection shall be for a period not greater than five years.

§ 1533. PROGRAM AND FISCAL AUDIT

(a) Program audit. Beginning on March 1, 2030 and every five years thereafter, the producer responsibility organization shall conduct an independent third-party program audit of the operation of the stewardship plan. The audit shall make recommendations to improve the operation of the collection program established by this chapter.

(b) Fiscal audit. Beginning on March 1, 2026 and annually thereafter, the producer responsibility organization shall conduct an independent third-party fiscal audit of the program. The fiscal audit shall provide a transparent fiscal analysis of the producer responsibility organization, its expenditures, the number of beverage containers collected, and the amount of unclaimed deposits. The audit shall also provide the redemption rate of beverage containers redeemed in the State after approval by the Secretary.

(c) Submission to Secretary. The results of each audit required under subsections (a) and (b) of this section shall be submitted to the Secretary for purposes of reviewing performance of the stewardship plan and for oversight of the requirements of this chapter.

§ 1534. BEVERAGE CONTAINER REDEMPTION RATE GOAL; REPORT

(a) It is a goal of the State that the following minimum beverage container redemption rates shall be satisfied by the specified dates:

(1) Beginning on July 1, 2026: 75 percent.

(2) Beginning on July 1, 2030: 80 percent.

(3) Beginning on July 1, 2035: 85 percent.

(4) Beginning on July 1, 2040: 90 percent.

(b) Beginning on July 1, 2025 and annually thereafter, the Secretary of Natural Resources shall submit to the Senate Committees on Natural Resources and Energy and on Finance and the House Committees on Environment and Energy and on Ways and Means a written report containing the current beverage container redemption rate in the State for the following three categories of beverage containers:

(1) liquor bottles;

(2) vinous beverage containers; and

(3) all other beverage containers.

(c) Beginning on January 1, 2028, if the Secretary determines that the redemption rate goal established in subsection (a) of this section was not met for one or more of the beverage container categories listed under subsection (b) of this section for two consecutive years, the beverage container deposit for the category shall increase by five cents, provided that the maximum deposit for any beverage container category shall not exceed 20 cents for vinous beverage containers and liquor bottles and shall not exceed 10 cents for every other container. Within one year following the Secretary's determination under this section, manufacturers and distributors shall comply with the labeling requirements of section 1524 of this title before assessing the relevant deposit established under this subsection for the beverage container.

§ 1535. RULEMAKING

The Secretary may adopt rules, in accordance with 3 V.S.A. chapter 25, necessary for the administration of this chapter.

Sec. 2. 10 V.S.A. § 1530(c)(1) is amended to read:

(c)(1) ~~On or before January 1, 2020, and quarterly thereafter,~~ Every quarter, at the time a report is filed pursuant to subsection (d) of this section, each deposit initiator shall remit to the Commissioner of Taxes ~~any~~ 50 percent of the abandoned beverage container deposits from the preceding quarter. The remaining 50 percent of the abandoned beverage container deposits shall be retained by the producer responsibility organization implementing the requirements of this chapter for the deposit initiator. The amount of abandoned beverage container deposits for a quarter is the amount equal to the

amount of deposits that the deposit initiator collected in the quarter less the amount of the total refund value paid out by the deposit initiator for beverage containers during the quarter.

Sec. 3. 10 V.S.A. § 1530(c)(1) is amended to read:

(c)(1) Every quarter, at the time a report is filed pursuant to subsection (d) of this section, each deposit initiator shall remit to the Commissioner of Taxes ~~50 percent of the~~ any abandoned beverage container deposits from the preceding quarter. ~~The remaining 50 percent of the abandoned beverage container deposits shall be retained by the producer responsibility organization implementing the requirements of this chapter for the deposit initiator.~~ The amount of abandoned beverage container deposits for a quarter is the amount equal to the amount of deposits that the deposit initiator collected in the quarter less the amount of the total refund value paid out by the deposit initiator for beverage containers during the quarter.

Sec. 4. 10 V.S.A. § 7714 is amended to read:

§ 7714. TYPE 3 PROCEDURES

(a) Purpose; scope.

(1) The purpose of this section is to establish the public notice and comment requirements that the Department must follow when adopting general permits, except for general permits governed by section 7712 of this chapter, and when considering other permits listed in this section.

(2) The procedures under this section shall be known as Type 3 Procedures. This section governs each of the following:

(A) Each general permit issued pursuant to the Secretary's authority under this title other than a general permit subject to section 7712 of this chapter. However, this section does not apply to a notice of intent under a general permit.

(B) Issuance of a dam safety order under chapter 43 of this title, except for an unsafe dam order under section 1095 of this title.

(C) An application or request for approval of:

(i) an aquatic nuisance control permit under chapter 50 of this title;

(ii) a change in treatment for a public water supply under chapter 56 of this title;

(iii) a collection plan for mercury-containing lamps under section 7156 of this title;

(iv) an individual plan for the collection and recycling of electronic waste under section 7554 of this title; ~~and~~

(v) a primary battery stewardship plan under section 7586 of this title; and

(vi) approval of a stewardship plan required under chapter 53 of this title.

(b) Notice of application. The Secretary shall provide notice of an administratively complete application through the environmental notice bulletin.

(c) Notice of draft decision; comment period. The Secretary shall provide notice of the draft decision through the environmental notice bulletin and shall post the draft decision to the bulletin. The Secretary shall provide a public comment period.

(d) Public meeting. The Secretary shall hold a public meeting whenever any person files a written request for such a meeting. The Secretary otherwise may hold a public meeting at ~~his or her~~ the Secretary's discretion.

(e) Notice of final decision. The Secretary shall provide notice of the final decision through the environmental notice bulletin and shall post the final decision to the bulletin. The Secretary shall provide a response to comments.

Sec. 5. 10 V.S.A. § 1388 is amended to read:

§ 1388. CLEAN WATER FUND

(a) There is created a special fund to be known as the Clean Water Fund to be administered by the Secretary of Administration. The Fund shall consist of:

(1) revenues from the Property Transfer Tax surcharge established under 32 V.S.A. § 9602a;

(2) other gifts, donations, and impact fees received from any source, public or private, dedicated for deposit into the Fund and approved by the Secretary of Administration;

(3) 50 percent of the unclaimed beverage container deposits (escheats) remitted to the State under chapter 53 of this title;

(4) six percent of the revenues from the meals and rooms taxes imposed under 32 V.S.A. chapter 225; and

(5) other revenues dedicated for deposit into the Fund by the General Assembly.

(b) Notwithstanding any contrary provisions of 32 V.S.A. chapter 7, subchapter 5, unexpended balances and any earnings shall remain in the Fund from year to year.

Sec. 6. 10 V.S.A. § 6618(a) is amended to read:

(a) There is hereby created in the State Treasury a fund to be known as the Waste Management Assistance Fund, to be expended by the Secretary of Natural Resources. The Fund shall have three accounts: one for Solid Waste Management Assistance, one for Hazardous Waste Management Assistance, and one for Electronic Waste Collection and Recycling Assistance. The Hazardous Waste Management Assistance Account shall consist of a percentage of the tax on hazardous waste under the provisions of 32 V.S.A. chapter 237, as established by the Secretary, the toxics use reduction fees under subsection 6628(j) of this title; and appropriations of the General Assembly. In no event shall the amount of the hazardous waste tax that is deposited to the Hazardous Waste Management Assistance Account exceed 40 percent of the annual tax receipts. The Solid Waste Management Assistance Account shall consist of the franchise tax on waste facilities assessed under the provisions of 32 V.S.A. chapter 151, subchapter 13; 50 percent of the unclaimed beverage container deposits remitted to the State under chapter 53 of this title; and appropriations of the General Assembly. The Electronic Waste Collection and Recycling Account shall consist of the program and implementation fees required under section 7553 of this title. All balances in the Fund accounts at the end of any fiscal year shall be carried forward and remain a part of the Fund accounts, except as provided in subsection (e) of this section. Interest earned by the Fund shall be deposited into the appropriate Fund account. Disbursements from the Fund accounts shall be made by the State Treasurer on warrants drawn by the Commissioner of Finance and Management.

Sec. 7. SYSTEMS ANALYSIS OF BEVERAGE CONTAINER SYSTEM

On or before January 15, 2025, the Agency of Natural Resources shall submit to the House Committee on Environment and Energy and the Senate Committee on Natural Resources and Energy a written report on:

(1) an estimate of the total system costs and savings associated with the implementation of the expanded beverage container redemption system under 10 V.S.A. chapter 53, including climate impacts;

(2) an estimate of the impacts of an expanded beverage container redemption system on the recycling system, including how much additional beverage container material will be collected by the expansion of the bottle bill; the operational savings, if any, on material recovery facilities; the loss to

material recovery facilities from the removal of bottle bill material from the recycling system; and an estimate of the impacts on tipping fees at each material recovery facility;

(3) an estimate of the costs of operating a redemption center and other alternate points of redemption under a stewardship plan and a recommendation on whether the handling fee should be altered or replaced with an alternative means of compensating points of redemption;

(4) an estimate of the impact on overall recycling in the State and the redemption rates of beverage containers under 10 V.S.A. chapter 53 if the producer responsibility organization (PRO) implementing the stewardship plan under that chapter were authorized to retain 100 percent, 50 percent, or none of the abandoned beverage container deposits, including:

(A) the estimated number of beverage container redemption sites in the State under the PRO's stewardship plan under each option for the PRO's retention of the abandoned beverage container deposits; and

(B) the geographic distribution of beverage container redemption sites across the State under the PRO's stewardship plan under each option for the PRO's retention of the abandoned beverage container deposits.

(5) an estimate of the impact on the Clean Water Fund and State implementation of the State's water quality programs and regulatory requirements if the abandoned beverage container deposits were not deposited into the Clean Water Fund under 10 V.S.A. § 1388.

Sec. 8. REPEAL

10 V.S.A. § 1528 (beverage registration with ANR) and 10 V.S.A. § 1529 (redemption center certification by ANR) are repealed on March 1, 2025.

Sec. 9. IMPLEMENTATION; TRANSITION

(a) In the implementation and enforcement of the requirements of this act, the Secretary of Natural Resources may:

(1) allow beverage containers to be sold or redeemed that do not meet the labeling requirements of 10 V.S.A. § 1524;

(2) determine whether a beverage or container is subject to the requirements of 10 V.S.A. chapter 53 due to the nature of the beverage or the composition or size of the container; and

(3) exercise discretion in the administration and enforcement of the requirements of 10 V.S.A. chapter 53 for categories or types of beverages or beverage containers.

(b) This section shall be repealed on March 1, 2028.

Sec. 10. BOTTLE BILL RECYCLING AND MATERIALS REPORTING

A manufacturer or distributor collecting beverage containers subject to 10 V.S.A chapter 53 shall report recycling information to the Secretary of Natural Resources in the same manner as recycled materials are reported to the Secretary under 10 V.S.A. chapter 159. The information shall include:

(1) the amount in containers and tons and material type of beverage container collected; and

(2) the location and amount of beverage container material and what products the beverage containers were recycled into.

Sec. 11. EFFECTIVE DATES

This act shall take effect on July 1, 2023, except that:

(1) in Sec. 1, 10 V.S.A. § 1521(1) (expansion of the definition of beverage types) and 10 V.S.A. § 1522(a)(deposit for vinous beverages) shall take effect on January 1, 2027;

(2) in Sec. 1, 10 V.S.A. § 1524(b) (requiring a UPC label on containers) shall take effect on March 1, 2025;

(3) in Sec. 1, 10 V.S.A. § 1531(a) (prohibiting the sale or distribution without participating in the producer responsibility organization) shall take effect on March 1, 2025;

(4) Sec. 2 (remittance of abandoned beverage container deposits) shall take effect on January 1, 2026;

(5) Sec. 3. (repeal of remittance of beverage container deposit) shall take effect on July 1, 2031;

(6) Sec. 5 (changing the amount of funds deposited in the Clean Water Fund) shall take effect on July 1, 2031; and

(7) Sec. 6 (Waste Management Assistance Fund) shall take effect on July 1, 2031.

(Committee Vote: 10-1-0)

Rep. Ode of Burlington, for the Committee on Ways and Means, recommends the bill ought to pass when amended as recommended by the Committee on Environment and Energy and when further amended as follows:

First: In Sec. 1, 10 V.S.A. chapter 53, in section 1522, in subsection (a), after "a deposit of" and before "five cents shall be paid", by striking out the "not less than" and inserting in lieu thereof "~~not less than~~"

Second: In Sec. 1, 10 V.S.A. chapter 53, in section 1522, by inserting a new subsection (c) to read:

(c) Alcoholic beverages permitted to be shipped directly to a consumer under 7 V.S.A. § 277 shall be exempt from:

(1) the beverage container deposit requirement of subsection (a) of this section;

(2) the labeling requirements of section 1524 of this title; and

(3) the abandoned beverage container deposit requirements of section 1530 of this title.

Third: In Sec. 1, 10 V.S.A. chapter 53, in section 1523, in subdivision (a)(2), after "A manufacturer or distributor" and before "not refuse" by striking out "may" and inserting in lieu thereof "~~may~~ shall"

Fourth: In Sec. 1, 10 V.S.A. chapter 53, in section 1524, in subdivision (a)(1), by striking out "by embossing ~~or,~~ imprinting on the normal product label, or" and inserting in lieu thereof "by embossing ~~or~~ on the normal product label, imprinting on the normal product label, or"

Fifth: In Sec. 1, 10 V.S.A. chapter 53, in section 1529, in the first sentence of the section, after "a redemption center" and before "obtain a certification" by striking out the word "may" and inserting in lieu thereof "~~may~~ shall"

and in the newly designated subdivision (2), in the second sentence, after "This" and before "include requirements" by striking out "may" and inserting in lieu thereof "~~may~~ shall"

Sixth: In Sec. 1, 10 V.S.A. chapter 53, in section 1531, by striking out subsection (g) in its entirety and inserting in lieu thereof a new subsection (g) to read:

(g) The producer responsibility organization shall reimburse the Secretary for the costs of overseeing the administration of the program under this chapter as follows:

(1) The Secretary shall annually provide an estimate of the costs of overseeing the administration of the program to the producer responsibility program, including staff costs, compliance, and oversight of the system.

(2) The producer responsibility organization shall provide any comments to the Secretary's budget within 30 days of receipt. The Agency of Natural Resource shall respond to all comments provided by the producer responsibility organization and may make changes to its budget in response to

those comments. These comments and the responses shall be provided to the General Assembly as a part of the Secretary's budget.

(3) Reimbursement of Agency of Natural Resources costs under this subsection shall be subject to the State budgeting process, and the producer responsibility organization shall not be required to reimburse any Agency cost unless that cost is approved as a part of the Agency's budget.

Seventh: In Sec. 1, 10 V.S.A. chapter 53, in section 1532, in subdivision (b)(9), after "and educational strategies the" and before "uses for the purposes of" by striking out "producer" and inserting in lieu thereof "producer responsibility organization"

Eighth: In Sec. 1, 10 V.S.A. chapter 53, in section 1533, in subsection (b), in the last sentence, after "redeemed in the State" and before the period by striking out "after approval by the Secretary"

and in section 1533, subsection (b), by adding a new last sentence to read:

The Secretary shall approve the audit results and the redemption rate of beverage containers included in the audit.

Ninth: In Sec. 1, 10 V.S.A. chapter 53, in section 1534, by striking out subsection (c) in its entirety and inserting in lieu thereof new subsection (c) to read as follows:

(c) Beginning on July 1, 2025 and every five years thereafter, the Secretary of Natural Resources shall submit to the Senate Committees on Natural Resources and Energy and on Finance and the House Committees on Environment and Energy and on Ways and Means a written report containing:

(1) the current beverage container redemption rate in the State; and

(2) a recommendation of whether the General Assembly should enact legislation to increase the beverage container deposit in order to improve redemption of beverage containers.

Tenth: In Sec. 1, 10 V.S.A. chapter 53, by adding a section 1536 to read:

§ 1536. ANTITRUST; CONDUCT AUTHORIZED

(a) Activity authorized. A manufacturer, group of manufacturers, or producer responsibility organization implementing or participating in an approved collection plan under this chapter for the collection, transport, processing, and management of beverage container is individually or jointly immune from liability for conduct under State laws relating to antitrust, restraint of trade, unfair trade practices, and other regulation of trade or

commerce under 9 V.S.A. chapter 63, subchapter 1 to the extent that the conduct is reasonably necessary to plan, implement, and comply with the producer responsibility organization's chosen system for beverage containers.

(b) Limitations on antitrust activity. Subsection (a) of this section shall not apply to an agreement among producers, groups of manufacturers, retailers, wholesalers, or the producer responsibility organization affecting the price of beverage containers or any agreement restricting the geographic area in which or customers to whom beverage containers shall be sold.

Eleventh: By striking out Secs. 2 and 3, 10 V.S.A. § 1530(c)(1), in their entirety and inserting in lieu thereof the following new Secs. 2–3a to read as follows:

Sec. 2. 10 V.S.A. § 1530(c)(1) is amended to read:

(c)(1) ~~On or before January 1, 2020, and quarterly thereafter,~~ Every quarter, at the time a report is filed pursuant to subsection (d) of this section, each deposit initiator shall remit to the Commissioner of Taxes any abandoned beverage container deposits from the preceding quarter. The Commissioner of Taxes shall deposit the first $3,000,000.00 of the abandoned beverage container deposits into the Clean Water Fund under 10 V.S.A. § 1388. The Commissioner shall return to the producer responsibility organization implementing the requirements of this chapter any abandoned beverage container deposits in excess of the amount deposited into the Clean Water Fund. The amount of abandoned beverage container deposits for a quarter is the amount equal to the amount of deposits that the deposit initiator collected in the quarter less the amount of the total refund value paid out by the deposit initiator for beverage containers during the quarter.

Sec. 3. 10 V.S.A. § 1530(c)(1) is amended to read:

(c)(1) Every quarter, at the time a report is filed pursuant to subsection (d) of this section, each deposit initiator shall remit to the Commissioner of Taxes any abandoned beverage container deposits from the preceding quarter. The Commissioner of Taxes shall deposit the first ~~$3,000,000.00~~ $4,000,000.00 of the abandoned beverage container deposits into the Clean Water Fund under 10 V.S.A. § 1388. The Commissioner shall return to the producer responsibility organization implementing the requirements of this chapter any abandoned beverage container deposits in excess of the amount deposited into the Clean Water Fund. The amount of abandoned beverage container deposits for a quarter is the amount equal to the amount of deposits that the deposit initiator collected in the quarter less the amount of the total refund value paid out by the deposit initiator for beverage containers during the quarter.

Sec. 3a. 10 V.S.A. § 1530(c)(1) is amended to read:

(c)(1) Every quarter, at the time a report is filed pursuant to subsection (d) of this section, each deposit initiator shall remit to the Commissioner of Taxes any abandoned beverage container deposits from the preceding quarter. The Commissioner of Taxes shall deposit the first $4,000,000.00 of the abandoned beverage container deposits into the Clean Water Fund under 10 V.S.A. § 1388. The Commissioner shall ~~return to the producer responsibility organization implementing the requirements of this chapter~~ deposit into the Solid Waste Management Assistance Account of the Waste Management Assistance Fund any abandoned beverage container deposits in excess of the amount deposited into the Clean Water Fund. The amount of abandoned beverage container deposits for a quarter is the amount equal to the amount of deposits that the deposit initiator collected in the quarter less the amount of the total refund value paid out by the deposit initiator for beverage containers during the quarter.

Twelfth: By striking out Sec. 5, 10 V.S.A. § 1388, in its entirety and inserting in lieu thereof a new Sec. 5 to read:

Sec. 5. 10 V.S.A. § 1388 is amended to read:

§ 1388. CLEAN WATER FUND

(a) There is created a special fund to be known as the Clean Water Fund to be administered by the Secretary of Administration. The Fund shall consist of:

(1) revenues from the Property Transfer Tax surcharge established under 32 V.S.A. § 9602a;

(2) other gifts, donations, and impact fees received from any source, public or private, dedicated for deposit into the Fund and approved by the Secretary of Administration;

(3) the unclaimed beverage container deposits (escheats) ~~remitted to the State~~ required to be deposited to the Fund under chapter 53 of this title;

(4) six percent of the revenues from the meals and rooms taxes imposed under 32 V.S.A. chapter 225; and

(5) other revenues dedicated for deposit into the Fund by the General Assembly.

(b) Notwithstanding any contrary provisions of 32 V.S.A. chapter 7, subchapter 5, unexpended balances and any earnings shall remain in the Fund from year to year.

Thirteenth: In Sec. 6, 10 V.S.A. § 6618(a), by striking out "50 percent of the unclaimed beverage container deposits remitted to the State under chapter 53 of this title;" where it appears and inserting in lieu thereof "the unclaimed beverage container deposits allocated to the Account under chapter 53 of this title;"

Fourteenth: In Sec. 7, systems analysis, in subdivision (2), after "will be collected by the expansion of the" and before the semicolon, by striking out "bottle bill" and inserting in lieu thereof "beverage container redemption system"

and in subdivision (2) after "the loss to material recovery facilities from the removal of" and before "from the recycling system;" by striking out "bottle bill material" and inserting in lieu thereof "material collected under the beverage container redemption system"

Fifteenth: By striking out Sec. 11 (effective dates) in its entirety and inserting in lieu thereof a new Sec. 11 to read as follows:

Sec. 11. EFFECTIVE DATES

This act shall take effect on July 1, 2023, except that:

(1) in Sec. 1, 10 V.S.A. § 1521(1) (expansion of the definition of beverage types) and 10 V.S.A. § 1522(a)(deposit for vinous beverages) shall take effect on January 1, 2027;

(2) in Sec. 1, 10 V.S.A. § 1524(b) (requiring a UPC label on containers) shall take effect on March 1, 2025;

(3) in Sec. 1, 10 V.S.A. § 1531(a) (prohibiting the sale or distribution without participating in the producer responsibility organization) shall take effect on March 1, 2025;

(4) Sec. 2 (abandoned beverage container deposits; initial Clean Water Fund amount) shall take effect on January 1, 2026;

(5) Sec. 3. (abandoned beverage container deposit; Clean Water Fund amount on expansion) shall take effect on January 1, 2027;

(6) Sec. 3a. (abandoned beverage container deposit; Solid Waste Management Assistance Account) shall take effect on July 1, 2031

(7) Sec. 5 (deposits to Clean Water Fund) shall take effect January 1, 2026.

(8) Sec. 6 (Waste Management Assistance Fund) shall take effect on July 1, 2031.

(Committee Vote: 9-3-0)

H. 213

An act relating to creating a study committee on mobile homes and mobile home parks

Rep. Krasnow of South Burlington, for the Committee on General and Housing, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. MOBILE HOME AND MOBILE HOME PARK STUDY; REPORT

(a) Creation. There is created the Mobile Home Task Force.

(b) Membership. The Task Force is composed of the following members:

(1) one current member of the House of Representatives, appointed by the Speaker of the House;

(2) one current member of the Senate, appointed by the Committee on Committees;

(3) one member, appointed by the Department of Housing and Community Development;

(4) one member, appointed by the Champlain Valley Office of Economic Opportunity;

(5) one member, appointed by The Housing Foundation Inc.;

(6) one member, appointed by the Speaker of the House, representing mobile home cooperative owners; and

(7) one member, appointed by the Vermont Housing and Conservation Board.

(c) Powers and duties. The Task Force shall study the current landscape for mobile homes and mobile home parks in this State, including the following issues:

(1) the status of mobile homes and mobile home parks within Vermont's housing portfolio;

(2) the condition and needs for mobile home park infrastructure among parks of various sizes;

(3) the current statutory treatment of mobile homes either as personal or real property;

(4) modern construction, energy efficiency, and durability of manufactured housing, and the availability, affordability, and suitability of alternative types of manufactured, modular, or other housing;

(5) the type and scope of data and information collected concerning mobile home residents, mobile homes, and mobile home parks and opportunities to make the data and information more centralized, accessible, and useful for informing policy decisions; and

(6) conversion to cooperative ownership and technical assistance available to prospective and new cooperative owners, including the availability of guidance concerning governance structures, operation, and conflict resolution.

(d) Assistance. For purposes of scheduling meetings and preparing a report and recommendations, the Task Force shall have the assistance of the Office of Legislative Operations, the Office of Legislative Counsel, and the Joint Fiscal Office.

(e) Report. On or before January 15, 2024, the Task Force shall submit a written report to the House Committee on General and Housing and the Senate Committee on Economic Development, Housing and General Affairs with its findings and any recommendations for legislative action.

(f) Meetings.

(1) The House of Representatives' member shall call the first meeting of the Task Force to occur on or before September 1, 2023.

(2) The Committee shall select a chair from among its members at the first meeting.

(3) A majority of the membership shall constitute a quorum.

(4) The Task Force shall cease to exist on January 15, 2024.

(g) Compensation and reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Task Force shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 23 for not more than six meetings.

(2) Other members of the Task Force shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than six meetings.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

(Committee Vote: 11-0-1)

H. 222

An act relating to reducing overdoses

Rep. Whitman of Bennington, for the Committee on Human Services, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Needle and Syringe Disposal Expansion * * *

Sec. 1. 18 V.S.A. § 4224 is amended to read:

§ 4224. UNUSED PRESCRIPTION DRUG, NEEDLE, AND SYRINGE DISPOSAL PROGRAM

(a) The Department of Health shall establish and maintain the statewide Unused Prescription Drug, Needle, and Syringe Disposal Program to provide for the safe disposal of Vermont residents' unused and unwanted prescription drugs, needles, and syringes. The Program may include establishing secure collection and disposal sites and providing medication envelopes for sending unused prescription drugs to an authorized collection facility for destruction.

* * *

Sec. 2. REGIONAL STAKEHOLDER MEETINGS; PUBLIC NEEDLE AND SYRINGE DISPOSAL PROGRAMS

(a) Between July 1 and December 31, 2023, the Department of Health and the Blueprint for Health's Accountable Communities for Health shall facilitate a series of regional stakeholder meetings regarding public needle and syringe disposal programs. The meetings shall include representatives from municipalities, hospitals, individuals with lived experience of injection drug use, and substance use disorder service providers, with the goal of determining the appropriate placement of public needle and syringe disposal programs based on local needs, best practices, and rural access.

(b) On or before January 15, 2024, the Department shall present information to the House Committee on Human Services and to the Senate Committee on Health and Welfare regarding the progress of the regional stakeholder meetings required pursuant to this section and the statewide establishment of public needle and syringe disposal programs.

Sec. 3. APPROPRIATION; COMMUNITY NEEDLE AND SYRINGE DISPOSAL PROGRAMS

In fiscal year 2024, $150,000.00 is appropriated from the Evidence-Based Education and Advertising Fund in 33 V.S.A. 2004a to the Department of Health's Division of Substance Use Programs to provide grants and consultations for municipalities, hospitals, community health centers, and other publicly available community needle and syringe disposal programs that participated in a stakeholder meeting pursuant to Sec. 2 of this act.

Sec. 3a. 33 V.S.A. § 2004 is amended to read:

§ 2004. MANUFACTURER FEE

(a) Annually, each pharmaceutical manufacturer or labeler of prescription drugs that are paid for by the Department of Vermont Health Access for individuals participating in Medicaid, Dr. Dynasaur, or VPharm shall pay a fee to the Agency of Human Services. The fee shall be ~~1.75~~ 2.25 percent of the previous calendar year's prescription drug spending by the Department and shall be assessed based on manufacturer labeler codes as used in the Medicaid rebate program.

* * *

Sec. 3b. PRESENTATION; NEEDLE AND SYRINGE SERVICES

On or before February 15, 2024, the Department of Health, in consultation with stakeholders, including needle and syringe service providers, individuals with lived experience of injection-use drugs, other community-based service providers, and representatives from regions of the State without a fixed site for syringe service programs, shall present to the House Committee on Human Services and to the Senate Committee on Health and Welfare information addressing:

(1) unmet needle and syringe service needs throughout the State;

(2) required resources to ensure equitable access to needle and syringe services throughout the State; and

(3) who is best positioned to provide needle and syringe services.

* * * Opioid Antagonists * * *

Sec. 4. 18 V.S.A. § 4240 is amended to read:

§ 4240. PREVENTION AND TREATMENT OF OPIOID-RELATED OVERDOSES

(a) As used in this section:

(1) "Health care professional" means a physician licensed pursuant to 26 V.S.A. chapter 23 or 33, a physician assistant licensed to prescribe and

dispense prescription drugs pursuant to 26 V.S.A. chapter 31, an advanced practice registered nurse authorized to prescribe and dispense prescription drugs pursuant to 26 V.S.A. chapter 28, or a pharmacist licensed pursuant to 26 V.S.A. chapter 36.

(2) "Opioid antagonist" means a drug that, when administered, negates or neutralizes in whole or part the pharmacological effects of an opioid in the body.

(3) "Victim" means the person who has overdosed on an opioid ~~drug~~ or who is believed to have overdosed on an ~~opiate drug~~ opioid.

(b) For the purpose of addressing prescription and nonprescription opioid overdoses in Vermont, the Department shall develop and implement a prevention, intervention, and response strategy, depending on available resources, that shall:

(1) provide educational materials on opioid overdose prevention to the public free of charge~~, including to substance abuse treatment providers, health care providers, opioid users, and family members of opioid users~~;

(2) increase community-based prevention programs aimed at reducing risk factors that lead to opioid overdoses;

(3) increase timely access to treatment services for opioid users, including ~~medication-assisted treatment~~ medication for opioid use disorder;

(4)(A) educate substance ~~abuse~~ use treatment providers on methods to prevent opioid overdoses;

(B) provide education, information, and training on overdose prevention, intervention, and response, including the status of legal possession of substances and harm reduction supplies, to individuals living with ~~addiction~~ opioid use disorder and participating in ~~opioid treatment programs,~~ needle and syringe exchange programs, recovery programs, residential ~~drug~~ substance use disorder treatment programs, or correctional services;

(5) ~~facilitate overdose prevention, drug treatment, and addiction recovery services by implementing and expanding~~ implement and expand hospital referral services for individuals treated for an opioid overdose; ~~and~~

(6) develop a statewide opioid antagonist ~~pilot~~ program that emphasizes access to opioid antagonists to and for the benefit of individuals with ~~a history of~~ opioid use disorder;

(7) distribute opioid antagonists ~~to entities in a position~~ to assist those at risk of experiencing an opioid-related overdose; and

(8) establish opioid antagonist dispensing kiosks in locations accessible to those at risk of experiencing an opioid-related overdose.

(c)(1) A health care professional acting in good faith and within ~~his or her~~ the professional's scope of practice may directly or by standing order prescribe, dispense, and distribute an opioid antagonist to the following persons~~, provided the person has been educated about opioid-related overdose prevention and treatment in a manner approved by the Department~~:

(A) a person at risk of experiencing an opioid-related overdose; or

(B) a family member, friend, or other person in a position to assist a person at risk of experiencing an opioid-related overdose.

(2) A health care professional who prescribes, dispenses, or distributes an opioid antagonist in accordance with subdivision (1) of this subsection shall be immune from civil or criminal liability with regard to the subsequent use of the opioid antagonist~~,~~ unless the health professional's actions with regard to prescribing, dispensing, or distributing the opioid antagonist constituted recklessness, gross negligence, or intentional misconduct. The immunity granted in this subdivision shall apply whether or not the opioid antagonist is administered by or to a person other than the person for whom it was prescribed.

(d)(1) A person may administer an opioid antagonist to a victim if ~~he or she~~ the person believes, in good faith, that the victim is experiencing an opioid-related overdose.

(2) ~~After a person has administered an opioid antagonist pursuant to subdivision (1) of this subsection (d), he or she shall immediately call for emergency medical services if medical assistance has not yet been sought or is not yet present.~~

~~(3)~~ A person shall be immune from civil or criminal liability for administering an opioid antagonist to a victim pursuant to subdivision (1) of this subsection unless the person's actions constituted recklessness, gross negligence, or intentional misconduct. The immunity granted in this subdivision shall apply whether or not the opioid antagonist is administered by or to a person other than the person for whom it was prescribed.

(e) A person acting on behalf of a community-based overdose prevention program or a licensed pharmacist shall be immune from civil or criminal liability for providing education on opioid-related overdose prevention or for purchasing, acquiring, distributing, or possessing an opioid antagonist unless the person's actions constituted recklessness, gross negligence, or intentional misconduct.

(f) Any health care professional who treats a victim and who has knowledge that the victim has been administered an opioid antagonist within the preceding 30 days shall refer the victim to professional substance ~~abuse~~ use disorder treatment services.

* * * Operation of Needle and Syringe Service Programs * * *

Sec. 5. 18 V.S.A. § 4475 is amended to read:

§ 4475. DEFINITIONS

(a) As used in this chapter:

(1) The term "drug paraphernalia" means all equipment, products, devices, and materials of any kind that are used, or promoted for use or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a regulated drug in violation of chapter 84 of this title. "Drug paraphernalia" does not include needles ~~and~~, syringes, or other harm reduction supplies distributed or possessed as part of an organized community-based needle exchange program.

* * *

* * * Prescribing Medications to Treat Opioid Use Disorder * * *

Sec. 6. 8 V.S.A. § 4089i is amended to read:

* * *

(e)(1) A health insurance or other health benefit plan offered by a health insurer or by a pharmacy benefit manager on behalf of a health insurer that provides coverage for prescription drugs and uses step-therapy protocols shall not require failure on the same medication on more than one occasion for continuously enrolled members or subscribers.

(2) Nothing in this subsection shall be construed to prohibit the use of tiered co-payments for members or subscribers not subject to a step-therapy protocol.

(3) Notwithstanding subdivision (1) of this subsection, a health insurance or other health benefit plan offered by an insurer or by a pharmacy benefit manager on behalf of a health insurer that provides coverage for prescription drugs shall not utilize a step-therapy, "fail first," or other protocol that requires documented trials of a medication, including a trial documented

through a "MedWatch" (FDA Form 3500), before approving a prescription for the treatment of substance use disorder.

* * *

Sec. 6a. 18 V.S.A. § 4750 is amended to read:

§ 4750. DEFINITIONS

As used in this chapter:

* * *

(2) "~~Medication-assisted treatment~~ Medication for opioid use disorder" means the use of U.S. Food and Drug Administration-approved medications, in combination with counseling and behavioral therapies, to provide a whole patient approach to the treatment of substance use disorders.

Sec. 6b. 18 V.S.A. § 4752 is amended to read:

§ 4752. OPIOID ~~ADDICTION~~ USE DISORDER TREATMENT SYSTEM

(a) The Departments of Health and of Vermont Health Access shall establish by rule in accordance with 3 V.S.A. chapter 25 a regional system of opioid ~~addiction~~ use disorder treatment.

(b) The rules ~~shall include the following requirements:~~ may address requirements for pharmacological treatment, including initial assessments, ongoing follow-up, provider education, and diversion prevention.

~~(1) Patients shall receive appropriate, comprehensive assessment and therapy from a physician or advanced practice registered nurse and from a licensed clinical professional with clinical experience in addiction treatment, including a psychiatrist, master's- or doctorate-level psychologist, mental health counselor, clinical social worker, or drug and alcohol abuse counselor.~~

~~(2) A medical assessment shall be conducted to determine whether pharmacological treatment, which may include methadone, buprenorphine, and other federally approved medications to treat opioid addiction, is medically appropriate.~~

~~(3) A routine medical assessment of the appropriateness for the patient of continued pharmacological treatment based on protocols designed to encourage cessation of pharmacological treatment as medically appropriate for the individual treatment needs of the patient.~~

~~(4)~~(c) Controlled substances for ~~use in federally approved pharmacological treatments for~~ treating opioid ~~addiction~~ use disorder shall be dispensed only by:

~~(A)~~(1) a treatment program authorized by the Department of Health; or

~~(B)~~(2) a ~~physician or advanced practice registered nurse~~ health care provider who is not affiliated with an authorized treatment program but who meets federal requirements for use of controlled substances in the pharmacological treatment of opioid ~~addiction~~ use disorder.

~~(5) Comprehensive education and training requirements shall apply for health care providers, pharmacists, and the licensed clinical professionals listed in subdivision (1) of this subsection, including relevant aspects of therapy and pharmacological treatment.~~

~~(6) Patients shall abide by rules of conduct, violation of which may result in discharge from the treatment program, including:~~

~~(A) provisions requiring urinalysis at such times as the program may direct;~~

~~(B) restrictions on medication dispensing designed to prevent diversion of medications and to diminish the potential for patient relapse; and~~

~~(C) such other rules of conduct as a provider authorized to provide treatment under subdivision (4) of this subsection (b) may require.~~

(d) Controlled substances for use in treatment of opioid use disorder may be prescribed via telehealth in accordance with federal requirements.

(e) The Department of Vermont Health Access shall not require a health care provider to document a patient's adverse reaction to a medication prior to prescribing an alternative medication for opioid use disorder to the patient.

Sec. 6c. 18 V.S.A. § 4753 is amended to read:

§ 4753. CARE COORDINATION

Prescribing physicians and collaborating health care and addictions professionals may coordinate care for patients receiving ~~medication-assisted treatment for substance~~ medication for opioid use disorder, which may include monitoring adherence to treatment, coordinating access to recovery supports, and providing counseling, contingency management, and case management services.

* * * Prior Authorization of Medication for Opioid Use Disorder for Medicaid Beneficiaries * * *

Sec. 7. 33 V.S.A. § 1901l is added to read:

§ 1901l. MEDICATION FOR OPIOID USE DISORDER

(a) The Agency of Human Services shall provide coverage to Medicaid beneficiaries for medically necessary medication for opioid use disorder when prescribed by a health care professional practicing within the scope of the professional's license and participating in the Medicaid program.

(b) Pending approval of the Drug Utilization Review Board, the Agency shall cover at least one medication in each therapeutic class for methadone, buprenorphine, and naltrexone as listed on Medicaid's preferred drug list without requiring prior authorization.

Sec. 8. PRIOR AUTHORIZATION; MEDICATION FOR OPIOID USE DISORDER; COMMUNITY REENTRY

On or before November 1, 2023, the Joint Legislative Justice Oversight Committee shall provide recommendations to the House Committee on Human Services and to the Senate Committee on Health and Welfare regarding any legislative action needed to ensure continuity of treatment for individuals reentering the community after discharge from a correctional setting, including eliminating prior authorization for medication for opioid use disorder.

Sec. 8a. REPORT; PRIOR AUTHORIZATION; SUBSTANCE USE DISORDER TREATMENT

The Department of Vermont Health Access shall research, in consultation with individuals representing diverse professional perspectives, the feasibility and costs of administering a gold card program for substance use disorder treatment in which the Agency of Human Services shall not require a health care provider to obtain prior authorization for substance use disorder treatment if, in the most recent six-month evaluation period, the Agency has approved or would have approved not less than 90 percent of the prior authorization requests submitted by the health care provider for the medication. On or before December 1, 2023, the Department's research shall be submitted

to the Drug Utilization Review Board and Clinical Utilization Review Board for review, consideration, and the provision recommendations. On or before April 1, 2024, the Drug Utilization Review Board and Clinical Utilization Review Board shall each submit their recommendations to the House Committee on Human Services and to the Senate Committee on Health and Welfare.

Sec. 8b. RULEMAKING; PRIOR AUTHORIZATION; BUPRENOPRHINE

The Department of Vermont Health Access shall amend its rules pursuant to 3 V.S.A. chapter 25 to enable health care providers in office-based opioid-

treatment programs to prescribe 24 milligrams of buprenorphine without prior authorization.

* * * Recovery Residences * * *

Sec. 9. 24 V.S.A. § 4412 is amended to read:

§ 4412. REQUIRED PROVISIONS AND PROHIBITED EFFECTS

Notwithstanding any existing bylaw, the following land development provisions shall apply in every municipality:

(1) Equal treatment of housing and required provisions for affordable housing.

* * *

(G) A residential care home or group home to be operated under State licensing or registration, serving not more than eight persons who have a disability as defined in 9 V.S.A. § 4501, and a recovery residence serving not more than eight persons, shall be considered by right to constitute a permitted single-family residential use of property. This subdivision (G) does not require a municipality to allow a greater number of residential care homes or group homes on a lot than the number of single-family dwellings allowed on the lot. As used in this subdivision, "recovery residence" means a shared living residence supporting persons recovering from a substance use disorder that:

(i) Provides tenants with peer support~~, an environment that prohibits the use of alcohol and the illegal use of prescription drugs or other illegal substances,~~ and assistance accessing support services and community resources available to persons recovering from substance use disorders.

(ii) Is certified by an organization approved by the Department of Health and that is either a Vermont affiliate of the National Alliance for Recovery Residences or another approved organization or is pending such certification. If certification is pending beyond 45 days, the municipality shall retain its right to consider the residence pursuant to zoning bylaws adopted in compliance with 24 V.S.A. § 4411.

* * *

* * * Remove Future Repeal of Buprenorphine Exemption * * *

Sec. 10. REPEAL

2021 Acts and Resolves No. 46, Sec. 3 (repeal of buprenorphine exemption) and 4(b) (effective date; repeal of buprenorphine exemption) are repealed.

* * * Effective Dates * * *

Sec. 11. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 8 (medication for opioid use disorder) shall take effect on September 1, 2023.

(Committee Vote: 11-0-0)

H. 230

An act relating to implementing mechanisms to reduce suicide

Rep. Black of Essex, for the Committee on Health Care, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds:

(1) More than 700 Vermont residents died of gunshot wounds in the decade from 2011 to 2020. 88 percent of these deaths were suicide.

(2) Of all the deaths in Vermont involving firearms in 2021, 89 percent were by suicide and 8 percent were by homicide.

(3) The 2021 suicide rate by all methods in Vermont was 20.3 per 100,000 persons, compared to a national rate of 14.0 per 100,000 persons. Suicide among Vermont men and boys is 50 percent higher than the national average.

(4) In 2021, the number of suicides in Vermont was 142, with 83 of them completed by firearm, or 58 percent.

(5) Rand Corporation research estimates that in 2016, firearms were present in 47 percent of Vermont homes and in 32 percent of homes in the United States.

(6) Children are 4.4 times more likely to die by suicide in a home with a firearm compared to a home without a firearm.

(7) Persons at greatest risk of suicide in Vermont are men, persons living in rural areas, persons with a disability, veterans, and members of the LGBTQ+ community.

Sec. 2. LEGISLATIVE PURPOSE

The purpose of this legislation is to prevent death by suicide by reducing access to lethal means of firearms. Although there are many other methods for completing suicide, firearms are unique in their ability to create instantaneous and irreversible outcomes. Nearly every other commonly used method for suicide has a high survivability rate. It is extremely rare for someone to survive a suicide attempt in which a firearm is used. This fact, combined with the high prevalence of firearms in Vermont, is why this method alone is being addressed by this bill.

Sec. 3. 13 V.S.A. § 4024 is added to read:

§ 4024. SECURE FIREARMS STORAGE

(a)(1) Prohibition. A person shall not store or keep a firearm within any premises that are under the person's custody or control if the person knows or reasonably should know that a child or prohibited person is likely to gain access to the firearm unless the person stores or keeps the firearm:

(A) separate from ammunition; and

(B) in a locked container or equipped with a tamper-resistant mechanical lock or other safety device, properly engaged so as to render the firearm inoperable by any person other than the owner or authorized user.

(2) Exceptions. This subsection shall not apply if:

(A) the firearm is carried by or under the control of the owner or another lawfully authorized user;

(B) a child or prohibited person accesses the firearm as a result of an illegal entry; or

(C) a child or prohibited person accesses and uses the firearm during the course of a lawful act of self-defense or defense of another person.

(b) Penalties. A person who violates subsection (a) of this section shall be:

(1) fined not more than $100.00;

(2) imprisoned not more than one year or fined not more than $1,000.00, or both, if a child or prohibited person gains access to the firearm and uses it in the commission of a crime or displays it in a threatening manner; or

(3) imprisoned not more than five years or fined not more than $5,000.00, or both, if a child or prohibited person gains access to the firearm and uses it to cause death or injury to any person.

(c) Charging discretion. If a person who allegedly violates this section is a parent or guardian of a child who gains access to a firearm that is used in an unintentional or self-inflicted shooting that causes death or injury to the child, the impact of the child's death or injury on the person who committed the alleged violation shall be considered by the State's Attorney when deciding whether to file criminal charges in the case.

(d) Information distribution.

(1) At any location where a licensed dealer conducts firearm sales or transfers, the licensed dealer shall conspicuously display a sign containing the information required by subdivision (2) of this subsection in any area where the sales or transfers occur. The sign shall be posted so that it can be easily viewed by persons purchasing or receiving firearms, and the sign shall not be removed, obscured, or rendered illegible. If the location where the sales or transfers occur is the premises listed on the dealer's federal firearms license, an additional sign shall be placed at or near the entrance to the premises.

(2) The sign required by subdivision (1) of this subsection shall be at least eight and one-half inches high by 11 inches wide and shall contain black text at least half an inch high against a white background. The sign shall contain the following text, and no other statements or markings:

"WARNING: Access to a firearm in the home significantly increases the risk of suicide, death during domestic violence disputes, and the unintentional death of children, household members, and others. If you or a loved one is experiencing distress or depression, call the 988 Suicide and Crisis hotline or text "VT" to 741741.

Vermont law requires gun owners to securely store their firearms separately from ammunition in their homes and other premises under their control if a child or person prohibited from purchasing or possessing firearms is likely to gain access to them. Failure to securely store firearms as required by law may result in criminal prosecution.

Posted pursuant to 13 V.S.A. § 4024."

(e) Definitions. As used in this section:

(1) "Child" means a person under 18 years of age.

(2) "Firearm" has the same meaning as in subsection 4017(d) of this title.

(3) "Injury" means a harmful effect on an individual's health, including the individual's mental, emotional, or physical health, or a combination of these.

(4) "Licensed dealer" means a person issued a license as a dealer in firearms pursuant to 18 U.S.C. § 923(a).

(5) "Locked container" means a box, case, chest, locker, safe, or other similar receptacle equipped with a tamper-resistant lock.

(6) "Prohibited person" means a person who is prohibited from possessing a firearm by state or federal law or by court order.

Sec. 4. 13 V.S.A. § 4051 is amended to read:

§ 4051. DEFINITIONS

As used in this subchapter:

* * *

(7) "Household member" has the same meaning as in 15 V.S.A. § 1101.

Sec. 5. 13 V.S.A. § 4052 is amended to read:

§ 4052. JURISDICTION AND VENUE

* * *

(c) Proceedings under this chapter shall be commenced in the county where the law enforcement agency is located, the county where the family or household member or the respondent resides, or the county where the events giving rise to the petition occur.

Sec. 6. 13 V.S.A. § 4053 is amended to read:

§ 4053. PETITION FOR EXTREME RISK PROTECTION ORDER

(a) A State's Attorney ~~or,~~ the Office of the Attorney General, or a family or household member may file a petition requesting that the court issue an extreme risk protection order prohibiting a person from purchasing, possessing, or receiving a dangerous weapon or having a dangerous weapon within the person's custody or control. The petitioner shall submit an affidavit in support of the petition.

* * *

Sec. 7. 13 V.S.A. § 4054 is amended to read:

§ 4054. EMERGENCY RELIEF; TEMPORARY EX PARTE ORDER

(a)(1) A State's Attorney ~~or,~~ the Office of the Attorney General, or a family or household member may file a motion requesting that the court issue an extreme risk protection order ex parte, without notice to the respondent. A law enforcement officer may notify the court that an ex parte extreme risk

protection order is being requested pursuant to this section, but the court shall not issue the order until after the motion is submitted.

* * *

Sec. 8. 13 V.S.A. § 4055 is amended to read:

§ 4055. TERMINATION AND RENEWAL MOTIONS

* * *

(b)(1) A State's Attorney ~~or,~~ the Office of the Attorney General, or a family or household member may file a motion requesting that the court renew an extreme risk protection order issued under this section or section 4053 of this title for an additional period of up to six months. The motion shall be accompanied by an affidavit and shall be filed not more than 30 days and not less than 14 days before the expiration date of the order. The motion and affidavit shall comply with the requirements of subsection 4053(c) of this title, and the moving party shall have the burden of proof by clear and convincing evidence.

* * *

Sec. 9. 13 V.S.A. § 4019a is added to read:

§ 4019a. FIREARMS TRANSFERS; WAITING PERIOD

(a) A person shall not transfer a firearm to another person until 72 hours after the completion of the background check required by 18 U.S.C. § 922(s) or section 4019 of this title.

(b) A person who transfers a firearm to another person in violation of subsection (a) of this section shall be imprisoned not more than one year or fined not more than $500.00, or both.

(c) This section shall not apply to a firearm transfer that does not require a background check under 18 U.S.C. § 922(s) or section 4019 of this title.

(d) As used in this section, "firearm" has the same meaning as in subsection 4017(d) of this title.

Sec. 10. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 7-3-0)

Rep. LaLonde of South Burlington, for the Committee on Judiciary, recommends that the report of the Committee on Health Care be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds:

(1) More than 700 Vermont residents died of gunshot wounds in the decade from 2011 to 2020. 88 percent of these deaths were suicide.

(2) Of all the deaths in Vermont involving firearms in 2021, 89 percent were by suicide and eight percent were by homicide.

(3) The 2021 suicide rate by all methods in Vermont was 20.3 per 100,000 persons, compared to a national rate of 14.0 per 100,000 persons. Suicide among Vermont men and boys is 50 percent higher than the national average.

(4) In 2021, the number of suicides in Vermont was 142, with 83 of them completed by firearm, or 58 percent.

(5) Rand Corporation research estimates that in 2016, firearms were present in 47 percent of Vermont homes and in 32 percent of homes in the United States.

(6) Children are 4.4 times more likely to die by suicide in a home with a firearm compared to a home without a firearm.

(7) Persons at greatest risk of suicide in Vermont are men, persons living in rural areas, persons with a disability, veterans, and members of the LGBTQ+ community.

(8) Extreme risk protection orders have proven successful in situations where other protective orders, mental health proceedings, or criminal charges could not address the risk presented. In fiscal year 2022, 18 extreme risk protection order petitions were filed statewide. In at least five of these cases, a temporary or final order was based on a finding that the respondent had "threatened or attempted suicide or serious bodily harm." None of the respondents subject to an extreme risk prevention order are known to have died by suicide.

(9) Emphasis on the eight percent of firearm deaths by homicide in the State of Vermont does not portray the full impact of Vermont firearms on public safety. Firearms purchased in Vermont and transferred, lawfully or unlawfully, out of state contribute to violent crime in other states, including homicide. A report prepared by the Federal Bureau of Alcohol, Tobacco, Firearms, and Explosives revealed that in 2016 there were 51 traces of firearms involved in a homicide to the State of Vermont.

(10) The National Firearms Commerce and Trafficking Assessment (NFCTA): Crime Guns - Volume Two report prepared by the Federal Bureau

of Alcohol, Tobacco, Firearms, and Explosives (ATF) revealed that between 2017 and 2021, 6,333 firearms that were used in a crime were traced to Vermont. Of the 1,903 firearms that could be traced to a known purchaser, 65 percent were recovered from someone other than the purchaser, and 64 percent were recovered outside the State of Vermont. Over 750 of these firearms were recovered in our neighboring states of New York, Massachusetts, and New Hampshire.

(11) Vermont's existing laws are not successfully deterring straw purchases where an individual lawfully acquires and then unlawfully transfers a firearm to a prohibited person or someone unable to acquire a firearm in the State of Vermont. Waiting periods are among the policy options available to deter straw purchases and to allow greater opportunity for law enforcement detection and response to such attempts.

(12) Waiting period laws, which create a buffer between the time of gun purchase and gun acquisition, can help to prevent impulsive acts of gun violence. One study found that waiting period laws that delay the purchase of firearms by a few days can reduce gun homicides by roughly 17 percent.

Sec. 2. LEGISLATIVE PURPOSE

The purpose of this legislation is to prevent death by suicide by reducing access to lethal means of firearms. Although there are many other methods for completing suicide, firearms are unique in their ability to create instantaneous and irreversible outcomes. Nearly every other commonly used method for suicide has a high survivability rate. It is extremely rare for someone to survive a suicide attempt in which a firearm is used. This fact, combined with the high prevalence of firearms in Vermont, is why this method alone is being addressed by this bill.

Sec. 3. 13 V.S.A. § 4024 is added to read:

§ 4024. SECURE FIREARMS STORAGE

(a)(1) Prohibition. A person shall not, within any premises that are under the person's custody or control, store or keep a firearm if the person knows or reasonably should know that a child or prohibited person is likely to gain access to the firearm, unless the person stores or keeps the firearm:

(A) separate from ammunition; and

(B) in a locked container or equipped with a tamper-resistant mechanical lock or other safety device, properly engaged so as to render the firearm inoperable by any person other than the owner or authorized user.

(2) Exception. This subsection shall not apply if the firearm is carried by or within such close proximity that it can be readily retrieved and used by the owner or another authorized user.

(3) Conduct not a violation. It shall not be a violation of this subsection if:

(A) a child or prohibited person accesses the firearm as a result of an illegal entry; or

(B) a child or prohibited person accesses and uses the firearm during the course of a lawful act of self-defense or defense of another person.

(b) Penalties. A person who violates subsection (a) of this section shall be:

(1) imprisoned not more than one year or fined not more than $1,000.00, or both, if a child or prohibited person gains access to the firearm and uses it in the commission of a crime, or displays it in a threatening manner; or

(2) imprisoned not more than five years or fined not more than $5,000.00, or both, if a child or prohibited person gains access to the firearm and uses it to cause death or serious bodily injury to any person.

(c) Charging discretion. If a person who allegedly violates this section is a parent or guardian of a child who gains access to a firearm that is used in an unintentional or self-inflicted shooting that causes death or serious bodily injury to the child, the impact of the child's death or serious bodily injury on the person who committed the alleged violation may be considered by the State's Attorney when deciding whether to file criminal charges in the case.

(d) Information distribution.

(1) At any location where a licensed dealer conducts firearm sales or transfers, the licensed dealer shall conspicuously display a sign containing the information required by subdivision (2) of this subsection in any area where the sales or transfers occur. The sign shall be posted so that it can be easily viewed by persons purchasing or receiving firearms, and the sign shall not be removed, obscured, or rendered illegible. If the location where the sales or transfers occur is the premises listed on the dealer's federal firearms license, an additional sign shall be placed at or near the entrance to the premises.

(2) The sign required by subdivision (1) of this subsection shall be at least eight and one-half inches high by 11 inches wide and shall contain black text at least half an inch high against a white background. The sign shall contain the following text, and no other statements or markings:

"WARNING: Access to a firearm in the home significantly increases the risk of suicide, death during domestic violence disputes, and the unintentional death of children, household members, and others. If you or a loved one is experiencing distress or depression, call the 988 Suicide and Crisis hotline or text "VT" to 741741.

Vermont law requires gun owners to securely store their firearms separately from ammunition in their homes and other premises under their control if a person prohibited from purchasing or possessing firearms or a child is likely to gain access to them. Failure to securely store firearms as required by law may result in criminal prosecution.

Posted pursuant to 13 V.S.A. § 4024."

(e) Definitions. As used in this section:

(1) "Authorized user" means a person 18 years of age or older who is not a prohibited person and who has been authorized to carry or use the firearm by the owner.

(2) "Child" means a person under 18 years of age.

(3) "Firearm" has the same meaning as in subsection 4017(d) of this title.

(4) "Licensed dealer" means a person issued a license as a dealer in firearms pursuant to 18 U.S.C. § 923(a).

(5) "Locked container" means a box, case, chest, locker, safe, or other similar receptacle equipped with a tamper-resistant lock.

(6) "Prohibited person" means a person who is prohibited from possessing a firearm by state or federal law or by court order.

(7) "Serious bodily injury" has the same meaning as in subdivision 1021(a)(2) of this title.

Sec. 4. 13 V.S.A. § 4051 is amended to read:

§ 4051. DEFINITIONS

As used in this subchapter:

* * *

(7) "Household member" means persons who are living together, are sharing occupancy of a dwelling, are engaged in a sexual relationship, or minors or adults who are dating. "Dating" means a social relationship of a romantic nature. Factors that the court may consider when determining whether a dating relationship exists include:

(A) the nature of the relationship;

(B) the length of time the relationship has existed; and

(C) the frequency of interaction between the parties.

Sec. 5. 13 V.S.A. § 4053 is amended to read:

§ 4053. PETITION FOR EXTREME RISK PROTECTION ORDER

(a) A State's Attorney ~~or,~~ the Office of the Attorney General, or a family or household member may file a petition requesting that the court issue an extreme risk protection order prohibiting a person from purchasing, possessing, or receiving a dangerous weapon or having a dangerous weapon within the person's custody or control. The petitioner shall submit an affidavit in support of the petition.

(b)(1) Except as provided in section 4054 of this title, the court shall grant relief only after notice to the respondent and a hearing. The petitioner shall have the burden of proof by clear and convincing evidence.

(2) When a petition has been filed by a family or household member, the State's Attorney or Attorney General shall be substituted as the plaintiff in the action upon the issuance of an ex-parte order under section 4054 of this title or at least seven days prior to the hearing for a petition filed under this section. Upon substitution of the State's Attorney or Attorney General as the plaintiff, the family or household member shall no longer be a party.

* * *

(d)(1) The court shall hold a hearing within 14 days after a petition is filed under this section. Notice of the hearing shall be served pursuant to section 4056 of this title concurrently with the petition and any ex parte order issued under section 4054 of this title.

(2) If a petition is filed by a family or household member under this section, the court shall transmit a copy of the petition to the State's Attorney or the Attorney General, along with all supporting documents and the notice of the initial status conference or hearing.

* * *

Sec. 6. 13 V.S.A. § 4054 is amended to read:

§ 4054. EMERGENCY RELIEF; TEMPORARY EX PARTE ORDER

(a)(1) A State's Attorney ~~or,~~ the Office of the Attorney General, or a family or household member may file a motion requesting that the court issue an extreme risk protection order ex parte, without notice to the respondent. A

law enforcement officer may notify the court that an ex parte extreme risk protection order is being requested pursuant to this section, but the court shall not issue the order until after the motion is submitted.

* * *

(b)(1)(A) The court shall grant the motion and issue a temporary ex parte extreme risk protection order if it finds by a preponderance of the evidence that at the time the order is requested the respondent poses an imminent and extreme risk of causing harm to ~~himself or herself~~ themselves or another person by purchasing, possessing, or receiving a dangerous weapon or by having a dangerous weapon within the respondent's custody or control. The petitioner shall cause a copy of the order to be served on the respondent pursuant to section 4056 of this title, and the court shall deliver a copy to the holding station.

(B) If a motion is filed by a family or household member under this section and the court has issued an ex parte order, the court shall transmit a copy of the motion to the State's Attorney or the Attorney General, along with all supporting documents and the notice of the initial status conference or hearing.

* * *

Sec. 7. 13 V.S.A. § 4019a is added to read:

§ 4019a. FIREARMS TRANSFERS; WAITING PERIOD

(a) A person shall not transfer a firearm to another person until 72 hours after the licensed dealer facilitating the transfer is provided with a unique identification number for the transfer by the National Instant Criminal Background Check System (NICS), or seven business days have elapsed since the dealer contacted NICS to initiate the background check, whichever occurs first.

(b) A person who transfers a firearm to another person in violation of subsection (a) of this section shall be imprisoned not more than one year or fined not more than $500.00, or both.

(c) This section shall not apply to a firearm transfer that does not require a background check under 18 U.S.C. § 922(s) or section 4019 of this title.

(d) As used in this section, "firearm" has the same meaning as in subsection 4017(d) of this title.

(e)(1) This section shall not apply to a firearms transfer at a gun show.

(2) As used in this subsection, "gun show" means a function sponsored by:

(A) a national, state, or local organization, devoted to the collection, competitive use, or other sporting use of firearms; or

(B) an organization or association that sponsors functions devoted to the collection, competitive use, or other sporting use of firearms in the community.

(3) This subsection shall be repealed on July 1, 2024.

Sec. 8. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

(Committee Vote: 7-4-0)

H. 270

An act relating to miscellaneous amendments to the adult-use and medical cannabis programs

Rep. McCarthy of St. Albans City, for the Committee on Government Operations and Military Affairs, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 7 V.S.A. § 843 is amended to read:

§ 843. CANNABIS CONTROL BOARD; DUTIES; MEMBERS

* * *

(h) ~~Advisory committee.~~

~~(1) There is an advisory committee established within the Board that shall be composed of members with expertise and knowledge relevant to the Board's mission. The Board shall collaborate with the advisory committee on recommendations to the General Assembly. The advisory committee shall be composed of the following 14 members:~~

~~(A) one member with an expertise in public health, appointed by the Governor;~~

~~(B) the Secretary of Agriculture, Food and Markets or designee;~~

~~(C) one member with an expertise in laboratory science or toxicology, appointed by the Governor;~~

~~(D) one member with an expertise in systemic social justice and equity issues, appointed by the Speaker of the House;~~

~~(E) one member with an expertise in women- and minority-owned business ownership, appointed by the Speaker of the House;~~

~~(F) the Chair of the Substance Misuse Prevention Oversight and Advisory Council or designee;~~

~~(G) one member with an expertise in the cannabis industry, appointed by the Senate Committee on Committees;~~

~~(H) one member with an expertise in business management or regulatory compliance, appointed by the Treasurer;~~

~~(I) one member with an expertise in municipal issues, appointed by the Senate Committee on Committees;~~

~~(J) one member with an expertise in public safety, appointed by the Attorney General;~~

~~(K) one member with an expertise in criminal justice reform, appointed by the Attorney General;~~

~~(L) the Secretary of Natural Resources or designee;~~

~~(M) the Chair of the Cannabis for Symptom Relief Oversight Committee or designee; and~~

~~(N) one member appointed by the Vermont Cannabis Trade Association.~~

~~(2) Initial appointments to the advisory committee as provided in subdivision (1) of this subsection (h) shall be made on or before July 1, 2021.~~

~~(3) The Board may establish subcommittees within the advisory committee to accomplish its work.~~

~~(4) Members of the advisory committee who are not otherwise compensated by the member's employer for attendance at meetings shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than six meetings annually. These payments shall be made from the Cannabis Regulation Fund.~~ [Repealed.]

Sec. 2. REPEAL; SUNSET OF CANNABIS CONTROL BOARD

2020 Acts and Resolves No. 164, Sec. 6e is repealed.

Sec. 3. 7 V.S.A. § 861 is amended to read:

§ 861. DEFINITIONS

As used in this chapter:

* * *

(2) "Advertisement" means any written or verbal statement, illustration, or depiction that ~~is calculated to induce~~ would reasonably have the effect of inducing sales of cannabis or cannabis products, including any written, printed, graphic, or other material; billboard, sign, or other outdoor display; other periodical literature, publication, or in a radio or television broadcast; the Internet; or in any other media. The term does not include:

(A) any label affixed to any cannabis or cannabis product or any individual covering, carton, or other wrapper of that container that constitutes a part of the labeling under provisions of these standards;

(B) any editorial or other reading material, such as a news release, in any periodical or publication or newspaper for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by any cannabis establishment, and that is not written by or at the direction of the licensee;

(C) any educational, instructional, or otherwise noncommercial material that is not intended to induce sales and that does not propose an economic transaction, but that merely provides information to the public in an unbiased manner; or

(D) a sign attached to the premises of a cannabis establishment that merely identifies the location of the cannabis establishment.

* * *

(8) "Cannabis establishment" means a cannabis cultivator, propagation cultivator, wholesaler, product manufacturer, retailer, testing laboratory, or integrated licensee licensed by the Board to engage in commercial cannabis activity in accordance with this chapter.

* * *

(31) "Cannabis propagation cultivator" or "propagation cultivator" means a person licensed by the Board to cultivate cannabis clones, immature plants, and mature plants in accordance with this chapter.

Sec. 4. 7 V.S.A. § 881 is amended to read:

§ 881. RULEMAKING; CANNABIS ESTABLISHMENTS

(a) The Board shall adopt rules to implement and administer this chapter in accordance with subdivisions (1)–~~(7)~~(8) of this subsection.

* * *

(3) Rules concerning product manufacturers shall include:

(A) requirements that a single package of a cannabis product shall not contain more than ~~50~~ 100 milligrams of THC, except in the case of:

(i) cannabis products that are not consumable, including topical preparations;

(ii) solid concentrates, oils, and tinctures; and

(iii) cannabis products sold to a dispensary pursuant to 18 V.S.A. chapter 86 and rules adopted pursuant to that chapter;

* * *

(5) Rules concerning retailers shall include:

* * *

(E) ~~facility inspection~~ requirements and procedures for facility inspection to occur at least annually.

* * *

(8) Rules concerning propagators shall include:

(A) requirements for proper verification of age of customers;

(B) pesticides or classes of pesticides that may be used by propagators, provided that any rules adopted under this subdivision (8) shall comply with and shall be at least as stringent as the Agency of Agriculture, Food and Markets' Vermont Pesticide Control Regulations;

(C) standards for indoor cultivation of cannabis;

(D) procedures and standards for testing cannabis for contaminants, potency, and quality assurance and control;

(E) labeling requirements for cannabis sold to retailers and integrated licensees;

(F) regulation of visits to the establishments, including the number of visitors allowed at any one time and record keeping concerning visitors; and

(G) facility inspection requirements and procedures.

* * *

Sec. 5. 7 V.S.A. § 901 is amended to read:

§ 901. GENERAL PROVISIONS

(a) Except as otherwise permitted by law, a person shall not engage in the cultivation, preparation, processing, packaging, transportation, testing, or sale of cannabis or cannabis products without obtaining a license from the Board.

* * *

(h)~~(1) The following records shall be exempt from public inspection and copying under the Public Records Act and shall be confidential:~~

~~(A) any record in an application for a license relating to security, public safety, transportation, or trade secrets, including information provided in an operating plan pursuant to subdivision 881(a)(1)(B) of this title; and~~

~~(B) any licensee record relating to security, public safety, transportation, trade secrets, or employees.~~

~~(2) Notwithstanding 1 V.S.A. § 317(e), the Public Records Act exemption created in this subsection shall continue in effect and shall not be repealed through operation of 1 V.S.A. § 317(e).~~ [Repealed.]

Sec. 6. 7 V.S.A. § 901a is added to read:

§ 901a. ACCESSIBILITY AND CONFIDENTIALITY OF LICENSING AND DISCIPLINARY MATTERS

(a) It is the purpose of this section to protect the reputation, security practices, and trade secrets of licensees from undue public disclosure while securing the public's right to know of government licensing actions relevant to the public health, safety, and welfare.

(b) All meetings and hearings of the Board shall be subject to the Open Meeting Law as provided in 1 V.S.A. § 312.

(c) The following shall be exempt from public inspection and copying under the Public Records Act and shall be kept confidential:

(1) records related to licensee security, safety, transportation, or trade secrets, including information provided in an operating plan pursuant to subdivision 881(a)(1)(B) of this title; and

(2) records related to investigations, except as provided in subsection (d) of this section.

(d)(1) If a complaint or investigation results in formal action to revoke, suspend, condition, reprimand, warn, fine, or otherwise to penalize a licensee based on noncompliance with law or regulation, the case record, as defined by 3 V.S.A. § 809(e), shall be public.

(2) The Board shall prepare and maintain an aggregated list of all closed investigations into misconduct or noncompliance from whatever source derived. The information contained in the list shall be a public record. The list shall contain the date, nature, and outcome of each complaint. The list

shall not contain the identity of the subject licensee unless formal action resulted, as described in subdivision (1) of this subsection.

(e) Notwithstanding 1 V.S.A. § 317(e), the Public Records Act exemption created in this section shall continue in effect and shall not be repealed through operation of 1 V.S.A. § 317(e).

Sec. 7. 7 V.S.A. § 904 is amended to read:

§ 904. CULTIVATOR LICENSE

(a) A cultivator licensed under this chapter may:

(1) cultivate, process, package, label, transport, test, and sell cannabis to a licensed wholesaler, product manufacturer, retailer, integrated licensee, and dispensary ~~and may~~;

(2) purchase and sell cannabis seeds and immature cannabis plants to another licensed cultivator and propagation cultivator; and

(3) possess and sell cannabis products to a licensed wholesaler, product manufacturer, retailer, integrated licensee, and dispensary.

* * *

Sec. 8. 7 V.S.A. § 904b is added to read:

§ 904b. PROPAGATION CULTIVATOR LICENSE

(a) A propagation cultivator licensed under this section may:

(1) cultivate not more than 3,500 square feet of cannabis clones, immature cannabis plants, or mature cannabis plants;

(2) test, transport, and sell cannabis clones and immature cannabis plants to licensed cultivators; and

(3) test, transport, and sell cannabis seeds that meet the federal definition of hemp to a licensed cultivator or retailer or to the public.

(b) A licensed propagation cultivator shall not cultivate mature cannabis plants for the purpose of producing, harvesting, transferring, or selling cannabis flower for or to any person.

Sec. 9. 7 V.S.A. § 905 is amended to read:

§ 905. WHOLESALER LICENSE

A wholesaler licensed under this chapter may:

(1) purchase cannabis ~~from a licensed cultivator and integrated licensee,~~ and cannabis products from a licensed ~~product manufacturer, integrated licensee, and dispensary~~ cannabis establishment;

(2) transport, process, package, and sell cannabis and cannabis products to a licensed ~~product manufacturer, retailer, integrated licensee, and dispensary~~ cannabis establishment; and

(3) sell cannabis seeds or immature cannabis plants to a licensed cultivator.

Sec. 10. 7 V.S.A. § 906 is amended to read:

§ 906. PRODUCT MANUFACTURER LICENSE

A product manufacturer licensed under this chapter may:

(1) purchase cannabis ~~from a licensed cultivator, wholesalers, or integrated licensee,~~ and cannabis products from a licensed ~~wholesaler, product manufacturer, integrated licensee, and dispensary~~ cannabis establishment;

(2) use cannabis and cannabis products to produce cannabis products; and

(3) transport, process, package, and sell cannabis products to a licensed ~~wholesaler, product manufacturer, retailer, integrated licensee, and dispensary~~ cannabis establishment.

Sec. 11. 7 V.S.A. § 907 is amended to read:

§ 907. RETAILER LICENSE

(a) A retailer licensed under this chapter may:

(1) purchase cannabis ~~from a licensed cultivator, wholesaler, or integrated licensee,~~ and cannabis products from a licensed ~~wholesaler, product manufacturer, integrated licensee, and dispensary~~ cannabis establishment; and

(2) transport, possess, package, and sell cannabis and cannabis products to the public for consumption off the registered premises or for cultivation.

* * *

Sec. 12. 7 V.S.A. § 910 is amended to read:

§ 910. CANNABIS ESTABLISHMENT FEE SCHEDULE

The following fees shall apply to each person or product licensed by the Board:

* * *

(3) Manufacturers.

(A) Manufacturer tier 1. Manufacturers that process and manufacture cannabis in order to produce cannabis products without using solvent-based extraction and not more than ~~$10,000.00~~ $50,000.00 per year in cannabis products based on the manufacturer's total annual sales in cannabis products shall be assessed an annual licensing fee of $750.00.

* * *

(7) Propagation cultivators. Propagation cultivators shall be assessed an annual licensing fee of $500.00.

(8) Employees. Cannabis establishments licensed by the Board shall be assessed an annual licensing fee of $50.00 for each employee.

~~(8)~~(9) Products. Cannabis establishments licensed by the Board shall be assessed an annual product licensing fee of $50.00 for every type of cannabis and cannabis product that is sold in accordance with this chapter.

~~(9)~~(10) Local licensing fees. Cannabis establishments licensed by the Board shall be assessed an annual local licensing fee of $100.00 in addition to each fee assessed under subdivisions (1)–~~(6)~~(7) of this section. Local licensing fees shall be distributed to the municipality in which the cannabis establishment is located pursuant to section 846(c) of this title.

~~(10)~~(11) One-time fees.

(A) All applicants for a cannabis establishment license shall be assessed an initial one-time application fee of $1,000.00.

(B) An applicant may choose to be assessed an initial one-time intent-to-apply fee of $500.00. If the applicant subsequently seeks a license within one year after paying the intent-to-apply fee, the initial one-time application fee of $1,000.00 shall be reduced by $500.00.

Sec. 13. 7 V.S.A. chapter 35 is amended to read:

CHAPTER 35. MEDICAL CANNABIS REGISTRY

§ 951. DEFINITIONS

As used in this chapter:

* * *

(8) "Qualifying medical condition" means:

(A) cancer, multiple sclerosis, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, glaucoma, Crohn's disease, Parkinson's disease, post-traumatic stress disorder, or the treatment of these conditions, if the disease or the treatment results in severe, persistent, and intractable symptoms; or

(B) ~~post-traumatic stress disorder, provided the Department confirms the applicant is undergoing psychotherapy or counseling with a licensed mental health care provider; or~~

~~(C)~~ a disease or medical condition or its treatment that is chronic, debilitating, and produces one or more of the following intractable symptoms: cachexia or wasting syndrome, chronic pain, severe nausea, or seizures.

* * *

§ 952. REGISTRY

* * *

(b) A person who is a registered patient or a registered caregiver on behalf of a patient may:

(1) Cultivate not more than ~~two~~ six mature and ~~seven~~ 12 immature cannabis plants. Any cannabis harvested from the plants shall not count toward the two-ounce possession limit in subdivision (2) of this subsection, provided it is stored in an indoor facility on the property where the cannabis was cultivated and reasonable precautions are taken to prevent unauthorized access to the cannabis.

(2) Possess not more than two ounces of cannabis.

(3) Purchase cannabis and cannabis products at a licensed medical cannabis dispensary. Pursuant to chapter 37 of this title, a dispensary may offer goods and services that are not permitted at a cannabis establishment licensed pursuant to chapter 33 of this title.

* * *

§ 954. CAREGIVERS

(a) Pursuant to rules adopted by the Board, a person may register with the Board as a caregiver of a registered patient to obtain the benefits of the Registry as provided in section 952 of this title.

(b)~~(1) The Board shall adopt rules that set forth standards for determining whether an applicant should be denied a caregiver card because of his or her criminal history record. An applicant shall not be denied solely on the basis of a criminal conviction that is not listed in 13 V.S.A. chapter 25 or 28~~ conduct a

name and date of birth Vermont criminal conviction record background check and obtain information from the Child Protection Registry maintained by the Department for Children and Families and from the Vulnerable Adult Abuse, Neglect, and Exploitation Registry maintained by the Department of Disabilities, Aging, and Independent Living (collectively, the Registries) for any person who applies to be a caregiver. The Departments for Children and Families and of Disabilities, Aging, and Independent Living shall adopt rules governing the process for obtaining information from the Registries and for disseminating and maintaining records of that information under this subsection.

~~(2) The Board shall obtain from the Vermont Crime Information Center a copy of the caregiver applicant's fingerprint-based Vermont criminal history records, out-of-state criminal history records, and criminal history records from the Federal Bureau of Investigation.~~

(c) The Board shall adopt rules that set forth standards for determining whether an applicant should be denied a ~~cannabis establishment license~~ caregiver card because of ~~his or her criminal history record~~ the applicant's criminal history record or status on either Registry.

(d)(1) Except as provided in subdivision (2) of this subsection, a caregiver ~~shall serve only one patient~~ may serve not more than two patients at a time, and a patient shall have only one registered caregiver at a time. A patient may serve as a caregiver for one other patient.

(2) A patient who is under 18 years of age may have two caregivers. Additional caregivers shall be at the discretion of the Board.

§ 955. REGISTRATION; FEES

(a) A registration card shall expire one year after the date of issuance for patients with a qualifying medical condition of chronic pain and the caregivers who serve those patients. For all other patients and the caregivers who serve those patients, a registration card shall expire five years after the date of issuance. A patient or caregiver may renew the card according to protocols adopted by the Board.

(b) The Board shall charge and collect a $50.00 ~~annual~~ registration and renewal fee for patients and caregivers. Fees shall be deposited in the Cannabis Regulation Fund as provided in section 845 of this title.

§ 956. RULEMAKING

The Board shall adopt rules for the administration of this chapter. ~~No rule shall be more restrictive than any rule adopted by the Department of Public Safety pursuant to 18 V.S.A. chapter 86.~~

Sec. 14. 7 V.S.A. § 977 is amended to read:

§ 977. FEES

(a) The Board shall charge and collect the following fees for dispensaries:

(1) a one-time $2,500.00 application fee;

(2) a ~~$20,000.00~~ $10,000.00 registration fee for the first year of operation;

(3) an annual renewal fee of ~~$25,000.00~~ $10,000.00 for a subsequent year of operation; and

(4) an annual Registry identification or renewal card fee of $50.00 to be paid by the dispensary for each owner, principal, financier, and employee of the dispensary.

(b) Fees shall be deposited in the Cannabis Regulation Fund as provided in section 845 of this title.

Sec. 15. 7 V.S.A. § 1002 is amended to read:

§ 1002. LICENSE REQUIRED; APPLICATION; FEE; ISSUANCE

(a)(1) No person shall engage in the retail sale of tobacco products, tobacco substitutes, or tobacco paraphernalia in ~~his or her~~ the person's place of business without a tobacco license obtained from the Division of Liquor Control.

(2) No person shall engage in the retail sale of tobacco substitutes without also obtaining a tobacco substitute endorsement from the Division of Liquor Control.

(3) Tobacco licenses and tobacco substitute endorsements shall expire at midnight, April 30, of each year.

(4) This subsection shall not apply to the retail sale of tobacco paraphernalia by a cannabis establishment licensed in accordance with chapter 33 of this title or a medical cannabis dispensary licensed in accordance with chapter 37 of this title.

* * *

Sec. 16. CANNABIS CONTROL BOARD POSITIONS; CANNABIS QUALITY CONTROL PROGRAM; APPROPRIATION

(a) The establishment of the following new permanent classified positions is authorized in the Cannabis Control Board in fiscal year 2024:

(1) two new chemists; and

(2) one new Cannabis Quality Assurance Program Director.

(b) In fiscal year 2024, the amount of $850,000.00 is transferred from the General Fund to the Cannabis Regulation Fund to acquire laboratory equipment and analytical instruments for the cannabis quality control program established pursuant to 7 V.S.A. § 885. The instruments shall be sufficient to test for cannabinoid content, moisture content, and homogeneity, and conduct analysis on residual solvents, pesticides, heavy metals, and human pathogens.

Sec. 17. 2020 Acts and Resolves No. 164, Sec. 6d is amended to read:

Sec. 6d. AUDITOR OF ACCOUNTS REPORT

On or before November ~~15, 2023~~ 1, 2024, the Auditor of Accounts shall report to the General Assembly regarding the organizational structure and membership of the Cannabis Control Board and whether the structure continues to be the most efficient for carrying out the statutory duties of the Board.

Sec. 18. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

(Committee Vote: 8-4-0)

Rep. Branagan of Georgia, for the Committee on Ways and Means, recommends that the report of the Committee on Government Operations and Military Affairs be amended as follows:

First: In Sec. 13, 7 V.S.A. chapter 35, in section 954, in subsection (b), by striking out "conduct" and inserting in lieu thereof "Conduct"

Second: By striking out Sec. 14, 7 V.S.A. § 977, in its entirety

and by renumbering the remaining sections to be numerically correct.

(Committee Vote: 12-0-0)

H. 276

An act relating to creating a rental housing registry

Rep. Stevens of Waterbury, for the Committee on General and Housing, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Rental Housing Registration * * *

Sec. 1. 20 V.S.A. § 2678 is added to read:

§ 2678. RENTAL HOUSING REGISTRATION

(a) Registration. Except as otherwise provided in subsection (b) of this section, annually on or before March 1, the owner of each unit of rental housing that in the previous year was leased or offered for lease shall pay to the Department of Housing and Community Development an annual registration fee of $35.00 per unit and provide the following information:

(1) the name and mailing address of the owner, landlord, and property manager of the unit, as applicable;

(2) the phone number and electronic mail address of the owner, landlord, and property manager of the unit, as available;

(3) the location of the unit;

(4) the year built;

(5) the type of rental unit;

(6) the number of units in the building;

(7) the school property account number;

(8) the accessibility of the unit; and

(9) any other information the Department deems appropriate.

(b) Exceptions.

(1) Unit licensed or registered with another program.

(A) Local rental housing health and safety program.

(i) The registration requirement imposed in subsection (a) of this section does not apply to a unit that is currently registered with a municipal, district, or other local government rental housing health and safety program that requires the owner to register the unit and provide the data required in subsection (a) of this section.

(ii) The fee requirement imposed in subsection (a) of this section does not apply to a unit that is currently registered with a municipal, district, or other local government rental housing health and safety program that requires the owner to register the unit and provide the data required in subsection (a) of this section and for which program the owner is required to pay a registration fee.

(B) Licensed lodging establishment. The registration and fee requirements imposed in subsection (a) of this section do not apply to a lodging establishment, as defined in 18 V.S.A. § 4301, that is required to be licensed by the Department of Health.

(C) Registered mobile home lot.

(i) The registration requirement imposed in subsection (a) of this section does not apply to a mobile home lot within a mobile home park if:

(I) the owner has registered the lot with the Department of Housing and Community Development pursuant to 10 V.S.A. § 6254; and

(II) the owner does not own a mobile home on the lot.

(ii) An owner of a mobile home lot within a mobile home park who has registered the lot with the Department and who owns a mobile home on the lot that is available for rent or rented shall register the property with the Department pursuant to subsection (a) of this section and pay a fee equal to the fee required, less any fee paid within the previous 12 months pursuant to 10 V.S.A. § 6254(c).

(2) Unit not offered to general public. The registration and fee requirements imposed in subsection (a) of this section do not apply to a unit that an owner provides to another person, whether or not for consideration, if, and only to the extent that, the owner does not otherwise make the unit available for lease to the general public, and includes:

(A) housing provided to a member of the owner's family or personal acquaintances;

(B) housing provided to a person who is not related to a member of the owner's household and who occupies the housing as part of a nonprofit home-sharing program;

(C) housing provided to a person who provides personal care to the owner or a member of the owner's household; and

(D) housing provided as a benefit of farm employment, as defined in 9 V.S.A. § 4469a(a)(3).

(3) Non-permanent residence; inadequate facilities. The registration and fee requirements imposed in subsection (a) of this section do not apply to a unit that is not designed or constructed for use as a permanent residence, including a unit that does not have adequate potable water or sanitation facilities, electricity, heat, or insulation.

(c) Administration.

(1) The Department of Housing and Community Development shall maintain the registry of rental housing data in coordination with the Department of Public Safety, the Department of Health, the Enhanced 911 Board, and the Department of Taxes.

(2) Upon request, and at least annually, a municipal, district, or other local government entity that operates a rental housing health and safety program that requires registration of a rental housing unit and a fee for inclusion on its registry shall provide to the Department of Housing and Community Development the data for each unit that is required pursuant to subsection (a) of this section.

(d) Protection, permissible use, and disclosure of data.

(1) The data the Department collects pursuant to this section is exempt from public inspection and copying pursuant to 1 V.S.A. § 317(c)(1).

(2) The Department may only disclose data it collects pursuant to this section:

(A) to other State, municipal, or regional government entities;

(B) to nonprofit organizations; or

(C) to other persons for the purposes of protecting public health and safety.

(3) The Department:

(A) shall not disclose data it collects pursuant to this section for a commercial purpose; and

(B) shall require, as a condition of receiving data collected pursuant to this section, that a person to whom the Department discloses the data takes steps necessary to protect the privacy of persons whom the data concerns and to prevent further disclosure.

(e) Rental Housing Safety Special Fund. The Department shall maintain the fees collected pursuant to this section in a special fund entitled the Rental Housing Safety Special Fund, the proceeds of which the Department shall use to design and implement the registry created in, and to administer and enforce the registry requirements of, this section.

* * * Penalty for Failure to Register * * *

Sec. 2. 20 V.S.A. § 2678(e) is added to read:

(e) Failure to register; penalty. The Department of Housing and Community Development shall impose an administrative penalty of not more than $200.00 per unit for an owner of rental housing who knowingly fails to register or pay the fee required pursuant to this section.

* * * Positions Authorized * * *

Sec. 3. DEPARTMENT OF HOUSING AND COMMUNITY

DEVELOPMENT; POSITIONS

(a) The Department of Housing and Community Development is authorized to create one full-time classified position and one half-time classified position to design and implement the registry created in, and to administer and enforce the registry requirements of, 20 V.S.A. § 2678.

(b) The Department may hire staff authorized by this section to the extent funds become available from an appropriation for that purpose or from the Rental Housing Safety Special Fund created and maintained pursuant to 20 V.S.A. § 2678(e).

* * * ADS; Project Scope * * *

Sec. 4. AGENCY OF DIGITAL SERVICES; PROJECT SCOPE APPROPRIATION

(a) On or before January 15, 2024, the Agency of Digital Services, in coordination with the Department of Housing and Community Development and the Rental Housing Advisory Board, shall conduct a project assessment, through and including a Request for Information, to assess the costs for creating and maintaining a rental housing registration database consistent with Sec. 1 of this act, and shall report its findings, recommendations, and cost estimates to the House Committees on General and Housing and on Appropriations and the Senate Committees on Economic Development, Housing and General Affairs and on Appropriations.

(b) In fiscal year 2024 the amount of $25,000.00 is appropriated from the General Fund to the Agency of Digital Services to implement this section.

* * * Crisis Standards of Housing; Homelessness Response Analysis * * *

Sec. 5. CRISIS STANDARDS OF HOUSING

On or before November 1, 2023, the Department for Children and Families shall develop and submit a plan to implement crisis standards for housing to the House Committees on Human Services and on General and Housing and to the Senate Committees on Economic Development, Housing and General Affairs and on Health and Welfare. In developing the plan, the Department shall consult with stakeholders who specialize in homelessness prevention and mitigation, including those organizations who participated in developing the Vermont Roadmap to End Homelessness developed pursuant to 2016 Acts and Resolves No. 172, Sec. B.1102(a).

Sec. 6. HOMELESSNESS RESPONSE SYSTEMS ANALYSIS

(a) On or before September 1, 2023, the Agency of Human Services shall convene a working group, including individuals with lived experience of homelessness, local and statewide representatives of the Continuums of Care Program, representatives of housing- and homelessness-related organizations, to review, develop, and provide recommendations on Vermont's homelessness response and prevention programs and governance system, including any success measures that incorporate recent and relevant assessments and statewide plans.

(b)(1) On or before March 1, 2024, the working group established pursuant to subsection (a) of this section shall submit its findings and recommendations to the House Committees on Human Services and on General and Housing and to the Senate Committees on Health and Welfare and on Economic Development, Housing and General Affairs to align with the federal goal to reduce homelessness by 25 percent by 2025, in accordance with the Federal Strategic Plan to Prevent and End Homelessness, including strategies to:

(A) address racial and other disparities, as well as the multiplier effects of two or more concurrent risk factors, among people experiencing homelessness;

(B) justify State and local action through research of quantitative and qualitative data, including the perspectives of individuals who have or are currently experiencing homelessness;

(C) eliminate the silos between State and local governments and organizations; public, private, and philanthropic sectors; and individuals who have or are currently experiencing homelessness;

(D) increase the supply of and access to safe, affordable, and accessible housing and tailored supports for individuals at risk of or currently experiencing homelessness;

(E) improve response systems to meet the urgent crisis of homelessness, especially unsheltered homelessness; and

(F) reduce the risk of housing instability for households most likely to experience homelessness.

(2) On or before January 1, 2024, the working group shall submit an interim report on its work pursuant to subdivision (1) of this subsection (b) to the House Committees on Human Services and on General and Housing and to the Senate Committees on Health and Welfare and on Economic Development, Housing and General Affairs.

Sec. 7. EFFECTIVE DATES

(a) This section and Secs. 5–6 (crisis housing; homelessness) shall take effect on passage.

(b) Sec. 4 (ADS report) shall take effect on July 1, 2023.

(c) Sec. 1 (registration) and Sec. 3 (DHCD positions) take effect on July 1, 2025.

(d) Sec. 2 (administrative penalty for failure to register) takes effect on March 1, 2026.

(Committee Vote: 9-2-1)

H. 282

An act relating to the Psychology Interjurisdictional Compact

Rep. Berbeco of Winooski, for the Committee on Health Care, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 26 V.S.A. chapter 55 is amended to read:

CHAPTER 55. PSYCHOLOGISTS

Subchapter 1. General Provisions

* * *

Subchapter 2. Psychology Interjurisdictional Compact

§ 3021. PSYCHOLOGY INTERJURISDICTIONAL COMPACT; ADOPTION

Vermont hereby enacts and adopts the Psychology Interjurisdictional Compact. The form, format, and text of the Compact have been conformed to the conventions of the Vermont Statutes Annotated. It is the intent of the General Assembly that this subchapter be interpreted as substantively the same as the Psychology Interjurisdictional Compact that is enacted by other Compact party states.

§ 3022. PURPOSE

(a) Whereas, states license psychologists, in order to protect the public through verification of education, training, and experience and ensure accountability for professional practice; and

(b) Whereas, this Compact is intended to regulate the day to day practice of telepsychology, which is the provision of psychological services using telecommunication technologies, by psychologists across state boundaries in

the performance of their psychological practice as assigned by an appropriate authority;

(c) Whereas, this Compact is intended to regulate the temporary in-person, face-to-face practice of psychology by psychologists across state boundaries for 30 days within a calendar year in the performance of their psychological practice as assigned by an appropriate authority;

(d) Whereas, this Compact is intended to authorize state psychology regulatory authorities to afford legal recognition, in a manner consistent with the terms of the Compact, to psychologists licensed in another state;

(e) Whereas, this Compact recognizes that states have a vested interest in protecting the public's health and safety through their licensing and regulation of psychologists and that such state regulation will best protect public health and safety;

(f) Whereas, this Compact does not apply when a psychologist is licensed in both the Home and Receiving States; and

(g) Whereas, this Compact does not apply to permanent in-person, face-to-face practice, it does allow for authorization of temporary psychological practice.

(h) Consistent with these principles, this Compact is designed to achieve the following purposes and objectives:

(1) increase public access to professional psychological services by allowing for telepsychological practice across state lines as well as temporary in-person, face-to-face services into a state in which the psychologist is not licensed to practice psychology;

(2) enhance the states' ability to protect the public's health and safety, especially client and patient safety;

(3) encourage the cooperation of Compact states in the areas of psychology licensure and regulation;

(4) facilitate the exchange of information between Compact states regarding psychologist licensure, adverse actions, and disciplinary history;

(5) promote compliance with the laws governing psychological practice in each Compact state; and

(6) invest all Compact states with the authority to hold licensed psychologists accountable through the mutual recognition of Compact state licenses.

§ 3023. DEFINITIONS

As used in this subchapter:

(1) "Adverse action" means any action taken by a state psychology regulatory authority that finds a violation of a statute or regulation that is identified by the state psychology regulatory authority as discipline and is a matter of public record.

(2) "Association of State and Provincial Psychology Boards (ASPPB)" means the recognized membership organization composed of state and provincial psychology regulatory authorities responsible for the licensure and registration of psychologists throughout the United States and Canada.

(3) "Authority to Practice Interjurisdictional Telepsychology" means a licensed psychologist's authority to practice telepsychology, within the limits authorized under this Compact, in another Compact state.

(4) "Bylaws" means those bylaws established by the Psychology Interjurisdictional Compact Commission pursuant to section 3031 of this title for its governance or for directing and controlling its actions and conduct.

(5) "Client or patient" means the recipient of psychological services, whether psychological services are delivered in the context of health care, corporate, supervision, consulting services, or a combination of these.

(6) "Commissioner" means the voting representative appointed by each state psychology regulatory authority pursuant to section 3031 of this title.

(7) "Compact state" means a state, the District of Columbia, or United States territory that has enacted this Compact legislation and that has not withdrawn pursuant to subsection 3024(c) of this title or been terminated pursuant to subsection 3023(b) of this title.

(8) "Coordinated licensure information system" or "coordinated database" means an integrated process for collecting, sorting, and sharing information on psychologists' licensure and enforcement activities related to psychology licensure laws, which is administered by the recognized membership organization composed of state and provincial psychology regulatory authorities.

(9) "Confidentiality" means the principle that data or information is not made available or disclosed to unauthorized persons or processes, or both.

(10) "Day" means any part of a day in which psychological work is performed.

(11) "Distant State" means the Compact state where a psychologist is physically present, not through the use of the telecommunications

technologies, to provide temporary in-person, face-to-face psychological services.

(12) "E.Passport" means a certificate issued by the Association of State and Provincial Psychology Boards (ASPPB) that promotes the standardization in the criteria of interjurisdictional telepsychology practice and facilitates the process for licensed psychologists to provide telepsychological services across state lines.

(13) "Executive Board" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the Commission.

(14) "Home State" means a Compact state where a psychologist is licensed to practice psychology. If the psychologist is licensed in more than one Compact state and is practicing under the authorization to practice interjurisdictional telepsychology, the Home State is the Compact state where the psychologist is physically present when the telepsychological services are delivered. If the psychologist is licensed in more than one Compact state and is practicing under the Temporary Authorization to Practice, the Home State is any Compact state where the psychologist is licensed.

(15) "Identity history summary" means a summary of information retained by the Federal Bureau of Investigation (FBI), or other designee with similar authority, in connection with arrests and, in some instances, federal employment, naturalization, or military service.

(16) "In-person, face-to-face" means interactions in which the psychologist and the client or patient are in the same physical space and does not include interactions that may occur through the use of telecommunication technologies.

(17) "Interjurisdictional Practice Certificate" or "IPC" means a certificate issued by the Association of State and Provincial Psychology Boards (ASPPB) that grants temporary authority to practice based on notification to the state psychology regulatory authority of intention to practice temporarily and verification of one's qualifications for such practice.

(18) "License" means authorization by a state psychology authority to engage in the independent practice of psychology, which would be unlawful without the authorization.

(19) "Non-Compact state" means any state that is not at the time a Compact state.

(20) "Psychologist" means an individual licensed for the independent practice of psychology.

(21) "Psychology Interjurisdictional Compact Commission," or "Commission," means the national administration of which all Compact states are members.

(22) "Receiving State" means a Compact state where the client or patient is physically located when the telepsychological services are delivered.

(23) "Rule" means a written statement by the Psychology Interjurisdiction Compact Commission promulgated pursuant to section 3022 of this title that is of general applicability; implements, interprets, or prescribes a policy or provision of the Compact, or an organization, procedural, or practice requirement of the Commission and has the force and effect of statutory law in a Compact state; and includes the amendment, repeal, or suspension of an existing rule.

(24) "Significant investigatory information" means:

(A) investigative information that a state psychology regulatory authority, after preliminary inquiry that includes notification and an opportunity to respond if required by state laws, has reason to believe, if proven true, would indicate more than a violation of state statute or ethics code that would be considered more substantial than minor infraction; or

(B) investigative information that indicates that the psychologist represents an immediate threat to public health and safety regardless of whether the psychologist has been notified or had an opportunity to respond, or both.

(25) "State" means a state, commonwealth, territory, or possession of the Unites States, or the District of Columbia.

(26) "State psychology regulatory authority" means the board, office, or other agency with the legislative mandate to license and regulate the practice of psychology.

(27) "Telepsychology" means the provision of psychological services using telecommunication technologies.

(28) "Temporary Authorization to Practice" means a licensed psychologist's authority to conduct temporary in-person, face-to-face practice, within the limits authorized under this Compact, in another Compact state.

(29) "Temporary in-person, face-to-face practice" means a psychologist is physically present, not through the use of telecommunications technologies, in the Distant State to provide for the practice of psychology for 30 days within a calendar year and based on notification to the Distant State.

§ 3024. HOME STATE LICENSURE

(a) The Home State shall be a Compact state where a psychologist is licensed to practice psychology.

(b) A psychologist may hold one or more Compact state licenses at a time. If the psychologist is licensed in more than one Compact state, the Home State is the Compact state where the psychologist is physically present when the services are delivered as authorized by the Authority to Practice Interjurisdictional Telepsychology under the terms of this Compact.

(c) Any Compact state may require a psychologist not previously licensed in a Compact state to obtain and retain a license to be authorized to practice in the Compact state under the circumstances not authorized by the Authority to Practice Interjurisdictional Telepsychology under the terms of this Compact.

(d) Any Compact state may require a psychologist to obtain and retain a license to be authorized to practice in a Compact state under circumstances not authorized by the Temporary Authorization to Practice under the terms of this Compact.

(e) A Home State's license authorizes a psychologist to practice in a Receiving State under the Authority to Practice Interjurisdictional Telepsychology only if the Compact state:

(1) currently requires the psychologist to hold an active E.Passport;

(2) has a mechanism in place for receiving and investigating complaints about licensed individuals;

(3) notifies the Commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding a licensed individual;

(4) requires an identity history summary of all applicants at initial licensure, including the use of the results of fingerprints or other biometric data checks compliant with the requirements of the FBI, or other designee with similar authority, no later than 10 years after activation of the Compact; and

(5) complies with the bylaws and rules of the Commission.

(f) A Home State's license grants Temporary Authorization to Practice to a psychologist in a Distant State only if the Compact state:

(1) currently requires the psychologist to hold an active IPC;

(2) has a mechanism in place for receiving and investigating complaints about licensed individuals;

(3) notifies the Commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding a licensed individual;

(4) requires an identity history summary of applicants at initial licensure, including the use of the results of fingerprints or other biometric data checks compliant with the requirements of the FBI, or other designee with similar authority, no later than 10 years after activation of the Compact; and

(5) complies with the bylaws and rules of the Commission.

§ 3025. COMPACT PRIVILEGE TO PRACTICE TELEPSYCHOLOGY

(a) Compact states shall recognize the right of a psychologist, licensed in a Compact state in conformance with section 3024 of this title, to practice telepsychology in other Compact states, called Receiving States, in which the psychologist is not licensed under the Authority to Practice Interjurisdictional Telepsychology as provided in the Compact.

(b) To exercise the Authority to Practice Interjurisdictional Telepsychology under the terms and provisions of this Compact, a psychologist licensed to practice in a Compact state must:

(1) hold a graduate degree in psychology from an institute of higher education that was, at the time the degree was awarded:

(A) regionally accredited by an accrediting body recognized by the U.S. Department of Education to grant graduate degrees, or authorized by Provincial Statute or Royal Charter to grant doctoral degrees; or

(B) a foreign college or university deemed to be equivalent to subdivision (A) of this subdivision (b)(1) by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES) or by a recognized foreign credential evaluation service; and

(2) hold a graduate degree in psychology that meets the following criteria:

(A) The program, wherever it may administratively housed, must be clearly identified and labeled as a psychology program. Such a program must specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists.

(B) The psychology program must stand as a recognizable, coherent, organizational entity within the institution.

(C) There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines.

(D) The program must consist of an integrated, organized sequence of study.

(E) There must be an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities.

(F) The designated director of the program must be a psychologist and a member of the core faculty.

(G) The program must have an identifiable body of students who are matriculated in that program for a degree.

(H) The program must include supervised practicum, internship, or field training appropriate to the practice of psychology.

(I) The curriculum shall encompass a minimum of three academic years of full-time graduate study for a doctoral degree and a minimum of one academic year of full-time graduate study for a master's degree.

(J) The program includes an acceptable residency as defined by the rules of the Commission.

(3) possess a current, full, and unrestricted license to practice psychology in a Home State that is a Compact state;

(4) have no history of adverse action that violate the rules of the Commission;

(5) have no criminal record history reported on an identity history summary that violates the rules of the Commission;

(6) possess a current, active E.Passport;

(7) provide attestations in regard to areas of intended practice, conformity with standards of practice, competence in telepsychology technology; criminal background; and knowledge and adherence to legal requirements in the Home and Receiving States, and provide a release of information to allow for primary source verification in a manner specified by the Commission; and

(8) meet other criteria as defined by the rules of the Commission.

(c) The Home State maintains authority over the license of any psychologist practicing into a Receiving State under the Authority to Practice Interjurisdictional Telepsychology.

(d) A psychologist practicing into a Receiving State under the Authority to Practice Interjurisdictional Telepsychology will be subject to the Receiving State's scope of practice. A Receiving State may, in accordance with the state's due process law, limit or revoke a psychologist's Authority to Practice Interjurisdictional Telepsychology in the Receiving State and may take any other necessary actions under the Receiving State's applicable law to protect the health and safety of the Receiving State's citizens. If a Receiving State takes action, the state shall promptly notify the Home State and the Commission.

(e) If a psychologist's license in any Home State, another Compact state, or any Authority to Practice Interjurisdictional Telepsychology in any Receiving State, is restricted, suspended, or otherwise limited, the E.Passport shall be revoked and therefore the psychologist shall not be eligible to practice telepsychology in a Compact state under the Authority to Practice Interjurisdictional Telepsychology.

§ 3026. COMPACT TEMPORARY AUTHORIZATION TO PRACTICE

(a) Compact states shall also recognize the right of a psychologist, licensed in a Compact state in conformance with section 3024 of this title, to practice temporarily in other Compact states, called Distant States, in which the psychologist is not licensed, as provided in the Compact.

(b) To exercise the Temporary Authorization to Practice under the terms and provisions of this Compact, a psychologist licensed to practice in a Compact state must:

(1) hold a graduate degree in psychology from an institute of higher education that was, at the time the degree was awarded:

(A) regionally accredited by an accrediting body recognized by the U.S. Department of Education to grant graduate degrees, or authorized by Provincial Statute or Royal Charter to grant doctoral degrees; or

(B) a foreign college or university deemed to be equivalent to subdivision (A) of this subdivision (b)(1) by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES) or by a recognized foreign credential evaluation service; and

(2) hold a graduate degree in psychology that meets the following criteria:

(A) The program, wherever it may administratively housed, must be clearly identified and labeled as a psychology program. Such a program must

specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists.

(B) The psychology program must stand as a recognizable, coherent, organizational entity within the institution.

(C) There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines.

(D) The program must consist of an integrated, organized sequence of study.

(E) There must be an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities.

(F) The designated director of the program must be a psychologist and a member of the core faculty.

(G) The program must have an identifiable body of students who are matriculated in that program for a degree.

(H) The program must include supervised practicum, internship, or field training appropriate to the practice of psychology.

(I) The curriculum shall encompass a minimum of three academic years of full-time graduate study for a doctoral degree and a minimum of one academic year of full-time graduate study for a master's degree.

(J) The program includes an acceptable residency as defined by the rules of the Commission.

(3) possess a current, full, and unrestricted license to practice psychology in a Home State that is a Compact state;

(4) have no history of adverse action that violate the rules of the Commission;

(5) have no criminal record history that violates the rules of the Commission;

(6) possess a current, active IPC;

(7) provide attestations in regard to areas of intended practice and work experience and provide a release of information to allow for primary source verification in a manner specified by the Commission; and

(8) meet other criteria as defined by the rules of the Commission.

(c) A psychologist practicing into a Distant State under the Temporary Authorization to Practice shall practice within the scope of practice authorized by the Distant State.

(d) A psychologist practicing into a Distant State under the Temporary Authorization to Practice will be subject to the Distant State's authority and law. A Distant State may, in accordance with that state's due process law, limit or revoke a psychologist's Temporary Authorization to Practice in the Distant State and may take any other necessary actions under the Distant State's applicable law to protect the health and safety of the Distant State's citizens. If a Distant State takes action, the state shall promptly notify the Home State and the Commission.

(e) If a psychologist's license in any Home State, another Compact state, or any Temporary Authorization to Practice in any Distant State, is restricted, suspended, or otherwise limited, the IPC shall be revoked and therefore the psychologist shall not be eligible to practice in a Compact state under the Temporary Authorization to Practice.

§ 3027. CONDITIONS OF TELEPSYCHOLOGY PRACTICE IN A RECEIVING STATE

A psychologist may practice in a Receiving State under the Authority to Practice Interjurisdictional Telepsychology only in the performance of the scope of practice for psychology as assigned by an appropriate state psychology regulatory authority, as defined in the rules of the Commission, and under the following circumstances:

(1) the psychologist initiates a client or patient contact in a Home State via telecommunications technologies with a client or patient in a Receiving State; and

(2) other conditions regarding telepsychology as determined by rules promulgated by the Commission.

§ 3028. ADVERSE ACTIONS

(a) A Home State shall have the power to impose adverse action against a psychologist's license issued by the Home State. A Distant State shall have the power to take adverse action on a psychologist's Temporary Authorization to Practice within that Distant State.

(b) A Receiving State may take adverse action on a psychologist's Authority to Practice Interjurisdictional Telepsychology within that Receiving State. A Home State may take adverse action against a psychologist based on

an adverse action taken by a Distant State regarding temporary in-person, face-to-face practice.

(c) If a Home State takes adverse action against a psychologist's license, that psychologist's Authority to Practice Interjurisdictional Telepsychology is terminated and the E.Passport is revoked. Furthermore, that psychologist's Temporary Authorization to Practice is terminated and the IPC is revoked.

(1) All Home State disciplinary orders that impose adverse action shall be reported to the Commission in accordance with the rules promulgated by the Commission. A Compact state shall report adverse actions in accordance with the rules of the Commission.

(2) In the event discipline is reported on a psychologist, the psychologist will not be eligible for telepsychology or temporary in-person, face-to-face practice in accordance with the rules of the Commission.

(3) Other actions may be imposed as determined by the rules promulgated by the Commission.

(d) A Home State's Psychology Regulatory Authority shall investigate and take appropriate action with respect to reported inappropriate conduct engaged in by a licensee that occurred in a Receiving State as it would if such conduct had occurred by a licensee within the Home State. In such cases, the Home State's law shall control in determining any adverse action against a psychologist's license.

(e) A Distant State's psychology regulatory authority shall investigate and take appropriate action with respect to reported inappropriate conduct engaged in by a psychologist practicing under the Temporary Authorization to Practice that occurred in that Distant State as it would if such conduct had occurred by a licensee within the Home State. In such cases, the Distant State's law shall control in determining any adverse action against a psychologist's Temporary Authorization to Practice.

(f) Nothing in this Compact shall override a Compact state's decision that a psychologist's participation in an alternative program may be used in lieu of adverse action and that such participation shall remain nonpublic if required by the Compact state's law. Compact states must require psychologists who enter any alternative programs to not provide telepsychology services under the Authority to Practice Interjurisdictional Telepsychology or provide temporary psychological services under the Temporary Authorization to Practice in any other Compact state during the term of the alternative program.

(g) No other judicial or administrative remedies shall be available to a psychologist in the event a Compact state imposes an adverse action pursuant to subsection (c) of this section.

§ 3029. ADDITIONAL AUTHORITIES INVESTED IN COMPACT STATE'S PSYCHOLOGY REGULATORY AUTHORITY

(a) In addition to any other powers granted under state law, a Compact state's psychology regulatory authority shall have the authority under this Compact to:

(1) Issue subpoenas for both hearings and investigations, which require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a Compact state's psychology regulatory authority for the attendance and testimony of witnesses, or the production of evidence from another Compact state, shall be enforced in the latter state by any court of competent jurisdiction, according to that court's practice and procedure in considering subpoenas issued in its own proceedings. The issuing state psychology regulatory authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses or evidence, or both, are located; and

(2) Issue cease and desist or injunctive relief orders, or both, to revoke a psychologist's Authority to Practice Interjurisdictional Telepsychology or the Temporary Authorization to Practice, or both.

(b) During the course of any investigation, a psychologist may not change the psychologist's Home State licensure. A Home state psychology regulatory authority is authorized to complete any pending investigations of a psychologist and to take any actions appropriate under its law. The Home State psychology regulatory authority shall promptly report the conclusions of such investigations to the Commission. Once an investigation has been completed, and pending the outcome of said investigation, the psychologist may change the psychologist's Home State licensure. The Commission shall promptly notify the new Home State of any such decisions as provided in the rules of the Commission. All information provided to the Commission or distributed by Compact states pursuant to the psychologist shall be confidential, filed under seal, and used for investigatory or disciplinary matters. The Commission may create additional rules for mandated or discretionary sharing of information by Compact states.

§ 3030. COORDINATED LICENSURE INFORMATION SYSTEM

(a) The Commission shall provide for the development and maintenance of a coordinated licensure information system and reporting system containing

licensure and disciplinary action information on all psychologists to whom this Compact is applicable in all Compact states as defined by the rules of the Commission.

(b) Notwithstanding any other provision of state law to the contrary, a Compact state shall submit a uniform data set to the coordinated database on all licensees as required by the rules of the Commission, including:

(1) identifying information;

(2) licensure data;

(3) significant investigatory information;

(4) adverse actions against a psychologist's license;

(5) an indicator that a psychologist's Authority to Practice Interjurisdictional Telepsychology or Temporary Authorization to Practice, or both, is revoked;

(6) nonconfidential information related to alternative program participation information;

(7) any denial of application for licensure and the reasons for such denial; and

(8) other information that may facilitate the administration of this Compact, as determined by the rules of the Commission.

(c) The coordinated database administrator shall promptly notify all Compact states of any adverse action taken against, or significant investigative information on, any licensee in a Compact state.

(d) Compact states reporting information to the coordinated database may designate information that may not be shared with the public without the express permission of the Compact state reporting the information.

(e) Any information submitted to the coordinated database that is subsequently required to be expunged by the law of the Compact state reporting the information shall be removed from the coordinated database.

§ 3031. ESTABLISHMENT OF THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT COMMISSION

(a) The Compact states hereby create and establish a joint public agency known as the Psychology Interjurisdictional Compact Commission.

(1) The Commission is a body politic and an instrumentality of the Compact states.

(2) Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

(3) Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

(b) Membership, voting, and meetings.

(1) The Commission shall consist of one voting representative appointed by each Compact state who shall serve as that state's Commissioner. The state psychology regulatory authority shall appoint its delegate. This delegate shall be empowered to act on behalf of the Compact state. This delegate shall be limited to:

(A) the Executive Director, Executive Secretary, or similar executive;

(B) a current member of the state psychology regulatory authority of a Compact state; or

(C) a designee empowered with the appropriate delegate authority to act on behalf of the Compact state.

(2) Any Commissioner may be removed or suspended from office as provided by the law of the state from which the Commissioner is appointed. Any vacancy occurring in the Commission shall be filled in accordance with the laws of the Compact state in which the vacancy exists.

(3) Each Commissioner shall be entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission. A Commissioner shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for Commissioners' participation in meetings by telephone or other means of communication.

(4) The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

(5) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in section 3032 of this title.

(6) The Commission may convene in a closed, nonpublic meeting if the Commission must discuss:

(A) noncompliance of a Compact state with its obligations under the Compact;

(B) employment, compensation, discipline, or other personnel matters, practices, or procedures related to specific employees; or other matters related to the Commission's internal personnel practices and procedures;

(C) current, threatened, or reasonably anticipated litigation against the Commission;

(D) negotiation of contracts for the purchase or sale of goods, services, or real estate;

(E) accusation against any person of a crime or formally censuring any person;

(F) disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(G) disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(H) disclosure of investigatory records compiled for law enforcement purposes;

(I) disclosure of information related to any investigatory reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility for investigation or determination of compliance issues pursuant to the Compact; or

(J) matters specifically exempted from disclosure by federal and state statute.

(7) If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, of any person participating in the meeting, and the reasons therefor, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release only by a majority vote of the Commission or order of a court of competent jurisdiction.

(c) The Commission shall, by a majority vote of the Commissioners, prescribe bylaws or rules, or both, to govern its conduct as may be necessary

or appropriate to carry out the purposes and exercise the powers of the Compact, including but not limited to:

(1) Establishing the fiscal year of the Commission;

(2) Providing reasonable standards and procedures:

(A) for the establishment and meetings of other committees; and

(B) governing any general or specific delegation of any authority or function of the Commission;

(3) Providing reasonable procedures for calling and conducting meetings of the Commission, ensuring reasonable advance notice of all meetings, and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals of such proceedings, and proprietary information, including trade secrets. The Commission may meet in closed session only after a majority of the Commissioners vote to close a meeting to the public in whole or in part. As soon as practicable, the Commission must make public a copy of the vote to close the meeting revealing the vote of each Commissioner with no proxy votes allowed;

(4) Establishing the titles, duties and authority and reasonable procedures for the election of the officers of the Commission;

(5) Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Commission. Notwithstanding any civil service or other similar law of any Compact state, the bylaws shall exclusively govern the personnel policies and programs of the Commission;

(6) Promulgating a code of ethics to address permissible and prohibited activities of Commission members and employees;

(7) Providing a mechanism for concluding the operations of the Commission and the equitable disposition of any surplus funds that may exist after the termination of the Compact after the payment or reserving, or both, of all of its debts and obligations;

(8) The Commission shall publish its bylaws in a convenient form and file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the Compact states;

(9) The Commission shall maintain its financial records in accordance with the bylaws; and

(10) The Commission shall meet and take such actions as are consistent with the provisions of this Compact and the bylaws.

(d) The Commission shall have the following powers:

(1) The authority to promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact. The rule shall have the force and effect of law and shall be binding in all Compact states;

(2) To bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any state psychology regulatory authority or other regulatory body responsible for psychology licensure to sue or be sued under applicable law shall not be affected;

(3) To purchase and maintain insurance and bonds;

(4) To borrow, accept, or contract for services of personnel, including, but not limited to, employees of a Compact state;

(5) To hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the Compact, and to establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

(6) To accept any and all appropriate donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same; provided that at all times the Commission shall strive to avoid any appearance of impropriety or of conflict of interest;

(7) To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed; provided that at all times the Commission shall strive to avoid any appearance of impropriety;

(8) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;

(9) To establish a budget and make expenditures;

(10) To borrow money;

(11) To appoint committees, including advisory committees composed of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this Compact and the bylaws;

(12) To provide and receive information from, and to cooperate with, law enforcement agencies;

(13) To adopt and use an official seal; and

(14) To perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of psychology licensure, temporary in-person, face-to-face practice, and telepsychology practice.

(e) The Executive Board. The elected officers shall serve as the Executive Board, which shall have the power to act on behalf of the Commission according to the terms of this Compact.

(1) The Executive Board shall be composed of six members:

(A) five voting members who are elected from the current membership of the Commission by the Commission; and

(B) one ex-officio, nonvoting member from the recognized membership organization composed of state and provincial psychology regulatory authorities.

(2) The ex-officio member must have served as staff or member on a state psychology regulatory authority and will be selected by its respective organization.

(3) The Commission may remove any member of the Executive Board as provided in bylaws.

(4) The Executive Board shall meet at least annually.

(5) The Executive Board shall have the following duties and responsibilities:

(A) recommend to the entire Commission changes to the rules or bylaws, changes to this Compact legislation, fees paid by Compact states such as annual dues, and any other applicable fees;

(B) ensure Compact administration services are appropriately provided, contractual or otherwise;

(C) prepare and recommend the budget;

(D) maintain financial records on behalf of the Commission;

(E) monitor Compact compliance of member states and provide compliance reports to the Commission;

(F) establish additional committees as necessary; and

(G) other duties as provided in rules or bylaws.

(f) Financing of the Commission.

(1) The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

(2) The Commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

(3) The Commission may levy on and collect an annual assessment from each Compact state or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a rule binding upon all Compact states.

(4) The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the Compact states, except by and with the authority of the Compact state.

(5) The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Commission.

(g) Qualified immunity, defense, and indemnification.

(1) The members, officers, Executive Director, employees, and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

(2) The Commission shall defend any member, officer, Executive Director, employee, or representative of the Commission in any civil action

seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that nothing herein shall be construed to prohibit that person from retaining the person's own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

(3) The Commission shall indemnify and hold harmless any member, officer, Executive Director, employee, or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

§ 3032. RULEMAKING

(a) The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

(b) If a majority of the legislatures of the Compact states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the Compact, then such rule shall have no further force and effect in any Compact state.

(c) Rules or amendments to the rules shall be adopted at a regular or special meeting of the Commission.

(d) Prior to promulgation and adoption of a final rule or rules by the Commission, and at least 60 days in advance of the meeting at which the rule will be considered and voted upon, the Commission shall file a notice of proposed rulemaking:

(1) on the website of the Commission; and

(2) on the website of each Compact states' psychology regulatory authority or the publication in which each state would otherwise publish proposed rules.

(e) The notice of proposed rulemaking shall include:

(1) the proposed time, date, and location of the meeting in which the rule will be considered and voted upon;

(2) the text of the proposed rule or amendment and the reason for the proposed rule;

(3) a request for comments on the proposed rule from any interested person; and

(4) the manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.

(f) Prior to adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

(g) The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

(1) at least 25 persons who submit comments independently of each other;

(2) a governmental subdivision or agency; or

(3) a duly appointed person in an association that has at least 25 members.

(h) If a hearing is held on the proposed rule or amendment, the Commission shall publish the place, time, and date of the scheduled public hearing.

(1) All persons wishing to be heard at the hearing shall notify the Executive Director of the Commission or other designated member in writing of their desire to appear and testify at the hearing not less than five business days before the scheduled date of the hearing.

(2) Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

(3) No transcript of the hearing is required, unless a written request for a transcript is made, in which case the person requesting the transcript shall bear the cost of producing the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This subdivision shall not preclude the Commission from making a transcript or recording of the hearing if it so chooses.

(4) Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.

(i) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.

(j) The Commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

(k) If no written notice of intent to attend the public hearing by interested parties is received, the Commission may proceed with promulgation of the proposed rule without a public hearing.

(l) Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

(1) meet an imminent threat to public health, safety, or welfare;

(2) prevent a loss of Commission or Compact state funds;

(3) meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or

(4) protect public health and safety.

(m) The Commission or an authorized committee of the Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing and delivered to the Chair of the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

§ 3023. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

(a) Oversight.

(1) The executive, legislative, and judicial branches of state government in each Compact state shall enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of this Compact and the rules promulgated hereunder shall have standing as statutory law.

(2) All courts shall take judicial notice of the Compact and the rules in any judicial or administrative proceeding in a Compact state pertaining to the subject matter of this Compact that may affect the powers, responsibilities, or actions of the Commission.

(3) The Commission shall be entitled to receive service of process in any such proceeding and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the Commission shall render a judgment or order void as to the Commission, this Compact, or promulgated rules.

(b) Default, technical assistance, and termination.

(1) If the Commission determines that a Compact state has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated rules, the Commission shall:

(A) provide written notice to the defaulting state and other Compact states of the nature of the default, the proposed means of remedying the default, and any other action to be taken by the Commission; and

(B) provide remedial training and specific technical assistance regarding the default.

(2) If a state in default fails to remedy the default, the defaulting state may be terminated from the Compact upon an affirmative vote of a majority of the Compact states, and all rights, privileges, and benefits conferred by this Compact shall be terminated on the effective date of termination. A remedy of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(3) Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be submitted by the Commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the Compact states.

(4) A Compact state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(5) The Commission shall not bear any costs incurred by the state that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting state.

(6) The defaulting state may appeal the action of the Commission by petitioning the U.S. District Court for the State of Georgia or the federal district where the Compact has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

(c) Dispute resolution.

(1) Upon request by a Compact state, the Commission shall attempt to resolve disputes related to the Compact that arise among Compact states and between Compact and non-Compact states.

(2) The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes that arise before the commission.

(d) Enforcement.

(1) The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this Compact.

(2) By majority vote, the Commission may initiate legal action in the U.S. District Court for the State of Georgia or the federal district where the Compact has its principal offices against a Compact state in default to enforce compliance with the provisions of the Compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

(3) The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or state law.

§ 3024. DATE OF IMPLEMENTATION OF THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT COMMISSION AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENTS

(a) The Compact shall come into effect on the date on which the Compact is enacted into law in the seventh Compact state. The provisions that become effective at that time shall be limited to the powers granted to the Commission relating to assembly and the promulgation of rules. Thereafter, the

Commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the Compact.

(b) Any state that joins the Compact subsequent to the Commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the Compact becomes law in that state. Any rule that has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that state.

(c) Any Compact state may withdraw from this Compact by enacting a statute repealing the same.

(1) A Compact state's withdrawal shall not take effect until six months after enactment of the repealing statute.

(2) Withdrawal shall not affect the continuing requirement of the withdrawing state's psychology regulatory authority to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

(d) Nothing contained in this Compact shall be construed to invalidate or prevent any psychology licensure agreement or other cooperative arrangement between a Compact state and a non-Compact state that does not conflict with the provisions of this Compact.

(e) This Compact may be amended by the Compact states. No amendment to this Compact shall become effective and binding upon any Compact state until it is enacted into the law of all Compact states.

§ 3025. CONSTRUCTION AND SEVERABILITY

This Compact shall be liberally construed so as to effectuate the purposes thereof. If this Compact shall be held contrary to the constitution of any state member thereto, the Compact shall remain in full force and effect as to the remaining Compact states.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

(Committee Vote: 9-0-1)

H. 288

An act relating to liability for the sale of alcoholic beverages

Rep. Goslant of Northfield, for the Committee on Judiciary, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Liquor Liability * * *

Sec. 1. 7 V.S.A. § 501 is amended to read:

§ 501. UNLAWFUL SALE OF ALCOHOLIC BEVERAGES; CIVIL ACTION FOR DAMAGES

(a) Action for damages. ~~A spouse, child, guardian, employer, or other person who is injured in person, property, or means of support by an intoxicated person, or in consequence of the intoxication of any person, shall have a right of action in his or her own name, jointly or severally,~~ An injured person may bring an action in the person's own name pursuant to this subsection.

(1) Unlawful sale. An injured person shall have a right of action against any ~~person or persons~~ licensee who ~~have~~ caused in whole or in part the intoxication of the intoxicated person by selling or furnishing alcoholic beverages:

~~(1)~~(A) to a minor as defined in section 2 of this title; or

~~(2) to a person apparently under the influence of alcohol;~~

~~(3)~~(B) to a person after legal serving hours~~; or~~

~~(4) to a person who it would be reasonable to expect would be under the influence of alcohol as a result of the amount of alcoholic beverages served by the defendant to that person~~.

(2) Negligent service. An injured person may bring an action against any licensee who negligently furnishes alcoholic beverages to a person:

(A) apparently under the influence of alcohol; or

(B) who it would be reasonable to expect would be under the influence of alcohol as a result of the amount of alcoholic beverages served by the licensee to that person.

(3) Negligence; prudent person. A licensee's conduct is negligent under this subsection if the licensee knows, or if a reasonable and prudent person in similar circumstances would know, that the individual being served is intoxicated.

(4) Licensee's knowledge; individual consumption. A licensee is not chargeable with knowledge of an individual's off-premises consumption of alcoholic beverages unless the individual's appearance and behavior, or other facts known to the licensee, would put a reasonable and prudent person on notice of the individual's consumption of alcoholic beverages.

(b) Survival of action; joint action. Upon the death of either party, the action and right of action shall survive to or against the party's executor or administrator. The party injured or ~~his or her~~ the party's legal representatives may bring either a joint action against the ~~person~~ intoxicated~~,~~ person and the ~~person or persons who furnished the alcoholic beverages, and an owner who may be liable under subsection (c) of this section,~~ licensee or a separate action against either ~~or any~~ of them.

(c) ~~Landlord liability.~~

~~(1) If the alcoholic beverages were sold or furnished to the intoxicated person in a rented building, the owner may be joined as a defendant in the action, and judgment in the action may be rendered against the owner, if the owner of the building or in the case of a corporation, its agent, knew or had reason to know that alcoholic beverages were sold or furnished by the tenant:~~

~~(A) to minors as defined in section 2 of this title;~~

~~(B) to persons apparently under the influence of alcohol;~~

~~(C) to persons after legal serving hours; or~~

~~(D) to persons who it would be reasonable to expect would be under the influence of alcohol as a result of the amount of alcoholic beverages served to them by the tenant.~~

~~(2) It shall be an affirmative defense to an action against an owner that the owner took reasonable steps to prevent the sale of alcoholic beverages under the circumstances described in this subsection or to evict the tenant.~~ [Repealed.]

* * *

(h) Definitions. As used in this section:

(1) "Apparently under the influence of alcohol" means a state of intoxication accompanied by a perceptible act or series of actions ~~which~~ that present signs of intoxication.

(2) "Injured person" means a spouse, child, guardian, employer, or other person, other than the intoxicated person, who is injured in person, property, or means of support by an intoxicated person or in consequence of the intoxication of any person.

(3) "Intoxicated person" means an intoxicated individual who caused injury to a person, a person's property, or a person's means of support.

(4) "Licensee" means the holder of a first-, third-, or fourth-class license under this title, and the license holder's employees, who sells or furnishes alcohol to an intoxicated person.

(5) "Social host" means a person who is not the holder of a license or permit under this title and is not required to hold a license or permit under this title.

Sec. 2. 7 V.S.A. § 501 is amended to read:

§ 501. UNLAWFUL SALE OF ALCOHOLIC BEVERAGES; CIVIL ACTION FOR DAMAGES

* * *

(i) Liability insurance required. The Department of Liquor and Lottery, in consultation with the Department of Financial Regulation, shall adopt rules governing minimum policy requirements, including coverage amounts, for liquor liability insurance. Prior to the issuance or renewal of a first-, third-, or fourth-class license, the Department of Liquor and Lottery shall require each licensee or applicant to carry liquor liability insurance that meets minimum coverage requirements adopted by the Department.

* * * Notice to Landlord of Licensee Violations * * *

Sec. 3. 7 V.S.A. § 104 is amended to read:

§ 104. DUTIES; AUTHORITY TO RESOLVE ALLEGED VIOLATIONS

The Board shall supervise and manage the sale of spirits and fortified wines within the State in accordance with the provisions of this title, and through the Commissioner of Liquor and Lottery shall:

(1)(A) Ensure that the laws relating to alcohol and alcoholic beverages are enforced, using for that purpose as much of the monies annually available to the Board of Liquor and Lottery as may be necessary.

* * *

(E) Ensure that the owner of a premises leased by a licensee is notified of licensee violations of alcoholic beverage laws.

* * *

* * * Effective Dates * * *

Sec. 4. EFFECTIVE DATES

(a) This section and Secs. 1 and 3 shall take effect on July 1, 2023.

(b) Sec. 2 shall take effect on July 1, 2024.

(Committee Vote: 11-0-0)

H. 414

An act relating to establishing an unused drug repository for Vermont

Rep. Goldman of Rockingham, for the Committee on Health Care, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. chapter 91, subchapter 5 is added to read:

Subchapter 5. Unused Drug Repository Program

§ 4671. CREATION OF PROGRAM

The Agency of Human Services may contract or enter into agreements with qualified entities as needed to create and administer an unused drug repository program for the collection and distribution of unused drugs in Vermont, to the extent that funds are appropriated or otherwise made available for this purpose.

§ 4672. AGENCY OF HUMAN SERVICES; RULEMAKING

The Agency of Human Services shall adopt rules for the administration of the program, including rules regarding:

(1) donations to the program, which may include donations from institutional settings in Vermont, such as pharmacies, long-term care facilities, Veterans' Administration facilities, correctional facilities, hospitals, and other facilities, as well as donations from individuals;

(2) what types of drugs may be donated to the program;

(3) safety criteria for donated drugs, which may include packaging requirements and inspections; and

(4) patient eligibility to receive drugs from the program, which shall be available to any patient, with priority given to patients who meet one or more of the following criteria:

(A) patients whose household income is below 400 percent of the federal poverty level;

(B) patients who are uninsured;

(C) patients who are underinsured;

(D) patients who are Medicare beneficiaries and are experiencing a coverage gap in their Medicare prescription drug coverage; and

(E) patients who are on a high-deductible health plan or on a plan with high co-payment requirements for prescription drugs, or both.

§ 4673. LIMITATIONS ON LIABILITY

Except in cases of bad faith, gross negligence, intentional misconduct, or noncompliance with the rules adopted pursuant to section 4672 of this chapter, the following persons shall not be subject to civil or criminal liability or professional disciplinary action for participating in or otherwise complying with the program established by this subchapter or rules adopted pursuant to this subchapter:

(1) a person who donates or gives drugs to an eligible recipient, including a drug manufacturer; wholesaler; reverse distributor pharmacy; third-party logistics provider; governmental entity; hospital or other health care facility, as defined in section 9432 of this title; or long-term care facility licensed under 33 V.S.A. chapter 71;

(2) an eligible recipient, as defined by the Agency by rule pursuant to subdivision 4672(4) of this chapter;

(3) a health care provider, as defined in section 9402 of this title, who prescribes or dispenses a donated drug;

(4) an intermediary that helps administer the program by facilitating the donation or transfer of drugs to eligible recipients;

(5) a manufacturer or repackager of a donated drug; and

(6) any employee, volunteer, trainee, or other staff of any person listed in subdivisions (1)–(5) of this section.

Sec. 2. UPDATE ON RULEMAKING PROCESS; REPORT

The Agency of Human Services shall provide an update on the status of rulemaking for the administration of the unused drug repository program as part of the Agency's fiscal year 2024 budget adjustment presentation.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

(Committee Vote: 9-0-1)

Favorable

H. 178

An act relating to commissioning Department of Corrections personnel as notaries public

Rep. Waters Evans of Charlotte, for the Committee on Government Operations and Military Affairs, recommends the bill ought to pass.

(Committee Vote: 12-0-0)

Rep. Taylor of Colchester, for the Committee on Ways and Means, recommends the bill ought to pass.

(Committee Vote: 11-0-1)

H. 472

An act relating to miscellaneous agricultural subjects

(Rep. Pearl of Danville will speak for the Committee on Agriculture, Food Resiliency, and Forestry.**)**

Rep. Sims of Craftsbury, for the Committee on Ways and Means, recommends the bill ought to pass.

(Committee Vote: 12-0-0)

For Informational Purposes

CROSSOVER DATES

The Joint Rules Committee established the following crossover deadlines:

(1) All **Senate/House** bills must be reported out of the last committee of reference (including the Committees on Appropriations and Finance/Ways and Means, except as provided below in (2) and the exceptions listed below) on or before **Friday, March 17, 2023**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day – Committee bills must be voted out of Committee by **Friday, March 17, 2023**.

(2) All **Senate/House** bills referred pursuant to Senate Rule 31 or House Rule 35(a) to the Committees on Appropriations and Finance/Ways and Means must be reported out by the last of those committees on or before **Friday, March 24, 2023**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

Note: The Senate will not act on bills that do not meet these crossover deadlines, without the consent of the Senate Rules Committee.

Exceptions to the foregoing deadlines include the major money bills (the general Appropriations bill ("The Big Bill"), the Transportation Capital bill, the Capital Construction bill and the Fee/Revenue bills).

NOTICE OF JFO GRANTS AND POSITIONS

Grants and Positions that have been submitted to the Joint Fiscal Committee by the Administration, under 32 V.S.A. §5(b)(3)(D):

JFO #3138: One (1) limited-service position, Statewide Grants Administrator, to the Agency of Administration, Department of Finance and Management to cover increased grant activity due to the Covid-19 pandemic. The position is funded through Act 185 of 2022. Sec G.801of the Act appropriates ARPA funds for administrative costs related to the pandemic. This position is funded through 12/31/2026. The grant packet can be found at: https://ljfo.vermont.gov/assets/grants-documents/ec01b0bea7/JFO-3138-packet.pdf
[Received February 9, 2023]

JFO #3137: One (1) limited-service position to the Vermont Department of Health, Senior Health Asbestos and Lead Engineer, to perform senior professional level work to educate, advise on and enforce Vermont asbestos and lead control regulations. The position is funded through 9/30/2024 through an existing Environmental Protection Agency grant. The grant packet can be found at: https://ljfo.vermont.gov/assets/grants-documents/a44b7c8cac/JFO-3137-packet-v2.pdf
[Received 1/23/2023]

JFO #3136: $5,000,000.00 to the Agency of Administration, Public Service Department, VT Community Broadband Board (VCBB) from the National Telecommunications and Information Administration, Broadband Equity, Access and Deployment Program to deliver broadband to unserved and underserved areas in Vermont. This is a 5-year grant and will fill in the technical gaps existing in the VCBB's program of broadband deployment. The grant packet can be found at: https://ljfo.vermont.gov/assets/grants-documents/3d7b96fcb1/JFO-3136-packet.pdf
[Received 1/23/2023]