

1 TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred Senate Bill No. 33
3 entitled “An act relating to miscellaneous judiciary procedures” respectfully
4 reports that it has considered the same and recommends that the bill be
5 amended by striking out all after the enacting clause and inserting in lieu
6 thereof the following:

7 Sec. 1. 3 V.S.A. § 5014(f) is amended to read:

8 (f) Repeal. This section shall be repealed on June 30, 2027.

9 Sec. 2. 4 V.S.A. § 22 is amended to read:

10 § 22. DESIGNATION AND SPECIAL ASSIGNMENT OF JUDICIAL
11 OFFICERS AND RETIRED JUDICIAL OFFICERS

12 (a)(1) The Chief Justice may appoint and assign a retired Justice or judge
13 with the Justice’s or judge’s consent or a Superior or Probate judge to a special
14 assignment on the Supreme Court. The Chief Justice may appoint, and the
15 Chief Superior Judge shall assign, an active or retired Justice or a retired judge,
16 with the Justice’s or judge’s consent, to any special assignment in the Superior
17 Court or the Judicial Bureau.

18 (2) The Chief Superior Judge may appoint and assign a judge to any
19 special assignment in the Superior Court. ~~As used in~~ For purposes of this
20 subdivision, a judge shall include a Superior judge, a Probate judge, a Family
21 Division magistrate, ~~or a judicial hearing officer,~~ or a judicial master.

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Sec. 3. 4 V.S.A. § 27 is amended to read:

§ 27. COURT TECHNOLOGY SPECIAL FUND

There is established the Court Technology Special Fund ~~which~~ that shall be managed in accordance with 32 V.S.A. chapter 7, subchapter 5.

Administrative fees collected pursuant to 13 V.S.A. § 7252 and revenue collected pursuant to fees established pursuant to sections 1105 and 1109 of this title shall be deposited and credited to this Fund. The Fund shall be available to the Judicial Branch to pay for contractual and operating expenses and project-related staffing not covered by the General Fund related to the following:

- (1) ~~The~~ the acquisition and maintenance of software and hardware needed for case management, electronic filing, an electronic document management system, and the expense of implementation, including training;
- (2) ~~The~~ the acquisition and maintenance of electronic audio and video court recording and conferencing equipment; and
- (3) ~~The~~ the acquisition, maintenance, and support of the Judiciary’s information technology network, including training.

Sec. 4. 4 V.S.A. § 27b is amended to read:

§ 27b. ~~ELECTRONICALLY FILED VERIFIED DOCUMENTS~~ SELF-ATTESTED DECLARATION IN LIEU OF NOTARIZATION

1 shall be limited in accord with this chapter and the procedures made available
2 under those rules. The procedure shall not be exclusive, but shall be
3 alternative to the formal procedure begun by the filing of a complaint.

4 (b) Parties may not request claims for relief other than money damages
5 under this chapter. Nor may parties split a claim in excess of ~~\$5,000.00~~
6 \$10,000.00 into two or more claims under this chapter.

7 (c) In small claims actions where the plaintiff makes a claim for relief
8 greater than \$3,500.00, the defendant shall have the right to request a special
9 assignment of a judicial officer. Upon making this request, a Superior judge or
10 a member of the Vermont bar appointed pursuant to 4 V.S.A. § 22(b) shall be
11 assigned to hear the action.

12 (d) Venue in small claims actions shall be governed by section 402 of this
13 title.

14 Sec. 10. 12 V.S.A. § 5804 is amended to read:

15 § 5804. OATH TO BE ADMINISTERED TO PETIT JURORS IN

16 CRIMINAL CAUSES

17 You solemnly swear that, without respect to persons or favor of any ~~man~~
18 person, you will well and truly try and true deliverance make, between the
19 State of Vermont and the ~~prisoner at the bar~~ defendant, whom you shall have in
20 charge, according to the evidence given you in court and the laws of the State.
21 So help you God.

1 Sec. 11. 13 V.S.A. § 3016(c) is amended to read:

2 (c) A person who commits an act punishable under ~~33 V.S.A. § 2581(a) or~~
3 ~~(b)~~ 33 V.S.A. § 141(a) or (b) may not be prosecuted under this section.

4 Sec. 12. 13 V.S.A. § 7403 is amended to read:

5 § 7403. APPEAL BY THE STATE

6 (a) In a prosecution for a misdemeanor, questions of law decided against
7 the State shall be allowed and placed upon the record before final judgment.
8 The court may pass the same to the Supreme Court before final judgment. The
9 Supreme Court shall hear and determine the questions and render final
10 judgment thereon, or remand the cause for further trial or other proceedings, as
11 justice and the State of the cause may require.

12 (b) In a prosecution for a felony, the State shall be allowed to appeal to the
13 Supreme Court any decision, judgment, or order dismissing an indictment or
14 information as to one or more counts.

15 (c) In a prosecution for a felony, the State shall be allowed to appeal to the
16 Supreme Court from a decision or order:

17 (1) granting a motion to suppress evidence;

18 (2) granting a motion to have confessions declared inadmissible; or

19 (3) granting or refusing to grant other relief where the effect is to

20 impede seriously, although not to foreclose completely, continuation of the
21 prosecution.

1 (d) In making this appeal, the attorney for the State must certify to the court
2 that the appeal is not taken for purpose of delay and that:

3 (1) the evidence suppressed or declared inadmissible is substantial proof
4 of a fact material in a proceeding; or

5 (2) the relief to be sought upon appeal is necessary to avoid seriously
6 impeding such proceeding.

7 (e) The appeal in all cases shall be taken within seven business days after
8 the decision, judgment, or order has been rendered. In cases where the
9 defendant is detained for lack of bail, he or she shall be released pending the
10 appeal upon such conditions as the court shall order unless bail is denied as
11 provided in the Vermont Constitution or in other pending cases. Such appeals
12 shall take precedence on the docket over all cases and shall be assigned for
13 hearing or argument at the earliest practicable date and expedited in every way.

14 (f) For purposes of this section, “prosecution for a misdemeanor” and
15 “prosecution for a felony” shall include youthful offender proceedings filed
16 pursuant to 33 V.S.A. chapter 52A, and the State shall have the same right of
17 appeal in those proceedings as it has in criminal proceedings under this section.

18 Sec. 13. 14 V.S.A. § 3098 is amended to read:

19 § 3098. VULNERABLE NONCITIZEN CHILDREN

20 * * *

1 (i) Confidentiality. In any judicial proceedings in response to a request that
2 the court make the findings necessary to support a petition for classification as
3 a special immigrant juvenile, information regarding the child’s immigration
4 status, nationality, or place of birth that is not otherwise protected by State
5 laws shall remain confidential. This information shall also be exempt from
6 public inspection and copying under the Public Records Act and shall be kept
7 confidential, except that the information shall be available for inspection by the
8 court, the child who is the subject of the proceeding, the parties, the attorneys
9 for the parties, the child’s counsel, and the child’s guardian.

10 Sec. 14. 23 V.S.A. § 1213 is amended to read:

11 § 1213. IGNITION INTERLOCK RESTRICTED DRIVER’S LICENSE OR
12 CERTIFICATE; PENALTIES

13 * * *

14 (g) The holder of an ignition interlock RDL or certificate shall operate only
15 motor vehicles equipped with an ignition interlock device, shall not attempt or
16 take any action to tamper with or otherwise circumvent an ignition interlock
17 device, and, after failing a random retest, shall pull over and shut off the
18 vehicle’s engine as soon as practicable. ~~A~~ Except as provided in subsection (k)
19 of this section, a person who violates any provision of this section commits a
20 criminal offense, shall be subject to the sanctions and procedures provided for
21 in subsections 674(b)–(i) of this title, and, upon conviction, the applicable

1 period prior to eligibility for reinstatement under section 1209a or 1216 of this
2 title shall be extended by six months.

3 * * *

4 (k) A person shall not knowingly and voluntarily tamper with an ignition
5 interlock device on behalf of another person or otherwise assist another person
6 to circumvent an ignition interlock device. A person ~~adjudicated of a violation~~
7 ~~of who~~ violates this subsection shall be ~~subject to~~ assessed a civil penalty of ~~up~~
8 ~~to~~ not more than \$500.00.

9 * * *

10 Sec. 15. 4 V.S.A. § 1102 is amended to read:

11 § 1102. JUDICIAL BUREAU; JURISDICTION

12 (a) The Judicial Bureau is created within the Judicial Branch under the
13 supervision of the Supreme Court.

14 (b) The Judicial Bureau shall have jurisdiction of the following matters:

15 * * *

16 (31) Violations of 23 V.S.A. § 1213(k) relating to tampering with an
17 ignition interlock device on behalf of another person.

18 * * *

19 Sec. 16. 32 V.S.A. § 1591 is amended to read:

20 § 1591. SHERIFFS AND OTHER OFFICERS

1 There shall be paid to sheriffs' departments and constables in civil causes
2 and to sheriffs, deputy sheriffs, and constables for the transportation and care
3 of prisoners, juveniles, and patients with a mental condition or psychiatric
4 disability the following fees:

5 (1) Civil process:

6 (A) For serving each process, the fees shall be as follows:

7 (i) \$10.00 for each reading or copy in which the officer is directed
8 to make an arrest;

9 (ii) \$75.00 upon presentation of each return of service for the
10 service of papers relating to divorce, annulments, separations, or support
11 complaints;

12 (iii) \$75.00 upon presentation of each return of service for the
13 service of papers relating to civil suits except as provided in ~~subdivisions (ii)~~
14 and subdivision (vii) of this subdivision (1)(A);

15 (iv) \$75.00 upon presentation of each return of service for the
16 service of a subpoena and shall be limited to that one fee for each return of
17 service;

18 (v) for each arrest, \$15.00;

19 (vi) for taking bail, \$15.00;

20 (vii) on levy of execution or order of foreclosure: for each mile of
21 actual travel in making a demand, sale, or adjournment, the rate allowed State

1 employees under the terms of the prevailing contract between the State and the
2 Vermont State Employees' Association, Inc.; for making demand, \$15.00 for
3 posting notices, \$15.00 each, and the rate per mile allowed State employees
4 under the terms of the prevailing contract between the State and the Vermont
5 State Employees' Association, Inc. for each mile of necessary travel; for notice
6 of continuance, \$15.00;

7 * * *

8 Sec. 17. 33 V.S.A. § 5117 is amended to read:

9 § 5117. RECORDS OF JUVENILE JUDICIAL PROCEEDINGS

10 (a) Except as otherwise provided, court and law enforcement reports and
11 files concerning a person subject to the jurisdiction of the court shall be
12 maintained separate from the records and files of other persons. Unless a
13 charge of delinquency is transferred for criminal prosecution under chapter 52
14 of this title or the court otherwise orders in the interests of the child, such
15 records and files shall not be open to public inspection nor their contents
16 disclosed to the public by any person. However, upon a finding that a child is
17 a delinquent child by reason of commission of a delinquent act that would have
18 been a felony if committed by an adult, the court, upon request of the victim,
19 shall make the child's name available to the victim of the delinquent act. If the
20 victim is incompetent or deceased, the child's name shall be released, upon
21 request, to the victim's guardian or next of kin.

1 (b)(1) Notwithstanding the foregoing, inspection of such records and files
2 by or dissemination of such records and files to the following is not prohibited:

3 * * *

4 (I) the Department for Children and Families; ~~and~~

5 (J) the Office of the Child, Youth, and Family Advocate for the
6 purpose of carrying out the provisions in chapter 32 of this title;

7 (K) a service provider named in a disposition order adopted by the
8 court, or retained by or contracted with a party to fulfill the objectives of the
9 disposition order, including referrals for treatment and placement;

10 (L) a court diversion program or youth-appropriate community-based
11 provider to whom the child is referred by the State’s Attorney or the court, if
12 the child accepts the referral; and

13 (M) Other State agencies, treatment programs, service providers, or
14 those providing direct support to the youth, for the purpose of providing
15 supervision or treatment to the youth.

16 * * *

17 (d) Such records and files shall be available to:

18 (1) State’s Attorneys and all other law enforcement officers in
19 connection with record checks and other legal purposes; and

1 center or a balanced and restorative justice program. Referral to a community-
2 based provider pursuant to this subsection shall not require the State’s Attorney
3 to file a charge. If the community-based provider does not accept the case or if
4 the child fails to complete the program in a manner deemed satisfactory and
5 timely by the provider, the child’s case shall return to the State’s Attorney for
6 charging consideration.

7 (3) Information related to the present alleged offense directly or
8 indirectly derived from the risk and needs screening or from other
9 conversations with the Department or community-based provider shall not be
10 used against the youth in the youth’s case for any purpose, including
11 impeachment or cross-examination, provided that the fact of the youth’s
12 participation in risk and needs screening may be used in subsequent
13 proceedings.

14 (4) If a charge is brought in the Family Division, the risk level result
15 shall be provided to the child’s attorney.

16 (c) Referral to diversion. Based on the results of the risk and needs
17 screening, if a child presents a low to moderate risk to reoffend, the State’s
18 Attorney shall refer the child directly to court diversion unless the State’s
19 Attorney states on the record why a referral to court diversion would not serve
20 the ends of justice. If the court diversion program does not accept the case or
21 if the child fails to complete the program in a manner deemed satisfactory and

1 timely by the provider, the child’s case shall return to the State’s Attorney for
2 charging consideration.

3 * * *

4 Sec. 19. 33 V.S.A. § 5284 is amended to read:

5 § 5284. YOUTHFUL OFFENDER DETERMINATION AND DISPOSITION
6 ORDER

7 * * *

8 (c)(1) If the court approves the motion for youthful offender treatment after
9 an adjudication pursuant to subsection 5281(d) of this title, the court:

10 ~~(1)(A)~~ shall approve a disposition case plan and impose conditions of
11 juvenile probation on the youth; and

12 ~~(2)(B)~~ may transfer legal custody of the youth to a parent, relative,
13 person with a significant relationship with the youth, or Commissioner,
14 provided that any transfer of custody shall expire on the youth’s 18th birthday.

15 (2) Prior to the approval of a disposition case plan the court may refer a
16 child directly to a youth-appropriate community-based provider that has been
17 approved by the department and which may include a community justice center
18 or a balanced and restorative justice program. Referral to a community-based
19 provider pursuant to this subdivision shall not require the court to place the
20 child on probation. If the community-based provider does not accept the case
21 or if the child fails to complete the program in a manner deemed satisfactory

1 and timely by the provider, the child shall return to the court for further
2 proceedings, including the imposition of the disposition order.

3 (d) The Department for Children and Families and the Department of
4 Corrections shall be responsible for supervision of and providing services to
5 the youth until ~~he or she~~ the youth reaches 22 years of age. Both Departments
6 shall designate a case manager who together shall appoint a lead Department to
7 have final decision-making authority over the case plan and the provision of
8 services to the youth. The youth shall be eligible for appropriate community-
9 based programming and services provided by both Departments.

10 **Sec. 20. 13 V.S.A. chapter 76A is added to read:**

11 **CHAPTER 76A. DOMESTIC TERRORISM**

12 **§ 1703. DOMESTIC TERRORISM**

13 **(a) As used in this section:**

14 **(1) “Domestic terrorism” means engaging in or taking a substantial step**
15 **to commit a violation of the criminal laws of this State with the intent to:**

16 **(A) cause death or serious bodily injury to multiple persons; or**

17 **(B) threaten any civilian population with mass destruction, mass**
18 **killings, or kidnapping.**

19 **(2) “Serious bodily injury” shall have the same meaning as in section**
20 **1021 of this title.**

1 (3) “Substantial step” means conduct that is strongly corroborative of the
2 actor’s intent to complete the commission of the offense.

3 (b) A person who willfully engages in an act of domestic terrorism shall be
4 imprisoned for not more than 20 years or fined not more than \$50,000.00, or
5 both.

6 (c) It shall be an affirmative defense to a charge under this section that the
7 actor abandoned his or her effort to commit the crime or otherwise prevented
8 its commission under circumstances manifesting a complete and voluntary
9 renunciation of his or her criminal purpose.

10 Sec. 21. 13 V.S.A. § 1703 is amended to read:

11 ~~§ 1703. DOMESTIC TERRORISM~~

12 (a) As used in this section:

13 (1) “Domestic terrorism” means engaging in or taking a substantial step
14 to commit a violation of the criminal laws of this State with the intent to:

15 (A) cause death or serious bodily injury to multiple persons; or

16 (B) threaten any civilian population with mass destruction, mass
17 killings, or kidnapping.

18 (2) “Serious bodily injury” shall have the same meaning as in section
19 1021 of this title.

20 (3) “Substantial step” means conduct that is strongly corroborative of the
21 actor’s intent to complete the commission of the offense.

1 ~~(b) A person who willfully engages in an act of domestic terrorism shall be~~
2 ~~imprisoned for not more than 20 years or fined not more than \$50,000.00, or~~
3 ~~both.~~

4 ~~(c) It shall be an affirmative defense to a charge under this section that the~~
5 ~~actor abandoned his or her effort to commit the crime or otherwise prevented~~
6 ~~its commission under circumstances manifesting a complete and voluntary~~
7 ~~renunciation of his or her criminal purpose. [Repealed.]~~

8 Sec. 22. 20 V.S.A. § 1940(b) is amended to read:

9 (b) If any of the circumstances in subsection (a) of this section occur, the
10 court with jurisdiction or, as the case may be, the Governor, shall so notify the
11 Department, and the person's DNA record in the State DNA database and
12 CODIS and the person's DNA sample in the State DNA data bank shall be
13 removed and destroyed. The Laboratory shall purge the DNA record and all
14 other identifiable information from the State DNA database and CODIS and
15 destroy the DNA sample stored in the State DNA data bank. If the person has
16 more than one entry in the State DNA database, CODIS, or the State DNA data
17 bank, only the entry related to the dismissed case shall be deleted. The
18 Department shall notify the person upon completing its responsibilities under
19 this subsection, by certified mail addressed to the person's last known address.

20 Sec. 23. 23 V.S.A. § 1213 is amended to read:

1 § 1213. IGNITION INTERLOCK RESTRICTED DRIVER'S LICENSE OR
2 CERTIFICATE; PENALTIES

3 (a)(1) An individual whose license or privilege to operate is suspended or
4 revoked under this subchapter may operate a motor vehicle, other than a
5 commercial motor vehicle as defined in section 4103 of this title, if issued a
6 valid ignition interlock RDL or ignition interlock certificate. Upon application,
7 the Commissioner shall issue an ignition interlock RDL or ignition interlock
8 certificate to an individual otherwise licensed or eligible to be licensed to
9 operate a motor vehicle if:

10 (A) the individual submits a \$125.00 application fee;

11 (B) the individual submits satisfactory proof of installation of an
12 approved ignition interlock device in any motor vehicle to be operated and of
13 financial responsibility as provided in section 801 of this title;

14 (C) at least one year has passed since the suspension or revocation
15 was imposed if the offense involved death or serious bodily injury to an
16 individual other than the operator; ~~and~~

17 (D) the applicable period set forth in this subsection has passed since
18 the suspension or revocation was imposed if the offense involved refusal of an
19 enforcement officer's reasonable request for an evidentiary test:

20 (i) 30 days for a first offense;

21 (ii) 90 days for a second offense; or

1 This act shall take effect on passage.

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4 (Committee vote: _____)

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Senator _____

7

FOR THE COMMITTEE