

# Senate Calendar

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FRIDAY, MAY 3, 2024

SENATE CONVENES AT: 11:00 A.M.

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**ACTION CALENDAR**

**UNFINISHED BUSINESS OF TUESDAY, APRIL 23, 2024**

**Second Reading**

**Favorable with Proposal of Amendment**

**H. 534.**

An act relating to retail theft.

**Reported favorably with recommendation of proposal of amendment by Senator Baruth for the Committee on Judiciary.**

The Committee recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 2575 is amended to read:

§ 2575. OFFENSE OF RETAIL THEFT

A person commits the offense of retail theft when the person, with intent of depriving a merchant wrongfully of the lawful possession of merchandise, money, or credit:

(1) takes and carries away or causes to be taken and carried away or aids and abets the carrying away of, any merchandise from a retail mercantile establishment without paying the retail value of the merchandise; or

\* \* \*

Sec. 2. 13 V.S.A. § 2577 is amended to read:

§ 2577. PENALTY

(a) A person convicted of the offense of retail theft of merchandise having a retail value not in excess of \$900.00 shall:

(1) for a first offense, be punished by a fine of not more than \$500.00 or imprisonment for not more than six months 30 days, or both;

(2) for a second offense, be punished by a fine of not more than \$1,000.00 or imprisonment for not more than six months, or both;

(3) for a third offense, be punished by a fine of not more than \$1,500.00 or imprisonment for not more than three years, or both; or

(4) for a fourth or subsequent offense, be punished by a fine of not more than \$2,500.00 or imprisonment for not more than 10 years, or both.

(b) A person convicted of the offense of retail theft of merchandise having a retail value in excess of \$900.00 shall be punished by a fine of not more than \$1,000.00 or imprisonment for not more than 10 years, or both.

\* \* \*

### Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 4-1-0)

(No House amendments)

## **UNFINISHED BUSINESS OF FRIDAY, APRIL 26, 2024**

### **House Proposal of Amendment**

#### **S. 30.**

An act relating to creating a Sister State Program

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

#### Sec. 1. VERMONT SISTER STATE PROGRAM; WORKING GROUP

(a) Creation. There is created the Vermont Sister State Program Working Group for the purpose of determining the administration, oversight, scope, and objectives of a Vermont Sister State Program.

(b) Membership. The Working Group shall be composed of the following members:

(1) the Secretary of Commerce and Community Development or designee;

(2) the Secretary of Education or designee;

(3) the Secretary of Agriculture or designee;

(4) the Chair of the Board of Trustees of the Vermont Arts Council or designee of the Board of the Trustees;

(5) the Chair of the Board of Directors of the Vermont Council on World Affairs or designee of the Board of the Directors; and

(6) the Vermont Adjutant General or designee.

(c) Meetings.

(1) The Secretary of Commerce and Community Development or designee shall call the first meeting of the Working Group to occur on or before September 1, 2024.

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

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

(4) In furtherance of its duties, the Working Group is encouraged to solicit input and participation from interested stakeholders, including those with experience in cultural exchange or in international relations, agriculture, trade, education, arts, recreation, or governance.

(d) Powers and duties. The Working Group shall review sister state programs in other jurisdictions and receive testimony from relevant stakeholders in order to make recommendations for legislative action. In conducting its analysis, the Working Group shall consider and make recommendations on the following:

(1) which department in State government is best suited to administer, house, and provide support to the Program;

(2) the makeup of the membership of the Committee overseeing the Program;

(3) sources of funding that will financially support the Program;

(4) specific objectives of the Program that align with the following goals:

(A) that the Program exist to create, administer, and maintain mutually beneficial and long-lasting partnerships between Vermont and other select countries or provinces;

(B) that the Program foster the connection of immigrants and refugee communities in Vermont with their nations of origin;

(C) that the Program promote and foster cultural exchange, tourism, trade, and education between Vermont and Sister States; and

(D) that through the Program, the Committee communicate with and support military personnel, foreign service officers, aid organizations, nongovernmental organizations, Peace Corps volunteers, and any other relevant entities working in Sister States.

(5) the criteria for evaluating proposed and existing Sister State agreements;

(6) the requirements for creating and managing Sister State agreements, including:

(A) the term length for agreements; and

(B) the appropriate number of active agreements at one time; and

(7) any other issue the Working Group deems relevant to the success of the Vermont Sister State Program.

(e) Compensation and reimbursement.

(1) A nonlegislative member of the Working Group shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than 10 meetings.

(2) Payments to members of the Working Group authorized under this subsection shall be made from monies appropriated to the General Assembly.

(f) Reporting.

(1) An initial report on the Working Group's progress on the work set forth in this section shall be submitted to the General Assembly on or before February 15, 2025.

(2) A final report shall include the Working Group's findings and recommendations for legislative language based on the requirements set forth in this section. The report shall also include the names of the stakeholders that the Working Group heard from during its work. The report shall be submitted to the General Assembly on or before November 1, 2025.

(g) Expiration. The Working Group shall cease to exist on March 31, 2026.

## Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

**UNFINISHED BUSINESS OF TUESDAY, APRIL 30, 2024**

### **Second Reading**

#### **Favorable with Proposal of Amendment**

#### **H. 882.**

An act relating to capital construction and State bonding budget adjustment.

**Reported favorably with recommendation of proposal of amendment by Senator Ingalls for the Committee on Institutions.**

The Committee recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:



\* \* \* Legislative Intent \* \* \*

Sec. 1. 2023 Acts and Resolves No. 69, Sec. 1 is amended to read:

Sec. 1. LEGISLATIVE INTENT

(a) It is the intent of the General Assembly that of the ~~\$122,767,376.00~~ \$130,606,224.00 authorized in this act, not more than \$56,520,325.00 shall be appropriated in the first year of the biennium, and the remainder shall be appropriated in the second year.

(b) It is the intent of the General Assembly that in the second year of the biennium, any amendments to the appropriations or authorities granted in this act shall take the form of the Capital Construction and State Bonding Adjustment Bill. It is the intent of the General Assembly that unless otherwise indicated, all appropriations in this act are subject to capital budget adjustment.

\* \* \* Capital Appropriations \* \* \*

Sec. 2. 2023 Acts and Resolves No. 69, Sec. 2 is amended to read:

Sec. 2. STATE BUILDINGS

\* \* \*

(c) The following sums are appropriated in FY 2025:

(1) Statewide, major maintenance: ~~\$8,500,000.00~~ \$8,501,999.00

\* \* \*

(3) Statewide, planning, reuse, and contingency:

~~\$425,000.00~~ \$455,000.00

(4) Middlesex, Middlesex Therapeutic Community Residence, master plan, design, and decommissioning: ~~\$400,000.00~~ \$50,000.00

(5) ~~Montpelier, State House, replacement of historic finishes:~~

~~\$50,000.00~~ [Repealed.]

\* \* \*

(11) Statewide, R22 refrigerant phase out:

~~\$1,000,000.00~~ \$750,000.00

(12) Statewide, Art in State Buildings Program: \$75,000.00

(13) St. Albans, Northwest State Correctional Facility, roof replacement:

\$400,000.00

\* \* \*

Appropriation – FY 2024		\$23,126,244.00
Appropriation – FY 2025	<del>\$25,275,000.00</del>	<u>\$25,131,999.00</u>
Total Appropriation – Section 2	<del>\$48,401,244.00</del>	<u>\$48,258,243.00</u>

Sec. 3. 2023 Acts and Resolves No. 69, Sec. 3 is amended to read:

Sec. 3. HUMAN SERVICES

\* \* \*

(b) The following sums are appropriated in FY 2025 to the Department of Buildings and General Services for the Agency of Human Services for the following projects described in this subsection:

(1) Northwest State Correctional Facility, booking expansion, planning, design, and construction: ~~\$2,500,000.00~~ \$2,600,000.00

\* \* \*

(3) Statewide, correctional facilities, HVAC systems, planning, design, and construction for upgrades and replacements:

~~\$700,000.00~~ \$5,150,000.00

(4) Statewide, correctional facilities, accessibility upgrades:

\$822,000.00

\* \* \*

Appropriation – FY 2024		\$1,800,000.00
Appropriation – FY 2025	<del>\$16,200,000.00</del>	<u>\$21,572,000.00</u>
Total Appropriation – Section 3	<del>\$18,000,000.00</del>	<u>\$23,372,000.00</u>

Sec. 4. 2023 Acts and Resolves No. 69, Sec. 4 is amended to read:

Sec. 4. COMMERCE AND COMMUNITY DEVELOPMENT

\* \* \*

(b) The following sums are appropriated in FY 2025 to the Agency of Commerce and Community Development for the following projects described in this subsection:

(1) Major maintenance at statewide historic sites: ~~\$500,000.00~~ \$700,000.00

\* \* \*

Appropriation – FY 2024	\$596,000.00
Appropriation – FY 2025	<del>\$596,000.00</del> <u>\$796,000.00</u>
Total Appropriation – Section 4	<del>\$1,192,000.00</del> <u>\$1,392,000.00</u>

Sec. 5. 2023 Acts and Resolves No. 69, Sec. 9 is amended to read:

Sec. 9. NATURAL RESOURCES

\* \* \*

(f) The following amounts are appropriated in FY 2025 to the Agency of Natural Resources for the Department of Fish and Wildlife for the projects described in this subsection:

(1) General infrastructure projects, including small-scale maintenance and rehabilitation of infrastructure, and improvements to buildings, including conservation camps:

\$1,344,150.00 \$2,114,000.00

\* \* \*

Appropriation – FY 2024	\$6,997,081.00
Appropriation – FY 2025	<del>\$7,497,051.00</del> <u>\$8,266,901.00</u>
Total Appropriation – Section 9	<del>\$14,494,132.00</del> <u>\$15,263,982.00</u>

Sec. 6. 2023 Acts and Resolves No. 69, Sec. 10 is amended to read:

Sec. 10. CLEAN WATER INITIATIVES

\* \* \*

~~(e) The sum of \$6,000,000.00 is appropriated in FY 2025 to the Agency of Natural Resources for the Department of Environmental Conservation for clean water implementation projects. [Repealed.]~~

\* \* \*

(g) The sum of \$550,000.00 is appropriated in FY 2025 to the Agency of Agriculture, Food and Markets for water quality grants and contracts.

(h) The following sums are appropriated in FY 2025 to the Agency of Natural Resources for the following projects:

(1) the Clean Water State/EPA Revolving Loan Fund (CWSRF) match for the Water Pollution Control Fund: \$1,600,000.00

(2) municipal pollution control grants: \$3,300,000.00

(i) The sum of \$550,000.00 is appropriated in FY 2025 to the Agency of Natural Resources for the Department of Forests, Parks and Recreation for forestry access roads, recreation access roads, and water quality improvements.

(j) In FY 2024 and FY 2025, any agency that receives funding from this section shall consult with the State Treasurer to ensure that the projects are capital eligible.

Appropriation – FY 2024	\$9,885,000.00
Appropriation – FY 2025	\$6,000,000.00
Total Appropriation – Section 10	\$15,885,000.00

Sec. 7. 2023 Acts and Resolves No. 69, Sec. 15a is added to read:

Sec. 15a. DEPARTMENT OF LABOR

The sum of \$1,540,000.00 is appropriated in FY 2025 to the Department of Buildings and General Services for the Department of Labor for upgrades of mechanical systems and HVAC, life safety needs, and minor interior renovations at 5 Green Mountain Drive in Montpelier.

Sec. 8. 2023 Acts and Resolves No. 69, Sec. 15b is added to read:

Sec. 15b. GENERAL ASSEMBLY

The sum of \$100,000.00 is appropriated in FY 2025 to the General Assembly for the replacement of tables and chairs in the State House cafeteria.

\* \* \* Funding \* \* \*

Sec. 8. 2023 Acts and Resolves No. 69, Sec. 16 is amended to read:

Sec. 16. REALLOCATION OF FUNDS; TRANSFER OF FUNDS

(a) The following sums are reallocated to the Department of Buildings and General Services from prior capital appropriations to defray expenditures authorized in Sec. 2 of this act:

\* \* \*

(5) of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 2(b) (various projects): \$65,463.17 \$147,206.37

\* \* \*

(7) of the amount appropriated in 2016 Acts and Resolves No. 160, Sec. 1(c)(5) (major maintenance): \$93,549.00 \$116,671.15

\* \* \*

(10) of the amount appropriated in 2017 Acts and Resolves No. 84,  
Sec. 2(c) (various projects): \$24,363.06 \$476,725.66

\* \* \*

(13) of the amount appropriated in 2019 Acts and Resolves No. 42,  
Sec. 2(b)(3) (major maintenance): \$32,780.00 \$439,889.66

\* \* \*

(17) of the amount appropriated in 2012 Acts and Resolves No. 40,  
Sec. 2(b)(4) (Statewide, major maintenance): \$9,606.45

(18) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec.  
2(b)(4) (Statewide, major maintenance): \$7,207.90

(19) of the amount appropriated in 2017 Acts and Resolves No. 84, Sec.  
2(b)(5) (Montpelier, State House, Dome, Drum, and Ceres, design, permitting,  
construction, restoration, renovation, and lighting):  
\$38,525.00

(20) of the amount appropriated in 2017 Acts and Resolves No. 84,  
Sec. 11(b)(4) (municipal pollution control grants, pollution control projects  
and planning advances for feasibility studies, new projects):  
\$4,498.17

(21) of the amount appropriated in 2017 Acts and Resolves No. 84,  
Sec. 11(f)(2) (EcoSystem restoration and protection): \$4,298.22

(22) of the amount appropriated in 2018 Acts and Resolves No. 190,  
Sec. 8(m) (Downtown Transportation Fund pilot project): \$9,150.00

(23) of the amount appropriated in 2019 Acts and Resolves No. 42,  
Sec. 2(b)(9) (Newport, Northeast State Correctional Facility, direct digital  
HVAC control system replacement): \$26,951.52

(24) of the amount appropriated in 2021 Acts and Resolves No. 50,  
Sec. 2(b)(20), as added by 2022 Acts and Resolves No. 180, Sec. 2 (Windsor,  
former Southeast State Correctional Facility, necessary demolition, salvage,  
dismantling, and improvements to facilitate future use of the facility):  
\$378,180.00

\* \* \*

(h) From prior year bond issuance cost estimates allocated to the entities to which funds were appropriated and for which bonding was required as the source of funds, pursuant to 32 V.S.A. § 954, \$1,148,251.79 is reallocated to defray expenditures authorized by this act.

Total Reallocations and Transfers – Section 16

~~\$14,767,376.32~~ \$17,358,383.85

Sec. 9. 2023 Acts and Resolves No. 69, Sec. 17 is amended to read:

Sec. 17. GENERAL OBLIGATION BONDS AND APPROPRIATIONS

(a) The State Treasurer is authorized to issue general obligation bonds in the amount of \$108,000,000.00 for the purpose of funding the appropriations made in Secs. 2–15b of this act. The State Treasurer, with the approval of the Governor, shall determine the appropriate form and maturity of the bonds authorized by this section consistent with the underlying nature of the appropriation to be funded. ~~The State Treasurer shall allocate the estimated cost of bond issuance or issuances to the entities to which funds are appropriated pursuant to this section and for which bonding is required as the source of funds, pursuant to 32 V.S.A. § 954.~~

(b) The State Treasurer is authorized to issue additional general obligation bonds in the amount of \$5,247,838.90 that were previously appropriated but unissued under 2023 Acts and Resolves No. 69 for the purposes of funding the appropriations in this act.

Total Revenues – Section 17

~~\$108,000,000.00~~ \$113,247,838.90

Sec. 10. 2023 Acts and Resolves No. 69, Sec. 18 is amended to read:

Sec. 18. FY 2024 AND 2025; CAPITAL PROJECTS; FY 2024  
APPROPRIATIONS ACT; INTENT; AUTHORIZATIONS

\* \* \*

(c) Authorizations. In FY 2024, spending authority for the following capital projects are authorized as follows:

\* \* \*

~~(7) the Department of Buildings and General Services is authorized to spend \$600,000.00 for planning for the boiler replacement at the Northern State Correctional Facility in Newport; [Repealed.]~~

\* \* \*

~~(9) the Department of Buildings and General Services is authorized to spend \$600,000.00 for the Agency of Human Services for the planning and design of the booking expansion at the Northwest State Correctional Facility; [Repealed.]~~

(10) the Department of Buildings and General Services is authorized to spend ~~\$1,000,000.00~~ \$750,000.00 for the Agency of Human Services for the planning and design of the Department for Children and Families' short-term stabilization facility;

(11) the Department of Buildings and General Services is authorized to spend \$750,000.00 for the Judiciary for design, renovations, and land acquisition at the Washington County Superior Courthouse in Barre;

\* \* \*

(16) the Vermont State Colleges is authorized to spend ~~\$7,500,000.00~~ \$6,500,000.00 for construction, renovation, and major maintenance at any facility owned or operated in the State by the Vermont State Colleges; infrastructure transformation planning; and the planning, design, and construction of Green Hall and Vail Hall;

\* \* \*

(19) the Agency of Natural Resources is authorized to spend \$4,000,000.00 for the Department of Environmental Conservation for the Municipal Pollution Control Grants for pollution control projects and planning advances for feasibility studies; and

(20) the Agency of Natural Resources is authorized to spend \$3,000,000.00 for the Department of Forests, Parks and Recreation for the maintenance facilities at the Gifford Woods State Park and Groton Forest State Park; and

~~(21) the Agency of Natural Resources is authorized to spend \$800,000.00 for the Department of Fish and Wildlife for infrastructure maintenance and improvements of the Department's buildings, including conservation camps. [Repealed.]~~

(d) ~~FY 2025 capital projects authorizations. To the extent general funds are available to appropriate to the Fund established in 32 V.S.A. § 1001b in FY 2025, it is the intent of the General Assembly that the following capital projects receive funding from the Fund~~ In FY 2024, spending authority for the following capital projects are authorized as follows:

(1) the sum of ~~\$250,000.00~~ \$220,000.00 to the Department of Buildings and General Services for planning, reuse, and contingency;

\* \* \*

(3) the sum of ~~\$2,000,000.00~~ \$1,500,000.00 to the Department of Buildings and General Services for the renovation of the interior HVAC steam lines at 120 State Street in Montpelier;

(4) the sum of ~~\$1,000,000.00~~ \$850,000.00 to the Department of Buildings and General Services for the Judiciary for design, renovations, and land acquisition at the Washington County Superior Courthouse in Barre;

(5) the sum of ~~\$1,000,000.00~~ \$850,000.00 to the Department of Buildings and General Services for the Department of Public Safety for the planning and design of the Special Teams Facility and Storage;

(6) the sum of ~~\$1,000,000.00~~ \$850,000.00 to the Department of Buildings and General Services for the Department of Public Safety for the planning and design of the Rutland Field Station;

\* \* \*

~~(8) the sum of \$500,000.00 to the Department of Buildings and General Services for the Newport courthouse replacement, planning, and design; [Repealed.]~~

(9) the sum of \$250,000.00 to the Department of Buildings and General Services for planning for the 133-109 State Street tunnel waterproofing and Aiken Avenue reconstruction; and

(10) the sum of \$200,000.00 to the Department of Buildings and General Services for the renovation of the stack area, HVAC upgrades, and the elevator replacement at 111 State Street;

(11) the sum of \$1,000,000.00 to the Department of Buildings and General Services for roof replacement and brick façade repairs at the McFarland State Office Building in Barre; and

(12) the sum of \$30,000.00 to the Department of Fish and Wildlife for the Lake Champlain International fishing derby.

\* \* \*

\* \* \* Policy \* \* \*

\* \* \* Agency of Natural Resources \* \* \*

Sec. 11. 10 V.S.A. § 2603 is amended to read:

§ 2603. POWERS AND DUTIES: COMMISSIONER

\* \* \*

~~(g) The Commissioner shall consult with and receive approval from the Commissioner of Buildings and General Services concerning proposed construction or renovation of individual projects involving capital improvements which are expected, either in phases or in total, to cost more than \$200,000.00. The Department of Environmental Conservation shall~~



~~manage all contracts for engineering services for capital improvements made by the Department of Forests, Parks and Recreation~~ The Department of Environmental Conservation Facilities Engineering Section:

(1) may execute and consult on design for the Department of Forests, Parks and Recreation;

(2) shall provide professional engineering services for compliance with environmental operating permits; and

(3) shall be the custodian of all plans of record for work executed by the Department of Forests, Parks and Recreation, regardless of the source and designer of record.

\* \* \*

## Sec. 12. LEGISLATIVE INTENT; SALISBURY FISH HATCHERY

It is the intent of the General Assembly that:

(1) The State shall maintain or increase its current fish stocking capacity.

(2) To the extent practicable, the Salisbury fish hatchery shall, subject to annual appropriations, continue operating through December 31, 2027.

(3) The Agency of Natural Resources shall examine potential options for continuing the operation of the Salisbury fish hatchery after fiscal year 2027, including maintaining any necessary permits.

(4) The Agency of Natural Resources shall examine options for maintaining or increasing the State's current fish stocking capacity following the potential closure of the Salisbury fish hatchery, including:

(A) replacing the stocking capacity of the Salisbury fish hatchery with increased stocking capacity at one or more State-operated or federally operated fish hatcheries;

(B) transferring fish broodstock from the Salisbury hatchery to other State fish hatcheries;

(C) establishing additional egg production at other State fish hatcheries to compensate for any lost egg production; and

(D) utilizing other innovative or more cost-effective approaches for replacing any lost stocking capacity.

(5) The Agency of Natural Resources shall examine options for limiting any negative economic impact from the potential closure of the Salisbury fish hatchery, including impacts from reduced fish stocking on fishing and tourism, and impacts from the loss of staff positions at the Salisbury fish hatchery.

(6) The Salisbury fish hatchery shall not close without prior approval of the General Assembly, which shall be provided if:

(A) the hatchery is unable to secure the necessary permits to continue operating after December 31, 2027; or

(B) the stocking capacity of the hatchery can be replaced in a manner that is more cost-effective than the up-front and operating costs of the capital improvements necessary for the hatchery to obtain the necessary permits to continue operating after December 31, 2027.

### Sec. 13. SALISBURY FISH HATCHERY; ANNUAL REPORT

On or before January 15 of 2025, 2026, and 2027, the Secretary of Natural Resources shall submit a written report to the Senate Committees on Institutions and on Natural Resources and Energy and the House Committees on Corrections and Institutions and on Environment and Energy regarding efforts undertaken and progress made with respect to sustaining the fish production and stocking capacity of Vermont's State-operated fish hatcheries, including:

(1) efforts to maintain permits necessary to continue operating the Salisbury fish hatchery after December 31, 2027;

(2) the potential for transferring the stocking capacity of the Salisbury fish hatchery to one or more State-operated or federally operated fish hatcheries, including estimated costs;

(3) the potential for transferring the fish broodstock of the Salisbury fish hatchery to one or more State-operated fish hatcheries for the purpose of replacing the Salisbury fish hatchery's egg production, including estimated costs;

(4) the potential to employ innovative or more cost-effective approaches than those identified pursuant to subdivisions (1)–(3) of this section to replace any lost stocking capacity due to the closure of the Salisbury fish hatchery, including estimated costs; and

(5) options for limiting negative economic impact of the potential closure of the Salisbury fish hatchery after December 31, 2027, including impacts from reduced fish stocking on fishing and tourism, and impacts from the loss of staff positions at the Salisbury fish hatchery.

Sec. 14. APPROPRIATION

In addition to other monies appropriated to the Agency of Natural Resources in fiscal year 2025, the amount of \$550,000.00 is appropriated from the General Fund for purposes of operating the Salisbury fish hatchery during fiscal year 2025.

\* \* \* Buildings and General Services \* \* \*

Sec. 15. 2023 Acts and Resolves No. 69, Sec. 22 is amended to read:

Sec. 22. SALE OF PROPERTIES

\* \* \*

(c) 108 Cherry Street. Notwithstanding 29 V.S.A. § 166(b), the Commissioner of Buildings and General Services is authorized to sell the property located at 108 Cherry Street in the City of Burlington. The Commissioner shall first offer in writing to the City the right to purchase the property.

\* \* \*

(3) Notwithstanding 29 V.S.A. § 166(d) and 29 V.S.A. § 160, of the proceeds received by the State for the sale of the property located at 108 Cherry Street in the City of Burlington, \$6,242,500.00 shall be deposited into the Property Management Revolving Fund (58700) to recover the deficit incurred in the fund as a result of the original purchase of the property and, notwithstanding 29 V.S.A. § 168(c), \$293,753.63 shall be deposited into the State Energy Revolving Fund (59700) to repay debt outstanding for loans for energy improvement projects on the property.

Sec. 16. SALE OF FORMER WILLISTON STATE POLICE BARRACKS;  
INTENT; REPORT

It is the intent of the General Assembly that the Town of Williston shall report to the Senate Committee on Institutions and the House Committee on Corrections and Institutions in January 2025 regarding:

(1) whether the town desires to purchase the property; and

(2) if so:

(A) the feasibility of the Town purchasing the property, including any requested conditions on the sale of the property; and

(B) the potential future uses of the property envisioned by the Town.

Sec. 17. 2017 Acts and Resolves No. 84, Sec. 36 is amended to read:

Sec. 36. PUBLIC SAFETY FIELD STATION; WILLISTON

\* \* \*

(b) The Beginning on July 1, 2025, the Commissioner of Buildings and General Services is authorized to sell the Williston Public Safety Field Station and adjacent land pursuant to the requirements of 29 V.S.A. § 166. The proceeds from the sale shall be appropriated to future capital construction projects.

Sec. 18. 2021 Acts and Resolves No. 50, Sec. 34 is amended to read:

Sec. 34. WILLISTON PUBLIC SAFETY BARRACKS; SALE

The Beginning on July 1, 2025, the Commissioner of Buildings and General Services is authorized to sell the property known as the Williston Public Safety Barracks (State Office Building) located at 2777 St. George Road in Williston, Vermont pursuant to the requirements of 29 V.S.A. § 166. The proceeds from the sale shall be appropriated to future capital construction projects.

Sec. 19. 29 V.S.A. § 152 is amended to read:

§ 152. DUTIES OF COMMISSIONER

(a) The Commissioner of Buildings and General Services, in addition to the duties expressly set forth elsewhere by law, shall have the authority to:

\* \* \*

(3) Prepare or cause to be prepared plans and specifications for construction and repair on all State-owned buildings:

\* \* \*

(B) For which no specific appropriations have been made by the General Assembly or the Emergency Board. The Commissioner may, with the approval of the Secretary of Administration, acquire an option, ~~for a price not to exceed \$75,000.00,~~ on an individual property without prior legislative approval, for a price not to exceed five percent of the listed sale price of the property, provided the option contains a provision stating that purchase of the property shall occur only upon the approval of the General Assembly and the appropriation of funds for this purpose. The State Treasurer is authorized to advance a sum not to exceed ~~\$75,000.00~~ five percent of the listed sale price of the property, upon warrants drawn by the Commissioner of Finance and Management for the purpose of purchasing an option on a property pursuant to this subdivision.

\* \* \*

(19) Transfer any unexpended project balances between projects that are authorized within the same section of ~~an annual~~ a biennial capital construction act.

(20) Transfer any unexpended project balances between projects that are authorized within different capital construction acts, with the approval of the Secretary of Administration, when the unexpended project balance does not exceed ~~\$100,000.00~~ \$200,000.00, or with the additional approval of the Emergency Board when such balance exceeds ~~\$100,000.00~~ \$200,000.00.

\* \* \*

(22) Use the contingency fund appropriation to cover shortfalls for any project approved in any capital construction act; however, transfers from the contingency in excess of ~~\$50,000.00~~ \$100,000.00 shall be done with the approval of the Secretary of Administration.

\* \* \*

Sec. 20. 29 V.S.A. § 166 is amended to read:

§ 166. SELLING OR RENTING STATE PROPERTY

\* \* \*

(b)(1) Upon authorization by the General Assembly, which may be granted by resolution, and with the advice and consent of the Governor, the Commissioner of Buildings and General Services may sell real estate owned by the State. ~~Such~~ The property shall be sold to the highest bidder ~~therefor~~ at public auction or upon sealed bids ~~in~~ at the discretion of the Commissioner of Buildings and General Services, who may reject any or all bids, or the Commissioner is authorized to list the sale of property with a real estate agent licensed by the State. In no event shall the property be sold for less than fair market value as determined by the Commissioner in consultation with an independent real estate broker or appraiser, or both, retained by the Commissioner, unless otherwise authorized by the General Assembly.

\* \* \*

Sec. 21. SOUTHEAST STATE CORRECTIONAL FACILITY; POTENTIAL LAND TRANSFER; REPORT

(a) The Department of Fish and Wildlife, in consultation with the Department of Buildings and General Services, shall evaluate the potential transfer of a portion of the former Southeast State Correctional Facility property to the Department of Fish and Wildlife for inclusion in the adjacent wildlife management area. The evaluation shall:

(1) delineate the portions of the former Southeast State Correctional Facility property that could be used for future redevelopment of the site, taking into account any necessary setbacks from wetlands, streams, or wildlife habitat;

(2) identify any portions of the property that could be transferred into the adjacent wildlife management area and potential impacts on the redevelopment or sale of the property from the transfer of the identified portions; and

(3) identify any rights of way or easements that will be necessary for the potential future redevelopment of any retained portion of the property.

(b) On or before January 15, 2025, the Commissioner of Fish and Wildlife and the Commissioner of Buildings and General Services shall report to the House Committee on Corrections and Institutions and the Senate Committee on Institutions regarding the evaluation and any legislative action that may be necessary to facilitate a proposed transfer or redevelopment of the property.

#### Sec. 22. FORENSIC FACILITY; NEEDS; REVIEW; REPORT

(a) The Commissioner of Buildings and General Services, in consultation with the Commissioners of Mental Health and of Disabilities, Aging, and Independent Living, shall review the programming needs and facility requirements of individuals who will be housed in a proposed forensic facility. The review shall be performed during fiscal year 2025 using funds from the Department of Buildings and General Service's base appropriation as the Commissioner determines to be appropriate. The Commissioner shall report, on or before February 1, 2025, to the Senate Committees on Appropriations and on Institutions and to the House Committees on Appropriations and on Corrections and Institutions regarding the findings of the review.

(b) It is the intent of the General Assembly that the fiscal year 2026 capital construction and State bonding act shall include funding for the design and development of the proposed forensic facility.

#### Sec. 23. DEPARTMENT FOR CHILDREN AND FAMILIES YOUTH SHORT-TERM STABILIZATION AND TREATMENT CENTER; LONG-TERM LEASE; AUTHORIZATION

Notwithstanding any provisions of 29 V.S.A. § 165(h) or 29 V.S.A. § 166(a) to the contrary, the Commissioner of Buildings and General Services is authorized to enter into a long-term ground lease agreement at a below-market rate for an initial term of not more than 20 years with not more than four five-year renewal options for the Department for Children and Families

Youth Short Term Stabilization and Treatment Center. At the end of the term and any renewals, the ground lease shall terminate.

Sec. 24. CAPITOL COMPLEX FLOOD RECOVERY; SPECIAL COMMITTEE

(a) The Special Committee on Capitol Complex Flood Recovery is established. The Special Committee shall comprise the Joint Fiscal Committee and the chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions.

(b)(1) The Special Committee shall meet at the call of the chair of the Joint Fiscal Committee, in consultation with the chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions.

(2)(A) The Special Committee shall meet to review and recommend alterations to proposals and plans for Capitol Complex flood recovery.

(B) The Special Committee may, as necessary, grant approval to proposals and plans for Capitol Complex flood recovery.

(c) The Commissioner of Buildings and General Services shall provide quarterly updates to the Special Committee on the planning process for Capitol Complex flood recovery.

(d) The Special Committee shall be entitled to per diem and expenses as provided in 2 V.S.A. § 23.

Sec. 25. STATE HOUSE; IMPROVEMENTS; DESIGN; SPECIAL COMMITTEE

(a)(1) To allow the Department of Buildings and General Services to begin the design development phase, it is the intent of the General Assembly to approve a schematic design plan for accessibility, life safety, and mechanical systems improvements to the State House identified in Scenario 1, as approved by the Joint Legislative Management Committee on December 15, 2023 and excluding any improvements that would impact committee rooms.

(2) The Commissioner of Buildings and General Services shall provide the Special Committee established pursuant to subsection (b) of this section with a draft schematic design plan for the work identified pursuant to subdivision (1) of this subsection on or before July 15, 2024 and a final schematic design plan on or before September 15, 2024.

(b)(1) A Special Committee to be called the Special Committee on State House Improvements consisting of the Joint Legislative Management Committee and the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions is established.

(2) The Special Committee is authorized to meet to:

(A) review and recommend alterations to the draft schematic design to be submitted on or before July 15, 2024 as described in subsection (a) of this section at a regularly scheduled Joint Legislative Management Committee meeting; and

(B) review and approve the final schematic design to be submitted on or before September 15, 2024 as described in subsection (a) of this section at a regularly scheduled Joint Legislative Management Committee meeting.

(c) In making its decision, the Special Committee shall consider:

(1) how the design impacts the ability of the General Assembly to conduct legislative business;

(2) whether the design allows for public access to citizens;

(3) the financial consequences to the State of approval or disapproval of the proposal; and

(4) whether any potential alternatives are available.

(d) The Special Committee shall be entitled to per diem and expenses as provided in 2 V.S.A. § 23.

\* \* \* Corrections \* \* \*

Sec. 26. 2023 Acts and Resolves No. 69, Sec. 28 is amended to read:

Sec. 28. REPLACEMENT WOMEN'S FACILITIES; SITE LOCATION PROPOSAL; DESIGN INTENT

(a) Site location proposal.

~~(1)(A) Site location proposal.~~ On or before January 15, ~~2024~~ 2025, the Commissioner of Buildings and General Services shall submit a site location proposal for replacement women's facilities for justice-involved women to the House Committee on Corrections and Institutions and the Senate Committee on Institutions.

(B) It is the intent of the General Assembly that:

(i) when evaluating site locations, preference shall be given to State-owned property; and

(ii) the site location, regardless of whether it is on State-owned land or land proposed to be purchased by the State, shall be:

(I) near support services, programming, and work opportunities needed to facilitate successful reentry into the community; and



(II) in a reasonable proximity to the existing workforce to facilitate retention and continuity of experienced staff.

(C)(i) The proposal shall consider both collocating facilities in a campus-style approach for operational efficiencies and the need for separate facilities at different locations.

(ii) The proposal shall consider the proximity of existing and potential future public transit services.

\* \* \*

Sec. 27. REPLACEMENT WOMEN'S FACILITIES; AUTHORITY TO PURCHASE LAND; INTENT; REPORT

(a) Contingent authority to purchase land. In the event that the Commissioner of Buildings and General Services, in consultation with the Commissioner of Corrections, is unable to identify appropriate State-owned site locations for the replacement facilities for justice-involved women, the Commissioner is authorized to purchase land in a location that is:

(1) near support services, programming, and work opportunities needed to facilitate successful reentry into the community;

(2) in a reasonable proximity to the existing workforce to facilitate retention and continuity of experienced staff; and

(3) near existing or potential future public transit services.

(b) Reports. Beginning in July 2024 and ending in January 2025, the Commissioner of Buildings and General Services, in consultation with the Commissioner of Corrections, shall report at least once per calendar quarter to the House Committee on Corrections and Institutions and the Senate Committee on Institutions regarding progress in fulfilling the requirements of 2023 Acts and Resolves No. 69, Sec. 28 and subsection (a) of this section.

Sec. 28. POTENTIAL REUSE OF CHITTENDEN REGIONAL CORRECTIONAL FACILITY SITE; FEASIBILITY; REPORT

(a) On or before December 15, 2025, the Commissioner of Buildings and General Services, in consultation with the Commissioner of Corrections, shall report to the House Committee on Corrections and Institutions and the Senate Committees on Institutions and on Judiciary regarding the feasibility of utilizing the site of the Chittenden Regional Correctional Facility for a reentry facility for eligible justice-involved men following the construction of replacement facilities for justice-involved women.

(b) The report shall:

(1)(A) evaluate the condition and structure of the existing facility to determine if it can be repurposed as a reentry facility in a manner that supports the programmatic goals of the Department of Corrections using evidence-based principles for wellness environments for supporting trauma-informed practices; and

(B) if it can be repurposed as a reentry facility, the improvements and other work necessary to support the programmatic goals of the Department of Corrections using evidence-based principles for wellness environments for supporting trauma-informed practices and the estimated cost of performing the work;

(2)(A) evaluate whether a new reentry facility could be constructed on the site following the demolition of some or all of the existing facility;

(B) identify potential designs for a newly constructed reentry facility at the site that supports the programmatic goals of the Department of Corrections using evidence-based principles for wellness environments for supporting trauma-informed practices; and

(C) identify any site work, improvements, and other work necessary to construct a new reentry facility on the site, including the cost of any such work; and

(3) if the existing facility cannot be repurposed as a reentry facility and a new reentry facility cannot be constructed on the site, identify other potential sites for a male reentry facility that are near:

(A) support services, programming, and work opportunities needed to facilitate successful reentry into the community; and

(B) existing or potential future public transit services.

(c) As used in this section, “reentry facility” means a facility at which incarcerated individuals prepare to transition back into the community following release. Reentry facilities provide services, or enable incarcerated individuals to obtain services, that will facilitate the transition back into the community, including career and housing supports, vocational education, job placement, mental health counseling, substance use disorder treatment or recovery services, financial education, assistance with obtaining public benefits, and other similar services.

(d) It is the intent of the General Assembly that the fiscal year 2026 capital construction and State bonding act shall include funding for the preparation of the report required pursuant to this section.

\* \* \* Judiciary \* \* \*

Sec. 29. BARRE; WASHINGTON COUNTY SUPERIOR COURTHOUSE;  
LAND ACQUISITION; AUTHORIZATION; COMMUNICATION  
WITH CITY

(a) The Commissioner of Buildings and General Services, in consultation with the Judiciary, is authorized to use the amounts appropriated in 2023 Acts and Resolves No. 69, Sec. 18(c)(11) and (d)(4) to purchase land as needed to renovate or replace the Washington County Superior Courthouse.

(b) The Commissioner shall:

(1) consult with the City of Barre on potential options for renovating or replacing the Washington County Superior Courthouse in Barre; and

(2) provide updates to the City on progress made with respect to renovating or replacing the Courthouse.

Sec. 30. WHITE RIVER JUNCTION; WINDSOR COUNTY SUPERIOR  
COURTHOUSE; TEMPORARY RELOCATION OF EMPLOYEES

It is the intent of the General Assembly that following completion of the renovations to the Windsor County Superior Courthouse in White River Junction, the offices of the Windsor County State's Attorney shall be relocated to the leased office space at 55 Railroad Row that is being used as temporary office space for Courthouse employees during the renovation.

\* \* \* Effective Date \* \* \*

Sec. 31. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 4-0-0)

(No House Amendments)

**Reported favorably with recommendation of proposal of amendment by Senator Kitchel for the Committee on Appropriations.**

The Committee recommends that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Institutions, with further recommendation of proposals of amendment as follows:

First: By striking out Sec. 8, adding 2023 Acts and Resolves No. 69, Sec. 15b, General Assembly, in its entirety and inserting in lieu thereof a new Sec. 8 to read as follows:

Sec. 8. 2023 Acts and Resolves No. 69, Sec. 15b is added to read:

Sec. 15b. SERGEANT AT ARMS

The sum of \$100,000.00 is appropriated in FY 2025 to the Sergeant at Arms for the replacement of tables and chairs in the State House cafeteria.

Second: By striking out Sec. 14, appropriation, in its entirety and inserting in lieu thereof a new Sec. 14 to read as follows:

Sec. 14. [Deleted.]

Third: After Sec. 22, forensic facility; needs; review; report, by adding a new section to be Sec. 22a to read as follows:

Sec. 22a. SOUTHEAST STATE CORRECTIONAL FACILITY;  
POTENTIAL REUSE BY STATE; INTENT

It is the intent of the General Assembly that the parcel on which the former Southeast State Correctional Facility was located shall not be sold unless the State has determined that the site is not needed for use as the location for a State facility or other State purpose.

(Committee vote: 7-0-0)

**Amendment to proposal of amendment of the Committee on Institutions  
to H. 882 to be offered by Senator Ingalls**

Senator Ingalls moves to amend the proposal of amendment of the Committee on Institutions by inserting a new Sec. 21a to read as follows:

Sec. 21a. SOUTHERN STATE CORRECTIONAL FACILITY; TRANSFER  
OF PARCEL

(a) The Commissioner of Buildings and General Services is authorized to transfer to the Town of Springfield a portion of the Southern State Correctional Facility Property consisting of approximately 10 acres to be used as the location of a new Town garage.

(b) The transfer shall be contingent on:

(1) the State obtaining State and local zoning and subdivision approvals that are necessary for the transfer; and

(2) the negotiation of an agreement between the State and the Town of Springfield regarding the maintenance and upkeep of the access road and the water and sewer service lines for the Correctional Facility and the transferred parcel.

(c) The transferred parcel shall not include any brownfields on the Southern State Correctional Facility Property.

(d) In the event the Town does not utilize the transferred parcel for a new Town garage, the Town shall consult with the Commissioner of Buildings and General Services regarding any proposed alternative uses of the parcel.

(e) The transfer authority provided pursuant to this section shall expire on July 1, 2027.

**UNFINISHED BUSINESS OF WEDNESDAY, MAY 1, 2024**

**Second Reading**

**Favorable**

**H. 289.**

An act relating to the Renewable Energy Standard.

**Reported favorably by Senator Bray for the Committee on Natural Resources and Energy.**

The Committee on Natural Resources and Energy recommends that the bill ought to pass in concurrence.

(Committee vote: 4-1-0)

(For House amendments, see House Journal of March 20, 2024, pages 647 - 669)

**Reported favorably by Senator Bray for the Committee on Finance.**

The Committee on Finance recommends that the bill ought to pass in concurrence.

(Committee vote: 5-1-1)

**Reported favorably by Senator Perchlik for the Committee on Appropriations.**

The Committee on Appropriations recommends that the bill ought to pass in concurrence.

(Committee vote: 5-1-1)

**Favorable with Proposal of Amendment**

**H. 121.**

An act relating to enhancing consumer privacy.

**Reported favorably with recommendation of proposal of amendment by Senator Ram Hinsdale for the Committee on Economic Development, Housing and General Affairs.**

The Committee recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 9 V.S.A. chapter 61A is added to read:

CHAPTER 61A. VERMONT DATA PRIVACY ACT

§ 2415. DEFINITIONS

As used in this chapter:

(1) “Abortion” has the same meaning as in section 2492 of this title.

(2)(A) “Affiliate” means a legal entity that shares common branding with another legal entity or controls, is controlled by, or is under common control with another legal entity.

(B) As used in subdivision (A) of this subdivision (2), “control” or “controlled” means:

(i) ownership of, or the power to vote, more than 50 percent of the outstanding shares of any class of voting security of a company;

(ii) control in any manner over the election of a majority of the directors or of individuals exercising similar functions; or

(iii) the power to exercise controlling influence over the management of a company.

(3) “Authenticate” means to use reasonable means to determine that a request to exercise any of the rights afforded under subdivisions 2418(a)(1)–(5) of this title is being made by, or on behalf of, the consumer who is entitled to exercise the consumer rights with respect to the personal data at issue.

(4)(A) “Biometric data” means personal data generated from the technological processing of an individual’s unique biological, physical, or physiological characteristics that is linked or reasonably linkable to an individual, including:

(i) iris or retina scans;

(ii) fingerprints;

(iii) facial or hand mapping, geometry, or templates;

(iv) vein patterns;

(v) voice prints; and

(vi) gait or personally identifying physical movement or patterns.

(B) “Biometric data” does not include:

(i) a digital or physical photograph;

(ii) an audio or video recording; or

(iii) any data generated from a digital or physical photograph, or an audio or video recording, unless such data is generated to identify a specific individual.

(5) “Broker-dealer” has the same meaning as in 9 V.S.A. § 5102.

(6) “Business associate” has the same meaning as in HIPAA.

(7) “Child” has the same meaning as in COPPA.

(8)(A) “Consent” means a clear affirmative act signifying a consumer’s freely given, specific, informed, and unambiguous agreement to allow the processing of personal data relating to the consumer.

(B) “Consent” may include a written statement, including by electronic means, or any other unambiguous affirmative action.

(C) “Consent” does not include:

(i) acceptance of a general or broad terms of use or similar document that contains descriptions of personal data processing along with other, unrelated information;

(ii) hovering over, muting, pausing, or closing a given piece of content; or

(iii) agreement obtained through the use of dark patterns.

(9)(A) “Consumer” means an individual who is a resident of the State.

(B) “Consumer” does not include an individual acting in a commercial or employment context or as an employee, owner, director, officer, or contractor of a company, partnership, sole proprietorship, nonprofit, or government agency whose communications or transactions with the controller occur solely within the context of that individual’s role with the company, partnership, sole proprietorship, nonprofit, or government agency.

(10) “Consumer health data” means any personal data that a controller uses to identify a consumer’s physical or mental health condition or diagnosis, including gender-affirming health data and reproductive or sexual health data.

(11) “Consumer health data controller” means any controller that, alone or jointly with others, determines the purpose and means of processing consumer health data.

(12) “Consumer reporting agency” has the same meaning as in the Fair Credit Reporting Act, 15 U.S.C. § 1681a(f);

(13) “Controller” means a person who, alone or jointly with others, determines the purpose and means of processing personal data.

(14) “COPPA” means the Children’s Online Privacy Protection Act of 1998, 15 U.S.C. § 6501–6506, and any regulations, rules, guidance, and exemptions promulgated pursuant to the act, as the act and regulations, rules, guidance, and exemptions may be amended.

(15) “Covered entity” has the same meaning as in HIPAA.

(16) “Credit union” has the same meaning as in 8 V.S.A. § 30101.

(17) “Dark pattern” means a user interface designed or manipulated with the substantial effect of subverting or impairing user autonomy, decision-making, or choice and includes any practice the Federal Trade Commission refers to as a “dark pattern.”

(18) “Decisions that produce legal or similarly significant effects concerning the consumer” means decisions made by the controller that result in the provision or denial by the controller of financial or lending services, housing, insurance, education enrollment or opportunity, criminal justice, employment opportunities, health care services, or access to essential goods or services.

(19) “De-identified data” means data that does not identify and cannot reasonably be used to infer information about, or otherwise be linked to, an identified or identifiable individual, or a device linked to the individual, if the controller that possesses the data:

(A)(i) takes reasonable measures to ensure that the data cannot be used to re-identify an identified or identifiable individual or be associated with an individual or device that identifies or is linked or reasonably linkable to an individual or household;

(ii) for purposes of this subdivision (A), “reasonable measures” shall include the de-identification requirements set forth under 45 C.F.R. § 164.514 (other requirements relating to uses and disclosures of protected health information);

(B) publicly commits to process the data only in a de-identified fashion and not attempt to re-identify the data; and

(C) contractually obligates any recipients of the data to satisfy the criteria set forth in subdivisions (A) and (B) of this subdivision (19).

(20) “Educational institution” has the same meaning as “educational agency or institution” in 20 U.S.C. § 1232g (family educational and privacy rights);

(21) “Financial institution”:



(A) as used in subdivision 2417(a)(12) of this title, has the same meaning as in 15 U.S.C. § 6809; and

(B) as used in subdivision 2417(a)(14) of this title, has the same meaning as in 8 V.S.A. § 11101.

(22) “Gender-affirming health care services” has the same meaning as in 1 V.S.A. § 150.

(23) “Gender-affirming health data” means any personal data concerning a past, present, or future effort made by a consumer to seek, or a consumer’s receipt of, gender-affirming health care services, including:

(A) precise geolocation data that is used for determining a consumer’s attempt to acquire or receive gender-affirming health care services;

(B) efforts to research or obtain gender-affirming health care services; and

(C) any gender-affirming health data that is derived from nonhealth information.

(24) “Genetic data” means any data, regardless of its format, that results from the analysis of a biological sample of an individual, or from another source enabling equivalent information to be obtained, and concerns genetic material, including deoxyribonucleic acids (DNA), ribonucleic acids (RNA), genes, chromosomes, alleles, genomes, alterations or modifications to DNA or RNA, single nucleotide polymorphisms (SNPs), epigenetic markers, uninterpreted data that results from analysis of the biological sample or other source, and any information extrapolated, derived, or inferred therefrom.

(25) “Geofence” means any technology that uses global positioning coordinates, cell tower connectivity, cellular data, radio frequency identification, wireless fidelity technology data, or any other form of location detection, or any combination of such coordinates, connectivity, data, identification, or other form of location detection, to establish a virtual boundary.

(26) “Health care facility” has the same meaning as in 18 V.S.A. § 9432.

(27) “Heightened risk of harm to a minor” means processing the personal data of a minor in a manner that presents a reasonably foreseeable risk of:

(A) material physical or financial injury to a minor;

(B) emotional distress, as that term is defined in 13 V.S.A. § 1061(2), to a minor;

(C) a highly offensive intrusion on the reasonable privacy expectations of a minor;

(D) the encouragement of excessive or compulsive use of an online service, product, or feature by a minor; or

(E) discrimination against the minor based upon the minor's race, ethnicity, sex, disability, sexual orientation, gender identity, gender expression, or national origin.

(28) "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, and any regulations promulgated pursuant to the act, as may be amended.

(29) "Identified or identifiable individual" means an individual who can be readily identified, directly or indirectly, including by reference to an identifier such as a name, an identification number, specific geolocation data, or an online identifier.

(30) "Independent trust company" has the same meaning as in 8 V.S.A. § 2401.

(31) "Investment adviser" has the same meaning as in 9 V.S.A. § 5102.

(32) "Mental health facility" means any health care facility in which at least 70 percent of the health care services provided in the facility are mental health services.

(33) "Nonpublic personal information" has the same meaning as in 15 U.S.C. § 6809.

(34)(A) "Online service, product, or feature" means any service, product, or feature that is provided online, except as provided in subdivision (B) of this subdivision (33).

(B) "Online service, product, or feature" does not include:

(i) telecommunications service, as that term is defined in the Communications Act of 1934, 47 U.S.C. § 153;

(ii) broadband internet access service, as that term is defined in 47 C.F.R. § 54.400 (universal service support); or

(iii) the delivery or use of a physical product.

(35) "Patient identifying information" has the same meaning as in 42 C.F.R. § 2.11 (confidentiality of substance use disorder patient records).

(36) "Patient safety work product" has the same meaning as in 42 C.F.R. § 3.20 (patient safety organizations and patient safety work product).

(37)(A) “Personal data” means any information, including derived data and unique identifiers, that is linked or reasonably linkable to an identified or identifiable individual or to a device that identifies, is linked to, or is reasonably linkable to one or more identified or identifiable individuals in a household.

(B) “Personal data” does not include de-identified data or publicly available information.

(38)(A) “Precise geolocation data” means personal data derived from technology that accurately identifies within a radius of 1,850 feet a consumer’s present or past location or the present or past location of a device that links or is linkable to a consumer or any data that is derived from a device that is used or intended to be used to locate a consumer within a radius of 1,850 feet by means of technology that includes a global positioning system that provides latitude and longitude coordinates.

(B) “Precise geolocation data” does not include the content of communications or any data generated by or connected to advanced utility metering infrastructure systems or equipment for use by a utility.

(39) “Process” or “processing” means any operation or set of operations performed, whether by manual or automated means, on personal data or on sets of personal data, such as the collection, use, storage, disclosure, analysis, deletion, or modification of personal data.

(40) “Processor” means a person who processes personal data on behalf of a controller.

(41) “Profiling” means any form of automated processing performed on personal data to evaluate, analyze, or predict personal aspects related to an identified or identifiable individual’s economic situation, health, personal preferences, interests, reliability, behavior, location, or movements.

(42) “Protected health information” has the same meaning as in HIPAA.

(43) “Pseudonymous data” means personal data that cannot be attributed to a specific individual without the use of additional information, provided the additional information is kept separately and is subject to appropriate technical and organizational measures to ensure that the personal data is not attributed to an identified or identifiable individual.

(44) “Publicly available information” means information that:

(A) is lawfully made available through federal, state, or local government records or widely distributed media; or

(B) a controller has a reasonable basis to believe a consumer has lawfully made available to the general public.

(45) “Qualified service organization” has the same meaning as in 42 C.F.R. § 2.11 (confidentiality of substance use disorder patient records);

(46) “Reproductive or sexual health care” has the same meaning as “reproductive health care services” in 1 V.S.A. § 150(c)(1).

(47) “Reproductive or sexual health data” means any personal data concerning a past, present, or future effort made by a consumer to seek, or a consumer’s receipt of, reproductive or sexual health care.

(48) “Reproductive or sexual health facility” means any health care facility in which at least 70 percent of the health care-related services or products rendered or provided in the facility are reproductive or sexual health care.

(49)(A) “Sale of personal data” means the exchange of a consumer’s personal data by the controller to a third party for monetary or other valuable consideration.

(B) “Sale of personal data” does not include:

(i) the disclosure of personal data to a processor that processes the personal data on behalf of the controller;

(ii) the disclosure of personal data to a third party for purposes of providing a product or service requested by the consumer;

(iii) the disclosure or transfer of personal data to an affiliate of the controller;

(iv) the disclosure of personal data where the consumer directs the controller to disclose the personal data or intentionally uses the controller to interact with a third party;

(v) the disclosure of personal data that the consumer:

(I) intentionally made available to the general public via a channel of mass media; and

(II) did not restrict to a specific audience; or

(vi) the disclosure or transfer of personal data to a third party as an asset that is part of a merger, acquisition, bankruptcy or other transaction, or a proposed merger, acquisition, bankruptcy, or other transaction, in which the third party assumes control of all or part of the controller’s assets.

(50) “Sensitive data” means personal data that:

(A) reveals a consumer's government-issued identifier, such as a Social Security number, passport number, state identification card, or driver's license number, that is not required by law to be publicly displayed;

(B) reveals a consumer's racial or ethnic origin, national origin, citizenship or immigration status, religious or philosophical beliefs, or union membership;

(C) reveals a consumer's sexual orientation, sex life, sexuality, or status as transgender or nonbinary;

(D) reveals a consumer's status as a victim of a crime;

(E) is financial information, including a consumer's tax return and account number, financial account log-in, financial account, debit card number, or credit card number in combination with any required security or access code, password, or credentials allowing access to an account;

(F) is consumer health data;

(G) is personal data collected and analyzed concerning consumer health data or personal data that describes or reveals a past, present, or future mental or physical health condition, treatment, disability, or diagnosis, including pregnancy, to the extent the personal data is not used by the controller to identify a specific consumer's physical or mental health condition or diagnosis;

(H) is biometric or genetic data;

(I) is personal data collected from a known child;

(J) is a photograph, film, video recording, or other similar medium that shows the naked or undergarment-clad private area of a consumer; or

(K) is precise geolocation data.

(51)(A) "Targeted advertising" means displaying an advertisement to a consumer where the advertisement is selected based on personal data obtained or inferred from that consumer's activities over time and across nonaffiliated internet websites or online applications to predict the consumer's preferences or interests.

(B) "Targeted advertising" does not include:

(i) an advertisement based on activities within a controller's own websites or online applications;

(ii) an advertisement based on the context of a consumer's current search query, visit to a website, or use of an online application;

(iii) an advertisement directed to a consumer in response to the consumer's request for information or feedback; or

(iv) processing personal data solely to measure or report advertising frequency, performance, or reach.

(52) "Third party" means a person, such as a public authority, agency, or body, other than the consumer, controller, or processor or an affiliate of the processor or the controller.

(53) "Trade secret" has the same meaning as in section 4601 of this title.

(54) "Victim services organization" means a nonprofit organization that is established to provide services to victims or witnesses of child abuse, domestic violence, human trafficking, sexual assault, violent felony, or stalking.

#### § 2416. APPLICABILITY

(a) Except as provided in subsection (b) of this section, this chapter applies to a person that conducts business in this State or a person that produces products or services that are targeted to residents of this State and that during the preceding calendar year:

(1) controlled or processed the personal data of not fewer than 25,000 consumers, excluding personal data controlled or processed solely for the purpose of completing a payment transaction; or

(2) derived more than 50 percent of the person's gross revenue from the sale of personal data.

(b) Sections 2420 and 2426 of this title, and the provisions of this chapter concerning consumer health data and consumer health data controllers apply to a person that conducts business in this State or a person that produces products or services that are targeted to residents of this State.

#### § 2417. EXEMPTIONS

(a) This chapter does not apply to:

(1) a federal, State, tribal, or local government entity in the ordinary course of its operation;

(2) protected health information that a covered entity or business associate processes in accordance with, or documents that a covered entity or business associate creates for the purpose of complying with HIPAA;

(3) information used only for public health activities and purposes described in 45 C.F.R. § 164.512 (disclosure of protected health information without authorization);

(4) information that identifies a consumer in connection with:

(A) activities that are subject to the Federal Policy for the Protection of Human Subjects, codified as 45 C.F.R. part 46 (HHS protection of human subjects) and in various other federal regulations;

(B) research on human subjects undertaken in accordance with good clinical practice guidelines issued by the International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use;

(C) activities that are subject to the protections provided in 21 C.F.R. parts 50 (FDA clinical investigations protection of human subjects) and 56 (FDA clinical investigations institutional review boards); or

(D) research conducted in accordance with the requirements set forth in subdivisions (A) through (C) of this subdivision (a)(4) or otherwise in accordance with applicable law;

(5) patient identifying information that is collected and processed in accordance with 42 C.F.R. part 2 (confidentiality of substance use disorder patient records);

(6) patient safety work product that is created for purposes of improving patient safety under 42 C.F.R. part 3 (patient safety organizations and patient safety work product);

(7) information or documents created for the purposes of the Healthcare Quality Improvement Act of 1986, 42 U.S.C. § 11101–11152, and regulations adopted to implement that act;

(8) information that originates from, that is intermingled so as to be indistinguishable from, or that is treated in the same manner as information described in subdivisions (2)–(7) of this subsection that a covered entity, business associate, or a qualified service organization program creates, collects, processes, uses, or maintains in the same manner as is required under the laws, regulations, and guidelines described in subdivisions (2)–(7) of this subsection;

(9) information processed or maintained solely in connection with, and for the purpose of, enabling:

(A) an individual's employment or application for employment;

(B) an individual's ownership of, or function as a director or officer of, a business entity;

(C) an individual's contractual relationship with a business entity;

(D) an individual's receipt of benefits from an employer, including benefits for the individual's dependents or beneficiaries; or

(E) notice of an emergency to persons that an individual specifies;

(10) any activity that involves collecting, maintaining, disclosing, selling, communicating, or using information for the purpose of evaluating a consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living if done strictly in accordance with the provisions of the Fair Credit Reporting Act, 15 U.S.C. § 1681–1681x, as may be amended, by:

(A) a consumer reporting agency;

(B) a person who furnishes information to a consumer reporting agency under 15 U.S.C. § 1681s-2 (responsibilities of furnishers of information to consumer reporting agencies); or

(C) a person who uses a consumer report as provided in 15 U.S.C. § 1681b(a)(3) (permissible purposes of consumer reports);

(11) information collected, processed, sold, or disclosed under and in accordance with the following laws and regulations:

(A) the Driver's Privacy Protection Act of 1994, 18 U.S.C. § 2721–2725;

(B) the Airline Deregulation Act, Pub. L. No. 95-504, only to the extent that an air carrier collects information related to prices, routes, or services, and only to the extent that the provisions of the Airline Deregulation Act preempt this chapter;

(C) the Farm Credit Act, Pub. L. No. 92-181, as may be amended; or

(D) federal policy under 21 U.S.C. § 830 (regulation of listed chemicals and certain machines);

(12) nonpublic personal information that is processed by a financial institution or data subject to the Gramm-Leach-Bliley Act, Pub. L. No. 106-102, and regulations adopted to implement that act;

(13) information that originates from, or is intermingled so as to be indistinguishable from, information described in subdivision (12) of this subsection and that a controller or processor collects, processes, uses, or



maintains in the same manner as is required under the law and regulations specified in subdivision (12) of this subsection;

(14) a financial institution, credit union, independent trust company, broker-dealer, or investment adviser or a financial institution's, credit union's, independent trust company's, broker-dealer's, or investment adviser's affiliate or subsidiary that is only and directly engaged in financial activities, as described in 12 U.S.C. § 1843(k);

(15) a person regulated pursuant to part 3 of Title 8 (chapters 101–165) other than a person that, alone or in combination with another person, establishes and maintains a self-insurance program and that does not otherwise engage in the business of entering into policies of insurance;

(16) a third-party administrator, as that term is defined in the Third Party Administrator Rule adopted pursuant to 18 V.S.A. § 9417;

(17) a nonprofit organization that is established to detect and prevent fraudulent acts in connection with insurance;

(18) a public service company subject to the rules and orders of the Vermont Public Utility Commission regarding data sharing and service quality;

(19) an educational institution subject to the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, and regulations adopted to implement that act;

(20) personal data of a victim or witness of child abuse, domestic violence, human trafficking, sexual assault, violent felony, or stalking that a victim services organization collects, processes, or maintains in the course of its operation;

(21) personal data of health care service volunteers held by nonprofit organizations to facilitate provision of health care services; or

(22) noncommercial activity of:

(A) a publisher, editor, reporter, or other person who is connected with or employed by a newspaper, magazine, periodical, newsletter, pamphlet, report, or other publication in general circulation;

(B) a radio or television station that holds a license issued by the Federal Communications Commission;

(C) a nonprofit organization that provides programming to radio or television networks; or

(D) an entity that provides an information service, including a press association or wire service.

(b) Controllers, processors, and consumer health data controllers that comply with the verifiable parental consent requirements of COPPA shall be deemed compliant with any obligation to obtain parental consent pursuant to this chapter, including pursuant to section 2420 of this title.

§ 2418. CONSUMER PERSONAL DATA RIGHTS

(a) A consumer shall have the right to:

(1) confirm whether or not a controller is processing the consumer's personal data and access the personal data, unless the confirmation or access would require the controller to reveal a trade secret;

(2) obtain from a controller a list of third parties, other than individuals, to which the controller has transferred, at the controller's election, either the consumer's personal data or any personal data;

(3) correct inaccuracies in the consumer's personal data, taking into account the nature of the personal data and the purposes of the processing of the consumer's personal data;

(4) delete personal data provided by, or obtained about, the consumer;

(5) obtain a copy of the consumer's personal data processed by the controller, in a portable and, to the extent technically feasible, readily usable format that allows the consumer to transmit the data to another controller without hindrance, where the processing is carried out by automated means, provided such controller shall not be required to reveal any trade secret; and

(6) opt out of the processing of the personal data for purposes of:

(A) targeted advertising;

(B) the sale of personal data; or

(C) profiling in furtherance of solely automated decisions that produce legal or similarly significant effects concerning the consumer.

(b)(1) A consumer may exercise rights under this section by submitting a request to a controller using the method that the controller specifies in the privacy notice under section 2419 of this title.

(2) A controller shall not require a consumer to create an account for the purpose described in subdivision (1) of this subsection, but the controller may require the consumer to use an account the consumer previously created.

(3) A parent or legal guardian may exercise rights under this section on behalf of the parent's child or on behalf of a child for whom the guardian has legal responsibility. A guardian or conservator may exercise the rights under

this section on behalf of a consumer that is subject to a guardianship, conservatorship, or other protective arrangement.

(4)(A) A consumer may designate another person to act on the consumer's behalf as the consumer's authorized agent for the purpose of exercising the consumer's rights under subdivision (a)(4) or (a)(6) of this section.

(B) The consumer may designate an authorized agent by means of an internet link, browser setting, browser extension, global device setting, or other technology that enables the consumer to exercise the consumer's rights under subdivision (a)(4) or (a)(6) of this section.

(c) Except as otherwise provided in this chapter, a controller shall comply with a request by a consumer to exercise the consumer rights authorized pursuant to this chapter as follows:

(1)(A) A controller shall respond to the consumer without undue delay, but not later than 60 days after receipt of the request.

(B) The controller may extend the response period by 45 additional days when reasonably necessary, considering the complexity and number of the consumer's requests, provided the controller informs the consumer of the extension within the initial 60-day response period and of the reason for the extension.

(2) If a controller declines to take action regarding the consumer's request, the controller shall inform the consumer without undue delay, but not later than 45 days after receipt of the request, of the justification for declining to take action and instructions for how to appeal the decision.

(3)(A) Information provided in response to a consumer request shall be provided by a controller, free of charge, once per consumer during any 12-month period.

(B) If requests from a consumer are manifestly unfounded, excessive, or repetitive, the controller may charge the consumer a reasonable fee to cover the administrative costs of complying with the request or decline to act on the request.

(C) The controller bears the burden of demonstrating the manifestly unfounded, excessive, or repetitive nature of the request.

(4)(A) If a controller is unable to authenticate a request to exercise any of the rights afforded under subdivisions (a)(1)–(5) of this section using commercially reasonable efforts, the controller shall not be required to comply with a request to initiate an action pursuant to this section and shall provide

notice to the consumer that the controller is unable to authenticate the request to exercise the right or rights until the consumer provides additional information reasonably necessary to authenticate the consumer and the consumer's request to exercise the right or rights.

(B) A controller shall not be required to authenticate an opt-out request, but a controller may deny an opt-out request if the controller has a good faith, reasonable, and documented belief that the request is fraudulent.

(C) If a controller denies an opt-out request because the controller believes the request is fraudulent, the controller shall send a notice to the person who made the request disclosing that the controller believes the request is fraudulent, why the controller believes the request is fraudulent, and that the controller shall not comply with the request.

(5) A controller that has obtained personal data about a consumer from a source other than the consumer shall be deemed in compliance with a consumer's request to delete the data pursuant to subdivision (a)(4) of this section by:

(A) retaining a record of the deletion request and the minimum data necessary for the purpose of ensuring the consumer's personal data remains deleted from the controller's records and not using the retained data for any other purpose pursuant to the provisions of this chapter; or

(B) opting the consumer out of the processing of the personal data for any purpose except for those exempted pursuant to the provisions of this chapter.

(6) A controller may not condition the exercise of a right under this section through:

(A) the use of any false, fictitious, fraudulent, or materially misleading statement or representation; or

(B) the employment of any dark pattern.

(d) A controller shall establish a process by means of which a consumer may appeal the controller's refusal to take action on a request under subsection (b) of this section. The controller's process must:

(1) Allow a reasonable period of time after the consumer receives the controller's refusal within which to appeal.

(2) Be conspicuously available to the consumer.

(3) Be similar to the manner in which a consumer must submit a request under subsection (b) of this section.

(4) Require the controller to approve or deny the appeal within 45 days after the date on which the controller received the appeal and to notify the consumer in writing of the controller's decision and the reasons for the decision. If the controller denies the appeal, the notice must provide or specify information that enables the consumer to contact the Attorney General to submit a complaint.

#### § 2419. DUTIES OF CONTROLLERS

(a) A controller shall:

(1) specify in the privacy notice described in subsection (d) of this section the express purposes for which the controller is collecting and processing personal data;

(2) process personal data only:

(A) as reasonably necessary and proportionate to achieve a disclosed purpose for which the personal data was collected, consistent with the reasonable expectations of the consumer whose personal data is being processed;

(B) for another disclosed purpose that is compatible with the context in which the personal data was collected; or

(C) for a further disclosed purpose if the controller obtains the consumer's consent;

(3) establish, implement, and maintain reasonable administrative, technical, and physical data security practices to protect the confidentiality, integrity, and accessibility of personal data appropriate to the volume and nature of the personal data at issue; and

(4) provide an effective mechanism for a consumer to revoke consent to the controller's processing of the consumer's personal data that is at least as easy as the mechanism by which the consumer provided the consumer's consent and, upon revocation of the consent, cease to process the data as soon as practicable, but not later than 60 days after receiving the request.

(b) A controller shall not:

(1) process personal data beyond what is reasonably necessary and proportionate to the processing purpose;

(2) process sensitive data about a consumer without first obtaining the consumer's consent or, if the controller knows the consumer is a child, without processing the sensitive data in accordance with COPPA;

(3)(A) except as provided in subdivision (B) of this subdivision (3), process a consumer's personal data in a manner that discriminates against individuals or otherwise makes unavailable the equal enjoyment of goods or services on the basis of an individual's actual or perceived race, color, sex, sexual orientation or gender identity, physical or mental disability, religion, ancestry, or national origin;

(B) subdivision (A) of this subdivision (3) shall not apply to:

(i) a private establishment, as that term is used in 42 U.S.C. § 2000a(e) (prohibition against discrimination or segregation in places of public accommodation);

(ii) processing for the purpose of a controller's or processor's self-testing to prevent or mitigate unlawful discrimination; or

(iii) processing for the purpose of diversifying an applicant, participant, or consumer pool.

(4) process a consumer's personal data for the purposes of targeted advertising, of profiling the consumer in furtherance of decisions that produce legal or similarly significant effects concerning the consumer, or of selling the consumer's personal data without the consumer's consent if the controller knows that the consumer is at least 13 years of age and not older than 16 years of age; or

(5) discriminate or retaliate against a consumer who exercises a right provided to the consumer under this chapter or refuses to consent to the collection or processing of personal data for a separate product or service, including by:

(A) denying goods or services;

(B) charging different prices or rates for goods or services; or

(C) providing a different level of quality or selection of goods or services to the consumer.

(c) Subsections (a) and (b) of this section shall not be construed to:

(1) require a controller to provide a good or service that requires personal data from a consumer that the controller does not collect or maintain; or

(2) prohibit a controller from offering a different price, rate, level of quality, or selection of goods or services to a consumer, including an offer for no fee or charge, in connection with a consumer's voluntary participation in a

financial incentive program, such as a bona fide loyalty, rewards, premium features, discount, or club card program.

(d)(1) A controller shall provide to consumers a reasonably accessible, clear, and meaningful privacy notice that:

(A) lists the categories of personal data, including the categories of sensitive data, that the controller processes;

(B) describes the controller's purposes for processing the personal data;

(C) describes how a consumer may exercise the consumer's rights under this chapter, including how a consumer may appeal a controller's denial of a consumer's request under section 2418 of this title;

(D) lists all categories of personal data, including the categories of sensitive data, that the controller shares with third parties;

(E) describes all categories of third parties with which the controller shares personal data at a level of detail that enables the consumer to understand what type of entity each third party is and, to the extent possible, how each third party may process personal data;

(F) specifies an e-mail address or other online method by which a consumer can contact the controller that the controller actively monitors;

(G) identifies the controller, including any business name under which the controller registered with the Secretary of State and any assumed business name that the controller uses in this State;

(H) provides a clear and conspicuous description of any processing of personal data in which the controller engages for the purposes of targeted advertising, sale of personal data to third parties, or profiling the consumer in furtherance of decisions that produce legal or similarly significant effects concerning the consumer, and a procedure by which the consumer may opt out of this type of processing; and

(I) describes the method or methods the controller has established for a consumer to submit a request under subdivision 2418(b)(1) of this title.

(2) The privacy notice shall adhere to the accessibility and usability guidelines recommended under 42 U.S.C. chapter 126 (the Americans with Disabilities Act) and 29 U.S.C. 794d (section 508 of the Rehabilitation Act of 1973), including ensuring readability for individuals with disabilities across various screen resolutions and devices and employing design practices that facilitate easy comprehension and navigation for all users.

(e) The method or methods under subdivision (d)(1)(I) of this section for submitting a consumer's request to a controller must:

(1) take into account the ways in which consumers normally interact with the controller, the need for security and reliability in communications related to the request, and the controller's ability to authenticate the identity of the consumer that makes the request;

(2) provide a clear and conspicuous link to a website where the consumer or an authorized agent may opt out from a controller's processing of the consumer's personal data pursuant to subdivision 2418(a)(6) of this title or, solely if the controller does not have a capacity needed for linking to a webpage, provide another method the consumer can use to opt out; and

(3) allow a consumer or authorized agent to send a signal to the controller that indicates the consumer's preference to opt out of the sale of personal data or targeted advertising pursuant to subdivision 2418(a)(6) of this title by means of a platform, technology, or mechanism that:

(A) does not unfairly disadvantage another controller;

(B) does not use a default setting but instead requires the consumer or authorized agent to make an affirmative, voluntary, and unambiguous choice to opt out;

(C) is consumer friendly and easy for an average consumer to use;

(D) is as consistent as possible with similar platforms, technologies, or mechanisms required under federal or state laws or regulations; and

(E) enables the controller to reasonably determine whether the consumer has made a legitimate request pursuant to subsection 2418(b) of this title to opt out pursuant to subdivision 2418(a)(6) of this title.

(f) If a consumer or authorized agent uses a method under subdivision (d)(1)(I) of this section to opt out of a controller's processing of the consumer's personal data pursuant to subdivision 2418(a)(6) of this title and the decision conflicts with a consumer's voluntary participation in a bona fide reward, club card, or loyalty program or a program that provides premium features or discounts in return for the consumer's consent to the controller's processing of the consumer's personal data, the controller may either comply with the request to opt out or notify the consumer of the conflict and ask the consumer to affirm that the consumer intends to withdraw from the bona fide reward, club card, or loyalty program or the program that provides premium features or discounts. If the consumer affirms that the consumer intends to withdraw, the controller shall comply with the request to opt out.



§ 2420. DUTIES OF CONTROLLERS TO MINORS

(a)(1) A controller that offers any online service, product, or feature to a consumer whom the controller knows is a minor shall use reasonable care to avoid any heightened risk of harm to minors caused by the online service, product, or feature.

(2) In any action brought pursuant to section 2425 of this title, there is a rebuttable presumption that a controller used reasonable care as required under this section if the controller complied with this section.

(b) Unless a controller has obtained consent in accordance with subsection (c) of this section, a controller that offers any online service, product, or feature to a consumer whom the controller knows is a minor shall not:

(1) process a minor's personal data for the purposes of:

(A) targeted advertising;

(B) the sale of personal data; or

(C) profiling in furtherance of any solely automated decisions that produce legal or similarly significant effects concerning the consumer;

(2) process a minor's personal data for any purpose other than:

(A) the processing purpose that the controller disclosed at the time the controller collected the minor's personal data; or

(B) a processing purpose that is reasonably necessary for, and compatible with, the processing purpose that the controller disclosed at the time the controller collected the minor's personal data; or

(3) process a minor's personal data for longer than is reasonably necessary to provide the online service, product, or feature;

(4) use any system design feature, except for a service or application that is used by and under the direction of an educational entity, to significantly increase, sustain, or extend a minor's use of the online service, product, or feature; or

(5) collect a minor's precise geolocation data unless:

(A) the minor's precise geolocation data is reasonably necessary for the controller to provide the online service, product, or feature;

(B) the controller only collects the minor's precise geolocation data for the time necessary to provide the online service, product, or feature; and

(C) the controller provides to the minor a signal indicating that the controller is collecting the minor's precise geolocation data and makes the

signal available to the minor for the entire duration of the collection of the minor's precise geolocation data.

(c) A controller shall not engage in the activities described in subsection (b) of this section unless the controller obtains:

(1) the minor's consent; or

(2) if the minor is a child, the consent of the minor's parent or legal guardian.

(d) A controller that offers any online service, product, or feature to a consumer whom that controller knows is a minor shall not:

(1) employ any dark pattern; or

(2) except as provided in subsection (e) of this section, offer any direct messaging apparatus for use by a minor without providing readily accessible and easy-to-use safeguards to limit the ability of an adult to send unsolicited communications to the minor with whom the adult is not connected.

(e) Subdivision (d)(2) of this section does not apply to an online service, product, or feature of which the predominant or exclusive function is:

(1) e-mail; or

(2) direct messaging consisting of text, photographs, or videos that are sent between devices by electronic means, where messages are:

(A) shared between the sender and the recipient;

(B) only visible to the sender and the recipient; and

(C) not posted publicly.

#### § 2421. DUTIES OF PROCESSORS

(a) A processor shall adhere to a controller's instructions and shall assist the controller in meeting the controller's obligations under this chapter. In assisting the controller, the processor must:

(1) enable the controller to respond to requests from consumers pursuant to subsection 2418(b) of this title by means that:

(A) take into account how the processor processes personal data and the information available to the processor; and

(B) use appropriate technical and organizational measures to the extent reasonably practicable; and

(2) adopt administrative, technical, and physical safeguards that are reasonably designed to protect the security and confidentiality of the personal data the processor processes, taking into account how the processor processes the personal data and the information available to the processor.

(b) Processing by a processor must be governed by a contract between the controller and the processor. The contract must:

(1) be valid and binding on both parties;

(2) set forth clear instructions for processing data, the nature and purpose of the processing, the type of data that is subject to processing, and the duration of the processing;

(3) specify the rights and obligations of both parties with respect to the subject matter of the contract;

(4) ensure that each person that processes personal data is subject to a duty of confidentiality with respect to the personal data;

(5) require the processor to delete the personal data or return the personal data to the controller at the controller's direction or at the end of the provision of services, unless a law requires the processor to retain the personal data;

(6) require the processor to make available to the controller, at the controller's request, all information the controller needs to verify that the processor has complied with all obligations the processor has under this chapter;

(7) require the processor to enter into a subcontract with a person the processor engages to assist with processing personal data on the controller's behalf and in the subcontract require the subcontractor to meet the processor's obligations concerning personal data; and

(8)(A) allow the controller, the controller's designee, or a qualified and independent person the processor engages, in accordance with an appropriate and accepted control standard, framework, or procedure, to assess the processor's policies and technical and organizational measures for complying with the processor's obligations under this chapter;

(B) require the processor to cooperate with the assessment; and

(C) at the controller's request, report the results of the assessment to the controller.

(c) This section does not relieve a controller or processor from any liability that accrues under this chapter as a result of the controller's or processor's actions in processing personal data.

(d)(1) For purposes of determining obligations under this chapter, a person is a controller with respect to processing a set of personal data and is subject to an action under section 2425 of this title to punish a violation of this chapter, if the person:

(A) does not adhere to a controller's instructions to process the personal data; or

(B) begins at any point to determine the purposes and means for processing the personal data, alone or in concert with another person.

(2) A determination under this subsection is a fact-based determination that must take account of the context in which a set of personal data is processed.

(3) A processor that adheres to a controller's instructions with respect to a specific processing of personal data remains a processor.

#### § 2422. DUTIES OF PROCESSORS TO MINORS

(a) A processor shall adhere to the instructions of a controller and shall assist the controller in meeting the controller's obligations under section 2420 of this title, taking into account:

(1) the nature of the processing;

(2) the information available to the processor by appropriate technical and organizational measures; and

(3) whether the assistance is reasonably practicable and necessary to assist the controller in meeting its obligations.

(b) A contract between a controller and a processor must satisfy the requirements in subsection 2421(b) of this title.

(c) Nothing in this section shall be construed to relieve a controller or processor from the liabilities imposed on the controller or processor by virtue of the controller's or processor's role in the processing relationship as described in section 2420 of this title.

(d) Determining whether a person is acting as a controller or processor with respect to a specific processing of data is a fact-based determination that depends upon the context in which personal data is to be processed. A person that is not limited in the person's processing of personal data pursuant to a controller's instructions, or that fails to adhere to the instructions, is a

controller and not a processor with respect to a specific processing of data. A processor that continues to adhere to a controller's instructions with respect to a specific processing of personal data remains a processor. If a processor begins, alone or jointly with others, determining the purposes and means of the processing of personal data, the processor is a controller with respect to the processing and may be subject to an enforcement action under section 2425 of this title.

#### § 2423. DE-IDENTIFIED OR PSEUDONYMOUS DATA

(a) A controller in possession of de-identified data shall:

(1) take reasonable measures to ensure that the data cannot be used to re-identify an identified or identifiable individual or be associated with an individual or device that identifies or is linked or reasonably linkable to an individual or household;

(2) publicly commit to maintaining and using de-identified data without attempting to re-identify the data; and

(3) contractually obligate any recipients of the de-identified data to comply with the provisions of this chapter.

(b) This section does not prohibit a controller from attempting to re-identify de-identified data solely for the purpose of testing the controller's methods for de-identifying data.

(c) This chapter shall not be construed to require a controller or processor to:

(1) re-identify de-identified data; or

(2) maintain data in identifiable form, or collect, obtain, retain, or access any data or technology, in order to associate a consumer with personal data in order to authenticate the consumer's request under subsection 2418(b) of this title; or

(3) comply with an authenticated consumer rights request if the controller:

(A) is not reasonably capable of associating the request with the personal data or it would be unreasonably burdensome for the controller to associate the request with the personal data;

(B) does not use the personal data to recognize or respond to the specific consumer who is the subject of the personal data or associate the personal data with other personal data about the same specific consumer; and

(C) does not sell or otherwise voluntarily disclose the personal data to any third party, except as otherwise permitted in this section.

(d) The rights afforded under subdivisions 2418(a)(1)–(5) of this title shall not apply to pseudonymous data in cases where the controller is able to demonstrate that any information necessary to identify the consumer is kept separately and is subject to effective technical and organizational controls that prevent the controller from accessing the information.

(e) A controller that discloses or transfers pseudonymous data or de-identified data shall exercise reasonable oversight to monitor compliance with any contractual commitments to which the pseudonymous data or de-identified data is subject and shall take appropriate steps to address any breaches of those contractual commitments.

#### § 2424. CONSTRUCTION OF DUTIES OF CONTROLLERS AND PROCESSORS

(a) This chapter shall not be construed to restrict a controller's, processor's, or consumer health data controller's ability to:

(1) comply with federal, state, or municipal laws, ordinances, or regulations;

(2) comply with a civil, criminal, or regulatory inquiry, investigation, subpoena, or summons by federal, state, municipal, or other governmental authorities;

(3) cooperate with law enforcement agencies concerning conduct or activity that the controller, processor, or consumer health data controller reasonably and in good faith believes may violate federal, state, or municipal laws, ordinances, or regulations;

(4) carry out obligations under a contract under subsection 2421(b) of this title for a federal, State, tribal, or local government entity;

(5) investigate, establish, exercise, prepare for, or defend legal claims;

(6) provide a product or service specifically requested by the consumer to whom the personal data pertains;

(7) perform under a contract to which a consumer is a party, including fulfilling the terms of a written warranty;

(8) take steps at the request of a consumer prior to entering into a contract;

(9) take immediate steps to protect an interest that is essential for the life or physical safety of the consumer or another individual, and where the processing cannot be manifestly based on another legal basis;

(10) prevent, detect, protect against, or respond to a network security or physical security incident, including an intrusion or trespass, medical alert, or fire alarm;

(11) prevent, detect, protect against, or respond to identity theft, fraud, harassment, malicious or deceptive activity, or any criminal activity targeted at or involving the controller or processor or its services, preserve the integrity or security of systems, or investigate, report, or prosecute those responsible for the action;

(12) assist another controller, processor, consumer health data controller, or third party with any of the obligations under this chapter; or

(13) process personal data for reasons of public interest in the area of public health, community health, or population health, but solely to the extent that the processing is:

(A) subject to suitable and specific measures to safeguard the rights of the consumer whose personal data is being processed; and

(B) under the responsibility of a professional subject to confidentiality obligations under federal, state, or local law.

(b) The obligations imposed on controllers, processors, or consumer health data controllers under this chapter shall not restrict a controller's, processor's, or consumer health data controller's ability to collect, use, or retain data for internal use to:

(1) conduct internal research to develop, improve, or repair products, services, or technology;

(2) effectuate a product recall; or

(3) identify and repair technical errors that impair existing or intended functionality.

(c)(1) The obligations imposed on controllers, processors, or consumer health data controllers under this chapter shall not apply where compliance by the controller, processor, or consumer health data controller with this chapter would violate an evidentiary privilege under the laws of this State.

(2) This chapter shall not be construed to prevent a controller, processor, or consumer health data controller from providing personal data concerning a consumer to a person covered by an evidentiary privilege under the laws of the State as part of a privileged communication.

(d)(1) A controller, processor, or consumer health data controller that discloses personal data to a processor or third-party controller pursuant to this chapter shall not be deemed to have violated this chapter if the processor or third-party controller that receives and processes the personal data violates this chapter, provided, at the time the disclosing controller, processor, or consumer health data controller disclosed the personal data, the disclosing controller, processor, or consumer health data controller did not have actual knowledge that the receiving processor or third-party controller would violate this chapter.

(2) A third-party controller or processor receiving personal data from a controller, processor, or consumer health data controller in compliance with this chapter is not in violation of this chapter for the transgressions of the controller, processor, or consumer health data controller from which the third-party controller or processor receives the personal data.

(e) This chapter shall not be construed to:

(1) impose any obligation on a controller, processor, or consumer health data controller that adversely affects the rights or freedoms of any person, including the rights of any person:

(A) to freedom of speech or freedom of the press guaranteed in the First Amendment to the U.S. Constitution; or

(B) under 12 V.S.A. § 1615; or

(2) apply to any person's processing of personal data in the course of the person's purely personal or household activities.

(f)(1) Personal data processed by a controller or consumer health data controller pursuant to this section may be processed to the extent that the processing is:

(A) reasonably necessary and proportionate to the purposes listed in this section; and

(B) adequate, relevant, and limited to what is necessary in relation to the specific purposes listed in this section.

(2)(A) Personal data collected, used, or retained pursuant to subsection (b) of this section shall, where applicable, take into account the nature and purpose or purposes of the collection, use, or retention.



(B) Personal data collected, used, or retained pursuant to subsection (b) of this section shall be subject to reasonable administrative, technical, and physical measures to protect the confidentiality, integrity, and accessibility of the personal data and to reduce reasonably foreseeable risks of harm to consumers relating to the collection, use, or retention of personal data.

(g) If a controller or consumer health data controller processes personal data pursuant to an exemption in this section, the controller or consumer health data controller bears the burden of demonstrating that the processing qualifies for the exemption and complies with the requirements in subsection (f) of this section.

(h) Processing personal data for the purposes expressly identified in this section shall not solely make a legal entity a controller or consumer health data controller with respect to the processing.

#### § 2425. ENFORCEMENT; ATTORNEY GENERAL'S POWERS

(a) The Attorney General shall have exclusive authority to enforce violations of this chapter.

(b)(1) The Attorney General may, prior to initiating any action for a violation of any provision of this chapter, issue a notice of violation to the controller or consumer health data controller if the Attorney General determines that a cure is possible.

(2) The Attorney General may, in determining whether to grant a controller, processor, or consumer health data controller the opportunity to cure an alleged violation described in subdivision (1) of this subsection, consider:

(A) the number of violations;

(B) the size and complexity of the controller, processor, or consumer health data controller;

(C) the nature and extent of the controller's, processor's, or consumer health data controller's processing activities;

(D) the substantial likelihood of injury to the public;

(E) the safety of persons or property;

(F) whether the alleged violation was likely caused by human or technical error; and

(G) the sensitivity of the data.

(c) Annually, on or before February 1, the Attorney General shall submit a report to the General Assembly disclosing:

(1) the number of notices of violation the Attorney General has issued;

(2) the nature of each violation;

(3) the number of violations that were cured during the available cure period; and

(4) any other matter the Attorney General deems relevant for the purposes of the report.

(d) This chapter shall not be construed as providing the basis for, or be subject to, a private right of action for violations of this chapter or any other law.

(e) A violation of the requirements of this chapter shall constitute an unfair and deceptive act in commerce in violation of section 2453 of this title and shall be enforced solely by the Attorney General, provided that a consumer private right of action under subsection 2461(b) of this title shall not apply to the violation.

#### § 2426. CONFIDENTIALITY OF CONSUMER HEALTH DATA

Except as provided in subsections 2417(a) and (b) of this title and section 2424 of this title, no person shall:

(1) provide any employee or contractor with access to consumer health data unless the employee or contractor is subject to a contractual or statutory duty of confidentiality;

(2) provide any processor with access to consumer health data unless the person and processor comply with section 2421 of this title;

(3) use a geofence to establish a virtual boundary that is within 1,850 feet of any health care facility, mental health facility, or reproductive or sexual health facility for the purpose of identifying, tracking, collecting data from, or sending any notification to a consumer regarding the consumer's consumer health data; or

(4) sell or offer to sell consumer health data without first obtaining the consumer's consent.

Sec. 2. 3 V.S.A. § 5023 is amended to read:

§ 5023. ARTIFICIAL INTELLIGENCE AND DATA PRIVACY  
ADVISORY COUNCIL

(a)(1) Advisory Council. There is established the Artificial Intelligence and Data Privacy Advisory Council to:

(A) provide advice and counsel to the Director of the Division of Artificial Intelligence ~~with regard to~~ on the Division's responsibilities to review all aspects of artificial intelligence systems developed, employed, or procured in State government;

~~(B) The Council,~~ in consultation with the Director of the Division, ~~shall also~~ engage in public outreach and education on artificial intelligence;

(C) provide advice and counsel to the Attorney General in carrying out the Attorney General's enforcement responsibilities under the Vermont Data Privacy Act; and

(D) develop policy recommendations for improving data privacy in Vermont, including recommendations for implementing a private right of action and developing education and outreach on the Vermont Data Privacy Act, which shall be provided to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on Commerce and Economic Development by January 15, 2025.

(2) The Advisory Council shall have the authority to establish subcommittees to carry out the purposes of subdivision (1)(D) of this subsection.

(b) Members.

(1) Members. The Advisory Council shall be composed of the following members:

(A) the Secretary of Digital Services or designee;

(B) the Secretary of Commerce and Community Development or designee;

(C) the Commissioner of Public Safety or designee;

(D) the Executive Director of the American Civil Liberties Union of Vermont or designee;

(E) one member who is an expert in constitutional and legal rights, appointed by the Chief Justice of the Supreme Court;

(F) one member with experience in the field of ethics and human rights, appointed by the Governor;

(G) one member who is an academic at a postsecondary institute, appointed by the Vermont Academy of Science and Engineering;

(H) the Commissioner of Health or designee;

(I) the Executive Director of Racial Equity or designee; and

(J) the Attorney General or designee;

(K) one member representing Vermont small businesses, appointed by the Speaker of the House; and

(L) one member who is an expert in data privacy, appointed by the Committee on Committees.

(2) Chair. Members of the Advisory Council shall elect by majority vote the Chair of the Advisory Council. Members of the Advisory Council shall be appointed on or before August 1, 2022 in order to prepare as they deem necessary for the establishment of the Advisory Council, including the election of the Chair of the Advisory Council, except that the member representing Vermont small businesses and the member who is an expert in data privacy shall be appointed on or before August 1, 2024.

(3) Qualifications. Members shall be drawn from diverse backgrounds and, to the extent possible, have experience with artificial intelligence.

(c) Meetings. The Advisory Council shall meet at the call of the Chair as follows:

(1) on or before January 31, 2024, not more than 12 times; and

(2) on or after February 1, 2024, not more than monthly.

(d) Quorum. A majority of members shall constitute a quorum of the Advisory Council. Once a quorum has been established, the vote of a majority of the members present at the time of the vote shall be an act of the Advisory Council.

(e) Assistance. The Advisory Council shall have the administrative and technical support of the Agency of Digital Services.

(f) Reimbursement. Members of the Advisory Council who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to compensation and expenses as provided in 32 V.S.A. § 1010.

(g) Consultation. The In its advice and counsel to the Director of the Division of Artificial Intelligence, the Advisory Council shall consult with any relevant national bodies on artificial intelligence, including the National Artificial Intelligence Advisory Committee established by the Department of Commerce, and its applicability to Vermont. In its advice and counsel to the Attorney General, the Advisory Council shall consult with enforcement authorities in states with comparable comprehensive data privacy regimes.

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

(i) Limitation. The advice and counsel of the Advisory Council shall not limit the discretionary authority of the Attorney General to enforce the Vermont Data Privacy Act.

Sec. 3. 9 V.S.A. chapter 62 is amended to read:

## CHAPTER 62. PROTECTION OF PERSONAL INFORMATION

### Subchapter 1. General Provisions

#### § 2430. DEFINITIONS

As used in this chapter:

(1) “Biometric data” shall have the same meaning as in section 2415 of this title.

(2)(A) “Brokered personal information” means one or more of the following computerized data elements about a consumer, if categorized or organized for dissemination to third parties:

- (i) name;
- (ii) address;
- (iii) date of birth;
- (iv) place of birth;
- (v) mother’s maiden name;

(vi) ~~unique biometric data generated from measurements or technical analysis of human body characteristics used by the owner or licensee of the data to identify or authenticate the consumer, such as a fingerprint, retina or iris image, or other unique physical representation or digital representation of biometric data;~~

(vii) name or address of a member of the consumer’s immediate family or household;

(viii) Social Security number or other government-issued identification number; or

(ix) other information that, alone or in combination with the other information sold or licensed, would allow a reasonable person to identify the consumer with reasonable certainty.

(B) “Brokered personal information” does not include publicly available information ~~to the extent that it is related to a consumer’s business or profession~~ as that term is defined in section 2415 of this title.

~~(2)~~(3) “Business” means a controller, a consumer health data controller, a processor, or a commercial entity, including a sole proprietorship, partnership, corporation, association, limited liability company, or other group, however organized and whether or not organized to operate at a profit, including a financial institution organized, chartered, or holding a license or authorization certificate under the laws of this State, any other state, the United States, or any other country, or the parent, affiliate, or subsidiary of a financial institution, but does not include the State, a State agency, any political subdivision of the State, or a vendor acting solely on behalf of, and at the direction of, the State.

~~(3)~~(4) “Consumer” means an individual ~~residing in this State who is a resident of the State or an individual who is in the State at the time a data broker collects the individual’s data.~~

(5) “Consumer health data controller” has the same meaning as in section 2415 of this title.

(6) “Controller” has the same meaning as in section 2415 of this title.

~~(4)~~(7)(A) “Data broker” means a business, or unit or units of a business, separately or together, that knowingly collects and sells or licenses to third parties the brokered personal information of a consumer with whom the business does not have a direct relationship.

(B) Examples of a direct relationship with a business include if the consumer is a past or present:

- (i) customer, client, subscriber, user, or registered user of the business’s goods or services;
- (ii) employee, contractor, or agent of the business;
- (iii) investor in the business; or
- (iv) donor to the business.

(C) The following activities conducted by a business, and the collection and sale or licensing of brokered personal information incidental to conducting these activities, do not qualify the business as a data broker:

(i) developing or maintaining third-party e-commerce or application platforms;

(ii) providing 411 directory assistance or directory information services, including name, address, and telephone number, on behalf of or as a function of a telecommunications carrier;

(iii) providing publicly available information related to a consumer's business or profession; or

(iv) providing publicly available information via real-time or near-real-time alert services for health or safety purposes.

(D) The phrase "sells or licenses" does not include:

(i) a one-time or occasional sale of assets of a business as part of a transfer of control of those assets that is not part of the ordinary conduct of the business; or

(ii) a sale or license of data that is merely incidental to the business; or

(iii) the disclosure of brokered personal information that a consumer intentionally made available to the general public via a channel of mass media and did not restrict to a specific audience.

~~(5)~~(8)(A) "Data broker security breach" means an unauthorized acquisition or a reasonable belief of an unauthorized acquisition of more than one element of brokered personal information maintained by a data broker when the brokered personal information is not encrypted, redacted, or protected by another method that renders the information unreadable or unusable by an unauthorized person.

(B) "Data broker security breach" does not include good faith but unauthorized acquisition of brokered personal information by an employee or agent of the data broker for a legitimate purpose of the data broker, provided that the brokered personal information is not used for a purpose unrelated to the data broker's business or subject to further unauthorized disclosure.

(C) In determining whether brokered personal information has been acquired or is reasonably believed to have been acquired by a person without valid authorization, a data broker may consider the following factors, among others:

(i) indications that the brokered personal information is in the physical possession and control of a person without valid authorization, such as a lost or stolen computer or other device containing brokered personal information;

(ii) indications that the brokered personal information has been downloaded or copied;

(iii) indications that the brokered personal information was used by an unauthorized person, such as fraudulent accounts opened or instances of identity theft reported; or

(iv) that the brokered personal information has been made public.

~~(6)~~(9) “Data collector” means a person who, for any purpose, whether by automated collection or otherwise, handles, collects, disseminates, or otherwise deals with personally identifiable information, and includes the State, State agencies, political subdivisions of the State, public and private universities, privately and publicly held corporations, limited liability companies, financial institutions, and retail operators.

~~(7)~~(10) “Encryption” means use of an algorithmic process to transform data into a form in which the data is rendered unreadable or unusable without use of a confidential process or key.

~~(8)~~(11) “License” means a grant of access to, or distribution of, data by one person to another in exchange for consideration. A use of data for the sole benefit of the data provider, where the data provider maintains control over the use of the data, is not a license.

~~(9)~~(12) “Login credentials” means a consumer’s user name or e-mail address, in combination with a password or an answer to a security question, that together permit access to an online account.

~~(10)~~(13)(A) “Personally identifiable information” means a consumer’s first name or first initial and last name in combination with one or more of the following digital data elements, when the data elements are not encrypted, redacted, or protected by another method that renders them unreadable or unusable by unauthorized persons:

(i) a Social Security number;

(ii) a driver license or nondriver State identification card number, individual taxpayer identification number, passport number, military identification card number, or other identification number that originates from a government identification document that is commonly used to verify identity for a commercial transaction;



(iii) a financial account number or credit or debit card number, if the number could be used without additional identifying information, access codes, or passwords;

(iv) a password, personal identification number, or other access code for a financial account;

~~(v) unique biometric data generated from measurements or technical analysis of human body characteristics used by the owner or licensee of the data to identify or authenticate the consumer, such as a fingerprint, retina or iris image, or other unique physical representation or digital representation of biometric data;~~

(vi) genetic information; and

(vii)(I) health records or records of a wellness program or similar program of health promotion or disease prevention;

(II) a health care professional's medical diagnosis or treatment of the consumer; or

(III) a health insurance policy number.

(B) "Personally identifiable information" does not mean publicly available information that is lawfully made available to the general public from federal, State, or local government records.

(14) "Processor" has the same meaning as in section 2415 of this title.

~~(11)~~(15) "Record" means any material on which written, drawn, spoken, visual, or electromagnetic information is recorded or preserved, regardless of physical form or characteristics.

~~(12)~~(16) "Redaction" means the rendering of data so that the data are unreadable or are truncated so that ~~no~~ not more than the last four digits of the identification number are accessible as part of the data.

~~(13)~~(17)(A) "Security breach" means unauthorized acquisition of electronic data, or a reasonable belief of an unauthorized acquisition of electronic data, that compromises the security, confidentiality, or integrity of a consumer's personally identifiable information or login credentials maintained by a data collector.

(B) "Security breach" does not include good faith but unauthorized acquisition of personally identifiable information or login credentials by an employee or agent of the data collector for a legitimate purpose of the data collector, provided that the personally identifiable information or login

credentials are not used for a purpose unrelated to the data collector's business or subject to further unauthorized disclosure.

(C) In determining whether personally identifiable information or login credentials have been acquired or is reasonably believed to have been acquired by a person without valid authorization, a data collector may consider the following factors, among others:

- (i) indications that the information is in the physical possession and control of a person without valid authorization, such as a lost or stolen computer or other device containing information;
- (ii) indications that the information has been downloaded or copied;
- (iii) indications that the information was used by an unauthorized person, such as fraudulent accounts opened or instances of identity theft reported; or
- (iv) that the information has been made public.

\* \* \*

Subchapter 2. ~~Security Breach Notice Act~~ Data Security Breaches

\* \* \*

§ 2436. NOTICE OF DATA BROKER SECURITY BREACH

(a) Short title. This section shall be known as the Data Broker Security Breach Notice Act.

(b) Notice of breach.

(1) Except as otherwise provided in subsection (c) of this section, any data broker shall notify the consumer that there has been a data broker security breach following discovery or notification to the data broker of the breach. Notice of the security breach shall be made in the most expedient time possible and without unreasonable delay, but not later than 45 days after the discovery or notification, consistent with the legitimate needs of the law enforcement agency, as provided in subdivisions (3) and (4) of this subsection, or with any measures necessary to determine the scope of the security breach and restore the reasonable integrity, security, and confidentiality of the data system.

(2) A data broker shall provide notice of a breach to the Attorney General as follows:

(A)(i) The data broker shall notify the Attorney General of the date of the security breach and the date of discovery of the breach and shall provide

a preliminary description of the breach within 14 business days, consistent with the legitimate needs of the law enforcement agency, as provided in subdivisions (3) and (4) of this subsection (b), after the data broker's discovery of the security breach or when the data broker provides notice to consumers pursuant to this section, whichever is sooner.

(ii) If the date of the breach is unknown at the time notice is sent to the Attorney General, the data broker shall send the Attorney General the date of the breach as soon as it is known.

(iii) Unless otherwise ordered by a court of this State for good cause shown, a notice provided under this subdivision (2)(A) shall not be disclosed to any person other than the authorized agent or representative of the Attorney General, a State's Attorney, or another law enforcement officer engaged in legitimate law enforcement activities without the consent of the data broker.

(B)(i) When the data broker provides notice of the breach pursuant to subdivision (1) of this subsection (b), the data broker shall notify the Attorney General of the number of Vermont consumers affected, if known to the data broker, and shall provide a copy of the notice provided to consumers under subdivision (1) of this subsection (b).

(ii) The data broker may send to the Attorney General a second copy of the consumer notice, from which is redacted the type of brokered personal information that was subject to the breach, that the Attorney General shall use for any public disclosure of the breach.

(3) The notice to a consumer required by this subsection shall be delayed upon request of a law enforcement agency. A law enforcement agency may request the delay if it believes that notification may impede a law enforcement investigation or a national or Homeland Security investigation or jeopardize public safety or national or Homeland Security interests. In the event law enforcement makes the request for a delay in a manner other than in writing, the data broker shall document the request contemporaneously in writing and include the name of the law enforcement officer making the request and the officer's law enforcement agency engaged in the investigation. A law enforcement agency shall promptly notify the data broker in writing when the law enforcement agency no longer believes that notification may impede a law enforcement investigation or a national or Homeland Security investigation, or jeopardize public safety or national or Homeland Security interests. The data broker shall provide notice required by this section without unreasonable delay upon receipt of a written communication, which includes

facsimile or electronic communication, from the law enforcement agency withdrawing its request for delay.

(4) The notice to a consumer required in subdivision (1) of this subsection shall be clear and conspicuous. A notice to a consumer of a security breach involving brokered personal information shall include a description of each of the following, if known to the data broker:

(A) the incident in general terms;

(B) the type of brokered personal information that was subject to the security breach;

(C) the general acts of the data broker to protect the brokered personal information from further security breach;

(D) a telephone number, toll-free if available, that the consumer may call for further information and assistance;

(E) advice that directs the consumer to remain vigilant by reviewing account statements and monitoring free credit reports; and

(F) the approximate date of the data broker security breach.

(5) A data broker may provide notice of a security breach involving brokered personal information to a consumer by two or more of the following methods:

(A) written notice mailed to the consumer's residence;

(B) electronic notice, for those consumers for whom the data broker has a valid e-mail address, if:

(i) the data broker's primary method of communication with the consumer is by electronic means, the electronic notice does not request or contain a hypertext link to a request that the consumer provide personal information, and the electronic notice conspicuously warns consumers not to provide personal information in response to electronic communications regarding security breaches; or

(ii) the notice is consistent with the provisions regarding electronic records and signatures for notices in 15 U.S.C. § 7001;

(C) telephonic notice, provided that telephonic contact is made directly with each affected consumer and not through a prerecorded message; or

(D) notice by publication in a newspaper of statewide circulation in the event the data broker cannot effectuate notice by any other means.

(c) Exception.

(1) Notice of a security breach pursuant to subsection (b) of this section is not required if the data broker establishes that misuse of brokered personal information is not reasonably possible and the data broker provides notice of the determination that the misuse of the brokered personal information is not reasonably possible pursuant to the requirements of this subsection. If the data broker establishes that misuse of the brokered personal information is not reasonably possible, the data broker shall provide notice of its determination that misuse of the brokered personal information is not reasonably possible and a detailed explanation for said determination to the Vermont Attorney General. The data broker may designate its notice and detailed explanation to the Vermont Attorney General as a trade secret if the notice and detailed explanation meet the definition of trade secret contained in 1 V.S.A. § 317(c)(9).

(2) If a data broker established that misuse of brokered personal information was not reasonably possible under subdivision (1) of this subsection and subsequently obtains facts indicating that misuse of the brokered personal information has occurred or is occurring, the data broker shall provide notice of the security breach pursuant to subsection (b) of this section.

(d) Waiver. Any waiver of the provisions of this subchapter is contrary to public policy and is void and unenforceable.

(e) Enforcement.

(1) With respect to a controller or processor other than a controller or processor licensed or registered with the Department of Financial Regulation under title 8 or this title, the Attorney General and State's Attorney shall have sole and full authority to investigate potential violations of this chapter and to enforce, prosecute, obtain, and impose remedies for a violation of this chapter or any rules or regulations adopted pursuant to this chapter as the Attorney General and State's Attorney have under chapter 63 of this title. The Attorney General may refer the matter to the State's Attorney in an appropriate case. The Superior Courts shall have jurisdiction over any enforcement matter brought by the Attorney General or a State's Attorney under this subsection.

(2) With respect to a controller or processor that is licensed or registered with the Department of Financial Regulation under title 8 or this title, the Department of Financial Regulation shall have the full authority to investigate potential violations of this chapter and to enforce, prosecute, obtain, and impose remedies for a violation of this chapter or any rules or regulations

adopted pursuant to this chapter, as the Department has under title 8 or this title or any other applicable law or regulation.

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#### Subchapter 5. Data Brokers

#### § 2446. DATA BROKERS; ANNUAL REGISTRATION

(a) Annually, on or before January 31 following a year in which a person meets the definition of data broker as provided in section 2430 of this title, a data broker shall:

- (1) register with the Secretary of State;
- (2) pay a registration fee of \$100.00; and
- (3) provide the following information:

(A) the name and primary physical, e-mail, and ~~Internet~~ internet addresses of the data broker;

(B) if the data broker permits a consumer to opt out of the data broker's collection of brokered personal information, opt out of its databases, or opt out of certain sales of data:

- (i) the method for requesting an opt-out;
- (ii) if the opt-out applies to only certain activities or sales, which ones; and

(iii) whether the data broker permits a consumer to authorize a third party to perform the opt-out on the consumer's behalf;

(C) a statement specifying the data collection, databases, or sales activities from which a consumer may not opt out;

(D) a statement whether the data broker implements a purchaser credentialing process;

(E) the number of data broker security breaches that the data broker has experienced during the prior year, and if known, the total number of consumers affected by the breaches;

(F) where the data broker has actual knowledge that it possesses the brokered personal information of minors, a separate statement detailing the data collection practices, databases, sales activities, and opt-out policies that are applicable to the brokered personal information of minors; and

(G) any additional information or explanation the data broker chooses to provide concerning its data collection practices.

(b) A data broker that fails to register pursuant to subsection (a) of this section is liable to the State for:

(1) a civil penalty of ~~\$50.00~~ \$125.00 for each day, ~~not to exceed a total of \$10,000.00 for each year,~~ it fails to register pursuant to this section;

(2) an amount equal to the fees due under this section during the period it failed to register pursuant to this section; and

(3) other penalties imposed by law.

(c) A data broker that omits required information from its registration shall file an amendment to include the omitted information within 30 business days following notification of the omission and is liable to the State for a civil penalty of \$1,000.00 per day for each day thereafter.

(d) A data broker that files materially incorrect information in its registration:

(1) is liable to the State for a civil penalty of \$25,000.00; and

(2) if it fails to correct the false information within 30 business days after discovery or notification of the incorrect information, an additional civil penalty of \$1,000.00 per day for each day thereafter that it fails to correct the information.

(e) The Attorney General may maintain an action in the Civil Division of the Superior Court to collect the penalties imposed in this section and to seek appropriate injunctive relief.

\* \* \*

#### § 2448. DATA BROKERS; CREDENTIALING

(a) Credentialing.

(1) A data broker shall maintain reasonable procedures designed to ensure that the brokered personal information it discloses is used for a legitimate and legal purpose.

(2) These procedures shall require that prospective users of the information identify themselves, certify the purposes for which the information is sought, and certify that the information shall be used for no other purpose.

(3) A data broker shall make a reasonable effort to verify the identity of a new prospective user and the uses certified by the prospective user prior to furnishing the user brokered personal information.

(4) A data broker shall not furnish brokered personal information to any person if it has reasonable grounds for believing that the consumer report will not be used for a legitimate and legal purpose.

(b) Exemption. Nothing in this section applies to:

(1) brokered personal information that is:

(A) regulated as a consumer report pursuant to the Fair Credit Reporting Act, 15 U.S.C. § 1681–1681x, if the data broker is fully complying with the Act; or

(B) regulated pursuant to the Driver’s Privacy Protection Act of 1994, 18 U.S.C. § 2721–2725, if the data broker is fully complying with the Act;

(2) a public service company subject to the rules and orders of the Vermont Public Utility Commission regarding data sharing and service quality;

(3) a nonprofit organization that is established to detect and prevent fraudulent acts in connection with insurance; or

(4) a nonprofit organization that is established to provide enrollment data reporting services on behalf of postsecondary schools as that term is defined in 16 V.S.A. § 176.

#### Sec. 4. EFFECTIVE DATES

(a) This section and Sec. 2 (AI and Data Privacy Advisory Council) shall take effect on July 1, 2024.

(b) Sec. 1 (Vermont Data Privacy Act) and Sec. 3 (Protection of Personal Information) shall take effect on July 1, 2025.

(Committee vote: 5-0-0)

(For House amendments, see House Journal of March 21, 2024, pages 697 - 743)

**Reported favorably by Senator Perchlik for the Committee on Appropriations.**

The Committee recommends that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Economic Development, Housing and General Affairs.

(Committee vote: 7-0-0)



## H. 644.

An act relating to access to records by individuals who were in foster care.

### **Reported favorably with recommendation of proposal of amendment by Senator Vyhovsky for the Committee on Government Operations.**

The Committee recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 33 V.S.A. § 4921 is amended to read:

#### § 4921. DEPARTMENT'S RECORDS OF ABUSE AND NEGLECT

(a) Record maintenance and disclosure generally. The Commissioner shall maintain all records of all investigations, assessments, reviews, and responses initiated under this subchapter. The Department may use and disclose information from such records in the usual course of its business, including to assess future risk to children, to provide appropriate services to the child or members of the child's family, or for other legal purposes.

(b) Duty to inform parents or guardians. The Commissioner shall promptly inform the parents, if known, or guardian of the child that a report has been accepted as a valid allegation pursuant to subsection 4915(b) of this title and the Department's response to the report. The Department shall inform the parent or guardian of ~~his or her~~ the parent's or guardian's ability to request records pursuant to subsection (c) of this section. This section shall not apply if the parent or guardian is the subject of the investigation.

(c) Disclosure of redacted investigation files. Upon request, the redacted investigation file shall be disclosed to:

(1) the child's parents, foster parent, or guardian, absent good cause shown by the Department, provided that the child's parent, foster parent, or guardian is not the subject of the investigation;

(2) the person alleged to have abused or neglected the child, as provided for in subsection 4916a(d) of this title; and

(3) the attorney representing the child in a child custody proceeding in the Family Division of the Superior Court.

(d) Disclosure of records created by the Department. Upon request, Department records created under this subchapter shall be disclosed to:

(1) the court, parties to the juvenile proceeding, and the child's guardian ad litem if there is a pending juvenile proceeding or if the child is in the custody of the Commissioner;

(2) the Commissioner or person designated by the Commissioner to receive such records;

(3) persons assigned by the Commissioner to conduct investigations;

(4) law enforcement officers engaged in a joint investigation with the Department, an Assistant Attorney General, or a State's Attorney;

(5) other State agencies conducting related inquiries or proceedings; ~~and~~

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

(e)(1) Disclosure of relevant Department records or information. Upon request, relevant Department records or information created under this subchapter shall be disclosed to:

(A) a person, agency, or organization, including a multidisciplinary team empaneled under section 4917 of this title, authorized to diagnose, care for, treat, or supervise a child or family who is the subject of a report or record created under this subchapter, or who is responsible for the child's health or welfare;

(B) health and mental health care providers working directly with the child or family who is the subject of the report or record;

(C) educators working directly with the child or family who is the subject of the report or record;

(D) licensed or approved foster caregivers for the child;

(E) mandated reporters as defined by section 4913 of this subchapter, making a report in accordance with the provisions of section 4914 of this subchapter and engaging in an ongoing working relationship with the child or family who is the subject of the report;

(F) a Family Division of the Superior Court involved in any proceeding in which:

(i) custody of a child or parent-child contact is at issue pursuant to 15 V.S.A. chapter 11, subchapter 3A;

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

(iii) 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);

(G) a Probate Division of the Superior Court involved in guardianship proceedings; and

(H) other governmental entities for purposes of child protection.

(2) Determinations of relevancy shall be made by the Department.

(3) In providing records or information under this subsection, the Department may withhold:

(A) information that could compromise the safety of the reporter or the child or family who is the subject of the report; or

(B) specific details that could cause the child to experience significant mental or emotional stress.

(4) In providing records or information under this section, the Department may also provide other records related to its child protection activities for the child.

(5) Any persons or agencies authorized to receive confidential information under this section may share such information with other persons or agencies authorized to receive confidential information under this section for the purposes of providing services and benefits to the children and families those persons or agencies mutually serve.

(f) Disclosure to prevent harm. Upon request, relevant Department information created under this subchapter may be disclosed to a parent with a reasonable concern that an individual who is residing at least part time with the parent requestor's child presents a risk of abuse or neglect to the requestor's child. As it is used in this subsection, "relevant Department information" shall mean information regarding the individual that the Department determines could avert the risk of harm presented by the individual to the requestor's child. If the Department denies the request for information, the requestor may petition the Family Division of the Superior Court, which may, after weighing the privacy concerns of the individuals involved with the parent's right to protect his or her child, order the release of the information.

(g) Disclosure to adults that were subject to foster care placement.

(1) It is the intent of the General Assembly that it be the policy of the State that:

(A) adults who were subject to placement in State foster care, institutions, and other systemic placements have a statutory right to access their own records in order to more fully understand their own personal stories, including their health, education, family, and other histories; access healing in

their chosen way; and be recognized and trusted as legitimate custodians of their own information;

(B) the Department make good faith efforts to disclose such records in the broadest form permitted under applicable federal or State law in order to assist with the administration of Vermont's state plan for foster care and establishing eligibility for programs or services; and

(C) any disclosures made by the Department that are prohibited by applicable federal or State law be construed as good faith efforts of the Department to comply with the State's policy and statutory scheme.

(2) Upon request, Department records created under this subchapter shall be disclosed, at no cost, to an individual who meets the following criteria, to the extent permitted by federal or State law:

(A) the individual is the subject of the records requested;

(B) the individual is 18 years of age or older; and

(C) as a minor, the individual was in foster care or subject to any juvenile judicial proceeding under this title.

(3) In providing records or information pursuant to this subsection, the Department may withhold or redact the following:

(A) identifying information about any person, other than the subject, in which there is a substantial likelihood that a person's safety would be compromised if disclosed;

(B) information that creates a substantial likelihood that would compromise an active law enforcement investigation; or

(C) reports or investigatory records about the subject of the record request in which there is a formal allegation that the subject committed an act of abuse or neglect.

(g)(h) Penalty. Any records or information disclosed under this section and information relating to the contents of those records or reports shall not be disseminated by the receiving persons or agencies to any persons or agencies, other than to those persons or agencies authorized to receive information pursuant to this section. A person who intentionally violates the confidentiality provisions of this section shall be fined not more than \$2,000.00.

Sec. 2. 33 V.S.A. § 5117 is amended to read:

§ 5117. RECORDS OF JUVENILE JUDICIAL PROCEEDINGS

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

(b)(1) Notwithstanding ~~the foregoing~~ subsection (a) of this section, inspection of ~~such~~ the records and files by or dissemination of ~~such~~ the records and files to the following is not prohibited:

(A) a court having the child before it in any juvenile judicial proceeding;

(B) the officers of public institutions or agencies to whom the child is committed as a delinquent child;

(C) a court in which a person is convicted of a criminal offense for the purpose of imposing sentence upon or supervising the person, or by officials of penal institutions and other penal facilities to which the person is committed, or by a parole board in considering the person's parole or discharge or in exercising supervision over the person;

(D) the parties to the proceeding, court personnel, the State's Attorney or other prosecutor authorized to prosecute criminal or juvenile cases under State law, the child's guardian ad litem, the attorneys for the parties, probation officers, and law enforcement officers who are actively participating in criminal or juvenile proceedings involving the child;

(E) the child who is the subject of the proceeding, the child's parents, guardian, and custodian may inspect ~~such~~ the records and files upon approval of ~~the Family a Superior~~ a Superior Court judge;

(F) any other person who has a need to know may be designated by order of the Family Division of the Superior Court;

(G) the Commissioner of Corrections if the information would be helpful in preparing a presentence report, in determining placement, or in developing a treatment plan for a person convicted of a sex offense that requires registration pursuant to 13 V.S.A. chapter 167, subchapter 3;

(H) the Human Services Board and the Commissioner's Registry Review Unit in processes required under chapter 49 of this title;

(I) the Department for Children and Families;

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

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

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

(M) other State agencies, treatment programs, service providers, or those providing direct support to the youth, for the purpose of providing supervision or treatment to the youth; and

(N) an individual who:

(i) is the subject of the records sought by the request;

(ii) is 18 years of age or older; and

(iii) as a minor, was subject to any juvenile judicial proceeding under this title.

(2) Files inspected under this subsection shall be marked: UNLAWFUL DISSEMINATION OF THIS INFORMATION IS A CRIME PUNISHABLE BY A FINE UP TO \$2,000.00.

\* \* \*

### Sec. 3. DEPARTMENT FOR CHILDREN AND FAMILIES; DISCLOSURE CATEGORIES; RECORDKEEPING; REPORT

On or before November 15, 2025, the Department for Children and Families, in consultation with the Office of the Child, Youth, and Family Advocate and the Vermont State Archives and Records Administration, shall provide a written report to the Senate Committee on Government Operations and the House Committee on Government Operations and Military Affairs on its progress implementing 33 V.S.A. § 4921(g). The report shall include:

- (1) the number of requests for records pursuant to 33 V.S.A. § 4921(g);
- (2) the approximate or average amount of staff time required to comply with the requests;
- (3) systemic issues or barriers facing the Department, if any, in fulfilling the requests;
- (4) suggestions for increasing the types of records that are available to youth who have had involvement with the Department; and
- (5) any other information the Department deems pertinent for the General Assembly to consider as the State moves toward broader access of Department records to the youth whose lives are affected by Department involvement.

#### Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 6-0-0)

(For House amendments, see House Journal of March 19, 2024, page 571)

### **House Proposal of Amendment**

#### **S. 191.**

An act relating to New American educational grant opportunities

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Vermont Student Assistance Corporation \* \* \*

Sec. 1. 16 V.S.A. § 2846 is amended to read:

#### § 2846. ADVANCEMENT GRANTS

(a) The Corporation may establish an advancement grant program for residents pursuing nondegree education and training opportunities who do not meet the definition of student in subdivision 2822(3) of this title; and who may not meet the requirements of this subchapter.

(b) Advancement grants may be used at institutions that are not approved postsecondary education institutions.

(c) The Corporation may adopt rules or establish policies, procedures, standards, and forms for advancement grants, including the requirements for applying for and using the grants and the eligibility requirements for the institutions where the grants may be used. Such rules shall be consistent with subsection (d) of this section.

(d) Notwithstanding subsection (a) of this section, applicants shall not be ineligible for the advancement grant solely on account of the applicant's residency status under subdivision 2822(7) of this title if that applicant:

(1) qualifies as a refugee pursuant to 8 U.S.C. § 1101(a)(42) (definition of refugee);

(2) is granted parole to enter the United States pursuant to 8 U.S.C. § 1182(d)(5) (temporary admission of nonimmigrants for urgent humanitarian reasons); or

(3) is issued a special immigrant visa pursuant to the Afghan Allies Protection Act of 2009, Pub. L. No. 111-8 (8 U.S.C. § 1101 note), as amended.

## Sec. 2. INCENTIVE GRANT ELIGIBILITY; RESIDENCY

(a) Notwithstanding any provision of law to the contrary, applicants shall not be ineligible for the Vermont incentive grant program under 16 V.S.A. §§ 2841–2844 solely on account of that person's residency status if the applicant:

(1) qualifies as a refugee pursuant to 8 U.S.C. § 1101(a)(42) (definition of refugee);

(2) is granted parole to enter the United States pursuant to 8 U.S.C. § 1182(d)(5) (temporary admission of nonimmigrants for urgent humanitarian reasons); or

(3) is issued a special immigrant visa pursuant to the Afghan Allies Protection Act of 2009, Pub. L. No. 111-8 (8 U.S.C. § 1101 note), as amended.

(b) This section shall be repealed on July 1, 2027.

Sec. 3. 16 V.S.A. § 2828 is added to read:

## § 2828. FINANCIAL AID ELIGIBILITY FOR CERTAIN STUDENTS

(a) Notwithstanding any provision of law to the contrary, a resident who is otherwise eligible for a State-funded financial aid program administered by the Corporation shall not be ineligible solely on the basis of such resident's immigration status under federal law.

(b) The Corporation shall establish procedures and forms that enable residents eligible under subsection (a) of this section to apply for, and participate in, all State-funded student financial aid programs administered by the Corporation for which such residents are eligible to the full extent permitted by federal law. The Corporation may collect such information as is necessary to confirm eligibility for participation in programs administered by the Corporation.



(c) The Corporation may adopt rules pursuant to 3 V.S.A. chapter 25 as necessary to carry out the provisions of this section.

(d) The Corporation shall include information regarding the impact of this section and the number of students who receive financial aid pursuant to this section in its biannual report to the General Assembly pursuant to subsection 2835(c) of this title.

\* \* \* Vermont State Colleges Corporation \* \* \*

Sec. 4. 16 V.S.A. § 2185 is amended to read:

§ 2185. DETERMINATION OF RESIDENCY FOR TUITION PURPOSES

(a) The Board of Trustees shall adopt policies related to residency for tuition purposes, consistent with State and federal requirements. Any policies adopted by the Board shall not discriminate against or exclude a person based solely on the person's immigration status, or lack thereof, if such person would otherwise qualify for and meet requirements for Vermont residency for tuition purposes as set forth by the Board and as permitted under federal law.

(b) Any member of the U.S. Armed Forces on active duty who is transferred to Vermont for duty other than for the purpose of education shall, upon transfer and for the period of active duty served in Vermont, be considered a resident for in-state tuition purposes at the start of the next semester or academic period.

(c) For determination of residency for tuition to the Community College of Vermont, a person who resides in Vermont shall be considered a resident for in-state tuition purposes, beginning at the start of the next semester or academic period after arrival in Vermont, if that person:

(1) qualifies as a refugee pursuant to 8 U.S.C. § 1101(a)(42) (Immigration and Nationality Act definition of refugee);

(2) is granted parole to enter the United States pursuant to 8 U.S.C. § 1182(d)(5) (temporary admission of nonimmigrants for urgent humanitarian reasons); or

(3) is issued a special immigrant visa pursuant to the Afghan Allies Protection Act of 2009, Pub. L. No. 111-8 (8 U.S.C. § 1101 note), as amended.

\* \* \*

(e) Except as otherwise provided by law, or by consent of the individual identified in the record, information collected pursuant to this section that directly or indirectly identifies applicants or students, including grant, loan,

scholarship, or outreach programs, is exempt from public inspection and copying under the Public Records Act and shall be kept confidential.

\* \* \* University of Vermont and State Agricultural College \* \* \*

Sec. 5. 16 V.S.A. § 2282a is amended to read:

§ 2282a. DETERMINATION OF RESIDENCY FOR TUITION PURPOSES

(a) Enrollment at an institution for higher learning, or presence within the State for the purposes of attending an institution of higher learning, shall not by itself constitute residence for in-state tuition purposes or for the purpose of eligibility for assistance from the Vermont Student Assistance Corporation. The Board of Trustees shall adopt policies related to residency for tuition purposes, consistent with State and federal requirements. Any policies adopted by the Board of Trustees shall not discriminate against or exclude a person based solely on the person's immigration status, or lack thereof, if such person would otherwise qualify for and meet requirements for Vermont residency for tuition purposes as set forth by the Board and as permitted under federal law.

\* \* \*

(d) Except as otherwise provided by law, or by consent of the individual identified in the record, information collected pursuant to this section that directly or indirectly identifies applicants or students, including grant, loan, scholarship, or outreach programs, is exempt from public inspection and copying under the Public Records Act and shall be kept confidential.

\* \* \* Effective Dates \* \* \*

Sec. 6. EFFECTIVE DATES

(a) This section and Secs. 1 (advancement grants) and 2 (incentive grants) shall take effect on July 1, 2024.

(b) Secs. 3 (financial aid), 4 (Vermont State Colleges Corporation in-state tuition), and 5 (University of Vermont and State Agricultural College in-state tuition) shall take effect on July 1, 2025.

### **House Proposal of Amendment to Senate Proposal of Amendment**

#### **H. 563.**

An act relating to criminal motor vehicle offenses involving unlawful trespass, theft, or unauthorized operation

The House concurs in the Senate proposal of amendment with further proposal of amendment thereto by adding a new section to be Sec. 1a to read as follows:

Sec. 1a. 23 V.S.A. § 1094 is amended to read:

§ 1094. OPERATION WITHOUT CONSENT OF OWNER;  
AGGRAVATED OPERATION WITHOUT CONSENT OF OWNER

(a) A person commits the crime of operation without consent of the owner if:

(1) the person takes, obtains, operates, uses, or continues to operate the motor vehicle of another when the person recklessly disregards that the person did not have the consent of the owner to do so; or

(2) the person, without the consent of the owner, knowingly takes, obtains, operates, uses, or continues to operate the motor vehicle of another when the person knows that the person did not have the consent of the owner to do so.

\* \* \*

(c) A person convicted under subdivision (a)(1) of this section shall be imprisoned not more than three months or fined not more than \$500.00, or both. A person convicted under subsection subdivision (a)(2) of this section of operation without consent of the owner shall be imprisoned not more than two years or fined not more than \$1,000.00, or both.

\* \* \*

**UNFINISHED BUSINESS OF THURSDAY, MAY 2, 2024**

**Second Reading**

**Favorable with Proposal of Amendment**

**H. 707.**

An act relating to revising the delivery and governance of the Vermont workforce system.

**Reported favorably with recommendation of proposal of amendment by Senator Clarkson for the Committee on Economic Development, Housing and General Affairs.**

The Committee recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. chapter 22A is amended to read:

**CHAPTER 22A. WORKFORCE EDUCATION AND TRAINING**

\* \* \*

§ 541. OFFICE OF WORKFORCE STRATEGY AND DEVELOPMENT

(a) There is created within the Executive Branch the Office of Workforce Strategy and Development.

(b) The Office of Workforce Strategy and Development shall have the administrative, legal, and technical support of the Department of Labor.

(c) There shall be at least two full-time staff to accomplish the duties of the Office. One of these staff positions shall be the Executive Director of the Office of Workforce Strategy and Development, who shall be an exempt employee and who shall report to and be under the general supervision of the Governor. Another position shall be a staff member, who shall be a classified employee, who shall support the work of the Executive Director, and who shall report to and be under the general supervision of the Executive Director.

(d) The Executive Director of the Office of Workforce Strategy and Development shall:

(1) coordinate the efforts of workforce development in the State;

(2) oversee the affairs of the State Workforce Development Board;

(3) work with State agencies and private partners to:

(A) develop strategies for comprehensive and integrated workforce education and training;

(B) manage the collection of outcome information; and

(C) align workforce efforts with other State strategies; and

(4) perform other workforce development duties as directed by the Governor.

(e) The Governor shall appoint the Executive Director with the advice and consent of the Senate, and the Executive Committee of the State Workforce Development Board may provide a list to the Governor of recommended candidates for Executive Director.

§ 541a. STATE WORKFORCE DEVELOPMENT BOARD; EXECUTIVE COMMITTEE

(a) Board established; duties. Pursuant to the requirements of 29 U.S.C. § 3111, the Governor shall establish the State Workforce Development Board to assist the Governor in the execution of his or her duties under the Workforce Innovation and Opportunity Act of 2014 and to assist the Commissioner of Labor as specified in section 540 of this title.

\* \* \*

(c) Membership. The Board shall consist of the Governor and the following members who are appointed by the Governor and serve at the Governor's pleasure unless otherwise indicated, in conformance with the federal Workforce Innovation and Opportunity Act ~~and who serve at his or her pleasure, unless otherwise indicated~~ (WIOA), and who shall be selected from diverse backgrounds to represent the interests of ethnic and diverse communities and represent diverse regions of the State, including urban, rural, and suburban areas:

(1) ~~the Commissioner of Labor;~~

~~(2) two members~~ one member of the Vermont House of Representatives, who shall serve for the duration of the biennium, appointed by the Speaker of the House;

~~(3)~~(2) ~~two members~~ one member of the Vermont Senate, who shall serve for the duration of the biennium, appointed by the Senate Committee on Committees;

~~(4) the President of the University of Vermont;~~

~~(5) the Chancellor of the Vermont State Colleges;~~

~~(6) the President of the Vermont Student Assistance Corporation;~~

~~(7) a representative of an independent Vermont college or university;~~

~~(8) a director of a regional technical center;~~

~~(9) a principal of a Vermont high school;~~

~~(10) two representatives of labor organizations who have been nominated by a State labor federation;~~

~~(11)~~(3) ~~two~~ four members who are core program representatives of individuals and organizations who have experience with respect to youth activities, as defined in 29 U.S.C. § 3102(71), as follows:

(A) the Commissioner of Labor, or designee, for the Adult, Dislocated Worker, and Youth program and Wagner-Peyser;

(B) the Secretary of Education, or designee, for the Adult Education and Family Literacy Act program;

(C) the Secretary of Human Services, or designee, for the Vocational Rehabilitation program; and

(D) the Secretary of Commerce and Community Development or designee;

~~(12)(4) two six workforce representatives of individuals and organizations who have experience in the delivery of workforce investment activities, as defined in 29 U.S.C. § 3102(68), as follows:~~

~~(A) two representatives from labor organizations operating in this State who are nominated by a State labor federation;~~

~~(B) one representative from a State-registered apprenticeship program; and~~

~~(C) three representatives of organizations that have demonstrated experience and expertise in addressing the employment, training, or education needs of individuals with barriers to employment, which may include:~~

~~(i) organizations that serve veterans;~~

~~(ii) organizations that provide or support competitive, integrated employment for individuals with disabilities;~~

~~(iii) organizations that support the training or education needs of eligible youth as described in 20 CFR § 681.200, including representatives of organizations that serve out-of-school youth as described in 20 CFR § 681.210; and~~

~~(iv) organizations that connect volunteers in national or State service programs to the workforce;~~

~~(13) the lead State agency officials with responsibility for the programs and activities carried out by one-stop partners, as described in 29 U.S.C. § 3151(b), or if no official has that responsibility, representatives in the State with responsibility relating to these programs and activities;~~

~~(14) the Commissioner of Economic Development;~~

~~(15) the Secretary of Commerce and Community Development;~~

~~(16) the Secretary of Human Services;~~

~~(17) the Secretary of Education;~~

~~(18) two individuals who have experience in, and can speak for, the training needs of underemployed and unemployed Vermonters; and~~

~~(5) two elected local government officials who represent a city or town within different regions of the State; and~~

~~(19)(6) a number of appointees sufficient to constitute a majority of the Board 13 business representatives who:~~

~~(A) are owners, chief executives, or operating officers of businesses, and including nonprofits, or other business executives or employers with~~

optimum policymaking or hiring authority, with at least one member representing a small business as defined by the U.S. Small Business Administration;

(B) represent businesses with employment opportunities that reflect in-demand sectors and employment opportunities in the State; and

(C) are appointed from among individuals nominated by State business organizations and business trade associations.

(d) Operation of Board.

(1) Executive Committee.

(A) Creation. There is created an Executive Committee that shall manage the affairs of the Board.

(B) Members. The members of the Executive Committee shall comprise the following:

(i) the Chair of the Board;

(ii) the Commissioner of Labor or designee;

(iii) the Secretary of Education or designee;

(iv) the Secretary of Human Services or designee;

(v) the Secretary Commerce and Community Development or designee;

(vi) two business representatives, appointed by the Chair of the Board, who serve on the Board; and

(vii) two workforce representatives, appointed by the Chair of the Board, who serve on the Board.

(C) Meetings. The Chair of the Board shall chair the Executive Committee. The Executive Committee shall meet at least once monthly and shall hold additional meetings upon call of the Chair.

(D) Duties. The Executive Committee shall have the following duties and responsibilities:

(i) recommend to the Board changes to the Board's rules or bylaws;

(ii) establish one or more subcommittees as it determines necessary and appropriate to perform its work; and

(iii) other duties as provided in the Board's bylaws.

(2) Member representation and vacancies.

(A) A member of the State Board may send a designee ~~that~~ who meets the requirements of subdivision (B) of this subdivision ~~(1)(2)~~ to any State Board meeting, who shall count toward a quorum, and who shall be allowed to vote on behalf of the Board member for whom ~~he or she~~ the individual serves as a designee.

(B) Members of the State Board or their designees who represent organizations, agencies, or other entities shall be individuals with optimum policymaking authority or relevant subject matter expertise within the organizations, agencies, or entities.

~~(C) The members of the Board shall represent diverse regions of the State, including urban, rural, and suburban areas~~ The Chair of the Board shall provide notice within 30 days after a vacancy on the Board to the relevant appointing authority, which shall appoint a replacement within 90 days after receiving notice.

~~(2)(3)~~ Chair. The Governor shall select a chair for the Board from among the business representatives appointed pursuant to subdivision ~~(c)(18)(6)~~ of this section.

~~(3)(4)~~ Meetings. The Board shall meet at least three times annually and shall hold additional meetings upon call of the Chair.

~~(4)(5)~~ Committees; work groups; ad hoc committees. The Chair, in consultation with the Commissioner of Labor, may:

(A) assign one or more members or their designees to standing committees, ad hoc committees, or work groups to carry out the work of the Board; and

(B) appoint one or more nonmembers of the Board to a standing committee, ad hoc committee, or work group and determine whether the individual serves as an advisory or voting member, provided that the number of voting nonmembers on a standing committee shall not exceed the number of Board members or their designees.

\* \* \*

§ 541b. WORKFORCE EDUCATION AND TRAINING; DUTIES OF  
OTHER STATE AGENCIES, DEPARTMENTS, AND PRIVATE  
PARTNERS

(a) To ensure the State Workforce Development Board, ~~and~~ the Commissioner of Labor, and the Executive Director of the Office of Workforce Strategy and Development are able to fully perform their duties



under this chapter, each agency and department within State government, and each person who receives funding from the State, shall comply within a reasonable period of time with a request for data and information made by the Board, ~~or the Commissioner,~~ or the Executive Director in furtherance of their duties under this chapter.

(b) The Agency of Commerce and Community Development shall coordinate its work in adopting a statewide economic development plan with the activities of the Board, ~~and the Commissioner of Labor,~~ and the Executive Director.

Sec. 2. 2022 Acts and Resolves No. 183, Sec. 5a is amended to read:

Sec. 5a. REGIONAL WORKFORCE EXPANSION SYSTEM

\* \* \*

(c) System infrastructure. The Department shall make investments that improve and expand regional capacity to strengthen networks who assist jobseekers, workers, and employers in connecting.

(1) The Department is authorized to create up to four classified, ~~two-~~ year limited-service positions, with funding allocated to perform the work described in this section, who shall report to the Workforce Development Division and of whom:

\* \* \*

(e) Interim report. On or before ~~January 15, 2023~~ July 15, 2025, the Department shall provide a narrative update on the progress made in hiring staff, establishing interagency agreements, developing regional information exchange systems, and supporting State-level work to expand the labor force to the House and Senate committees of jurisdiction.

(f) Implementation. The Department of Labor shall begin implementing the Regional Workforce Expansion System on or before ~~July 1, 2022~~ September 1, 2024.

Sec. 3. TASK FORCE TO STUDY DATA MANAGEMENT MODELS

On or before December 15, 2025, the Executive Director of the Office of Workforce Development, in consultation with the Executive Committee of the State Workforce Development Board and the Agency of Digital Services, shall issue 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 development of a data trust as outlined in

model three of the final report of the State Oversight Committee on Workforce Expansion and Development pursuant to 2022 Acts and Resolves No. 183, Sec. 5. The report shall include:

(1) a recommendation on audience, partners, use cases, outcomes, and data required for future workforce, education, and training programs;

(2) a detailed review of the current availability of public and private workforce development and training data, education data, and demographic data, including the integration of data between the State's workforce development and training programs and private programs funded through State funding dollars;

(3) a summary of the progress made in the development of data-sharing relationships with the stewards of identified data sets;

(4) draft legislative language for the creation of a data tool;

(5) the amount of funding necessary to establish and maintain the use of a data tool; and

(6) a summary of other efforts across State government and through the Agency of Digital Services regarding the development of data trusts, along with best practices identified through those efforts.

#### Sec. 4. WORKFORCE EDUCATION AND TRAINING LEADERSHIP REVIEW; SOCWED REAUTHORIZATION

(a) Committee reauthorization. The Special Oversight Committee on Workforce Expansion and Development (SOCWED) created pursuant to 2022 Acts and Resolves No. 183, Sec. 5 shall review and propose changes to the leadership and duties set forth in 10 V.S.A. § 540 and shall suggest a set of recommended qualifications to the Governor for consideration for the position of Executive Director of the Office of Workforce Strategy and Development.

(b) Membership. The members appointed to the SOCWED pursuant to 2022 Acts and Resolves No. 183, Sec. 5 shall continue as members of the Committee, except that the Commissioner of Labor or designee shall replace the State Director of Workforce Development on the Committee. Vacancies shall be filled by the relevant appointing authority pursuant to 2022 Acts and Resolves No. 183, Sec. 5.

(c) Meetings.

(1) The Commissioner of Labor or designee shall call the first meeting of the Committee to occur on or before June 1, 2024.

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

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

(4) The Committee shall meet not more than eight times.

(d) Powers and duties.

(1) The Committee, in consultation with the Office of Legislative Counsel, shall review 10 V.S.A. § 540 and engage with workforce development stakeholders to:

(A) evaluate the effectiveness of the current language in statute; and

(B) determine, due to changes in the State Workforce Development Board as set forth in this act, how the authorities and responsibilities for the coordination of workforce education and training set forth in 10 V.S.A. § 540 should be modified to ensure there is effective and comprehensive leadership in workforce development, education, and training between the Commissioner of Labor, the Executive Director of the Office of Workforce Strategy and Development, and any other relevant authorities.

(2) The Committee, in consultation with the Executive Committee of the State Workforce Development Board and the Department of Human Resources, shall develop qualifications to recommend to the Governor for consideration for the position of Executive Director of the Office of Workforce Strategy and Development.

(e) Assistance. For purposes of:

(1) administrative and technical support, the Committee shall have the assistance of the Office of Legislative Operations;

(2) drafting recommended legislation, the Committee shall have the assistance the Office of Legislative Counsel; and

(3) drafting recommended job qualifications, the Committee shall have the assistance the Department of Human Resources.

(f) Requirements.

(1) The Committee shall submit recommended job qualifications pursuant to subdivision (d)(2) of this section to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General on or before October 15, 2024.

(2) The Committee shall submit recommended legislative language pursuant to subdivision (d)(1)(B) of this section to the House Committee on

Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General on or before November 30, 2024.

(g) Compensation and reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the 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. Payments to members of the Committee authorized under this subdivision (g)(1) shall be made from monies appropriated to the General Assembly.

(2) A nonlegislative member of the Committee shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than eight meetings. Payments to members of the Committee authorized under this subdivision (g)(2) shall be made from monies appropriated to the Department of Labor.

(h) Expiration. The Committee shall cease to exist on January 15, 2025.

Sec. 5. STATE WORKFORCE DEVELOPMENT BOARD TRANSITION PERIOD

(a) An appointing authority for the State Workforce Development Board pursuant to 10 V.S.A. § 541a(c) shall make all appointments as required to the Board on or before September 1, 2024.

(b) A member of the State Workforce Development Board on June 30, 2024, except for the Governor, and unless appointed or placed on the Board after the passage of this act pursuant to 10 V.S.A. § 541a(c), shall cease being a member of the Board on July 1, 2024.

(c) Notwithstanding subsection (b) of this section, an appointing authority pursuant to 10 V.S.A. § 541a(c) may reappoint the same individual as a member to the Board after passage of this act.

(d) Members of the Board appointed by the Governor shall serve initial staggered terms with eight members serving three-year terms, eight members serving two-year terms, and seven members serving one-year terms.

(e) The Governor shall appoint a chair of the Board pursuant to 10 V.S.A. § 541a(d)(3) on or before August 1, 2024.

(f) The Board shall amend the Board's WIOA Governance Document to align it pursuant to the terms of this act on or before February 1, 2025.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2024, except that Sec. 4 shall take effect on passage.

(Committee vote: 5-0-0)

(For House amendments, see House Journal of March 22, 2024, pages 800 - 809)

**Reported favorably by Senator Perchlik for the Committee on Appropriations.**

The Committee recommends that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Economic Development, Housing and General Affairs.

(Committee vote: 7-0-0)

**H. 794.**

An act relating to services provided by the Vermont Veterans' Home.

**Reported favorably with recommendation of proposal of amendment by Senator Norris for the Committee on Government Operations.**

The Committee recommends that the Senate propose to the House to amend the bill as follows:

First: In Sec. 1, 20 V.S.A. § 1714, powers and duties of the Board, after subdivision (15), by inserting a subdivision (16) to read as follows:

(16) Establish a nursing home in Vermont to provide services and supports to Vermont veterans who do not reside at the Home, provided that the nursing home shall comply with all applicable State and federal licensing and regulatory requirements.

Second: In Sec. 2, 20 V.S.A. § 1717, in subdivision (b)(2), by striking out the following: "1714(5), (13), (14), and (15)" and inserting in lieu thereof the following: 1714(5), (13), (14), (15), and (16)

(Committee vote: 6-0-0)

(For House amendments, see House Journal of March 20, 2024, page 612)

**Reported favorably by Senator Sears for the Committee on Appropriations.**

The Committee recommends that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Government Operations.

(Committee vote: 6-0-1)

## H. 871.

An act relating to the development of an updated State aid to school construction program.

### **Reported favorably with recommendation of proposal of amendment by Senator Weeks for the Committee on Education.**

The Committee recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* State Aid to School Construction \* \* \*

Sec. 1. 16 V.S.A. § 3441 is added to read:

#### § 3441. FACILITIES MASTER PLAN GRANT PROGRAM; REPORT

(a) Intent. It is the intent of the General Assembly that the Facilities Master Plan Grant Program established pursuant to this section shall enable supervisory unions and independent career and technical education districts to develop a supervisory union level vision for all school buildings that meets the educational needs and goals of the supervisory union. The goal of a facilities master plan shall be to facilitate an evaluation of the capacity of existing facilities to deliver on identified 21st century educational goals. A facilities master plan shall also enable and require supervisory unions to engage in intentional and robust conversations with the larger community that will hopefully lead to the successful passage of bonds needed to support the renovation or construction needs of the supervisory union. It is the intent of the General Assembly that awards shall be granted in accordance with this section and in a manner that allows a maximum number of supervisory unions and independent career and technical education districts to successfully complete facilities master plans.

(b) Definition. As used in this section, “supervisory union” has the same meaning as in subdivision 11(a)(23) of this title and includes supervisory districts and independent career and technical education districts.

(c) Establishment. There is established the Facilities Master Plan Grant Program to be administered by the Agency of Education, from funds appropriated for this purpose to supervisory unions and independent career and technical education districts to support the development of educational facilities master plans. Grant funds may be used to hire a consultant to assist in the development of the master plan with the goal of developing a final master plan that complies with State construction aid requirements.

(d) Standards for the disbursement of funds. The Agency shall develop standards for the disbursement of grant funds in accordance with the following:

(1) Grants shall be awarded to applicants with the highest facilities needs. The Agency shall develop a prioritization formula based on an applicant's poverty factor and average facilities condition index score. The Agency shall develop or choose a poverty metric to use for the prioritization formula. The Agency may give priority to applications with a regionalization focus that consist of more than one supervisory union or independent career and technical education district that apply as a consortium.

(2) Award amounts shall be commensurate with the gross square footage of buildings located within the applicable supervisory union or career and technical education district.

(3) The Agency shall develop minimum requirements for an educational facilities master plan, which shall include, at a minimum, the following elements:

(A) a description of the educational mission, vision, and goals of the supervisory union;

(B) a description of educational programs and services offered by the supervisory union;

(C) the performance of a space utilization assessment;

(D) the identification of new program needs;

(E) the development of enrollment projections;

(F) the performance of a facilities assessment; and

(G) information regarding the various design options explored to address the supervisory union's identified needs.

(e) Report. Annually on or before December 31, the Agency shall submit to the House and Senate Committees on Education a written report with information on the implementation of the grant program created in this section.

## Sec. 2. REPEAL; FACILITIES MASTER PLAN GRANT PROGRAM

16 V.S.A. § 3441 (Facilities Master Plan Grant Program) as added by this act is repealed on June 30, 2029.

### Sec. 3. PREQUALIFIED ARCHITECTURE AND ENGINEERING CONSULTANTS

On or before October 15, 2024, the Agency of Education shall coordinate with the Department of Buildings and General Services to develop prequalification criteria for alternative project delivery consultants and architecture and engineering firms specializing in kindergarten through grade 12 school design and construction. The Department shall assist the Agency in distributing requests for qualifications and in reviewing the resulting responses for approval and prequalification. The Department shall maintain the list of prequalified firms and consultants and shall make the list available to school districts and supervisory unions.

### Sec. 4. STATE AID FOR SCHOOL CONSTRUCTION WORKING GROUP; REPORT

(a) Creation. There is created the State Aid for School Construction Working Group to study and design a plan for a statewide school construction aid program.

(b) Membership. The Working Group shall be composed of the following members:

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

(2) three current members of the Senate, not all from the same political party, who shall be appointed by the Committee on Committees; and

(3) the Secretary of Education, or designee.

(c) Powers and duties.

(1) The Working Group shall study and create a recommended plan for a statewide school construction aid program, including recommendations on implementation. To facilitate its understanding of school construction projects and other school construction state aid programs, the Working Group may travel to conduct site visits at schools or other state programs. In creating its recommendations, the Working Group shall address the following topics, building from the recommendations contained in the report of the School Construction Aid Task Force, created in 2023 Acts and Resolves No. 78, Sec. E.131.1:

(A) Governance. The Working Group shall study other state governance models for school construction aid programs, including inviting testimony from school officials from those states, and make a recommendation for a governance model for Vermont that aligns with the other funding and



programmatic recommendations of the Working Group. Governance recommendations shall include recommendations on staffing levels and a stable appropriation for the funding of the recommended governance structure.

(B) Prioritization criteria. The Working Group shall make recommendations on State aid prioritization criteria that will drive funding towards projects that are aligned to the State's educational policies and priorities.

(C) Eligibility criteria. The Working Group shall consider, at a minimum, the following State aid eligibility criteria:

(i) appropriate maintenance and operations budgeting at the supervisory union level;

(ii) a requirement for eligible supervisory unions to have a five-year capital plan;

(iii) a facility condition index maximum level that would preclude eligibility but may qualify a building for a State share percentage bonus to replace the building;

(iv) a requirement for a supervisory union master planning process that would require consideration of the adaptive reuse of schools;

(v) a prohibition on exclusionary zoning regulations that would preclude lesser resourced families from living in the applicable school district; and

(vi) whether costs associated with repurposing a non-school building to use as a school should be included in a State aid to school construction program;

(D) State base share. The Working Group shall make recommendations as to whether to include a State base share and if so, whether it shall be based on student or community poverty factors. The Working Group shall consider factors such as local taxing capacity, student poverty data, environmental justice metrics, and energy burden metrics.

(E) Incentives. The Working Group shall consider the use of incentives or State share bonuses that align with Vermont's educational priorities with the goal of efficient and sustainable use of taxpayer supported school construction aid to improve student learning environments and opportunities. The Working Group shall consider appropriate limits on cumulative incentives and whether incentives shall be bundled for eligibility. Policy areas to consider for incentives include:

(i) school safety and security;

- (ii) health;
- (iii) educational enhancements;
- (iv) overcrowding solutions;
- (v) environmental performance;
- (vi) newer and fewer buildings;
- (vii) historic preservation;
- (viii) major renovations to improve PreK–12 systems educational alignment and capacity;
- (ix) replacement of facilities with a current facility condition index of 65 percent or higher, in combination with other policy area incentives; and
- (x) schools identified with actionable levels of airborne PCBs and other identified environmental hazards in critical education spaces.

(F) Assurance and certification process.

(i) The Working Group shall make recommendations for an assurance and certification process and shall consider, at a minimum, the following:

(I) a district’s commitment to adequate funding for ongoing maintenance and operations of any State-funded improvements;

(II) a district’s assurance that it will provide adequate training for facilities and custodial staff to properly operate and maintain systems funded through State aid;

(III) a district to complete a full commissioning process as a requirement to receive State funds at the end of the project; and

(IV) a clerk of the works throughout the lifespan of the project.

(ii) The Working Group shall also consider whether the assurance and certification process shall be eligible for State funding support, as well as whether a preferred vendor list for the commissioning process and clerk of the works is advisable.

(G) Environmental hazards and contaminants. The Working Group shall make recommendations that approach environmental hazards and contaminants in a comprehensive manner, incorporating existing programs into the school construction aid program where possible.

(H) Pre-program construction aid. The Working Group shall consider whether and to what extent State aid should be made available to school districts that begin construction projects prior to the establishment or renewal of a State school construction aid program.

(I) Current law. The Working Group shall review State statutes and State Board of Education rules that concern or impact school construction and make recommendations to the General Assembly for any amendments necessary to align with the Working Group's proposed construction aid program.

(J) Efficiencies. The Working Group shall identify areas where economizations or efficiencies might be gained in the creation of the program, including consideration of the following:

(i) a prequalification process for consultants with experience in the planning, renovation, and construction of kindergarten through grade 12 schools; and

(ii) cost containment strategies such as the use of building templates for new construction, alternative project delivery, and consideration of risk transfer.

(K) Fiscal modeling. The Working Group shall align the proposed construction aid program with fiscal modeling produced by the Joint Fiscal Office.

(L) School Construction Planning Guide. The Working Group shall review the Vermont School Construction Planning Guide and make recommendations for any amendments necessary to align with the Working Group's proposed construction aid program.

(M) Population considerations. The Working Group shall consider and make recommendations as to whether, and if so, how, the unique needs of different populations shall be taken into account in developing a statewide school construction aid program, including the following populations:

(i) elementary students;

(ii) high school students;

(iii) supervisory unions with low population density, as defined by 16 V.S.A. § 4010(b)(2); and

(iv) any other population the Working Group deems relevant to its work and recommendations.

(N) Grant opportunities. The Working Group shall consider and make recommendations as to whether, and if so, how State and federal grant opportunities shall impact the Working Group's proposed construction aid program.

(O) Utilization of renewable energy. The Working Group shall make recommendations that approach the utilization of renewable energy in a comprehensive manner, incorporating existing programs and laws into the school construction aid program where possible.

(P) Additional considerations. The Working Group may consider any other topic, factor, or issue that it deems relevant to its work and recommendations.

(2) The Working Group shall consult with the following entities in developing its proposed plan to ensure all applicable areas of Vermont law and federal funding opportunities are taken into consideration:

(A) the Agency of Education;

(B) the Agency of Natural Resources;

(C) the Department of Public Safety, Division of Fire Safety;

(D) the Natural Resources Board;

(E) the Agency of Commerce and Community Development, Division for Historic Preservation;

(F) the U.S. Department of Education;

(G) U.S. Department of Agriculture, Rural Development;

(H) the Vermont School Boards Association;

(I) the Vermont Superintendents Association;

(J) the Vermont Principals' Association;

(K) the Vermont National Education Association;

(L) the Vermont Bond Bank;

(M) the Vermont Legal Aid Disability Law Project;

(N) the Department of Disabilities, Aging, and Independent Living, Deaf, Hard of Hearing, DeafBlind Services;

(O) Vermont's Congressional Delegation; and

(P) any other entity the Working Group deems relevant to its work.

(d) Assistance. The Working Group shall have the administrative, technical, and legal assistance of the Agency of Education, the Office of Legislative Counsel, the Joint Fiscal Office, and the Office of Legislative Operations.

(e) Proposed legislation. On or before December 15, 2024, the Working Group shall submit its findings and recommendations in the form of proposed legislation to the General Assembly.

(f) Meetings.

(1) The Office of Legislative Counsel shall call the first meeting of the Working Group to occur on or before August 1, 2024.

(2) The Working Group shall select co-chairs from among its members at the first meeting, one a member of the House and the other a member from the Senate.

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

(4) The Working Group shall cease to exist on December 31, 2024.

(g) Compensation and reimbursement. For attendance at meetings during adjournment of the General Assembly, members of the Working Group shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 23 for not more than 10 meetings. These payments shall be made from monies appropriated to the General Assembly.

#### Sec. 5. APPROPRIATION; STATE AID FOR SCHOOL CONSTRUCTION WORKING GROUP

The sum of \$15,000.00 is appropriated from the General Fund to the General Assembly in fiscal year 2025 for the purpose of funding travel by the State Aid for School Construction Working Group pursuant to Sec. 4, subsection (c) of this act and per diem compensation and reimbursement of expenses pursuant to Sec. 4, subsection (g) of this act.

\* \* \* Public Construction Bids \* \* \*

Sec. 6. 16 V.S.A. § 559 is amended to read:

§ 559. PUBLIC BIDS

\* \* \*

(b) High-cost construction contracts. When a school construction contract exceeds ~~\$500,000.00~~ \$2,000,000.00:

(1) The State Board shall establish, in consultation with the Commissioner of Buildings and General Services and with other

knowledgeable sources, general rules for the prequalification of bidders on such a contract. The Department of Buildings and General Services, upon notice by the Secretary, shall provide to school boards undergoing construction projects suggestions and recommendations on bidders qualified to provide construction services.

(2) At least 60 days prior to the proposed bid opening on any construction contract to be awarded by a school board that exceeds ~~\$500,000.00~~ \$2,000,000.00, the school board shall publicly advertise for contractors interested in bidding on the project. The advertisement shall indicate that the school board has established prequalification criteria that a contractor must meet and shall invite any interested contractor to apply to the school board for prequalification. All interested contractors shall submit their qualifications to the school board, which shall determine a list of eligible prospective bidders based on the previously established criteria. At least 30 days prior to the proposed bid opening, the school board shall give written notice of the board's determination to each contractor that submitted qualifications. The school board shall consider all bids submitted by prequalified bidders meeting the deadline.

(c) Contract award.

(1) A contract for any such item or service to be obtained pursuant to subsection (a) of this section shall be ~~awarded to one of~~ selected from among the three or fewer lowest responsible bids conforming to specifications, with consideration being given to quantities involved, time required for delivery, purpose for which required, competency and responsibility of bidder, and ~~his or her~~ the bidder's ability to render satisfactory service. A board shall have the right to reject any or all bids.

(2) A contract for any property, construction, good, or service to be obtained pursuant to subsection (b) of this section shall be awarded to the lowest responsible bid conforming to specifications. However, when considering the base contract amount and without considering cost overruns, if the two lowest responsible bids are within one percent of each other, the board may award the contract to either bidder. A board shall have the right to reject any bid found not to be responsible or conforming to specifications or to reject all bids.

\* \* \*

\* \* \* Effective Date \* \* \*

Sec. 7. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

(Committee vote: 5-0-0)

(For House amendments, see House Journal of March 28, 2024, page 1040)

**Reported favorably with recommendation of proposal of amendment  
by Senator Baruth for the Committee on Appropriations.**

The Committee recommends that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Education, with further recommendation of proposals of amendment as follows:

First: In Sec. 4, State Aid for School Construction Working Group; report, in subsection (g), by striking out “10 meetings” and inserting in lieu thereof six meetings unless additional meetings are authorized jointly by the Speaker of the House and the President Pro Tempore, with a maximum of up to 10 meetings

Second: By striking out Sec. 5, appropriation; State Aid for School Construction Working Group, in its entirety and inserting in lieu thereof a new Sec. 5 to read as follows:

Sec. 5. [Deleted.]

(Committee vote: 7-0-0)

**NEW BUSINESS**

**Third Reading**

**H. 614.**

An act relating to land improvement fraud and timber trespass.

**H. 661.**

An act relating to child abuse and neglect investigation and substantiation standards and procedures.

## **H. 687.**

An act relating to community resilience and biodiversity protection through land use.

### **Proposal of amendment to H. 687 to be offered by Senator Harrison before Third Reading**

Senator Harrison moves to amend the Senate proposal of amendment by adding a new section to be Sec. 37a to read as follows:

#### **Sec. 37a. TRANSPORTATION SUPPORT STUDY**

(a) On or before December 15, 2025, the Agency of Transportation, after consultation with the Department of Housing and Community Development, the Vermont League of Cities and Towns, the Vermont Association of Planning and Development Agencies, and the Natural Resources Board, shall review the revenue received by the State, both current and projected, for transit support through Act 250 and the revenue and benefits to developers, to the State, and to the community received through transportation impact fees, and shall suggest processes to preserve these revenues, requirements, and benefits.

(b) The Agency shall consider including transportation demand management and subsidy requirements in development review authority for municipalities, the authority or ability of the Agency of Transportation to enforce transportation impact fees as part of the municipal process, and any other proposals.

(c) The Agency shall hear from a diverse group of stakeholders including developers, local government officials, alternative transportation organizations, transit providers, and financial institutions.

(d) On or before December 15, 2025, the Agency of Transportation shall submit a report to the Senate Committees on Economic Development, Housing and General Affairs, on Natural Resources and Energy, and on Transportation and the House Committees on Transportation and on Environment and Energy with its findings and recommendations.

### **Proposal of amendment to H. 687 to be offered by Senator Hashim before Third Reading**

Senator Hashim moves to amend the Senate proposal of amendment in Sec. 61, 10 V.S.A. § 8505, in subsection (k), by striking out subdivision (4) in its entirety and inserting in lieu thereof a new subdivision (4) to read as follows:

(4) it shall be the goal of the Environmental Division to issue a decision on a case regarding an appeal of an appropriate municipal panel decision under 24 V.S.A. chapter 117 within 90 days following the close of the hearing.



## H. 847.

An act relating to peer support provider and recovery support specialist certification.

### Second Reading

### Favorable with Proposal of Amendment

## H. 81.

An act relating to fair repair of agricultural equipment.

**Reported favorably with recommendation of proposal of amendment by Senator Wrenner for the Committee on Agriculture.**

The Committee recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

#### Sec. 1. FINDINGS AND PURPOSE

##### (a) Findings. The General Assembly finds:

(1) The Vermont food, agriculture, and forest sectors are significant components of the State's economy, its rural heritage, and its identity as a State.

(A) According to the Working Lands Enterprise Initiative, about 20 percent of Vermont's land is used for agriculture, while another 78 percent is forested. In surveys conducted by the Initiative, over 97 percent of Vermonters expressed that they value the working landscape.

(B) The 2023 U.S. Food and Agriculture Industries Economic Impact Study found that the food and agriculture industries in Vermont were associated with nearly 104,000 jobs, \$5.2 billion in wages, and \$19.3 billion in economic output.

(C) The Vermont Sustainable Jobs Fund estimates that Vermont's forest products industry generates an annual economic output of \$1.4 billion and supports 10,500 jobs.

(2) Agricultural and forestry activity varies by season, is weather-dependent, and is heavily reliant on having access to increasingly sophisticated agricultural and forestry equipment. Vermont farmers' and foresters' access to safe and reliable equipment is essential to timely planting, cultivating, tilling, and harvesting of produce, protein, grain, timber, and other wood forest products.

(3) The COVID-19 pandemic further highlighted the increased and ongoing need for functional agricultural and forestry equipment as individuals in Vermont increasingly rely on the equipment to guarantee access to food and wood products during periods of supply chain disruption, raw material and commodities shortages, and heightened food insecurity.

(4) Authorized repair providers are important Vermont businesses that play a critical role for farmers and foresters by offering access to diagnosis, maintenance, and repair services for agricultural and forestry equipment.

(5) In general, original equipment manufacturers and authorized repair providers are able to provide independent repair providers and owners with adequate access to necessary parts for agricultural and forestry equipment. However, in order to maintain complex safety and emissions systems, limitations on software-related repairs implemented by original equipment manufacturers have led to frustration for some customers.

(6) Due to workforce, seasonal workload, and geographic constraints, authorized repair providers are not always able to meet the demand for timely diagnosis, maintenance, or repair services to farmers and foresters in this State.

(7) As for many Vermont employers, critical workforce shortages prevent authorized repair providers from operating at full staff capacity, which can contribute to costly delays in performing diagnosis, maintenance, and repair services.

(8) The need for more accessible and affordable repair options is felt more acutely among specific sectors of the population, notably Vermont residents in more rural and remote areas.

(9) Original equipment manufacturer shops and authorized repair providers are sometimes not located close to owners or independent repair providers, which may require owners or independent repair providers to travel long distances for repair or to be without functioning agricultural or forestry equipment for longer periods of time.

(10) Owners may be capable of performing their own diagnosis, maintenance, and repair services for their equipment.

(11) Independent repair providers play a vital role in Vermont's economy. Providing access to information, parts, and diagnostic and repair tools is essential in contributing to a competitive repair market and allowing independent repair shop employees to fix equipment safely.

(12) Extending the useful life and efficient operation of equipment may provide additional benefits for farmers, foresters, and the environment.

(A) Computerized components of modern agricultural and forestry equipment include precious metals that are finite.

(B) Emissions of agricultural and forestry equipment are better regulated and limited by functional software and hardware computer elements, thereby increasing the need for access to timely and effective repairs to ensure optimal functionality that is within the confines of federal regulatory limitations and existing technology needed to preserve intellectual property.

(13) Broader distribution of the information, tools, and parts necessary to repair modern agricultural and forestry equipment may shorten repair times, lengthen the useful lives of the equipment, lower costs for users, and benefit the environment.

(b) Purpose. The purpose of this act is to ensure equitable access to the parts, tools, and documentation that are necessary for independent repair providers and owners to perform timely repair of agricultural and forestry equipment in a safe, secure, reliable, and sustainable manner.

## Sec. 2. SHORT TITLE

This act may be cited as the Fair Repair Act.

Sec. 3. 9 V.S.A. chapter 106 is added to read:

### CHAPTER 106. AGRICULTURAL AND FORESTRY EQUIPMENT; FAIR REPAIR

#### § 4051. DEFINITIONS

As used in this chapter:

(1) “Agricultural equipment” means a device, part of a device, or an attachment to a device used principally off road and designed solely for an agricultural purpose, including a tractor, trailer, or combine; implements for tillage, planting, or cultivation; and other equipment principally associated with livestock or crop production, horticulture, or floriculture.

(2)(A) “Authorized repair provider” means an individual or business that has an arrangement with the original equipment manufacturer under which the original equipment manufacturer grants to the individual or business a license to use a trade name, service mark, or other proprietary identifier for the purposes of offering the services of diagnosis, maintenance, or repair of equipment under the name of the original equipment manufacturer or other arrangement with the original equipment manufacturer to offer such services on behalf of the original equipment manufacturer.

(B) An original equipment manufacturer that offers the services of diagnosis, maintenance, or repair of its own equipment and that does not have an arrangement described in subdivision (A) of this subdivision (2) with an unaffiliated individual or business shall be considered an authorized repair provider with respect to such equipment.

(3) “Documentation” means any manual, diagram, reporting output, service code description, schematic diagram, security code, password, or other guidance or information, whether in an electronic or tangible format, to perform the services of diagnosis, maintenance, or repair of agricultural or forestry equipment.

(4) “Forestry equipment” means nondivisible equipment, implements, accessories, and contrivances used principally off road and designed solely for harvesting timber or for on-site processing of wood forest products necessary to and associated with a logging operation.

(5) “Independent repair provider” means a person operating in this State, either through a physical business location or through a mobile service that offers on-site repairs in the State, that does not have an arrangement described in subdivision (2) of this section with an original equipment manufacturer and that is engaged in the services of diagnosis, maintenance, or repair of agricultural or forestry equipment.

(6) “Memorandum of understanding” means an agreement that is:

(A) related to the right to repair of agricultural or forestry equipment;

(B) not legally binding; and

(C) between the original equipment manufacturer and the American Farm Bureau Federation or similar organization that advocates on behalf of farmers or loggers.

(7) “Original equipment manufacturer” means a person engaged in the business of selling, leasing, or otherwise supplying new agricultural or forestry equipment manufactured by or on behalf of itself to any individual or business.

(8) “Owner” means an individual or business that owns or leases agricultural or forestry equipment used in this State.

(9) “Part” means any replacement part, either new or used, made available by an original equipment manufacturer for purposes of effecting the services of maintenance or repair of agricultural or forestry equipment manufactured by or on behalf of, sold or otherwise supplied by, the original equipment manufacturer.

(10) “Repair” means to maintain, diagnose, or fix agricultural or forestry equipment resulting in the equipment being returned to its original equipment manufacturer specifications. “Repair” does not include the ability to:

(A) modify from original equipment specifications the embedded software or code;

(B) change any equipment or engine settings that negatively affect emissions or safety compliance; or

(C) download or access the source code of any embedded software or code.

(11) “Tools” means any software program, hardware implement, or other apparatus used for diagnosis, maintenance, or repair of agricultural or forestry equipment, including software or other mechanisms required to restore the product to its original manufacturer, including any updates.

(12) “Trade secret” has the same meaning as provided in 18 U.S.C. § 1839.

#### § 4052. AVAILABILITY OF PARTS, TOOLS, AND DOCUMENTATION

(a) Duty to make available parts, tools, and documentation.

(1) An original equipment manufacturer shall offer for sale or otherwise make available to an independent repair provider or owner the parts, tools, and documentation for diagnosis or repair.

(2) If agricultural or forestry equipment includes an electronic security lock or other security-related function that must be unlocked, enabled, or disabled to perform diagnosis, maintenance, or repair of the equipment, an original equipment manufacturer may require a secured authorization process in order to prevent access to the source code or infringement of intellectual property in software or hardware owned by the original equipment manufacturer or licensed to the original equipment manufacturer by a third party and subject to terms of use.

(3) An original equipment manufacturer may satisfy its obligation to make parts, tools, and documentation available to an independent repair provider or owner through an authorized repair provider that consents to sell or make available parts, tools, or documentation on behalf of the manufacturer.

(b) Terms; limitations. Under the terms governing the sale or provision of parts, tools, and documentation, an original equipment manufacturer shall not impose on an independent repair provider or owner an additional cost or burden that is not reasonably necessary within the ordinary course of business

or is designed to be an impediment on the independent repair provider or owner, including:

(1) a substantial obligation to use, or a restriction on the use of, the parts, tools, or documentation necessary to diagnose, maintain, or repair agricultural or forestry equipment;

(2) a condition that the independent repair provider or owner become an authorized repair provider of the original equipment manufacturer; or

(3) an additional burden or material change that adversely affects the timeliness or method of delivering parts, tools, or documentation.

#### § 4053. ATTORNEY GENERAL ENFORCEMENT; NOTICE

(a) A violation of this section shall be deemed a violation of the Consumer Protection Act, 9 V.S.A. chapter 63, provided that no private right of action shall arise from the provisions of this act. The Attorney General has the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions as provided under 9 V.S.A. chapter 63, subchapter 1.

(b) The Attorney General shall be notified in writing by the original equipment manufacturer not later than 30 days after a memorandum of understanding expires or has been terminated, withdrawn, or canceled by an original equipment manufacturer subject to this chapter.

#### § 4054. APPLICATION; LIMITATIONS

(a) This chapter does not require an original equipment manufacturer to divulge a trade secret to an owner or an independent repair provider.

(b) This chapter does not alter the terms of any arrangement described in subdivision 4051(2)(A) of this title in force between an authorized repair provider and an original equipment manufacturer, including the performance or provision of warranty or recall repair work by an authorized repair provider on behalf of an original equipment manufacturer pursuant to such arrangement, except that any provision governing such an arrangement that purports to waive, avoid, restrict, or limit the original equipment manufacturer's obligations to comply with this chapter is void and unenforceable.

(c) This chapter does not alter the terms of a lease of agricultural or forestry equipment between an owner and another person.

(d) An independent repair provider or owner shall not:

(1) modify agricultural or forestry equipment to temporarily deactivate safety notification systems, except as necessary to provide diagnosis, maintenance, or repair services;

(2) access any function of a tool that enables the independent repair provider or owner to change the settings for a piece of agricultural or forestry equipment in a manner that brings the equipment out of compliance with the original manufacturer specifications or any applicable federal, state, or local safety or emissions laws; or

(3) obtain or use parts, tools, or documentation to evade or violate emissions, copyright, trademark, or patent laws or to engage in any other illegal activity.

(e) Original equipment manufacturers and authorized repair providers are not liable for faulty or otherwise improper repairs completed by independent repair providers or owners, including repairs that cause:

(1) damage to agricultural or forestry equipment that occurs during such repairs; and

(2) an inability to use, or the reduced functionality of, agricultural or forestry equipment resulting from the faulty or otherwise improper repair.

(f) In the event that federal law preempts part of the activity regulated by this chapter, this chapter shall be construed to regulate activity that has not been preempted.

(g) This chapter shall not apply to an original equipment manufacturer that has entered into a memorandum of understanding that substantially incorporates the provisions of this chapter. In the event that a memorandum of understanding expires or is terminated, withdrawn, or canceled, the original equipment manufacturer shall be required to comply with all provisions of this chapter no later than 30 days upon such termination, withdrawal, cancellation, or expiration.

#### Sec. 4. EFFECTIVE DATE

This act shall take effect on January 1, 2026.

(Committee vote: 5-0-0)

(For House amendments, see House Journal of May 4, 2023, pages 1392 - 1402)

## H. 745.

An act relating to the Vermont Parentage Act.

### **Reported favorably with recommendation of proposal of amendment by Senator Hashim for the Committee on Judiciary.**

The Committee recommends that the Senate propose to the House to amend the bill as follows:

First: By adding a new section to be Sec. 11a to read as follows:

Sec. 11a. 15C V.S.A. § 802(f) is added to read:

(f) A surrogacy agreement that substantially complies with this section and section 801 of this title is enforceable.

Second: By adding five new sections to be Secs. 13a–e to read as follows:

Sec. 13a. 15 V.S.A. § 293 is amended to read:

§ 293. WHEN PARENTS LIVE SEPARATELY

(a) When parents of minor children, or parents and stepparents of minor children, whether said parents are married or unmarried, are living separately, on the complaint of either parent or stepparent or, if it is a party in interest, the Department for Children and Families, the Family Division of the Superior Court may make such decree concerning parental rights and responsibilities and parent-child contact (as defined in section 664 of this title), and the support of the children, as in cases where either parent deserts or without just cause fails to support the children. Thereafter on the motion of either of the parents, the stepparent, or the Department for Children and Families, the court may annul, vary, or modify the decrees.

(b) Any legal presumption of parentage as set forth in ~~section 308 of this title~~ 15C V.S.A. § 401 or an unrescinded acknowledgment of parentage signed by the parties and executed in accordance with 15C V.S.A. § 301 shall be sufficient basis for initiating a support action under this section without any further proceedings to establish parentage. ~~If a party raises an objection to the presumption, the court may determine the issue of parentage as part of the support action. If no written objection to the presumption is raised, an order under this section shall constitute a judgment on the issue of parentage.~~

Sec. 13b. REPEAL

15 V.S.A. § 294 (man in the house) is repealed.



Sec. 13c. 15 V.S.A. § 295 is amended to read:

§ 295. SUBSTITUTE HUSBAND AND FATHER SERVICE OF COMPLAINT

When a complaint is made under section ~~292, 293 or 294~~ of this title, a summons shall be issued to the other party directing ~~him to cause his appearance therein to be entered~~ such person to appear not later than 21 days after the date of the service thereof and show cause why ~~the prayer of the complaint should not be granted, which.~~ The summons and ~~the~~ complaint shall be served on ~~such~~ the party as provided by ~~section 596 or by section 597 of this title~~ Rule 4.0 of the Vermont Rules for Family Proceedings. After the filing of ~~such~~ the complaint, the Superior Court in which the cause is pending, or any Superior judge, may, on application of either party make such order concerning the care and custody of the minor children during the pendency of the complaint, as is deemed expedient and for the benefit of such children.

Sec. 13d. 15 V.S.A. § 780(7) is amended to read:

(7) “Support order” means any judgment, order, or contract for support enforceable in this state State, including, ~~but not limited to,~~ orders issued pursuant to:

(A) 15 V.S.A. ~~chapter~~ chapters 5 (relating to desertion and support and parentage), ~~7 (relating to URESA) or~~ and 11 (relating to annulment and divorce);

(B) 15B V.S.A. chapters 1–19 (relating to Uniform Interstate Family Support Act); and

(C) 15C V.S.A. chapters 1–8 (relating to parentage proceedings).

Sec. 13e. 15C V.S.A. § 808(a) is amended to read:

(a) Not enforceable. A gestational carrier agreement that does not substantially meet the requirements of this chapter is not enforceable.

(Committee vote: 5-0-0)

(For House amendments, see House Journal of February 22, 2024, pages 298 - 309 and February 23, 2024, page 310)

**NOTICE CALENDAR**

**Second Reading**

**Favorable with Proposal of Amendment**

**H. 626.**

An act relating to animal welfare.

**Reported favorably with recommendation of proposal of amendment by Senator Watson for the Committee on Government Operations.**

The Committee recommends that the Senate propose to the House to amend the bill as follows:

In Sec. 1, 20 V.S.A. chapter 190 (Division of Animal Welfare), in subdivision 3202(b)(1)(G), after “standards of care for animals housed” and before “by animal shelters or rescue organization” by inserting the words or imported

and in subsection 3202(c), after “with animal welfare responsibilities” and before “to quantify the amount of time” by inserting the words to estimate the number and type of animal welfare complaints received by State agencies and

and in subdivision 3203(b)(1), by striking out “50” where it appears and inserting in lieu thereof 67

(Committee vote: 5-0-1)

(For House amendments, see House Journal of April 18, 2024, pages 1247 - 1253)

**House Proposals of Amendment**

**S. 58.**

An act relating to public safety

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Big 12 Juvenile Offenses \* \* \*

Sec. 1. 33 V.S.A. § 5201 is amended to read:

§ 5201. COMMENCEMENT OF DELINQUENCY PROCEEDINGS

\* \* \*

(c)(1) Any proceeding concerning a child who is alleged to have committed an act specified in subsection 5204(a) of this title after attaining 14 years of age, but not 22 years of age, shall originate in the Criminal Division

of the Superior Court, provided that jurisdiction may be transferred in accordance with this chapter and chapter 52A of this title, unless the State's Attorney files the charge directly as a youthful offender petition in the Family Division.

(2)(A) Any proceeding concerning a child who is alleged to have committed one of the following acts after attaining 14 years of age, but not 22 years of age, shall originate in the Criminal Division of the Superior Court, provided that jurisdiction may be transferred in accordance with this chapter and chapter 52A of this title, unless the State's Attorney files the charge directly as a youthful offender petition in the Family Division:

(i) a violation of a condition of release as defined in 13 V.S.A. § 7559 imposed by the Criminal Division for any of the offenses listed in subsection 5204(a) of this title; or

(ii) a violation of a condition of release as defined in 13 V.S.A. § 7559 imposed by the Criminal Division for an offense that was transferred from the Family Division pursuant to section 5204 of this title.

(B) This subdivision (2) shall not apply to a proceeding that is the subject of a final order accepting the case for youthful offender treatment pursuant to subsection 5281(d) of this title.

(3) Any proceeding concerning a child who is alleged to have committed one of the following acts after attaining 16 years of age, but not 22 years of age, shall originate in the Criminal Division of the Superior Court, provided that jurisdiction may be transferred in accordance with this chapter and chapter 52A of this title, unless the State's Attorney files the charge directly as a youthful offender petition in the Family Division:

(A) using a firearm while committing a felony in violation of 13 V.S.A. § 4005, or an attempt to commit that offense;

(B) trafficking a regulated drug in violation of 18 V.S.A. chapter 84, subchapter 1, or an attempt to commit that offense; or

(C) aggravated stalking as defined in 13 V.S.A. § 1063(a)(3), or an attempt to commit that offense.

(d) Any proceeding concerning a child who is alleged to have committed any offense other than those specified in subsection 5204(a) of this title or subdivision (c)(2) or (3) of this section before attaining 19 years of age shall originate in the Family Division of the Superior Court, provided that jurisdiction may be transferred in accordance with this chapter.

\* \* \*

Sec. 1a. 33 V.S.A. § 5203 is amended to read:

§ 5203. TRANSFER FROM OTHER COURTS

(a) If it appears to a Criminal Division of the Superior Court that the defendant was under 19 years of age at the time the offense charged was alleged to have been committed and the offense charged is an offense not specified in subsection 5204(a) or subdivision 5201(c)(2) or (3) of this title, that court shall forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the minor shall then be considered to be subject to this chapter as a child charged with a delinquent act.

(b) If it appears to a Criminal Division of the Superior Court that the defendant had attained 14 years of age but not 18 years of age at the time an offense specified in subsection 5204(a) or subdivision 5201(c)(2) or (3) of this title was alleged to have been committed, that court may forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the minor shall then be considered to be subject to this chapter as a child charged with a delinquent act.

(c) If it appears to the State's Attorney that the defendant was under 19 years of age at the time the felony offense charged was alleged to have been committed and the felony charged is not an offense specified in subsection 5204(a) or subdivision 5201(c)(2) or (3) of this title, the State's Attorney shall file charges in the Family Division of the Superior Court, pursuant to section 5201 of this title. The Family Division may transfer the proceeding to the Criminal Division pursuant to section 5204 of this title.

\* \* \*

Sec. 2. 33 V.S.A. § 5204 is amended to read:

§ 5204. TRANSFER FROM FAMILY DIVISION OF THE SUPERIOR COURT

(a) After a petition has been filed alleging delinquency, upon motion of the State's Attorney and after hearing, the Family Division of the Superior Court may transfer jurisdiction of the proceeding to the Criminal Division of the Superior Court if the child had attained 16 years of age but not 19 years of age at the time the act was alleged to have occurred and the delinquent act set forth in the petition is a felony not specified in subdivisions (1)–~~(12)~~(11) of this subsection or if the child had attained 12 years of age but not 14 years of age at the time the act was alleged to have occurred, and if the delinquent act set forth in the petition was any of the following:

\* \* \*

(10) sexual assault as defined in 13 V.S.A. § 3252(a)(1) or (a)(2) or an attempt to commit that offense; or

(11) aggravated sexual assault as defined in 13 V.S.A. § 3253 and aggravated sexual assault of a child as defined in 13 V.S.A. § 3253a or an attempt to commit either of those offenses; ~~or~~

~~(12) burglary into an occupied dwelling as defined in 13 V.S.A. § 1201(e) or an attempt to commit that offense.~~

(b)(1) The State's Attorney of the county where the juvenile petition is pending may move in the Family Division of the Superior Court for an order transferring jurisdiction under subsection (a) of this section at any time prior to adjudication on the merits. The filing of the motion to transfer jurisdiction shall automatically stay the time for the hearing provided for in section 5225 of this title, which stay shall remain in effect until such time as the Family Division of the Superior Court may deny the motion to transfer jurisdiction.

(2)(A)(i) The Family Division of the Superior Court shall hold a hearing under subsection (c) of this section to determine whether jurisdiction should be transferred to the Criminal Division under subsection (a) of this section if the delinquent act set forth in the petition is:

(I) ~~a felony violation of 18 V.S.A. chapter 84 for selling or trafficking a regulated drug [Repealed.];~~

(II) human trafficking or aggravated human trafficking in violation of 13 V.S.A. § 2652 or 2653;

(III) defacing a firearm's serial number in violation of 13 V.S.A. § 4024; or

(IV) straw purchasing of firearm in violation of 13 V.S.A. § 4025; and

(ii) the child had attained 16 years of age but not 19 years of age at the time the act was alleged to have occurred.

\* \* \*

\* \* \* Raise the Age \* \* \*

Sec. 3. 2018 Acts and Resolves No. 201, Secs. 17–19, are amended to read:

Sec. 17. [Deleted.]

Sec. 18. [Deleted.]

Sec. 19. [Deleted.]

Sec. 4. 2018 Acts and Resolves No. 201, Sec. 21, as amended by 2022 Acts and Resolves No. 160, Sec. 1, and 2023 Acts and Resolves No. 23, Sec. 12, is further amended to read:

Sec. 21. EFFECTIVE DATES

\* \* \*

(d) ~~Secs. 17-19 shall take effect on July 1, 2024.~~ [Deleted.]

Sec. 5. 2020 Acts and Resolves No. 124, Secs. 3 and 7, are amended to read:

Sec. 3. [Deleted.]

Sec. 7. [Deleted.]

Sec. 6. 2020 Acts and Resolves No. 124, Sec. 12, as amended by 2022 Acts and Resolves No. 160, Sec. 2, and 2023 Acts and Resolves No. 23, Sec. 13, is further amended to read:

Sec. 12. EFFECTIVE DATES

(a) ~~Secs. 3 (33 V.S.A. § 5103(c)) and 7 (33 V.S.A. § 5206) shall take effect on July 1, 2024.~~ [Deleted.]

\* \* \*

Sec. 7. 33 V.S.A. § 5201(d) is amended to read:

(d) Any proceeding concerning a child who is alleged to have committed any offense other than those specified in subsection 5204(a) of this title or subdivision (c)(2) or (3) of this section before attaining ~~19~~ 20 years of age shall originate in the Family Division of the Superior Court, provided that jurisdiction may be transferred in accordance with this chapter.

Sec. 8. 33 V.S.A. § 5203 is amended to read:

§ 5203. TRANSFER FROM OTHER COURTS

(a) If it appears to a Criminal Division of the Superior Court that the defendant was under ~~19~~ 20 years of age at the time the offense charged was alleged to have been committed and the offense charged is an offense not specified in subsection 5204(a) or subdivision 5201(c)(2) or (3) of this title, that court shall forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the minor shall then be considered to be subject to this chapter as a child charged with a delinquent act.

\* \* \*

(c) If it appears to the State's Attorney that the defendant was under ~~19~~ 20 years of age at the time the felony offense charged was alleged to have been committed and the felony charged is not an offense specified in subsection 5204(a) or subdivision 5201(c)(2) or (3) of this title, the State's Attorney shall file charges in the Family Division of the Superior Court, pursuant to section 5201 of this title. The Family Division may transfer the proceeding to the Criminal Division pursuant to section 5204 of this title.

\* \* \*

Sec. 9. 33 V.S.A. § 5204 is amended to read:

§ 5204. TRANSFER FROM FAMILY DIVISION OF THE SUPERIOR COURT

(a) After a petition has been filed alleging delinquency, upon motion of the State's Attorney and after hearing, the Family Division of the Superior Court may transfer jurisdiction of the proceeding to the Criminal Division of the Superior Court if the child had attained 16 years of age but not ~~19~~ 20 years of age at the time the act was alleged to have occurred and the delinquent act set forth in the petition is a felony not specified in subdivisions (1)–(11) of this subsection or if the child had attained 12 years of age but not 14 years of age at the time the act was alleged to have occurred, and if the delinquent act set forth in the petition was any of the following:

\* \* \*

Sec. 10. 33 V.S.A. § 5103(c) is amended to read:

(c)(1) Except as otherwise provided by this title and by subdivision (2) of this subsection, jurisdiction over a child shall not be extended beyond the child's 18th birthday.

(2)(A) Jurisdiction over a child with a delinquency may be extended until six months beyond the child's:

(i) 19th birthday if the child was 16 or 17 years of age when ~~he or she~~ the child committed the offense; ~~or~~

(ii) 20th birthday if the child was 18 years of age when ~~he or she~~ the child committed the offense; or

(iii) 21st birthday if the child was 19 years of age when the child committed the offense.

\* \* \*

Sec. 11. 33 V.S.A. § 5206 is amended to read:

§ 5206. CITATION OF ~~16- TO 18-YEAR-OLDS~~ 19-YEAR-OLDS

(a)(1) If a child was over 16 years of age and under ~~19~~ 20 years of age at the time the offense was alleged to have been committed and the offense is not specified in subsection (b) of this section, law enforcement shall cite the child to the Family Division of the Superior Court.

\* \* \*

Sec. 12. BIMONTHLY PROGRESS REPORTS TO JOINT LEGISLATIVE JUSTICE OVERSIGHT COMMITTEE

(a) On or before the last day of every other month from July 2024 through March 2025, the Agency of Human Services shall report to the Joint Legislative Justice Oversight Committee, the Senate and House Committees on Judiciary, the House Committee on Corrections and Institutions, the House Committee on Human Services, and the Senate Committee on Health and Welfare on its progress toward implementing the requirement of Secs. 7–11 of this act that the Raise the Age initiative take effect on April 1, 2025. The progress reports required by this section shall describe progress toward implementation of the Raise the Age initiative, as measured by qualitative and quantitative data related to the following priorities:

- (1) establishing a secure residential facility;
- (2) expanding capacity for nonresidential treatment programs to provide community-based services;
- (3) ensuring that residential treatment programs are used appropriately and to their full potential;
- (4) expanding capacity for Balanced and Restorative Justice (BARJ) contracts;
- (5) expanding capacity for the provision of services to children with developmental disabilities;
- (6) establishing a stabilization program for children who are experiencing a mental health crisis;
- (7) enhancing long-term treatment for children;
- (8) programming to help children, particularly 18- and 19-year-olds, transition from youth to adulthood;



(9) developing district-specific data and information on family services workforce development, including turnover, retention, and vacancy rates; times needed to fill open positions; training opportunities and needs; and instituting a positive culture for employees;

(10) installation of a comprehensive child welfare information system;  
and

(11) plans for and measures taken to secure funding for the goals listed in this section.

(b) Failure to meet one or more of the progress report elements listed in subsection (a) of this section shall not be a basis for extending the implementation of the Raise the Age initiative beyond April 1, 2025.

\* \* \* Drug Crimes \* \* \*

Sec. 13. 18 V.S.A. § 4201 is amended to read:

§ 4201. DEFINITIONS

\* \* \*

(29) “Regulated drug” means:

- (A) a narcotic drug;
- (B) a depressant or stimulant drug, other than methamphetamine;
- (C) a hallucinogenic drug;
- (D) Ecstasy;
- (E) cannabis; or
- (F) methamphetamine; or
- (G) xylazine.

\* \* \*

(48) “Fentanyl” means any quantity of fentanyl, including any compound, mixture, or preparation including salts, isomers, or salts of isomers containing fentanyl. “Fentanyl” also means fentanyl-related substances as defined in rules adopted by the Department of Health pursuant to section 4202 of this title.

(49) “Xylazine” means any compound, mixture, or preparation including salts, isomers, or salts of isomers containing N-(2,6-dimethylphenyl)-5,6-dihydro-4H-1,3-thiazin-2-amine.

Sec. 14. 18 V.S.A. § 4233a is amended to read:

§ 4233a. FENTANYL

(a) Selling or dispensing.

(1) A person knowingly and unlawfully dispensing fentanyl shall be imprisoned not more than three years or fined not more than \$75,000.00, or both. A person knowingly and unlawfully selling fentanyl shall be imprisoned not more than five years or fined not more than \$100,000.00, or both.

(2) A person knowingly and unlawfully selling or dispensing fentanyl in an amount consisting of four milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl shall be imprisoned not more than 10 years or fined not more than \$250,000.00, or both.

(3) A person knowingly and unlawfully selling or dispensing fentanyl in an amount consisting of 20 milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl shall be imprisoned not more than 20 years or fined not more than \$1,000,000.00, or both.

(4) In lieu of a charge under this subsection, but in addition to any other penalties provided by law, a person knowingly and unlawfully selling or dispensing any regulated drug containing a detectable amount of fentanyl shall be imprisoned not more than five years or fined not more than \$250,000.00, or both.

(b) Trafficking. A person knowingly and unlawfully possessing fentanyl in an amount consisting of 70 milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl with the intent to sell or dispense the fentanyl shall be imprisoned not more than 30 years or fined not more than \$1,000,000.00, or both. There shall be a permissive inference that a person who possesses fentanyl in an amount of 70 milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl intends to sell or dispense the fentanyl. The amount of possessed fentanyl under this subsection to sustain a charge of conspiracy under 13 V.S.A. § 1404 shall be not less than 70 milligrams in the aggregate.

(c) Transportation into the State. In addition to any other penalties provided by law, a person knowingly and unlawfully transporting more than 20 milligrams of fentanyl into Vermont with the intent to sell or dispense the fentanyl shall be imprisoned not more than 10 years or fined not more than \$100,000.00, or both.

(d) As used in this section, “knowingly” means:

(1) the defendant had actual knowledge that one or more preparations, compounds, mixtures, or substances contained the regulated drug identified in the applicable section of this chapter; or

(2) the defendant:

(A) subjectively believed that there is a high probability that one or more preparations, compounds, mixtures, or substances contained the regulated drug identified in the applicable section of this chapter; and

(B) took deliberate actions to avoid learning that one or more preparations, compounds, mixtures, or substances contained the regulated drug identified in the applicable section of this chapter.

Sec. 15. 18 V.S.A. § 4234 is amended to read:

§ 4234. DEPRESSANT, STIMULANT, AND NARCOTIC DRUGS

(a) Possession.

(1)(A) Except as provided by subdivision (B) of this subdivision (1), a person knowingly and unlawfully possessing a depressant, stimulant, or narcotic drug, other than heroin or cocaine, shall be imprisoned not more than one year or fined not more than \$2,000.00, or both.

(B) A person knowingly and unlawfully possessing 224 milligrams or less of buprenorphine shall not be punished in accordance with subdivision (A) of this subdivision (1).

(2) A person knowingly and unlawfully possessing a depressant, stimulant, or narcotic drug, other than heroin or cocaine, consisting of 100 times a benchmark unlawful dosage or its equivalent shall be imprisoned not more than five years or fined not more than \$25,000.00, or both.

(3) A person knowingly and unlawfully possessing a depressant, stimulant, or narcotic drug, other than heroin or cocaine, consisting of 1,000 times a benchmark unlawful dosage or its equivalent shall be imprisoned not more than 10 years or fined not more than \$100,000.00, or both.

(4) A person knowingly and unlawfully possessing a depressant, stimulant, or narcotic drug, other than heroin or cocaine, consisting of 10,000 times a benchmark unlawful dosage or its equivalent shall be imprisoned not more than 20 years or fined not more than \$500,000.00, or both.

(b) Selling or dispensing.

(1) A person knowingly and unlawfully dispensing a depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, shall be imprisoned not more than three years or fined not more than \$75,000.00, or both. A person knowingly and unlawfully selling a depressant, stimulant, or narcotic drug, other than fentanyl, cocaine, or heroin, shall be imprisoned not more than five years or fined not more than \$25,000.00, or both.

(2) A person knowingly and unlawfully selling or dispensing a depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, consisting of 100 times a benchmark unlawful dosage or its equivalent shall be imprisoned not more than 10 years or fined not more than \$100,000.00, or both.

(3) A person knowingly and unlawfully selling or dispensing a depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, consisting of 1,000 times a benchmark unlawful dosage or its equivalent shall be imprisoned not more than 20 years or fined not more than \$500,000.00, or both.

(4) As used in this subsection, “knowingly” means:

(A) the defendant had actual knowledge that one or more preparations, compounds, mixtures, or substances contained the regulated drug identified in the applicable section of this chapter; or

(B) the defendant:

(i) subjectively believed that there is a high probability that one or more preparations, compounds, mixtures, or substances contained the regulated drug identified in the applicable section of this chapter; and

(ii) took deliberate actions to avoid learning that one or more preparations, compounds, mixtures, or substances contained the regulated drug identified in the applicable section of this chapter.

(c) Possession of buprenorphine by a person under 21 years of age.

(1) Except as provided in subdivision (2) of this subsection, a person under 21 years of age who knowingly and unlawfully possesses 224 milligrams or less of buprenorphine commits a civil violation and shall be subject to the provisions of section 4230b of this title.

(2) A person under 16 years of age who knowingly and unlawfully possesses 224 milligrams or less of buprenorphine commits a delinquent act and shall be subject to the provisions of section 4230j of this title.

Sec. 16. 18 V.S.A. § 4233b is added to read:

§ 4233b. XYLAZINE

(a) No person shall dispense or sell xylazine except as provided in subsection (b) of this section.

(b) The following are permitted activities related to xylazine:

(1) dispensing or prescribing for, or administration to, a nonhuman species a drug containing xylazine approved by the Secretary of Health and Human Services pursuant to section 512 of the Federal Food, Drug, and Cosmetic Act as provided in 21 U.S.C. § 360b;

(2) dispensing or prescribing for, or administration to, a nonhuman species permissible pursuant to section 512(a)(4) of the Federal Food, Drug, and Cosmetic Act as provided in 21 U.S.C. § 360b(a)(4);

(3) manufacturing, distribution, or use of xylazine as an active pharmaceutical ingredient for manufacturing an animal drug approved under section 512 of the Federal Food, Drug, and Cosmetic Act as provided in 21 U.S.C. § 360b or issued an investigation use exemption pursuant to section 512(j);

(4) manufacturing, distribution, or use of a xylazine bulk chemical for pharmaceutical compounding by licensed pharmacists or veterinarians; and

(5) any other use approved or permissible under the Federal Food, Drug, and Cosmetic Act.

(c) A person knowingly and unlawfully dispensing xylazine shall be imprisoned not more than three years or fined not more than \$75,000.00, or both. A person knowingly and unlawfully selling xylazine shall be imprisoned not more than five years or fined not more than \$100,000.00, or both.

Sec. 17. 18 V.S.A. § 4250 is amended to read:

§ 4250. SELLING OR DISPENSING A REGULATED DRUG WITH DEATH RESULTING

(a) If the death of a person results from the selling or dispensing of a regulated drug to the person in violation of this chapter, the person convicted of the violation shall be imprisoned not less than two years nor more than 20 years.

(b) This section shall apply only if the person's use of the regulated drug is the proximate cause of ~~his or her~~ the person's death. The fact that a dispensed or sold substance contains more than one regulated drug shall not be a defense

under this section if the proximate cause of death is the use of the dispensed or sold substance containing more than one regulated drug.

(c)(1) Except as provided in subdivision (2) of this subsection, the two-year minimum term of imprisonment required by this section shall be served and may not be suspended, deferred, or served as a supervised sentence. The defendant shall not be eligible for probation, parole, furlough, or any other type of early release until the expiration of the two-year term of imprisonment.

(2) Notwithstanding subdivision (1) of this subsection, the court may impose a sentence that does not include a term of imprisonment or that includes a term of imprisonment of less than two years if the court makes findings on the record that the sentence will serve the interests of justice.

Sec. 18. 18 V.S.A. § 4252a is added to read:

§ 4252a. UNLAWFUL DRUG ACTIVITY IN A DWELLING; FLASH CITATION

Except for good cause shown, a person cited or arrested for dispensing or selling a regulated drug in violation of this chapter shall be arraigned on the next business day after the citation or arrest if the alleged illegal activity occurred at a dwelling where the person is not a legal tenant.

Sec. 19. 18 V.S.A. § 4254(j) is added to read:

(j) To encourage persons to seek medical assistance for someone who is experiencing an overdose, the Department of Health, in partnership with entities that provide education, outreach, and services regarding substance use disorder, shall engage in continuous efforts to publicize the immunity protections provided in this section.

\* \* \* Report \* \* \*

Sec. 20. WORKING GROUP ON TRANSFERS OF JUVENILE PROCEEDINGS FROM THE FAMILY DIVISION TO THE CRIMINAL DIVISION

(a) On or before December 15, 2025, a joint report on options for creating an expedited process for transfers of juvenile proceedings from the Family Division of the Superior Court to the Criminal Division of the Superior Court shall be submitted to the House and Senate Committees on Judiciary by a working group composed of the following parties:

(1) the Chief Superior Judge or designee, who shall be chair of the working group;

(2) the Defender General or designee;

(3) the Executive Director of the Department of State's Attorneys and Sheriffs or designee; and

(4) the Commissioner of the Department for Children and Families or designee.

(b) the report required by this section may be in the form of proposed legislation and shall include recommendations on the following topics:

(1) the changes in law that would be necessary if the Vermont juvenile justice system were restructured so that all cases alleging criminal violations by youths under 19 years of age started in the Family Division of the Superior Court, including alleged violations of 33 V.S.A. §§ 5204(a) and 5201(c)(2) or (3);

(2) whether cases alleging criminal violations by youths under 20 years of age should also begin in the Family Division; and

(3) statutory options for creating an expedited court process for more serious offenses that would permit transfer of proceedings from the Family Division of the Superior Court to the Criminal Division of the Superior Court without requiring the full transfer hearing process of 33 V.S.A. § 5204, including the offenses and offender age ranges that would qualify for the expedited process.

\* \* \* Effective Dates \* \* \*

#### Sec. 21. EFFECTIVE DATES

(a) Secs. 1–6, 12–20, and this section shall take effect on July 1, 2024.

(b) Secs. 7–11 shall take effect on April 1, 2025.

#### **S. 184.**

An act relating to the temporary use of automated traffic law enforcement (ATLE) systems

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

#### Sec. 1. PURPOSE; AUTOMATED TRAFFIC LAW ENFORCEMENT

The purpose of this act is to improve work crew safety and reduce traffic crashes in limited-access highway work zones by establishing an automated traffic law enforcement (ATLE) pilot program that uses radar and cameras to enforce speeding violations against the registered owner of the violating motor vehicle.

Sec. 1a. 23 V.S.A. chapter 15 is amended to read:

CHAPTER 15. POWERS OF ENFORCEMENT OFFICERS

Subchapter 1. General Provisions

§ 1600. DEFINITION

Notwithstanding subdivision 4(4) of this title, as used in this chapter, “Commissioner” means the Commissioner of Public Safety.

\* \* \*

Subchapter 2. Automated Law Enforcement

§ 1605. DEFINITIONS

As used in this subchapter:

(1) “Active data” is distinct from historical data as defined in subdivision (5) of this section and means data uploaded to individual automated license plate recognition system units before operation as well as data gathered during the operation of an ALPR system. Any data collected by an ALPR system in accordance with section 1607 of this subchapter shall be considered collected for a legitimate law enforcement purpose.

(2) “Automated license plate recognition system” or “ALPR system” means a system of one or more mobile or fixed high-speed cameras combined with computer algorithms to convert images of registration number plates into computer-readable data.

(3) “Automated traffic law enforcement system” or “ATLE system” means a device with one or more sensors working in conjunction with a speed measuring device to produce recorded images of the rear registration number plates of motor vehicles traveling at more than 10 miles above the speed limit.

(4) “Calibration laboratory” means an International Organization for Standardization (ISO) 17025 accredited testing laboratory that is approved by the Commissioner of Public Safety.

(5) “Historical data” means any data collected by an ALPR system and stored on the statewide automated law enforcement server operated by the Vermont Justice Information Sharing System of the Department of Public Safety. Any data collected by an ALPR system in accordance with section 1607 of this subchapter shall be considered collected for a legitimate law enforcement purpose.



(6) “Law enforcement officer” means an individual certified by the Vermont Criminal Justice Council as a Level II or Level III law enforcement officer under 20 V.S.A. § 2358 and is a State Police officer, municipal police officer, sheriff, or deputy sheriff; or a constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a.

(7) “Legitimate law enforcement purpose” applies to access to active or historical data and means investigation, detection, analysis, or enforcement of a crime or of a commercial motor vehicle violation or a person’s defense against a charge of a crime or commercial motor vehicle violation, or operation of AMBER alerts or missing or endangered person searches.

(8) “Owner” means the first or only listed registered owner of a motor vehicle or the first or only listed lessee of a motor vehicle under a lease of one year or more.

(9) “Recorded image” means a photograph, microphotograph, electronic image, or electronic video that shows, clearly enough to identify, the rear registration number plate of a motor vehicle that has activated the radar component of an ATLE system by traveling past the ATLE system at more than 10 miles above the speed limit.

(10) “Vermont Intelligence Center analyst” means any sworn or civilian employee who through employment with the Vermont Intelligence Center (VIC) has access to secure storage systems that support law enforcement investigations.

§ 1606. AUTOMATED TRAFFIC LAW ENFORCEMENT SYSTEMS;  
SPEEDING

(a) Use. Deployment of ATLE systems on behalf of the Agency of Transportation by a third party pursuant to subsection (b) of this section is intended to investigate the benefits of automated law enforcement for speeding violations as a way to improve work crew safety and reduce traffic crashes resulting from an increased adherence to traffic laws achieved by effective deterrence of potential violators, which could not be achieved by traditional law enforcement methods or traffic calming measures, or both. Deployment of ATLE systems on behalf of the Agency is not intended to replace law enforcement personnel, nor is it intended to mitigate problems caused by deficient road design, construction, or maintenance.

(b) Vendor.

(1) The Agency of Transportation shall enter into a contract with a third party for the operation and deployment of ATLE systems on behalf of the Agency.

(2) The Agency, in consultation with the Department of Public Safety, may require the vendor to maintain a storage system to store any recorded images or other data collected by the ATLE system. Any storage system shall adhere to the use, retention, and limitation requirements pursuant to this section.

(c) Locations. An ATLE system may only be utilized at a location in the vicinity of a work zone on a limited-access highway under the jurisdiction of the Agency of Transportation and selected by the Agency, provided that:

(1) the Agency shall document through an appropriate engineering analysis that the location meets highway standards;

(2) the ATLE system is not used as a means of combating deficiencies in roadway design or environment;

(3) at least two signs notifying members of the traveling public of the use of an ATLE system are in place before any recorded images or other data is collected by the ATLE system;

(4) there is a sign at the end of the work zone;

(5) the ATLE system is only in operation when workers are present in the work zone and at least one of the signs required under subdivision (3) of this subsection indicates whether the ATLE system is currently in operation; and

(6) there is notice of the use of the ATLE system on the Agency's website, including the location and typical hours when workers are present and the ATLE system is in operation.

(d) Daily log.

(1) The vendor that deploys an ATLE system in accordance with this section must maintain a daily log for each deployed ATLE system that includes:

(A) the date, time, and location of the ATLE system setup;

(B) a demonstration that the equipment is operating properly before and after daily use;

(C) a verification that the signage and equipment placement meet applicable highway standards; and

(D) the name of the employee who performed any self-tests required by the ATLE system manufacturer and the results of those self-tests.

(2) The daily log shall be retained for not fewer than three years by the Agency and admissible in any proceeding for a violation involving ATLE systems deployed on behalf of the Agency.

(e) Annual calibration. All ATLE systems shall undergo an annual calibration check performed by an independent calibration laboratory. The calibration laboratory shall issue a signed certificate of calibration after the annual calibration check, which shall be retained for not fewer than three years by the Agency and admissible in any proceeding for a violation involving the ATLE system.

(f) Penalty.

(1) The owner of the motor vehicle bearing the rear registration number plate captured in a recorded image shall be liable for one of the following civil penalties unless, for the violation in question, the owner is convicted of exceeding the speed limit under chapter 13 of this title or has a defense under subsection (h) of this section:

(A) \$0.00, which shall be exempt from surcharges under 13 V.S.A. § 7282(a), for a first violation within 12 months;

(B) \$80.00 for a second violation within 12 months; provided, however, that a violation shall be considered a second violation for purposes of this subdivision only if it has occurred at least 30 days after the date on which the notice of the first violation was mailed; and

(C) \$160.00 for a third or subsequent violation within 12 months.

(2) The owner of the motor vehicle bearing the rear registration number plate captured in a recorded image shall not be deemed to have committed a crime or moving violation unless otherwise convicted under another section of this title, and a violation of this section shall not be made a part of the operating record of the owner or considered for insurance purposes.

(g) Notice and complaint.

(1) An action to enforce this section shall be initiated by issuing a Vermont civil violation complaint to the owner of a motor vehicle bearing the rear registration number plate captured in a recorded image and mailing the Vermont civil violation complaint to the owner by U.S. mail.

(2) The civil violation complaint shall:

(A) be based on an inspection of recorded images and data produced by one or more ATLE systems or one or more ATLE and ALPR systems;

(B) be issued, sworn, and affirmed by the law enforcement officer who inspected the recorded images and data;

(C) enclose copies of applicable recorded images and at least one recorded image showing the rear registration number plate of the motor vehicle;

(D) include the date, time, and place of the violation;

(E) include the applicable civil penalty amount and the dates, times, and places for any prior violations from the prior 12 months;

(F) include written verification that the ATLE system was operating correctly at the time of the violation and the date of the most recent inspection that confirms the ATLE system to be operating properly;

(G) contain a notice of language access services in accordance with federal and state law; and

(H) in compliance with 4 V.S.A. § 1105(f), include an affidavit that the issuing officer has determined the owner's military status to the best of the officer's ability by conducting a search of the available Department of Defense Manpower Data Center (DMDC) online records, together with a copy of the record obtained from the DMDC that is the basis for the issuing officer's affidavit.

(3) In the case of a violation involving a motor vehicle registered under the laws of this State, the civil violation complaint shall be mailed within 30 days after the violation to the address of the owner as listed in the records of the Department of Motor Vehicles. A notice of violation issued under this subdivision shall be mailed not more than 30 days after the date of the violation. A notice mailed after 30 days is void.

(4) In the case of a violation involving a motor vehicle registered under the laws of a jurisdiction other than this State, the notice of violation shall be mailed within 30 days after the discovery of the identity of the owner to the address of the owner as listed in the records of the official in the jurisdiction having charge of the registration of the motor vehicle. A notice of violation issued under this subdivision shall be mailed not more than 90 days after the date of the violation. A notice mailed after 90 days is void.

(h) Defenses. The following shall be defenses to a violation under this section:

(1) that the motor vehicle or license plates shown in one or more recorded images was in the care, custody, or control of another person at the time of the violation; and

(2) that the radar component of the ATLE system was not properly calibrated or tested at the time of the violation.

(i) Proceedings before the Judicial Bureau.

(1) To the extent not inconsistent with this section, the provisions for the adjudication of a Vermont civil violation complaint, the payment of a Vermont civil violation complaint, and the collection of civil penalties associated with a civil violation complaint in 4 V.S.A. chapter 29 shall apply to civil violation complaints issued under this section.

(2) Notwithstanding an owner's failure to request a hearing, a Vermont civil violation complaint issued pursuant to this section shall be dismissed with prejudice upon showing by the owner, by a preponderance of the evidence, that the motor vehicle in question was not in the care, custody, or control of the owner at the time of the violation because, at the time, the owner was a person in military service as defined in 50 U.S.C. § 3911.

(j) Retention.

(1) All recorded images shall be retained by the vendor pursuant to the requirements of subdivision (2) of this subsection.

(2) A recorded image shall only be retained for 12 months after the date it was obtained or until the resolution of the applicable violation and the appeal period if the violation is contested. When the retention period has expired, the vendor and any law enforcement agency with custody of the recorded image shall destroy it and cause to have destroyed any copies or backups made of the original recorded image.

(k) Review process and annual report.

(1) The Agency of Transportation, in consultation with the Department of Public Safety, shall establish a review process to ensure that recorded images are used only for the purposes permitted by this section. The Agency of Transportation shall report the results of this review annually on or before January 15 to the Senate and House Committees on Judiciary and on Transportation. The report shall contain the following information based on prior calendar year data:

(A) the total number of ATLE systems units being operated on behalf of the Agency in the State;

(B) the terms of any contracts entered into with any vendors for the deployment of ATLE on behalf of the Agency;

(C) all of the locations where an ATLE system was deployed along with the dates and hours that the ATLE system was in operation;

(D) the number of violations issued based on recorded images and the outcomes of those violations by category, including first, second, and third and subsequent violations and contested violations;

(E) the number of recorded images the Agency submitted to the automated traffic law enforcement storage system;

(F) the total amount paid in civil penalties; and

(G) any recommended changes for the use of ATLE systems in Vermont.

(2) Notwithstanding 2 V.S.A. § 20(d), the annual report required under this section shall continue to be required if an ATLE system is deployed in the State unless the General Assembly takes specific action to repeal the report requirement.

(1) Limitations.

(1) ATLE systems shall only record violations of this section and shall not be used for any other purpose, including other surveillance purposes.

(2) Recorded images shall only be accessed to determine if a violation of this section was committed in the prior 12 months.

(3) Notwithstanding any applicable law to the contrary, the Agency of Transportation may permit the vendor to coordinate with designated law enforcement agencies to obtain a recorded image from the vendor to determine whether a violation of this section occurred within the prior 12 months.

## § 1607. AUTOMATED LICENSE PLATE RECOGNITION SYSTEMS

(a) Definitions. As used in this section:

(1) “Active data” is distinct from historical data as defined in subdivision (3) of this subsection and means data uploaded to individual automated license plate recognition system units before operation as well as data gathered during the operation of an ALPR system. Any data collected by an ALPR system in accordance with this section shall be considered collected for a legitimate law enforcement purpose.

(2) “Automated license plate recognition system” or “ALPR system” means a system of one or more mobile or fixed high-speed cameras combined with computer algorithms to convert images of registration plates into computer-readable data.

(3) “Historical data” means any data collected by an ALPR system and stored on the statewide ALPR server operated by the Vermont Justice Information Sharing System of the Department of Public Safety. Any data

~~collected by an ALPR system in accordance with this section shall be considered collected for a legitimate law enforcement purpose.~~

~~(4) “Law enforcement officer” means a State Police officer, municipal police officer, motor vehicle inspector, Capitol Police officer, constable, sheriff, or deputy sheriff certified by the Vermont Criminal Justice Council as a level II or level III law enforcement officer under 20 V.S.A. § 2358.~~

~~(5) “Legitimate law enforcement purpose” applies to access to active or historical data, and means investigation, detection, analysis, or enforcement of a crime or of a commercial motor vehicle violation or a person’s defense against a charge of a crime or commercial motor vehicle violation, or operation of AMBER alerts or missing or endangered person searches.~~

~~(6) “Vermont Intelligence Center analyst” means any sworn or civilian employee who through his or her employment with the Vermont Intelligence Center (VIC) has access to secure databases that support law enforcement investigations.~~

(b) Operation. A Vermont law enforcement officer shall be certified in ALPR operation by the Vermont Criminal Justice Council in order to operate an ALPR system.

~~(e)~~(b) ALPR use and data access; confidentiality.

(1)(A) Deployment of ALPR equipment by Vermont law enforcement agencies is intended to provide access to law enforcement reports of wanted or stolen vehicles and wanted persons and to further other legitimate law enforcement purposes. Use of ALPR systems by law enforcement officers and access to active data are restricted to legitimate law enforcement purposes.

(B) Active data may be accessed by a law enforcement officer operating the ALPR system only if ~~he or she~~ the law enforcement officer has a legitimate law enforcement purpose for the data. Entry of any data into the system other than data collected by the ALPR system itself must be approved by a supervisor and shall have a legitimate law enforcement purpose.

(C)(i) Requests to access active data shall be in writing and include the name of the requester, the law enforcement agency the requester is employed by, if any, and the law enforcement agency’s Originating Agency Identifier (ORI) number. To be approved, the request must provide specific and articulable facts showing that there are reasonable grounds to believe that the data are relevant and material to an ongoing criminal, missing person, or commercial motor vehicle investigation or enforcement action. The written request and the outcome of the request shall be transmitted to VIC and retained by VIC for not less than three years.

(ii) In each department operating an ALPR system, access to active data shall be limited to designated personnel who have been provided account access by the department to conduct authorized ALPR stored data queries. Access to active data shall be restricted to data collected within the past seven days.

(2)(A) A VIC analyst shall transmit historical data only to a Vermont or out-of-state law enforcement officer or person who has a legitimate law enforcement purpose for the data. A law enforcement officer or other person to whom historical data are transmitted may use such data only for a legitimate law enforcement purpose. Entry of any data onto the ~~statewide ALPR server~~ automated traffic law enforcement storage system other than data collected by an ALPR system itself must be approved by a supervisor and shall have a legitimate law enforcement purpose.

(B) Requests for historical data within six months ~~of~~ after the date of the data's creation, whether from Vermont or out-of-state law enforcement officers or other persons, shall be made in writing to a VIC analyst. The request shall include the name of the requester, the law enforcement agency the requester is employed by, if any, and the law enforcement agency's ORI number. To be approved, the request must provide specific and articulable facts showing that there are reasonable grounds to believe that the data are relevant and material to an ongoing criminal, missing person, or commercial motor vehicle investigation or enforcement action. VIC shall retain all requests and shall record in writing the outcome of the request and any information that was provided to the requester or, if applicable, why a request was denied or not fulfilled. VIC shall retain the information described in this subdivision ~~(e)(2)(B)~~ (b)(2)(B) for ~~no~~ not fewer than three years.

(C) After six months from the date of its creation, VIC may only disclose historical data:

(i) pursuant to a warrant if the data are not sought in connection with a pending criminal charge; or

(ii) to the prosecution or the defense in connection with a pending criminal charge and pursuant to a court order issued upon a finding that the data are reasonably likely to be relevant to the criminal matter.

(3) Active data and historical data shall not be subject to subpoena or discovery, or be admissible in evidence, in any private civil action.



(4) Notwithstanding any contrary provisions of subdivision (2) of this subsection, in connection with commercial motor vehicle screening, inspection, and compliance activities to enforce the Federal Motor Carrier Safety Regulations, the Department of Motor Vehicles (DMV):

(A) may maintain or designate a server for the storage of historical data that is separate from the ~~statewide server~~ automated traffic law enforcement storage system;

(B) may designate a DMV employee to carry out the same responsibilities as a VIC analyst and a supervisor as specified in subdivision (2) of this subsection (b); and

(C) shall have the same duties as the VIC with respect to the retention of requests for historical data.

~~(d)~~(c) Retention.

(1) Any ALPR information gathered by a Vermont law enforcement agency shall be sent to the Department of Public Safety to be retained pursuant to the requirements of subdivision (2) of this subsection. The Department of Public Safety shall maintain the ~~ALPR~~ automated traffic law enforcement storage system for Vermont law enforcement agencies.

(2) Except as provided in this subsection and section 1608 of this title, information gathered by a law enforcement officer through use of an ALPR system shall only be retained for 18 months after the date it was obtained. When the permitted 18-month period for retention of the information has expired, the Department of Public Safety and any local law enforcement agency with custody of the information shall destroy it and cause to have destroyed any copies or backups made of the original data. Data may be retained beyond the 18-month period pursuant to a preservation request made or disclosure order issued under section 1608 of this title or pursuant to a warrant issued under Rule 41 of the Vermont or Federal Rules of Criminal Procedure.

~~(e)~~(d) Oversight; rulemaking.

(1) The Department of Public Safety, in consultation with the Department of Motor Vehicles, shall establish a review process to ensure that information obtained through use of ALPR systems is used only for the purposes permitted by this section. The Department of Public Safety shall report the results of this review annually on or before January 15 to the Senate and House Committees on Judiciary and on Transportation. The report shall contain the following information based on prior calendar year data:

(A) the total number of ALPR units being operated by government agencies in the State, the number of such units that are stationary, and the number of units submitting data to the ~~statewide ALPR database~~ automated traffic law enforcement storage system;

(B) the number of ALPR readings each agency submitted, and the total number of all such readings submitted, to the ~~statewide ALPR database~~ automated traffic law enforcement storage system;

(C) the 18-month cumulative number of ALPR readings being housed on the ~~statewide ALPR database~~ automated traffic law enforcement storage system as of the end of the calendar year;

(D) the total number of requests made to VIC for historical data, the average age of the data requested, and the number of these requests that resulted in release of information from the ~~statewide ALPR database~~ automated traffic law enforcement storage system;

(E) the total number of out-of-state requests to VIC for historical data, the average age of the data requested, and the number of out-of-state requests that resulted in release of information from the ~~statewide ALPR database~~ automated traffic law enforcement storage system;

(F) the total number of alerts generated on ALPR systems operated by law enforcement officers in the State by a match between an ALPR reading and a plate number on an alert ~~database~~ storage system and the number of these alerts that resulted in an enforcement action;

(G) the total number of criminal, missing person, and commercial motor vehicle investigations and enforcement actions to which active data contributed, and a summary of the nature of these investigations and enforcement actions;

(H) the total number of criminal, missing person, and commercial motor vehicle investigations and enforcement actions to which historical data contributed, and a summary of the nature of these investigations and enforcement actions; and

(I) the total annualized fixed and variable costs associated with all ALPR systems used by Vermont law enforcement agencies and an estimate of the total of such costs per unit.

(2) ~~Before January 1, 2018, the~~ The Department of Public Safety ~~shall~~ may adopt rules to implement this section.

§ 1608. PRESERVATION OF DATA

(a) Preservation request.

(1) A law enforcement agency or the Department of Motor Vehicles or other person with a legitimate law enforcement purpose may apply to the Criminal Division of the Superior Court for an extension of up to 90 days of the 18-month retention period established under subdivision 1607~~(d)~~(c)(2) of this ~~title~~ subchapter if the agency or Department offers specific and articulable facts showing that there are reasonable grounds to believe that the captured plate data are relevant and material to an ongoing criminal or missing persons investigation or to a pending court or Judicial Bureau proceeding involving enforcement of a crime or of a commercial motor vehicle violation. Requests for additional 90-day extensions or for longer periods may be made to the Superior Court subject to the same standards applicable to an initial extension request under this subdivision.

(2) A governmental entity making a preservation request under this section shall submit an affidavit stating:

(A) the particular camera or cameras for which captured plate data must be preserved or the particular license plate for which captured plate data must be preserved; and

(B) the date or dates and time frames for which captured plate data must be preserved.

(b) Destruction. Captured plate data shall be destroyed on the schedule specified in section 1607 of this ~~title~~ subchapter if the preservation request is denied or 14 days after the denial, whichever is later.

Sec. 2. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

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

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

(1) Traffic violations alleged to have been committed on or after July 1, 1990.

\* \* \*

(33) Automated traffic law enforcement violations issued pursuant to 23 V.S.A. § 1606.

\* \* \*

### Sec. 3. IMPLEMENTATION; OUTREACH

(a) The Agency shall develop an implementation plan and seek federal funding from the Federal Highway Administration for a work zone ATLE pilot program to run in locations throughout Vermont from July 1, 2025 until October 1, 2026.

(b) The Agency of Transportation, in consultation with the Department of Public Safety, shall implement a public outreach campaign not later than April 1, 2025 that, at a minimum, addresses:

(1) the use of automated traffic law enforcement (ATLE) systems in work zones throughout the State;

(2) what recorded images captured by ATLE systems will show;

(3) the legal significance of recorded images captured by ATLE systems; and

(4) the process to challenge and defenses to a Vermont civil violation complaint issued based on a recorded image captured by an ATLE system.

(c)(1) The public outreach campaign shall disseminate information on ATLE systems through the Agency of Transportation's web page and through other mediums such as social media platforms, community posting websites, radio, television, and printed materials.

(2) The information disseminated pursuant to subdivision (1) of this subsection shall be available in languages other than English that are commonly spoken in Vermont and neighboring states whose residents travel to Vermont. The Agency of Transportation shall consult with the Office of Racial Equity and Vermont language services organizations to determine the appropriate languages for translation.

### Sec. 4. REPEAL OF CURRENT PROSPECTIVE REPEAL

2013 Acts and Resolves No. 69, Sec. 3(b), as amended by 2015 Acts and Resolves No. 32, Sec. 1, 2016 Acts and Resolves No. 169, Sec. 6, 2018 Acts and Resolves No. 175, Sec. 1, 2020 Acts and Resolves No. 134, Sec. 3, and 2022 Acts and Resolves No. 147, Sec. 34 (July 1, 2024 repeal of Automated License Plate Recognition system standards), is repealed.

### Sec. 5. PROSPECTIVE REPEAL

4 V.S.A. § 1102(b)(33) (Vermont Judicial Bureau jurisdiction over automated traffic law enforcement violations) and 23 V.S.A. §§ 1606–1608 (automated law enforcement) are repealed on July 1, 2027; provided, however, if the Agency is unable to secure federal funding for a work zone ATLE pilot

program by June 30, 2025, then 4 V.S.A. § 1102(b)(33) and 23 V.S.A. §§ 1606–1608 are repealed on July 2, 2025.

Sec. 6. 23 V.S.A. § 1605 is amended to read:

§ 1605. DEFINITIONS

As used in this subchapter:

(1) ~~“Active data” is distinct from historical data as defined in subdivision (5) of this section and means data uploaded to individual automated license plate recognition system units before operation as well as data gathered during the operation of an ALPR system. Any data collected by an ALPR system in accordance with section 1607 of this subchapter shall be considered collected for a legitimate law enforcement purpose. [Repealed.]~~

(2) “Automated license plate recognition system” or “ALPR system” means a system of one or more mobile or fixed high-speed cameras combined with computer algorithms to convert images of registration number plates into computer-readable data.

(3) “Automated traffic law enforcement system” or “ATLE system” means a device with one or more sensors working in conjunction with a speed measuring device to produce recorded images of the rear registration number plates of motor vehicles traveling at more than 10 miles above the speed limit.

(4) ~~“Calibration laboratory” means an International Organization for Standardization (ISO) 17025 accredited testing laboratory that is approved by the Commissioner of Public Safety. [Repealed.]~~

(5) ~~“Historical data” means any data collected by an ALPR system and stored on the statewide automated law enforcement server operated by the Vermont Justice Information Sharing System of the Department of Public Safety. Any data collected by an ALPR system in accordance with section 1607 of this subchapter shall be considered collected for a legitimate law enforcement purpose. [Repealed.]~~

(6) ~~“Law enforcement officer” means an individual certified by the Vermont Criminal Justice Council as a Level II or Level III law enforcement officer under 20 V.S.A. § 2358 and is a State Police officer, municipal police officer, sheriff, or deputy sheriff; or a constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a. [Repealed.]~~

(7) ~~“Legitimate law enforcement purpose” applies to access to active or historical data, and means investigation, detection, analysis, or enforcement of a crime or of a commercial motor vehicle violation or a person’s defense against a charge of a crime or commercial motor vehicle violation, or~~

~~operation of AMBER alerts or missing or endangered person searches. [Repealed.]~~

~~(8) “Owner” means the first or only listed registered owner of a motor vehicle or the first or only listed lessee of a motor vehicle under a lease of one year or more. [Repealed.]~~

~~(9) “Recorded image” means a photograph, microphotograph, electronic image, or electronic video that shows, clearly enough to identify, the rear registration number plate of a motor vehicle that has activated the radar component of an ATLE system by traveling past the ATLE system at more than 10 miles above the speed limit. [Repealed.]~~

~~(10) “Vermont Intelligence Center analyst” means any sworn or civilian employee who through his or her employment with the Vermont Intelligence Center (VIC) has access to storage systems that support law enforcement investigations. [Repealed.]~~

Sec. 7. 23 V.S.A. § 1609 is added to read:

§ 1609. PROHIBITION ON USE OF AUTOMATED LAW ENFORCEMENT

No State agency or department or any political subdivision of the State shall use automated license plate recognition systems or automated traffic law enforcement systems.

Sec. 8. EFFECTIVE DATES

(a) Secs. 1a (powers of enforcement officers; 23 V.S.A. chapter 15) and 2 (Judicial Bureau jurisdiction; 4 V.S.A. § 1102) shall take effect on July 1, 2025.

(b) Secs. 6 (amended automated law enforcement definitions; 23 V.S.A. § 1605) and 7 (prohibition on the use of automated law enforcement; 23 V.S.A. § 1609) shall take effect upon the repeal of 4 V.S.A. § 1102(b)(33) (Vermont Judicial Bureau jurisdiction over automated traffic law enforcement violations) and 23 V.S.A. §§ 1606–1608 (automated law enforcement) pursuant to the provisions of Sec. 5.

(c) All other sections shall take effect on passage.

**S. 186.**

An act relating to the systemic evaluation of recovery residences and recovery communities

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. RECOMMENDATION; RECOVERY RESIDENCE  
CERTIFICATION

(a) The Department of Health, in consultation with State agencies and community partners, shall develop and recommend a certification program for recovery residences operating in the State that choose to obtain certification. The certification program shall incorporate those elements of the existing certification program operated by the Vermont Alliance for Recovery Residences. The recommended certification program shall also:

(1) identify an organization to serve as the certifying body for recovery residences in the State;

(2) propose certification fees for recovery residences;

(3) establish a grievance and review process for complaints pertaining to certified recovery residences;

(4) identify certification levels, which may include distinct staffing or administrative requirements, or both, to enable a recovery residence to provide more intensive or extensive services;

(5) identify eligibility requirements for each level of recovery residence certification, including:

(A) staff and administrative requirements for recovery residences, including staff training and supervision;

(B) compliance with industry best practices that support a safe, healthy, and effective recovery environment; and

(C) data collection requirements related to resident outcomes;

(6) establish the required policies and procedures regarding the provision of services by recovery residences, including policies and procedures related to:

(A) resident rights, including the following minimum standards for residential agreements:

(i) contents of initial resident agreements;

(ii) resident discharge policies;

(iii) length of time a bed shall be held for a resident who temporarily exits a recovery residence; and

(iv) criteria by which a resident can return to the recovery residence in the event of a temporary removal;

(B) resident use of legally prescribed medications; and

(C) promoting quality and positive outcomes for residents;

(7) recommend an appropriate term for a noncertified recovery residence; and

(8) identify minimum reporting requirements about recovery residences by the certifying body, including reports on the temporary and permanent removal of residents, which the certifying body shall aggregate for regular submission to the Department.

(b) In developing the certification program recommendations required pursuant to this section, the Department shall consider:

(1) available funding streams to sustainably maintain and expand recovery residence services throughout the State;

(2) how to address barriers that limit the availability of recovery residences;

(3) recovery residence models used in other states and their applicability to Vermont; and

(4) how to engage noncertified recovery residences in the certification process.

(c) On or before January 15, 2025, the Department shall submit a written report describing its recommended recovery residence certification program and containing corresponding draft legislation to the House Committee on Human Services and to the Senate Committee on Health and Welfare.

(d) As used in this section, “recovery residence” means a shared living residence supporting persons recovering from a substance use disorder that provides tenants with peer support and assistance accessing support services and community resources available to persons recovering from substance use disorders.

## Sec. 2. ASSESSMENT; GROWTH AND EVALUATION OF RECOVERY RESIDENCES

(a) The Department of Health shall complete an assessment of certified and noncertified recovery residences in the State, which shall:

(1) create a comprehensive inventory of all recovery residences in Vermont, including assessments of proximity to employment, recovery, and other community resources;

(2) assess the current capacity, knowledge, and ability of recovery residences to inform data collection and improve outcomes for residents;



(3) assess recovery residences' potential for future data collection capacity; and

(4) assess the types of data systems currently in use in Vermont's recovery residences and defining the minimum core components of a data system.

(b) The Department may obtain technical assistance to complete the assessment required pursuant to subsection (a) of this section.

(c) On or before December 15, 2025, the Department shall submit the results of the assessment required pursuant to this section and any recommendations for legislative action to the House Committee on Human Services and to the Senate Committee on Health and Welfare.

(d) As used in this section, "recovery residence" means a shared living residence supporting persons recovering from a substance use disorder that provides tenants with peer support and assistance accessing support services and community resources available to persons recovering from substance use disorders.

Sec. 3. 9 V.S.A. § 4452 is amended to read:

§ 4452. EXCLUSIONS

(a) Unless created to avoid the application of this chapter, this chapter does not apply to any of the following:

\* \* \*

(b)(1) Notwithstanding subsections 4463(b) and 4467(b) and section 4468 of this chapter only, a recovery residence may immediately exit or transfer a resident if all of the following conditions are met:

(A) the recovery residence has developed and adopted a residential agreement:

(i) containing a written exit and transfer policy approved by the Vermont Alliance for Recovery Residences or another certifying organization approved by the Department of Health that:

(I) addresses the length of time that a bed will be held in the event of a temporary removal;

(II) establishes the criteria by which a resident can return to the recovery residence in the event of a temporary removal; and

(III) ensures a resident's possessions will be held not less than 60 days in the event of permanent removal;

(ii) designating alternative housing arrangements for the resident in the event of an exit or transfer, including contingency plans when alternative housing arrangements are not available;

(iii) describing the recovery residence's substance use policy, which shall exempt the use of a resident's valid prescription medication when used as prescribed; and

(iv) indicating that by signing a residential agreement, a resident acknowledges that the recovery residence may cause the resident to be immediately exited or transferred to alternative housing if the resident violates the recovery residence's substance use policy or engages in acts of violence that threaten the health or safety of other residents;

(B) the recovery residence has obtained the resident's written consent to its residential agreement, reaffirmed after seven days;

(C) the resident violated the substance use policy in the residential agreement or engaged in acts of violence that threatened the health or safety of other residents; and

(D) the recovery residence has provided or arranged for a stabilization bed or other alternative temporary housing.

(2) Relapse of a substance use disorder resulting in exiting a recovery residence shall not be deemed a cause of the resident's own homelessness for purposes of obtaining emergency housing.

(3) As used in this subsection, "recovery residence" means a shared living residence supporting persons recovering from a substance use disorder that:

(A) provides tenants with peer support and assistance accessing support services and community resources available to persons recovering from substance use disorders; and

(B) 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.

#### Sec. 4. REPORT; RECOVERY RESIDENCES' EXIT AND TRANSFER DATA

(a) On or before January 1, 2025 and 2026, a recovery residence shall report to the certifying body for the recovery residence any exit or transfer of a resident by the recovery residence in the previous year and the asserted basis for exiting or transferring the resident.

(b) On or before January 15, 2025 and 2026, the certifying body for a recovery residence shall report to the Department of Health the data received under subsection (a) of this section.

(c) On or before February 1, 2025 and 2026, the Department of Health shall submit the data received under subsection (b) of this section to the House Committees on General and Housing and on Human Services and the Senate Committees on Economic Development, Housing and General Affairs and on Health and Welfare.

(d) The 2025 report shall contain preliminary data from the previous six months and the 2026 report shall contain data from the preceding year.

(e) As used in this section, “recovery residence” means a shared living residence supporting persons recovering from a substance use disorder that:

(1) provides tenants with peer support and assistance accessing support services and community resources available to persons recovering from substance use disorders; and

(2) 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.

Sec. 5. SUNSET; RECOVERY RESIDENCES; RESIDENTIAL AGREEMENT; REPORTING

(a) 9 V.S.A. § 4452(b) is repealed on July 1, 2026.

(b) Sec. 4 (report; recovery residences’ exit and transfer data) is repealed on July 1, 2026.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

**ORDERED TO LIE**

**S. 94.**

An act relating to the City of Barre tax increment financing district.

## CONCURRENT RESOLUTIONS FOR ACTION

### Concurrent Resolutions For Action Under Joint Rule 16

The following joint concurrent resolutions have been introduced for approval by the Senate and House. They will be adopted by the Senate unless a Senator requests floor consideration before the end of the session. Requests for floor consideration should be communicated to the Secretary's Office.

**S.C.R. 14 - 15** (For text of Resolutions, see Addendum to Senate Calendar of May 2, 2024)

**H.C.R. 242 - 246** (For text of Resolutions, see Addendum to House Calendar for May 2, 2024)

## CONFIRMATIONS

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Utility Commission shall be fully and separately acted upon.

Julie Hulburd of Colchester - Member, Cannabis Control Board - Sen. Vyhovsky for the Committee on Government Operations. (4/10/2024)

## JFO NOTICE

Grants and Positions that have been submitted to the Joint Fiscal Committee by the Administration, under 32 V.S.A. §5(b)(3):

**JFO #3199:** \$1,000,000.00 from the U.S. Department of Energy through Vermont Energy Efficiency Coop to the Vermont Military Department. Funds will be used for facility upgrades in the Westminster and Berlin Armories to help study the effects of thermal energy storage on heating and cooling loads in electrified facilities.

The grant requires a 20% state match of \$250,000.00 which will be funded through an appropriation of existing capital funds.

[Received April 18, 2024]

**JFO #3200:** \$1,105,839.00 to the Department of Public Safety, VT Emergency Management from the Federal Emergency Management Agency. Funds for the repair and replacement of facilities affected during the severe storm and flooding event in Addison County from August 3-5, 2023.

*[Received April 29, 2024]*

**JFO #3201:** \$1,594,420.00 to the Vermont Public Service Department from the U.S. Department of Energy. The funds are for the creation of the Municipal Energy Resilience Revolving Fund (MERF) designated by the Vermont Legislature in [Act 172 of 2022](#) to support state and local energy efficiency projects.

*[Received April 29, 2024]*

**JFO #3202:** \$3,296,092.00 to the Vermont Agency of Human Services, Department of Children and Families from the Federal Emergency Management Agency. Funds to provide services for families impacted by the July 2023 flood event.

*[Received April 29, 2024]*

#### **FOR INFORMATION ONLY**

#### **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 15, 2024**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day. House Committee bills must be voted out of Committee by Friday, March 15, 2024 and introduced the next legislative day.

(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 22, 2024**, 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 (Appropriations “Big Bill”, Transportation Spending Bill, Capital Construction Bill, Pay Bill, and Miscellaneous Tax Bill).**