

1 H.264

2 Introduced by Representatives Savage of Swanton, Andrews of Rutland City,  
3 Batchelor of Derby, Bouchard of Colchester, Branagan of  
4 Georgia, Brennan of Colchester, Burditt of West Rutland,  
5 Canfield of Fair Haven, Clark of Vergennes, Consejo of  
6 Sheldon, Degree of St. Albans City, Devereux of Mount Holly,  
7 Dickinson of St. Albans Town, Fagan of Rutland City, Gilbert  
8 of Fairfax, Grad of Moretown, Hebert of Vernon, Higley of  
9 Lowell, Hubert of Milton, Keenan of St. Albans City,  
10 McAllister of Highgate, McFaun of Barre Town, McNeil of  
11 Rutland Town, Morrissey of Bennington, Myers of Essex,  
12 Pearce of Richford, Perley of Enosburgh, Shaw of Pittsford,  
13 Smith of New Haven, Strong of Albany, Waite-Simpson of  
14 Essex, Winters of Williamstown, Wright of Burlington and  
15 Yantachka of Charlotte

16 Referred to Committee on

17 Date:

18 Subject: Motor vehicles; driving while intoxicated; registration and forfeiture  
19 of vehicles

1 Statement of purpose: This bill proposes a number of provisions to enhance  
2 the penalties for driving while intoxicated. The bill proposes to:

3 (1) require that a person have insurance in order to register a motor vehicle;

4 (2) prohibit a person from registering a motor vehicle if the person's  
5 license or learner's permit has been suspended or revoked in any jurisdiction;

6 (3) establish criminal penalties for permitting an unlicensed person to  
7 operate a motor vehicle, and permit forfeiture of the vehicle if death or serious  
8 bodily injury results;

9 (4) create a five-year minimum jail sentence for DUI with death or serious  
10 bodily injury resulting if the offender has two prior DUI convictions, unless the  
11 court finds that a lesser sentence will serve the interests of justice and public  
12 safety; and

13 (5) permit the immobilization and forfeiture of a vehicle operated in  
14 violation of a parole condition which prohibits the operator from driving.

15 ~~An act relating to driving while intoxicated and to forfeiture and registration~~  
16 ~~of motor vehicles.~~ *An act relating to driving while intoxicated, forfeiture and*  
17 *registration of motor vehicles, the blood and breath alcohol testing and*  
18 *alcohol screening program, the minor guardianship study committee,*  
19 *confidentiality of cases accepted by the court diversion project, and the*  
20 *uniform adult guardianship and protective proceedings jurisdiction act.*

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

22 ~~Sec. 1. PURPOSE; SHORT TITLE~~

1 ~~(a) This act is intended to help prevent the catastrophic harm needlessly~~  
2 ~~caused to Vermonters and their families and friends by the irresponsibility of~~  
3 ~~persons who repeatedly operate motor vehicles while under the influence of~~  
4 ~~alcohol or drugs.~~

5 ~~(b) This act shall be known as "Nick's Law."~~

6 Sec. 2. 23 V.S.A. § 303 is amended to read:

7 § 303. APPLICATION REQUIRED

8 (a) The commissioner or his or her duly authorized agent shall register a  
9 motor vehicle, trailer, or semi-trailer when application therefor, on a form  
10 prescribed by the commissioner, showing such motor vehicle to be properly  
11 equipped and in good mechanical condition, is filed with him or her,  
12 accompanied by the required registration fee, the proof of financial  
13 responsibility required under section 800 of this title, and evidence of the  
14 applicant's ownership of the vehicle in such form as the commissioner may  
15 reasonably require. Except for state or municipal vehicles, registrants, and  
16 titled owners shall be identical.

17 (b) An application for registration may be refused by the commissioner if it  
18 is not accompanied by proof of payment of the use tax imposed by ~~section~~  
19 Section 4481 of the Internal Revenue Code of 1986 in such form as may be  
20 prescribed by the Secretary of the Treasury or in another form acceptable to the  
21 commissioner in the case of vehicles which are subject to the tax.

1 ~~(c) An application for registration shall be refused by the commissioner if~~  
2 ~~the applicant's license or learner's permit is suspended or revoked in any~~  
3 ~~jurisdiction.~~

4 Sec. 3. 23 V.S.A. § 1130 is amended to read:

5 § 1130. PERMITTING UNLICENSED PERSON TO OPERATE

6 (a) No person shall knowingly employ, as operator of a motor vehicle, a  
7 person not licensed as provided in this title.

8 (b) No person shall knowingly permit a motor vehicle owned by him or her  
9 or under his or her control to be operated by a person who has no legal right to  
10 do so, or in violation of a provision of this title.

11 (c)(1) A person who violates subsection (a) or (b) of this section shall be  
12 fined not more than \$1,000.00 or imprisoned for not more than six months or  
13 both.

14 (2) If the death of any person results from a violation of subsection (b)  
15 of this section, or if serious bodily injury as defined in 13 V.S.A. § 1021(2)  
16 results to any person other than the operator from the violation, the person  
17 convicted of the violation shall be fined not more than \$5,000.00 or imprisoned  
18 not more than two years or both. The provisions of this subdivision do not  
19 limit or restrict prosecutions for manslaughter.

1 ~~Sec. 4. 23 V.S.A. § 1210 is amended to read:~~

2 § 1210. PENALTIES

3 \* \* \*

4 (d) ~~Third~~ or subsequent offense. A person convicted of violating section  
5 1201 of this title who has twice been convicted of violation of that section shall  
6 be fined not more than ~~\$2,500.00~~ \$5,000.00 or imprisoned not more than ~~five~~  
7 ten years, or both. At least 400 hours of community service shall be  
8 performed, or 100 consecutive hours of the sentence of imprisonment shall be  
9 served and may not be suspended or deferred or served as a supervised  
10 sentence, except that credit for a sentence of imprisonment may be received for  
11 time served in a residential alcohol facility pursuant to sentence if the program  
12 is successfully completed. The court shall not impose a sentence that does not  
13 include a term of imprisonment unless the court makes written findings on the  
14 record that a nonincarcerative sentence will serve the interests of justice and  
15 public safety.

16 (e)(1) Death resulting. If the death of any person results from a violation of  
17 section 1201 of this title, the person convicted of the violation shall be fined  
18 not more than \$10,000.00 or imprisoned not less than one year nor more than  
19 15 years, or both. The provisions of this subsection do not limit or restrict  
20 prosecutions for manslaughter.

1 ~~(2) If the death of more than one person results from a violation of~~  
2 section 1201 of this title, the operator may be convicted of a separate violation  
3 of this subdivision for each decedent.

4 (3)(A) If the death of any person results from a violation of section 1201  
5 of this title, and the person convicted of the violation has twice been convicted  
6 of a violation of that section, a sentence ordered pursuant to this subsection  
7 shall, except as provided in subdivision (B) of this subdivision (3), include at  
8 least a five-year term of imprisonment. The five-year minimum term of  
9 imprisonment required by this subdivision shall be served and may not be  
10 suspended, deferred, or served as a supervised sentence. The defendant shall  
11 not be eligible for probation, parole, furlough, or any other type of early  
12 release until the expiration of the five-year term of imprisonment.

13 (B) Notwithstanding subdivision (A) of this subdivision (3), if the  
14 death of any person results from a violation of section 1201 of this title, and  
15 the person convicted of the violation has twice been convicted of a violation of  
16 that section, the court may impose a sentence that does not include a term of  
17 imprisonment or which includes a term of imprisonment of less than five years  
18 if the court makes written findings on the record that such a sentence will serve  
19 the interests of justice and public safety.

20 (f)(1) Injury resulting. If serious bodily injury, as defined in 13 V.S.A.  
21 § 1021(2), results to any person other than the operator from a violation of

1 ~~section 1201 of this title, the person convicted of the violation shall be fined~~  
2 not more than \$5,000.00, or imprisoned not more than 15 years, or both.

3 (2) If serious bodily injury as defined in 13 V.S.A. § 1021(2) results to  
4 more than one person other than the operator from a violation of section 1201  
5 of this title, the operator may be convicted of a separate violation of this  
6 subdivision for each person injured.

7 (3)(A) If serious bodily injury as defined in 13 V.S.A. § 1021(2) results  
8 to any person other than the operator from a violation of section 1201 of this  
9 title, and the person convicted of the violation has twice been convicted of a  
10 violation of section 1201, a sentence ordered pursuant to this subsection shall,  
11 except as provided in subdivision (B) of this subdivision (3), include at least a  
12 five-year term of imprisonment. The five-year minimum term of  
13 imprisonment required by this subdivision shall be served and may not be  
14 suspended, deferred, or served as a supervised sentence. The defendant shall  
15 not be eligible for probation, parole, furlough, or any other type of early  
16 release until the expiration of the five-year term of imprisonment.

17 (B) Notwithstanding subdivision (A) of this subdivision (3), if  
18 serious bodily injury as defined in 13 V.S.A. § 1021(2) results to any person  
19 other than the operator from a violation of section 1201 of this title, and the  
20 person convicted of the violation has twice been convicted of a violation of  
21 section 1201, the court may impose a sentence that does not include a term of

1 ~~imprisonment or which includes a term of imprisonment of less than five years~~  
2 if the court makes written findings on the record that such a sentence will serve  
3 the interests of justice and public safety.

4 \* \* \*

5 Sec. 5. 23 V.S.A. § 1212 is amended to read:

6 § 1212. CONDITIONS OF RELEASE AND PAROLE; ARREST UPON  
7 VIOLATION

8 \* \* \*

9 (d) A law enforcement officer or a corrections officer who observes a  
10 person violating a condition of parole requiring that the person not operate a  
11 motor vehicle may promptly arrest the person for violating the condition and  
12 shall detain the person pursuant to 28 V.S.A. § 551. The officer shall  
13 immobilize the vehicle and immediately notify the parole board of the  
14 suspected violation. If the parole board determines pursuant to 28 V.S.A.  
15 § 552 that a parole violation has occurred, the board shall notify the state's  
16 attorney in the county where the violation occurred, who shall institute  
17 forfeiture proceedings against the vehicle under section 1213c of this title as  
18 soon as practicable.

1 ~~Sec. 6. 23 V.S.A. § 1213b is amended to read:~~

2 ~~§ 1213b. FORFEITURE OF VEHICLE~~

3 ~~At the time of sentencing after a third or subsequent conviction under~~  
4 ~~section 1201 of this title or after a conviction under subdivision 1130(c)(2) of~~  
5 ~~this title, or upon a determination by the parole board that a person has violated~~  
6 ~~a condition of parole requiring that the person not operate a motor vehicle, the~~  
7 ~~court may, upon motion of the state and in addition to any penalty imposed by~~  
8 ~~law and after notice and hearing, order the motor vehicle operated by the~~  
9 ~~defendant or parolee at the time of the offense forfeited and sold as provided in~~  
10 ~~section 1213c of this title.~~

~~Sec. 1. PURPOSE~~

~~*This act is intended to help prevent the harm caused to Vermonters and their families and friends by persons who repeatedly operate motor vehicles while under the influence of alcohol or other drugs. The list of Vermonters who have died or been injured because of persons who repeatedly operate motor vehicles while under the influence of alcohol or other drugs is far too long. It includes both the victims of recent high profile cases, such as Nick Fournier and Kaye Borneman, as well as others whose deaths and injuries may have received less public notice. All of these people are and were equally precious. This act cannot now help them, but it is intended to use lessons learned from these losses to create new approaches to help prevent the needless and heartrending harm suffered by the victims, living and dead, of those who drive under the influence.*~~

~~\*\*\* Registration, licensing, and insurance \*\*\*~~

~~Sec. 2. 23 V.S.A. § 303 is amended to read:~~

~~§ 303. APPLICATION REQUIRED~~

~~\*\*\*~~

~~(b) An application for registration may be refused by the commissioner if it is not accompanied by proof of payment of the use tax imposed by ~~section~~ Section 4481 of the Internal Revenue Code of 1986 in such form as may be~~

~~prescribed by the Secretary of the Treasury or in another form acceptable to the commissioner in the case of vehicles which are subject to the tax.~~

~~(c)(1) The commissioner shall refuse an application for registration of a vehicle with a single registrant or revoke the registration of a vehicle with a single registrant if the applicant's or registrant's license or learner's permit is suspended or revoked in any jurisdiction.~~

~~(2) The commissioner shall not approve an application for a transfer of title to a motor vehicle if the transferor's license or learner's permit is suspended or revoked in any jurisdiction and the transferor is named as a transferee or new owner on the application.~~

~~Sec. 3. 23 V.S.A. § 800 is amended to read:~~

~~§ 800. MAINTENANCE OF FINANCIAL RESPONSIBILITY~~

~~(a) No owner or operator of a motor vehicle required to be licensed shall operate or permit the operation of the vehicle upon the highways of the state without having in effect an automobile liability policy or bond in the amounts of at least \$25,000.00 for one person and \$50,000.00 for two or more persons killed or injured and \$10,000.00 for damages to property in any one accident. In lieu thereof, evidence of self-insurance in the amount of \$115,000.00 must be filed with the commissioner of motor vehicles. Such financial responsibility shall be maintained and evidenced in a form prescribed by the commissioner. The commissioner may require that evidence of financial responsibility be produced before motor vehicle inspections are performed pursuant to the requirements of section 1222 of this title.~~

~~(b) A person who violates this section shall be assessed a civil penalty of not more than ~~\$100.00~~ \$500.00, and such violation shall be a traffic violation within the meaning of chapter 24 of this title.~~

~~Sec. 4. DEPARTMENT OF MOTOR VEHICLES PROCEDURES~~

~~On or before January 15, 2012, the department of motor vehicles shall:~~

~~(1) configure its computer system so that it is able to accept notice directly from insurance companies that a person's motor vehicle insurance policy has been cancelled; and~~

~~(2) develop a system which, when a person applies for a license to operate a motor vehicle, alerts the department that the person's license is suspended in another jurisdiction.~~

~~\*\*\* Permitting Unlicensed or Impaired Person to Operate \*\*\*~~

~~Sec. 5. 23 V.S.A. § 1130 is amended to read:~~

~~§ 1130. PERMITTING UNLICENSED OR IMPAIRED PERSON TO OPERATE~~

~~(a) No person shall knowingly employ, as operator of a motor vehicle, a another person as an operator of a motor vehicle knowing that the other person is not licensed as provided in this title.~~

~~(b) No person shall knowingly permit a motor vehicle owned by him or her or under his or her control to be operated by a another person who if the person who owns or controls the vehicle knows that the other person has no legal right to do so, or in violation of a provision of this title operate the vehicle.~~

~~(c) No person shall permit a motor vehicle owned by him or her or under his or her control to be operated by another person if the person who owns or controls the vehicle has actual or constructive knowledge that the operator is:~~

~~(1) under the influence of intoxicating liquor; or~~

~~(2) under the influence of any other drug or under the combined influence of alcohol and any other drug to a degree which renders the person incapable of driving safely.~~

~~(d)(1) A person who violates subsection (c) of this section shall be fined not more than \$1,000.00 or imprisoned for not more than six months, or both.~~

~~(2) If the death or if serious bodily injury as defined in 13 V.S.A. § 1021(2) results to any person other than the operator from a violation of subsection (c) of this section, the person convicted of the violation shall be fined not more than \$5,000.00 or imprisoned not more than two years, or both. The provisions of this subdivision do not limit or restrict prosecutions for manslaughter.~~

~~(e) In a prosecution under this section, the defendant may raise as an affirmative defense to be proven by a preponderance of the evidence that the unlicensed person obtained permission from the defendant to operate the motor vehicle by placing the defendant under duress or subjecting the defendant to coercion.~~

~~\* \* \* DUI penalties and alternative sanctions \* \* \*~~

~~Sec. 6. 23 V.S.A. § 1210 is amended to read:~~

~~§ 1210. PENALTIES~~

~~\* \* \*~~

~~(d) Third or subsequent offense. A person convicted of violating section 1201 of this title who has ~~twice~~ previously been convicted two times of a violation of that section shall be fined not more than \$2,500.00 or imprisoned not more than five years, or both. ~~At least 400 hours of community service shall be performed,~~ or 100 consecutive hours of the sentence of imprisonment shall be served and may not be suspended or deferred or served as a supervised sentence, except that credit for a sentence of imprisonment may be received for time served in a residential alcohol facility pursuant to sentence if the program is successfully completed. The court may impose a sentence that does not include a term of imprisonment or that does not require that the 100 hours of imprisonment be served consecutively only if the court makes written findings on the record that such a sentence will serve the interests of justice and public safety.~~

~~(e)(1) Fourth or subsequent offense. A person convicted of violating section 1201 of this title who has previously been convicted three times of a violation of that section shall be fined not more than \$5,000.00 or imprisoned not more than ten years, or both. At least 200 consecutive hours of the sentence of imprisonment shall be served and may not be suspended or deferred or served as a supervised sentence, except that credit for a sentence of imprisonment may be received for time served in a residential alcohol facility pursuant to sentence if the program is successfully completed. The court shall not impose a sentence that does not include a term of imprisonment unless the court makes written findings on the record that there are compelling reasons why such a sentence will serve the interests of justice and public safety.~~

~~(2) The department of corrections shall provide appropriate alcohol and substance abuse therapy to any person convicted of a violation of this subsection.~~

~~(e)(1)(f)(1) Death resulting. If the death of any person results from a violation of section 1201 of this title, the person convicted of the violation shall be fined not more than \$10,000.00 or imprisoned not less than one year nor more than 15 years, or both. The provisions of this subsection do not limit or restrict prosecutions for manslaughter.~~

~~(2) If the death of more than one person results from a violation of section 1201 of this title, the operator may be convicted of a separate violation of this subdivision for each decedent.~~

~~(3)(A) If the death of any person results from a violation of section 1201 of this title and the person convicted of the violation has previously been convicted two times of a violation of that section, a sentence ordered pursuant to this subsection shall, except as provided in subdivision (B) of this~~

~~subdivision (3), include at least a five-year term of imprisonment. The five-year minimum term of imprisonment required by this subdivision 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 five-year term of imprisonment.~~

~~(B) Notwithstanding subdivision (A) of this subdivision (3), if the death of any person results from a violation of section 1201 of this title and the person convicted of the violation has previously been convicted two times of a violation of that section, the court may impose a sentence that does not include a term of imprisonment or which includes a term of imprisonment of less than five years if the court makes written findings on the record that such a sentence will serve the interests of justice and public safety.~~

~~(f)(1)(g)(1) Injury resulting. If serious bodily injury, as defined in 13 V.S.A. § 1021(2), results to any person other than the operator from a violation of section 1201 of this title, the person convicted of the violation shall be fined not more than \$5,000.00, or imprisoned not more than 15 years, or both.~~

~~(2) If serious bodily injury as defined in 13 V.S.A. § 1021(2) results to more than one person other than the operator from a violation of section 1201 of this title, the operator may be convicted of a separate violation of this subdivision for each person injured.~~

~~(3)(A) If serious bodily injury as defined in 13 V.S.A. § 1021(2) results to any person other than the operator from a violation of section 1201 of this title and the person convicted of the violation has previously been convicted two times of a violation of section 1201, a sentence ordered pursuant to this subsection shall, except as provided in subdivision (B) of this subdivision (3), include at least a five-year term of imprisonment. The five-year minimum term of imprisonment required by this subdivision 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 five-year term of imprisonment.~~

~~(B) Notwithstanding subdivision (A) of this subdivision (3), if serious bodily injury as defined in 13 V.S.A. § 1021(2) results to any person other than the operator from a violation of section 1201 of this title and the person convicted of the violation has previously been convicted two times of a violation of section 1201, the court may impose a sentence that does not include a term of imprisonment or which includes a term of imprisonment of less than five years if the court makes written findings on the record that such a sentence will serve the interests of justice and public safety.~~

~~(g)(h) Determination of fines. In determining appropriate fines under this section the court may take into account the total cost to a defendant of alcohol screening, participation in the alcohol and driving education program and therapy and the income of the defendant.~~

~~(h)(i) A person convicted of violating section 1201 of this title shall be assessed a surcharge of \$60.00, which shall be added to any fine imposed by the court. The court shall collect and transfer such surcharge to the department of health for deposit in the health department's laboratory services special fund.~~

~~(i)(j) A person convicted of violating section 1201 of this title shall be assessed a surcharge of \$50.00, which shall be added to any fine or surcharge imposed by the court. The court shall collect and transfer the surcharge assessed under this subsection to the office of defender general for deposit in the public defender special fund specifying the source of the monies being deposited. The collection procedures described in 13 V.S.A. § 5240 shall be utilized in the collection of this surcharge.~~

~~(j)(k) A person convicted of violating section 1201 of this title shall be assessed a surcharge of \$50.00, which shall be added to any fine or surcharge imposed by the court. The court shall collect and transfer the surcharge assessed under this subsection to be credited to the DUI enforcement fund. The collection procedures described in 13 V.S.A. § 5240 shall be utilized in the collection of this surcharge.~~

~~Sec. 7. COMPREHENSIVE SYSTEM TO REDUCE REPEAT DUI~~

~~OFFENSES; DEPARTMENTS OF MOTOR VEHICLES, PUBLIC  
SAFETY, AND CORRECTIONS~~

~~On or before January 15, 2012, the departments of motor vehicles, public safety, and corrections shall jointly report to the house and senate committees on judiciary a plan for implementation of a comprehensive system of penalties, alternative sanctions, and treatment to reduce the number of persons with repeat offenses of operating motor vehicles while under the influence of alcohol or other drugs. The system may include, among other measures, the following:~~

~~(1) a mandatory sobriety program for repeat DUI offenders similar to South Dakota's "24/7 Sobriety Program;"~~

~~(2) increased penalties for operating a vehicle with an alcohol concentration substantially greater than the legal limit;~~

~~(3) lowering the legally permissible alcohol concentration for operating a motor vehicle by persons who have previously been convicted of operating a motor vehicle while under the influence of alcohol or other drugs;~~

~~(4) enhanced use of ignition interlock devices;~~

~~(5) mandatory alcohol and drug counseling and treatment for persons convicted of operating a motor vehicle while under the influence of alcohol or other drugs;~~

~~(6) establishment of a secure facility for housing and treatment of persons convicted of operating a motor vehicle while under the influence of alcohol or drugs; and~~

~~(7) the circumstances under which the operator of a motor vehicle may be required to submit to a blood test to determine whether he or she has been operating the vehicle while under the influence of a drug other than alcohol.~~

1           (6) establishment of a secure facility for housing and treatment of  
2           persons convicted of operating a motor vehicle while under the influence of  
3           alcohol or drugs;

4           (7) the circumstances under which the operator of a motor vehicle may  
5           be required to submit to a blood test to determine whether he or she has been  
6           operating the vehicle while under the influence of a drug other than alcohol;  
7           and

8           (8) revisions that may be appropriate to the DUI statutes when the  
9           circumstances involve operating a motor vehicle under the influence of a drug  
10           that has been legally prescribed to the operator.

*\* \* \* Detention of operator; forfeiture and immobilization of vehicle \* \* \**

Sec. 8. 23 V.S.A. § 1212 is amended to read:

**§ 1212. CONDITIONS OF RELEASE AND PAROLE; ARREST UPON VIOLATION**

*\* \* \**

(d) A law enforcement officer or a corrections officer who observes a person violating a condition of parole requiring that the person not operate a motor vehicle may promptly arrest the person for violating the condition and may detain the person pursuant to 28 V.S.A. § 551. The officer may immobilize the vehicle and shall immediately notify the parole board of the suspected violation. If the parole board determines pursuant to 28 V.S.A. § 552 that a parole violation has occurred, the board shall notify the state's attorney in the county where the violation occurred, who may institute forfeiture proceedings against the vehicle under section 1213c of this title.

~~Sec. 9. 23 V.S.A. § 1213b is amended to read:~~

~~§ 1213b. FORFEITURE OF VEHICLE~~

~~At the time of sentencing after a third or subsequent conviction under section 1201 of this title or after a conviction under subdivision 1130(c)(2) of this title, or upon a determination by the parole board that a person has violated a condition of parole requiring that the person not operate a motor vehicle, the court may, upon motion of the state and in addition to any penalty imposed by law and after notice and hearing, order the motor vehicle operated by the defendant or parolee at the time of the offense forfeited and sold as provided in section 1213c of this title.~~

~~Sec. 1. PURPOSE~~

~~This act is intended to help prevent the harm caused to Vermonters and their families and friends by chronic DUI offenders who operate motor vehicles while under the influence of alcohol or other drugs.~~

~~\*\*\* Registration, licensing, and insurance \*\*\*~~

~~\*\*\* Permitting Unlicensed or Impaired Person to Operate \*\*\*~~

~~Sec. 2. 23 V.S.A. § 1130 is amended to read:~~

~~§ 1130. PERMITTING UNLICENSED OR IMPAIRED PERSON TO OPERATE~~

~~(a) No person shall knowingly employ, as operator of a motor vehicle, a another person as an operator of a motor vehicle knowing that the other person is not licensed as provided in this title.~~

~~(b) No person shall knowingly permit a motor vehicle owned by him or her or under his or her control to be operated by a another person who if the person who owns or controls the vehicle knows that the other person has no legal right to do so, or in violation of a provision of this title operate the vehicle.~~

~~(c)(1) No person who owns or is in control of a vehicle shall intentionally create a direct and immediate opportunity for another person to operate the motor vehicle if the person who owns or controls the vehicle has actual knowledge that the operator is:~~

~~(A) under the influence of intoxicating liquor; or~~

~~(B) under the influence of any other drug or under the combined influence of alcohol and any other drug to a degree which renders the person incapable of driving safely.~~

~~(2) This subsection shall not apply if the defendant was placed under~~

duress or subjected to coercion by the other person at the time the defendant enabled the other person to operate the motor vehicle.

(d)(1) A person who violates subsection (c) of this section shall be fined not more than \$1,000.00 or imprisoned for not more than six months, or both.

(2) If death or if serious bodily injury as defined in 13 V.S.A. § 1021(2) results to any person other than the operator from a violation of subsection (c) of this section, the person convicted of the violation shall be fined not more than \$5,000.00 or imprisoned not more than two years, or both. The provisions of this subdivision do not limit or restrict prosecutions for manslaughter.

*\* \* \* DUI penalties, alternative sanctions, and innovative responses \* \* \**

*Sec. 3. 23 V.S.A. § 1201 is amended to read:*

§ 1201. OPERATING VEHICLE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR OTHER SUBSTANCE; CRIMINAL REFUSAL; ENHANCED PENALTY FOR BAC OF 0.16 OR MORE

*(a) A person shall not operate, attempt to operate, or be in actual physical control of any vehicle on a highway:*

*(1) when the person's alcohol concentration is 0.08 or more, or 0.02 or more if the person is operating a school bus as defined in subdivision 4(34) of this title; or*

*(2) when the person is under the influence of intoxicating liquor; or*

*(3) when the person is under the influence of any other drug or under the combined influence of alcohol and any other drug to a degree which renders the person incapable of driving safely; or*

*(4) when the person's alcohol concentration is 0.04 or more if the person is operating a commercial motor vehicle as defined in subdivision 4103(4) of this title.*

*\* \* \**

(d)(1) A person who is convicted of a second or subsequent violation of subsection (a), (b), or (c) of this section when the person's alcohol concentration is proven to be 0.16 or more shall not, for three years from the date of the conviction for which the person's alcohol concentration is 0.16 or more, operate, attempt to operate, or be in actual physical control of any vehicle on a highway when the person's alcohol concentration is 0.02 or more. The prohibition imposed by this subsection shall be in addition to any other penalties imposed by law.

(2) A person shall not operate, attempt to operate, or be in actual physical control of any vehicle on a highway when the person's alcohol concentration is 0.02 or more if the person has previously been convicted of a second or subsequent violation of subsection (a), (b), or (c) of this section within the preceding three years and the person's alcohol concentration for the second or subsequent violation was proven to be 0.16 or greater. A violation of this subsection shall be considered a third or subsequent violation of this section and shall be subject to the penalties of subsection 1210(d) of this title.

~~(d)~~(e) The fact that a person charged with a violation of this section is or has been entitled to use a drug under the laws of this state shall not constitute a defense against any charge of violating this section.

~~(e)~~(f) A person may not be convicted of more than one violation of subsection (a) of this section arising out of the same incident.

~~(f)~~(g) For purposes of this section and section 1205 of this title, the defendant may assert as an affirmative defense that the person was not operating, attempting to operate, or in actual physical control of the vehicle because the person:

- (1) had no intention of placing the vehicle in motion; and
- (2) had not placed the vehicle in motion while under the influence.

Sec. 4. 23 V.S.A. § 1205(a)(3) is added to read:

(3) Upon affidavit of a law enforcement officer that the officer had reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201(d)(2) of this title and that the person submitted to a test and the test results indicated that the person's alcohol concentration was 0.02 or more at the time of operating, attempting to operate or being in actual physical control, the commissioner shall suspend the person's operating license, or nonresident operating privilege, or the privilege of an unlicensed operator to operate a vehicle for life. However, a person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title after one year of this lifetime suspension unless the alleged offense involved a collision resulting in serious bodily injury or death to another.

Sec. 5. 23 V.S.A. § 1210 is amended to read:

§ 1210. PENALTIES

\* \* \*

(d) ~~Third or subsequent~~ offense. A person convicted of violating section 1201 of this title who has ~~twice~~ previously been convicted two times of a violation of that section shall be fined not more than \$2,500.00 or imprisoned

~~not more than five years, or both. At least 400 hours of community service shall be performed, or 100 96 consecutive hours of the sentence of imprisonment shall be served and may not be suspended or deferred or served as a supervised sentence, except that credit for a sentence of imprisonment may be received for time served in a residential alcohol facility pursuant to sentence if the program is successfully completed. The court may impose a sentence that does not include a term of imprisonment or that does not require that the 96 hours of imprisonment be served consecutively only if the court makes written findings on the record that such a sentence will serve the interests of justice and public safety.~~

~~(e)(1) Fourth or subsequent offense. A person convicted of violating section 1201 of this title who has previously been convicted three or more times of a violation of that section shall be fined not more than \$5,000.00 or imprisoned not more than ten years, or both. At least 192 consecutive hours of the sentence of imprisonment shall be served and may not be suspended or deferred or served as a supervised sentence, except that credit for a sentence of imprisonment may be received for time served in a residential alcohol treatment facility pursuant to sentence if the program is successfully completed. The court shall not impose a sentence that does not include a term of imprisonment unless the court makes written findings on the record that there are compelling reasons why such a sentence will serve the interests of justice and public safety.~~

~~(2) The department of corrections shall provide alcohol and substance abuse treatment, when appropriate, to any person convicted of a violation of this subsection.~~

~~(e)(1)(f)(1) Death resulting. If the death of any person results from a violation of section 1201 of this title, the person convicted of the violation shall be fined not more than \$10,000.00 or imprisoned not less than one year nor more than 15 years, or both. The provisions of this subsection do not limit or restrict prosecutions for manslaughter.~~

~~(2) If the death of more than one person results from a violation of section 1201 of this title, the operator may be convicted of a separate violation of this subdivision for each decedent.~~

~~(3)(A) Death resulting; third or subsequent offense. If the death of any person results from a violation of section 1201 of this title and the person convicted of the violation previously has been convicted two or more times of a violation of that section, a sentence ordered pursuant to this subsection shall, except as provided in subdivision (B) of this subdivision (3), include at least a five-year term of imprisonment. The five-year minimum term of imprisonment required by this subdivision 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 five-year term of imprisonment.

(B) Notwithstanding subdivision (A) of this subdivision (3), if the death of any person results from a violation of section 1201 of this title and the person convicted of the violation previously has been convicted two or more times of a violation of that section, the court may impose a sentence that does not include a term of imprisonment or which includes a term of imprisonment of less than five years if the court makes written findings on the record that such a sentence will serve the interests of justice and public safety.

(f)(1)(g)(1) Injury resulting. If serious bodily injury, as defined in 13 V.S.A. § 1021(2), results to any person other than the operator from a violation of section 1201 of this title, the person convicted of the violation shall be fined not more than \$5,000.00, or imprisoned not more than 15 years, or both.

(2) If serious bodily injury as defined in 13 V.S.A. § 1021(2) results to more than one person other than the operator from a violation of section 1201 of this title, the operator may be convicted of a separate violation of this subdivision for each person injured.

(3)(A) Injury resulting; third or subsequent offense. If serious bodily injury as defined in 13 V.S.A. § 1021(2) results to any person other than the operator from a violation of section 1201 of this title and the person convicted of the violation previously has been convicted two or more times of a violation of section 1201, a sentence ordered pursuant to this subsection shall, except as provided in subdivision (B) of this subdivision (3), include at least a five-year term of imprisonment. The five-year minimum term of imprisonment required by this subdivision 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 five-year term of imprisonment.

(B) Notwithstanding subdivision (A) of this subdivision (3), if serious bodily injury as defined in 13 V.S.A. § 1021(2) results to any person other than the operator from a violation of section 1201 of this title and the person convicted of the violation previously has been convicted two or more times of a violation of section 1201, the court may impose a sentence that does not include a term of imprisonment or which includes a term of imprisonment of less than five years if the court makes written findings on the record that such a sentence will serve the interests of justice and public safety.

(g)(h) Determination of fines. In determining appropriate fines under this section, the court may take into account the total cost to a defendant of alcohol

*screening, participation in the alcohol and driving education program and therapy, and the income of the defendant.*

*~~(h)~~(i) A person convicted of violating section 1201 of this title shall be assessed a surcharge of \$60.00, which shall be added to any fine imposed by the court. The court shall collect and transfer such surcharge to the department of health for deposit in the health department's laboratory services special fund.*

*~~(i)~~(j) A person convicted of violating section 1201 of this title shall be assessed a surcharge of \$50.00, which shall be added to any fine or surcharge imposed by the court. The court shall collect and transfer the surcharge assessed under this subsection to the office of defender general for deposit in the public defender special fund specifying the source of the monies being deposited. The collection procedures described in 13 V.S.A. § 5240 shall be utilized in the collection of this surcharge.*

*~~(j)~~(k) A person convicted of violating section 1201 of this title shall be assessed a surcharge of \$50.00, which shall be added to any fine or surcharge imposed by the court. The court shall collect and transfer the surcharge assessed under this subsection to be credited to the DUI enforcement fund. The collection procedures described in 13 V.S.A. § 5240 shall be utilized in the collection of this surcharge.*

*Sec. 6. 23 V.S.A. § 1220a is amended to read:*

*§ 1220a. DUI ENFORCEMENT SPECIAL FUND*

*(a) There is created a DUI enforcement special fund which shall be a special fund established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5. The DUI enforcement special fund shall be a continuation of and successor to the DUI enforcement special fund established under subsection 1205(r) of this title.*

*(b) The DUI enforcement special fund shall consist of:*

*(1) receipts from the surcharges assessed under section 206 and subsections 674(i), 1091(d), 1094(f), 1128(d), 1133(d), 1205(r), and ~~1210(j)~~ 1210(k) of this title;*

*(2) beginning in fiscal year 2000 and thereafter, the first \$150,000.00 of revenues collected from fines imposed under subchapter 13 of chapter 13 of this title pertaining to DUI related offenses;*

*(3) beginning in fiscal year 2000 and thereafter, two percent of the revenues raised by the motor fuel tax on gasoline imposed by chapter 28 of this title; and*

(4) *any additional funds transferred or appropriated by the general assembly.*

(c) *The DUI enforcement special fund shall be used for the implementation and enforcement of this subchapter for purposes specified and in amounts appropriated by the general assembly. Effort shall be given to awarding grants to municipalities or law enforcement agencies for innovative programs designed to reduce DUI offenses, and priority shall be given to grants requested jointly by more than one law enforcement agency or municipality.*

*Sec. 7. DUI ENFORCEMENT SPECIAL FUND REPORT*

*On or before December 1, 2011, the joint fiscal office, in consultation with the department of public safety, shall report to the house and senate committees on judiciary and on appropriations on the funding and expenditures of the DUI enforcement special fund established by 23 V.S.A. § 1220a. The report shall include:*

*(1) the amount and sources of the fund's revenues and the amount and recipients of the fund's expenditures and grants with respect to each year from the time of the fund's inception through fiscal year 2011, to the extent that such data is available;*

*(2) particular detail regarding grants provided by the fund to support local law enforcement agencies and dedicated state DUI troopers with respect to each year from the time of the fund's inception through fiscal year 2011, to the extent that such data is available; and*

*(3) the amount and sources of the fund's projected future revenues and the fund's projected future expenditures and grants.*

*Sec. 8. 13 V.S.A. § 5239 is amended to read:*

*§ 5239. PUBLIC DEFENDER SPECIAL FUND*

*(a) The public defender special fund is hereby created. All co-payments, reimbursements, and assignment fees paid by persons receiving representation under this chapter, as well as all amounts recovered pursuant to section 5255 of this title and ~~23 V.S.A. § 1210(i)~~ 23 V.S.A. § 1210(j), shall be deposited in the fund.*

*\* \* \**

*Sec. 9. DEDICATED BEDS FOR CHRONIC REPEAT DUI OFFENDERS*

*The department of corrections shall report to the joint committee on corrections oversight on or before November 15, 2011 on the feasibility of dedicating 25 beds at the southeast state correctional facility exclusively for chronic repeat DUI offenders. As used in this section, "chronic repeat DUI*

offender” means a person convicted three or more times of a violation of 23 V.S.A. § 1201.

**Sec. 10. COMPREHENSIVE SYSTEM TO REDUCE REPEAT DUI OFFENSES**

On or before January 15, 2012, the director of the governor’s highway safety program, in consultation with the defender general and the departments of motor vehicles, of public safety, of health, and of corrections shall report to the house and senate committees on judiciary on a plan for implementation of a comprehensive system of penalties, alternative sanctions, and treatment to reduce the number of persons with repeat offenses of operating motor vehicles while under the influence of alcohol or other drugs. The system may include, among other measures, the following:

(1) a mandatory sobriety program for repeat DUI offenders similar to South Dakota’s “24/7 Sobriety Program”;

(2) increased penalties for operating a vehicle with an alcohol concentration substantially greater than the legal limit;

(3) methods of responding to DUI offenders who fail to complete the alcohol and driving education program (CRASH) required by 23 V.S.A. § 1209a(a)(1);

(4) enhanced use of ignition interlock devices, with respect to which the ignition interlock effectiveness study required by Sec. 14 of No. 126 of the Acts of the 2009 Adj. Sess. (2010) shall be considered;

(5) mandatory alcohol and drug counseling and treatment for persons convicted of operating a motor vehicle while under the influence of alcohol or other drugs;

(6) establishment of a secure facility for housing and treatment of persons convicted of operating a motor vehicle while under the influence of alcohol or drugs;

(7) the circumstances under which the operator of a motor vehicle may be required to submit to a blood test to determine whether he or she has been operating the vehicle while under the influence of a drug other than alcohol;

(8) revisions that may be appropriate to the DUI statutes when the circumstances involve operating a motor vehicle under the influence of a drug that has been legally prescribed to the operator; and

(9) a proposal to permit conditional operator’s licenses, which may be issued to a person who has been convicted of DUI for travel to limited places such as work, drug or alcohol treatment, school, or a doctor’s office.

*\* \* \* Detention of operator; forfeiture and immobilization of vehicle \* \* \**

*Sec. 11. 23 V.S.A. § 1212 is amended to read:*

*§ 1212. CONDITIONS OF RELEASE AND PAROLE; ARREST UPON VIOLATION*

*\* \* \**

*(d) A law enforcement officer who observes a person violating a condition of parole requiring that the person not operate a motor vehicle may promptly arrest the person for violating the condition and may detain the person pursuant to 28 V.S.A. § 551. The officer may immobilize the vehicle and shall immediately notify the parole board of the suspected violation. If the parole board determines pursuant to 28 V.S.A. § 552 that a parole violation has occurred, the board shall notify the state's attorney in the county where the violation occurred, who may institute forfeiture proceedings against the vehicle under section 1213c of this title.*

*Sec. 12. 23 V.S.A. § 1213b is amended to read:*

*§ 1213b. FORFEITURE OF VEHICLE*

*At the time of sentencing after a third or subsequent conviction under section 1201 of this title or after a conviction under subdivision 1130(c)(1) of this title, or upon a determination by the parole board that a person has violated a condition of parole requiring that the person not operate a motor vehicle, the court may, upon motion of the state and in addition to any penalty imposed by law and after notice and hearing, order the motor vehicle operated by the defendant or parolee at the time of the offense forfeited and sold as provided in section 1213c of this title.*

*\* \* \* Miscellaneous \* \* \**

*Sec. 13. REPORTS; STUDIES*

*(a) The court administrator shall report to the senate and house committees on judiciary on or before January 15, 2012 on the number of persons convicted of violating 23 V.S.A. § 1130(c) (permitting impaired person to operate motor vehicle) since the passage of this act.*

*(b) Notwithstanding any other provision of law, the court administrator shall conduct a weighted caseload study and analysis or equivalent compensation study within the probate division of the superior court for use by the senate and house committees on appropriations during development of the fiscal year 2013 budget. The results of the study shall be reported to the senate and house committees on judiciary and on appropriations on or before January 15, 2012. The study may be used to review and consider adjustments to the compensation of probate judges.*

(c)(1) A committee is established to study modifying the number of interested parties who must be served with notice when a probate proceeding is commenced involving a decedent's estate and reducing the amount of time notice by publication is required to be published in newspapers. The committee shall consider whether reducing the number of interested parties would reduce costs to the estate without unduly prejudicing the rights of potential beneficiaries, and whether constitutional issues would be raised if such changes were made. The committee shall report its findings, together with any recommendations for legislative action, to the senate and house committees on judiciary no later than December 15, 2011.

(2) The committee established by this subsection shall consist of the following members:

(A) one probate judge appointed by the chief justice;

(B) one member with experience in probate practice appointed by the Vermont Bar Association; and

(C) one member appointed by the Committee on Vermont Elders.

(3) Members of the committee who are not employees of the state of Vermont shall be entitled to reimbursement at the per diem rate set in 32 V.S.A. § 1010.

Sec. 14. 23 V.S.A. § 1203 is amended to read:

**§ 1203. ADMINISTRATION OF TESTS; RETENTION OF TEST AND  
VIDEOTAPE**

\* \* \*

*(c) When a breath test which is intended to be introduced in evidence is taken with a crimper device or when blood is withdrawn at an officer's request, a sufficient amount of breath or blood, as the case may be, shall be taken to enable the person to have made an independent analysis of the sample, and shall be held for at least 45 days from the date the sample was taken. At any time during that period the person may direct that the sample be sent to an independent laboratory of the person's choosing for an independent analysis. The department of ~~health~~ public safety shall adopt rules providing for the security of the sample. At no time shall the defendant or any agent of the defendant have access to the sample. A preserved sample of breath shall not be required when an infrared breath-testing instrument is used. A person tested with an infrared breath-testing instrument shall have the option of having a second infrared test administered immediately after receiving the results of the first test.*

*(d) In the case of a breath test administered using an infrared breath testing instrument, the test shall be analyzed in compliance with rules adopted by the department of ~~health~~ public safety. The analyses shall be retained by the state. A sample is adequate if the infrared breath testing instrument analyzes the sample and does not indicate the sample is deficient. Analysis of the person's breath or blood which is available to that person for independent analysis shall be considered valid when performed according to methods approved by the department of ~~health~~ public safety. The analysis performed by the state shall be considered valid when performed according to a method or methods selected by the department of ~~health~~ public safety. The department of ~~health~~ public safety shall use rule making procedures to select its method or methods. Failure of a person to provide an adequate breath sample constitutes a refusal.*

*(e) [Repealed.]*

*(f) When a law enforcement officer has reason to believe that a person may be violating or has violated section 1201 of this title, the officer may request the person to provide a sample of breath for a preliminary screening test using a device approved by the commissioner of ~~health~~ public safety for this purpose. The person shall not have the right to consult an attorney prior to submitting to this preliminary breath alcohol screening test. The results of this preliminary screening test may be used for the purpose of deciding whether an arrest should be made and whether to request an evidentiary test and shall not be used in any court proceeding except on those issues. Following the screening test additional tests may be required of the operator pursuant to the provisions of section 1202 of this title.*

\* \* \*

*(i) The commissioner of ~~health~~ public safety shall adopt emergency rules relating to the operation, maintenance and use of preliminary alcohol screening devices for use by law enforcement officers in enforcing the provisions of this title. The commissioner shall consider relevant standards of the National Highway Traffic Safety Administration in adopting such rules. Any preliminary alcohol screening device authorized for use under this title shall be on the qualified products list of the National Highway Traffic Safety Administration.*

\* \* \*

*Sec. 15. 23 V.S.A. § 1203a is amended to read:*

*§ 1203a. INDEPENDENT CHEMICAL TEST; BLOOD TESTS*

\* \* \*

(d) *The physician, licensed nurse, medical technician, physician's assistant, medical technologist, or laboratory assistant drawing a sample of blood shall use a sample collection kit provided by the department of ~~health~~ public safety or another type of collection kit. The sample shall be identified as to donor, date, and time, sealed and mailed to the department of ~~health~~ public safety where it shall be held for a period of at least 45 days from the date the sample was taken. At any time during that period the person may direct that the sample be sent to an independent laboratory of the person's choosing for an independent analysis. The department of ~~health~~ public safety may recover its costs of supplies, handling, and storage.*

\* \* \*

*Sec. 16. 23 V.S.A. § 1205(h)(1)(D) is amended to read:*

*(D) whether the test was taken and the test results indicated that the person's alcohol concentration was 0.08 or more, or 0.02 or more for a violation of subsection 1201(d) of this title, at the time of operating, attempting to operate or being in actual physical control of a vehicle in violation of section 1201 of this title, whether the testing methods used were valid and reliable and whether the test results were accurate and accurately evaluated. Evidence that the test was taken and evaluated in compliance with rules adopted by the department of ~~health~~ public safety shall be prima facie evidence that the testing methods used were valid and reliable and that the test results are accurate and were accurately evaluated;*

*Sec. 17. 23 V.S.A. § 1210(i) is amended to read:*

*(i) A person convicted of violating section 1201 of this title shall be assessed a surcharge of \$60.00, which shall be added to any fine imposed by the court. The court shall collect and transfer such surcharge to the department of ~~health~~ public safety for deposit in the blood and breath alcohol testing special fund established by section 1220b of this title.*

*Sec. 18. 23 V.S.A. § 1216 is amended to read:*

*§ 1216. PERSONS UNDER 21; ALCOHOL CONCENTRATION OF 0.02 OR MORE*

\* \* \*

*(d) If a law enforcement officer has reasonable grounds to believe that a person is violating this section, the officer may request the person to submit to a breath test using a preliminary screening device approved by the commissioner of ~~health~~ public safety. A refusal to submit to the breath test shall be considered a violation of this section. Notwithstanding any provisions to the contrary in sections 1202 and 1203 of this title:*

\* \* \*

*Sec. 19. 23 V.S.A. § 1220b is added to read:*

§ 1220b. BLOOD AND BREATH ALCOHOL TESTING SPECIAL FUND

(a) There is created a blood and breath alcohol testing special fund which shall be a special fund established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5.

(b) The blood and breath alcohol testing special fund shall consist of receipts from the surcharges assessed under subsection 1210(i) of this title.

(c) The blood and breath alcohol testing special fund shall be used for the implementation and support of the blood and breath alcohol testing program within the department of public safety.

*Sec. 20. BLOOD ALCOHOL TESTING AND ALCOHOL SCREENING DEVICES; AUTHORITY OF DEPARTMENT OF PUBLIC SAFETY; RULEMAKING*

(a) The department of public safety shall adopt rules, which may include emergency rules, to govern the operation, maintenance, and use of blood and breath alcohol testing and alcohol screening devices, and to describe the methods used to exercise the authority granted by this act. Prior to the effective date of the rules required to be adopted by this subsection, the department of public safety may take such steps as are necessary to prepare to assume authority and supervision over operation, maintenance, and use of blood and breath alcohol testing and alcohol screening devices. The rules of the agency of human services pertaining to the blood and breath alcohol testing and alcohol screening program shall remain in effect and govern the program until revised or repealed by rules adopted by the department of public safety, including emergency rules adopted pursuant to this subsection.

(b) The administration shall, in consultation with the Vermont state employees association, ensure that no reduction in positions occurs as a result of the transfer required by this section. The administration shall transfer positions to the department of public safety so that the department may implement the authority granted to it by this act.

(c) On or before January 15, 2012, and on or before January 15 of each of the following two years, the department of public safety shall report to the senate and house committees on judiciary on progress toward identifying and implementing an accreditation process for the blood alcohol testing and alcohol screening program transferred to the department by this section.

(d) Notwithstanding any other provision of law, on March 1, 2012, or on the effective date of the rules required to be adopted by subsection (a) of this

section, whichever is earlier, the department of public safety shall assume the authority transferred to it by this act over the blood and breath alcohol testing and alcohol screening program.

Sec. 21. 21 V.S.A. § 308 is added to read:

§ 308. EMPLOYERS OF INDIVIDUALS WHO WORK WITH MINORS OR VULNERABLE ADULTS; JOB REFERENCE INFORMATION FROM FORMER EMPLOYERS; LIMITATION FROM LIABILITY

(a) As used in this section:

(1) "Job performance" means:

(A) The suitability of the employee for employment;

(B) The employee's work-related duties, skills, abilities, attitude, effort, knowledge, and habits as they may relate to suitability for future employment;

(C) In the case of a former employee, the reason for the employee's separation; and

(D) Any illegal or wrongful act committed by the employee.

(2) "Prospective employer" means a person or organization who employs or contracts with one or more individuals whose duties may place that individual in a position of power, authority, or supervision over a minor or vulnerable adult, or whose duties are likely to permit regular and unsupervised contact with a minor or vulnerable adult, on either a paid or volunteer basis.

(3) "Vulnerable adult" shall have the same meaning as in 13 V.S.A. § 1375(8).

(b)(1) An employer who in good faith provides information about a current or former employee's job performance to a prospective employer of the current or former employee upon request of the prospective employer or the current or former employee shall not be subject to liability for such disclosure. An employer who provides the information in writing to a prospective employer shall provide a copy of the writing to the employee.

(2) The limitation on liability set forth in this subsection shall not apply if the employee shows, by a preponderance of the evidence, that the current or former employer:

(A) disclosed information which was false and which the employer providing the information knew or reasonably should have known was false;

(B) knowingly disclosed materially misleading information; or

(C) disclosed information in violation of the law.

*Sec. 22. REPORT; EMPLOYER LIMITATION FROM LIABILITY*

(a) On or before January 15, 2013, the legislative council shall report to the house and senate committees on judiciary on the impacts on employment and hiring practices in Vermont, if any, of the enactment of 21 V.S.A. § 308 in Sec. 21 of this act, including consideration of whether this enactment has resulted in an increase in job performance information provided to prospective employers by past and current employers. For purposes of compiling the report, the legislative council shall consult with and solicit information from interested parties, including the Vermont chamber of commerce, the University of Vermont, the Vermont Hospitals Association, the Vermont department of labor, the Vermont state employees association, the Vermont School Boards Association, the Vermont-NEA, and the Vermont Association for Justice.

(b) As used in this section, “job performance” and “prospective employer” shall have the same meanings as in 21 V.S.A. § 308(a).

*Sec. 23. MINOR GUARDIANSHIP STUDY COMMITTEE*

(a) There is created a committee to study jurisdiction over proceedings involving guardianship of minors. The committee shall study issues related to probate and family division jurisdiction over minor guardianship proceedings, including:

(1) the circumstances under which it is appropriate to transfer minor guardianship proceedings between the probate and family divisions, including which division should have authority to order the transfer and the criteria which should govern whether the transfer should proceed;

(2) the involvement of the department for children and families in open cases in the family division when a CHINS proceeding has not been filed;

(3) the unofficial involvement of the department for children and families in minor guardianship proceedings in the probate division;

(4) whether the probate division should have the authority to make the department for children and families a party to minor guardianship proceedings in the probate division instead of transferring the proceeding to the family division; and

(5) whether and which substantive, procedural, or jurisdictional changes to minor guardianship proceedings would best serve the interests of children.

(b) The minor guardianship study committee shall consist of the following members:

(1) The commissioner of the department for children and families or designee, who shall convene the first meeting.

(2) The defender general or designee.

(3) A guardian ad litem appointed by the court administrator.

(4) A probate judge appointed by the chief justice.

(5) A judge with experience in family proceedings appointed by the chief justice.

(6) An advocate for parents appointed by the Vermont Parent Representation Center.

(7) A community-based social worker appointed by Casey Family Services.

(8) A kin advocate appointed by Vermont Kin as Parents.

(9) An attorney with experience in family and probate proceedings appointed by the Vermont Bar Association.

(c) The committee shall report its findings and any recommendations for legislative action to the house and senate committees on judiciary and on human services on or before January 12, 2012.

Sec. 24. 3 V.S.A. § 164(c) is amended to read:

(c) All adult court diversion projects receiving financial assistance from the attorney general shall adhere to the following provisions:

(1) The diversion project shall accept only persons against whom charges have been filed and the court has found probable cause, but are not yet adjudicated. If the prosecuting attorney refers a case to diversion, the information and affidavit related to the charges shall be confidential and shall remain confidential unless:

(A) the board declines to accept the case;

(B) the person declines to participate in diversion; or

(C) the board accepts the case, but the person does not successfully complete diversion.

\* \* \*

Sec. 25. 14 V.S.A. chapter 114 is added to read:

CHAPTER 114. UNIFORM ADULT GUARDIANSHIP AND  
PROTECTIVE PROCEEDINGS JURISDICTION ACT

Subchapter 1. General Provisions

§ 3151. SHORT TITLE

This act may be cited as the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act.

§ 3152. DEFINITIONS

In this act:

- (1) "Adult" means an individual who has attained 18 years of age.
- (2) "Conservator" means a person appointed by the court to administer the property of an adult.
- (3) "Guardian" means a person appointed by the court to make decisions regarding an adult, including a person appointed under this title.
- (4) "Guardianship order" means an order appointing a guardian.
- (5) "Guardianship proceeding" means a judicial proceeding in which an order for the appointment of a guardian is sought or has been issued.
- (6) "Incapacitated person" means an adult for whom a guardian has been appointed.
- (7) "Party" means the respondent, petitioner, guardian, conservator, or any other person allowed by the court to participate in a guardianship or protective proceeding.
- (8) "Person," except in the term "incapacitated person" or "protected person," means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.
- (9) "Protected person" means an adult for whom a protective order has been issued.
- (10) "Protective order" means an order appointing a conservator or other order related to the management of an adult's property.
- (11) "Protective proceeding" means a judicial proceeding in which a protective order is sought or has been issued.
- (12) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
- (13) "Respondent" means an adult for whom a protective order or the appointment of a guardian is sought.

(14) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe, or any territory or insular possession subject to the jurisdiction of the United States.

§ 3153. INTERNATIONAL APPLICATION OF ACT

A court of this state may treat a foreign country as if it were a state for the purpose of applying this subchapter and subchapters 2, 3, and 5 of this chapter.

§ 3154. COMMUNICATION BETWEEN COURTS

(a) The probate division of the superior court in this state may communicate with a court in another state concerning a proceeding arising under this act. The probate division may allow the parties to participate in the communication. Except as otherwise provided in subsection (b) of this section, the court shall make a record of the communication. The record may be limited to the fact that the communication occurred.

(b) Courts may communicate concerning schedules, calendars, court records, and other administrative matters without making a record.

§ 3155. COOPERATION BETWEEN COURTS

(a) In a guardianship or protective proceeding in this state, a court of this state may request the appropriate court of another state to do any of the following:

(1) hold an evidentiary hearing;

(2) order a person in that state to produce evidence or give testimony pursuant to procedures of that state;

(3) order that an evaluation or assessment be made of the respondent;

(4) order any appropriate investigation of a person involved in a proceeding;

(5) forward to the court of this state a certified copy of the transcript or other record of a hearing under subdivision (1) of this subsection or any other proceeding, any evidence otherwise produced under subdivision (2) of this subsection, and any evaluation or assessment prepared in compliance with an order under subdivision (3) or (4) of this subsection;

(6) issue any order necessary to assure the appearance in the proceeding of a person whose presence is necessary for the court to make a determination, including the respondent or the incapacitated or protected person;

(7) issue an order authorizing the release of medical, financial, criminal, or other relevant information in that state, including protected health information as defined in 45 C.F.R. Section 164.504, as amended, but any information so disclosed may be admitted in a proceeding in this state only in accordance with the laws of this state.

(b) If a court of another state in which a guardianship or protective proceeding is pending requests assistance of the kind provided in subsection (a) of this section, a court of this state has jurisdiction for the limited purpose of granting the request or making reasonable efforts to comply with the request in accordance with the laws of this state.

#### § 3156. TAKING TESTIMONY IN ANOTHER STATE

(a) In a guardianship or protective proceeding, in addition to other procedures that may be available, testimony of a witness who is located in another state may be offered by deposition or other means allowable in this state for testimony taken in another state. The probate division of the superior court on its own motion may order that the testimony of a witness be taken in another state and may prescribe the manner in which and the terms upon which the testimony is to be taken.

(b) In a guardianship or protective proceeding, a probate division of the superior court in this state may permit a witness located in another state to be deposed or to testify by telephone or audiovisual or other electronic means. The probate division of this state shall cooperate with the court of the other state in designating an appropriate location for the deposition or testimony.

(c) Documentary evidence transmitted from another state to a probate division of the superior court of this state by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the best evidence rule.

#### Subchapter 2. Jurisdiction

#### § 3161. DEFINITIONS; SIGNIFICANT CONNECTION FACTORS

(a) In this subchapter:

(1) "Emergency" means a circumstance that likely will result in serious and irreparable harm to a respondent's physical health, safety, or welfare, and for which the appointment of a guardian is necessary because no other person has authority and is willing to act on the respondent's behalf.

(2) "Home state" means the state in which the respondent was physically present, including any period of temporary absence, for at least six consecutive months immediately before the filing of a petition for a protective order or the appointment of a guardian; or if none, the state in which the

respondent was physically present, including any period of temporary absence, for at least six consecutive months ending within the six months prior to the filing of the petition.

(3) "Significant-connection state" means a state, other than the home state, with which a respondent has a significant connection other than mere physical presence and in which substantial evidence concerning the respondent is available.

(b) In determining under section 3163 and subsection 3171(e) of this title whether a respondent has a significant connection with a particular state, the probate court shall consider:

(1) the location of the respondent's family and other persons required to be notified of the guardianship or protective proceeding;

(2) the length of time the respondent at any time was physically present in the state and the duration of any absence;

(3) the location of the respondent's property; and

(4) the extent to which the respondent has ties to the state such as voting registration, state or local tax return filing, vehicle registration, driver's license, social relationship, or receipt of services.

#### § 3162. EXCLUSIVE BASIS

This subchapter provides the exclusive jurisdictional basis for a probate division of the superior court of this state to appoint a guardian or issue a protective order for an adult. The probate division of the superior court shall have exclusive original jurisdiction to determine whether this state has jurisdiction pursuant to this subchapter.

#### § 3163. JURISDICTION

A probate division of the superior court of this state has jurisdiction to appoint a guardian or issue a protective order for a respondent if:

(1) this state is the respondent's home state;

(2) on the date the petition is filed, this state is a significant-connection state and:

(A) the respondent does not have a home state or a court of the respondent's home state has declined to exercise jurisdiction because this state is a more appropriate forum; or

(B) the respondent has a home state, a petition for an appointment or order is not pending in a court of that state or another significant-connection

state, and, before the probate division makes the appointment or issues the order:

(i) a petition for an appointment or order is not filed in the respondent's home state;

(ii) an objection to the probate division's jurisdiction is not filed by a person required to be notified of the proceeding; and

(iii) the probate division of the superior court in this state concludes that it is an appropriate forum under the factors set forth in section 3166 of this title;

(3) this state does not have jurisdiction under either subdivision (1) or (2) of this section, the respondent's home state, and all significant-connection states have declined to exercise jurisdiction because this state is the more appropriate forum, and jurisdiction in this state is consistent with the constitutions of this state and the United States; or

(4) the requirements for special jurisdiction under section 3164 of this title are met.

#### § 3164. SPECIAL JURISDICTION

(a) A probate division of the superior court of this state lacking jurisdiction under section 3163 of this title has special jurisdiction to do any of the following:

(1) appoint a guardian in an emergency for a term not exceeding 90 days for a respondent who is physically present in this state;

(2) issue a protective order with respect to real or tangible personal property located in this state;

(3) appoint a guardian or conservator for an incapacitated or protected person for whom a provisional order to transfer the proceeding from another state has been issued under procedures similar to section 3171 of this title.

(b) If a petition for the appointment of a guardian in an emergency is brought in this state and this state was not the respondent's home state on the date the petition was filed, the probate division shall dismiss the proceeding at the request of the court of the home state, if any, whether dismissal is requested before or after the emergency appointment.

#### § 3165. EXCLUSIVE AND CONTINUING JURISDICTION

Except as otherwise provided in section 3164 of this title, a court that has appointed a guardian or issued a protective order consistent with this act has exclusive jurisdiction over the proceeding until jurisdiction is terminated by the probate court or the appointment or order expires by its own terms.

§ 3166. APPROPRIATE FORUM

(a) A probate division of the superior court of this state having jurisdiction under section 3163 of this title to appoint a guardian or issue a protective order may decline to exercise its jurisdiction if it determines at any time that a court of another state is a more appropriate forum.

(b) If a probate division of the superior court of this state declines to exercise its jurisdiction under subsection (a) of this section, it shall either dismiss or stay the proceeding. The probate division may impose any condition the court considers just and proper, including the condition that a petition for the appointment of a guardian or issuance of a protective order be filed promptly in another state.

(c) In determining whether it is an appropriate forum, the probate division shall consider all relevant factors, including:

(1) any expressed preference of the respondent;

(2) whether abuse, neglect, or exploitation of the respondent has occurred or is likely to occur and which state could best protect the respondent from the abuse, neglect, or exploitation;

(3) the length of time the respondent was physically present in or was a legal resident of this or another state;

(4) the distance of the respondent from the court in each state;

(5) the financial circumstances of the respondent's estate;

(6) the nature and location of the evidence;

(7) the ability of the court of each state to decide the issue expeditiously and the procedures necessary to present evidence;

(8) the familiarity of the court of each state with the facts and issues in the proceeding; and

(9) if an appointment were made, the court's ability to monitor the conduct of the guardian or conservator.

§ 3167. JURISDICTION DECLINED BY REASON OF CONDUCT

(a) If at any time a probate division of the superior court of this state determines that it acquired jurisdiction to appoint a guardian or issue a protective order because of unjustifiable conduct, the court may:

(1) decline to exercise jurisdiction;

(2) exercise jurisdiction for the limited purpose of fashioning an appropriate remedy to ensure the health, safety, and welfare of the respondent or the protection of the respondent's property or prevent a repetition of the

unjustifiable conduct, including staying the proceeding until a petition for the appointment of a guardian or issuance of a protective order is filed in a court of another state having jurisdiction; or

(3) continue to exercise jurisdiction after considering:

(A) the extent to which the respondent and all persons required to be notified of the proceedings have acquiesced in the exercise of the probate court's jurisdiction;

(B) whether it is a more appropriate forum than the court of any other state under the factors set forth in subsection 3166(c) of this title; and

(C) whether the court of any other state would have jurisdiction under factual circumstances in substantial conformity with the jurisdictional standards of section 3163 of this title.

(b) If a probate division of the superior court of this state determines that it acquired jurisdiction to appoint a guardian or issue a protective order because a party seeking to invoke its jurisdiction engaged in unjustifiable conduct, it may assess against the party necessary and reasonable expenses, including attorney's fees, investigative fees, court costs, communication expenses, witness fees and expenses, and travel expenses. The court may not assess fees, costs, or expenses of any kind against this state or a governmental subdivision, agency, or instrumentality of this state unless authorized by law other than this chapter.

#### § 3168. NOTICE OF PROCEEDING

If a petition for the appointment of a guardian or issuance of a protective order is brought in this state and this state was not the respondent's home state on the date the petition was filed, the petitioner shall comply with the notice requirements of this state and shall give notice of the petition to those persons who would be entitled to notice of the petition if a proceeding were brought in the respondent's home state. The notice must be given in the same manner as notice is required to be given in this state.

#### § 3169. PROCEEDINGS IN MORE THAN ONE STATE

Except for a petition for the appointment of a guardian in an emergency or issuance of a protective order limited to property located in this state under subdivision 3164(a)(1) or (2) of this title, if a petition for the appointment of a guardian or issuance of a protective order is filed in this state and in another state and neither petition has been dismissed or withdrawn, the following rules apply:

(1) If the probate division of the superior court in this state has jurisdiction under section 3163 of this title, it may proceed with the case unless

a court in another state acquires jurisdiction under provisions similar to section 3163 of this title before the appointment or issuance of the order.

(2) If the probate division of the superior court in this state does not have jurisdiction under section 3163 of this title, whether at the time the petition is filed or at any time before the appointment or issuance of the order, the probate division shall stay the proceeding and communicate with the court in the other state. If the court in the other state has jurisdiction, the probate division in this state shall dismiss the petition unless the court in the other state determines that the probate division of the superior court in this state is a more appropriate forum.

Subchapter 3. Transfer of Guardianship or Conservatorship

§ 3171. TRANSFER OF GUARDIANSHIP OR CONSERVATORSHIP TO ANOTHER STATE

(a) A guardian or conservator appointed in this state may petition the probate division of the superior court to transfer the guardianship or conservatorship to another state.

(b) Notice of a petition under subsection (a) of this section must be given to the persons that would be entitled to notice of a petition in this state for the appointment of a guardian or conservator.

(c) On the probate division's own motion or on request of the guardian or conservator, the incapacitated or protected person, or other person required to be notified of the petition, the court shall hold a hearing on the petition filed pursuant to subsection (a) of this section.

(d) The probate division shall issue an order provisionally granting a petition to transfer a guardianship and shall direct the guardian to petition for guardianship in the other state if the court is satisfied that the guardianship will be accepted by the court in the other state and the probate court finds that:

(1) the incapacitated person is physically present in or is reasonably expected to move permanently to the other state;

(2) an objection to the transfer has not been made or, if any objection has been made, the objector has not established that the transfer would be contrary to the interests of the incapacitated person; and

(3) plans for care and services for the incapacitated person in the other state are reasonable and sufficient.

(e) The probate division shall issue a provisional order granting a petition to transfer a conservatorship and shall direct the conservator to petition for conservatorship in the other state if the court is satisfied that the

conservatorship will be accepted by the court of the other state and the court finds that:

(1) the protected person is physically present in or is reasonably expected to move permanently to the other state, or the protected person has a significant connection to the other state considering the factors in subsection 3161(b) of this chapter;

(2) an objection to the transfer has not been made or, if an objection has been made, the objector has not established that the transfer would be contrary to the interests of the protected person; and

(3) adequate arrangements will be made for management of the protected person's property.

(f) The probate division shall issue a final order confirming the transfer and terminating the guardianship or conservatorship upon its receipt of:

(1) a provisional order accepting the proceeding from the court to which the proceeding is to be transferred which is issued under provisions similar to section 3172 of this title; and

(2) the documents required to terminate a guardianship or conservatorship in this state.

§ 3172. ACCEPTING GUARDIANSHIP TRANSFERRED FROM ANOTHER STATE

(a) To confirm transfer of a guardianship or conservatorship transferred to this state under provisions similar to section 3171 of this title, the guardian or conservator must petition the probate division of the superior court in this state to accept the guardianship or conservatorship. The petition must also include a certified copy of the other state's provisional order of transfer.

(b) Notice of a petition under subsection (a) of this section must be given to those persons that would be entitled to notice if the petition were a petition for the appointment of a guardian or issuance of a protective order in both the transferring state and this state. The notice must be given in the same manner as notice is required to be given in this state.

(c) On the probate division's own motion or on request of the guardian or conservator, the incapacitated or protected person, or other person required to be notified of the proceeding, the court shall hold a hearing on a petition filed pursuant to subsection (a) of this section.

(d) The probate division shall issue an order provisionally granting a petition filed under subsection (a) of this section unless:

(1) an objection is made, and the objector establishes that transfer of the proceeding would be contrary to the interests of the incapacitated or protected person; or

(2) the guardian or conservator is ineligible for appointment in this state.

(e) The probate division shall issue a final order accepting the proceeding and appointing the guardian or conservator as guardian in this state upon its receipt from the court from which the proceeding is being transferred of a final order issued under provisions similar to section 3171 of this title transferring the proceeding to this state.

(f) Not later than 90 days after issuance of a final order accepting transfer of a guardianship or conservatorship, the probate division shall determine whether the guardianship or conservatorship needs to be modified to conform to the law of this state.

(g) In granting a petition under this section, the probate division shall recognize a guardianship or conservatorship order from another state, including the determination of the incapacitated or protected person's incapacity and the appointment of the guardian or conservator.

(h) The denial by a probate division of the superior court of this state of a petition to accept a guardianship or conservatorship transferred from another state does not affect the ability of the guardian or conservator to seek appointment as guardian in this state under this title if the probate division has jurisdiction to make an appointment other than by reason of the provisional order of transfer.

Subchapter 4. Registration and Recognition of Orders  
from Other States

§ 3181. REGISTRATION OF GUARDIANSHIP ORDERS

If a guardian has been appointed in another state and a petition for the appointment of a guardian is not pending in this state, the guardian appointed in the other state, after giving notice to the appointing court of an intent to register, may register the guardianship order in this state by filing as a foreign judgment in a probate division of the superior court, in any appropriate county of this state, certified copies of the order and letters of office.

§ 3182. REGISTRATION OF PROTECTIVE ORDERS

If a conservator has been appointed in another state and a petition for a protective order is not pending in this state, the conservator appointed in the other state, after giving notice to the appointing court of an intent to register, may register the protective order in this state by filing as a foreign judgment in

a probate division of the superior court of this state, in any county of this state in which property belonging to the protected person is located, certified copies of the order and letters of office and of any bond.

§ 3183. EFFECT OF REGISTRATION

(a) Upon registration of a guardianship or protective order from another state, the guardian may exercise in this state all powers authorized in the order of appointment except as prohibited under the laws of this state, including maintaining actions and proceedings in this state and, if the guardian is not a resident of this state, subject to any conditions imposed upon nonresident parties.

(b) A probate division of the superior court of this state may grant any relief available under this act and other law of this state to enforce a registered order.

Subchapter 5. Miscellaneous Provisions

§ 3191. UNIFORMITY OF APPLICATION AND CONSTRUCTION

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

§ 3192. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT

This act modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 et seq., but does not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. § 7003(b).

§ 3193. TRANSITIONAL PROVISION

(a) This act applies to guardianship and protective proceedings begun on or after July 1, 2011.

(b) Subchapters 1, 3, and 4 of this chapter and sections 3191 and 3192 of this title apply to proceedings begun before July 1, 2011, regardless of whether a guardianship or protective order has been issued.

Sec. 26. 14 V.S.A. § 3062 is amended to read:

§ 3062. JURISDICTION; REVIEW OF GUARDIAN'S ACTIONS

(a) If this state has jurisdiction of a guardianship proceeding pursuant to chapter 114 of this title, then the probate division of the superior court shall have exclusive jurisdiction over the proceedings. All proceedings to determine

whether this court has jurisdiction pursuant to chapter 114 of this title shall be brought in probate division of the superior court.

*(b) The probate division of the superior court shall have exclusive original jurisdiction over all proceedings brought under the authority of this chapter or pursuant to 18 V.S.A. § 9718.*

*~~(b)~~(c) The probate division of the superior court shall have supervisory authority over guardians. Any interested person may seek review of a guardian's proposed or past actions by filing a motion with the court.*

*Sec. 27. REPEALS*

The following are repealed:

(1) Sec. 2 of No. 126 of the Acts of the 2009 Adj. Sess. (2010).

(2) Secs. 18 (requiring employers to disclose employee conduct potentially jeopardizing safety of a minor or vulnerable adult) and 22(a) (April 1, 2011 effective date of Sec. 18 disclosure requirement) of No. 157 of the Acts of the 2009 Adj. Sess. (2010), as amended by Sec. 1 of No. 5 of the Acts of 2011.

*Sec. 28. EFFECTIVE DATES; SUNSET*

This act shall take effect on passage, except as follows:

(1) Secs. 3, 4, 14, 15, 16, 17, 18, and 19 shall take effect on March 1, 2012.

(2) Sec. 21 of this act shall take effect on July 1, 2011, shall apply to disclosures made on and after that date, and shall be repealed effective July 1, 2013.

(3) Sec. 24, 25, and 26 of this act shall take effect on July 1, 2011.