S.283

An act relating to the changing of the name of the Vermont Criminal Information Center

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

Sec. 1. 20 V.S.A. chapter 117 is redesignated to read:

CHAPTER 117. VERMONT ~~CRIMINAL~~ CRIME

INFORMATION CENTER

Sec. 2. 20 V.S.A. § 2051 is amended to read:

§ 2051. CREATION OF CENTER

There shall be within the ~~department of public safety~~ Department of Public Safety a center to be known as the Vermont ~~criminal information center~~ Crime Information Center. It shall be the official ~~state~~ State repository for all criminal records, records of the commission of crimes, arrests, convictions, photographs, descriptions, fingerprints, and such other information as the ~~commissioner~~ Commissioner deems pertinent to criminal activity.

Sec. 3. 20 VSA § 2056b is amended to read:

§ 2056b. DISSEMINATION OF CRIMINAL ~~HISTROY~~ HISTORY

RECORDS TO PERSONS CONDUCTING RESEARCH

(a) The Vermont ~~criminal information center~~ Crime Information Center may provide Vermont criminal history records as defined in section 2056a of this title to bona fide persons conducting research related to the administration of criminal justice, subject to conditions approved by the ~~commissioner of~~

~~public safety~~ Commissioner of Public Safety to assure the confidentiality of the information and the privacy of individuals to whom the information relates. Bulk criminal history data requested by descriptors other than the name and date of birth of the subject may only be provided in a format that excludes the subject's name and any unique numbers that may reference the identity of the subject, except that court docket numbers and the ~~state~~ State identification number may be provided. Researchers shall sign a user agreement ~~which~~ that specifies data security requirements and restrictions on use of identifying information.

* * *

Sec. 4. 20 V.S.A. § 2056c is amended to read:

§ 2056c. DISSEMINATION OF CRIMINAL CONVICTION RECORDS TO THE PUBLIC

(a) As used in this section:

(1) "The ~~center~~ Center" means the Vermont ~~criminal information center~~ Crime Information Center.

* * *

Sec. 5. 20 V.S.A. § 2056d is amended to read:

§ 2056d. CRIMINAL HISTORY RECORDS AND OTHER IDENTIFICATION RECORDS

(a) Statewide criminal history records shall be released only by the Vermont ~~criminal information center~~ Crime Information Center.

* * *

Sec. 6. 20 V.S.A. § 2056e is amended to read:

§ 2056e. DISSEMINATION OF CRIMINAL HISTORY RECORDS TO THE DEPARTMENT OF BUILDINGS AND GENERAL SERVICES

(a) The ~~department of buildings and general services~~ Department of Buildings and General Services shall obtain from the Vermont ~~criminal information center~~ Crime Information Center a Vermont criminal record, an out-of-state criminal record, and a record from the Federal Bureau of Investigation for any applicant for a ~~state~~ State security personnel position who has given written authorization, on a release form prescribed under section 2056c of this chapter, pursuant to the provisions of this subchapter and the user's agreement filed by the ~~commissioner of buildings and general services~~ Commissioner of Buildings and General Services with the ~~center~~ Center. The user's agreement shall require the ~~department~~ Department to comply with all federal and ~~state~~ State statutes, rules, regulations and policies regulating the release of criminal history records and the protection of individual privacy.

The user's agreement shall be signed and kept current by the ~~commissioner~~ Commissioner. Release of interstate and Federal Bureau of Investigation criminal history records is subject to the rules and regulations of the Federal Bureau of Investigation's National Crime Information Center.

(b) ~~For purposes of~~ As used in this section, "security personnel" means officers or employees of the ~~state~~ State hired to perform security functions for the ~~state~~ State, including~~, but not limited to:~~ protecting the public health and welfare; patrolling, securing, monitoring, and safekeeping the property, facilities, and grounds of the ~~state~~ State; and exercising other law enforcement duties as may be authorized by ~~state~~ State or federal law.

(c) The ~~commissioner of buildings and general services~~ Commissioner of Buildings and General Services shall obtain from the Vermont ~~criminal information center~~ Crime Information Center the record of Vermont convictions and pending criminal charges for any security personnel applicant after the applicant has received an offer of employment conditioned on the record check. Nothing herein shall automatically bar a person who has a criminal record from applying or being selected for a security position.

(d) The ~~commissioner of buildings and general services~~ Commissioner of Buildings and General Services, through the Vermont ~~criminal information center~~ Crime Information Center, shall request the record of convictions and

pending criminal charges of the appropriate criminal repositories in all states in which there is reason to believe the applicant has resided or been employed.

(e) If no disqualifying record is identified at the ~~state~~ State level, the ~~commissioner of buildings and general services~~ Commissioner of Buildings and General Services, through the Vermont ~~criminal information center~~ Crime Information Center, shall request from the Federal Bureau of Investigation (FBI) a national criminal history record check of the applicant's convictions and pending criminal charges. The request to the FBI shall be accompanied by a set of the applicant's fingerprints and a fee established by the Vermont ~~criminal information center which~~ Crime Information Center that shall be paid by the ~~department of buildings and general services~~ Department of Buildings and General Services.

(f) The Vermont ~~criminal information center~~ Crime Information Center shall send to the requester any record received pursuant to this section or inform the ~~department of buildings and general services~~ Department of Buildings and General Services that no record exists.

(g) The ~~department of buildings and general services~~ Department of Buildings and General Services shall promptly provide a copy of any record of convictions and pending criminal charges to the applicant and shall inform the applicant of the right to appeal the accuracy and completeness of the record

pursuant to rules adopted by the Vermont ~~criminal information center~~ Crime Information Center.

* * *

Sec. 7. 20 V.S.A. § 2056f is amended to read:

§ 2056f. DISSEMINATION OF CRIMINAL HISTORY RECORDS AND CRIMINAL CONVICTIONS RECORDS TO AN INDIVIDUAL

A person may obtain a copy of his or her own criminal history record as defined in section 2056a of this title or criminal conviction record as defined in section 2056c of this title or a statement that no record exists from the Vermont ~~criminal information center~~ Crime Information Center. Copies of a person's criminal history record and criminal conviction record may be obtained by making a personal appearance at the ~~center~~ Center during regular business hours or by written request. Written requests shall be on a form specified by the ~~center~~ Center and shall contain the person's name, date of birth, place of birth, and signature as attested to by a notary public. A raised seal must be affixed to the form.

Sec. 8. 20 V.S.A. § 2056h is amended to read:

§ 2056h. DISSEMINATION OF CRIMINAL HISTORY RECORDS TO THE DEPARTMENT OF FINANCIAL REGULATION

(a) The Department of Financial Regulation shall obtain from the Vermont ~~Criminal~~ Crime Information Center a Vermont criminal record, an out-of-state

criminal record, and a record from the Federal Bureau of Investigation (FBI) or any applicant for a banking division examiner position who has given written authorization, on a release form prescribed under section 2056c of this chapter, pursuant to the provisions of this subchapter and the user's agreement filed by the Commissioner of Financial Regulation with the ~~center~~ Center. The user's agreement shall require the Department to comply with all federal and State statutes, rules, regulations, and policies regulating the release of criminal history records, and the protection of individual privacy. The user's agreement shall be signed and kept current by the Commissioner. Release of interstate and F.B.I. criminal history records is subject to the rules and regulations of the F.B.I.'s National Crime Information Center.

(b) ~~For purposes of~~ As used in this section, "banking division examiner" means employees of the State hired to perform onsite or offsite examinations of banks, credit unions, or any other entity licensed, regulated, or otherwise under the jurisdiction of the Banking Division of the Department of Financial Regulation.

(c) The Commissioner of Financial Regulation shall obtain from the Vermont ~~Criminal~~ Crime Information Center the record of Vermont convictions and pending criminal charges for any banking division examiner applicant after the applicant has received an offer of employment conditioned on the record check. Nothing herein shall automatically bar a person who has

a criminal record from applying or being selected for a banking division examiner position.

(d) The Commissioner of Financial Regulation, through the Vermont ~~Criminal~~ Crime Information Center, shall request the record of convictions and pending criminal charges of the appropriate criminal repositories in all states in which there is reason to believe the applicant has resided or been employed.

(e) If no disqualifying record is identified at the ~~state~~ State level, the Commissioner of Financial Regulation, through the Vermont ~~Criminal~~ Crime Information Center, shall request from the Federal Bureau of Investigation (FBI) a national criminal history record check of the applicant's convictions and pending criminal charges. The request to the FBI shall be accompanied by a set of the applicant's fingerprints and a fee established by the Vermont ~~Criminal~~ Crime Information Center, which shall be paid by the Department of Financial Regulation.

(f) The Vermont ~~Criminal~~ Crime Information Center shall send to the requester any record received pursuant to this section or inform the Department of Financial Regulation that no record exists.

(g) The Department of Financial Regulation shall promptly provide a copy of any record of convictions and pending criminal charges to the applicant and shall inform the applicant of the right to appeal the accuracy and completeness

of the record pursuant to rules adopted by the Vermont ~~Criminal~~ Crime Information Center.

* * *

Sec. 9. 20 V.S.A. § 2062 is amended to read:

§ 2062. FINGERPRINTING FEES

State, county, and municipal law enforcement agencies may charge a fee of not more than $25.00 for providing persons with a set of classifiable fingerprints. No fee shall be charged to retake fingerprints determined by the Vermont ~~criminal information center~~ Crime Information Center not to be classifiable. Fees collected by the ~~state~~ State of Vermont under this section shall be credited to the ~~fingerprint fee special fund~~ Fingerprint Fee Special Fund established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5 ~~of chapter 7 of Title 32~~, and shall be available to the ~~department of public safety~~ Department of Public Safety to offset the costs of providing these services.

Sec. 10. 20 V.S.A. § 2063 is amended to read:

§ 2063. CRIMINAL HISTORY RECORD FEES; CRIMINAL HISTORY RECORD CHECK FUND

(a) Except as otherwise provided for in this section, the cost of each check for a criminal history record as defined in section 2056a of this title or a criminal conviction record as defined in section 2056c of this title based on

name and date of birth shall be $30.00. Out-of-state criminal history record checks shall include any additional fees charged by the ~~state~~ State from which the record is requested.

(b) Requests made by criminal justice agencies for criminal justice purposes or other purposes authorized by ~~state~~ State or federal law shall be exempt from all record check fees. The following types of requests shall be exempt from the Vermont criminal record check fee:

(1) Requests made by any individual, organization, or governmental body doing business in Vermont ~~which~~ that has one or more individuals performing services for it within this ~~state~~ State and ~~which~~ is a qualified entity that provides care or services to children, the elderly, or persons with disabilities as defined in 42 U.S.C. § 5119c.

(2) Requests made by researchers approved by the Vermont ~~criminal information center~~ Crime Information Center to conduct research related to the administration of criminal justice. A fee, however, may be charged by the ~~center~~ Center which shall reflect the cost of generating the requested information.

(3) Requests made by individuals to review their own record at the Vermont ~~criminal information center~~ Crime Information Center; however, copies of the individual's record are not exempt from the record check fee.

* * *

Sec. 11. 15A V.S.A. § 1-113 is amended to read:

§ 1-113. CRIMINAL RECORD CHECKS

(a) Criminal record checks required under this title shall be obtained as provided in this section.

(b) The ~~commissioner of the department for children and families services~~ Commissioner for Children and Families or any judge of the ~~probate division of the superior court~~ Probate Division of the Superior Court shall obtain from the Vermont ~~criminal information center~~ Crime Information Center the record of Vermont convictions and pending criminal charges for any person being evaluated to be an adoptive parent.

(c) The ~~commissioner or probate~~ Commissioner or Probate judge, through the Vermont ~~criminal information center~~ Crime Information Center shall request the record of convictions and pending criminal charges of the appropriate criminal repositories in all states in which there is reason to believe the applicant has resided or been employed.

(d) If no disqualifying record is identified at the ~~state~~ State level, the ~~commissioner or probate~~ Commissioner or Probate judge through the Vermont ~~criminal information center~~ Crime Information Center shall request from the Federal Bureau of Investigation (FBI) a national criminal history record check of the applicant's convictions and pending criminal charges. The request to the FBI shall be accompanied by a set of the applicant's fingerprints and a fee

established by the Vermont ~~criminal information center~~ Crime Information Center which shall be paid by the applicant and shall reflect the cost of obtaining the record from the FBI.

(e) The Vermont ~~criminal information center~~ Crime Information Center shall send to the requester any record received pursuant to this section or inform the requester that no record exists.

(f) The requester shall promptly provide a copy of any record of convictions and pending criminal charges to the applicant and shall inform the applicant of the right to appeal the accuracy and completeness of the record pursuant to rules adopted by the Vermont ~~criminal information center~~ Crime Information Center.

* * *

Sec. 12. 16 V.S.A. § 254 is amended to read:

§ 254. EDUCATOR LICENSURE; EMPLOYMENT OF SUPERINTENDENTS

(a) The Secretary shall sign and keep a user agreement with the Vermont ~~criminal information center~~ Crime Information Center.

(b) The Secretary shall request and obtain from the Vermont ~~Criminal~~ Crime Information Center the criminal record for any person applying for an initial license as a professional educator or for reinstatement of a license that

has lapsed pursuant to subdivision 256(a)(1)(C) of this title or for any person who is offered a position as superintendent of schools in Vermont.

(c) A request made under subsection (b) of this section shall be accompanied by a release signed by the person on a form provided by the Vermont ~~Criminal~~ Crime Information Center, a set of the person's fingerprints, and a fee established by the Vermont ~~Criminal~~ Crime Information Center which shall reflect the cost of obtaining the record. The fee shall be paid by the applicant. The release form to be signed by the applicant shall include a statement informing the applicant of:

(1) the right to challenge the accuracy of the record by appealing to the Vermont ~~Criminal~~ Crime Information Center pursuant to rules adopted by the Commissioner of Public Safety; and

(2) the Secretary of ~~education's~~ Education's policy regarding maintenance and destruction of records and the person's right to request that the record or notice be maintained for purposes of using it to comply with future criminal record check requests made pursuant to section 256 of this title.

(d) Upon completion of a criminal record check required by subsection (b) of this section, the Vermont ~~Criminal~~ Crime Information Center shall send to the Secretary either a notice that no record exists or a copy of the record. If a copy of a criminal record is received, the Secretary shall forward it to the person and shall inform the person in writing of:

(1) the right to challenge the accuracy of the record by appealing to the Vermont ~~Criminal~~ Crime Information Center pursuant to rules adopted by the Commissioner of Public Safety; and

(2) the Secretary of Education's policy regarding maintenance and destruction of records and the person's right to request that the record or notice be maintained for purposes of using it to comply with future criminal record check requests made pursuant to section 256 of this title.

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Sec. 13. 16 V.S.A. § 255 is amended to read:

§ 255. PUBLIC AND INDEPENDENT SCHOOL EMPLOYEES; CONTRACTORS

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(b) After signing a user agreement, a superintendent or a headmaster shall make a request directly to the Vermont ~~criminal information center~~ Crime Information Center. A contractor shall make a request through a superintendent or headmaster.

(c) A request made under subsection (b) of this section shall be accompanied by a set of the person's fingerprints and a fee established by the Vermont ~~criminal information center~~ Crime Information Center which shall reflect the cost of obtaining the record from the FBI. The fee shall be paid in accordance with adopted school board policy.

(d)(1) Upon completion of a criminal record check, the Vermont ~~criminal information center~~ Crime Information Center shall send to the superintendent a notice that no record exists or, if a record exists, a copy of any criminal record.

(2) Upon completion of a criminal record check, the Vermont ~~criminal information center~~ Crime Information Center shall send to the headmaster a notice that no record exists or, if a record exists:

(A) A copy of Vermont criminal convictions.

(B) A notice of any criminal record which is located in either another ~~state~~ State repository or FBI records, but not a record of the specific convictions. However, if there is a record relating to any crimes of a sexual nature involving children, the Vermont ~~criminal information center~~ Crime Information Center shall send this record to the ~~commissioner~~ Commissioner who shall notify the headmaster in writing, with a copy to the person about whom the request was made, that the record includes one or more convictions for a crime of a sexual nature involving children.

* * *

(g)(1) Following notice that a headmaster was notified that a criminal record which is located in either another state repository or FBI records exists, a person may:

(A) ~~Sign~~ sign a form authorizing the Vermont ~~criminal information center~~ Crime Information Center to release a detailed copy of the criminal record to the person~~.~~; or

(B) ~~Decline~~ decline or resign employment.

(2) Any person subject to a criminal record check pursuant to this section may challenge the accuracy of the record by appealing to the Vermont ~~criminal information center~~ Crime Information Center pursuant to rules adopted by the ~~commissioner of public safety~~ Commissioner of Public Safety.

* * *

Sec. 14. 18 V.S.A. § 4474 is amended to read:

§ 4474. REGISTERED CAREGIVERS; QUALIFICATION STANDARDS AND PROCEDURES

* * *

(b) Prior to acting on an application, the ~~department~~ Department shall obtain from the Vermont ~~criminal information center~~ Crime Information Center a Vermont criminal record, an out-of-state criminal record, and a criminal record from the Federal Bureau of Investigation for the applicant. ~~For purposes of~~ As used in this subdivision, "criminal record" means a record of whether the person has ever been convicted of a drug-related crime. Each applicant shall consent to release of criminal records to the ~~department~~ Department on forms substantially similar to the release forms developed by

the ~~center~~ Center pursuant to 20 V.S.A. § 2056c. The ~~department~~ Department shall comply with all laws regulating the release of criminal history records and the protection of individual privacy. The Vermont ~~criminal information center~~ Crime Information Center shall send to the requester any record received pursuant to this section or inform the ~~department of public safety~~ Department of Public Safety that no record exists. If the ~~department~~ Department disapproves an application, the ~~department~~ Department shall promptly provide a copy of any record of convictions and pending criminal charges to the applicant and shall inform the applicant of the right to appeal the accuracy and completeness of the record pursuant to rules adopted by the Vermont ~~criminal information center~~ Crime Information Center. No person shall confirm the existence or nonexistence of criminal record information to any person who would not be eligible to receive the information pursuant to this subchapter.

* * *

Sec. 15. 26 V.S.A. § 1353 is amended to read:

§ 1353. POWERS AND DUTIES OF THE BOARD

The Board shall have the following powers and duties to:

* * *

(8) Obtain, at the Board's discretion, from the Vermont ~~Criminal~~ Crime Information Center a Vermont criminal history record, an out-of-state criminal

history record, and a criminal history record from the Federal Bureau of Investigation, for any applicant, licensee, or holder of certification. The Board may also inquire of Interpol for any information on criminal history records of an applicant, licensee, or holder of certification. Each applicant, licensee, or holder of certification shall consent to the release of criminal history records to the Board on forms substantially similar to the release forms developed in accordance with 20 V.S.A. § 2056c. When the Board obtains a criminal history record, it shall promptly provide a copy of the record to the applicant, licensee, or holder of certification and inform him or her of the right to appeal the accuracy and completeness of the record pursuant to rules adopted by the Vermont ~~Criminal~~ Crime Information Center. When fingerprinting is required pursuant to this subdivision, the applicant, licensee, or holder of certification shall bear all costs associated with fingerprinting. The Board shall comply with all laws regulating the release of criminal history records and the protection of individual privacy. No person shall confirm the existence or nonexistence of criminal history record information to any person who would not be eligible to receive the information pursuant to this chapter. ~~For purposes of~~ As used in this subdivision, "criminal history record" is as defined in 20 V.S.A. § 2056a.

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Sec. 16. 26 V.S.A. § 3173 is amended to read:

§ 3173. PRIVATE INVESTIGATOR LICENSES

* * *

(b) The ~~board~~ Board may inquire of the Vermont ~~criminal information center~~ Crime Information Center for any information on criminal records of the applicant, and the ~~center~~ Center shall provide such information to the ~~board~~ Board. The ~~board~~ Board, through the Vermont ~~criminal information center~~ Crime Information Center, may also inquire of the appropriate state criminal record repositories in all states in which it has reason to believe an applicant has resided or been employed, and it may also inquire of the Federal Bureau of Investigation, for any information on criminal records of the applicant. The applicant shall bear the costs associated with fingerprinting. The ~~board~~ Board may also make additional inquiries it deems necessary into the character, integrity, and reputation of the applicant.

* * *

Sec. 17. 26 V.S.A. § 3176 is amended to read:

§ 3176. EMPLOYEES OF AGENCIES

* * *

(d) The ~~board~~ Board may inquire of the Vermont ~~criminal information center~~ Crime Information Center for any information on criminal records of all agency employees registering with the ~~board~~ Board, and the ~~center~~ Center shall

provide such information to the ~~board~~ Board. The ~~board~~ Board, through the Vermont ~~criminal information center~~ Crime Information Center, may also inquire of the appropriate state criminal record repositories in all states in which it has reason to believe an employee has resided or been employed, and it may also inquire of the Federal Bureau of Investigation for any information on criminal records of the employee. The ~~board~~ Board may also make such additional inquiries it deems necessary into the character, integrity, and reputation of the employee.

* * *

Sec. 18. 33 V.S.A. § 5255 is amended to read:

§ 5255. TEMPORARY CARE HEARING

* * *

(e) The Department shall provide the following information to the Court at the hearing:

* * *

(5)(A) The identity of a noncustodial parent and any relatives known to the Department who may be suitable, willing, and available to assume temporary custody of the child.

* * *

(C) The Department shall request from the Vermont ~~Criminal~~ Crime Information Center criminal history record information for any person being

considered to assume temporary legal custody of the child pursuant to this subdivision. The request shall be in writing and shall be accompanied by a release signed by the person. The Department through the Vermont ~~Criminal~~ Crime Information Center shall request criminal history record information from the appropriate state criminal repositories in all states in which it has reason to believe the person has resided or been employed. If no disqualifying record is identified at the state level, the Department through the Vermont ~~Criminal~~ Crime Information Center shall request from the Federal Bureau of Investigation a National Criminal History Record Check of the person's criminal history. The request to the FBI shall be accompanied by a set of the person's fingerprints and a fee established by the Vermont ~~Criminal~~ Crime Information Center. The Vermont ~~Criminal~~ Crime Information Center shall send the Department the criminal history record from any state repository and the FBI of a person about whom a request is made under this subdivision or inform the Department that no record exists. The Department shall promptly provide a copy of the criminal history record, if any, to the person and shall inform the person that he or she has the right to appeal the accuracy and completeness of the record through the Vermont ~~Criminal~~ Crime Information Center. Upon completion of the process under this subdivision, the person's fingerprint card shall be destroyed.

* * *

Sec. 19. 33 V.S.A. § 5307 is amended to read:

§ 5307. TEMPORARY CARE HEARING

* * *

(e) The Department shall provide the following information to the Court at the hearing:

* * *

(5)(A) The identity and location of a noncustodial parent, a relative, or person with a significant relationship with the child known to the Department who may be appropriate, capable, willing, and available to assume temporary legal custody of the child. If the noncustodial parent cannot be located, the Department shall provide to the Court a summary of the efforts made to locate the parent.

* * *

(C) The Department shall request from the Vermont ~~Criminal~~ Crime Information Center criminal history record information for any person being considered to assume temporary legal custody of the child pursuant to this subdivision. The request shall be in writing and shall be accompanied by a release signed by the person. The Department through the Vermont ~~Criminal~~ Crime Information Center shall request criminal history record information from the appropriate state criminal repositories in all states in which it has reason to believe the person has resided or been employed. If no disqualifying

record is identified at the state level, the ~~department~~ Department through the Vermont ~~Criminal~~ Crime Information Center shall request from the Federal Bureau of Investigation a national criminal history record check of the person's criminal history. The request to the FBI shall be accompanied by a set of the person's fingerprints and a fee established by the Vermont ~~Criminal~~ Crime Information Center. The Vermont ~~Criminal~~ Crime Information Center shall send the Department the criminal history record from any state repository and the FBI of a person about whom a request is made under this subdivision or inform the Department that no record exists. The Department shall promptly provide a copy of the criminal history record, if any, to the person and shall inform the person that he or she has the right to appeal the accuracy and completeness of the record through the Vermont ~~Criminal~~ Crime Information Center. Upon completion of the process under this subdivision, the person's fingerprint card shall be destroyed.

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Sec. 20. EFFECTIVE DATE

This act shall take effect on July 1, 2014.