

Journal of the Senate

WEDNESDAY, FEBRUARY 15, 2017

In the absence of the President (who was Acting Governor in the absence of the Governor) the Senate was called to order by the President *pro tempore*.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Joint Resolution Referred

J.R.S. 18.

Joint Senate resolution of the following title was offered, read the first time and is as follows:

By Senators Cummings, Campion, Lyons, MacDonald, and Sirotkin,

J.R.S. 18. Joint resolution in support of combating the rise in hate crimes and bigotry.

Whereas, since November 2016, there has been an increase in hate crimes throughout the nation, and

Whereas, according to the Southern Poverty Law Center, during the ten days following the election, there were nearly 900 reports of harassment and intimidation from throughout the country, and

Whereas, Vermonters are in a unique position to lead the country in fighting bigotry and hatred, and

Whereas, members of the lesbian, gay, bisexual, transgender, and queer or questioning (LGBTQ) community are concerned that rights and protections won over the years may be lost, and

Whereas, these concerns are focused on the atmosphere of hate, which the LGBTQ community fears may result in physical danger for them and members of other marginalized communities, and

Whereas, a particular concern of the LGBTQ community is that silence will allow bigotry to take root in Vermont, and

Whereas, the LGBTQ community is hopeful that Vermont's history of rejecting extremists and meeting the challenges of hate and bigotry with love and fierce resistance will continue to prevail, and

Whereas, the General Assembly is in strong accord with these sentiments, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly calls upon Vermonters to denounce hatred and to support and respect marginalized communities, *and be it further*

Resolved: That the General Assembly will protect and preserve laws that foster equality among all persons, *and be it further*

Resolved: That taking the actions addressed in this resolution upholds the proud Vermont tradition of Freedom and Unity, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to Outright Vermont, the Pride Center of Vermont, Green Mountain Crossroads, and the Rainbow Umbrella of Central Vermont.

Thereupon, the President, in his discretion, treated the joint resolution as a bill and referred it to the Committee on Judiciary.

Joint Resolution Referred

J.R.S. 19.

Joint Senate resolution of the following title was offered, read the first time and is as follows:

By Senators Mullin, Lyons, Pearson, and Sears,

J.R.S. 19. Joint resolution relating to prescription drug pricing.

Whereas, in the United States, drug manufacturers are allowed to discriminate in drug pricing, and

Whereas, drug prices in the aggregate in the United States are among the highest in the world, and

Whereas, prescription drug spending is rising faster than any other health expenditure, and

Whereas, providing for affordable access to medically necessary prescription drugs will lower health care costs, and

Whereas, pharmaceutical companies benefit from public tax dollars appropriated to the National Institutes of Health and other government agencies to pay for a substantial portion of all new prescription drug research, and

Whereas, the cost of prescription drugs remains unaffordable for a large number of Vermonters, and

Whereas, among the persons who are most reliant on prescription drugs are Vermont's senior citizens, individuals with disabilities, and individuals with chronic diseases, and

Whereas, many citizens are reluctantly adopting unhealthy and potentially dangerous practices of reducing their physicians' prescribed prescription drug dosages; others are traveling to Canada to obtain their prescription drugs for a lower cost, and

Whereas, pharmaceutical companies spend, on average, twice as much on advertising and marketing as they do on research and development, and

Whereas, one of the significant factors contributing to the increasing costs of prescription drugs is the growth of direct consumer promotional campaigns sponsored by the nation's pharmaceutical companies through print, broadcast, and Internet media, and

Whereas, pursuant to 21 U.S.C. § 321(n), the Food and Drug Administration is responsible for regulating the promotional activities associated with prescription drugs, and

Whereas, the brief summaries of information relating to possible side-effects, contraindications, and effectiveness in advertisements is often overshadowed by the attractive and promotional character of the advertisement that has the potential to lure a lay person into accepting the positive claims and ignoring the less prominently promoted and possibly dangerous side-effects, and

Whereas, the Food and Drug Administration has established criteria at 21 C.F.R. § 202.1 for direct consumer advertising, including broadcasting of prescription drugs, and

Whereas, even if adhering to the regulatory requirements, prescription drug advertising may be misleading by not adequately communicating risk information, and may damage physician-patient relationships, increase prescription drug prices, increase liability actions, and lead to overmedication and drug abuse, and

Whereas, the Food and Drug Administration has repeatedly reprimanded drug companies for false or misleading advertising of prescription drugs, and

Whereas, in more recent years, the presence of online drug advertising has only intensified the problems, and

Whereas, with the change of leadership at the Food and Drug Administration, and many years of nearly limitless and viewer attractive television and now online advertisements inducing unknowing consumers to purchase potentially harmful prescription drugs, the time to rein in direct advertising of prescription drugs to consumers has clearly arrived, and

Whereas, an important price reduction option for both private consumers and state governments has been an increasing reliance on generic drugs which cost considerably less than their brand-name counterparts, but provide equivalent medicinal benefit, and

Whereas, a major impediment to the introduction of new generic drugs is a controversial patent infringement federal statutory provision, 21 U.S.C. § 355(j)(5)(B)(iii), that Congress adopted in 1984 as part of the HatchWaxman Act, providing that a pharmaceutical company holding the patent on a brand-name drug can file a complaint with the FDA triggering an automatic 30-month Food and Drug Administration-imposed delay in a generic drug's introduction, unless a court rules the brand-name patent is invalid or not infringed, and

Whereas, anticompetitive "pay-for-delay" agreements between branded and generic drug companies delay consumer access to generic drugs, and

Whereas, Medicare Part D prescription drug plans would be unaffordable for many Vermonters without Vermont's State wrap-around program called "VPharm," and

Whereas, the federal government does not negotiate for rebates and discounts in the Medicare Part D program, and

Whereas, state Medicaid programs have greatly reduced drug prices in the Medicaid program by negotiating with pharmaceutical companies for reduced prices through rebates and discounts, and

Whereas, Medicare Part D is funded, in part, through payments from the states to the federal government, commonly known as the "clawback," and

Whereas, many senior citizens and individuals with disabilities on Medicare Part D, as well as states, would benefit from negotiated, reduced prices in the Medicare Part D program, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly calls upon our Congressional Delegation immediately to propose and seek passage of legislation that will:

- 1) Require any pharmaceutical company that receives or benefits from any federal funding for pharmaceutical research and development to amortize all of the company's research and development costs over the entire world market for prescription drugs;

- 2) Amend 21 U.S.C. § 381 and other related federal statutes so as to allow for the free trade of prescription drugs between Canada and the United States;

3) Restrain the huge expenditures by pharmaceutical companies on advertising and marketing;

4) Repeal 21 U.S.C. § 355(j)(5)(B)(iii) that delays the introduction of generic drugs to the public marketplace and enact prohibitions on pay-for-delay settlements between branded and generic drug manufacturers, and

5) Allow the Centers for Medicare and Medicaid to negotiate with pharmaceutical companies for rebates and discounts in the Medicare Part D program, *and be it further*

Resolved: That the General Assembly urges the federal Food and Drug Administration to institute a moratorium on the promotion of prescription drugs directly to consumers, and that during the moratorium, the Food and Drug Administration promulgate more effective regulations to address prescription drug advertisements directed at consumers, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to President Donald Trump, to the Acting Food and Drug Administration Commissioner, Dr. Stephen Ostroff, and to the Vermont Congressional Delegation.

Thereupon, the President, in his discretion, treated the joint resolution as a bill and referred it to the Committee on Health and Welfare.

Bill Introduced

Senate bill of the following title was introduced, read the first time and referred:

S. 84.

By Senator Campion,

An act relating to motor vehicle emissions.

To the Committee on Transportation.

Bill Referred

House bill of the following title was read the first time and referred:

H. 143.

An act relating to automobile insurance requirements and transportation network companies.

To the Committee on Judiciary.

Bills Passed

Senate bills of the following titles were severally read the third time and passed:

S. 13. An act relating to fees and costs allowed at a tax sale.

S. 38. An act relating to the Government Accountability Committee and the State Outcomes Report.

Bill Amended; Third Reading Ordered

S. 12.

Senator Sears, for the Committee on Judiciary, to which was referred Senate bill entitled:

An act relating to increasing the maximum prison sentence for first, second, and subsequent offenses of aggravated animal cruelty.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. chapter 8 is amended to read:

CHAPTER 8. HUMANE AND PROPER TREATMENT OF ANIMALS

Subchapter 1. Cruelty to Animals

* * *

§ 352a. AGGRAVATED CRUELTY TO ANIMALS

A person commits the crime of aggravated cruelty to animals if the person:

(1) kills an animal by intentionally causing the animal undue pain or suffering;

(2) intentionally, maliciously, and without just cause tortures, mutilates, or cruelly beats an animal; or

(3) intentionally injures or kills an animal that is in the performance of official duties while under the supervision of a law enforcement officer.

§ 353. DEGREE OF OFFENSE; SENTENCING UPON CONVICTION

(a) Penalties.

(1) Except as provided in subdivision (3) or (4) of this subsection, cruelty to animals under section 352 of this title shall be punishable by a sentence of imprisonment of not more than one year, or a fine of not more than \$2,000.00, or both. Second and subsequent convictions shall be punishable by a sentence of imprisonment of not more than two years or a fine of not more than \$5,000.00, or both.

(2) Aggravated cruelty under section 352a of this title shall be punishable by a sentence of imprisonment of not more than ~~three~~ five years or a fine of not more than \$5,000.00, or both. Second and subsequent offenses shall be punishable by a sentence of imprisonment of not more than ~~five~~ ten years or a fine of not more than \$7,500.00, or both.

* * *

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

Bill Amended; Third Reading Ordered

S. 23.

Senator Sears, for the Committee on Judiciary, to which was referred Senate bill entitled:

An act relating to juvenile jurisdiction.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 5401 is amended to read:

§ 5401. DEFINITIONS

As used in this subchapter:

* * *

(15)(A) “Conviction” means a judgment of guilt following a verdict or finding of guilt, a plea of guilty, a plea of nolo contendere, an Alford Plea, or a judgment of guilt pursuant to a deferred sentence. A sex offender whose sentence is deferred shall have no duty to register after successful completion of the terms of the deferred sentence agreement for the duration specified in the agreement.

(B) A sex offender treated as a youthful offender pursuant to 33 V.S.A. chapter 52A shall have no duty to register unless the offender’s youthful offender status is revoked and he or she is sentenced for the offense in the Criminal Division of Superior Court.

* * *

Sec. 2. 28 V.S.A. chapter 16 is added to read:

CHAPTER 16. YOUTHFUL OFFENDERS

§ 1161. POWERS AND RESPONSIBILITIES OF THE COMMISSIONER REGARDING SUPERVISION OF YOUTHFUL OFFENDERS

In accordance with 33 V.S.A. chapter 52A, the Commissioner shall be charged with the following powers and responsibilities regarding supervision of youthful offenders:

(1) consistent with 33 V.S.A. § 5284(d), to designate a case manager who, together with a case manager appointed by the Commissioner for Children and Families, will determine the lead Department to preside over the case plan and the provision of services to youths who are adjudicated as youthful offenders;

(2) together with the Commissioner for Children and Families, to maintain the general supervision of youths adjudicated as youthful offenders and placed on conditions of juvenile probation; and

(3) to supervise the administration of probation services and establish policies and standards regarding youthful offender probation investigation, supervision, case work, record keeping, and the qualification of probation officers working with youthful offenders.

§ 1162. METHODS OF SUPERVISION

(a) Electronic monitoring. The Commissioner may utilize an electronic monitoring system to supervise a youthful offender placed on juvenile probation.

(b) Graduated sanctions.

(1) If ordered by the court pursuant to a modification of a youthful offender disposition under 33 V.S.A. § 5285(c)(1), the Commissioner may sanction the youthful offender in accordance with rules adopted pursuant to subdivision (2) of this subsection.

(2) The Department of Corrections shall adopt rules pursuant to 3 V.S.A. chapter 25 that establish graduated sanction guidelines for a youthful offender who violates the terms of his or her probation.

Sec. 3. 33 V.S.A. § 5102 is amended to read:

§ 5102. DEFINITIONS AND PROVISIONS OF GENERAL APPLICATION

As used in the juvenile judicial proceedings chapters, unless the context otherwise requires:

* * *

(2) "Child" means any of the following:

* * *

(C) An individual who has been alleged to have committed or has committed an act of delinquency after becoming 10 years of age and prior to becoming ~~18~~ 22 years of age; provided, however:

(i) that an individual who is alleged to have committed an act specified in subsection 5204(a) of this title after attaining ~~the age of 10~~ 12 years of age but not ~~the age of 14~~ years of age may be treated as an adult as provided therein;

* * *

(9) "Delinquent act" means an act designated a crime under the laws of this State, or of another state if the act occurred in another state, or under federal law. A delinquent act shall include 7 V.S.A. §§ ~~656 and 657~~ 656; however, it shall not include:

(A) snowmobile offenses in 23 V.S.A. chapter 29, subchapter 1 and motorboat offenses in 23 V.S.A. chapter 29, subchapter 2, except for violations of sections 3207a, 3207b, 3207c, 3207d, and 3323;

(B) pursuant to 4 V.S.A. § 33(b), felony motor vehicle offenses committed by an individual who is at least 16 years of age or older, except for violations of 23 V.S.A. chapter 13, subchapter 13 and of 23 V.S.A. § 1091.

* * *

(22) "Party" includes the following persons:

(A) the child with respect to whom the proceedings are brought;

(B) the custodial parent, the guardian, or the custodian of the child in all instances except a hearing on the merits of a delinquency petition;

(C) the noncustodial parent for the purposes of custody, visitation, and such other issues ~~which~~ that the Court court may determine are proper and necessary to the proceedings, provided that the noncustodial parent has entered an appearance;

(D) the State's Attorney;

(E) the Commissioner for Children and Families;

(F) such other persons as appear to the ~~Court~~ court to be proper and necessary to the proceedings; and

(G) in youthful offender cases brought under 33 V.S.A. chapter 52A, the Commissioner of Corrections.

* * *

Sec. 4. 33 V.S.A. chapter 52A is added to read:

CHAPTER 52A. YOUTHFUL OFFENDERS

§ 5280. COMMENCEMENT OF YOUTHFUL OFFENDER
PROCEEDINGS IN THE FAMILY DIVISION

(a) A proceeding under this chapter shall be commenced by:

(1) the filing of a youthful offender petition by a State's Attorney; or

(2) transfer to the Family Court of a proceeding from the Criminal Division of the Superior Court as provided in section 5281 of this title.

(b) A State's Attorney may commence a proceeding in the Family Division of the Superior Court concerning a child who is alleged to have committed an offense after attaining 16 years of age, but not 22 years of age that could otherwise be filed in the Criminal Division.

(c) If a State's Attorney files a petition under subdivision (a)(1) of this section, the case shall proceed as provided under subsection 5281(b) of this title.

§ 5281. MOTION IN CRIMINAL DIVISION OF SUPERIOR COURT

(a) A motion may be filed in the Criminal Division of the Superior Court requesting that a defendant under 22 years of age in a criminal proceeding who had attained 12 years of age but not 22 years of age at the time the offense is alleged to have been committed be treated as a youthful offender. The motion may be filed by the State's Attorney, the defendant, or the court on its own motion.

(b) Upon the filing of a motion under this section or the filing of a youthful offender petition pursuant to section 5280 of this title, the Family Division shall hold a hearing pursuant to section 5283 of this title. Copies of all records relating to the case shall be forwarded to the Family Division. Conditions of release and any Department of Corrections supervision or custody shall remain in effect until the Family Division accepts the case for treatment as a youthful offender and orders conditions of juvenile probation pursuant to section 5284 of this title, or the case is otherwise concluded.

(c)(1) If the Family Division rejects the case for youthful offender treatment pursuant to subsection 5284 of this title, the case shall be transferred to the Criminal Division. The conditions of release imposed by the Criminal Division shall remain in effect, and the case shall proceed as though the motion for youthful offender treatment or youthful offender petition had not been filed.

(2) Subject to Rule 11 of the Vermont Rules of Criminal Procedure and Rule 410 of the Vermont Rules of Evidence, the Family Division's denial of the motion for youthful offender treatment and any information related to the youthful offender proceeding shall be inadmissible against the youth for any purpose in the subsequent Criminal Division proceeding.

(d) If the Family Division accepts the case for youthful offender treatment, the case shall proceed to a confidential merits hearing or admission pursuant to sections 5227-5229 of this title.

§ 5282. REPORT FROM THE DEPARTMENT

(a) Within 30 days after the case is transferred to the Family Division or a youthful offender petition is filed in the Family Division, unless the court extends the period for good cause shown, the Department for Children and Families shall file a report with the Family Division of the Superior Court.

(b) A report filed pursuant to this section shall include the following elements:

(1) a recommendation as to whether youthful offender status is appropriate for the youth;

(2) a disposition case plan including proposed services and proposed conditions of juvenile probation in the event youthful offender status is approved and the youth is adjudicated;

(3) a description of the services that may be available for the youth when he or she reaches 18 years of age.

(c) A report filed pursuant to this section is privileged and shall not be disclosed to any person other than the Department, the Court, the State's Attorney, the youth, the youth's attorney, the youth's guardian ad litem, the Department of Corrections, or any other person when the Court determines that the best interests of the youth would make such a disclosure desirable or helpful.

§ 5283. HEARING IN FAMILY DIVISION

(a) Timeline. A youthful offender status hearing shall be held no later than 35 days after the transfer of the case from the Criminal Division or filing of a youthful offender petition in the Family Division.

(b) Notice. Notice of the hearing shall be provided to the State's Attorney; the youth; the youth's parent, guardian, or custodian; the Department; and the Department of Corrections.

(c) Hearing procedure.

(1) If the motion is contested, all parties shall have the right to present evidence and examine witnesses. Hearsay may be admitted and may be relied on to the extent of its probative value. If reports are admitted, the parties shall be afforded an opportunity to examine those persons making the reports, but sources of confidential information need not be disclosed.

(2) Hearings under subsection 5284(a) of this title shall be open to the public. All other youthful offender proceedings shall be confidential.

(d) Burden of proof. The burden of proof shall be on the moving party to prove by a preponderance of the evidence that a child should be granted youthful offender status. If the court makes the motion, the burden shall be on the youth.

(e) Further hearing. On its own motion or the motion of a party, the court may schedule a further hearing to obtain reports or other information necessary for the appropriate disposition of the case.

§ 5284. YOUTHFUL OFFENDER DETERMINATION AND DISPOSITION ORDER

(a) In a hearing on a motion for youthful offender status, the court shall first consider whether public safety will be protected by treating the youth as a youthful offender. If the court finds that public safety will not be protected by treating the youth as a youthful offender, the court shall deny the motion and transfer the case to the Criminal Division of the Superior Court pursuant to subsection 5281(d) of this title. If the court finds that public safety will be protected by treating the youth as a youthful offender, the court shall proceed to make a determination under subsection (b) of this section.

(b)(1) The court shall deny the motion if the court finds that:

(A) the youth is not amenable to treatment or rehabilitation as a youthful offender; or

(B) there are insufficient services in the juvenile court system and the Department for Children and Families and the Department of Corrections to meet the youth's treatment and rehabilitation needs.

(2) The court shall grant the motion if the court finds that:

(A) the youth is amenable to treatment or rehabilitation as a youthful offender; and

(B) there are sufficient services in the juvenile court system and the Department for Children and Families and the Department of Corrections to meet the youth's treatment and rehabilitation needs.

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

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

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

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

§ 5285. MODIFICATION OR REVOCATION OF DISPOSITION

(a) If it appears that the youth has violated the terms of juvenile probation ordered by the court pursuant to subdivision 5284(c)(1) of this title, a motion for modification or revocation of youthful offender status may be filed in the Family Division of the Superior Court. The court shall set the motion for hearing as soon as practicable. The hearing may be joined with a hearing on a violation of conditions of probation under section 5265 of this title. A supervising juvenile or adult probation officer may detain in an adult facility a youthful offender who has attained 18 years of age for violating conditions of probation.

(b) A hearing under this section shall be held in accordance with section 5268 of this title.

(c) If the court finds after the hearing that the youth has violated the terms of his or her probation, the court may:

(1) maintain the youth's status as a youthful offender, with modified conditions of juvenile probation if the court deems it appropriate;

(2) revoke the youth's status as a youthful offender and transfer the case with a record of the petition, affidavit, adjudication, disposition, and revocation to the Criminal Division for sentencing; or

(3) transfer supervision of the youth to the Department of Corrections with all of the powers and authority of the Department and the Commissioner under Title 28, including graduated sanctions and electronic monitoring.

(d) If a youth's status as a youthful offender is revoked and the case is transferred to the Criminal Division pursuant to subdivision (c)(2) of this section, the court shall hold a sentencing hearing and impose sentence. When determining an appropriate sentence, the court may take into consideration the youth's degree of progress toward rehabilitation while on youthful offender status. The Criminal Division shall have access to all Family Division records of the proceeding.

§ 5286. REVIEW PRIOR TO 18 YEARS OF AGE

(a) If a youth is adjudicated as a youthful offender prior to reaching 18 years of age, the Family Division shall review the youth's case before he or she reaches 18 years of age and set a hearing to determine whether the court's jurisdiction over the youth should be continued past 18 years of age. The hearing may be joined with a motion to terminate youthful offender status under section 5285 of this title. The court shall provide notice and an opportunity to be heard at the hearing to the State's Attorney, the youth, the Department for Children and Families, and the Department of Corrections.

(b) After receiving a notice of review under this section, the State may file a motion to modify or revoke pursuant to section 5285 of this title. If such a motion is filed, it shall be consolidated with the review under this section and all options provided for under section 5285 of this title shall be available to the court.

(c) The following reports shall be filed with the court prior to the hearing:

(1) The Department for Children and Families and the Department of Corrections shall jointly report their recommendations, with supporting justifications, as to whether the Family Division should continue jurisdiction over the youth past 18 years of age and, if continued jurisdiction is recommended, propose a case plan for the youth to ensure compliance with and completion of the juvenile disposition.

(2) If the Departments recommend continued supervision of the youthful offender past 18 years of age, the Departments shall report on the services which would be available for the youth.

(d) If the court finds that it is in the best interest of the youth and consistent with community safety to continue the case past 18 years of age, it shall make an order continuing the court's jurisdiction up to 22 years of age. The Department for Children and Families and the Department of Corrections shall jointly develop a case plan for the youth and coordinate services and share information to ensure compliance with and completion of the juvenile disposition.

(e) If the court finds that it is not in the best interest of the youth to continue the case past 18 years of age, it shall terminate the disposition order, discharge the youth, and dismiss the case in accordance with subsection 5287(c) of this title.

§ 5287. TERMINATION OR CONTINUANCE OF PROBATION

(a) A motion may be filed at any time in the Family Division requesting that the court terminate the youth's status as a youthful offender and discharge him or her from probation. The motion may be filed by the State's Attorney, the youth, the Department, or the court on its own motion. The court shall set the motion for hearing and provide notice and an opportunity to be heard at the hearing to the State's Attorney, the youth, the Department for Children and Families and the Department of Corrections.

(b) In determining whether a youth has successfully completed the terms of probation, the Court shall consider:

(1) the degree to which the youth fulfilled the terms of the case plan and the probation order;

(2) the youth's performance during treatment;

(3) reports of treatment personnel; and

(4) any other relevant facts associated with the youth's behavior.

(c) If the court finds that the youth has successfully completed the terms of the probation order, it shall terminate youthful offender status, discharge the youth from probation, and file a written order dismissing the Family Division case. The Family Division shall provide notice of the dismissal to the Criminal Division, which shall dismiss the criminal case.

(d) Upon discharge and dismissal under subsection (c) of this section, all records relating to the case in the Criminal Division shall be expunged, and all records relating to the case in the Family Court shall be sealed pursuant to section 5119 of this title.

(e) If the court denies the motion to discharge the youth from probation, the court may extend or amend the probation order as it deems necessary.

§ 5288. RIGHTS OF VICTIMS IN YOUTHFUL OFFENDER PROCEEDINGS

(a) The victim in a proceeding involving a youthful offender shall have the following rights:

(1) to be notified by the prosecutor in a timely manner when a court proceeding is scheduled to take place and when a court proceeding to which he or she has been notified will not take place as scheduled;

(2) to be present during all court proceedings subject to the provisions of Rule 615 of the Vermont Rules of Evidence and to express reasonably his or her views concerning the offense and the youth;

(3) to request notification by the agency having custody of the youth before the youth is released from a residential facility;

(4) to be notified by the prosecutor as to the final disposition of the case;

(5) to be notified by the prosecutor of the victim's rights under this section.

(b) In accordance with court rules, at a hearing on a motion for youthful offender treatment, the court shall ask if the victim is present and, if so, whether the victim would like to be heard regarding disposition. In ordering disposition, the court shall consider any views offered at the hearing by the victim. If the victim is not present, the court shall ask whether the victim has expressed, either orally or in writing, views regarding disposition and shall take those views into consideration in ordering disposition.

(c) No youthful offender proceeding shall be delayed or voided by reason of the failure to give the victim the required notice or the failure of the victim to appear.

(d) As used in this section, "victim" shall have the same meaning as in 13 V.S.A. § 5301(4).

Sec. 5. 33 V.S.A. § 5291 is amended to read:

§ 5291. DETENTION OR TREATMENT OF MINORS CHARGED AS
DELINQUENTS IN SECURE FACILITIES FOR THE
DETENTION OR TREATMENT OF DELINQUENT CHILDREN

~~(a) Unless ordered otherwise at or after a temporary care hearing, the Commissioner shall have sole authority to place the child who is in the custody of the Department in a secure facility for the detention or treatment of minors.~~

~~(b) Upon a finding at the temporary care hearing that no other suitable placement is available and the child presents a risk of injury to him or herself, to others, or to property, the Court may order that the child be placed in~~ Prior to disposition, the court shall have the sole authority to place a child who is in the custody of the Department in a secure facility used for the detention or treatment of delinquent children until the Commissioner determines that a suitable placement is available for the child. The court shall not order placement in a secure facility without a recommendation from the Department that placement in a secure facility is necessary. Alternatively, the Court may order that the child be placed in a secure facility used for the detention or

treatment of delinquent children for up to seven days. Any order for placement at a secure facility shall expire at the end of the seventh day following its issuance unless, after hearing, the Court extends the order for a time period not to exceed seven days. The court order shall include a finding that no other suitable placement is available and the child presents a risk of injury to others or to property.

(b) Absent good cause shown and notwithstanding section 5227 of this title, when a child is placed in a secure facility pursuant to subsection (a) of this section and remains in a secure facility for 45 days following the preliminary hearing, the merits hearing shall be held and merits adjudicated within 45 days of the date of the preliminary hearing or the court shall dismiss the petition with prejudice. If merits have been found, the court shall review the secure facility placement order at the merits hearing.

(c) If a child is placed in a secure facility pursuant to subsection (a) of this section and secure facility placement continues following the merits hearing review pursuant to subsection (b) of this section, the court shall, within 35 days of the merits adjudication:

(1) hold the disposition hearing, or, if disposition is not held within 35 days;

(2) hold a hearing to review the continued secure facility placement.

(d) A child placed in a secure facility on an order pursuant to subsections (a), (b), or (c) of this section with a finding that no other suitable placement is available and the child presents a risk of harm to others or to property shall be entitled to an independent, second evidentiary hearing, which shall be a hearing de novo by a single justice of the Vermont Supreme Court. The Chief Justice may make an appointment or special assignment in accordance with 4 V.S.A. § 22 to conduct the de novo hearing required by this subsection. Unless the parties stipulate to the admission of portions of the trial court record, the de novo review shall be a new evidentiary hearing without regard to the record compiled before the trial court.

(e) Following disposition, the Commissioner shall have the sole authority to place a child who is in the custody of the Department in a secure facility for the detention or treatment of delinquent children pursuant to the Department's administrative policies on admission.

Sec. 6. ADVISORY COMMITTEES; RULEMAKING

The Advisory Committee on Rules for Family Proceedings and the Advisory Committee on Rules of Criminal Procedure shall jointly review the youthful offender proceedings statutes and adopt procedural rules to make clear that a youth is waiving the right to trial by jury in cases where a youth is

adjudicated in the Family Division pursuant to 33 V.S.A. §§ 5281, and 5227-5229, youthful offender status is revoked, and a criminal record of the petition, adjudication, disposition and revocation is sent to the Criminal Division pursuant to 33 V.S.A. §5285 for sentencing. The Committees shall hold their first joint meeting on or before July 1, 2017 and shall adopt rules on this topic and any other youthful offender topic as deemed appropriate by the committees effective no later than July 1, 2018.

Sec. 7. REPEALS

(a) 33 V.S.A. § 5104 (retention of jurisdiction over youthful offenders) is repealed on July 1, 2018.

(b) 33 V.S.A. § 5280 (commencement of youthful offender proceedings in the Family Division) is repealed on July 1, 2018.

(c) 33 V.S.A. § 5281 (motion in Criminal Division of Superior Court) is repealed on July 1, 2018.

(d) 33 V.S.A. § 5282 (report from the Department) is repealed on July 1, 2018.

(e) 33 V.S.A. § 5283 (hearing in Family Division) is repealed on July 1, 2018.

(f) 33 V.S.A. § 5284 (determination and order) is repealed on July 1, 2018.

(g) 33 V.S.A. § 5285 (modification or revocation of disposition) is repealed on July 1, 2018.

(h) 33 V.S.A. § 5286 (review prior to the age of 18) is repealed on July 1, 2018.

(i) 33 V.S.A. § 5287 (termination or continuance of probation) is repealed on July 1, 2018.

(j) 33 V.S.A. § 5288 (rights of victims in youthful offender proceedings) is repealed on July 1, 2018.

Sec. 8. EFFECTIVE DATES

This act shall take effect on July 1, 2017, except for Secs. 2 (powers and responsibilities of the Commissioner regarding youthful offenders), 4 (youthful offenders), and 5 (detention or treatment of minors charged as delinquents in secure facilities for the detention or treatment of delinquent children) which shall take effect on July 1, 2018.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

Bill Amended; Third Reading Ordered

S. 14.

Senator Ingram, for the Committee on Health and Welfare, to which was referred Senate bill entitled:

An act relating to expanding the Vermont Practitioner Recovery Network.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Podiatrists * * *

Sec. 1. 26 V.S.A. § 374 is amended to read:

§ 374. FEES; LICENSES

(a) Applicants and persons regulated under this chapter shall pay the following fees:

(1) Application for licensure, \$650.00; the Board shall use at least \$25.00 of this fee to support the cost of maintaining the Vermont Practitioner Recovery Network, which, for the protection of the public, monitors recovering chemically dependent licensees for the protection of the public and evaluates, coordinates services for, and promotes rehabilitation of licensees who have or potentially have an impaired ability to practice medicine with reasonable skill and safety, which may result from:

(A) a mental condition;

(B) a physical illness or condition, including an illness or condition that adversely affects cognitive, motor, or perceptive skills; or

(C) a substance use disorder, including abuse and dependency on drugs or alcohol.

(2) Biennial renewal, \$525.00; the Board shall use at least \$25.00 of this fee to support the cost of maintaining the Vermont Practitioner Recovery Network, which, for the protection of the public, monitors recovering chemically dependent licensees for the protection of the public and evaluates, coordinates services for, and promotes rehabilitation of licensees who have or potentially have an impaired ability to practice medicine with reasonable skill and safety, which may result from:

(A) a mental condition;

(B) a physical illness or condition, including an illness or condition that adversely affects cognitive, motor, or perceptive skills; or

(C) a substance use disorder, including abuse and dependency on drugs or alcohol.

(b) As used in this section, “mental condition” means any psychiatric or emotional disorder that either falls within the diagnostic categories listed in the International Classification of Diseases and Related Health Problems (ICD) or is defined by the most recent Diagnostic and Statistical Manual of Mental Disorders (DSM).

* * * Physicians * * *

Sec. 2. 26 V.S.A. § 1401a is amended to read:

§ 1401a. FEES

(a) The Department of Health shall collect the following fees:

(1) Application for licensure, \$650.00; the Board shall use at least \$25.00 of this fee to support the cost of maintaining the Vermont Practitioner Recovery Network, which, for the protection of the public, monitors recovering chemically dependent licensees for the protection of the public and evaluates, coordinates services for, and promotes rehabilitation of licensees who have or potentially have an impaired ability to practice medicine with reasonable skill and safety, which may result from:

(A) a mental condition;

(B) a physical illness or condition, including an illness or condition that adversely affects cognitive, motor, or perceptive skills; or

(C) a substance use disorder, including abuse and dependency on drugs or alcohol.

(2) Biennial renewal, \$525.00; the Board shall use at least \$25.00 of this fee to support the cost of maintaining the Vermont Practitioner Recovery Network, which, for the protection of the public, monitors recovering chemically dependent licensees for the protection of the public and evaluates, coordinates services for, and promotes rehabilitation of licensees who have or potentially have an impaired ability to practice medicine with reasonable skill and safety, which may result from:

(A) a mental condition;

(B) a physical illness or condition, including an illness or condition that adversely affects cognitive, motor, or perceptive skills; or

(C) a substance use disorder, including abuse and dependency on drugs or alcohol.

(3) Initial limited temporary license; annual renewal \$75.00.

* * *

(c) As used in this section, “mental condition” means any psychiatric or emotional disorder that either falls within the diagnostic categories listed in the International Classification of Diseases and Related Health Problems (ICD) or is defined by the most recent Diagnostic and Statistical Manual of Mental Disorders (DSM).

* * * Anesthesiologist Assistants * * *

Sec. 3. 26 V.S.A. § 1662 is amended to read:

§ 1662. FEES

(a) Applicants and persons regulated under this chapter shall pay the following fees:

(1)(A)(i) Original application for certification, \$120.00;

(ii) Each additional application, \$55.00;

(B) The Board shall use at least \$10.00 of these fees to support the cost of maintaining the Vermont Practitioner Recovery Network, which, for the protection of the public, monitors recovering chemically dependent licensees for the protection of the public and evaluates, coordinates services for, and promotes rehabilitation of licensees who have or potentially have an impaired ability to practice medicine with reasonable skill and safety, which may result from:

(i) a mental condition;

(ii) a physical illness or condition, including an illness or condition that adversely affects cognitive, motor, or perceptive skills; or

(iii) a substance use disorder, including abuse and dependency on drugs or alcohol.

(2)(A)(i) Biennial renewal, \$120.00;

(ii) Each additional renewal, \$55.00;

(B)(i) The Board shall use at least \$10.00 of these fees to support the cost of maintaining the Vermont Practitioner Recovery Network, which, for the protection of the public, monitors recovering chemically dependent licensees for the protection of the public and evaluates, coordinates services for, and promotes rehabilitation of licensees who have or potentially have an impaired ability to practice medicine with reasonable skill and safety, which may result from:

(I) a mental condition;

(II) a physical illness or condition, including an illness or condition that adversely affects cognitive, motor, or perceptive skills; or

(III) a substance use disorder, including abuse and dependency on drugs or alcohol.

(ii) In addition to the fee, an applicant for certification renewal shall submit evidence in a manner acceptable to the Board that he or she continues to meet the certification requirements of the NCCAA.

(3) Transfer of certification, \$20.00.

(b) As used in this section, “mental condition” means any psychiatric or emotional disorder that either falls within the diagnostic categories listed in the International Classification of Diseases and Related Health Problems (ICD) or is defined by the most recent Diagnostic and Statistical Manual of Mental Disorders (DSM).

* * * Physician Assistants * * *

Sec. 4. 26 V.S.A. § 1740 is amended to read:

§ 1740. FEES

(a) Applicants and persons regulated under this chapter shall pay the following fees:

(1) Original application for licensure, \$225.00; the Board shall use at least \$10.00 of this fee to support the cost of maintaining the Vermont Practitioner Recovery Network, which, for the protection of the public, monitors recovering chemically dependent licensees for the protection of the public and evaluates, coordinates services for, and promotes rehabilitation of licensees who have or potentially have an impaired ability to practice medicine with reasonable skill and safety, which may result from:

(A) a mental condition;

(B) a physical illness or condition, including an illness or condition that adversely affects cognitive, motor, or perceptive skills; or

(C) a substance use disorder, including abuse and dependency on drugs or alcohol.

(2) Biennial renewal, \$215.00; the Board shall use at least \$10.00 of this fee to support the cost of maintaining the Vermont Practitioner Recovery Network, which, for the protection of the public, monitors recovering chemically dependent licensees for the protection of the public and evaluates, coordinates services for, and promotes rehabilitation of licensees who have or potentially have an impaired ability to practice medicine with reasonable skill and safety, which may result from:

(A) a mental condition;

(B) a physical illness or condition, including an illness or condition that adversely affects cognitive, motor, or perceptive skills; or

(C) a substance use disorder, including abuse and dependency on drugs or alcohol.

(b) As used in this section, "mental condition" means any psychiatric or emotional disorder that either falls within the diagnostic categories listed in the International Classification of Diseases and Related Health Problems (ICD) or is defined by the most recent Diagnostic and Statistical Manual of Mental Disorders (DSM).

* * * Radiologist Assistants * * *

Sec. 5. 26 V.S.A. § 2862 is amended to read:

§ 2862. FEES

(a) Applicants and persons regulated under this chapter shall pay the following fees:

(1)(A)(i) Original application for certification \$120.00;

(ii) Each additional application \$55.00;

(B) The Board shall use at least \$10.00 of these fees to support the cost of maintaining the Vermont Practitioner Recovery Network, which, for protection of the public, monitors recovering chemically dependent licensees for the protection of the public and evaluates, coordinates services for, and promotes rehabilitation of licensees who have or potentially have an impaired ability to practice medicine with reasonable skill and safety, which may result from:

(i) a mental condition;

(ii) a physical illness or condition, including an illness or condition that adversely affects cognitive, motor, or perceptive skills; or

(iii) a substance use disorder, including abuse and dependency on drugs or alcohol.

(2)(A)(i) Biennial renewal \$120.00;

(ii) Each additional renewal \$55.00;

(B)(i) The Board shall use at least \$10.00 of these fees to support the cost of maintaining the Vermont Practitioner Recovery Network, which, for the protection of the public, monitors recovering chemically dependent licensees for the protection of the public and evaluates, coordinates services

for, and promotes rehabilitation of licensees who have or potentially have an impaired ability to practice medicine with reasonable skill and safety, which may result from:

- (I) a mental condition;
- (II) a physical illness or condition, including an illness or condition that adversely affects cognitive, motor, or perceptive skills; or
- (III) a substance use disorder, including abuse and dependency on drugs or alcohol.

(ii) In addition to the fee, an applicant for certification renewal shall submit evidence in a manner acceptable to the Board that he or she continues to meet the certification requirements of the ARRT and is licensed as a radiologic technologist under chapter 51 of this title.

(3) Transfer of certification \$20.00.

(b) As used in this section, “mental condition” means any psychiatric or emotional disorder that either falls within the diagnostic categories listed in the International Classification of Diseases and Related Health Problems (ICD) or is defined by the most recent Diagnostic and Statistical Manual of Mental Disorders (DSM).

* * * Effective Date * * *

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

Bill Amended; Third Reading Ordered

S. 16.

Senator White, for the Committee on Judiciary, to which was referred Senate bill entitled:

An act relating to expanding patient access to the Medical Marijuana Registry.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. § 4472 is amended to read:

§ 4472. DEFINITIONS

As used in this subchapter:

(1)(A) “Bona fide health care professional-patient relationship” means a treating or consulting relationship of not less than three months’ duration, in the course of which a health care professional has completed a full assessment of the registered patient’s medical history and current medical condition, including a personal physical examination.

(B) The three-month requirement shall not apply if:

(i) a patient has been diagnosed with:

(I) a terminal illness;

(II) cancer; or

(III) acquired immune deficiency syndrome; or

~~(IV) is currently under hospice care.~~

(ii) a patient is currently under hospice care.

~~(ii)(iii)~~ (iii) a patient had been diagnosed with a debilitating medical condition by a health care professional in another jurisdiction in which the patient had been formerly a resident and the patient, now a resident of Vermont, has the diagnosis confirmed by a health care professional in this State or a neighboring state as provided in subdivision (6) of this section, and the new health care professional has completed a full assessment of the patient’s medical history and current medical condition, including a personal physical examination.

~~(iii)(iv)~~ (iv) a patient who is already on the ~~registry~~ Registry changes health care professionals three months or less prior to the annual renewal of the patient’s registration, provided the patient’s new health care professional has completed a full assessment of the patient’s medical history and current medical condition, including a personal physical examination.

(v) a patient is referred by his or her health care professional to a health care professional who specializes in diagnosing and treating certain debilitating medical conditions and that specialist has completed a full assessment of the patient’s medical history and current medical condition, including a personal physical examination.

* * *

~~(4) “Debilitating medical condition,” provided that, in the context of the specific disease or condition described in subdivision (A) or (B) of this~~

~~subdivision (4), reasonable medical efforts have been made over a reasonable amount of time to relieve the symptoms,~~ means:

(A) cancer, multiple sclerosis, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, glaucoma, post-traumatic stress disorder, Crohn's disease, Parkinson's disease, or the treatment of these conditions, if the disease or the treatment results in severe, persistent, and intractable symptoms; ~~or~~

(B) a disease, or medical condition, or its treatment that is chronic, debilitating, and produces one or more of the following intractable symptoms: cachexia or wasting syndrome; chronic pain; severe nausea; or seizures.

(5) "Dispensary" means a nonprofit entity registered under section 4474e of this title ~~which~~ that acquires, possesses, cultivates, manufactures, transfers, transports, supplies, sells, or dispenses marijuana, marijuana-infused products, and marijuana-related supplies and educational materials for or to a registered patient who has designated it as his or her center and to his or her registered caregiver for the registered patient's use for symptom relief. A dispensary may provide marijuana for symptom relief to registered patients at only one facility or location, but may have a second location associated with the dispensary where the marijuana is cultivated or processed. Both locations are considered to be part of the same dispensary.

* * *

(10) "Ounce" means 28.35 grams.

(11) "Possession limit" means the amount of marijuana collectively possessed between the registered patient and the patient's registered caregiver ~~which~~ that is no more than two mature marijuana plants, seven immature plants, and ~~two~~ three ounces of usable marijuana.

~~(11)~~(12) "Registered caregiver" means a person who is at least 21 years of age, has met eligibility requirements as determined by the Department in accordance with this chapter, and who has agreed to undertake responsibility for managing the well-being of a registered patient with respect to the use of marijuana for symptom relief.

~~(12)~~(13) "Registered patient" means a resident of Vermont who has been issued a registration card by the Department of Public Safety, identifying the person as having a debilitating medical condition pursuant to the provisions of this subchapter. "Resident of Vermont" means a person whose domicile is Vermont.

~~(13)~~(14) "Secure indoor facility" means a building or room equipped with locks or other security devices that permit access only by a registered caregiver, registered patient, or a principal officer or employee of a dispensary.

~~(14)~~(15) “Transport” means the movement of marijuana and marijuana-infused products from registered growing locations to their associated dispensaries, between dispensaries, to registered patients and registered caregivers in accordance with delivery protocols, or as otherwise allowed under this subchapter.

~~(15)~~(16) “Usable marijuana” means the dried leaves and flowers of marijuana, and any mixture or preparation thereof, and does not include the seeds, stalks, and roots of the plant.

~~(16)~~(17) “Use for symptom relief” means the acquisition, possession, cultivation, use, transfer, or transportation of marijuana, or of paraphernalia relating to the administration of marijuana to alleviate the symptoms or effects of a registered patient’s debilitating medical condition ~~which~~ that is in compliance with all the limitations and restrictions of this subchapter.

Sec. 2. 18 V.S.A. § 4473 is amended to read:

§ 4473. REGISTERED PATIENTS; QUALIFICATION STANDARDS AND PROCEDURES

* * *

(b) The Department of Public Safety shall review applications to become a registered patient using the following procedures:

(1) A patient with a debilitating medical condition shall submit a signed application for registration to the Department. ~~A patient’s initial application to the registry shall be notarized, but subsequent renewals shall not require notarization.~~ If the patient is under 18 years of age, the application must be signed by both the patient and a parent or guardian. The application shall require identification and contact information for the patient and the patient’s registered caregiver applying for authorization under section 4474 of this title, if any, and the patient’s designated dispensary under section 4474e of this title, if any. The applicant shall attach to the application a medical verification form developed by the Department pursuant to subdivision (2) of this subsection.

(2) The Department of Public Safety shall develop a medical verification form to be completed by a health care professional and submitted by a patient applying for registration in the program. The form shall include:

(A) A cover sheet ~~which~~ that includes the following:

(i) A statement of the penalties for providing false information.

(ii) Definitions of the following statutory terms:

(I) “Bona fide health care professional-patient relationship” as defined in section 4472 of this title.

(II) “Debilitating medical condition” as defined in section 4472 of this title.

(III) “Health care professional” as defined in section 4472 of this title.

(iii) A statement that the medical verification form is not considered a prescription and that the only purpose of the medical verification form is to confirm that the applicant patient has a debilitating medical condition.

(B) A verification sheet ~~which~~ that includes the following:

(i) A statement that a bona fide health care professional-patient relationship exists under section 4472 of this title, or that, under subdivision (3)(A) of this subsection (b), the debilitating medical condition is of recent or sudden onset, ~~and the patient has not had a previous health care professional who is able to verify the nature of the disease and its symptoms.~~

(ii) ~~A statement that reasonable medical efforts have been made over a reasonable amount of time without success to relieve the symptoms.~~
[Repealed.]

(iii) A statement that the patient has a debilitating medical condition as defined in section 4472 of this title, including the specific disease or condition ~~which~~ that the patient has and whether the patient meets the criteria under section 4472.

(iv) A signature line ~~which~~ that provides in substantial part: “I certify that I meet the definition of ‘health care professional’ under 18 V.S.A. § 4472, that I am a health care professional in good standing in the State of, and that the facts stated above are accurate to the best of my knowledge and belief.”

(v) The health care professional’s contact information, license number, category of his or her health care profession as defined in subdivision 4472(6) of this title, and contact information for the out-of-state licensing agency, if applicable. The Department of Public Safety shall adopt rules for verifying the goodstanding of out-of-state health care professionals.

(vi) A statement that the medical verification form is not considered a prescription and that the only purpose of the medical verification form is to confirm that the applicant patient has a debilitating medical condition.

(3)(A) The Department of Public Safety shall transmit the completed medical verification form to the health care professional and contact him or her for purposes of confirming the accuracy of the information contained in

the form. The Department may approve an application, notwithstanding the ~~six-month~~ three-month requirement in section 4472 of this title, if the Department is satisfied that the medical verification form confirms that the debilitating medical condition is of recent or sudden onset, ~~and that the patient has not had a previous health care professional who is able to verify the nature of the disease and its symptoms.~~

(B) If the health care professional is licensed in another state as provided section 4472 of this title, the Department shall verify that the health care professional is in good standing in that state.

* * *

Sec. 3. 18 V.S.A. § 4474(c)(1) is amended to read:

(c)(1) Except as provided in subdivision (2) of this subsection, a registered caregiver may serve only one registered patient at a time, and a registered patient may have only one registered caregiver at a time. A registered patient may serve as a registered caregiver for one other registered patient.

Sec. 4. 18 V.S.A. § 4474e is amended to read:

§ 4474e. DISPENSARIES; CONDITIONS OF OPERATION

(a) A dispensary registered under this section may:

* * *

(5) Advertise under the following conditions:

(A) Advertising shall not contain any statement or illustration that:

(i) is false or misleading;

(ii) promotes overconsumption; or

(iii) is designed to appeal to children or persons under 18 years of age by portraying anyone under 18 years of age or objects suggestive of the presence of anyone under 18 years of age, or containing the use of a figure, a symbol, or language that is customarily associated with anyone under 18 years of age.

(B) Outdoor advertising shall not be located within 1,000 feet of a preexisting public or private school or a preexisting licensed or regulated child care facility.

(C) All advertising shall contain the following warning: "Marijuana has intoxicating effects and may impair concentration, coordination, and judgment. Do not operate a motor vehicle or heavy machinery or enter into any contractual agreement under the influence of marijuana."

~~(b)(1) A dispensary shall be operated on a nonprofit basis for the mutual benefit of its patients but need not be recognized as a tax-exempt organization by the Internal Revenue Service.~~

~~(2) A dispensary shall have a sliding-scale fee system that takes into account a registered patient's ability to pay.~~

* * *

~~(d)(1) A dispensary shall implement appropriate security measures to deter and prevent the unauthorized entrance into areas containing marijuana and the theft of marijuana and shall ensure that each location has an operational security alarm system. All cultivation of marijuana shall take place in an enclosed, locked facility which is either indoors or otherwise outdoors, but not visible to the public, and which can only be accessed by principal officers and employees of the dispensary who have valid registry Registry identification cards. The Department of Public Safety shall perform an annual on-site assessment of each dispensary and may perform on-site assessments of a dispensary without limitation for the purpose of determining compliance with this subchapter and any rules adopted pursuant to this subchapter and may enter a dispensary at any time for such purpose. During an inspection, the Department may review the dispensary's confidential records, including its dispensing records, which shall track transactions according to registered patients' registry Registry identification numbers to protect their confidentiality.~~

* * *

~~(k)(1) No dispensary, or principal officer, board member, or employee of a dispensary shall:~~

* * *

~~(C) dispense more than two three ounces of usable marijuana to a registered patient directly or through the qualifying patient's registered caregiver during a 30-day period;~~

Sec. 5. 18 V.S.A. § 4474f is amended to read:

§ 4474f. DISPENSARY APPLICATION, APPROVAL, AND
REGISTRATION

* * *

~~(b) Within 30 days of the adoption of rules, the Department shall begin accepting applications for the operation of dispensaries. Within 365 days of the effective date of this section, the Department shall grant registration certificates to four dispensaries, provided at least four applicants apply and~~

~~meet the requirements of this section.~~ No more than four eight dispensaries shall hold valid registration certificates at one time. Any time a dispensary registration certificate is revoked, is relinquished, or expires, the Department shall accept applications for a new dispensary. ~~If at any time after one year after the effective date of this section~~ fewer than four eight dispensaries hold valid registration certificates in Vermont, the Department of Public Safety shall accept applications for a new dispensary.

* * *

Sec. 5a. DEPARTMENT OF PUBLIC SAFETY

The Department of Public Safety shall begin to accept applications for the additional four dispensaries on July 1, 2017.

Sec. 6. 18 V.S.A. § 4474h is amended to read:

§ 4474h. PATIENT DESIGNATION OF DISPENSARY

(a) A registered patient may obtain marijuana only from the patient's designated dispensary and may designate only one dispensary. ~~If a registered patient designates a dispensary, the patient and his or her caregiver may not grow marijuana or obtain marijuana or marijuana-infused products for symptom relief from any source other than the designated dispensary.~~ A registered patient who wishes to change his or her dispensary shall notify the Department of Public Safety in writing on a form issued by the Department and shall submit with the form a fee of \$25.00. The Department shall issue a new identification card to the registered patient within 30 days of receiving the notification of change in dispensary. The registered patient's previous identification card shall expire at the time the new identification card takes effect. A registered patient shall submit his or her expired identification card to the Department within 30 days of expiration. A registered patient shall not change his or her designated dispensary more than once in any 30-day period.

* * *

Sec. 7. 18 V.S.A. § 4474n is added to read:

§ 4474n. TESTING; AGENCY OF AGRICULTURE, FOOD AND MARKETS

The Agency of Agriculture, Food and Markets shall conduct periodic analytical sample testing of marijuana-infused edible or potable products sold by a dispensary to ensure appropriate labeling of the tetrahydrocannabinol content as required by subdivision 4474e(h)(2) of this chapter.

Sec. 8. 6 V.S.A. chapter 5 is amended to read:

CHAPTER 5. CENTRAL TESTING LABORATORY

§ 121. CREATION AND PURPOSE

There is created within the Agency of Agriculture, Food and Markets a central testing laboratory for the purpose of providing agricultural ~~and~~, environmental, ~~and other necessary~~ testing services.

§ 122. FEES

Notwithstanding 32 V.S.A. § 603, the Agency shall establish fees for providing agricultural ~~and~~, environmental, ~~and other necessary~~ testing services at the request of private individuals and State agencies. The fees shall be reasonably related to the cost of providing the services. Fees collected under this chapter shall be credited to a special fund which shall be established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and which shall be available to the Agency to offset the cost of providing the services.

§ 123. REGULATED DRUGS

(a) Except as provided in subsection (b) of this section, the provisions of 18 V.S.A. chapter 84 shall not apply to the Secretary or designee in the otherwise lawful performance of his or her official duties requiring the possession or control of regulated drugs.

(b) The central testing laboratory shall obtain a certificate of approval from the Department of Health pursuant to 18 V.S.A. § 4207.

(c) As used in this section, “regulated drug” shall have the same meaning as in 18 V.S.A. § 4201.

Sec. 9. AUTHORITY FOR CURRENTLY REGISTERED DISPENSARY ORGANIZED AS A NONPROFIT CORPORATION TO CONVERT TO FOR-PROFIT ENTITY.

(a) Notwithstanding the provisions of Title 11B and any other rule to the contrary, a dispensary organized as a nonprofit corporation and registered pursuant to 18 V.S.A. chapter 86 may convert to a domestic corporation pursuant to and in accordance with 11A V.S.A. chapter 11 as if the dispensary were a domestic organization, except that the dispensary shall approve a plan of conversion pursuant to 11A V.S.A. § 11.04 by a majority vote of its board of directors and may otherwise disregard any provision of 11A V.S.A. chapter 11 that relates to shareholders.

(b) Notwithstanding 18 V.S.A. § 4474e or any rule to the contrary, the converted domestic corporation may continue to operate on a for-profit basis in accordance with the terms of its registration, 18 V.S.A. chapter 86, and any rules adopted pursuant to that chapter.

Sec. 10. EFFECTIVE DATES

(a) Sec. 9 shall take effect on passage.

(b) The remaining sections of this act shall take effect on July 1, 2017.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

Committee Relieved of Further Consideration; Bill Committed

S. 34.

On motion of Senator White, the Committee on Government Operations was relieved of further consideration of Senate bill entitled:

An act relating to cross-promoting development incentives and State policy goals.

And the bill was committed to the Committee on Agriculture.

Adjournment

On motion of Senator Balint, the Senate adjourned until ten o'clock and twenty minutes in the morning.