

Senate Calendar

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ACTION CALENDAR

CONSIDERATION POSTPONED TO MARCH 28, 2023

Second Reading

Favorable with Recommendation of Amendment

S. 60.

An act relating to local option taxes.

Pending Question: Shall the bill be amended as recommended by the Committee on Finance?.

UNFINISHED BUSINESS OF WEDNESDAY, MARCH 22, 2023

Third Reading

S. 99.

An act relating to miscellaneous changes to laws related to vehicles.

Amendment to S. 99 to be offered by Senator White before Third Reading

Senator White moves to amend the bill by inserting a new Sec. 47 and corresponding reader assistance heading to read as follows:

* * * Excessive Motor Vehicle Noise Report * * *

Sec. 47. EXCESSIVE MOTOR VEHICLE NOISE REPORT

(a) The Commissioner of Motor Vehicles, in consultation with the Commissioner of Public Safety and the Vermont League of Cities and Towns, shall study and report on current and potential enforcement practices around excessive motor vehicle noise and make recommendations on ways to limit excessive motor vehicle noise in Vermont.

(b) The study and report shall, at a minimum, address:

(1) if there should be a noise standard in statute or the Periodic Inspection Manual, or both, and, if so, what that standard should be;

(2) costs to incorporate noise testing into the State motor vehicle inspection required under 23 V.S.A. § 1222 and the State's Periodic Inspection Manual;

(3) costs to train law enforcement officers on noise testing; and

(4) approaches to minimize excessive motor vehicle noise that have been taken in other states, including increased enforcement by law enforcement coupled with an objective noise standard defense.

(c) On or before January 1, 2025, the Commissioner of Motor Vehicles shall submit a written report to the House and Senate Committees on Judiciary and on Transportation with the Commissioner's findings and any recommendations for legislative action.

And by renumbering the remaining section to be numerically correct.

Second Reading

Favorable with Recommendation of Amendment

S. 89.

An act relating to establishing a forensic facility.

Reported favorably with recommendation of amendment by Senator Sears for the Committee on Judiciary.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Admission to Forensic Facility for Persons in Need of Treatment or Continued Treatment * * *

Sec. 1. 18 V.S.A. § 7101 is amended to read:

§ 7101. DEFINITIONS

As used in this part of this title, the following words, unless the context otherwise requires, shall have the following meanings:

(31)(A) "Forensic facility" means a residential facility, licensed as a therapeutic community residence as defined in 33 V.S.A. § 7102(11), for an individual initially committed pursuant to:

(i) 13 V.S.A. § 4822 who is in need of treatment or further treatment pursuant to chapter 181 of this title within a secure setting for an extended period of time; or

(ii) 13 V.S.A. § 4823 who is in need of custody, care, and habilitation pursuant to chapter 206 of this title, within a secure setting for an extended period of time.

(B) A forensic facility shall not be used for any purpose other than the purposes permitted by this part or chapter 206 of this title. As used in this

subdivision, “secure” has the same meaning as in section 7620 of this title.

Sec. 2. 18 V.S.A. § 7612 is amended to read:

§ 7612. APPLICATION FOR INVOLUNTARY TREATMENT

(a) An interested party may, by filing a written application, commence proceedings for the involuntary treatment of an individual by judicial process.

(b) The application shall be filed in the Family Division of the Superior Court.

(c) If the application is filed under section 7508 or 7620 of this title, it shall be filed in the unit of the Family Division of the Superior Court in which the hospital is located. In all other cases, it shall be filed in the unit in which the proposed patient resides. In the case of a nonresident, it may be filed in any unit. The court may change the venue of the proceeding to the unit in which the proposed patient is located at the time of the trial.

(d) The application shall contain:

(1) The name and address of the applicant.

(2) A statement of the current and relevant facts upon which the allegation of mental illness and need for treatment is based. The application shall be signed by the applicant under penalty of perjury.

(e) The application shall be accompanied by:

(1) a certificate of a licensed physician, which shall be executed under penalty of perjury stating that ~~he or she~~ the licensed physician has examined the proposed patient within five days of from the date the petition is filed and is of the opinion that the proposed patient is a person in need of treatment, including the current and relevant facts and circumstances upon which the physician’s opinion is based; or

(2) a written statement by the applicant that the proposed patient refused to submit to an examination by a licensed physician.

(f) Before an examining physician completes the certificate of examination, ~~he or she~~ the examining physician shall consider available alternative forms of care and treatment that might be adequate to provide for the person’s needs without requiring hospitalization. The examining physician shall document on the certificate the specific alternative forms of care and treatment that ~~he or she~~ the examining physician considered and why those alternatives were deemed inappropriate, including information on the availability of any appropriate alternatives.

(g) If the Commissioner seeks to have a person receive treatment in a forensic facility pursuant to an order of nonhospitalization, the application for an order authorizing treatment shall expressly state that such treatment is being sought. The application shall contain, in addition to the statements required by this section, a statement setting forth the reasons for the Commissioner's determination that clinically appropriate treatment for the person's condition can be provided safely only in a forensic facility.

Sec. 3. 18 V.S.A. § 7615 is amended to read:

§ 7615. HEARING ON APPLICATION FOR INVOLUNTARY
TREATMENT

(a)(1) Upon receipt of the application, the court shall set a date for the hearing to be held within 10 days from the date of the receipt of the application or 20 days from the date of the receipt of the application if a psychiatric examination is ordered under section 7614 of this title unless the hearing is continued by the court pursuant to subsection (b) of this section.

(2)(A) The applicant or a person who is certified as a person in need of treatment pursuant to section 7508 of this title may file a motion to expedite the hearing. The motion shall be supported by an affidavit, and the court shall rule on the motion on the basis of the filings without holding a hearing. The court:

(i) shall grant the motion if it finds that the person demonstrates a significant risk of causing the person or others serious bodily injury as defined in 13 V.S.A. § 1021 even while hospitalized, and clinical interventions have failed to address the risk of harm to the person or others;

(ii) may grant the motion if it finds that the person has received involuntary medication pursuant to section 7624 of this title during the past two years and, based upon the person's response to previous and ongoing treatment, there is good cause to believe that additional time will not result in the person establishing a therapeutic relationship with providers or regaining competence.

(B) If the court grants the motion for expedited hearing pursuant to this subdivision, the hearing shall be held within ten days from the date of the order for expedited hearing.

(3)(A) The applicant or a person for whom an order of nonhospitalization at a forensic facility is sought may file a motion to expedite the hearing. The motion shall be supported by an affidavit. The court:

(i) shall grant the motion if it finds that the person demonstrates a significant risk of causing the person or others serious bodily injury as defined

in 13 V.S.A. § 1021 even while in custody, and clinical interventions have failed to address the risk of harm to the person or others;

(ii) may grant the motion if it finds that the person has received involuntary medication pursuant to section 7624 of this title during the past two years and, based upon the person's response to previous and ongoing treatment, there is good cause to believe that additional time will not result in the person establishing a therapeutic relationship with providers or regaining competence.

(B) If the court grants the motion for expedited hearing pursuant to this subdivision, the hearing shall be held within three days from the date of the order for expedited hearing. The court may grant an extension of not more than five days to allow for a psychiatric examination in accordance with section 7614 of this title.

(4) If a hearing on the application for involuntary treatment has not occurred within 60 days from the date of the court's receipt of the application, the Commissioner shall request that the court and both parties' attorneys provide the reasons for the delay. The Commissioner shall submit a report to the court, the Secretary of Human Services, and the patient's attorney that either explains why the delay was warranted or makes recommendations as to how delays of this type can be avoided in the future.

* * *

Sec. 4. 18 V.S.A. § 7618 is amended to read:

§ 7618. ORDER; NONHOSPITALIZATION

(a)(1) If the court finds that a treatment program other than hospitalization is adequate to meet the person's treatment needs, the court shall order the person to receive whatever treatment other than hospitalization is appropriate for a period of 90 days.

(2) If the Commissioner determines that treatment at a forensic facility is appropriate, and the court finds that treatment at a forensic facility is the least restrictive setting adequate to meet the person's needs, the court shall order the person to receive treatment there for a period of 90 days. The court may at any time, on its own motion or on motion of an interested party, review the need for treatment at the forensic facility.

(b) If at any time during the specified period it comes to the attention of the court either that the patient is not complying with the order or that the alternative treatment has not been adequate to meet the patient's treatment needs, the court may, after proper hearing:

(1) ~~Consider~~ consider other alternatives, modify its original order, and direct the patient to undergo another program of alternative treatment for the remainder of the 90-day period; or

(2) ~~Enter~~ enter a new order directing that the patient be hospitalized for the remainder of the 90-day period.

Sec. 5. 18 V.S.A. § 7620 is amended to read:

§ 7620. APPLICATION FOR CONTINUED TREATMENT

(a) If, prior to the expiration of any order issued in accordance with section 7623 of this title, the Commissioner believes that the condition of the patient is such that the patient continues to require treatment, the Commissioner shall apply to the court for a determination that the patient is a patient in need of further treatment and for an order of continued treatment.

(b) An application for an order authorizing continuing treatment shall contain a statement setting forth the reasons for the Commissioner's determination that the patient is a patient in need of further treatment, a statement describing the treatment program provided to the patient, and the results of that course of treatment.

(c) Any order of treatment issued in accordance with section 7623 of this title shall remain in force pending the court's decision on the application.

(d) If the Commissioner seeks to have the patient receive the further treatment in a forensic facility or secure residential recovery facility, the application for an order authorizing continuing treatment shall expressly state that such treatment is being sought. The application shall contain, in addition to the statements required by subsection (b) of this section, a statement setting forth the reasons for the Commissioner's determination that clinically appropriate treatment for the patient's condition can be provided safely only in a secure residential recovery facility or forensic facility, as appropriate.

(e) As used in this chapter:

(1) "Secure," when describing a residential facility, means that the residents can be physically prevented from leaving the facility by means of locking devices or other mechanical or physical mechanisms.

(2) "Secure residential recovery facility" means a residential facility, licensed as a therapeutic community residence as defined in 33 V.S.A. § 7102(11), for an individual who no longer requires acute inpatient care but who does remain in need of treatment within a secure setting for an extended period of time. A secure residential recovery facility shall not be used for any purpose other than the purposes permitted by this section.

Sec. 6. 18 V.S.A. § 7621 is amended to read:

§ 7621. HEARING ON APPLICATION FOR CONTINUED TREATMENT;
ORDERS

* * *

(c) If the court finds that the patient is a patient in need of further treatment but does not require hospitalization, it shall order nonhospitalization for up to one year. If the treatment plan proposed by the Commissioner for a patient in need of further treatment includes admission to a secure residential recovery facility or a forensic facility, the court may at any time, on its own motion or on motion of an interested party, review the need for treatment at the secure residential recovery facility or forensic facility, as applicable.

* * *

Sec. 7. 18 V.S.A. § 7624 is amended to read:

§ 7624. APPLICATION FOR INVOLUNTARY MEDICATION

(a) The Commissioner may commence an action for the involuntary medication of a person who is refusing to accept psychiatric medication and meets any one of the following ~~six~~ conditions:

(1) has been placed in the Commissioner's care and custody pursuant to section 7619 of this title or subsection 7621(b) of this title;

(2) has previously received treatment under an order of hospitalization and is currently under an order of nonhospitalization, including a person on an order of nonhospitalization who resides in a secure residential recovery facility;

(3) has been committed to the custody of the Commissioner of Corrections as a convicted felon and is being held in a correctional facility ~~which~~ that is a designated facility pursuant to section 7628 of this title and for whom the Departments of Corrections and of Mental Health have determined jointly that involuntary medication would be appropriate pursuant to 28 V.S.A. § 907(4)(H);

(4) has an application for involuntary treatment pending for which the court has granted a motion to expedite pursuant to subdivision 7615(a)(2)(A)(i) of this title;

(5)(A) has an application for involuntary treatment pending;

(B) waives the right to a hearing on the application for involuntary treatment until a later date; and

(C) agrees to proceed with an involuntary medication hearing without a ruling on whether he or she is a person in need of treatment; or

(6) has been placed under an order of nonhospitalization in a forensic facility or has an application for involuntary treatment at a forensic facility pending for which the court has granted a motion to expedite pursuant to subdivision 7615(a)(3)(A)(i) of this title, regardless of whether the person has previously been under an order of hospitalization; or

(7) has had an application for involuntary treatment pending pursuant to subdivision 7615(a)(1) of this title for more than 26 days without a hearing having occurred and the treating psychiatrist certifies, based on specific behaviors and facts set forth in the certification, that in ~~his or her~~ the psychiatrist's professional judgment there is good cause to believe that:

(A) additional time will not result in the person establishing a therapeutic relationship with providers or regaining competence; and

(B) serious deterioration of the person's mental condition is occurring.

(b)(1) Except as provided in subdivisions (2), (3), and (4) of this subsection, an application for involuntary medication shall be filed in the Family Division of the Superior Court in the county in which the person is receiving treatment.

(2) If the application for involuntary medication is filed pursuant to subdivision (a)(4) or (a)(6) of this section:

(A) the application shall be filed in the county in which the application for involuntary treatment is pending; and

(B) the court shall consolidate the application for involuntary treatment with the application for involuntary medication and rule on the application for involuntary treatment before ruling on the application for involuntary medication.

(3) If the application for involuntary medication is filed pursuant to subdivision (a)(5) or ~~(a)(6)(7)~~ of this section, the application shall be filed in the county in which the application for involuntary treatment is pending.

(4) Within 72 hours of the filing of an application for involuntary medication pursuant to subdivision ~~(a)(6)(7)~~ of this section, the court shall determine, based solely upon a review of the psychiatrist's certification and any other filings, whether the requirements of that subdivision have been established. If the court determines that the requirements of subdivision ~~(a)(6)(7)~~ of this section have been established, the court shall consolidate the

application for involuntary treatment with the application for involuntary medication and hear both applications within ten days of the date that the application for involuntary medication is filed. The court shall rule on the application for involuntary treatment before ruling on the application for involuntary medication. Subsection 7615(b) of this title shall apply to applications consolidated pursuant to this subdivision.

* * *

Sec. 8. 18 V.S.A. § 7627 is amended to read:

§ 7627. COURT FINDINGS; ORDERS

* * *

(o) For a person who is receiving treatment pursuant to an order of nonhospitalization in a forensic facility, if the court finds that without an order for involuntary medication there is a substantial probability that the person would continue to refuse medication and as a result would pose a danger of harm to self or others, the court may the order administration of involuntary medications at a forensic facility for up to 90 days, unless the court finds that an order is necessary for a longer period of time. An order for involuntary medication pursuant to this subsection shall not be longer than the duration of the current order of nonhospitalization. If at any time the treating psychiatrist finds that a person subject to an order for involuntary medication has become competent pursuant to subsection 7625(c) of this title, the order shall no longer be in effect.

* * * Persons in Need of Custody, Care, and Habilitation or Continued
Custody, Care, and Habilitation * * *

Sec. 9. 13 V.S.A. § 4823 is amended to read:

§ 4823. FINDINGS AND ORDER; PERSONS WITH AN INTELLECTUAL
DISABILITY

(a) If the court finds that such person is a person in need of custody, care, and habilitation as defined in 18 V.S.A. § 8839, the court shall issue an order of commitment directed to the Commissioner of Disabilities, Aging, and Independent Living for placement in a designated program in the least restrictive environment consistent with the person's need for custody, care, and habilitation of such person for an indefinite or limited period in a designated program for an indefinite or limited period.

~~(b) Such order of commitment shall have the same force and effect as an order issued under 18 V.S.A. § 8843 and persons committed under such an order shall have the same status, and the same rights, including the right to~~

~~receive care and habilitation, to be examined and discharged, and to apply for and obtain judicial review of their cases, as persons ordered committed under 18 V.S.A. § 8843~~ Judicial review procedures for an order issued pursuant to subsection (a) of this section and for discharge from an order of commitment shall occur in accordance with 18 V.S.A. § 8845.

~~(c)(1) Section 4822 of this title shall apply to persons proposed for discharge under this section; however, judicial proceedings shall be conducted in the Criminal Division of the Superior Court in which the person then resides, unless the person resides out of State in which case the proceedings shall be conducted in the original committing court~~ If the Commissioner seeks to have a person committed pursuant to this section placed in a forensic facility, the Commissioner shall provide a statement setting forth the reasons for the Commissioner's determination that clinically appropriate treatment and programming can be provided safely only in a forensic facility.

(2) As used in this subchapter, "forensic facility" has the same meaning as in section 7101 of this title.

Sec. 10. 18 V.S.A. § 8839 is amended to read:

§ 8839. DEFINITIONS

As used in this subchapter:

(1) ~~"Danger of harm to others" means the person has inflicted or attempted to inflict serious bodily injury to another or has committed an act that would constitute a sexual assault or lewd or lascivious conduct with a child~~ "Commissioner" means the Commissioner of Disabilities, Aging, and Independent Living.

(2) "Designated program" means a program designated by the Commissioner as adequate to provide in an individual manner appropriate custody, care, and habilitation to persons with intellectual disabilities receiving services under this subchapter.

(3) "Person in need of custody, care, and habilitation" means a person:

(A) ~~a person~~ with an intellectual disability, which means significantly subaverage intellectual functioning existing concurrently with deficits in adaptive behavior that were manifest before 18 years of age;

(B) ~~who presents a danger of harm to others~~ has inflicted or attempted to inflict serious bodily injury to another or who has committed an act that would constitute a sexual assault or lewd and lascivious conduct with a child; and

(C) for whom appropriate custody, care, and habilitation can be provided by the Commissioner in a designated program.

(4) “Person in need of continued custody, care, and habilitation” means a person who was previously found to be a person in need of custody, care, and habilitation who poses a danger of harm to others and for whom the Commissioner has, in the Commissioner’s discretion, consented to or approved the continuation of the designated program. A danger of harm to others shall be shown by establishing that, in the time since the last order of commitment was issued, the person:

(A) has inflicted or attempted to inflict physical or sexual harm to another;

(B) by the person’s threats or actions, has placed another person in reasonable fear of physical or sexual harm; or

(C) has exhibited behavior demonstrating that, absent treatment or programming provided by the Commissioner, there is a reasonable likelihood that the person would inflict or attempt to inflict physical or sexual harm to another.

Sec. 11. 18 V.S.A. § 8840 is amended to read:

§ 8840. JURISDICTION AND VENUE

~~Proceedings brought under this subchapter for commitment to the Commissioner for custody, care, and habilitation shall be commenced by petition in the Family Division of the Superior Court for the unit in which the respondent resides. [Repealed.]~~

Sec. 12. 18 V.S.A. § 8841 is amended to read:

§ 8841. PETITION; PROCEDURES

~~The filing of the petition and procedures for initiating a hearing shall be as provided in sections 8822-8826 of this title. [Repealed.]~~

Sec. 13. 18 V.S.A. § 8842 is amended to read:

§ 8842. HEARING

~~Hearings under this subchapter for commitment shall be conducted in accordance with section 8827 of this title. [Repealed.]~~

Sec. 14. 18 V.S.A. § 8843 is amended to read:

§ 8843. FINDINGS AND ORDER

~~(a) In all cases, the court shall make specific findings of fact and state its conclusions of law.~~

~~(b) If the court finds that the respondent is not a person in need of custody, care, and habilitation, it shall dismiss the petition.~~

~~(c) If the court finds that the respondent is a person in need of custody, care, and habilitation, it shall order the respondent committed to the custody of the Commissioner for placement in a designated program in the least restrictive environment consistent with the respondent's need for custody, care, and habilitation for an indefinite or a limited period. [Repealed.]~~

Sec. 15. 18 V.S.A. § 8844 is amended to read:

§ 8844. LEGAL COMPETENCE

No determination that a person is in need of custody, care, and habilitation or in need of continued custody, care, and habilitation and no order authorizing commitment shall lead to a presumption of legal incompetence.

Sec. 16. 18 V.S.A. § 8845 is amended to read:

§ 8845. JUDICIAL REVIEW

(a) A person committed under 13 V.S.A. § 4823 or this subchapter may be discharged from custody by a Superior judge after judicial review as provided herein in accordance with this subchapter or by administrative order of the Commissioner. At least 10 days prior to the effective date of any administrative order for discharge by the Commissioner, the Commissioner shall give notice of the discharge to the committing court and to the State's Attorney of the county where the prosecution occurred.

~~(b) Procedures for judicial review of persons committed under this subchapter shall be as provided in section 8834 of this title, except that proceedings shall be brought in the Criminal Division of the Superior Court in the unit in which the person resides or, if the person resides out of state, in the unit which issued the original commitment order.~~

(e) A person committed under 13 V.S.A. § 4823 or this subchapter shall be entitled to a judicial review of the person's need for commitment annually. The Family Division of the Superior Court shall have exclusive jurisdiction over all judicial review proceedings brought under this section. If no such judicial review is requested by the person within one year from the date of the last order of commitment, it shall be initiated by the Commissioner. However, such person may initiate a judicial review under this subsection after 90 days of initial commitment but before the end of the first year of the commitment, or if commitment has been continued under this subchapter, the person may petition for review after 90 days from the date of an order for continued commitment.

(d)(c) If the Commissioner seeks to place the person committed pursuant to this subchapter in a forensic facility, the petition shall expressly state that such placement is being sought. The petition shall set forth the reasons for the Commissioner's determination that clinically appropriate treatment and programming can be provided safely only in a forensic facility.

(d) The Vermont rules of evidence and procedure applicable in civil cases shall apply in all judicial review proceedings brought under this subchapter.

(e) The Commissioner or the Commissioner's designee shall attend the commitment hearing and be available to testify. All persons to whom notice is given may attend the commitment hearing and testify, except that the court may exclude those persons not necessary for the conduct of the hearing.

(f) If at the completion of the hearing and consideration of the record, the court finds by clear and convincing evidence that at the time of the hearing that the person is still in need of continued custody, care, and habilitation, commitment shall continue in a designated program in the least restrictive environment consistent with the person's need for custody, care, and habilitation for an indefinite or limited period. If the court finds at the time of the hearing that the person is no longer in need of continued custody, care, and habilitation, it shall discharge the person from the custody of the Commissioner. An order of discharge may be conditional or absolute and may have immediate or delayed effect.

(g) In determining whether a person is in need of continued custody, care, and habilitation, the court shall consider the degree to which the person has engaged in or complied with the treatment and supervision provided by the Commissioner.

* * * Certificate of Need * * *

Sec. 17. 18 V.S.A. § 9435 is amended to read:

§ 9435. EXCLUSIONS

* * *

(g) Excluded from this subchapter is any forensic facility, as defined in 18 V.S.A. section 7101, that is supervised and operated by the Commissioner of Mental Health or the Commissioner of Disabilities, Aging, and Independent Living, or both.

* * * Rulemaking * * *

Sec. 18. RULEMAKING; ADMISSIONS CRITERIA FOR FORENSIC FACILITY

(a) On or before July 1, 2023, the Secretary of Human Services, in consultation with the Departments of Mental Health and of Disabilities, Aging, and Independent Living, shall file an initial proposed rule with the Secretary of State pursuant to 3 V.S.A. § 836(a)(2) specifying the criteria that the Departments shall use to determine admission to a forensic facility and the process used by the Commissioners to determine appropriate admissions. The admission criteria and process shall ensure that:

(1) an individual is served in the least restrictive setting necessary to meet the needs of the individual;

(2) an individual's treatment and programming needs dictate that the treatment or programming be provided at an intensive residential level in a forensic facility; and

(3) an individual only receives treatment or programming within a forensic facility if the individual has demonstrated a significant risk of dangerousness, such as:

(A) inflicting or attempting to inflict serious bodily injury on another, attempting suicide or serious self-injury, or committing an act that would constitute a sexual assault or lewd and lascivious conduct with a child, and there is reasonable probability that the conduct will be repeated if admission to a forensic facility is not ordered;

(B) threatening to inflict serious bodily injury to the individual or on others, and there is reasonable probability that the conduct will occur if admission to a forensic facility is not ordered;

(C) obtaining results on any applicable evidence-based violence risk-assessment tool showing that the individual's behavior is deemed a significant risk to others; or

(D) being charged with a felony offense involving an act of violence against another person for which bail may be withheld pursuant to 13 V.S.A. § 7553 or 7553a.

(b) The Departments shall not admit residents to a forensic facility until a permanent rule has been adopted pursuant to this section.

Sec. 19. RULEMAKING; CONFORMING AMENDMENTS

On or before July 1, 2023, the Commissioners of Mental Health and of Disabilities, Aging, and Independent Living, respectively, shall file initial proposed rule amendments with the Secretary of State pursuant to 3 V.S.A. § 826(a)(2) to account for the establishment of the forensic facility:

(1) Department of Disabilities, Aging, and Independent Living, Licensing and Operating Regulations for Therapeutic Community Residences (CVR 13-110-12) for the purpose of allowing the use of emergency involuntary procedures and the administration of involuntary medication at a forensic facility; and

(2) Department of Mental Health, Rules for the Administration of Nonemergency Involuntary Psychiatric Medications (CVR 13-150-11) for the purpose of allowing the administration of involuntary medication at a forensic facility.

* * * Effective Dates * * *

Sec. 20. EFFECTIVE DATES

This section and Secs. 18 (rulemaking; admissions criteria for forensic facility) and 19 (rulemaking; conforming amendments) shall take effect on passage. All remaining sections shall take effect on July 1, 2024.

(Committee vote: 5-0-0)

NEW BUSINESS

Third Reading

S. 47.

An act relating to the transport of individuals requiring psychiatric care.

S. 73.

An act relating to workers' compensation coverage for firefighters with cancer.

S. 103.

An act relating to amending the prohibitions against discrimination.

S. 112.

An act relating to miscellaneous subjects related to the Public Utility Commission.

Committee Bill for Second Reading

S. 138.

An act relating to school safety.

By the Committee on Education. (Senator Hashim for the Committee.)

Second Reading

Favorable with Recommendation of Amendment

S. 27.

An act relating to reducing the imposition of cash bail.

Reported favorably with recommendation of amendment by Senator Vyhovsky for the Committee on Judiciary.

The Committee recommends 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. § 7551 is amended to read:

§ 7551. IMPOSITION OF BAIL, SECURED APPEARANCE BONDS, AND APPEARANCE BONDS

(a) Bonds; generally. A bond given by a person charged with a criminal offense or by a witness in a criminal prosecution under section 6605 of this title, conditioned for the appearance of the person or witness before the court in cases where the offense is punishable by fine or imprisonment, and in appealed cases, shall be taken to the Criminal Division of the Superior Court where the prosecution is pending and shall remain binding upon parties until discharged by the court or until sentencing. The person or witness shall appear at all required court proceedings.

(b) Limitation on imposition of bail, secured appearance bonds, and appearance bonds.

(1) ~~Except as provided in subdivision (2) of this subsection, no~~ No bail, secured appearance bond, or appearance bond may be imposed:

~~(A) at the initial appearance of a person charged with a misdemeanor if the person was cited for the offense in accordance with Rule 3 of the Vermont Rules of Criminal Procedure; or~~

~~(B) at the initial appearance offense or upon the temporary release pursuant to Rule 5(b) of the Vermont Rules of Criminal Procedure of a person charged with a violation of a misdemeanor offense that is eligible for expungement pursuant to subdivision 7601(4)(A) of this title.~~

~~(2) In the event, except where the court finds that imposing bail is necessary to mitigate the risk of flight from prosecution for a person charged with a violation of a misdemeanor offense that is eligible for expungement pursuant to subdivision 7601(4)(A) of this title, the court may impose bail in a maximum amount of \$200.00 any of the following offenses:~~

~~(A) domestic assault as defined in section 1042 of this title;~~

~~(B) stalking as defined in section 1062 of this title;~~

~~(C) violation of a protection order as defined in section 1030 of this title;~~

~~(D) recklessly endangering another person as defined in section 1025 of this title;~~

~~(E) misdemeanor cruelty to a child as defined in section 1304 of this title;~~

~~(F) misdemeanor abuse, neglect, or exploitation of a vulnerable adult as defined in chapter 28 of this title; or~~

~~(G) misdemeanor sexual exploitation of children in violation of chapter 64 of this title.~~

~~(3)(2) This subsection shall not be construed to restrict the court's ability to impose conditions on such persons to reasonably mitigate the risk of flight from prosecution or to reasonably protect the public in accordance with section 7554 of this title.~~

Sec. 2. PROPOSAL TO ELIMINATE CASH BAIL

~~(a)(1) The Vermont Sentencing Commission, in consultation with the entities designated in subdivision (2) of this subsection, shall identify the conditions that would be required to move toward the elimination of the use of cash bail for the purpose of mitigating risk of flight from prosecution and develop a proposal to eliminate cash bail in Vermont.~~

~~(2) The Commission shall solicit input from:~~

~~(A) the Vermont Network Against Domestic and Sexual Violence;~~

~~(B) the Community Justice Unit of the Office of the Attorney General;~~

~~(C) Vermont Legal Aid;~~

~~(D) the Vermont Office of Racial Equity;~~

~~(E) the Vermont chapter of the American Civil Liberties Union;~~

(F) the Vermont Freedom Fund; and

(G) national experts on bail reform.

(b) The Commission shall report its findings and recommendations to the General Assembly on or before December 1, 2023.

Sec. 3. JUDICIARY; NOTICES OF HEARINGS

(a) To reduce the instances of failure to appear by persons who are charged with a criminal offense, on or before July 1, 2025, the Judiciary shall establish and implement a system to electronically notify such persons of upcoming required court appearances.

(b) On or before December 1, 2023, the Judiciary shall report to the General Assembly any requests for legislation or monies necessary to fund the system identified in subsection (a) of this section.

(c) On or before December 1, 2026, the Judiciary shall report to the General Assembly on the efficacy of the notification system.

Sec. 4. EFFECTIVE DATES

(a) This section and Secs. 2 and 3 shall take effect on passage.

(b) Sec. 1 shall take effect on July 1, 2025.

(Committee vote: 4-1-0)

Reported favorably by Senator Westman for the Committee on Appropriations.

(Committee vote: 7-0-0)

NOTICE CALENDAR

Committee Bill for Second Reading

S. 135.

An act relating to the establishment of VT Saves.

By the Committee on Econ. Dev., Housing and General Affairs. (Sen. Brock for the Committee.)

Reported favorably by Senator Brock for the Committee on Finance.

(Committee vote: 6-0-1)

Second Reading

Favorable

H. 411.

An act relating to extending COVID-19 health care regulatory flexibility.

Reported favorably by Senator Lyons for the Committee on Health and Welfare.

(Committee vote: 3-0-2)

Favorable with Recommendation of Amendment

S. 33.

An act relating to miscellaneous judiciary procedures.

Reported favorably with recommendation of amendment by Senator Hashim for the Committee on Judiciary.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

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

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

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

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

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

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

* * *

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

§ 27. COURT TECHNOLOGY SPECIAL FUND

There is established the Court Technology Special Fund ~~which~~ that shall be

managed in accordance with 32 V.S.A. chapter 7, subchapter 5. Administrative fees collected pursuant to 13 V.S.A. § 7252 and revenue collected pursuant to fees established pursuant to sections 1105 and 1109 of this title shall be deposited and credited to this Fund. The Fund shall be available to the Judicial Branch to pay for contractual and operating expenses and project-related staffing not covered by the General Fund related to the following:

(1) ~~The~~ the acquisition and maintenance of software and hardware needed for case management, electronic filing, an electronic document management system, and the expense of implementation, including training;

(2) ~~The~~ the acquisition and maintenance of electronic audio and video court recording and conferencing equipment; and

(3) ~~The~~ the acquisition, maintenance, and support of the Judiciary's information technology network, including training.

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

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

(a) ~~A registered electronic filer in the Judiciary's electronic document filing system may file any~~ Any document that would otherwise require the approval or verification of a notary ~~by filing the document~~ may be filed with the following language inserted above the signature and date:

"I declare that the above statement is true and accurate to the best of my knowledge and belief. I understand that if the above statement is false, I will be subject to the penalty of perjury or to other sanctions in the discretion of the court."

(b) A document filed pursuant to subsection (a) of this section shall not require the approval or verification of a notary.

(c) This section shall not apply to an affidavit in support of a search warrant application, ~~or to~~ an application for a nontestimonial identification order, an oath required by 14 V.S.A. §108, or consents and relinquishments in adoption proceedings governed by Title 15A.

Sec. 5. 4 V.S.A. § 32 is amended to read:

§ 32. JURISDICTION; CRIMINAL DIVISION

* * *

(c) The Criminal Division shall have jurisdiction of the following civil actions:

* * *

(12) proceedings to enforce 9 V.S.A. chapter 74, relating to energy efficiency standards for appliances and equipment; and

(13) proceedings to enforce 30 V.S.A. § 53, relating to commercial building energy standards.

Sec. 6. 4 V.S.A. § 36(a) is amended to read:

(a) Composition of the court. Unless otherwise specified by law, when in session, a Superior Court shall consist of:

* * *

Sec. 7. 12 V.S.A. § 5 is amended to read:

§ 5. DISSEMINATION OF ELECTRONIC CASE RECORDS

(a) The Court shall not permit public access via the Internet to criminal, family, or probate case records. The Court may permit criminal justice agencies, as defined in 20 V.S.A. § 2056a, Internet access to criminal case records for criminal justice purposes, as defined in 20 V.S.A. § 2056a.

(b) This section shall not be construed to prohibit the Court from providing electronic access to:

(1) court schedules of the Superior Court, or opinions of the Criminal Division of the Superior Court;

(2) State agencies in accordance with data dissemination contracts entered into under ~~Rule 6 of the Vermont Rules of Electronic Access to Court Records~~ Rule 12 of the Vermont Rules for Public Access to Court Records; or

(3) decisions, recordings of oral arguments, briefs, and printed cases of the Supreme Court.

Sec. 8. 12 V.S.A. § 4853a is amended to read:

§ 4853a. PAYMENT OF RENT INTO COURT; EXPEDITED HEARING

* * *

(h) If the tenant fails to pay rent into court in the amount and on the dates ordered by the court, the landlord shall be entitled to judgment for immediate possession of the premises. The court shall forthwith issue a writ of possession directing the sheriff of the county in which the property or a portion thereof is located to serve the writ upon the defendant and, not earlier than ~~five~~ business seven days after the writ is served, or, in the case of an eviction brought pursuant to 10 V.S.A. chapter 153, 30 days after the writ is served, to put the plaintiff into possession.

Sec. 9. 12 V.S.A. § 5531 is amended to read:

§ 5531. RULES GOVERNING PROCEDURE

(a) The Supreme Court, pursuant to section 1 of this title, shall make rules under this chapter applicable to such Court providing for a simple, informal, and inexpensive procedure for the determination, according to the rules of substantive law, of actions of a civil nature of which they have jurisdiction, other than actions for slander or libel and in which the plaintiff does not claim as debt or damage more than ~~\$5,000.00~~ \$10,000.00. Small claims proceedings shall be limited in accord with this chapter and the procedures made available under those rules. The procedure shall not be exclusive, but shall be alternative to the formal procedure begun by the filing of a complaint.

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

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

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

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

§ 5804. OATH TO BE ADMINISTERED TO PETIT JURORS IN
CRIMINAL CAUSES

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

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

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

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

§ 7403. APPEAL BY THE STATE

(a) In a prosecution for a misdemeanor, questions of law decided against the State shall be allowed and placed upon the record before final judgment.

The court may pass the same to the Supreme Court before final judgment. The Supreme Court shall hear and determine the questions and render final judgment thereon, or remand the cause for further trial or other proceedings, as justice and the State of the cause may require.

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

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

(1) granting a motion to suppress evidence;

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

(3) granting or refusing to grant other relief where the effect is to impede seriously, although not to foreclose completely, continuation of the prosecution.

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

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

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

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

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

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

§ 3098. VULNERABLE NONCITIZEN CHILDREN

* * *

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

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

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

* * *

(g) The holder of an ignition interlock RDL or certificate shall operate only motor vehicles equipped with an ignition interlock device, shall not attempt or take any action to tamper with or otherwise circumvent an ignition interlock device, and, after failing a random retest, shall pull over and shut off the vehicle's engine as soon as practicable. A Except as provided in subsection (k) of this section, a person who violates any provision of this section commits a criminal offense, shall be subject to the sanctions and procedures provided for in subsections 674(b)–(i) of this title, and, upon conviction, the applicable period prior to eligibility for reinstatement under section 1209a or 1216 of this title shall be extended by six months.

* * *

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

* * *

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

§ 1102. JUDICIAL BUREAU; JURISDICTION

(a) The Judicial Bureau is created within the Judicial Branch under the

supervision of the Supreme Court.

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

* * *

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

* * *

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

§ 1591. SHERIFFS AND OTHER OFFICERS

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

(1) Civil process:

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

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

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

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

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

(v) for each arrest, \$15.00;

(vi) for taking bail, \$15.00;

(vii) on levy of execution or order of foreclosure: for each mile of actual travel in making a demand, sale, or adjournment, the rate allowed State employees under the terms of the prevailing contract between the State and the Vermont State Employees' Association, Inc.; for making demand, \$15.00 for posting notices, \$15.00 each, and the rate per mile allowed State employees under the terms of the prevailing contract between the State and the Vermont State Employees' Association, Inc. for each mile of necessary travel; for notice of continuance, \$15.00;

* * *

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

§ 5117. RECORDS OF JUVENILE JUDICIAL PROCEEDINGS

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

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

* * *

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

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

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

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

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

* * *

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

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

(2) the National Instant Criminal Background Check System in connection with a background check conducted on a person under 21 years of age pursuant to 18 U.S.C. § 922(t)(1)(C) and 34 U.S.C. § 40901(l).

* * *

Sec. 18. 33 V.S.A. § 5225 is amended to read:

§ 5225. PRELIMINARY HEARING; RISK ASSESSMENT

* * *

(b) Risk and needs screening.

(1) Prior to the preliminary hearing, the child shall be afforded an opportunity to undergo a risk and needs screening, which shall be conducted by the Department or by a community provider that has contracted with the Department to provide risk and need screenings for children alleged to have committed delinquent acts.

(2) If the child participates in such a screening, the Department or the community provider shall report the risk level result of the screening, the number and source of the collateral contacts made, and the recommendation for charging or other alternatives to the State's Attorney. The State's Attorney shall consider the results of the risk and needs screening in determining whether to file a charge. In lieu of filing a charge, the State's Attorney may refer a child directly to a youth-appropriate community-based provider that has been approved by the Department, which may include a community justice center or a balanced and restorative justice program. Referral to a community-based provider pursuant to this subsection shall not require the State's Attorney to file a charge. If the community-based provider does not accept the case or if the child fails to complete the program in a manner deemed satisfactory and timely by the provider, the child's case shall return to the State's Attorney for charging consideration.

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

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

(c) Referral to diversion. Based on the results of the risk and needs screening, if a child presents a low to moderate risk to reoffend, the State's Attorney shall refer the child directly to court diversion unless the State's Attorney states on the record why a referral to court diversion would not serve the ends of justice. If the court diversion program does not accept the case or if the child fails to complete the program in a manner deemed satisfactory and timely by the provider, the child's case shall return to the State's Attorney for charging consideration.

* * *

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

§ 5284. YOUTHFUL OFFENDER DETERMINATION AND DISPOSITION ORDER

* * *

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

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

~~(2)(B)~~ 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.

(2) Prior to the approval of a disposition case plan, the court may refer a child directly to a youth-appropriate community-based provider that has been approved by the department and which may include a community justice center or a balanced and restorative justice program. Referral to a community-based provider pursuant to this subdivision shall not require the court to place the child on probation. If the community-based provider does not accept the case or if the child fails to complete the program in a manner deemed satisfactory and timely by the provider, the child shall return to the court for further proceedings, including the imposition of the disposition order.

(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~~ the youth 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.

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

CHAPTER 76A. DOMESTIC TERRORISM

§ 1703. DOMESTIC TERRORISM

(a) As used in this section:

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

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

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

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

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

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

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

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

§ 1703. DOMESTIC TERRORISM

(a) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (i) 30 days for a first offense;
- (ii) 90 days for a second offense; or
- (iii) one year for a third or subsequent offense; and

(E) the individual is serving a suspension pursuant to section 2506 if the individual was charged with a violation of subdivision 1201(a) of this title and pled guilty to a reduced charge of negligent operation under section 1091 of this title, notwithstanding any points assessed against the individual's driving record for the negligent operation offense under section 2502 of this title.

* * *

Sec. 24. 2017 Acts and Resolves No. 142, Sec. 5, as amended by 2021 Acts and Resolves No. 65, Sec. 4, and further amended by 2021 Acts and Resolves No. 147, Sec. 33, is further amended to read:

Sec. 5. REPEAL

13 V.S.A. §§ 5451 (creation of Vermont Sentencing Commission) and 5452 (creation of Vermont Sentencing Commission) shall be repealed on July 1, ~~2023~~ 2025.

Sec. 25. SENTENCING COMMISSION REPORT

On or before December 15, 2023, the Vermont Sentencing Commission shall report to the Senate and House Committees on Judiciary on whether any modifications should be made to the definitions of stalking in 13 V.S.A. § 1061 or 15 V.S.A. § 5131.

Sec. 26. 10 V.S.A. § 8222 is added to read:

§ 8222. ACCRUAL OF ENVIRONMENTAL CONTAMINATION CLAIMS

(a) A common-law or statutory claim based on environmental contamination shall accrue so long as the contamination remains on or in an affected property or natural resource.

(b) As used in this section:

(1) "Environmental contamination" means any hazardous material or hazardous waste as defined in 10 V.S.A. § 6602, or other substance or material that has the potential to adversely affect human health or the environment (A) on or in an affected property, including in buildings or other structures, or (B)

on or in a natural resource.

(2) “Natural resource” has the same meaning as in 10 V.S.A. § 6615d(a)(8).

(c) Nothing in this section shall shorten or otherwise limit any later accrual date that may apply under other source of law.

(d)(1) Notwithstanding 1 V.S.A. § 214 or any other provision of law, this section shall apply to:

(A) any action or proceeding commenced on or after the effective date of this act; and

(B) any action or proceeding that is pending on the effective date of this act.

(2) This section shall not revive claims subject to a final, nonappealable judgment rendered prior to the effective date.

Sec. 27. 10 V.S.A. § 8015 is amended to read:

§ 8015. STATUTE OF LIMITATIONS

Notwithstanding any other provision of law, actions brought under this chapter or chapter 211 of this title shall be commenced within the later of:

(1) six years from the date the violation is or reasonably should have been discovered; ~~or~~

(2) six years from the date a continuing violation ceases; or

(3) six years from the date of accrual under section 8222 of this title.

Sec. 28. 13 V.S.A. § 5451 is amended to read:

§ 5451. CREATION OF COMMISSION

(a) The Vermont Sentencing Commission is established for the purpose of overseeing criminal sentencing practices in the State, reducing geographical disparities in sentencing, and making recommendations regarding criminal sentencing to the General Assembly.

(b) The Commission shall consist of the following members:

* * *

(4) the Chair of the Senate Committee on Judiciary or designee;

(5) the Chair of the House Committee on Judiciary or designee;

* * *

Sec. 29. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

Reported favorably by Senator McCormack for the Committee on Finance.

(Committee vote: 5-0-2)

S. 56.

An act relating to child care and early childhood education.

Reported favorably with recommendation of amendment by Senator Hardy for the Committee on Health and Welfare.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Legislative Intent * * *

Sec. 1. LEGISLATIVE INTENT

It is the intent of the General Assembly that investments in and policy changes to Vermont's child care system shall:

(1) increase access to and the quality of child care services throughout the State;

(2) provide financial stability to child care programs;

(3) stabilize Vermont's talented child care workforce;

(4) address the workforce needs of the State's employers;

(5) provide policy recommendations for expanding access and capacity in Vermont's prekindergarten system; and

(6) reorganize the Department for Children and Families to ensure greater oversight and focus on child care and early childhood education.

* * * Prekindergarten * * *

Sec. 1a. PREKINDERGARTEN EDUCATION STUDY COMMITTEE;
REPORT

(a) Creation. There is created the Prekindergarten Education Study Committee to make recommendations on how to improve and expand accessible, affordable, and high-quality prekindergarten education.

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

(1) the Secretary of Education or designee, who shall serve as chair;

(2) the Secretary of Human Services or designee;

(3) the Executive Director of the Vermont Principals' Association or designee;

(4) the Executive Director of the Vermont Superintendents Association or designee;

(5) the Executive Director of the Vermont School Board Association or designee;

(6) the Executive Director of the Vermont National Education Association or designee;

(7) the Chair of the Vermont Council of Special Education Administrators or designee;

(8) the Executive Director of the Vermont Curriculum Leaders Association or designee;

(9) the Executive Director of Building Bright Futures or designee;

(10) a representative of a prequalified private provider as defined in 16 V.S.A. § 829, operating a licensed center-based child care and preschool program, appointed by the Speaker of the House;

(11) a representative of a prequalified private provider as defined in 16 V.S.A. § 829, operating a regulated family child care home, appointed by the Committee on Committees;

(12) the Head Start Collaboration Office Director or designee;

(13) the Executive Officer of Let's Grow Kids or designee; and

(14) a family representative with a prekindergarten-age child, appointed by the Building Bright Futures Council.

(c) Powers and duties. The Committee shall examine the delivery of prekindergarten education in Vermont and make recommendations for expanding equitable access for all children three and four years of age in a manner that achieves the best outcomes for children, whether through the current mixed-delivery system, the public school system, the private prekindergarten system, or a system that allows school districts to contract with private providers. The Committee shall also examine and make recommendations on the changes necessary to provide prekindergarten

education to all children three and four years of age through the public school system, including a timeline and transition plan for such changes. In conducting its analysis, the Committee shall address the following topics and questions, which may yield distinct recommendations for children three and four years of age:

(1) Outcomes and quality.

(A) What are the benchmarks for “high quality” in prekindergarten education?

(B) How should best practices be implemented and measured across various prekindergarten education settings?

(2) Capacity and demand.

(A) How many children, by age, does the current mixed-delivery system have the capacity to serve? In studying this issue, the Committee shall consider the number of children on waitlists and the number of vacancies in programs.

(B) What are the workforce requirements to expand prekindergarten education? In studying this question, the Committee may consider:

(i) whether there is a gap between the total number of licensed teachers currently working and the number needed for expansion;

(ii) whether there is a gap between the total prekindergarten education workforce, including paraeducators, and the number needed for expansion; and

(iii) the educational and training costs associated with training and retaining the workforce necessary for expansion?

(C) If prekindergarten education in the public school system is provided solely to children four years of age, what is the impact on the capacity and workforce of private prekindergarten providers?

(3) Special education.

(A) How many children three and four years of age are currently on individual education programs receiving services in public and private settings?

(B) Are children three and four years of age on individual education plans receiving the full range of services that they are entitled to?

(C) Does the availability or cost of special education services vary between private and public prequalified providers?

(4) Public school expansion.

(A) What infrastructure changes are necessary to expand prekindergarten education?

(B) How would the current prekindergarten education mixed-delivery system transition to a program within the public school system?

(C) What capacity needs to be built for developmentally appropriate afterschool and out-of-school-time care?

(D) Are changes needed to existing health and safety standards for public schools to accommodate children three and four years of age?

(5) Funding and costs.

(A) What are fiscally strategic options to sustain and expand universal prekindergarten education?

(B) What is the financial and business impact on regulated private childcare providers if the prekindergarten system transitions to public schools?

(C) What, if any, changes need to be made to pupil weights for prekindergarten students?

(D) What, if any, changes need to be made to tuition rates for private prekindergarten programs?

(6) Oversight.

(A) What additional Agency of Education personnel or resources would be needed to oversee an expansion of the current prekindergarten education system under either a mixed-delivery model, a public school system model, or a system that allows school districts to contract with private providers?

(B) What additional Agency of Human Services personnel or resources would be needed to oversee an expansion of the current mixed-delivery model or a private prekindergarten system?

(d) Assistance. The Committee shall have the administrative, technical, fiscal, and legal assistance of the Agencies of Education and of Human Services. If the Agencies are unable to provide the Committee with adequate support to assist with its technical, fiscal, or legal needs, then the Agency of Education shall retain a contractor with the necessary expertise to assist the Committee.

(e) Report. On or before December 1, 2023, the Committee shall submit a written report to the House Committees on Education and on Human Services

and the Senate Committees on Education and on Health and Welfare with its findings and recommendations based on the analysis conducted pursuant to subsection (c) of this section. The report shall include draft legislative language to support the Committee's recommendations.

(f) Meetings.

(1) The Secretary of Education or designee shall call the first meeting of the Committee to occur on or before July 15, 2023.

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

(3) The Committee shall cease to exist on February 1, 2024.

(g) Compensation and reimbursement. Members of the Committee who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than 10 meetings per year. These payments shall be made from monies appropriated to the Agency of Education.

(h) Appropriations.

(1) The sum of \$5,000.00 is appropriated to the Agency of Education from the General Fund in fiscal year 2024 for per diem compensation and reimbursement of expenses for members of the Committee.

(2) The sum of \$100,000.000 is appropriated to the Agency of Education from the General Fund in fiscal year 2024 for cost of retaining a contractor as provided under subsection (d) of this section.

(3) Any unused portion of these appropriations shall, as of July 1, 2024, revert to the General Fund.

Sec. 1b. 16 V.S.A. § 213 is amended to read:

§ 213. DEPUTY SECRETARIES

The Secretary shall employ ~~such number of deputy secretaries as he or she deems necessary~~ at least two deputy secretaries. One deputy secretary shall:

(1) solely manage the Division of Student Support Services, which shall govern special education, early education, and multitiered systems of support; and

(2) hold at least a master's level degree in early childhood education, special education, child development, or a related field.

Sec. 1c. AGENCY OF EDUCATION; DEPUTY SECRETARY
AUTHORIZATION

The establishment of a second Deputy Secretary position within the Agency of Education pursuant to 16 V.S.A. § 213 is authorized beginning in fiscal year 2025.

* * * Child Care and Child Care Subsidies * * *

Sec. 2. 33 V.S.A. § 3512 is amended to read:

§ 3512. CHILD CARE FINANCIAL ASSISTANCE PROGRAM;
ELIGIBILITY

(a)(1) The Child Care Financial Assistance Program is established to subsidize, to the extent that funds permit, the costs of child care for families that need child care services ~~in order to obtain employment, to retain employment, or to obtain training leading to employment.~~ Families seeking employment shall be entitled to participate in the Program for up to three months and the Commissioner may further extend that period.

(2) The subsidy authorized by this subsection shall be established by the Commissioner, by rule, and shall bear a reasonable relationship to income and family size. Families shall be found eligible using an income eligibility scale based on the current federal poverty level and adjusted for the size of the family. Co-payments shall be assigned to the whole family and shall not increase if more than one eligible child is enrolled in child care. Families with an annual gross income of less than or equal to ~~150~~ 185 percent of the current federal poverty guidelines shall not have a family co-payment. Families with an annual gross income up to and including ~~350~~ 600 percent of current federal poverty guidelines, adjusted for family size, shall be eligible for a subsidy authorized by the subsection. The scale shall be structured so that it encourages employment. If the federal poverty guidelines decrease in a given year, the Division shall maintain the previous year's federal poverty guidelines for the purpose of determining eligibility and benefit amount under this subsection.

(3) Earnings deposited in a qualified child education savings account, such as the Vermont Higher Education Investment Plan, established in 16 V.S.A. § 2877, or any similar plan qualified under 26 U.S.C. § 529, shall be disregarded in determining the amount of a family's income for the purpose of determining continuing eligibility.

(4) ~~After September 30, 2021,~~ a A regulated center-based child care program or family child care home as defined by the Department in rule shall not receive funds pursuant to this subsection that are in excess of the usual and

customary rate for services at the center-based child care program or family child care home.

(5) The Department shall ensure that applications for the Child Care Financial Assistance Program use a simple, plain-language format. Applications shall be available in both electronic and paper formats.

* * *

Sec. 3. PROVIDER RATE ADJUSTMENT; CHILD CARE FINANCIAL ASSISTANCE PROGRAM

On January 1, 2024, the Department for Children and Families shall provide a one-time adjustment to the child care provider reimbursement rates in the Child Care Financial Assistance Program for child care services provided to children from birth through four years of age, including children five years of age who are not yet enrolled for kindergarten. The adjusted reimbursement rate shall account for the age of the children served and be 38.5 percent higher than the fiscal year 2023 five-STAR reimbursement rate in the Vermont STARS system. All providers in the same child care setting category shall receive an identical reimbursement rate payment dependent upon whether the provider operates a regulated child care center and preschool program or regulated family child care home.

Sec. 4. 33 V.S.A. § 3514 is amended to read:

§ 3514. PAYMENT TO PROVIDERS FOR SCHOOL AGE CHILDREN

(a) The Commissioner shall establish a payment schedule for purposes of reimbursing providers for full- or part-time child care services to children over four years of age, excluding children five years of age who are not yet enrolled for kindergarten, rendered to families who participate in the programs established under section 3512 or 3513 of this title. Payments established under this section shall reflect the following considerations: whether the provider operates a licensed child care facility or a registered family child care home, type of service provided, cost of providing the service, and the prevailing market rate for comparable service. Payments shall be based on enrollment status ~~or any other basis agreed to by the provider and the Division.~~

* * *

Sec. 4a. 33 V.S.A. § 3515 is added to read:

§ 3515. PAYMENT TO PROVIDERS FOR CHILDREN BIRTH THROUGH FOUR YEARS OF AGE; HIGH QUALITY INCENTIVE PROGRAM

(a) The Commissioner shall establish a payment schedule that accounts for

the age of the children served for the purpose of reimbursing providers for full- or part-time child care services to children from birth through four years of age, including children five years of age who are not yet enrolled for kindergarten, rendered to families who participate in the programs established under section 3512 or 3513 of this title. All providers in the same child care setting category shall receive an identical reimbursement rate payment dependent upon whether the provider operates a regulated child care center and preschool program or regulated family child care home. The rate used to reimburse providers shall be increased over the previous year's rate annually on July 1 in alignment with the most recent annual average wage growth for NAICS code 611, Educational Services, not to fall below zero percent. Child care services to infants and toddlers shall receive an enhanced reimbursement rate set by the Commissioner. Payments shall be based on enrollment.

(b) The Commissioner may establish a separate payment schedule for child care providers who have received specialized training, approved by the Commissioner, relating to protective or family support services.

(c)(1) Annually, the Department shall provide a flat incentive payment to all providers earning five STARS in the Vermont STARS system from the High-Quality Early Care and Education Special Fund pursuant to section 3516 of this chapter.

(2) Upon notice from a provider that the provider has achieved an increased STAR level in the Vermont STARS system, the Department shall award the provider a flat incentive payment equivalent to that received by providers earning five STARS pursuant to subdivision (1) of this subsection. Incentive payments shall be funded through the High-Quality Early Care and Education Special Fund pursuant to section 3516 of this chapter. A provider may earn an incentive payment under this subdivision for each additional STAR level achieved in the STARS system.

Sec. 4b. 33 V.S.A. § 3516 is added to read:

§ 3516. HIGH-QUALITY EARLY CARE AND EDUCATION SPECIAL FUND

(a) There is created a High-Quality Early Care and Education Special Fund administered by the Department for Children and Families, which shall be a special fund established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5.

(b) The High-Quality Early Care and Education Special Fund shall consist of any appropriation from the General Fund and any gifts, devises, or grants received for the purpose of this section.

(c) The High-Quality Early Care and Education Special Fund shall be used for the implementation and ongoing provision of incentive payments to providers pursuant to subsection 3515(c) of this chapter.

Sec. 5. 33 V.S.A. § 3517 is added to read:

§ 3517. CHILD CARE WAITLIST AND APPLICATION FEES

A child care provider shall not charge an application or waitlist fee for child care services where the applying child qualifies for the Child Care Financial Assistance Program pursuant to section 3512 or 3513 of this title. A child care provider shall reimburse an individual who is charged an application or waitlist fee for child care services if it is later determined that the applying child qualified for the Child Care Financial Assistance Program at the time the fee or fees were paid.

Sec. 6. PROVIDER COMPENSATION AND TOTAL COST OF CARE;
RECOMMENDATIONS

(a) On or before November 1, 2023, the Department for Children and Families, in consultation with the Department of Labor, the Agency of Education, Building Bright Futures, and the Vermont Association for the Education of Young Children, shall submit a report to the House Committee on Human Services and to the Senate Committee on Health and Welfare addressing the following:

(1) whether and how to integrate a tiered professional pay scale for professionals who provide child care services as part of the Child Care Financial Assistance Program;

(2) the structure of tiered professional pay scales for professionals who provide child care services that have been implemented in other jurisdictions, including in New Mexico and the District of Columbia.

(3) the appropriate legal mechanism to implement any approved tiered professional pay scale for professionals who provide child care services, including consideration of statute, rule, departmental guidance, or some other appropriate mechanism.

(b) On or before November 1, 2024, the Department for Children and Families, in consultation with the Department of Labor, the Agency of Education, Building Bright Futures, and the Vermont Association for the Education of Young Children, shall submit to the House Committee on Human Services and to the Senate Committee on Health and Welfare:

(1) A tiered professional pay scale for professionals who provide child care services as defined in 33 V.S.A. § 3511 that is designed to provide

professionals who provide child care services with compensation comparable to that received by early childhood educators in Vermont's public school system who serve children from prekindergarten through grade three. The tiered professional pay scale shall account for professionals' credentialing and professional child care experience and shall include the addition of an appropriate fringe benefit rate. In developing the tiered professional pay scale, the Department for Children and Families shall refer to the child care and early childhood education financing study required pursuant to 2021 Acts and Resolves No. 45, Sec. 14; and

(2) A formula to calculate the total cost of care to serve children in a regulated child care facility as defined in 33 V.S.A. § 3511.

Sec. 7. 33 V.S.A. chapter 35, subchapter 6 is added to read:

Subchapter 6. Child Care Assistance for Additional Populations

§ 3551. NONCITIZEN CHILD CARE ASSISTANCE PROGRAM;
LEGISLATIVE INTENT

In establishing the Noncitizen Child Care Assistance Program to provide child care subsidies for children who are not eligible for the Child Care Financial Assistance Program because of their citizenship status, it is the intent of the General Assembly that the benefits and eligibility criteria set forth in section 3552 of this chapter should align to the greatest extent practicable with the benefits and eligibility criteria in CCFAP as set forth in section 3512 of this chapter and corresponding rule.

§ 3552. NONCITIZEN CHILD CARE ASSISTANCE PROGRAM
SUBSIDIES FOR CERTAIN VERMONT RESIDENTS

(a) For purposes of this section, the phrase "Vermont residents who have a citizenship status for which Child Care Financial Assistance Program (CCFAP) participation is not available" includes children of migrant workers who are employed in seasonal occupations in this State.

(b) The Department for Children and Families shall provide State-funded child care subsidies equivalent to those offered in the Child Care Financial Assistance Program (CCFAP) to Vermont residents who have a citizenship status for which CCFAP participation is not available and meet the service need and income eligibility standards established by the Department in rule.

(c)(1) The Department shall not inquire about or record the citizenship and immigration status of the applicant or any member of the applicant's family.

(2) All applications submitted and records created pursuant to this section shall be exempt from public inspection and copying under the Public

Records Act and shall be kept confidential. Absent a request for information by a U.S. agency pursuant to federal law, the Department shall not disclose any personally identifiable information regarding applicants or enrollees to the U.S. government.

(d) The Department for Children and Families may adopt rules in accordance with 3 V.S.A. chapter 25 to carry out the purposes of this section.

Sec. 8. DEPARTMENT FOR CHILDREN AND FAMILIES; NONCITIZEN CHILD CARE ASSISTANCE PROGRAM SUBSIDIES; FISCAL YEAR 2025 ESTIMATE

The Department for Children and Families shall provide information on the estimated fiscal year 2025 costs of providing coverage to Vermont residents who have a citizenship status for which Child Care Financial Assistance Program participation is not available pursuant to 33 V.S.A. § 3552 beginning on July 1, 2024 as part of the Department's fiscal year 2025 budget presentation to the House Committees on Appropriations and on Human Services and the Senate Committees on Appropriations and on Health and Welfare.

* * * Special Accommodations Grant * * *

Sec. 9. REPORT; SPECIAL ACCOMMODATIONS GRANT

On or before January 15, 2024, the Department for Children and Families' Child Development Division shall submit a report to the House Committee on Human Services and to the Senate Committee on Health and Welfare providing a proposal to streamline the application process for special accommodation grants, including:

(1) the suitability of moving to a 12-month grant cycle and for which populations;

(2) improving support and training for providing inclusive care for children with special needs;

(3) determining how to better meet the early learning needs of children with disabilities within a child care setting; and

(4) any other proposals the Department deems essential to the goal of streamlining the application process for special accommodation grants.

* * * Child Care Workforce Retention Grants * * *

Sec. 10. FY 2024 APPROPRIATION; CHILD CARE WORKER RETENTION GRANT PROGRAM

In fiscal year 2024, the sum of \$7,300,000.00 is appropriated from the

General Fund to the Department for Children and Families for the early childhood staff and home-based provider retention grant program established in 2021 Acts and Resolves No. 74, Sec. G.300(a)(30), as added by 2022 Acts and Resolves No. 83, Sec. 68.

* * * Scholarship for Prospective Early Childhood Providers * * *

Sec. 11. 2021 Acts and Resolves No. 45, Sec. 8 is amended to read:

Sec. 8. REPEALS

(a) 33 V.S.A. § 3541(d) (reference to student loan repayment assistance program) is repealed on July 1, 2026.

(b) ~~33 V.S.A. § 3542 (scholarships for prospective early childhood providers) is repealed on July 1, 2026. [Repealed.]~~

(c) 33 V.S.A. § 3543 (student loan repayment assistance program) is repealed on July 1, 2026.

Sec. 12. APPROPRIATION; SCHOLARSHIPS FOR CURRENT EARLY CHILDHOOD PROVIDERS

In fiscal year 2024, \$500,000.00 is appropriated in addition to the base funding to the Department for Children and Families for the purpose of funding scholarships for current early childhood providers pursuant to 33 V.S.A. § 3541.

* * * Transitional Assistance * * *

Sec. 13. BUILDING BRIGHT FUTURES; TECHNICAL ASSISTANCE

(a) Building Bright Futures shall consult with and provide technical assistance to the Department for Children and Families for the purpose of implementing the provisions of this act, including reorganization of the Department for Children and Families, implementation of the changes to the Child Care Financial Assistance Program, and establishment the Noncitizen Child Care Assistance Program pursuant to 33 V.S.A. chapter 35. Specifically, Building Bright Futures shall assist the Department to:

(1) develop a concrete transition plan in relation to both the reorganization of the Department and changes to the Child Care Financial Assistance Program that ensures accountability using various metrics and addresses workforce and programmatic costs; and

(2) define and measure success in process and outcomes using a continuous quality improvement framework.

(b) Building Bright Futures shall monitor the transitions referenced in subsection (a) of this section and annually on January 15 between 2025–2028, submit a report to the House Committee on Human Services and the Senate Committee on Health and Welfare with its observations and recommendations.

* * * Property Tax Exemption; Property Used by a Child Care Provider * * *

Sec. 14. 32 V.S.A. § 3802(22) is added to read:

(22) Up to \$10,000.00 of value of real and personal property:

(A) owned by a home-based child care provider as defined by 33 V.S.A. § 3511(3) and used to provide child care services as defined by 33 V.S.A. § 3511(4); or

(B) rented at not less than 25 percent below fair market value as determined by the prevailing area market prices for comparable space or property to a center-based child care provider as defined by 33 V.S.A. § 3511(3) and used to provide child care services as defined by 33 V.S.A. § 3511(4).

Sec. 15. 32 V.S.A. § 3800(q) is added to read:

(q) The statutory purpose of the exemption for property owned by or rented to a child care provider in subdivision 3802(22) of this title is to lower the cost of providing child care services in Vermont.

Sec. 16. 32 V.S.A. § 5401(7) is amended to read:

(7) “Homestead”:

(A) “Homestead” means the principal dwelling and parcel of land surrounding the dwelling, owned and occupied by a resident individual as the individual’s domicile or owned and fully leased on April 1, provided the property is not leased for more than 182 days out of the calendar year or, for purposes of the renter credit under subsection 6066(b) of this title, is rented and occupied by a resident individual as the individual’s domicile.

* * *

(F) A homestead also includes any other improvement or structure on the homestead parcel that is not used for business purposes. A homestead does not include that portion of a principal dwelling used for business purposes if the portion used for business purposes includes more than 25 percent of the floor space of the building.

* * *

(H)(i) A homestead does not include any portion of a dwelling that is rented, and a dwelling is not a homestead for any portion of the year in which it is rented.

(ii) Notwithstanding subdivision (i) of this subdivision (7)(H), a homestead shall include a dwelling, or a portion of a dwelling, that otherwise qualifies as a homestead and that is rented at not less than 25 percent below fair market value as determined by the prevailing area market prices for comparable space or property to a center-based child care provider as defined by 33 V.S.A. § 3511(3) and is used to provide child care services as defined by 33 V.S.A. § 3511(4).

* * * Department for Children and Families Restructure and Creation of
Department of Economic Empowerment * * *

Sec. 17. 3 V.S.A. § 212 is amended to read:

§ 212. DEPARTMENTS CREATED

The following administrative departments are hereby created, through the instrumentality of which the Governor, under the Constitution, shall exercise such functions as are by law assigned to each department respectively:

* * *

(24) The Department of Vermont Health Access-

(25) The Department of Economic Empowerment.

Sec. 18. 3 V.S.A. § 241 is amended to read:

§ 241. BACKGROUND INVESTIGATIONS

(a) “Federal tax information” or “FTI” means returns and return information as defined in 26 U.S.C. § 6103(b) that are received directly from the Internal Revenue Service or obtained through an IRS-authorized secondary source, that are in the Recipient’s possession or control, and that are subject to the confidentiality protections and safeguarding requirements of the Internal Revenue Code and corresponding federal regulations and guidance.

(b) As used in this chapter, “Recipient” means the following authorities of the Executive Branch of State government that receive FTI:

(1) Agency of Human Services, including:

(A) Department for Children and Families;

(B) Department of Economic Empowerment;

(C) Department of Health;

~~(C)~~(D) Department of Mental Health; and
~~(D)~~(E) Department of Vermont Health Access.

- (2) Department of Labor.
- (3) Department of Motor Vehicles.
- (4) Department of Taxes.
- (5) Agency of Digital Services.
- (6) Department of Buildings and General Services.

* * *

Sec. 19. 3 V.S.A. § 816 is amended to read:

§ 816. EXEMPTIONS

(a) Sections 809–813 of this title shall not apply to:

(1) Acts, decisions, findings, or determinations by the Human Services Board or the ~~Commissioner~~ Commissioners of Economic Empowerment or for Children and Families or a duly authorized agent, and to procedures or hearings before and by the Board or Commissioner or agent.

* * *

Sec. 20. 3 V.S.A. § 3002 is amended to read:

§ 3002. CREATION OF AGENCY

(a) An Agency of Human Services is created consisting of the following:

- (1) The Department of Corrections.
- (2) The Department for Children and Families.
- (3) The Department of Health.
- (4) The Department of Disabilities, Aging, and Independent Living.
- (5) The Human Services Board.
- (6) The Department of Vermont Health Access.
- (7) The Department of Mental Health.
- (8) The Department of Economic Empowerment.

* * *

Sec. 21. 3 V.S.A. § 3051 is amended to read:

§ 3051. COMMISSIONERS; DEPUTY COMMISSIONERS;
APPOINTMENT; TERM

* * *

(c) For the Department for Children and Families, the Secretary, with the approval of the Governor, shall appoint deputy commissioners for the following divisions of the Department:

- (1) ~~Economic Services;~~
- (2) Child Development; and
- (3)(2) Family Services.

* * *

(e) For the Department of Economic Empowerment, the Secretary, with the approval of the Governor, shall appoint deputy commissioners for the following divisions of the Department:

- (1) Disability Determination Services; and
- (2) Economic Services Division.

(f) Deputy commissioners shall be exempt from the classified service. Their appointments shall be in writing and shall be filed in the Office of the Secretary of State.

Sec. 22. 3 V.S.A. § 3084 is amended to read:

§ 3084. DEPARTMENT FOR CHILDREN AND FAMILIES

(a) The Department for Children and Families is created within the Agency of Human Services as ~~the successor to and the continuation of the Department of Social and Rehabilitation Services, the Department of Prevention, Assistance, Transition, and Health Access, excluding the Department of Vermont Health Access, the Office of Economic Opportunity, and the Office of Child Support.~~ The Department shall also include a Division of Child Development Programs to promote the healthy development of children and youth, oversee and support a system of high-quality child care programs in home- and community-based settings, and provide assistance and support to parents and families. It shall include the Divisions of Child Development and of Family.

(b) An investigations unit is created within the Department for Children and Families as the successor to and continuation of the investigation functions of the Social Services Division of the Department of Social and Rehabilitation Services under 33 V.S.A. chapter 49.

Sec. 23. 3 V.S.A. § 3091 is amended to read:

§ 3091. HEARINGS

(a) An applicant for or a recipient of assistance, benefits, or social services from the Department for Children and Families, of Economic Empowerment, of Vermont Health Access, of Disabilities, Aging, and Independent Living, or of Mental Health, ~~or~~; an applicant for a license from one of those departments; or a licensee may file a request for a fair hearing with the Human Services Board. An opportunity for a fair hearing ~~will~~ shall be granted to any individual requesting a hearing because ~~his or her~~ the individual's claim for assistance, benefits, or services is denied, or is not acted upon with reasonable promptness; or because the individual is aggrieved by any other Agency action affecting ~~his or her~~ the individual's receipt of assistance, benefits, or services, or license or license application; or because the individual is aggrieved by Agency policy as it affects ~~his or her~~ the individual's situation.

* * *

Sec. 24. 3 V.S.A. § 3094 is amended to read:

§ 3094. OFFICE OF CHILD SUPPORT

(a) The Office of Child Support is created within the Department ~~for Children and Families~~ of Economic Empowerment and shall be designated the IV-D agency for purposes of Title IV-D of the federal Social Security Act.

(b) The Office shall be headed by a Director who shall be appointed by the Secretary of Human Services subject to section 3054 of this title.

Sec. 25. 3 V.S.A. § 3098 is added to read:

§ 3098. DEPARTMENT OF ECONOMIC EMPOWERMENT

The Department of Economic Empowerment is created within the Agency of Human Services to empower families and individuals through the provision of financial support, case management, and other assistance aimed at building skills and independence. It shall include the Office of Child Support, the Office of Economic Opportunity, the Disability Determination Services Division, and the Economic Services Division.

Sec. 26. 4 V.S.A. § 953 is amended to read:

§ 953. SOURCES OF NAMES

(a) The clerk, in order to ascertain names of persons eligible as jurors, may consult the latest census enumeration, the latest published city, town, or village telephone or other directory, the listers' records, the elections records, and any other general source of names.

(b) Notwithstanding any law to the contrary, the Court Administrator may obtain the names, addresses, and dates of birth of persons ~~which~~ that are contained in the records of the Department of Motor Vehicles, the Department of Labor, the Department of Taxes, the Department of Health, the Department of Economic Empowerment, and the Department for Children and Families. The Court Administrator may also obtain the names of voters from the Secretary of State. After the names have been obtained, the Court Administrator shall compile them and provide the names, addresses, and dates of birth to the clerk in a form that will not reveal the source of the names. The clerk shall include the names provided by the Court Administrator in the list of potential jurors.

* * *

Sec. 27. 8 V.S.A. § 10204 is amended to read:

§ 10204. EXCEPTIONS

This subchapter does not prohibit any of the activities listed in this section. This section shall not be construed to require any financial institution to make any disclosure not otherwise required by law. This section shall not be construed to require or encourage any financial institution to alter any procedures or practices not inconsistent with this subchapter. This section shall not be construed to expand or create any authority in any person or entity other than a financial institution.

* * *

(4) Disclosure of information sought by the Department for Children and Families pursuant to its authority and obligations under 33 V.S.A. § 112.

* * *

(27) Disclosure of information sought by the Department of Economic Empowerment pursuant to its authority and obligations under 33 V.S.A. § 212.

Sec. 28. 9 V.S.A. § 2480h is amended to read:

§ 2480h. SECURITY FREEZE BY CREDIT REPORTING AGENCY; TIME IN EFFECT

* * *

(1) The provisions of this section, including the security freeze, do not apply to the use of a consumer report by the following:

* * *

(5) The Economic Services Division of the Department ~~for Children and Families~~ of Economic Empowerment or the Department of Vermont Health Access or its agents or assignee acting to investigate welfare or Medicaid fraud.

* * *

Sec. 29. 9 V.S.A. § 2483a is amended to read:

§ 2483a. SECURITY FREEZE FOR PROTECTED CONSUMER; TIME IN EFFECT

* * *

(1) The provisions of this section, including the protected consumer security freeze, do not apply to the use of a consumer report by the following:

* * *

(5) The Economic Services Division of the Department ~~for Children and Families~~ of Economic Empowerment or the Department of Vermont Health Access or its agents or assignees acting to investigate welfare or Medicaid fraud.

* * *

Sec. 30. 9 V.S.A. § 4472 is amended to read:

§ 4472. RIGHT TO TERMINATE RENTAL AGREEMENT

* * *

(b) Not less than 30 days before the date of termination, the protected tenant shall provide to the landlord:

(1) a written notice of termination; and

(2) documentation from one or more of the following sources supporting ~~his or her~~ the tenant's reasonable belief that it is necessary to vacate the dwelling unit:

- (A) a court, law enforcement, or other government agency;
- (B) an abuse, sexual assault, or stalking assistance program;
- (C) a legal, clerical, medical, or other professional from whom the tenant, or the minor or dependent of the tenant, received counseling or other assistance concerning abuse, sexual assault, or stalking; or
- (D) a self-certification of a protected tenant's status as a victim of abuse, sexual assault, or stalking, signed under penalty of perjury, on a standard form adopted for that purpose by:
 - (i) a federal or State government entity, including the federal Department of Housing and Urban Development, the Vermont Department of Economic Empowerment, or the Vermont Department for Children and Families; or
 - (ii) a nonprofit organization that provides support services to protected tenants.

* * *

Sec. 31. 10 App. V.S.A. § 16 is amended to read:

§ 16. SUSPENSION OF LICENSES: ENFORCEMENT OF CHILD
SUPPORT ORDERS, 15 V.S.A. § 798

* * *

16.3 All notices of compliance with a child support order shall be upon a standard compliance form, as devised and approved by the court, the Vermont Agency of Human Services, Department of ~~Children and Families~~ Economic Empowerment, and this Department.

16.4 If the motion for the court order was brought by the Vermont Agency of Human Services, Department of ~~Children and Families~~ Economic Empowerment, then notice of compliance shall only be accepted from the Vermont Agency of Human Services, Department of ~~Children and Families~~ Economic Empowerment or the court.

* * *

16.8 Department personnel shall direct all inquiries from persons seeking reinstatement to the court or the Vermont Agency of Human Services, Department of ~~Children and Families~~ Economic Empowerment, if the Vermont Agency of Human Services, Department of ~~Children and Families~~ Economic Empowerment was the entity ~~which~~ that brought the motion for suspension before this court.

Sec. 32. 12 V.S.A. § 3169 is amended to read:

§ 3169. HEARING ON MOTION; FINDINGS; ORDER

(a) At the hearing on the motion the court shall determine on the basis of the motion and any affidavit of the judgment creditor, the record in the civil action and any testimony offered by either party, and by the trustee whether the judgment debtor has neglected or refused to pay or make reasonable arrangements to pay the money judgment in question. If the court so finds, it shall also determine:

(1) the amount of the judgment unpaid;

(2) the amount of the judgment debtor's weekly disposable earnings;

(3) whether the judgment debtor has been a recipient of assistance from the Vermont ~~Department~~ Departments for Children and Families, of Economic Empowerment, or the ~~Department~~ of Vermont Health Access within the two months preceding the date of the hearing; and

* * *

Sec. 33. 12 V.S.A. § 3170 is amended to read:

§ 3170. EXEMPTIONS; ISSUANCE OF ORDER

(a) No order approving the issuance of trustee process against earnings shall be entered against a judgment debtor who was, within the two-month period preceding the hearing provided in section 3169 of this title, a recipient of assistance from the Vermont Department ~~for Children and Families of Economic Empowerment~~ or the Department of Vermont Health Access. The judgment debtor must establish this exemption at the time of hearing.

* * *

Sec. 34. 13 V.S.A. § 1028 is amended to read:

§ 1028. ASSAULT OF PROTECTED PROFESSIONAL; ASSAULT WITH
BODILY FLUIDS

* * *

(d) As used in this section:

(1) "Protected professional" ~~shall mean~~ means a law enforcement officer; a firefighter; a health care worker; an employee, contractor, or grantee of the Department for Children and Families or Department of Economic Empowerment; or any emergency medical personnel as defined in 24 V.S.A. § 2651(6).

* * *

Sec. 35. 15 V.S.A. § 294 is amended to read:

§ 294. MAN UNRELATED ADULT IN THE HOUSE

(a) When the ~~mother parent~~ of minor children is residing within the same household as a ~~man~~ an adult unrelated to ~~her~~ the parent and not otherwise liable for the support of the ~~mother and her parent and the parent's children~~, on the complaint of the ~~mother parent~~ or, if ~~she~~ the parent is receiving public assistance, the ~~Department~~ Departments of Economic Empowerment or for Children and Families, the Superior Court shall make such decree concerning the support of the ~~mother parent~~ and the care, custody, maintenance, and education of the children as in cases where the ~~husband~~ nonresidential parent refuses without just cause to support ~~his wife~~ the parent living with the children and the children. The decree shall by its terms continue in force for so long as the defendant resides within the household or until further order of the court.

(b) This section shall not apply to persons living in boarding houses.

Sec. 36. 15 V.S.A. § 606 is amended to read:

§ 606. ACTION TO RECOVER MAINTENANCE, CHILD SUPPORT, AND SUIT MONEY; SANCTION FOR NONCOMPLIANCE

(a) When a judgment or order for the payment of either temporary or permanent maintenance, child support, or suit money has been made by the Family Division of the Superior Court, and personal jurisdiction of the person liable for the payment of money under the judgment or order has been obtained, the party entitled by the terms of the judgment or order to payment thereunder, or the Office of Child Support in all cases in which the party or dependent children of the parties are the recipients of financial assistance from the ~~Department~~ Departments of Economic Empowerment or for Children and Families, may file a motion in the Family Division of the Superior Court asking for a determination of the amount due. Upon notice to the other party and hearing thereon, the Family Division of the Superior Court shall render judgment for the amount due under the judgment or order; the court may order restitution to the ~~Department~~ Departments, order that payments be made to the Office of Child Support for distribution, or make such other orders or conditions as it deems proper. The judgment shall be as binding and as enforceable in all respects as though rendered in any other civil action. Notice shall be given in such manner as the Supreme Court shall by rule provide. An additional motion may be brought at any time for further unpaid balances. The Family Division of the Superior Court in which the cause was pending at the time the original judgment or order was made shall have jurisdiction of motions under the provisions of this section, irrespective of the amount in

controversy or the residence of the parties. The motions may be brought and judgment obtained on judgments, decrees, and orders previously rendered and still in force.

* * *

Sec. 37. 15 V.S.A. § 658 is amended to read:

§ 658. SUPPORT

(a) In an action under this chapter or under chapter 21 of this title, the court shall order either or both parents owing a duty of support to a child to pay an amount for the support of the child in accordance with the support guidelines as set forth in this subchapter, unless otherwise determined under section 659 of this title.

(b) A request for support may be made by either parent, a guardian, or the Department for Children and Families, Department of Economic Empowerment, or the Department of Vermont Health Access, if a party in interest. A court may also raise the issue of support on its own motion.

* * *

Sec. 38. 16 V.S.A. § 1592 is amended to read:

§ 1592. POWERS AND RESPONSIBILITIES OF BOARD OF TRUSTEES

With respect to the provision of postsecondary career technical education programs, in addition to those powers and responsibilities set forth in chapter 72 of this title, the Vermont State Colleges Board of Trustees shall:

* * *

(3) coordinate such programs with other employment and training programs such as those offered by the Department of Employment and Training, the Department of Labor, the Department ~~for Children and Families~~ of Economic Empowerment, the Agency of Commerce and Community Development, independent colleges, and the Vermont Student Assistance Corporation; and

(4) possess all other necessary and implied powers to carry out such responsibilities.

Sec. 39. 18 V.S.A. § 5227 is amended to read:

§ 5227. RIGHT TO DISPOSITION

* * *

(d)(1) If the disposition of the remains of a decedent is determined under subdivision (a)(10) of this section, the Office of the Chief Medical Examiner

may contract with a funeral director or disposition facility to cremate the remains of the decedent.

(2)(A) If the cremation of the decedent is arranged and paid for under 33 V.S.A. § 2301, the Department ~~for Children and Families of Economic Empowerment~~ shall pay the cremation expenses to the funeral home, up to the maximum payment permitted by rule by the Department ~~for Children and Families of Economic Empowerment~~.

(B) If the cremation of the decedent is not arranged and paid for under 33 V.S.A. § 2301, the Department of Health shall pay the cremation expenses to the funeral home, up to the maximum payment permitted by rule by the Department ~~for Children and Families of Economic Empowerment~~.

* * *

Sec. 40. 18 V.S.A. § 8101 is amended to read:

§ 8101. LIABILITY

* * *

(e) In ~~his or her~~ the Commissioner's investigation, keeping of accounts, and collection of charges, the Commissioner shall have the support and cooperation of the Department ~~for Children and Families of Economic Empowerment~~ insofar as the records of that Department relate to the ability to pay.

* * *

Sec. 41. 28 V.S.A. § 755 is amended to read:

§ 755. DISPOSITION OF EARNINGS

An inmate participating in a work release program shall cause to be given to the Commissioner the inmate's total earnings less payroll deductions authorized by law, including income taxes. Upon receipt of the earnings the Commissioner, to the extent reasonable, may:

(1) Deduct an amount determined to be equivalent to the cost of providing for the living expenses of the inmate.

(2) Cause to be paid, as are needed, any of the following:

(A) Any costs or fine imposed by the sentencing court.

(B) Any restitution included as part of the sentence of the inmate by the court.

(C) Any sum as is needed for the support of the dependents of the inmate, in which case the Commissioner shall notify the ~~Commissioner~~

Commissioners of Economic Empowerment and for Children and Families of the support payments.

* * *

Sec. 42. 30 V.S.A. § 218 is amended to read:

§ 218. JURISDICTION OVER CHARGES AND RATES

* * *

(c)(1) The Public Utility Commission shall take any action necessary to enable the State of Vermont and telecommunications companies offering service in Vermont to participate in the federal Lifeline program administered by the Federal Communications Commission (FCC) or its agent and also the Vermont Lifeline program described in subdivision (2) of this subsection.

* * *

(4) Notwithstanding any provisions of this subsection to the contrary, a subscriber who is enrolled in the Lifeline program and has obtained a final relief from abuse order in accordance with the provisions of 15 V.S.A. chapter 21 or 33 V.S.A. chapter 69 shall qualify for a Lifeline benefit credit for the amount of the incremental charges imposed by the local telecommunications company for treating the number of the subscriber as nonpublished and any charges required to change from a published to a nonpublished number. As used in this section, “nonpublished” means that the customer’s telephone number is not listed in any published directories, is not listed on directory assistance records of the company, and is not made available on request by a member of the general public, notwithstanding any claim of emergency a requesting party may present. The Department for ~~Children and Families of~~ Economic Empowerment shall develop an application form and certification process for obtaining this Lifeline benefit credit.

* * *

Sec. 43. 32 V.S.A. § 308b is amended to read:

§ 308b. HUMAN SERVICES CASELOAD RESERVE

(a) There is created within the General Fund a the Human Services Caseload Reserve. Expenditures from the Reserve shall be subject to an appropriation by the General Assembly or approval by the Emergency Board. Expenditures from the Reserve shall be limited to Agency of Human Services caseload-related needs primarily in the Departments for Children and Families, of Economic Empowerment, of Health, of Mental Health, of Disabilities, Aging, and Independent Living, of Vermont Health Access, and settlement costs associated with managing the Global Commitment waiver.

* * *

Sec. 44. 32 V.S.A. § 1003 is amended to read:

§ 1003. STATE OFFICERS

* * *

(b) The Governor may appoint each officer of the Executive Branch listed in this subsection at a starting salary ranging from the base salary stated for that position to a salary that does not exceed the maximum salary unless otherwise authorized by this subsection. The maximum salary for each appointive officer shall be 50 percent above the base salary. Annually, the Governor may grant to each of those officers an annual salary adjustment subject to the maximum salary. The annual salary adjustment granted to officers under this subsection shall not exceed the average rate of adjustment available to classified employees under the collective bargaining agreement then in effect. In addition to the annual salary adjustment specified in this subsection, the Governor may grant a special salary increase subject to the maximum salary, or a bonus, to any officer listed in this subsection whose job duties have significantly increased, or whose contributions to the State in the preceding year are deemed especially significant. Special salary increases or bonuses granted to any individual shall not exceed the average rate of adjustment available to classified employees under the collective bargaining agreement then in effect.

(1) Heads of the following Departments and Agencies:

	Base Salary as of January 5, 2020	Base Salary as of July 4, 2021
(A) Administration	\$121,634	\$126,378
(B) Agriculture, Food and Markets	121,634	126,378
(C) Financial Regulation	113,710	118,145
(D) Buildings and General Services	113,710	118,145
(E) Children and Families	113,710	118,145
(F) Commerce and Community Development	121,634	126,378
(G) Corrections	113,710	118,145
(H) Defender General	113,710	118,145

(I)	Disabilities, Aging, and Independent Living	113,710	118,145
(J)	Economic Development	103,149	107,172
(K)	Education	121,634	126,378
(L)	Environmental Conservation	113,710	118,145
(M)	Finance and Management	113,710	118,145
(N)	Fish and Wildlife	103,149	107,172
(O)	Forests, Parks and Recreation	103,149	107,172
(P)	Health	113,710	118,145
(Q)	Housing and Community Development	103,149	107,172
(R)	Human Resources	113,710	118,145
(S)	Human Services	121,634	126,378
(T)	Digital Services	121,634	126,378
(U)	Labor	113,710	118,145
(V)	Libraries	103,149	107,172
(W)	Liquor and Lottery	103,149	107,172
(X)	[Repealed.]		
(Y)	Mental Health	113,710	118,145
(Z)	Military	113,710	118,145
(AA)	Motor Vehicles	103,149	107,172
(BB)	Natural Resources	121,634	126,378
(CC)	Natural Resources Board Chair	103,149	107,172
(DD)	Public Safety	113,710	118,145
(EE)	Public Service	113,710	118,145
(FF)	Taxes	113,710	118,145
(GG)	Tourism and Marketing	103,149	107,172
(HH)	Transportation	121,634	126,378
(II)	Vermont Health Access	113,710	118,145

(JJ) Veterans' Home	113,710	118,145
(KK) <u>Economic Empowerment</u>	<u>113,710</u>	<u>118,145</u>

* * *

Sec. 45. 32 V.S.A. § 3102 is amended to read:

§ 3102. CONFIDENTIALITY OF TAX RECORDS

* * *

(f) Notwithstanding the provisions of this section, information obtained from the Commissioner for Children and Families under 33 V.S.A. § 112(c), from the Commissioner of Economic Empowerment under 33 V.S.A. § 212(c), from the Vermont Student Assistance Corporation under 16 V.S.A. § 2843, or from the Dental Health Program under 33 V.S.A. § 4507 shall be confidential, and it shall be unlawful for anyone to divulge such information except in accordance with a judicial order or as provided under another provision of law.

* * *

Sec. 46. 32 V.S.A. § 5932 is amended to read:

§ 5932. DEFINITIONS

As used in this chapter:

* * *

(2) "Debtor" means any individual owing a debt to a claimant agency or owing any support debt that may be collected by the ~~Department~~ Departments for Children and Families and of Economic Empowerment.

* * *

Sec. 47. 33 V.S.A. chapter 1 is amended to read:

CHAPTER 1. DEPARTMENT FOR CHILDREN AND FAMILIES

Subchapter 1. Policy, Organization, Powers, and Duties

§ 101. POLICY

It is the policy of the State of Vermont that:

(1) Its social and child welfare programs shall provide assistance, support, and benefits to persons of the State in proven need ~~thereof and eligible for such assistance and benefits~~ of and eligible for assistance, support, and benefits under the provisions of this title.

(2) It is the purpose of its social and child welfare laws to establish and support programs that contribute to the prevention of dependency and social

maladjustment and contribute to the rehabilitation and protection of persons of the State.

(3) Assistance and benefits shall be administered promptly, with due regard for the welfare of children and youth and the preservation of family life, and without restriction of individual rights or discrimination on account of gender, sexual orientation, gender identity, race, religion, political affiliation, or place of residence within the State.

(4) Assistance and benefits shall be so administered as to maintain and encourage dignity, self-respect, and self-reliance. It is the legislative intent that assistance granted shall be adequate to maintain a reasonable standard of health and decency based on current cost of living indices. ~~Notwithstanding this subdivision, the Department will amend rules that establish new maximum Reach Up grant amounts only when the General Assembly has taken affirmative action to increase or decrease the Reach Up financial assistance appropriation.~~

(5) The programs of the Department for Children and Families shall be designed to strengthen family life for the care and protection of children; promote healthy child development and support a high-quality child care system throughout the State; to assist and encourage the use by any family of all available personal and reasonable community resources to this end; and to provide substitute care of children only when the family, with the use of available resources, is unable to provide the necessary care and protection to ensure the right of any child to sound health and to normal physical, mental, spiritual, and moral development.

(6) The child care system shall provide affordable, high-quality care in a manner that fosters child brain development, nurtures socio-emotional skills, and supports young families. The Department shall provide leadership and expertise to early educators and child care programs to ensure that children receive age-appropriate care tailored to their unique needs.

* * *

§ 104. FUNCTION AND POWERS OF DEPARTMENT

(a) The Department shall administer all laws specifically assigned to it for administration.

(b) In addition to other powers vested in it by law, the Department may do all of the following:

(1) ~~Provide for the administration of the following programs and services:~~

- ~~(A) aid to the aged, blind, and disabled;~~
- ~~(B) Reach Up financial assistance and support services;~~
- ~~(C) [Repealed.]~~
- ~~(D) federal Supplemental Nutrition Assistance Program benefits;~~
- ~~(E) General Assistance;~~
- ~~(F) medical assistance; and~~
- ~~(G) public assistance programs funded with State general funds or the Temporary Assistance to Needy Families (TANF) block grant. [Repealed.]~~

(2) Cooperate with the appropriate federal agencies in receiving, to the extent available, federal funds in support of programs that the Department administers.

(3) Submit plans and reports, adopt rules, and in other respects comply with the provisions of the Social Security Act that pertain to programs administered by the Department.

(4) Receive and disburse funds that are assigned, donated, or bequeathed to it for charitable purposes or for the benefit of recipients of assistance, benefits, or social services. This subdivision shall not be construed to require the Department to accept funds or trusts when the Commissioner, with the approval of the Governor, considers it in the best interests of the State to refuse them.

(5) Receive in trust and expend, in accordance with the provisions of the trust, funds and property assigned, donated, devised, or bequeathed to it for charitable purposes or for the benefit of recipients of assistance, benefits, or social services. Trust funds accepted by the Department shall be safely invested by the State Treasurer. Real property received in trust may, at the discretion of the Commissioner, be administered by the Department of Buildings and General Services of the Agency of Administration. This subdivision shall not be construed to require the Department to accept funds or trusts when the Commissioner, with the approval of the Governor, considers it in the best interests of the State to refuse them.

(6) Aid and assist in charitable work as in the judgment of the Commissioner will best promote the general welfare of the State.

(7) Visit all institutions, homes, places, and establishments soliciting public support and located in the State that are devoted to or used for the care of ~~needy persons~~ children.

(8) Visit all institutions, homes, places, and establishments providing room, board, or care to ~~persons~~ children receiving social services or benefits from the Department.

(9) Supervise and control children under its care and custody and provide for their care, maintenance, and education.

(c) The Department for Children and Families, in cooperation with the Department of Corrections, shall have the responsibility to administer a comprehensive program for youthful offenders and children who commit delinquent acts, including utilization of probation services; of a range of community-based and other treatment, training, and rehabilitation programs; and of secure detention and treatment programs when necessary in the interests of public safety, designed with the objective of preparing those children to live in their communities as productive and mature adults.

§ 105. COMMISSIONER; APPOINTMENT, TERM, DUTIES, AND POWERS

(a) The Commissioner may exercise the powers and perform duties required for effective administration of the Department; and ~~he or she~~ shall determine the policies of the Department.

(b) In addition to other duties imposed by law, the Commissioner shall:

(1) administer the laws assigned to the Department;

(2) fix standards and adopt rules necessary to administer those laws and for the custody and preservation of records of the Department;

(3) appoint all necessary assistants, prescribe their duties, and adopt rules necessary to ensure that the assistants shall hold merit system status while in the employ of the Department, unless otherwise specifically provided by law.

(c) ~~The Commissioner or the Governor, whenever the federal law so provides, may cooperate with the federal government in providing relief and work relief and community work and training programs in the State~~ shall hold at least a master's level degree in child development, early childhood education, or related field.

(d) The Commissioner, with the approval of the Attorney General, may enter into reciprocal agreements with social and child welfare agencies in other states in matters relating to social welfare, children, and families.

(e) The Commissioner shall ensure the provision of services to children and adolescents with a severe emotional disturbance in coordination with the Secretary of Education and the Commissioners of Mental Health and of

Disabilities, Aging, and Independent Living in accordance with the provisions of chapter 43 of this title.

(f) Notwithstanding any other provision of law, the Commissioner may delegate to any appropriate employee of the Department any of the administrative duties and powers imposed on ~~him or her~~ the Commissioner by law, with the exception of the duties and powers enumerated in this section. The delegation of authority and responsibility shall not relieve the Commissioner of accountability for the proper administration of the Department.

(g) The Commissioner may publicly disclose findings or information about any case of child abuse or neglect that has resulted in the fatality or near fatality of a child, including information obtained under chapter 49 of this title, unless the State's Attorney or Attorney General who is investigating or prosecuting any matter related to the fatality requests the Commissioner to withhold disclosure, in which case the Commissioner shall not disclose any information until completion of any criminal proceedings related to the fatality or until the State's Attorney or Attorney General consents to disclosure, whichever occurs earlier.

* * *

§ 112a. FINANCIAL INSTITUTIONS TO FURNISH INFORMATION;
ASSET VERIFICATION

(a)(1) A financial institution, when requested by Department, shall furnish to the Commissioner or the Commissioner's designee information in the possession of the financial institution about the assets of any applicant who is applying for or is receiving assistance or benefits from the Department or the applicant's spouse. The Department shall issue instructions to the financial institution detailing the nature of the request and the information necessary to satisfy the request.

(2) A financial institution or employee of a financial institution shall not be subject to criminal or civil liability for actions taken in accordance with this subsection.

(b)(1) Each application for assistance or benefits submitted to the Department shall contain a form of authorization, executed by the applicant, granting authority for the Department and its authorized agents to obtain financial information about the applicant's assets from financial intuitions in order to verify the applicant's eligibility for the applicable program. The Department or its authorized agent shall obtain the applicant's authorization prior to requesting the applicant's financial information from any financial

institution.

(2) The Department shall ensure the applicant receives notice written in plain language explaining the Department's electronic asset verification system.

(c) In the event that the financial information of an applicant's spouse is required to determine an applicant's eligibility for a program, the Department shall provide written notice regarding the asset verification process to the spouse and shall obtain the spouse's written authorization for the Department and its agents to obtain the spouse's financial information from financial institutions prior to requesting the spouse's financial information from any financial institution. The Department may determine an applicant to be ineligible if the applicant's spouse refuses to provide or revokes consent.

(d) As used in this section:

(1) "Bank" has the same meaning as in 8 V.S.A. § 11101.

(2) "Broker-dealer" has the same meaning as in 9 V.S.A. § 5102.

(3) "Credit union" has the same meaning as in 8 V.S.A. § 30101.

(4) "Financial institution" means any Vermont financial institution, state financial institution, and national financial institution, including a bank, credit union, broker-dealer, investment advisor, mutual fund, or investment company.

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

(6) "Mutual fund" has the same meaning as in 8 V.S.A. § 3461.

* * *

Subchapter 3. Provisions of General Applicability

§ 121. CANCELLATION OF ASSISTANCE OR BENEFITS

If at any time the Commissioner for Children and Families ~~or the Commissioner of Vermont Health Access~~ has reason to believe that assistance or benefits have been improperly obtained, ~~he or she~~ the Commissioner shall cause an investigation to be made and may suspend assistance or benefits pending the investigation. If, on investigation, the Commissioner for Children and Families ~~or the Commissioner of Vermont Health Access~~ is satisfied that the assistance or benefits were illegally obtained, ~~he or she~~ the Commissioner shall immediately cancel them. A person having illegally obtained assistance or benefits shall not be eligible for reinstatement until ~~his or her~~ the person's need has been reestablished.

§ 122. RECOVERY OF PAYMENTS

(a) The amount of assistance or benefits may be changed or cancelled at any time if the Commissioner for Children and Families ~~or the Commissioner of Vermont Health Access~~ finds that the recipient's circumstances have changed. Upon granting assistance or benefits, the Department for Children and Families ~~or the Department of Vermont Health Access~~ shall inform the recipient that changes in his ~~or her~~ the recipient's circumstances must be promptly reported to the Department.

(b) When on the death of a person receiving assistance it is found that the recipient possessed income or property in excess of that reported to the Department for Children and Families ~~or the Department of Vermont Health Access~~, up to double the total amount of assistance in excess of that to which the recipient was lawfully entitled may be recovered by the Commissioner for Children and Families ~~or the Commissioner of Vermont Health Access~~ as a preferred claim from the estate of the recipient. The Commissioner for Children and Families ~~or the Commissioner of Vermont Health Access~~ shall calculate the amount of the recovery by applying the legal interest rate to the amount of excess recovery paid, except that the recovery shall be capped at double the excess assistance paid.

(c) When the Commissioner for Children and Families ~~or the Commissioner of Vermont Health Access~~ finds that a recipient of benefits received assistance in excess of that to which the recipient was lawfully entitled, because the recipient possessed income or property in excess of Department standards, the Commissioner for Children and Families ~~or the Commissioner of Vermont Health Access~~ may take actions to recover the overpayment.

(d) In the event of recovery, an amount may be retained by the Commissioner for Children and Families ~~or the Commissioner of Vermont Health Access~~ in a special fund for use in offsetting program expenses and an amount equivalent to the pro rata share to which the United States of America is equitably entitled shall be paid promptly to the appropriate federal agency.

§ 123. GUARDIAN OR LEGAL REPRESENTATIVE

~~(a) If the Commissioner finds that an applicant for or recipient of assistance is incapable of taking care of himself or herself or his or her business affairs, the Commissioner may direct the payment of the assistance to a guardian appointed by the Probate Division of the Superior Court.~~

~~(b) If the Commissioner finds that an applicant for or recipient of assistance is incapable of prudently attending to his or her business affairs, the~~

~~Commissioner may direct the payment of the assistance to the legal representative of the person appointed by the Probate Division of the Superior Court. [Repealed.]~~

* * *

Subchapter 5. Prohibited Practices; Penalties

§ 141. FRAUD

(a) A person who knowingly fails, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose a material fact used to determine whether that person is qualified to receive aid or benefits under a State or federally funded assistance program; or who knowingly fails to disclose a change in circumstances in order to obtain or continue to receive aid or benefits to which ~~he or she~~ the person is not entitled or in an amount larger than that to which ~~he or she~~ the person is entitled; or who knowingly aids and abets another person in the commission of any such act shall be punished as provided in section 143 of this title.

~~(b) A person who knowingly uses, transfers, acquires, traffics, alters, forges, or possesses; or who knowingly attempts to use, transfer, acquire, traffic, alter, forge, or possess; or who knowingly aids and abets another person in the use, transfer, acquisition, traffic, alteration, forgery, or possession of a Supplemental Nutrition Assistance Program benefit card, authorization for the purchase of Supplemental Nutrition Assistance Program benefits, certificate of eligibility for medical services, or State health care program identification card in a manner not authorized by law shall be punished as provided in section 143 of this title. [Repealed.]~~

~~(c) A person who administers a State or federally funded assistance program who fraudulently misappropriates, attempts to misappropriate, or aids and abets in the misappropriation of a Supplemental Nutrition Assistance Program benefit, authorization for Supplemental Nutrition Assistance Program benefits, a Supplemental Nutrition Assistance Program benefit identification card, certificate of eligibility for prescribed medicine, State health care program identification card, or assistance from any other State or federally funded program with which he or she has been entrusted or of which he or she has gained possession by virtue of his or her position; or who knowingly misappropriates, attempts to misappropriate, or aids or abets in the misappropriation of funds given in exchange for Supplemental Nutrition Assistance Program benefits shall be punished as provided in section 143 of this title. [Repealed.]~~

(d) A person who knowingly files, attempts to file, or aids and abets in the filing of a claim for services to a recipient of benefits under a State or federally funded assistance program for services that were not rendered; or who knowingly files a false claim or a claim for unauthorized items or services under such a program; or who knowingly bills the recipient of benefits under such a program or ~~his or her~~ the person's family for an amount in excess of that provided for by law or regulation; or who knowingly fails to credit the State or its agent for payments received from Social Security, insurance, or other sources; or who in any way knowingly receives, attempts to receive, or aids and abets in the receipt of unauthorized payment as provided herein shall be punished as provided in section 143 of this title.

(e) A person providing service for which compensation is paid under a State or federally funded assistance program who requests, and receives, either actually or constructively, any payment or contribution through a payment, assessment, gift, devise, bequest, or other means, whether directly or indirectly, from either a recipient of assistance from the assistance program or from the family of the recipient shall notify the Commissioner for Children and Families ~~or the Commissioner of Vermont Health Access~~, on a form provided by ~~him or her~~ the Commissioner, of the amount of the payment or contribution and of such other information as specified by the Commissioner for Children and Families ~~or the Commissioner of Vermont Health Access~~ within 10 days after the receipt of the payment or contribution or, if the payment or contribution is to become effective at some time in the future, within 10 days of following the consummation of the agreement to make the payment or contribution. Failure to notify the Commissioner for Children and Families ~~or the Commissioner of Vermont Health Access~~ within the time prescribed is punishable as provided in section 143 of this title.

(f) Repayment of assistance or services wrongfully obtained shall not constitute a defense to or ground for dismissal of criminal charges brought under this section.

§ 142. BRINGING NEEDY PERSON IN NEED INTO THE STATE

(a) Any person who knowingly brings or causes to be brought a needy person in need from out of the state into this State for the purpose of securing assistance for the needy person in need or making ~~him or her~~ the person in need a public charge, shall be obligated to support the needy person in need at ~~his or her~~ the person's own expense for as long as the needy person in need or persons dependent on the needy person in need remain in the State.

(b) The Commissioner may bring a civil action on this statute to enforce support of the needy person in need and ~~his or her~~ the person's dependents. In

the action, the court may make an order, which shall be subject to change by the court from time to time as the circumstances require, directing the defendant to pay a certain sum periodically to the Department for the benefit of the needy person in need and ~~his or her~~ the person's dependents residing in the State. The court may punish for violation of the order as for contempt.

§ 143. GENERAL PENALTY

(a) A person who knowingly violates a provision of this title for which no penalty is specifically provided shall:

(1) if the assistance or benefits obtained pursuant to a single fraudulent scheme or a course of conduct are in violation of subsection 141(a) ~~or (b)~~ of this title involving \$1,000.00 or less, be fined not more than the amount of assistance or benefits wrongfully obtained or be imprisoned not more than one year, or both;

(2) if the assistance or benefits obtained pursuant to a single fraudulent scheme or course of conduct are in violation of subsection (a) ~~or (b)~~ of section 141 of this title and involve more than \$1,000.00, be fined not more than an amount equal to the assistance or benefits wrongfully obtained or be imprisoned not more than three years, or both; or

(3) if the violation is under subsection ~~(e), (d),~~ 141(d) or ~~(e) of section 141~~ of this title, be fined up to \$1,000.00 or up to an amount equal to twice the amount of assistance, benefits, or payments wrongfully obtained, or be imprisoned for not more than 10 years, or both.

(b) If the person convicted is receiving assistance, benefits, or payments, the Commissioner for Children and Families or the Commissioner of Vermont Health Access may recoup the amount of assistance or benefits wrongfully obtained by reducing the assistance, benefits, or payments periodically paid to the recipient, as limited by federal law, until the amount is fully recovered.

~~(c) If a provider of services is convicted of a violation of subsection 141(d) or (e) of this title, the Commissioner of Vermont Health Access shall, within 90 days of the conviction, suspend the provider from further participation in the medical assistance program administered under Title XIX of the Social Security Act for a period of four years. The suspension required by this subsection may be waived by the Secretary of Human Services only upon a finding that the recipients served by the convicted provider would suffer substantial hardship through a denial of medical services that could not reasonably be obtained through another provider. [Repealed.]~~

§ 143a. CIVIL REMEDIES

(a) A person who violates subsection 141~~(e)~~, (d), or (e) of this title with

actual knowledge may be subject to a civil suit by the Attorney General for:

(1) restitution of the amount of assistance, benefits, or payments wrongfully obtained;

(2) interest; and

(3) a civil penalty of up to three times the amount of the wrongfully obtained assistance, benefits, or payments; or \$500.00 per false claim; or \$500.00 for each false document submitted in support of a false claim, whichever is greatest.

(b) The remedies provided in this section shall be in addition to any other remedies provided by law.

(c) The right to a jury trial shall attach to actions under this section.

§ 143b. ~~EDUCATION AND INFORMATION~~

~~By January 1, 2005, the Department of Vermont Health Access shall issue rules establishing a procedure for health care providers enrolled in State and federally funded medical assistance programs to obtain advisory opinions regarding coverage and reimbursement under those programs. Each advisory opinion issued by the Department of Vermont Health Access shall be binding on that Department and the party or parties requesting the opinion only with regard to the specific questions posed in the opinion, the facts and information set forth in it, and the statutes and rules specifically noted in the opinion. [Repealed.]~~

§ 144. STATUTORY CONSTRUCTION

~~(a) Section 143 of this title shall not preclude prosecution under 13 V.S.A. § 1801, 1802, or 2002 when the alleged violation involves forging an economic assistance check or where duplicate economic assistance checks have been wrongfully negotiated during any one welfare period. [Repealed.]~~

(b) Section 143 of this title shall not preclude prosecution under any other title or sections of this title when the alleged violation is under subsection 141(e) or (d) of this title.

* * *

Sec. 48. 33 V.S.A. chapter 2 is added to read:

CHAPTER 2. DEPARTMENT OF ECONOMIC EMPOWERMENT

Subchapter 1. Policy, Organization, Powers, and Duties

§ 201. POLICY

It is the policy of the State of Vermont that:

(1) Its social and child welfare programs shall provide assistance and benefits to persons of the State in proven need thereof and eligible for such assistance and benefits under the provisions of this title.

(2) It is the purpose of its social and child welfare laws to establish and support programs that contribute to the prevention of dependency and social maladjustment and contribute to the rehabilitation and protection of persons of the State.

(3) Assistance and benefits shall be administered promptly, with due regard for the preservation of family life, and without restriction of individual rights or discrimination on account of gender, race, age, religion, ethnicity, sexual orientation, gender identity, political affiliation, disability status, primary language, or place of residence within the State.

(4) Assistance and benefits shall be so administered as to maintain and encourage dignity, self-respect, and self-reliance. It is the legislative intent that assistance granted shall be adequate to maintain a reasonable standard of health and decency based on current cost of living indices. Notwithstanding this subdivision, the Department shall amend rules that establish new maximum Reach Up grant amounts only when the General Assembly has taken affirmative action to increase or decrease the Reach Up financial assistance appropriation.

(5) The programs of the Department of Economic Empowerment shall be designed to strengthen family life for the care and protection of children and to assist and encourage the use by any family of all available personal and reasonable community resources to this end.

§ 202. DEFINITIONS AND CONSTRUCTION

(a) As used in this chapter:

(1) “Aid” means financial assistance.

(2) “Assistance,” when not modified by an adjective, means general assistance or public assistance, or both.

(3) “Benefits” means aid or commodities furnished under chapter 17 of this title.

(4) “Commissioner” means the Commissioner of Economic Empowerment.

(5) “Department” means the Department of Economic Empowerment.

(6) “Federal department” or “federal agency” means a department or agency of the United States of America.

(7) “Guardian” means a legal guardian appointed by a Probate Division of the Superior Court or by a court in a divorce or other proceeding or action.

(8) “Public assistance” means aid provided by the Department under Title IV, XVI, or XIX of the Social Security Act.

(9) “Regulation” means a rule or regulation.

(10) “Social Security Act” means the federal Social Security Act and regulations promulgated under the Act, as amended at any time.

(b) The laws relating to the Department of Economic Empowerment and its programs shall be construed liberally to carry out the policies stated in this chapter.

§ 203. COMPOSITION OF DEPARTMENT

The Department of Economic Empowerment, created pursuant to 3 V.S.A. §§ 212 and 3098, shall consist of the Commissioner of Economic Empowerment and all divisions, councils, boards, committees, and offices within the Department.

§ 204. FUNCTION AND POWERS OF DEPARTMENT

(a) The Department shall administer all laws specifically assigned to it for administration.

(b) In addition to other powers vested in it by law, the Department may do all of the following:

(1) Provide for the administration of the following programs and services:

(A) aid to the aged, blind, and disabled;

(B) Reach Up financial assistance and support services;

(C) federal Supplemental Nutrition Assistance Program benefits;

(D) General Assistance;

(E) medical assistance; and

(F) public assistance programs funded with State general funds or the Temporary Assistance to Needy Families (TANF) block grant.

(2) Cooperate with the appropriate federal agencies in receiving, to the extent available, federal funds in support of programs that the Department administers.

(3) Submit plans and reports, adopt rules, and in other respects comply with the provisions of the Social Security Act that pertain to programs

administered by the Department.

(4) Receive and disburse funds that are assigned, donated, or bequeathed to it for charitable purposes or for the benefit of recipients of assistance, benefits, or social services. This subdivision shall not be construed to require the Department to accept funds or trusts when the Commissioner, with the approval of the Governor, considers it in the best interests of the State to refuse them.

(5) Receive in trust and expend, in accordance with the provisions of the trust, funds, and property assigned, donated, devised, or bequeathed to it for charitable purposes or for the benefit of recipients of assistance, benefits, or social services. Trust funds accepted by the Department shall be safely invested by the State Treasurer. Real property received in trust may, at the discretion of the Commissioner, be administered by the Department of Buildings and General Services of the Agency of Administration. This subdivision shall not be construed to require the Department to accept funds or trusts when the Commissioner, with the approval of the Governor, considers it in the best interests of the State to refuse them.

(6) Aid and assist in charitable work as in the judgment of the Commissioner will best promote the general welfare of the State.

(7) Visit all institutions, homes, places, and establishments soliciting public support and located in the State that are devoted to or used for the care of persons in need.

(8) Visit all institutions, homes, places, and establishments providing room, board, or care to persons receiving social services or benefits from the Department.

§ 205. COMMISSIONER; APPOINTMENT, TERM, DUTIES, AND POWERS

(a) The Commissioner may exercise the powers and perform duties required for effective administration of the Department and shall determine the policies of the Department.

(b) In addition to other duties imposed by law, the Commissioner shall:

(1) administer the laws assigned to the Department;

(2) fix standards and adopt rules necessary to administer those laws and for the custody and preservation of records of the Department; and

(3) appoint all necessary assistants, prescribe their duties, and adopt rules necessary to ensure that the assistants shall hold merit system status while in the employ of the Department unless otherwise specifically provided by law.

(c) The Commissioner or the Governor, whenever the federal law so provides, may cooperate with the federal government in providing relief and work relief and community work and training programs in the State.

(d) Notwithstanding any other provision of law, the Commissioner may delegate to any appropriate employee of the Department any of the administrative duties and powers imposed on the Commissioner by law, with the exception of the duties and powers enumerated in this section. The delegation of authority and responsibility shall not relieve the Commissioner of accountability for the proper administration of the Department.

Subchapter 2. General Administrative Provisions

§ 211. RECORDS; RESTRICTIONS; PENALTIES

(a) The names of or information pertaining to applicants for or recipients of assistance or benefits, including information obtained under section 212 of this title, shall not be disclosed to anyone, except for the purposes directly connected with the administration of the Department or when required by law.

(b) A person shall not publish, use, disclose, or divulge any of those records for purposes not directly connected with the administration of programs of the Department or contrary to rules adopted by the Commissioner.

§ 212. BANKS AND AGENCIES TO FURNISH INFORMATION

(a) An officer of a financial institution, as described in 8 V.S.A. § 11101(32); a credit union; or an independent trust company in this State, when requested by the Commissioner, shall furnish the Commissioner information in the possession of the bank or company with reference to any person or the person's spouse who is applying for or is receiving assistance or benefits from the Department.

(b) Any governmental official or agency in the State, when requested by the Commissioner, shall furnish to the Commissioner information in the official's or agency's possession with reference to aid given or money paid or to be paid to any person or person's spouse who is applying for or is receiving assistance or benefits from the Department.

(c) The Commissioner of Taxes, when requested by the Commissioner of Economic Empowerment, and unless otherwise prohibited by federal law, shall compare the information furnished by an applicant or recipient of assistance with the State income tax returns filed by such person and shall report the Commissioner of Taxes' findings to the Commissioner of Economic Empowerment. Each application for assistance shall contain a form of consent, executed by the applicant, granting permission to the Commissioner of Taxes to disclose such information to the Commissioner for Economic

Empowerment.

§ 212a. FINANCIAL INSTITUTIONS TO FURNISH INFORMATION;
ASSET VERIFICATION

(a)(1) A financial institution, when requested by Department, shall furnish to the Commissioner or the Commissioner's designee information in the possession of the financial institution about the assets of any applicant who is applying for or is receiving assistance or benefits from the Department or the applicant's spouse. The Department shall issue instructions to the financial institution detailing the nature of the request and the information necessary to satisfy the request.

(2) A financial institution or employee of a financial institution shall not be subject to criminal or civil liability for actions taken in accordance with this subsection.

(b)(1) Each application for assistance or benefits submitted to the Department shall contain a form of authorization, executed by the applicant, granting authority for the Department and its authorized agents to obtain financial information about the applicant's assets from financial institutions in order to verify the applicant's eligibility for the applicable program. The Department or its authorized agent shall obtain the applicant's authorization prior to requesting the applicant's financial information from any financial institution.

(2) The Department shall ensure the applicant receives notice written in plain language explaining the Department's electronic asset verification system.

(c) In the event that the financial information of an applicant's spouse is required to determine an applicant's eligibility for a program, the Department shall provide written notice regarding the asset verification process to the spouse and shall obtain the spouse's written authorization for the Department and its agents to obtain the spouse's financial information from financial institutions prior to requesting the spouse's financial information from any financial institution. The Department may determine an applicant to be ineligible if the applicant's spouse refuses to provide or revokes consent.

(d) As used in this section:

(1) "Bank" has the same meaning as in 8 V.S.A. § 11101.

(2) "Broker-dealer" has the same meaning as in 9 V.S.A. § 5102.

(3) "Credit union" has the same meaning as in 8 V.S.A. § 30101.

(4) “Financial institution” means any Vermont financial institution, state financial institution, and national financial institution, including a bank, credit union, broker-dealer, investment advisor, mutual fund, or investment company.

(5) “Investment advisor” has the same meaning as in 9 V.S.A. § 5102.

(6) “Mutual fund” has the same meaning as in 8 V.S.A. § 3461.

§ 214. ALLOCATION OF PAYMENTS WHEN APPROPRIATION INSUFFICIENT

Should the funds available for assistance be insufficient to provide assistance to all those eligible, the amounts of assistance granted in any program or portion thereof shall be reduced equitably, in the discretion of the Commissioner of Economic Empowerment or the Commissioner of Vermont Health Access by rule.

Subchapter 3. Provisions of General Applicability

§ 221. CANCELLATION OF ASSISTANCE OR BENEFITS

If at any time the Commissioner of Economic Empowerment or the Commissioner of Vermont Health Access has reason to believe that assistance or benefits have been improperly obtained, the Commissioner shall cause an investigation to be made and may suspend assistance or benefits pending the investigation. If on investigation the Commissioner of Economic Empowerment or the Commissioner of Vermont Health Access is satisfied that the assistance or benefits were illegally obtained, the Commissioner shall immediately cancel them. A person having illegally obtained assistance or benefits shall not be eligible for reinstatement until the person’s need has been reestablished.

§ 222. RECOVERY OF PAYMENTS

(a) The amount of assistance or benefits may be changed or cancelled at any time if the Commissioner of Economic Empowerment or the Commissioner of Vermont Health Access finds that the recipient’s circumstances have changed. Upon granting assistance or benefits, the Department of Economic Empowerment or the Department of Vermont Health Access shall inform the recipient that changes in the recipient’s circumstances must be promptly reported to the Department.

(b) When on the death of a person receiving assistance it is found that the recipient possessed income or property in excess of that reported to the Department of Economic Empowerment or the Department of Vermont Health Access, up to double the total amount of assistance in excess of that to which the recipient was lawfully entitled may be recovered by the Commissioner of

Economic Empowerment or the Commissioner of Vermont Health Access as a preferred claim from the estate of the recipient. The Commissioner of Economic Empowerment or the Commissioner of Vermont Health Access shall calculate the amount of the recovery by applying the legal interest rate to the amount of excess recovery paid, except that the recovery shall be capped at double the excess assistance paid.

(c) When the Commissioner of Economic Empowerment or the Commissioner of Vermont Health Access finds that a recipient of benefits received assistance in excess of that to which the recipient was lawfully entitled because the recipient possessed income or property in excess of Department standards, the Commissioner of Economic Empowerment or the Commissioner of Vermont Health Access may take actions to recover the overpayment.

(d) In the event of recovery, an amount may be retained by the Commissioner of Economic Empowerment or the Commissioner of Vermont Health Access in a special fund for use in offsetting program expenses, and an amount equivalent to the pro rata share to which the United States of America is equitably entitled shall be paid promptly to the appropriate federal agency.

§ 224. INALIENABILITY OF ASSISTANCE PAYMENTS

All rights to and all monies or orders granted to persons as assistance shall be inalienable by assignment, transfer, attachment, trustee process, execution, or otherwise. In case of bankruptcy, the assistance shall not pass to or through a trustee or other person acting on behalf of creditors.

Subchapter 4. Prohibited Practices; Penalties

§ 241. FRAUD

(a) A person who knowingly fails, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose a material fact used to determine whether that person is qualified to receive aid or benefits under a State or federally funded assistance program; or who knowingly fails to disclose a change in circumstances in order to obtain or continue to receive aid or benefits to which the person is not entitled or in an amount larger than that to which the person is entitled; or who knowingly aids and abets another person in the commission of any such act shall be punished as provided in section 143 of this title.

(b) A person who knowingly uses, transfers, acquires, traffics, alters, forges, or possesses; or who knowingly attempts to use, transfer, acquire, traffic, alter, forge, or possess; or who knowingly aids and abets another person in the use, transfer, acquisition, traffic, alteration, forgery, or possession

of a Supplemental Nutrition Assistance Program benefit card, authorization for the purchase of Supplemental Nutrition Assistance Program benefits, certificate of eligibility for medical services, or State health care program identification card in a manner not authorized by law shall be punished as provided in section 143 of this title.

(c) A person who administers a State or federally funded assistance program who fraudulently misappropriates, attempts to misappropriate, or aids and abets in the misappropriation of a Supplemental Nutrition Assistance Program benefit, authorization for Supplemental Nutrition Assistance Program benefits, a Supplemental Nutrition Assistance Program benefit identification card, certificate of eligibility for prescribed medicine, State health care program identification card, or assistance from any other State or federally funded program with which the person has been entrusted or of which the person has gained possession by virtue of the person's position; or who knowingly misappropriates, attempts to misappropriate, or aids or abets in the misappropriation of funds given in exchange for Supplemental Nutrition Assistance Program benefits shall be punished as provided in section 143 of this title.

(d) A person who knowingly files, attempts to file, or aids and abets in the filing of a claim for services to a recipient of benefits under a State or federally funded assistance program for services that were not rendered; or who knowingly files a false claim or a claim for unauthorized items or services under such a program; or who knowingly bills the recipient of benefits under such a program or the recipient's family for an amount in excess of that provided for by law or regulation; or who knowingly fails to credit the State or its agent for payments received from Social Security, insurance, or other sources; or who in any way knowingly receives, attempts to receive, or aids and abets in the receipt of unauthorized payment as provided herein shall be punished as provided in section 143 of this title.

(e) A person providing service for which compensation is paid under a State or federally funded assistance program who requests, and receives, either actually or constructively, any payment or contribution through a payment, assessment, gift, devise, bequest, or other means, whether directly or indirectly, from either a recipient of assistance from the assistance program or from the family of the recipient shall notify the Commissioner of Economic Empowerment or the Commissioner of Vermont Health Access, on a form provided by the Commissioner, of the amount of the payment or contribution and of such other information as specified by the Commissioner of Economic Empowerment or the Commissioner of Vermont Health Access within 10 days after the receipt of the payment or contribution or, if the payment or

contribution is to become effective at some time in the future, within 10 days after the consummation of the agreement to make the payment or contribution. Failure to notify the Commissioner of Economic Empowerment or the Commissioner of Vermont Health Access within the time prescribed is punishable as provided in section 143 of this title.

(f) Repayment of assistance or services wrongfully obtained shall not constitute a defense to or ground for dismissal of criminal charges brought under this section.

§ 242. BRINGING PERSON IN NEED INTO THE STATE

(a) Any person who knowingly brings or causes to be brought a person in need from out of the state into this State for the purpose of securing assistance for the person in need or making the person in need a public charge shall be obligated to support the person in need at the person's own expense for as long as the person in need or persons dependent on the person in need remain in the State.

(b) The Commissioner may bring a civil action on this statute to enforce support of the person in need and the person's dependents. In the action, the court may make an order, which shall be subject to change by the court from time to time as the circumstances require, directing the defendant to pay a certain sum periodically to the Department for the benefit of the person in need and the person's dependents residing in the State. The court may punish for violation of the order as for contempt.

§ 243. GENERAL PENALTY

(a) A person who knowingly violates a provision of this title for which no penalty is specifically provided shall:

(1) if the assistance or benefits obtained pursuant to a single fraudulent scheme or a course of conduct are in violation of subsection 241(a) or (b) of this title involving \$1,000.00 or less, be fined not more than the amount of assistance or benefits wrongfully obtained or be imprisoned not more than one year, or both;

(2) if the assistance or benefits obtained pursuant to a single fraudulent scheme or course of conduct are in violation of subsection 241(a) or (b) of this title and involve more than \$1,000.00, be fined not more than an amount equal to the assistance or benefits wrongfully obtained or be imprisoned not more than three years, or both; or

(3) if the violation is under subsection 241(c), (d), or (e) of this title, be fined up to \$1,000.00 or up to an amount equal to twice the amount of assistance, benefits, or payments wrongfully obtained or be imprisoned for not

more than 10 years, or both.

(b) If the person convicted is receiving assistance, benefits, or payments, the Commissioner of Economic Empowerment or the Commissioner of Vermont Health Access may recoup the amount of assistance or benefits wrongfully obtained by reducing the assistance, benefits, or payments periodically paid to the recipient, as limited by federal law, until the amount is fully recovered.

(c) If a provider of services is convicted of a violation of subsection 241(d) or (e) of this title, the Commissioner of Vermont Health Access shall, within 90 days following the conviction, suspend the provider from further participation in the medical assistance program administered under Title XIX of the Social Security Act for a period of four years. The suspension required by this subsection may be waived by the Secretary of Human Services only upon a finding that the recipients served by the convicted provider would suffer substantial hardship through a denial of medical services that could not reasonably be obtained through another provider.

§ 243a. CIVIL REMEDIES

(a) A person who violates subsection 241(c), (d), or (e) of this title with actual knowledge may be subject to a civil suit by the Attorney General for:

(1) restitution of the amount of assistance, benefits, or payments wrongfully obtained;

(2) interest; and

(3) a civil penalty of up to three times the amount of the wrongfully obtained assistance, benefits, or payments; \$500.00 per false claim; or \$500.00 for each false document submitted in support of a false claim, whichever is greatest.

(b) The remedies provided in this section shall be in addition to any other remedies provided by law.

(c) The right to a jury trial shall attach to actions under this section.

§ 243b. EDUCATION AND INFORMATION

The Department of Vermont Health Access shall issue rules establishing a procedure for health care providers enrolled in State and federally funded medical assistance programs to obtain advisory opinions regarding coverage and reimbursement under those programs. Each advisory opinion issued by the Department of Vermont Health Access shall be binding on that Department and the party or parties requesting the opinion only with regard to the specific questions posed in the opinion, the facts and information set forth in it, and the

statutes and rules specifically noted in the opinion.

§ 244. STATUTORY CONSTRUCTION

(a) Section 243 of this title shall not preclude prosecution under 13 V.S.A. § 1801, 1802, or 2002 when the alleged violation involves forging an economic assistance check or where duplicate economic assistance checks have been wrongfully negotiated during any one welfare period.

(b) Section 243 of this title shall not preclude prosecution under any other title or sections of this title when the alleged violation is under subsection 241(c) or (d) of this title.

Sec. 49. 33 V.S.A. § 1001 is amended to read:

§ 1001. DEFINITIONS

As used in this chapter:

* * *

(8) “Commissioner” means the Commissioner ~~for Children and Families or his or her~~ of Economic Empowerment or designee.

(9) “Department” means the Department ~~for Children and Families of~~ Economic Empowerment.

* * *

Sec. 50. 33 V.S.A. § 1101 is amended to read:

§ 1101. DEFINITIONS

As used in this chapter:

* * *

(8) “Commissioner” means the Commissioner ~~for Children and Families or his or her~~ of Economic Empowerment or designee.

(9) “Department” means the Department ~~for Children and Families of~~ Economic Empowerment.

* * *

Sec. 51. 33 V.S.A. § 1107 is amended to read:

§ 1107. CASE MANAGEMENT; FAMILY DEVELOPMENT PLANS;
COORDINATED SERVICES

* * *

(d) The Secretary of Education, with the assistance and support of the Commissioner ~~for Children and Families of Economic Empowerment~~, the Commissioner of Disabilities, Aging, and Independent Living, and the Commissioner of Labor, shall develop and implement comparable and reciprocally recognized literacy assessment protocols that will be used for all clients seeking adult education and literacy services; related services of the Agency of Education; or the services of the Department of Disabilities, Aging, and Independent Living, the Department of Labor, or the Department ~~for Children and Families of Economic Empowerment~~, when such services are being sought for the purpose of developing or strengthening competencies or skills related to the clients' current or future employment. Such protocols shall, to the extent practicable, utilize the same terminology and apply comparable criteria, consistent with individual program purposes and authorization, in determining when testing, other standardized measurement tools, or referrals to relevant professionals for evaluation or diagnosis are appropriate.

* * *

Sec. 52. 33 V.S.A. § 1201 is amended to read:

§ 1201. DEFINITIONS

As used in this chapter:

* * *

(4) "Commissioner" means the Commissioner ~~for Children and Families or his or her of Economic Empowerment or~~ designee.

(5) "Department" means the Department ~~for Children and Families of~~ Economic Empowerment.

* * *

Sec. 53. 33 V.S.A. § 1301 is amended to read:

§ 1301. ELIGIBILITY REQUIREMENTS—~~;~~ GENERAL

To be eligible for State aid to the aged, blind, or disabled, in addition to the requirements in sections 1301–1303 of this chapter governing eligibility for a specific program, an individual shall:

* * *

(4) Not have sufficient income or other resources to provide a reasonable subsistence compatible with decency and health, and not be receiving or able to secure support from persons legally responsible for the individual's support. In determining whether the income of an applicant for or

a recipient of aid is sufficient, the Department ~~for Children and Families of Economic Empowerment~~ may disregard, within the limits of available funds, income used to further the purposes of rehabilitation and self-support.

Sec. 54. 33 V.S.A. § 1306 is amended to read:

§ 1306. APPLICATION AND INVESTIGATION

Applications for State aid to the aged, blind, or disabled may be made at any office of the Department ~~for Children and Families of Economic Empowerment~~. Upon receipt of an application, the Commissioner ~~for Children and Families of Economic Empowerment~~ shall investigate and prescribe the amount of the grant to be given, if any. No individual shall receive more than one type of grant or aid under this chapter.

Sec. 55. 33 V.S.A. § 1307 is amended to read:

§ 1307. AMOUNT OF STATE AID

The amount of State aid to which an eligible individual is entitled shall be determined with due regard to the income, resources, and maintenance available to the individual and, when an eligible individual lives with the individual's ineligible spouse or a ~~needy~~ an essential person in need, or both, as defined by the Commissioner, with due regard to the needs of the ineligible spouse and with due regard to the needs, income, and resources of the ~~needy~~ essential person in need. To the extent funds are available, aid shall provide a reasonable subsistence compatible with decency and health. The Commissioner ~~for Children and Families of Economic Empowerment~~ may by rule fix maximum amounts of aid and take measures to ensure that the expenditures for the programs shall not exceed the funds provided for them.

Sec. 56. 33 V.S.A. § 1308 is amended to read:

§ 1308. RULES

In fixing standards and adopting rules under this chapter, the Commissioner ~~for Children and Families of Economic Empowerment~~ shall be guided by the statutory standards set forth in this chapter, which standards shall not be deemed necessarily to incorporate by reference decisional or statutory law applicable to the aid to the aged, blind, and disabled program in effect prior to January 1, 1974.

Sec. 57. 33 V.S.A. § 1701 is amended to read:

§ 1701. SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM

* * *

(d) As used in this chapter, “Commissioner” means the Commissioner for ~~Children and Families of Economic Empowerment~~ and “Department” means the Department for ~~Children and Families of Economic Empowerment~~.

Sec. 58. 33 V.S.A. § 1702 is amended to read:

§ 1702. PAYMENT ERROR RATE REPORT

On or before January 1 of the year following any federal fiscal year in which the State of Vermont receives a federal sanction for a payment error rate greater than the federal threshold in the Supplemental Nutrition Assistance Program (SNAP), the Department for ~~Children and Families of Economic Empowerment~~ shall report to the Senate Committee on Appropriations regarding:

(1) the number of households that received SNAP benefits and were discovered to have an overpayment or underpayment in the sanction year due to agency error, including the average amount of the overpayments and underpayments and the total amount of each; and

(2) the Department’s specific plans for sanction reinvestment to improve its error rate for the next federal fiscal year and prevent sanction in the future.

Sec. 59. 33 V.S.A. § 1901b is amended to read:

§ 1901b. PHARMACY PROGRAM ENROLLMENT

(a) The Department of Vermont Health Access and the Department for ~~Children and Families of Economic Empowerment~~ shall monitor actual caseloads, revenue, and expenditures; anticipated caseloads, revenue, and expenditures; and actual and anticipated savings from implementation of the preferred drug list, supplemental rebates, and other cost containment activities in each State pharmaceutical assistance program, including VPharm. When applicable, the Departments shall allocate supplemental rebate savings to each program proportionate to expenditures in each program.

* * *

Sec. 60. 33 V.S.A. § 2101 is amended to read:

§ 2101. DEFINITIONS

As used in this chapter:

(1) “Commissioner” means the Commissioner for ~~Children and Families of Economic Empowerment~~.

* * *

Sec. 61. 33 V.S.A. § 2103 is amended to read:

§ 2103. ELIGIBILITY

(a) Consistent with available appropriations, the Department ~~for Children and Families~~ of Economic Empowerment shall furnish General Assistance under this chapter, except as provided in this section, to any otherwise eligible individual unable to provide the necessities of life for the individual and for those whom the individual is legally obligated to support. Except for those in catastrophic situations as defined in rules, no General Assistance shall be provided in the following situations:

(1) to any individual whose income from any source, including the Department ~~for Children and Families~~ of Economic Empowerment, during the 30 days immediately preceding the date on which assistance is sought is equal to the General Assistance eligibility standard; and

(2) to any able-bodied individual without minor dependents included in ~~his or her~~ the individual's application.

* * *

(e) As used in this section, “able-bodied individual” does not include a person subject to such conditions as are determined, by rule of the Commissioner ~~for Children and Families~~ of Economic Empowerment, to constitute barriers to employment.

(f) [Repealed.]

Sec. 62. 33 V.S.A. § 2114 is amended to read:

§ 2114. RENTAL OR MORTGAGE ARREARAGE PROGRAM

(a) The Department ~~for Children and Families~~ of Economic Empowerment shall provide up to three months of rental or mortgage arrearage assistance to eligible families. Assistance under this section is not an entitlement and shall be limited to the funds appropriated.

* * *

Sec. 63. 33 V.S.A. § 2115 is amended to read:

§ 2115. GENERAL ASSISTANCE PROGRAM REPORT

On or before September 1 of each year, the Commissioner ~~for Children and Families~~ of Economic Empowerment shall submit a written report to the Joint Fiscal Committee; the House Committees on Appropriations, on General, and Housing, ~~and Military Affairs~~, and on Human Services; and the Senate Committees on Appropriations and on Health and Welfare. The report shall

contain the following:

* * *

Sec. 64. 33 V.S.A. § 2301 is amended to read:

§ 2301. BURIAL RESPONSIBILITY

* * *

(d) As used in this chapter:

(1) “Burial” means the final disposition of human remains, including interring or cremating a decedent and the ceremonies directly related to that cremation or interment at the gravesite.

(2) “Department” means the Department ~~for Children and Families of~~ Economic Empowerment.

(3) “Funeral” means the ceremonies prior to burial by interment, cremation, or other method.

Sec. 65. 33 V.S.A. § 2607 is amended to read:

§ 2607. PAYMENTS TO FUEL SUPPLIERS

* * *

(g)(1) The Public Utility Commission shall require natural gas suppliers subject to regulation under 30 V.S.A. § 203 to provide a discount program to customers with incomes ~~no~~ not greater than 200 percent of the federal poverty level or who meet the Department ~~for Children and Families² of Economic Empowerment’s~~ means test of eligibility for LIHEAP crisis fuel assistance. Eligibility for the discount shall be verified by the Department ~~for Children and Families of Economic Empowerment~~.

* * *

Sec. 66. 33 V.S.A. § 3901 is amended to read:

§ 3901. DEFINITIONS

As used in this chapter:

(1) “Order of support” means any judgment or order for the support of dependent children issued by any court of the State of Vermont or another state or an order under an administrative proceeding of another state, including an order in a final decree of divorce.

(2) “Custodial parent” means any person with whom a dependent child actually resides, whether or not the parent is receiving public assistance benefits under chapter 11 of this title, or the Commissioner for Children and

Families if the dependent child is under the care and control of ~~that~~ the Department for Children and Families.

(3) "Department" means the Vermont Department ~~for Children and Families~~ of Economic Empowerment.

* * *

Sec. 67. 33 V.S.A. § 3902 is amended to read:

§ 3902. ASSIGNMENT OF SUPPORT RIGHTS BY PUBLIC ASSISTANCE RECIPIENTS; PROCEEDINGS TO ESTABLISH SUPPORT OBLIGATION

(a) As a condition of eligibility for public assistance, each applicant or recipient shall assign to the Department any right to support from a responsible parent that has accrued at the time of the assignment and that the applicant may have in the applicant's own behalf or on behalf of any other family member for whom the applicant is applying or receiving assistance.

(b) An assignment in effect under this section shall be subject to the provisions of section 4106 of this title.

(c) Whenever a support obligation is in effect against a responsible parent for the benefit of a dependent child or a custodial parent, payments required under the support obligation shall be sent to the Office of Child Support upon notice to the responsible parent, without further order of the court. When an assignment is in effect pursuant to subsection (a) of this section, any amounts accrued under the support obligation as of the date of assignment, and any amount accruing while the assignment is in effect, shall be owing to and payable to the Department ~~for Children and Families~~ without further order of the court.

* * *

(e) If a support order has been entered and the legal custodian and obligee relinquishes physical responsibility of the child to a caretaker without modifying the physical rights and responsibilities order, the Office of Child Support may change the payee of support upon the caretaker's receipt of Reach Up family assistance from the Department ~~for Children and Families~~. The obligor's obligation under the support order to pay child support and medical support continues but shall be payable to the Office of Child Support upon the caretaker's receipt of Reach Up family assistance and shall continue ~~so~~ for as long as the assignment is in effect. The Office of Child Support shall notify the obligor and obligee under the support order, by first-class mail at last known address, of the change of payee.

Sec. 68. 33 V.S.A. § 3903 is amended to read:

§ 3903. CHILD SUPPORT DEBT

(a) Except as otherwise provided in this section, any payment of Reach Up financial assistance made to or for the benefit of a dependent child creates a debt due and owing to the Department ~~for Children and Families~~ by any responsible parent in an amount equal to the amount of Reach Up financial assistance paid.

(b) Collection of child support debts shall be made as provided by this section and section 3902 of this title and by 15 V.S.A. chapter 11, subchapter 7. Regardless of the amount of Reach Up financial assistance paid, the court may limit the child support debt, taking into consideration the criteria of 15 V.S.A. § 659. The Department ~~for Children and Families~~ and the responsible parent may limit the child support debt by stipulation, which shall be enforceable on its terms unless it is modified.

Sec. 69. TRANSFER OF RULEMAKING AUTHORITY; TRANSFER OF
RULES TO THE DEPARTMENT OF ECONOMIC
EMPOWERMENT

(a) The statutory authority to adopt the following rules by the Department for Children and Families adopted under 3 V.S.A. chapter 25 is transferred from the Department for Children and Families to the Department of Economic Empowerment:

- (1) Child Support Guidelines (CVR 13-161-001);
- (2) OCS Administrative Review (CVR 13-161-002);
- (3) Reach First Program (CVR 13-170-210);
- (4) Reach Up (CVR 13-170-220);
- (5) Reach Up Services (CVR 13-170-230);
- (6) Postsecondary Education (CVR 13-170-240);
- (7) Reach Ahead (CVR 13-170-250);
- (8) General Assistance (CVR 130-170-260);
- (9) Assistance to the Aged, Blind, or Disabled (CVR 130-170-270);
- (10) Emergency Assistance (CVR 130-170-280);
- (11) Fuel (CVR 130-170-290); and
- (12) Refugee Cash Assistance (CVR 130-170-300).

(b) All rules listed in subsection (a) of this section adopted by the Department for Children and Families under 3 V.S.A. chapter 25 prior to July 1, 2024 shall be deemed the rules of the Department of Economic Empowerment and remain in effect until amended or repealed by the Department of Economic Empowerment pursuant to 3 V.S.A. chapter 25.

(c) The Department of Economic Empowerment shall provide notice of the transfer to the Secretary of State and the Legislative Committee on Administrative Rules in accordance with 3 V.S.A. § 848(d)(2).

*** * * Parental Leave Benefit Program * * ***

Sec. 70. 21 V.S.A. § 472 is amended to read:

§ 472. LEAVE

* * *

(b) During the leave, at the employee's option, the employee may use accrued sick leave or vacation leave, or any other accrued paid leave, not to exceed six weeks. In lieu of using sick leave, vacation leave, or other accrued paid leave, an employee may use parental leave benefits provided pursuant to 33 V.S.A. § 2001 not to exceed 12 weeks. Accrued paid leave and parental leave benefits provided pursuant to 33 V.S.A. § 2001 may be used sequentially but not concurrently. Utilization of accrued paid leave or parental leave benefits provided pursuant to 33 V.S.A. § 2001, or both, shall not extend the leave provided herein by this section.

* * *

Sec. 71. 33 V.S.A. chapter 20 is added to read:

CHAPTER 20. PARENTAL LEAVE BENEFIT PROGRAM

§ 2001. PARENTAL LEAVE BENEFIT PROGRAM

(a)(1) An eligible parent who is employed prior to the birth or adoption of a child and who intends to return to employment either with the same employer or a new employer after a parental leave may apply to the Department of Children and Families to receive a parental leave benefit for up to 12 weeks during which the eligible parent is caring for the child and unable to work. Only one eligible parent in a two-parent household shall apply for and receive the parental leave benefit established in this section. The benefits provided pursuant to this section shall be available for leaves that begin on or after January 1, 2024.

(2)(A) The weekly benefit provided to an eligible parent shall be \$600.00 or the average weekly wage of the eligible parent during the six

month period preceding the commencement of the leave, whichever is less.

(B) The benefit amount shall be calculated in increments of one full day, which shall be one-fifth of the eligible parent's weekly benefit amount.

(3) The benefit shall be paid by the Department to the eligible parent within 14 days after the Department approves the parent's application or within 14 days after the parental leave begins, whichever is last occurring, and subsequent payments shall be made biweekly.

(4) The parental leave for which the eligible parent may receive benefits shall be a single, continuous period ending within one year after the date on which the child was born or placed with the eligible parent for adoption.

(b)(1) The Department shall develop an application for the parental leave benefit using a simple, plain-language format, which shall be available in both electronic and paper formats.

(2) The Department shall develop and make available on the Department's website information and materials to educate the public regarding the availability of the parental leave benefit and the requirements to obtain the benefit.

(c)(1) To receive the parental leave benefit, an eligible parent shall submit:

(A) an application;

(B) a signed certification from the eligible parent's employer that the eligible parent is currently employed by the employer or was employed by the employer within 30 days prior to the beginning of the parental leave; and

(C) a statement of intent to return to employment or seek new employment following the parental leave.

(2) An eligible parent may submit an application with the signed certification and statement of intent to the Department in anticipation of a birth or the initial placement of a child for adoption or during the eligible parent's parental leave. The Department shall provide retroactive payments to an eligible parent provided the completed application, signed certification, and statement of intent are received not more than eight weeks after the leave began.

(d)(1) Benefits paid pursuant to this section may be used as wage replacement for a leave taken pursuant to 21 V.S.A. § 472 or the federal Family and Medical Leave Act, 29 U.S.C. §§ 2611–2654.

(2) The receipt of benefits paid pursuant to this section shall not extend the leave provided pursuant to 21 V.S.A. § 472 or the federal Family and

Medical Leave Act.

(3) Nothing in this section shall be construed to alter the job protection and employment-related rights provided pursuant to 21 V.S.A. § 472 or the federal Family and Medical Leave Act or to provide job protection or employment-related rights that are in addition to the rights provided pursuant to those laws.

(e) As used in this section:

(1) “Eligible parent” means an individual whose annual gross family income is not more than 600 percent of the current federal poverty level and who is either:

(A) the parent of a child born within the preceding 12 months; or

(B) an individual with whom the initial placement of a child 10 years of age or younger for purposes of adoption has occurred within the preceding 12 months.

(2) “Parent” means an individual who:

(A) is a parent to a child, regardless of whether the relationship is a biological, adoptive, or step relationship; or

(B) has day-to-day responsibilities to care for and financially support a child.

(3) “Parental leave” means a leave of absence from employment by an eligible parent following:

(A) the birth of the eligible parent’s child; or

(B) the initial placement of a child 10 years of age or younger with the eligible parent for purposes of adoption.

Sec. 72. 33 V.S.A. § 2002 is amended to read:

§ 2001. PARENTAL LEAVE BENEFIT PROGRAM

(a)(1) An eligible parent who is employed prior to the birth or adoption of a child and who intends to return to employment either with the same employer or a new employer after a parental leave may apply to the Department of ~~Children and Families~~ Economic Empowerment to receive a parental leave benefit for up to 12 weeks during which the eligible parent is caring for the child and unable to work. Only one eligible parent in a two-parent household shall apply for and receive the parental leave benefit established in this section. ~~The benefits provided pursuant to this section shall be available for leaves that begin on or after January 1, 2024.~~

* * *

* * * Appropriations * * *

Sec. 73. APPROPRIATIONS

(a) In fiscal year 2024, \$90,000,000.00 is appropriated from the General Fund to the Department for Children and Families for the purpose of funding the Child Care Financial Assistance Program pursuant to Secs. 2–4b of this act and the parental leave benefit pursuant to Secs. 70–71 of this act.

(b) In fiscal year 2024, \$150,000.00 is appropriated to Building Bright Futures for consultation and transition assistance services required pursuant to Secs. 6 and 13 of this act.

* * * Effective Dates * * *

Sec. 74. EFFECTIVE DATES

(a) Except as provided in subsection (b) of this section, this act shall take effect on July 1, 2023, with the Department for Children and Families making child care subsidies available to Vermont residents who have an immigration status for which Child Care Financial Assistance Program participation is not available pursuant to 33 V.S.A. § 3552 beginning on July 1, 2024, subject to fiscal year 2025 appropriations for this purpose.

(b)(1) Secs. 1b and 1c (relating to an additional Deputy Secretary within the Agency of Education) shall take effect on July 1, 2024.

(2) Sec. 2 (Child Care Financial Assistance Program; eligibility), Sec. 3 (provider rate adjustment; Child Care Financial Assistance Program); Sec. 4 (payment to providers for school age children); Sec. 4a (payment to providers for children birth through four years of age; high quality incentive program), and Sec. 4b (High-Quality Early Care and Education Special Fund) shall take effect on January 1, 2024, except that the Commissioner for Children and Families shall adopt any rules necessary prior to that date in order to perform the Commissioner's duties under this act.

(3) Secs. 14–16 (property tax exemption; property used by child care providers) shall take effect on July 1, 2024.

(4) Secs. 17–69 (relating to the reorganization of the Department for Children and Families and creation of the Department of Economic Empowerment) shall take effect on July 1, 2024.

(5) Secs. 70–71 (relating to the parental leave benefit program) shall take effect on January 1, 2024.

(6) Sec. 72 (parent leave benefit program) shall take effect on July 1, 2024.

(Committee vote: 3-2-0)

Reported favorably with recommendation of amendment by Senator Cummings for the Committee on Finance.

The Committee recommends that the bill be amended as recommended by the Committee on Health and Welfare with the following amendments thereto:

First: By striking out Sec. 2, 33 V.S.A. § 3512, in its entirety and inserting in lieu thereof a new Sec. 2 to read as follows:

Sec. 2. 33 V.S.A. § 3512 is amended to read:

§ 3512. CHILD CARE FINANCIAL ASSISTANCE PROGRAM;
ELIGIBILITY

(a)(1) The Child Care Financial Assistance Program is established to subsidize, to the extent that funds permit, the costs of child care for families that need child care services in order to obtain employment, to retain employment, or to obtain training leading to employment. Families seeking employment shall be entitled to participate in the Program for up to three months and the Commissioner may further extend that period.

(2) The subsidy authorized by this subsection shall be established by the Commissioner, by rule, and shall bear a reasonable relationship to income and family size. Families shall be found eligible using an income eligibility scale based on the current federal poverty level and adjusted for the size of the family. Co-payments shall be assigned to the whole family and shall not increase if more than one eligible child is enrolled in child care. Families with an annual gross income of less than or equal to ~~150~~ 185 percent of the current federal poverty guidelines shall not have a family co-payment. Families with an annual gross income up to and including ~~350~~ 600 percent of current federal poverty guidelines, adjusted for family size, shall be eligible for a subsidy authorized by the subsection. The scale shall be structured so that it encourages employment. If the federal poverty guidelines decrease in a given year, the Division shall maintain the previous year's federal poverty guidelines for the purpose of determining eligibility and benefit amount under this subsection.

(3) Earnings deposited in a qualified child education savings account, such as the Vermont Higher Education Investment Plan, established in 16 V.S.A. § 2877, or any similar plan qualified under 26 U.S.C. § 529, shall be disregarded in determining the amount of a family's income for the purpose of determining continuing eligibility.

(4) ~~After September 30, 2021,~~ a A regulated center-based child care program or family child care home as defined by the Department in rule shall not receive funds pursuant to this subsection that are in excess of the usual and customary rate for services at the center-based child care program or family child care home.

(5) The Department shall ensure that applications for the Child Care Financial Assistance Program use a simple, plain-language format. Applications shall be available in both electronic and paper formats.

Second: By striking out Secs. 14–16, 32 V.S.A. §§ 3802(22), 3800(q), and 5401(7), and their reader assistance heading in their entirety and inserting in lieu thereof the following:

* * * Repeals; Child Tax Credit * * *

Sec. 14. REPEALS; CHILD TAX CREDIT

The following are repealed:

- (1) 32 V.S.A. § 5830f (Vermont child tax credit); and
- (2) 32 V.S.A. § 5813(y) (statutory purpose; Vermont child tax credit).

* * * Child Care and Parental Leave Contribution * * *

Sec. 15. 32 V.S.A. chapter 246 is added to read:

CHAPTER 246. CHILD CARE AND PARENTAL LEAVE
CONTRIBUTION

§ 10551. PURPOSE

The Child Care and Parental Leave Contribution is established to provide funding for State support of child care and the Parental Leave Benefit Program established pursuant to 33 V.S.A. § 2201.

§ 10552. DEFINITIONS

As used in this chapter:

(1) “Covered wages” means wages paid to an employee by an employer up to the amount of the Social Security Contribution and Benefit Base.

(2) “Employee” means an individual who receives payments with respect to services performed for an employer from which the employer is required to withhold Vermont income tax pursuant to chapter 151, subchapter 4 of this title.

(3) “Employer” means a person who employs one or more employees who is required to withhold income tax from wages paid to the employees pursuant to chapter 151, subchapter 4 of this title.

(4) “Self-employed individual” means a sole proprietor or partner owner of an unincorporated business, the sole member of an LLC, or the sole shareholder of a corporation.

(5) “Self-employment income” has the same meaning as in 26 U.S.C. § 1402.

(6) “Wages” means payments that are included in the definition of wages set forth in 26 U.S.C. § 3401.

§ 10553. CONTRIBUTION; RATE; COLLECTION

(a)(1) Each employer shall pay the Child Care and Parental Leave Contribution on all covered wages paid to each of the employer’s employees and shall remit those amounts to the Department of Taxes pursuant to the provisions of this section. An employer may deduct and withhold from an employee’s covered wages an amount equal to not more than one quarter of the contribution required pursuant to subsection (b) of this section. An employer shall pay the contributions required pursuant to this section as if the contributions were Vermont income tax subject to the withholding requirements of chapter 151, subchapter 4 of this title, including the requirements relating to the time and manner of payment.

(2) Each self-employed individual shall pay the Child Care and Parental Leave Contribution on the individual’s self-employment income and shall remit those amounts to the Department of Taxes pursuant to the provisions of this section. A self-employed individual shall make installment payments of estimated contributions pursuant to this subdivision from the enrolled self-employed individual’s self-employment income as if the contributions were Vermont income tax subject to the estimated payment requirements of 32 V.S.A. chapter 151, subchapter 5, including the time and manner of payment.

(b) The contribution rate shall be 0.42 percent of each employee’s covered wages and each self-employed individual’s self-employment income.

(c)(1) The Department shall collect the contributions required pursuant to this section. The administrative and enforcement provisions of chapter 151 of this title shall apply to the contribution requirements under this section as if the contributions required pursuant to this section were Vermont income tax, except penalty and interest shall apply according to chapter 103 of this title.

(2) Employers shall be responsible for the full amount of any unpaid contributions due pursuant to subdivision (a)(1) of this section. Self-employed

individuals shall be responsible for the full amount of any unpaid contributions due pursuant to subdivision (a)(2) of this section.

§ 10554. CHILD CARE AND PARENTAL LEAVE CONTRIBUTION
SPECIAL FUND

(a) The Child Care and Parental Leave Contribution Special Fund is created pursuant to chapter 7, subchapter 5 of this title and shall be administered by the Department for Children and Families and the Department of Taxes. Monies in the Fund may be expended by the Department of Taxes for the administration of the Child Care and Parental Leave Contribution created under this chapter, by the Department for Children and Families for benefits provided by State supported child care and under the Parental Leave Benefit Program established pursuant to 33 V.S.A. § 2201, and by the Departments for necessary costs incurred in administering the Fund. All interest earned on Fund balances shall be credited to the Fund.

(b) The Fund shall consist of:

(1) contributions collected or recovered pursuant to section 10553 of this title;

(2) any amounts transferred or appropriated to the Fund by the General Assembly; and

(3) any interest earned by the Fund.

(c) The Departments may seek and accept grants from any source, public or private, to be dedicated for deposit into the Fund.

Sec. 16. DEPARTMENT OF TAXES; POSITIONS

The establishment of the following 15 new permanent classified positions is authorized in the Department of Taxes in fiscal year 2024:

(1) eight full-time, classified tax examiners within the Taxpayer Services Division;

(2) two full-time, classified tax examiners within the Compliance Division;

(3) three full-time, classified tax compliance officers within the Compliance Division;

(4) one full-time, classified financial specialist III within the Revenue Accounting and Returns Processing Division; and

(5) one business analyst–tax within the VTax Division.

Third: By striking out Secs. 70, 71, and 72, Parental Leave Benefit

Program, in their entirety and inserting in lieu thereof new Secs. 70, 71, and 72 to read as follows:

Sec. 70. 21 V.S.A. § 472 is amended to read:

§ 472. LEAVE

* * *

(b) During the leave, at the employee's option, the employee may use accrued sick leave or, vacation leave, or any other accrued paid leave, not to exceed six weeks. In lieu of using sick leave, vacation leave, or other accrued paid leave, an employee may use parental leave benefits provided pursuant to 33 V.S.A. § 2201 not to exceed 12 weeks. Accrued paid leave and parental leave benefits provided pursuant to 33 V.S.A. § 2201 may be used sequentially but not concurrently. Utilization of accrued paid leave or parental leave benefits provided pursuant to 33 V.S.A. § 2201, or both, shall not extend the leave provided herein by this section.

* * *

Sec. 71. 33 V.S.A. chapter 22 is added to read:

CHAPTER 22. PARENTAL LEAVE BENEFIT PROGRAM

§ 2201. PARENTAL LEAVE BENEFIT PROGRAM

(a)(1)(A) An eligible parent may apply to the Department for Children and Families to receive a parental leave benefit for up to 12 weeks during which the eligible parent is caring for the child and unable to work if the eligible parent is:

(i) either employed or self-employed prior to the birth or adoption of a child; and

(ii) intends to either:

(I) return to employment or self-employment after the parental leave; or

(II) seek new employment or self-employment after the parental leave.

(B) Only one eligible parent in a two-parent household shall apply for and receive the parental leave benefit established in this section.

(C) The benefits provided pursuant to this section shall be available for leaves that begin on or after January 1, 2024.

(2)(A) The weekly benefit provided to an eligible parent shall be \$600.00 or the average weekly wage or self-employment income of the

eligible parent during the six month period preceding the commencement of the leave, whichever is less.

(B) The benefit amount shall be calculated in increments of one full day, which shall be one-fifth of the eligible parent's weekly benefit amount.

(3) The benefit shall be paid by the Department to the eligible parent within 14 days after the Department approves the parent's application or within 14 days after the parental leave begins, whichever is last occurring, and subsequent payments shall be made biweekly.

(4) The parental leave for which the eligible parent may receive benefits shall be a single, continuous period ending within one year after the date on which the child was born or placed with the eligible parent for adoption.

(b)(1) The Department shall develop an application for the parental leave benefit using a simple, plain-language format, which shall be available in both electronic and paper formats.

(2) The Department shall develop and make available on the Department's website information and materials to educate the public regarding the availability of the parental leave benefit and the requirements to obtain the benefit.

(c)(1) To receive the parental leave benefit, an eligible parent shall submit:

(A) an application;

(B) either:

(i) a signed certification from the eligible parent's employer that the eligible parent is currently employed by the employer or was employed by the employer within 30 days prior to the beginning of the parental leave; or

(ii) proof of self-employment income earned in Vermont during the prior calendar year or, if the individual did not earn self-employment income in Vermont during the prior calendar year, proof of self-employment income earned in Vermont during the current calendar year; and

(C) a statement of intent to return to employment or self-employment or to seek new employment or self-employment following the parental leave.

(2) An eligible parent may submit an application and other required materials to the Department in anticipation of a birth or the initial placement of a child for adoption or during the eligible parent's parental leave. The Department shall provide retroactive payments to an eligible parent, provided the completed application and other required materials are received not more than eight weeks after the leave began.

(d)(1) Benefits paid pursuant to this section may be used as wage replacement for a leave taken pursuant to 21 V.S.A. § 472 or the federal Family and Medical Leave Act, 29 U.S.C. §§ 2611–2654.

(2) The receipt of benefits paid pursuant to this section shall not extend the leave provided pursuant to 21 V.S.A. § 472 or the federal Family and Medical Leave Act.

(3) Nothing in this section shall be construed to alter the job protection and employment-related rights provided pursuant to 21 V.S.A. § 472 or the federal Family and Medical Leave Act or to provide job protection or employment-related rights that are in addition to the rights provided pursuant to those laws.

(e) As used in this section:

(1) “Eligible parent” means an individual whose annual gross family income is not more than 600 percent of the current federal poverty level and who is either:

(A) the parent of a child born within the preceding 12 months; or

(B) an individual with whom the initial placement of a child 10 years of age or younger for purposes of adoption has occurred within the preceding 12 months.

(2) “Parent” means an individual who:

(A) is a parent to a child, regardless of whether the relationship is a biological, adoptive, or step relationship; or

(B) has day-to-day responsibilities to care for and financially support a child.

(3) “Parental leave” means a leave of absence from employment or self-employment by an eligible parent following:

(A) the birth of the eligible parent’s child; or

(B) the initial placement of a child 10 years of age or younger with the eligible parent for purposes of adoption.

Sec. 72. 33 V.S.A. § 2201 is amended to read:

§ 2201. PARENTAL LEAVE BENEFIT PROGRAM

(a)(1)(A) An eligible parent may apply to the Department ~~for Children and Families of Economic Empowerment~~ to receive a parental leave benefit for up to 12 weeks during which the eligible parent is caring for the child and unable to work if the eligible parent is:

* * *

(C) ~~The benefits provided pursuant to this section shall be available for leaves that begin on or after January 1, 2024. [Repealed.]~~

* * *

Fourth: In Sec. 73, appropriations, by adding a new subsection (c) to read as follows:

(c) In fiscal year 2024, the amount of \$6,504,916.00 is appropriated from the General Fund to the Department of Taxes to be used for the implementation of the Child Care and Parental Leave Contribution pursuant to 32 V.S.A. chapter 246 created by this act.

Fifth: In Sec. 74, effective dates, by striking out subdivision (b)(3) (property tax exemption; property used by child care providers) in its entirety and inserting in lieu thereof new subdivisions (b)(3) and (b)(4) to read as follows:

(3) Notwithstanding 1 V.S.A. § 214, Sec. 14 (repeals; child tax credit) shall take effect retroactively on January 1, 2023 and shall apply to taxable years beginning on and after January 1, 2023.

(4) Sec. 15, 32 V.S.A. chapter 246, (child care and parental leave contribution) shall take effect on July 1, 2024.

And by renumbering the remaining subdivisions to be numerically correct.

(Committee vote: 5-1-1)

S. 91.

An act relating to competency to stand trial and insanity as a defense.

Reported favorably with recommendation of amendment by Senator Sears for the Committee on Judiciary.

The Committee recommends 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. § 4801 is amended to read:

§ 4801. TEST OF INSANITY IN CRIMINAL CASES

(a) The test when used as a defense in criminal cases shall be as follows:

(1) A person is not responsible for criminal conduct if at the time of such conduct as a result of mental disease or defect ~~he or she~~ the person lacks adequate capacity either to appreciate the criminality of ~~his or her~~ the person's conduct or to conform ~~his or her~~ the person's conduct to the requirements of law.

(2) The terms "mental disease or defect" do not include an abnormality manifested only by repeated criminal or otherwise ~~anti-social~~ antisocial conduct. The terms "mental disease or defect" ~~shall include~~ includes congenital and traumatic mental conditions as well as disease.

(b) The defendant shall have the burden of proof in establishing insanity as an affirmative defense by a preponderance of the evidence. The defendant shall be responsible for hiring the defendant's own forensic evaluator for the purpose of establishing insanity provided that the State shall pay for the evaluation of an indigent defendant.

Sec. 2. 13 V.S.A. § 4814 is amended to read:

§ 4814. ORDER FOR EXAMINATION

(a) Any court before which a criminal prosecution is pending may order the Department of Mental Health to have the defendant examined by a psychiatrist at any time before, during, or after trial, and before final judgment in any of the following cases:

(1) ~~when the defendant enters a plea of not guilty, or when such a plea is entered in the defendant's behalf, and then gives notice of the defendant's intention to rely upon the defense of insanity at the time of the alleged crime, or to introduce expert testimony relating to a mental disease, defect, or other condition bearing upon the issue of whether he or she had the mental state required for the offense charged; [Repealed.]~~

(2) when the defendant, the State, or an attorney, guardian, or other person acting on behalf of the defendant, raises before such court the issue of whether the defendant is mentally competent to stand trial for the alleged offense; or

(3) ~~when the court believes that there is doubt as to the defendant's sanity at the time of the alleged offense; or [Repealed.]~~

(4) when the court believes that there is doubt as to the defendant's mental competency to be tried for the alleged offense.

(b) ~~Such~~ The order may be issued by the court on its own motion, or on motion of the State, the defendant, or an attorney, guardian, or other person acting on behalf of the defendant. The examination shall be at the expense of

the moving party, provided that the State shall pay for the competency evaluation of an indigent defendant whose competency is at issue.

(c) An order issued pursuant to this section or Rule 16.1 of the Vermont Rules of Criminal Procedure shall order the release of all relevant records to the examiner, including all juvenile and adult court, mental health, and other health records.

(d) Notwithstanding any other provision of law, an examination ordered pursuant to subsection (a) of this section may be conducted by a doctoral-level psychologist trained in forensic psychology and licensed under 26 V.S.A. chapter 55. This subsection shall be repealed on July 1, 2024.

Sec. 3. 13 V.S.A. § 4815 is amended to read:

§ 4815. PLACE OF EXAMINATION; TEMPORARY COMMITMENT

* * *

(c) A motion for examination shall be made as soon as practicable after a party or the court has good faith reason to believe that there are grounds for an examination. A motion for an examination shall detail the facts indicating incompetency on which the motion is based and shall certify that the motion is made after the moving party has met with or personally observed the defendant. An attorney making such a motion shall be subject to the potential sanctions of Rule 11 of the Vermont Rules of Civil Procedure.

(d) Upon the making of a motion for examination, if the court finds sufficient facts to order an examination, the court shall order a mental health screening to be completed by a designated mental health professional while the defendant is still at the court.

(e) If the screening cannot be commenced and completed at the courthouse within two hours from the time of the defendant's appearance before the court, the court may forgo consideration of the screener's recommendations.

(f) The court and parties shall review the recommendation of the designated mental health professional and consider the facts and circumstances surrounding the charge and observations of the defendant in court. If the court finds sufficient facts to order an examination, it may be ordered to be completed in the least restrictive environment deemed sufficient to complete the examination, consistent with subsection (a) of this section.

* * *

~~(h) Except upon good cause shown, defendants~~ Defendants charged with misdemeanor offenses who are not in the custody of the Commissioner of Corrections shall be examined on an outpatient basis for mental competency

unless the court makes findings on the record that there is good cause for an inpatient evaluation. Examinations occurring in the community shall be conducted at a location within 60 miles of the defendant's residence or at another location agreed to by the defendant.

* * *

Sec. 4. 13 V.S.A. § 4816 is amended to read:

§ 4816. SCOPE OF EXAMINATION; REPORT; EVIDENCE

(a) Examinations provided for in section 4815 of this title shall have reference to ~~one or both of the following:~~

~~(1) mental competency of the person examined to stand trial for the alleged offense.~~

~~(2) sanity of the person examined at the time of the alleged offense.~~

(b) A competency evaluation for an individual thought to have a developmental disability shall include a current evaluation by a psychologist skilled in assessing individuals with developmental disabilities.

~~(c)(1)~~ As soon as practicable after the examination has been completed, the examining psychiatrist or, if applicable under subsection (b) of this section, ~~the psychiatrist and the psychologist~~ shall prepare a report containing findings in regard to the applicable provisions of subsection (a) of this section. The report shall be transmitted to the court issuing the order for examination, and copies of the report sent to the State's Attorney, to the respondent, to the respondent's attorney if the respondent is represented by counsel, to the Commissioner of Mental Health, and, if applicable, to the Department of Disabilities, Aging, and Independent Living.

~~(2) If the court orders examination of both the person's competency to stand trial and the person's sanity at the time of the alleged offense, those opinions shall be presented in separate reports and addressed separately by the court. In such cases, the examination of the person's sanity shall only be undertaken if the psychiatrist or, if applicable under subsection (b) of this section, the psychiatrist and the psychologist are able to form the opinion that the person is competent to stand trial, unless the defendant requests that the examinations occur concurrently. If the evaluation of the defendant's sanity at the time of the alleged offense does not occur until the defendant is deemed competent to stand trial, the psychiatrist or, if applicable under subsection (b) of this section, the psychiatrist and the psychologist shall make a reasonable effort to collect and preserve any evidence necessary to form an opinion as to sanity if the person regains competence.~~

(d) No statement made in the course of the examination by the person examined, whether or not ~~he or she~~ the person has consented to the examination, shall be admitted as evidence in any criminal proceeding for the purpose of proving the commission of a criminal offense or for the purpose of impeaching testimony of the person examined.

(e) The relevant portion of a psychiatrist's report shall be admitted into evidence as an exhibit on the issue of the person's mental competency to stand trial and the opinion shall be conclusive on the issue if agreed to by the parties and if found by the court to be relevant and probative on the issue.

(f) Introduction of a report under subsection (d) of this section shall not preclude either party or the court from calling the psychiatrist who wrote the report as a witness or from calling witnesses or introducing other relevant evidence. Any witness called by either party on the issue of the defendant's competency shall be at the State's expense, or, if called by the court, at the court's expense.

Sec. 5. 13 V.S.A. § 4817 is amended to read:

§ 4817. COMPETENCY TO STAND TRIAL; DETERMINATION

(a) A defendant shall be presumed to be competent and shall have the burden of proving incompetency by a preponderance of the evidence.

(b) A person shall not be tried for a criminal offense if ~~he or she~~ the person is found incompetent to stand trial by a preponderance of the evidence.

~~(b)~~(c) If a person indicted, complained, or informed against for an alleged criminal offense, an attorney or guardian acting in ~~his or her~~ the person's behalf, or the State, at any time before final judgment, raises before the court before which such person is tried or is to be tried, the issue of whether such person is incompetent to stand trial, or if the court has reason to believe that such person may not be competent to stand trial, a hearing shall be held before such court at which evidence shall be received and a finding made regarding ~~his or her~~ the person's competency to stand trial. However, in cases where the court has reason to believe that such person may be incompetent to stand trial due to a mental disease or mental defect, such hearing shall not be held until an examination has been made and a report submitted by an examining psychiatrist in accordance with sections 4814-4816 of this title.

~~(e)~~(d) A person who has been found incompetent to stand trial for an alleged offense may be tried for that offense if, upon subsequent hearing, such person is found by the court having jurisdiction of ~~his or her~~ the person's trial for the offense to have become competent to stand trial.

Sec. 6. 13 V.S.A. § 4820 is amended to read:

§ 4820. HEARING REGARDING COMMITMENT

(a) When a person charged on information, complaint, or indictment with a criminal offense:

(1) ~~Is reported by the examining psychiatrist following examination pursuant to sections 4814-4816 of this title to have been insane at the time of the alleged offense. [Repealed.]~~

(2) ~~Is~~ is found upon hearing pursuant to section 4817 of this title to be incompetent to stand trial due to a mental disease or mental defect;

(3) ~~Is~~ is not indicted upon hearing by grand jury by reason of insanity at the time of the alleged offense, duly certified to the court; ~~or~~

(4) ~~Upon~~ upon trial by court or jury is acquitted by reason of insanity at the time of the alleged offense; the court before which such person is tried or is to be tried for such offense, shall hold a hearing for the purpose of determining whether such person should be committed to the custody of the Commissioner of Mental Health. Such person may be confined in jail or some other suitable place by order of the court pending hearing for a period not exceeding ~~15~~ 21 days.

(b) When a person is found to be incompetent to stand trial, has not been indicted by reason of insanity for the alleged offense, or has been acquitted by reason of insanity at the time of the alleged offense, the person shall be entitled to have counsel appointed from Vermont Legal Aid to represent the person. The Department of Mental Health and, if applicable, the Department of Disabilities, Aging, and Independent Living shall be entitled to appear and call witnesses at the proceeding.

(c) Notwithstanding any other provision of law, a commitment order issued pursuant to this chapter shall not modify or vacate orders concerning conditions of release or bail issued pursuant to chapter 229 of this title, and the commitment order shall remain in place unless expressly modified, provided that inpatient treatment shall be permitted if a person who is held without bail is found to be in need of inpatient treatment under this chapter.

Sec. 7. COMPETENCY RESTORATION PROGRAM PLAN

On or before November 15, 2023, the Department of Mental Health and the Department of Disabilities, Aging, and Independent Living shall report to the Governor, the Senate Committees on Judiciary and on Health and Welfare, and the House Committees on Judiciary, on Health Care, and on Human Services on whether a plan for a competency restoration program should be adopted in

Vermont. If a competency restoration plan is recommended, the report shall include recommendations for best practices, any changes to law necessary to establish the program, estimated costs, and a proposal for implementing the program.

Sec. 8. JOINT LEGISLATIVE JUSTICE OVERSIGHT COMMITTEE REVIEW; COMPETENCY AND SANITY EXAMINATIONS

(a) The Joint Legislative Justice Oversight Committee shall review whether Vermont law should permit competency and sanity examinations of defendants under 13 V.S.A. § 4814 to be conducted, in addition to psychiatrists and doctoral-level psychologists trained in forensic psychology, by other doctoral-level mental health providers, psychiatric nurse practitioners, or any other professionals. The Committee's recommendation under subsection (b) of this section shall reflect its determination of which professionals, if any, should be permitted to conduct the competency and sanity examinations.

(b) On or before November 15, 2023, the Committee shall recommend any changes it deems advisable to 13 V.S.A. § 4814(d) (permitting competency and sanity examinations by doctoral-level psychologists trained in forensic psychology) to the Senate and House Committees on Judiciary.

Sec. 9. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

(Committee vote: 5-0-0)

CONCURRENT RESOLUTIONS FOR NOTICE

Concurrent Resolutions For Notice Under Joint Rule 16

The following joint concurrent resolutions have been introduced for approval by the Senate and House. They will be adopted by the Senate unless a Senator requests floor consideration before the end of the session of the next legislative day. Requests for floor consideration should be communicated to the Secretary's Office.

H.C.R. 57 -70 (For text of Resolutions, see Addendum to House Calendar for March 23, 2023)

CONFIRMATIONS

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given

to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Utility Commission shall be fully and separately acted upon.

John Hollar of Montpelier – Member of the Capitol Complex Commission – By Senator Wrenner for the Committee on Institutions (2/21/23)

Mark Nicholson of West Danville – Member of the Transportation Board – By Senator Ingalls for the Committee on Transportation (2/24/23)

Owen Foster of Jericho – Chair, Green Mountain Care Board – By Senator Lyons for the Committee on Health and Welfare (3/15/23)

June Tierney of Randolph Center – Commissioner, Department of Public Service – By Senator Cummings for the Committee on Finance (3/16/23)

Joe Flynn of South Hero – Secretary, Agency of Transportation – By Senator Mazza for the Committee on Transportation (3/22/23)

Wanda Minoli of Montpelier – Commissioner, Department of Motor Vehicles – By Senator Perchlik for the Committee on Transportation (3/22/23)

Jennifer Morrison of North Hero – Commissioner, Department of Public Safety – By Senator Chittenden for the Committee on Transportation (3/22/23)

Jennifer Fitch of Montpelier – Commissioner, Department of Buildings and General Services – By Senator Mazza for the Committee on Institutions (3/23/23)

Susan Hayward of Middlesex – Member of the Capitol Complex Commission – By Senator Wrenner for the Committee on Institutions (3/24/23)

Heather Shouldice of Leicester – Member of the Capitol Complex Commission – By Senator Wrenner for the Committee on Institutions (3/24/23)

NOTICE OF JOINT ASSEMBLY

March 28, 2023 - 1:00 P.M. - House Chamber - Retention of a Chief Justice and four Associate Justices of the Supreme Court and eight Superior Court Judges.

FOR INFORMATION ONLY

CROSSOVER DATES

The Joint Rules Committee established the following crossover deadlines:

(1) All **Senate/House** bills must be reported out of the last committee of reference (including the Committees on Appropriations and Finance/Ways and Means, except as provided below in (2) and the exceptions listed below) on or before **Friday, March 17, 2023**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day – Committee bills must be voted out of Committee by **Friday, March 17, 2023**.

(2) All **Senate/House** bills referred pursuant to Senate Rule 31 or House Rule 35(a) to the Committees on Appropriations and Finance/Ways and Means must be reported out by the last of those committees on or before **Friday, March 24, 2023**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

Note: The Senate will not act on bills that do not meet these crossover deadlines, without the consent of the Senate Rules Committee.

Exceptions to the foregoing deadlines include the major money bills (the general Appropriations bill (“The Big Bill”), the Transportation Capital bill, the Capital Construction bill and the Fee/Revenue bills)