

1 S.33

2 Introduced by Senator Sears

3 Referred to Committee on

4 Date:

5 Subject: Court procedure; criminal procedure; miscellaneous amendments

6 Statement of purpose of bill as introduced: This bill proposes to make a
7 number of miscellaneous amendments related to civil and criminal procedure
8 statutes.

9 An act relating to miscellaneous judiciary procedures

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

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

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 This section shall be repealed on June 30, 2027.

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

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

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

1 ~~judge, with the Justice's or judge's consent, to any special assignment in the~~
2 Superior Court or the Judicial Bureau.

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

7 * * *

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

9 § 27. COURT TECHNOLOGY SPECIAL FUND

10 There is established the Court Technology Special Fund ~~which~~ that shall be
11 managed in accordance with 32 V.S.A. chapter 7, subchapter 5.

12 Administrative fees collected pursuant to 13 V.S.A. § 7252 and revenue
13 collected pursuant to fees established pursuant to sections 1105 and 1109 of
14 this title shall be deposited and credited to this Fund. The Fund shall be
15 available to the Judicial Branch to pay for contractual and operating expenses
16 and project-related staffing not covered by the General Fund related to the
17 following:

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

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

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

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

6 § 27b. ~~ELECTRONICALLY FILED VERIFIED DOCUMENTS~~ SELF-
7 ATTESTED DECLARATION IN LIEU OF NOTARIZATION

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

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

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

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

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

2 § 32. JURISDICTION; CRIMINAL DIVISION

3 * * *

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

6 * * *

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

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

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

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

14 * * *

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

16 § 5. DISSEMINATION OF ELECTRONIC CASE RECORDS

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

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

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

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

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

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

11 § 4853a. PAYMENT OF RENT INTO COURT; EXPEDITED HEARING

12 * * *

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

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

2 § 5531. RULES GOVERNING PROCEDURE

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

12 (b) Parties may not request claims for relief other than money damages
13 under this chapter. Nor may parties split a claim in excess of ~~\$5,000.00~~
14 \$10,000.00 into two or more claims under this chapter.

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

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

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

2 § 5804. OATH TO BE ADMINISTERED TO PETIT JURORS IN
3 CRIMINAL CAUSES

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

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

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

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

13 § 7403. APPEAL BY THE STATE

14 (a) In a prosecution for a misdemeanor, questions of law decided against
15 the State shall be allowed and placed upon the record before final judgment.
16 The court may pass the same to the Supreme Court before final judgment. The
17 Supreme Court shall hear and determine the questions and render final
18 judgment thereon, or remand the cause for further trial or other proceeding, as
19 ~~justice and the State of the cause may require.~~

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

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

6 (1) granting a motion to suppress evidence;

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

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

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

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

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

17 (e) The appeal in all cases shall be taken within seven business days after
18 the decision, judgment, or order has been rendered. In cases where the
19 defendant is detained for lack of bail, he or she shall be released pending the
20 appeal upon such conditions as the court shall order unless bail is denied as
21 provided in the Vermont Constitution or in other pending cases. Such appeals

1 ~~shall take precedence on the docket over all cases and shall be assigned for~~
2 hearing or argument at the earliest practicable date and expedited in every way.

3 (f) For purposes of this section, “prosecution for a misdemeanor” and
4 “prosecution for a felony” shall include delinquency and youthful offender
5 proceedings filed pursuant to 33 V.S.A. chapters 52 and 52A, and the State
6 shall have the same right of appeal in those proceedings as it has in criminal
7 proceedings under this section.

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

9 § 3098. VULNERABLE NONCITIZEN CHILDREN

10 * * *

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

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

2 § 1213. IGNITION INTERLOCK RESTRICTED DRIVER'S LICENSE OR
3 CERTIFICATE; PENALTIES

4 * * *

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

15 * * *

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

21

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

2 § 1102. JUDICIAL BUREAU; JURISDICTION

3 (a) The Judicial Bureau is created within the Judicial Branch under the
4 supervision of the Supreme Court.

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

6 * * *

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

9 * * *

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

11 § 1591. SHERIFFS AND OTHER OFFICERS

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

16 (1) Civil process:

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

18 (i) \$10.00 for each reading or copy in which the officer is directed

19 to make an arrest,

1 (ii) ~~\$75.00 upon presentation of each return of service for the~~
2 service of papers relating to divorce, annulments, separations, or support
3 complaints;
4 (iii) ~~\$75.00 upon presentation of each return of service for the~~
5 service of papers relating to civil suits except as provided in ~~subdivisions (ii)~~
6 ~~and subdivision (vii) of this subdivision (1)(A);~~
7 (iv) ~~\$75.00 upon presentation of each return of service for the~~
8 service of a subpoena and shall be limited to that one fee for each return of
9 service;
10 (v) ~~for each arrest, \$15.00;~~
11 (vi) ~~for taking bail, \$15.00;~~
12 (vii) ~~on levy of execution or order of foreclosure: for each mile of~~
13 actual travel in making a demand, sale, or adjournment, the rate allowed State
14 employees under the terms of the prevailing contract between the State and the
15 Vermont State Employees' Association, Inc.; for making demand, \$15.00 for
16 posting notices, \$15.00 each, and the rate per mile allowed State employees
17 under the terms of the prevailing contract between the State and the Vermont
18 State Employees' Association, Inc. for each mile of necessary travel; for notice
19 of continuance, \$15.00;

20

1 ~~Sec. 17. 23 V.S.A. § 5117 is amended to read:~~

2 § 5117. RECORDS OF JUVENILE JUDICIAL PROCEEDINGS

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

15 * * *

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

- 17 (1) State's Attorneys and all other law enforcement officers in
18 connection with record checks and other legal purposes; and
19 (2) the National Instant Criminal Background Check System in
20 connection with a background check conducted on a person under 21 years of
21 age pursuant to 18 U.S.C. § 922(t)(1)(C) and 34 U.S.C. § 40901(i).

1 * * *

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

3 § 5225. PRELIMINARY HEARING; RISK ASSESSMENT

4 * * *

5 (b) Risk and needs screening.

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

11 (2) If the child participates in such a screening, the Department or the
12 community provider shall report the risk level result of the screening, the
13 number and source of the collateral contacts made, and the recommendation
14 for charging or other alternatives to the State's Attorney. The State's Attorney
15 shall consider the results of the risk and needs screening in determining
16 whether to file a charge. In lieu of filing a charge, the State's Attorney may
17 refer a child directly to a youth-appropriate community-based provider that has
18 been approved by the Department, which may include a community justice
19 center or a balanced and restorative justice program. Referral to a community-
20 based provider pursuant to this subsection shall not require the State's

21 Attorney to file a charge. If the community-based provider does not accept the

1 ~~case or if the child fails to complete the program in a manner deemed~~
2 satisfactory and timely by the provider, the child's case shall return to the
3 State's Attorney for charging consideration.

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

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

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

21

1 ~~Sec. 19-23 V.S.A. § 5284 is amended to read:~~

2 § 5284. YOUTHFUL OFFENDER DETERMINATION AND DISPOSITION

3 ORDER

4 * * *

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

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

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

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

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

8 Sec. 20. EFFECTIVE DATE

9 ~~This act shall take effect on passage.~~

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

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

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(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;

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(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."

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(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.*

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(1) granting a motion to suppress evidence;

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(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

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(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.