

House Calendar

Tuesday, March 23, 2010

78th DAY OF ADJOURNED SESSION

House Convenes at 10:00 A.M.

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ACTION CALENDAR

Third Reading

H. 709

An act relating to creating a prekindergarten–16 council

Amendment to be offered by Reps. Consejo of Sheldon, Turner of Milton, and Young of St. Albans City to H. 709

Reps. Consejo of Sheldon, Turner of Milton and Young of St. Albans City move that the bill be amended as follows:

First: In Sec. 2, subdivision (b)(15), before the semicolon, by inserting the following: “, and who is not serving nor has served as a trustee of the University of Vermont, the Vermont State Colleges, or the Vermont Student Assistance Corporation”

Second: In Sec. 2, subdivision (b)(16), before the semicolon, by inserting the following: “, and who is not serving nor has served as a trustee of the University of Vermont, the Vermont State Colleges, or the Vermont Student Assistance Corporation”

Amendment to be offered by Rep. Turner of Milton to H. 709

Rep. Turner of Milton moves that the bill be amended as follows:

First: In Sec. 2, subdivision (b)(16), after the semicolon, by deleting the word “and”

Second: In Sec. 2, subdivision (b)(17), after “Inc.”, by first inserting a semicolon and then inserting the following:

(18) a member of the state board of education selected by the chair; and

(19) a member at large appointed by the governor.

Amendment to be offered by Rep. Turner of Milton to H. 709

Rep. Turner of Milton moves that the bill be amended by adding internal captions and two new sections to be Sec. 5a and Sec. 5b to read:

* * * Vermont State Colleges; Trustees * * *

Sec. 5a. 16 V.S.A. § 2172(a)(3) is amended to read:

(3) Four trustees shall be legislative trustees who are members of the general assembly at the time of their election. Legislative trustees shall serve four-year terms expiring on March 1 of the second year of the biennial session,

and they shall be elected by joint assembly of the legislature. Vacancies for any cause shall be filled by the general assembly at the next session, and the term of a person so appointed shall expire on March 1 of the next ~~even numbered~~ even-numbered year. Provided, however, a legislator serving as a trustee under this subdivision cannot simultaneously serve as the chair or vice chair of a standing legislative committee. Further provided that the fiduciary duty each legislative trustee owes to the citizens of Vermont in his or her legislative capacity is paramount to the duty he or she owes to the board of trustees or to the Vermont State Colleges.

* * * University of Vermont; Trustees * * *

Sec. 5b. 16 V.S.A. § 2285 is added to read:

§ 2285. BOARD OF TRUSTEES; LEGISLATIVE MEMBERS

A legislator serving as a member of the board of trustees under 16 App. V.S.A. part 1, chapter 1, § 1-2 cannot simultaneously serve as the chair or vice chair of a standing legislative committee. Furthermore, the fiduciary duty each legislative trustee owes to the citizens of Vermont in his or her legislative capacity is paramount to the duty he or she owes to the board of trustees or to the University of Vermont.

Amendment to be offered by Rep. Fagan of Rutland City to H. 709

Rep. Fagan of Rutland City moves that the bill be amended in Sec. 2, subsection (h), by striking the words "shall meet at least six times yearly" and inserting in lieu thereof the words "may meet as needed at the discretion of the chair in consultation with the members"

Amendment to be offered by Rep. Dickinson of St. Albans Town to H. 709

Rep. Dickinson of St. Albans Town moves that the bill be amended as follows:

First: By striking Sec. 1 in its entirety and inserting in lieu thereof the following:

Sec. 1. INTENT

It is the intention of the state of Vermont to encourage and enable all Vermonters to acquire the secondary and postsecondary education and training necessary for the state to develop and maintain a skilled, highly educated, and engaged citizenry and a competitive workforce.

Second: In Sec. 2, subsection (b), by striking subdivision (17) in its entirety and inserting in lieu thereof a new subdivision (17) to read:

(17) a provider of adult education and literacy services selected by the federally mandated director of adult education in Vermont.

Amendment to be offered by Rep. McDonald of Berlin to H. 709

Rep. McDonald of Berlin moves that the bill be amended as follows:

First: By striking Sec. 1 in its entirety and inserting in lieu thereof the following:

Sec. 1. INTENT

It is the intention of the state of Vermont to encourage and enable all Vermonters to acquire the secondary and postsecondary education and training necessary for the state to develop and maintain a skilled, highly educated, and engaged citizenry and a competitive workforce.

Second: By striking Sec. 1 in its entirety and inserting in lieu thereof the following:

Sec. 2. 16 V.S.A. § 2905 is added to read:

§ 2905. PREKINDERGARTEN–16 COUNCIL

(a) A prekindergarten–16 council (the “council”) is created to help coordinate and better align the efforts of the prekindergarten–12 educational system with the higher education community in order to increase:

- (1) postsecondary aspirations;
- (2) the enrollment of Vermont high school graduates in higher education programs;
- (3) the postsecondary degree completion rates of Vermont students; and
- (4) the number of students who complete high school and graduate with the skills, core knowledge, habits, and attitudes needed to thrive as postsecondary students, employees, and citizens; and
- (5) public awareness of the economic, intellectual, and societal benefits of higher education.

(b) The council shall be composed of:

- (1) the commissioner of education or designee;
- (2) the commissioner of labor or designee;
- (3) the president of the University of Vermont or designee;
- (4) the chancellor of the Vermont State Colleges or designee;

(5) the president of the Vermont Student Assistance Corporation or designee;

(6) the president of the Association of Vermont Independent Colleges or designee;

(7) a principal of a secondary school selected by the Vermont Principals' Association;

(8) a member of a school board selected by the Vermont School Boards Association;

(9) a superintendent selected by the Vermont Superintendents Association;

(10) a teacher selected by the Vermont-National Education Association;

(11) a member of the Building Bright Futures Council or designee;

(12) a technical education director selected by the Vermont Association of Career and Technical Center Directors;

(13) a representative from the business and industry community selected by the Vermont Business Roundtable;

(14) an advocate for low income children selected by Voices for Vermont's Children;

(15) a member of the house of representatives, who shall be selected by the speaker and shall serve until the beginning of the biennium immediately after the one in which the member is appointed;

(16) a member of the senate, who shall be selected by the committee on committees and shall serve until the beginning of the biennium immediately after the one in which the member is appointed; and

(17) a member of the faculty of the Vermont State Colleges, the University of Vermont, or a Vermont independent college selected by United Professions AFT Vermont, Inc.; and

(18) a member of the workforce development council, selected by the council's chair.

(c) The council shall develop and regularly update a statewide plan to increase postsecondary aspirations among students of all ages and otherwise advance the purposes for which the council is created, which shall include strategies to:

(1) increase the percentage of Vermonters who earn an associate's or higher level degree or a postsecondary certification;

(2) identify and address areas of educator preparation that could benefit from improved collaboration between the prekindergarten–12 educational system and the higher education community;

(3) promote early career awareness and nurture postsecondary aspirations;

(4) develop programs that guarantee college admission and financial aid for low income students who successfully complete early commitment requirements;

(5) enhance student engagement in secondary school, ensuring that learning opportunities are relevant, rigorous, and personalized and that all students aspire to and prepare for success in postsecondary learning opportunities;

(6) expand access to dual enrollment programs in order to serve students of varying interests and abilities, including those who are likely to attend college, those who are from groups that attend college at disproportionately low rates, and those who are prepared for a postsecondary curriculum prior to graduation from secondary school;

(7) develop proposals for statewide college and career readiness standards and assessments;

(8) prepare students who may choose to enter the workforce directly after secondary school with levels of skill and knowledge in a particular career area that will be valued in the workplace.

(9) create incentives for adults to begin or continue their postsecondary education or their career and technical education that consider, in part, emerging labor markets; and

(10) ensure implementation of a prekindergarten–16 longitudinal data system, which it shall use to assess the success of the plan required by this subsection.

(d) Together with the secretary of administration or the secretary's designee, a higher education subcommittee of the council shall perform any statutory duties required of it in connection with the higher education endowment trust fund. The following members of the council shall be the members of the higher education subcommittee: the president of the University of Vermont, the chancellor of the Vermont State Colleges, the president of the Vermont Student Assistance Corporation, the president of the Association of Vermont Independent Colleges, the representative from the

business and industry community, the member of the house of representatives, and the member of the senate.

(e) The legislative and higher education staff shall provide support to the council as appropriate to accomplish its tasks. Primary administrative support shall be provided by the legislative council.

(f) For attendance at meetings during adjournment of the general assembly, legislative members of the council shall be entitled to compensation and reimbursement for expenses as provided in 2 V.S.A. § 406, which shall be paid for by the general assembly. Members of the council identified in subdivisions (b)(7)–(14) of this section who are not state employees and whose participation is not otherwise reimbursed shall be entitled to compensation and reimbursement for expenses for attending meetings at the per-diem rate established in 32 V.S.A. § 1010, which shall be paid on a pro-rata basis by the University of Vermont, the Vermont State Colleges, the Vermont Student Assistance Corporation, and the Association of Vermont Independent Colleges.

(g) The council shall annually elect one of its members to be chair.

(h) The council shall meet at least six times yearly.

(i) The council shall report on its activities to the house and senate committees on education and to the state board of education each year in January.

Favorable with amendment

H. 470

An act relating to restructuring of the judiciary

Rep. Lippert of Hinesburg, for the Committee on **Judiciary**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

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

§ 1. ~~SUPREME COURT~~ UNIFIED COURT SYSTEM ESTABLISHED

There shall be a supreme court for the state, which shall be held at the times and places appointed by law. The judiciary shall be a unified court system under the administrative control of the supreme court. It shall consist of an appellate division, which shall be the supreme court, and a trial division, which shall consist of a trial court of general jurisdiction to be known as the superior court, and a judicial bureau.

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

§ 2. SUPREME COURT ESTABLISHED; JURISDICTION

(a) The supreme court shall have exclusive jurisdiction of appeals from judgments, rulings, and orders of the superior court, ~~the district court and all other courts~~, administrative agencies, boards, commissions, and officers unless otherwise provided by law.

* * *

Sec. 3. 4 V.S.A. § 21a is amended to read:

§ 21a. DUTIES OF THE ADMINISTRATIVE JUDGE

(a) The administrative judge shall assign and specially assign superior ~~and district~~ judges, including himself or herself, and environmental judges to the superior, ~~environmental, district, and family courts~~ court. ~~If the administrative judge determines that additional judicial time is needed to address cases filed in environmental court, the judge may assign or specially assign up to four judges on a part-time basis to the environmental court. When assigning or specially assigning judges to the environmental court, the administrative judge shall give consideration to experience and expertise in environmental and zoning law, and shall assign or specially assign judges in a manner to provide appropriate attention to all geographic areas of the state. All superior judges except environmental judges shall be subject to the requirements of rotation as ordered by the supreme court. Assignments made pursuant to the rotation schedule shall be subject to the approval of the supreme court.~~

(b) In making any assignment under this section, the administrative judge shall give consideration to the experience, temperament, and training of a judge and the needs of the court. In making an assignment to the environmental ~~court~~ division, the administrative judge shall give consideration to experience and expertise in environmental and land use law and shall assign or specially assign judges in a manner to provide appropriate attention to all geographic areas of the state.

(c) In making any assignments to the environmental ~~court~~ division under this section, the administrative judge shall regularly assign ~~both environmental judges through August 2008 and a minimum of two judges thereafter~~, at least one of whom shall be an environmental judge. An environmental judge may be assigned to ~~another~~ other divisions in the superior court only with the judge's consent and for a period of time not exceeding two years. When assigned to other divisions in the superior court, the environmental judge shall have all the powers and responsibilities of a superior judge.

Sec. 4. 4 V.S.A. § 22(a) and (b) are amended to read:

(a) The chief justice may appoint and assign a retired justice or judge with his or her consent or a superior judge ~~or district judge~~ to a special assignment on the supreme court. The chief justice may appoint, and the administrative judge shall assign, an active or retired justice or a retired judge, with his or her consent, to any special assignment in the ~~district, family, environmental or superior courts~~ court or the judicial bureau. The administrative judge shall assign a judge to any special assignment in the ~~district, family, environmental or superior court~~. ~~Preference shall be given to superior judges to sit in superior courts. Preference shall be given to district judges to sit in district courts.~~

(b) The administrative judge may appoint and assign a member of the Vermont bar residing within the state of Vermont to serve temporarily as:

- (1) an acting judge in a ~~district, family, environmental, or superior court~~;
- (2) an acting magistrate; or
- (3) an acting hearing officer to hear cases in the judicial bureau.

Sec. 5. 4 V.S.A. § 25(c) is amended to read:

(c) The supreme court may allow supreme court justices, superior ~~court~~ judges, ~~district court judges~~, environmental ~~court~~ judges, magistrates, hearing officers, probate ~~court~~ judges, superior court clerks, or any ~~state-compensated~~ state-compensated employees of the judicial branch not covered by a collective bargaining agreement to take an administrative leave of absence without pay, or with pay if the person is called to active duty in support of an extended national or state military operation. These judicial officers and state employees shall be entitled to be compensated in the same manner as judicial branch employees covered by a collective bargaining agreement called to active duty. The court administrator, at the direction of the supreme court, shall include provisions in the personnel rules of the judiciary to administer these leaves of absence.

Sec. 6. 4 V.S.A. § 26 is amended to read:

§ 26. HALF-TIME JUDGES

Of the superior ~~and district~~ judge positions authorized by this title, up to two may be shared, each by two half-time judges. Of the magistrate positions authorized by this title, one may be shared by two half-time magistrates. Of the hearing officer positions authorized by this title, one may be shared by two half-time hearing officers. Half-time superior ~~and district~~ judges, magistrates, and hearing officers shall be paid proportionally and shall receive the same benefits as state employees who share a job. Half-time judges, magistrates,

and hearing officers shall not engage in the active practice of law for remuneration.

Sec. 7. 4 V.S.A. § 30 is added to read:

§ 30. SUPERIOR COURT

(a)(1) A superior court having statewide jurisdiction is created. The superior court shall have the following divisions:

(A) A civil division, which shall have jurisdiction over the matters described in section 31 of this title. The Vermont Rules of Civil Procedure shall apply in the civil division.

(B) A criminal division, which shall have jurisdiction over the matters described in section 32 of this title. The Vermont Rules of Criminal Procedure shall apply to criminal matters in the criminal division, and the Vermont Rules of Civil Procedure shall apply to civil matters in the criminal division.

(C) A family division, which shall have jurisdiction over the matters described in section 33 of this title. The Vermont Rules of Family Procedure shall apply in the family division.

(D) An environmental division, which shall have jurisdiction over the matters described in section 34 of this title. The Vermont Rules for Environmental Proceedings shall apply in the environmental division.

(2) The supreme court shall promulgate rules, subject to review by the legislative committee on judicial rules under chapter 1 of Title 12, which establish criteria for the transfer of cases between divisions.

(b) The supreme court shall by rule divide the superior court into 14 geographical units which shall follow county lines, except that, subject to the venue requirements of subsection 1001(e) of this title, the environmental division shall be a court of statewide jurisdiction and shall not be otherwise divided into geographical units. The superior court shall be held in each unit of the state.

(c) Terms of the superior court shall be stated by administrative orders of the supreme court. The court administrator shall provide appropriate security services for each court in the state.

* * * Delayed Effective Date * * *

Sec. 7a. 4 V.S.A. § 30 is amended to read:

§ 30. SUPERIOR COURT

(a)(1) A superior court having statewide jurisdiction is created. The superior court shall have the following divisions:

* * *

(E) A probate division, which shall have jurisdiction over the matters described in section 35 of this title. The Vermont Rules of Probate Procedure shall apply in the probate division.

* * *

Sec. 7b. 4 V.S.A. § 31 is added to read:

§ 31. JURISDICTION; CIVIL DIVISION

The civil division shall have:

(1) original and exclusive jurisdiction of all original civil actions, except as otherwise provided in sections 2, 32, 33, 34, 35, and 1102 of this title;

(2) appellate jurisdiction of causes, civil and criminal, appealable to the court; and

(3) original jurisdiction, concurrent with the supreme court, of proceedings in certiorari, mandamus, prohibition, and quo warranto;

(4) exclusive jurisdiction to hear and dispose of any requests to modify or enforce orders in civil cases previously issued by the superior or district court other than orders relating to those actions listed in sections 437 and 454 of this title; and

(5) any other matter brought before the court pursuant to law that is not subject to the jurisdiction of another division.

Sec. 7c. 4 V.S.A. § 32 is added to read:

§ 32. JURISDICTION; CRIMINAL DIVISION

(a) The criminal division shall have jurisdiction to try, render judgment, and pass sentence in prosecutions for felonies and misdemeanors.

(b) The criminal division shall have jurisdiction to try and finally determine prosecutions for violations of bylaws or ordinances of a village, town, or city except as otherwise provided.

(c) The criminal division shall have jurisdiction of the following civil actions:

(1) Appeals of final decisions of the judicial bureau.

(2) DUI license suspension hearings filed pursuant to chapter 24 of Title 23.

- (3) Extradition proceedings filed pursuant to chapter 159 of Title 13.
- (4) Drug forfeiture proceedings under subchapter 2 of chapter 84 of Title 18.
- (5) Fish and wildlife forfeiture proceedings under chapter 109 of Title 10.
- (6) Liquor forfeiture proceedings under chapter 19 of Title 7.
- (7) Hearings relating to refusal to provide a DNA sample pursuant to 20 V.S.A. § 1935.
- (8) Automobile forfeiture and immobilization proceedings under chapters 9 and 13 of Title 23.
- (9) Sex offender proceedings pursuant to 13 V.S.A. §§ 5411(e) and 5411d(f).
- (10) Restitution modification proceedings pursuant to 13 V.S.A. § 7043(h).
- (11) Municipal parking violation proceedings pursuant to 24 V.S.A. § 1974a(e), if the municipality has established an administrative procedure enabling a person to contest the violation, and the person has exhausted the administrative procedure.
- (12) Proceedings to enforce chapter 74 of Title 9, relating to energy efficiency standards for appliances and equipment.
- (13) Proceedings to enforce 21 V.S.A. § 268, relating to commercial building energy standards.

Sec. 7d. 4 V.S.A. § 33 is added to read:

§ 33. JURISDICTION; FAMILY DIVISION

Notwithstanding any other provision of law to the contrary, the family division shall have exclusive jurisdiction to hear and dispose of the following proceedings filed or pending on or after October 1, 1990:

- (1) All desertion and support proceedings and all parentage actions filed pursuant to chapter 5 of Title 15.
- (2) All rights of married women proceedings filed pursuant to chapter 3 of Title 15.
- (3) All enforcement of support proceedings filed pursuant to Title 15B.
- (4) All annulment and divorce proceedings filed pursuant to chapter 11 of Title 15.

(5) All parent and child proceedings filed pursuant to chapter 15 of Title 15.

(6) All grandparents' visitation proceedings filed pursuant to chapter 18 of Title 15.

(7) All uniform child custody proceedings filed pursuant to chapter 19 of Title 15.

(8) All juvenile proceedings filed pursuant to chapters 51, 52, and 53 of Title 33, including proceedings involving "youthful offenders" pursuant to 33 V.S.A. § 5281 whether the matter originated in the district or the family court.

(9) All enforcement of support proceedings filed pursuant to chapter 39 of Title 33.

(10) All protective services for developmentally disabled persons proceedings filed pursuant to chapter 215 of Title 18.

(11) All mental health proceedings filed pursuant to chapters 179, 181, and 185 of Title 18.

(12) All involuntary sterilization proceedings filed pursuant to chapter 204 of Title 18.

(13) All care for mentally retarded persons proceedings filed pursuant to chapter 206 of Title 18.

(14) All abuse prevention proceedings filed pursuant to chapter 21 of Title 15. Any superior judge may issue orders for emergency relief pursuant to 15 V.S.A. § 1104.

(15) All abuse and exploitation proceedings filed pursuant to subchapter 2 of chapter 69 of Title 33.

(16) All proceedings relating to the dissolution of a civil union.

(17) All requests to modify or enforce orders previously issued by the district or superior court relating to any of the proceedings identified in subdivisions (1)–(16) of this section.

Sec. 7e. 4 V.S.A. § 34 is added to read:

§ 34. JURISDICTION; ENVIRONMENTAL DIVISION

The environmental division shall have:

(1) jurisdiction of matters arising under chapters 201 and 220 of Title 10;

(2) jurisdiction of matters arising under chapter 117 and subchapter 12 of chapter 61 of Title 24; and

(3) original jurisdiction to revoke permits under chapter 151 of Title 10.

Sec. 7f. 4 V.S.A. § 35 is added to read:

§ 35. JURISDICTION; PROBATE DIVISION

The probate division shall have jurisdiction of:

(1) the probate of wills;

(2) the settlement of estates;

(3) the administration of trusts created by will pursuant to Title 14A;

(4) trusts of absent persons' estates;

(5) charitable, cemetery, and philanthropic trusts;

(6) irrevocable trusts created by inter vivos agreements solely for the purpose of removal and replacement of trustees pursuant to 14 V.S.A. § 2314(c);

(7) the appointment of guardians, and of the powers, duties, and rights of guardians and wards;

(8) proceedings concerning chapter 231 of Title 18;

(9) accountings of attorneys-in-fact where no guardian has been appointed and the agent has reason to believe the principal is incompetent;

(10) adoptions and relinquishment for adoption;

(11) uniform gifts to minors;

(12) changes of name;

(13) issuance of new birth certificates and amendment of birth certificates;

(14) correction or amendment of civil marriage certificates and death certificates;

(15) emergency waiver of premarital medical certificates;

(16) proceedings relating to cemetery lots;

(17) trusts relating to community mausoleums or columbaria;

(18) civil actions brought under subchapter 3 of chapter 107 of Title 18, relating to disposition of remains;

(19) proceedings relating to the conveyance of a homestead interest of a spouse under a legal disability;

(20) the issuance of declaratory judgments;

(21) issuance of certificates of public good authorizing the civil marriage of persons under 16 years of age;

(22) appointment of administrators to discharge mortgages held by deceased mortgagees;

(23) appointment of trustees for persons confined under sentences of imprisonment;

(24) fixation of compensation and expenses of boards of arbitrators of death taxes of Vermont domiciliaries;

(25) emancipation of minors proceedings filed pursuant to chapter 217 of Title 12; and

(26) other matters as provided by law.

Sec. 8. 4 V.S.A. § 36 is added to read:

§ 36. COMPOSITION OF THE COURT

Unless otherwise specified by law, the superior court is composed of one superior judge sitting alone.

Sec. 9. 4 V.S.A. § 37 is added to read:

§ 37. VENUE

(a) The venue for all actions filed in the superior court, whether heard in the civil, criminal, family, environmental, or probate division, shall be as provided in law.

(b) Notwithstanding any other provision of law, the supreme court may promulgate venue rules, subject to review by the legislative committee on judicial rules under chapter 1 of Title 12, which are consistent with the following policies:

(1) Proceedings involving a case should be heard in the unit in which the case was brought, subject to the following exceptions:

(A) when the parties have agreed otherwise;

(B) status conferences, minor hearings, or other nonevidentiary proceedings; or

(C) when a change in venue is necessary to ensure access to justice for the parties or required for the fair and efficient administration of justice.

(2) The electronic filing of cases on a statewide basis should be facilitated, and the court is authorized to promulgate rules establishing an electronic case filing system.

(3) The use of technology to ease travel burdens on citizens and the courts should be promoted. For example, venue requirements should be deemed satisfied for some court proceedings when a person, including a judge, makes an appearance via video technology, even if the judge is not physically present in the same location as the person making the appearance.

Sec. 10. 4 V.S.A. § 71(a) and (e) are amended to read:

(a) There shall be ~~15~~ 32 superior judges, whose terms of office shall, except in the case of an appointment to fill a vacancy or unexpired term, begin on April 1 in the year of their appointment or retention, and continue for six years.

(e) The supreme court shall designate one of the superior ~~or district~~ judges to serve as administrative judge. The administrative judge shall serve at the pleasure of the supreme court.

Sec. 11. 4 V.S.A. § 73 is amended to read:

§ 73. ASSIGNMENT

~~(a) The supreme court may establish no more than three geographic divisions for the assignment of superior judges. In accordance with the direction of the supreme court, the administrative judge shall assign the superior judges among the geographic units and divisions and shall establish a rotation schedule, both within and outside the division to which the judges are regularly assigned. The rotation schedule shall be on file in the office of the clerk of each superior court, and copies shall be furnished upon request of the superior court. The administrative judge shall assign a presiding judge to each unit and may assign a judge to preside in more than one unit. Only in In a case where a superior judge is disqualified or unable to attend any term of court or part thereof to which he or she has been assigned may, the administrative judge may assign another superior judge to act as presiding judge at that term or part thereof and only for that period during which the assigned judge is disqualified or unable to attend. If during a term of the superior court the court in a unit is unable to complete all or part of the work before it in a reasonable time, the administrative judge, with the approval of the supreme court, may modify judge assignments to reduce delays in that unit.~~

(b) Pursuant to section 21a of this title, the administrative judge shall ~~specialy~~ assign superior judges to hear and determine family court matters. The administrative judge shall insure that such hearings are held promptly.

Any contested divorce case which has been pending for more than one year shall be advanced for prompt hearing upon the request of any party.

~~(c) Notwithstanding subsection (b) of this section, the administrative judge may, pursuant to section 21a of this title, specially assign a district court judge to family court to hear matters specified in subsection (b). As necessary to ensure the efficient operation of the superior court, the presiding judge of the unit may specially assign a superior judge assigned to a division in the unit, including the presiding judge, to preside over one or more cases in a different division. As the administrative judge determines necessary for the operation of the superior court throughout the state, and with the approval of the supreme court, the administrative judge may additionally assign for a specified period of time a superior judge to preside over a particular type of case, or over a particular type of motion or other judicial proceeding, in all or part of the units in the state.~~

Sec. 12. 4 V.S.A. § 75 is amended to read:

§ 75. POWERS OF JUSTICE; ~~OR~~ SUPERIOR JUDGE ~~OR~~ DISTRICT JUDGE AFTER EXPIRATION OF TERM OR VACATION OF OFFICE

Whenever the term of office of a justice, superior judge ~~or district judge, environmental judge, magistrate, or hearing officer~~ expires or ~~he or she~~ otherwise vacates the office, ~~he the justice, judge, magistrate, or hearing officer~~ shall have the same authority to conclude causes ~~he or she has~~ partly or fully heard ~~before him~~ that he ~~or she~~ would have had if ~~he had remained~~ remaining in that office. ~~He~~ The justice, judge, magistrate, or hearing officer may make and sign findings and orders for judgments or decrees in causes pending before him ~~and or her,~~ may make interlocutory orders and decrees.—~~He, and~~ shall be paid compensation commensurate with that paid specially assigned judicial officers as provided by section 23 of this title.

Sec. 13. 4 V.S.A. § 111 is amended to read:

§ 111. SUPERIOR COURT SESSIONS

~~(a) A superior court shall be held in each county at the times and places appointed by law.~~

~~(b) When the business of a superior court cannot otherwise be disposed of with reasonable dispatch, by direction of the administrative judge there may be held additional sessions of that superior court simultaneously with the regular session consisting of a presiding judge and one or more assistant judges, if available.~~

~~(e)(b) A superior court may be temporarily recessed or adjourned from the place designated for holding a regular term or session to another place in the county having adequate facilities, when the regular facilities at the county designated courthouse are not adequate.~~

~~(d) A superior court may be temporarily recessed or adjourned from the place designated for holding a regular term or session to another place outside the county having adequate facilities, when the regular facilities at the county courthouse are not adequate and when the court and all litigants in the case agree to said transfer.~~

~~(e) The administrative judge may assign assistant judges, with their consent, to a special assignment in a court where they have jurisdiction in another county when assistant judges of that county are unavailable or the business of the courts so require.~~

Sec. 14. 4 V.S.A. § 112 is amended to read:

§ 112. COMPOSITION OF COURT CASES INVOLVING BOTH LEGAL AND EQUITABLE CLAIMS

~~(a) The superior court shall consist of one presiding judge and two assistant judges, if available.~~

~~(b) Questions of law and fact. In all proceedings, questions of law shall be decided by the presiding judge. In cases not tried before a jury, questions of fact shall be decided by the court. Mixed questions of law and fact shall be deemed to be questions of law. The presiding judge alone shall decide which are questions of law, questions of fact, and mixed questions of law and fact. Written or oral stipulations of fact submitted by the parties shall establish the facts related therein, except that the presiding judge, in his discretion, may order a hearing on any such stipulated fact. Neither the decision of the presiding judge under this subsection nor participation by an assistant judge in a ruling of law shall be grounds for reversal unless a party makes a timely objection and raises the issue on appeal.~~

~~(c) Availability of assistant judges. If two assistant judges are not available, the court shall consist of one presiding judge and one assistant judge. In the event that court is being held by the presiding judge and one assistant judge, and they do not agree on a decision, a mistrial shall be declared. If neither assistant judge is available, the court shall consist of the presiding judge alone, and the unavailability of an assistant judge shall not constitute reversible error.~~

~~(d) Method of determining availability. Before commencing a hearing in any matter in which the court by law may consist of the presiding judge and~~

~~assistant judges, the assistant judges physically present in the courthouse shall determine whether they are available for the case. If two or more cases are being heard at one time, and assistant judges may by law participate in either, each assistant judge may determine in which case he will participate.~~

~~(e) Duty to complete hearing or trial. After an assistant judge has decided to participate in a hearing or trial, he shall not withdraw therefrom except for cause. However, if he is not available for a scheduled hearing or trial or becomes unavailable during trial, the matter may continue without his participation, and he may not return to participate.~~

~~(f) Emergency relief. A presiding judge may hear a petition for emergency relief when the court is not sitting, and may issue temporary orders as necessary.~~

~~(g) Jury trial. In order to preserve the right to trial by jury, when the claims of one party sound in equity and the claims of the opposing party sound in law, the latter party may demand that the claims be tried separately. Where a party has a right to trial by jury, that party does not waive the right by also seeking temporary or preliminary injunctive relief in the same action issues sounding in law and in equity are presented in the same action, the supreme court shall provide by rule for trial by jury, when demanded, of issues sounding in law.~~

Sec. 15. 4 V.S.A. § 115 is amended to read:

§ 115. STATED TERMS OF SUPERIOR COURT

~~Terms of the superior court shall be stated by the administrative orders of the supreme court. The superior court shall operate continuously irrespective of the term in which events occur. Terms are designated for purposes of determining the rotation schedule of superior judges and the responsibility of a superior judge once a term has expired. When at the expiration of a term a superior judge is no longer assigned to a specified unit, the judge shall complete any matters that have been heard or taken under advisement for that unit. The administrative judge, pursuant to rules of the supreme court, may specially assign a superior judge to continue to preside over one or more cases even though the judge is no longer assigned to the unit of origin of the case or cases. In the absence of such a direction or of an assignment made pursuant to subsection 73(c) of this title, a judge who at the end of a term is no longer assigned to a unit shall have no further responsibility for cases in that unit.~~

Sec. 16. 4 V.S.A. § 219 is amended to read:

§ 219. POWERS OF CHANCELLOR

The powers and jurisdiction of the courts that were heretofore vested in the courts of chancery are vested in the superior court. ~~District Superior,~~

environmental, and probate judges have the powers of a chancellor in passing upon all civil matters which may come before them.

Sec. 17. 4 V.S.A. § 272 is added to read:

§ 272. PROBATE DISTRICTS; PROBATE JUDGES

(a) For the purpose of the election of probate judges, the state is divided into eight probate districts: the northeastern district, the northwestern district, the central district, the Chittenden district, the Addison district, the Rutland district, the eastern district, and the southern district. The northeastern district shall contain the counties of Caledonia, Essex, and Orleans. The northwestern district shall contain the counties of Franklin and Grand Isle. The central district shall contain the counties of Lamoille and Washington. The Chittenden district shall contain the county of Chittenden. The Addison district shall contain the county of Addison. The Rutland district shall contain the county of Rutland. The eastern district shall contain the counties of Orange and Windsor. The southern district shall contain the counties of Bennington and Windham.

(b) Each of the probate judges shall be elected from districts as provided in subsection (a) of this section.

(c) To hold the position of probate judge, a person shall be admitted by the supreme court to practice law. This subsection shall not apply to any person who holds the office of probate judge on July 1, 2010.

(d) The administrative judge may specially assign a probate judge to hear a case in a geographical district other than the district for which the probate judge was elected, and may specially assign a probate judge to hear small claims cases under chapter 187 of Title 12.

Sec. 18. DELETED

Sec. 18a. 4 V.S.A. § 311a is amended to read:

§ 311a. VENUE GENERALLY

For proceedings authorized to the probate courts division of superior court, venue shall lie as provided in Title 14A for the administration of trusts, and otherwise in a probate district of the court as follows:

* * *

(26) Declaratory judgments (unless otherwise provided in Title 14A for proceedings relating to the administration of trusts):

(A) if any related proceeding is then pending in any probate division of the superior court, in that district;

(B) if no proceeding is pending:

(i) in the district where the petitioner resides; or

(ii) if a decedent's estate, a guardian or ward, or trust governed by Title 14 is the subject of the proceeding, in any district where venue lies for a proceeding thereon.

(27) Issuance of certificates of public good authorizing the civil marriage of persons under 16 years of age: in the district or ~~county~~ unit where either applicant resides, if either is a resident of the state; otherwise in the district or ~~county~~ unit in which the civil marriage is sought to be consummated.

(28) Appointment of a trustee for a person confined under a sentence of imprisonment: in the district or ~~county~~ unit in which the person resided at the time of sentence, or in the district or ~~county~~ unit in which the sentence was imposed.

* * *

Sec. 19. 4 V.S.A. § 354 is amended to read:

§ 354. DISQUALIFICATION OF JUDGE OR REGISTER; PENALTY

A probate judge or register shall not act as guardian, executor, administrator, trustee, or in any other fiduciary capacity or as attorney in any ~~probate~~ matter pending in any court in the state while holding either office. A judge or register who violates a provision of this section shall be imprisoned not more than six months, or fined not more than \$500.00, or both.

Sec. 20. 4 V.S.A. § 355 is amended to read:

§ 355. DISQUALIFICATION OR DISABILITY OF JUDGE

When a probate judge is incapacitated for the duties of ~~his~~ office by absence, removal from the district, resignation, sickness, death, or otherwise or if ~~he, his wife~~ the judge or the judge's spouse or child is heir or legatee under a will filed in ~~his~~ the judge's district, or if ~~he~~ the judge is executor or administrator of the estate of a deceased person in his or her district, or is interested as a creditor or otherwise in a question to be decided by the court, he or she shall not act as judge. ~~His~~ The judge's duties shall be performed by ~~the register, if not disqualified, or a judge of another district or an assistant judge of the superior court of the county in which such district is situated. The register or judge shall have jurisdiction to act while such disqualification, incapacity or vacancy exists~~ a superior judge assigned by the presiding judge of the unit.

Sec. 21. 4 V.S.A. § 356 is amended to read:

§ 356. AUTHORITY OF JUDGE AFTER END OF TERM

(a) A probate judge whose term of office has expired, or who has vacated such office, shall have authority to act in the capacity of probate judge to conclude causes and proceedings partly or fully heard before ~~him~~ the judge as probate judge as fully and effectively as he or she could ~~had~~ if he or she remained in such office. He or she may make, sign, and enter findings, decisions, orders, and decrees in causes or proceedings so pending before him or her as probate judge, and all such acts so performed by ~~him~~ the judge shall have as full force and effect as they would have had if he or she had remained in office.

(b) The jurisdiction conferred by subsection (a) of this section shall not be exercised ~~unless the successor to the retiring judge shall file and cause to be recorded in such cause or proceeding within 30 days from the time of assuming office a certificate stating that such cause or proceeding was partly or fully heard before such retiring judge and that jurisdiction thereof shall be retained by such retiring judge~~ if the presiding judge of the unit determines that the successor to the probate judge will assume jurisdiction for all or part of the cases.

(c) A probate judge who exercises the jurisdiction conferred by subsection (a) of this section shall receive compensation at a rate fixed by the ~~successor judge, and the compensation and necessary expenses allowed by the successor judge shall be paid by the state~~ court administrator.

Sec. 22. 4 V.S.A. § 357 is amended to read:

§ 357. REGISTERS OF PROBATE; APPOINTMENT AND REMOVAL;
COMPENSATION; CLERKS

(a) ~~The probate judge shall appoint and remove registers of probate and clerical assistants for the probate courts, who shall be paid by the state and shall be state employees and shall be entitled to all fringe benefits and compensation accorded classified state employees who are similarly situated, as determined by the court administrator subject to any applicable statutory limits, unless otherwise covered by the provisions of a collective bargaining agreement setting forth the terms and conditions of employment, negotiated pursuant to chapter 28 of Title 3~~ court administrator shall appoint a register of probate for each unit. The register of probate, subject to the approval of the court administrator, may designate one or more staff persons as additional registers.

~~(b) Subject to the approval of the court administrator, more than one register of probate may be appointed in any probate district as the business of the court requires.~~

Sec. 23. 4 V.S.A. § 362 is amended to read:

§ 362. OATHS

~~A probate judge or register may administer oaths necessary in the transaction of business before the probate court and oaths required to be administered to persons executing trusts under the appointment of such court.~~

Sec. 24. 4 V.S.A. § 364 is amended to read:

§ 364. COMMITMENT TO ENFORCE ORDERS

If a person does not comply with an order, sentence, or decree of the probate division of the superior court in a proceeding formerly within the jurisdiction of the probate court, the court may issue a warrant committing the person to the custody of the commissioner of corrections until compliance is given.

Sec. 25. 4 V.S.A. § 369 is amended to read:

§ 369. NONRESIDENT'S ESTATE; NOTICE TO COMMISSIONER OF TAXES; INFORMATION TO BANKS

(a) When an executor or administrator is appointed to administer within this state an estate of a deceased person who resided in another state or country at the time of his or her death, the judge of probate ~~so appointing~~ who issued the appointment shall forthwith notify ~~in writing~~ forthwith the commissioner of taxes in writing of ~~such the~~ such the appointment, giving the name and residence of ~~such the~~ such the deceased person at the time of his or her death, the name and residence of the executor or administrator, the date of his or her appointment, and ~~identifying the probate court making such the~~ the appointment.

(b) The commissioner shall keep a full record in each case and upon inquiry made of him or her by any savings bank or savings institution in the state shall at once notify ~~such the~~ such the bank or institution whether, as shown by his or her record, an executor or administrator has been appointed by any ~~probate~~ probate court in the state to administer the estate of the deceased person named in ~~such the~~ such the inquiry. If there has been such an appointment, the commissioner shall furnish the above information to ~~such the~~ such the bank or institution forthwith.

Sec. 26. DELETED

Sec. 27. 4 V.S.A. § 436a is amended to read:

§ 436a. —SPECIAL CIRCUIT AT WATERBURY

There is hereby established a special unit of the ~~district~~ family division of the superior court to hold sessions in the town of Waterbury for the sole purpose of exercising jurisdiction over applications for treatment of mentally ill individuals under Title 18. That unit shall have exclusive jurisdiction of any application for involuntary hospitalization arising under the provisions of 18 V.S.A. §§ 7801, 7803, and 8001 where the proposed patient is confined to the Vermont State Hospital at Waterbury. The special unit shall not exercise any other civil or criminal jurisdiction otherwise exercised by the ~~district court created under section 436 of this title~~ superior court. A ~~district superior~~ judge shall be assigned by the administrative judge to the special unit, ~~who need not be a resident of the town of Waterbury or of the territorial unit in which the town of Waterbury is otherwise located. The district judge assigned to the special unit may be assigned by the administrative judge to serve temporarily in another unit where he may exercise the same jurisdiction as any district judge. If another district judge is assigned to the special unit temporarily, he shall exercise only the jurisdiction conferred on that unit.~~

Sec. 28. DELETED

Sec. 28a. 4 V.S.A. § 455 is amended to read:

§ 455. TRANSFER OF PROBATE PROCEEDINGS

(a) Any guardianship action filed in the probate division of the superior court pursuant to chapter 111, subchapter 2, article 1 of Title 14 and any adoption action filed in the probate court division pursuant to chapter 9 of Title 15 may be transferred to the family division of the superior court as provided in this section.

(b) The family ~~court~~ division shall order the transfer of the proceeding on motion of a party or on its own motion if it finds that the identity of the parties, issues, and evidence are so similar in nature to the parties, issues, and evidence in a proceeding pending in the family court division that transfer of the probate action to the family court division would expedite resolution of the issues or would best serve the interests of justice.

Sec. 29. 4 V.S.A. § 461 is amended to read:

§ 461. OFFICE OF MAGISTRATE; JURISDICTION; SELECTION; TERM

(a) The office of magistrate is created within the family division of the superior court. Except as provided in section 463 of this title, the office of magistrate shall have nonexclusive jurisdiction ~~concurrent with the family court~~ to hear and dispose of the following cases and proceedings:

(1) Proceedings for the establishment, modification, and enforcement of child support.

(2) Cases arising under the Uniform Interstate Family Support Act.

(3) Child support in parentage cases after parentage has been determined.

(4) Cases arising under ~~section 33~~ V.S.A. § 5533 of Title 33, when delegated by ~~the family~~ a presiding judge of the superior court.

(5) Proceedings to establish, modify, or enforce temporary orders for spousal maintenance in accordance with ~~sections 15~~ V.S.A. §§ 594a and 752 of Title 15.

(6) Proceedings to modify or enforce temporary or final parent-child contact orders issued pursuant to this title.

(7) Proceedings to establish parentage.

(8) Proceedings to establish temporary rights and responsibilities and parent-child contact.

(b) A magistrate shall be an attorney admitted to practice in Vermont with at least four years of general law practice. Magistrates shall be nominated, appointed, and confirmed in the manner of superior judges.

~~(c) The term of office of a magistrate shall be six years. Any appointment to fill a vacancy shall be for the unexpired portion of the term vacated. A magistrate may be reappointed by the governor under this section without review by the judicial nominating board, but a reappointment shall require the consent of the senate.~~

(1) Terms of office of magistrates, except in the case of an appointment to fill a vacancy or unexpired term, shall be for a term of six years from and including September 30 in the year of their appointment or retention. A magistrate shall remain in office until a successor is appointed and qualified, unless sooner removed for cause or unless he or she resigns.

(2) A magistrate may file in the office of the secretary of state, on or before September 1 of the year during the expiration of the term for which he or she was appointed or retained, a declaration that he or she will be a candidate to succeed himself or herself. However, a magistrate appointed and having taken the oath of office after September 1 of the year preceding the expiration of the term of office shall automatically be a candidate for retention without filing notice. When a magistrate files such a declaration his or her name shall be submitted to the general assembly for a vote on retention. The general assembly shall vote upon one ballot on the question: "Shall the

following magistrates be retained in office?” The names of the magistrates shall be listed followed by “Yes ___ No ___.” If a majority of those voting on the question vote against retaining a magistrate in office, upon the expiration of the term a vacancy shall exist which shall be filled in accordance with the constitution and chapter 15 of this title. If the majority vote is in favor of retention, the magistrate shall, unless removed for cause, remain in office for another term, and at its end, shall be eligible for retention in office in the manner herein prescribed.

(3) The court administrator shall notify the secretary of state whenever a magistrate is appointed and takes the oath of office after September 1 of the year preceding the expiration of the term of office to which the magistrate has succeeded, thereby resulting in automatic notification of an intention to continue in office. Whenever a magistrate files a declaration under subsection (a) of this section or when notification occurs automatically, the secretary of state shall notify the president of the senate, the speaker of the house, and the legislative council forthwith.

(d) Magistrates shall be exempt employees of the judicial branch, subject to the Code of Judicial Conduct, and, except as provided in section 26 of this title, shall devote full time to their duties. The supreme court shall prescribe training requirements for magistrates.

(e) A magistrate shall have received training on the subject of parent-child contact before being assigned to hear and determine motions filed pursuant to subdivision (a)(6) of this section.

(f) [Repealed.]

Sec. 30. 4 V.S.A. § 462 is amended to read:

§ 462. FINDINGS; ORDERS; STIPULATIONS

(a) The magistrate shall make findings of fact, conclusions, and a decision and shall issue an order. An order issued by a magistrate may be enforced by the family division of the superior court in the ~~county~~ unit in which the magistrate hearing was held. ~~A motion for contempt of a magistrate’s order shall be heard as expeditiously as possible by the family court judge upon motion of either party or upon motion of the family court judge or magistrate.~~

(b) A magistrate may issue an order based on a stipulation regarding any preliminary matter necessary to issue a child support order.

(c) If the stipulation of the parties regarding child support includes matters other than preliminary matters necessary to issue a child support order, the stipulation may be accepted and approved by the magistrate in respect to those

preliminary matters and signed by the magistrate as an order of the family division of the superior court.

(d) A magistrate shall issue an order for child support based upon the actual physical living arrangements of the children during the prior three months if the parties have not stipulated concerning parental rights and responsibilities. If parental rights and responsibilities are contested, the family division of the superior court shall make an order allocating parental rights and responsibilities.

Sec. 31. 4 V.S.A. § 463 is amended to read:

§ 463. JURISDICTION OF FAMILY DIVISION OF SUPERIOR COURT
OVER CHILD SUPPORT

Upon motion of either party, upon motion of the magistrate, or upon the ~~family~~ court's own motion, a judge of the family division of the superior court may hear and determine the issue of child support, provided there is a prior existing support order in effect or an interim or temporary order and the court finds one of the following:

* * *

(4) Such good and substantial cause as the ~~family~~ court may find, consistent with the principle that support cases shall be heard in a timely manner.

Sec. 32. 4 V.S.A. § 601 is amended to read:

§ 601. JUDICIAL NOMINATING BOARD CREATED; COMPOSITION

(a) A judicial nominating board is created for the nomination of supreme court justices, ~~and superior and district~~ judges, magistrates, the chair of the public service board, and members of the public service board.

* * *

(d) The judicial nominating board shall adopt rules under chapter 25 of Title 3 which shall establish criteria and standards for the nomination of qualified candidates for ~~judicial appointment including~~ justices of the supreme court, superior judges, magistrates, the chair of the public service board, and members of the public service board. The criteria and standards shall include, but not be limited to, such factors as integrity, legal knowledge and ability, judicial temperament, impartiality, health, experience, diligence, administrative and communicative skills, social consciousness, and public service.

* * *

Sec. 33. 4 V.S.A. § 602 is amended to read:

§ 602. —DUTIES

(a) Prior to submission of names of qualified candidates for justices of the supreme court, superior judges ~~and district judges~~, magistrates, the chair of the public service board, and members of the public service board to the governor ~~or general assembly as set forth in subsection (b) of this section~~, the board shall submit to the court administrator of the supreme court a list of all candidates, and ~~he~~ the administrator shall disclose to the board information solely about professional disciplinary action taken or pending concerning any candidate. From the list of candidates presented, the judicial nominating board shall select by majority vote, provided that a quorum is present, qualified candidates as set forth in subsection (b) for the position to be filled.

(b) Whenever a vacancy occurs in the office of a supreme court justice, ~~or~~ a superior ~~or district~~ judge, or when an incumbent does not declare that he ~~or she~~ will be a candidate to succeed himself or herself, the judicial nominating board shall submit to the governor the names of as many persons as it deems qualified to be appointed to the office. There shall be included in the qualifications for appointment that the person shall be an attorney at law who has been engaged in the practice of law or a judge in the state of Vermont for a period of at least five out of the ten years preceding ~~his~~ appointment, and with respect to a candidate for superior ~~or district~~ judge particular consideration shall be given to the nature and extent of ~~his~~ the candidate's trial practice.

* * *

Sec. 34. 4 V.S.A. § 603 is amended to read:

§ 603. ~~JUDGES;~~ APPOINTMENT OF JUSTICES, JUDGES,
MAGISTRATES, PUBLIC SERVICE BOARD CHAIRS AND
MEMBERS

Whenever the governor appoints a supreme court justice ~~or~~ a superior ~~or district~~ judge, a magistrate, a chair of the public service board, or a member of the public service board, he ~~shall do so~~ or she shall select from the list of names of qualified persons submitted ~~to him~~ by the judicial nominating board pursuant to law. The names of candidates submitted and not selected shall remain confidential.

Sec. 35. 4 V.S.A. § 605 is amended to read:

§ 605. POLITICAL ACTIVITY BY JUDGES PROHIBITED

Superior ~~and district~~ judges shall not make any contribution to or hold any office in a political party or organization or take part in any political campaign.

Sec. 36. 4 V.S.A. § 608 is amended to read:

§ 608. FUNCTIONS

(a) Declarations submitted to the general assembly by a supreme court justice under subsection 4(c) of this title, by a superior court judge under subsection 71(b) of this title, or by a ~~district court judge under subsection 604(a) of this title~~ magistrate under subsection 461(c) of this title shall be referred immediately to the joint committee on judicial retention. The declarations shall be accompanied by a supporting statement by the judge ~~or~~ the justice, or the magistrate seeking retention. In the case of a ~~district or superior court judge or magistrate~~, the declaration shall also be accompanied by information on the next succeeding rotation schedule for the judge seeking retention.

(b) The joint committee responsible for the recommendation of retention shall review the candidacies of those justices, superior judges, and ~~district judges~~ magistrates desiring to succeed themselves. In conducting its review the committee shall evaluate judicial performance, including but not limited to such factors as integrity, judicial temperament, impartiality, health, diligence, legal knowledge and ability, and administrative and communicative skills.

* * *

(d) A judge ~~or~~ a justice, or a magistrate seeking retention has the right to present oral or written testimony to the committee relative to his or her retention, may be represented by counsel, and may present witnesses to testify in his or her behalf. Copies of written comments received by the committee shall be forwarded to the judge ~~or~~ the justice, or the magistrate. A judge ~~or~~ a justice, or a magistrate seeking retention has the right to a reasonable time period to prepare and present to the committee a response to any testimony or written complaint adverse to his or her retention and has the right to be present during any public hearing conducted by the committee.

* * *

(g) The votes on retention under subsections 4(c), 71(b), and ~~604(a)~~ 461(c) of this title shall be conducted in one joint assembly of the general assembly, except that in the event that the joint committee reports to the general assembly that it is not able to make its recommendation on a particular justice, ~~or~~ judge, or magistrate under subsection (b) of this section on or before the date set for such joint assembly, the vote on such individual or individuals shall be deferred to a subsequent joint assembly, and separate ballots shall be used despite any other statutory provisions relating to the votes on retention.

Sec. 37. 4 V.S.A. § 651 is amended to read:

§ 651. ~~COUNTY CLERK AS CLERK~~ CLERKS OF COURTS

~~Each county clerk shall be clerk of the superior court for the county. The court administrator shall act as clerk of the supreme court as provided in section 8 of this title. The court administrator shall appoint a superior court clerk for each unit. The court administrator may appoint the same person to be clerk in more than one unit. With approval of the court administrator, the clerk shall hire office staff. The clerk shall have the powers and responsibilities formerly held by the clerk of the district court or the family court or the register of the probate court and may delegate specific powers and responsibilities to assigned staff. Unless so designated by the assistant judges of a specific county, with the approval of the court administrator, a superior court clerk shall not also serve as a county clerk.~~

Sec. 38. 4 V.S.A. § 652 is amended to read:

§ 652. RECORDS OF JUDGMENTS AND OTHER PROCEEDINGS;
DOCKETS; CERTIFIED COPIES

The clerk shall:

* * *

(4) Except as provided in section 454 of Title 22, ~~he shall~~ keep on file and preserve all process, pleadings, and papers relating to causes in superior court which together with the records of the court, ~~he~~ or she shall give to any person, on demand and tender of the legal fees, certified copies of any of the records, proceedings or minutes in his or her office, and all proper certificates, under the seal of the court. However, the clerk shall not disclose the filing of an action or release any records, proceedings, or minutes pertaining to it until service of process has been completed; nor shall ~~he~~ the clerk disclose any materials or information required by law to be kept confidential. Original court records shall be maintained for two years after final court action and thereafter may be maintained on microfilm or electronic media.

Sec. 39. 4 V.S.A. § 657 is amended to read:

§ 657. TRANSCRIBING DAMAGED RECORDS

When records in the court clerk's office become faded, defaced, torn, or otherwise injured, so as to endanger the permanent legibility or proper preservation of the same, by an order in writing recorded in the court clerk's office, the court administrator shall direct the court clerk to provide suitable books and transcribe such records therein. At the end of a transcript of record so made, ~~he~~ the clerk shall certify under ~~his~~ official signature and the seal of the court that the same is a true transcript of the original record. Such

transcript or a duly certified copy thereof shall be entitled to the same faith and credit and have the same force as the original record. The expense of making such transcript shall be paid by the ~~county~~ state.

Sec. 40. 4 V.S.A. § 658 is amended to read:

§ 658. SUPREME COURT RECORDS

Whenever the records of the supreme court are transcribed by the ~~county superior court clerk, he~~ the clerk shall forthwith transmit the original of such record to the court administrator for safekeeping, together with a certified copy thereof. The ~~county superior court~~ clerk shall keep on file an additional certified copy of such transcription in place of the original so transmitted. A copy of such original record certified by the court administrator from the original or a copy certified by the ~~county superior court~~ clerk from the transcript retained on file ~~by him~~ shall be entitled to the same faith and credit and have the same force as the original record. The expense of making such transcript and of transmittal of the original record shall be paid by the state.

Sec. 41. 4 V.S.A. § 659 is amended to read:

§ 659. ~~MICROFILMING~~ PRESERVATION OF COURT RECORDS

(a) The supreme court by administrative order may provide for permanent preservation of all court records by ~~microfilming, or by any other~~ photographic or electronic process which will provide compact records in reduced size, in accordance with standards established by the ~~department of buildings and general services of the Vermont agency of administration~~ secretary of state which take into account the quality and security of the ~~microphotographed~~ records, and ready access to the ~~micrographic~~ record of any cause so recorded.

(b) After ~~microfilming~~ preservation in accordance with subsection (a) of this section, the supreme court by administrative order may provide for the disposition of original court records by destruction or in cases where the original court record may have historical or intrinsic value by transfer to ~~an appropriate institutional facility such as the archives of the secretary of state, the department of buildings and general services of the agency of administration,~~ the Vermont historical society, or the ~~university~~ University of Vermont.

Sec. 42. 4 V.S.A. § 691 is amended to read:

§ 691. CLERKS AND ASSISTANTS; APPOINTMENT; COMPENSATION

The superior court clerk, with the approval of the court administrator, ~~with the advice of the district judge concerned,~~ may appoint hire and remove ~~clerks and assistant clerks~~ staff for the district superior court subject to the terms of any applicable collective bargaining agreement. The clerks and ~~assistant clerks~~

staff shall be state employees and shall be entitled to all fringe benefits and compensation accorded classified state employees who are similarly situated, subject to any applicable statutory limits, unless covered by a collective bargaining agreement that sets forth the terms and conditions of employment negotiated pursuant to the provisions of chapter 28 of Title 3.

Sec. 43. 4 V.S.A. § 740 is amended to read:

§ 740. COURT RECORDS; DOCKETS; CERTIFIED COPIES

The supreme court by administrative order shall provide for the preparation, maintenance, recording, indexing, docketing, preservation, and storage of all ~~family~~ court records and the provision, subject to confidentiality requirements of ~~chapter 55 of Title 33~~ law or court rules, of certified copies of those records to persons requesting them.

Sec. 44. 4 V.S.A. § 798 is amended to read:

§ 798. PROBATIVE FORCE OF TRANSCRIPTS

All transcripts of evidence or proceedings in a cause or hearing tried in superior court, ~~probate court or district court~~ or before an auditor, referee, or commissioner, ordered to be reported by ~~the presiding judge~~, a probate or ~~district~~ superior judge, and made by or under the direction of the reporter and duly certified by him or her to be a verbatim transcript of ~~his~~ the verbatim stenographic notes of such evidence or proceedings, shall be received as evidence in any action, civil or criminal, if relevant thereto.

Sec. 45. 4 V.S.A. § 803(a) and (b) are amended to read:

(a) Subject to any rules prescribed by the supreme court pursuant to law, electronic sound or sound and video recording equipment may be used for the recording of any civil, criminal, or probate proceedings, testimony, objections, rulings, exceptions, arraignments, pleas, sentences, statements, and remarks made by any attorney or judge, oral instructions given by the judge, and any other judicial proceedings to the same extent as any recording by a stenographer or reporter permitted or required under existing statutes.

(b) For the purpose of operating ~~the sound~~ recording equipment, the judge may appoint or designate the official reporter of that court, a special reporter, the clerk of the court, any ~~assistant clerks~~ staff of the court, the court officer, or any other designated court personnel. The person operating ~~the sound~~ recording equipment shall subscribe to an oath that the operator will well and truly operate it to record all matters and proceedings.

Sec. 46. 4 V.S.A. § 952(a) is amended to read:

(a) The court administrator, subject to the approval of the supreme court, shall make rules regarding the qualifications, lists, and selection of all jurors and prepare questionnaires for prospective jurors. Each ~~jury commission~~ superior court clerk shall, in conformity with said rules, prepare a list of jurors from residents of its ~~county~~ unit. The rules shall be designed to assure that the list of jurors prepared by the jury commission shall be representative of the citizens of its ~~county~~ unit in terms of age, sex, occupation, economic status, and geographical distribution.

Sec. 47. 4 V.S.A. § 953(a), (b), and (e) are amended to read:

(a) The ~~jury commission~~ 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 are contained in the records of the department of motor vehicles, the department of labor, the department of taxes, the department of health, 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 ~~jury commission~~ clerk in a form that will not reveal the source of the names. The ~~jury commission~~ clerk shall include the names provided by the court administrator in the list of potential jurors.

(e) All public officers shall, on request, furnish the ~~jury commission~~ clerk or the court administrator without charge, any information it may require to enable it to select eligible persons, ascertain their qualifications, or determine the number needed.

Sec. 48. 4 V.S.A. § 954 is amended to read:

§ 954. DEPOSIT OF LIST

Prior to the first day of July in each biennial year, the ~~jury commission~~ clerk shall prepare and file a current master list of jurors ~~in the office of the county clerk~~ and certify its completion and filing to the court administrator. The current master lists shall contain the number of names necessary adequately to serve the needs of the courts involved for a two-year period beginning July 1.

Sec. 49. 4 V.S.A. § 955 is amended to read:

§ 955. QUESTIONNAIRE

The ~~jury commission clerk~~ shall send a jury questionnaire prepared by the court administrator to each person selected. When returned, it shall be retained in the county superior court clerk's office, ~~except that those questionnaires submitted by prospective jurors for service in the district court of Vermont shall be deposited with the clerk of the district court concerned.~~ The questionnaire shall at all times during business hours be open to inspection by the court and attorneys of record of the state of Vermont.

Sec. 50. 4 V.S.A. § 957 is amended to read:

§ 957. DRAWING AND SUMMONING JURORS

The manner of drawing and summoning jurors from the lists provided shall be in accordance with the rules of the court in which they are called to serve and all applicable statutes, including section 952 of this title, requiring that the panel shall be representative of the citizens of the county unit in terms of age, sex, occupation, economic status, and geographical distribution.

Sec. 51. 4 V.S.A. § 959 is amended to read:

§ 959. GRAND JURORS; VENIRE

The ~~jury commission clerk~~, as directed by the judges of each superior court, shall summon 18 judicious persons within the county unit to appear at any stated or special term of that court to serve as grand jurors of the county unit. The clerk of the court shall issue a venire accordingly.

Sec. 52. 4 V.S.A. § 961(a) is amended to read:

(a) Any person who fails to return a completed questionnaire within ten days of its receipt may be summoned by the county superior court clerk ~~forthwith~~ to appear forthwith before the clerk to fill out a jury questionnaire. Any person so summoned who fails to appear as directed shall be ordered forthwith by the presiding judge to appear and show cause for his or her failure to comply with the summons. Any person who fails to appear pursuant to such order or who fails to show good cause for noncompliance may be found in contempt of court and shall be subject to the penalties for contempt.

Sec. 53. 4 V.S.A. § 1001 is amended to read:

§ 1001. ENVIRONMENTAL COURT DIVISION

(a) ~~An environmental court having statewide jurisdiction is created as a court of record subject to the authority granted to the supreme court.~~ The environmental ~~court~~ division shall consist of two judges, each sitting alone.

~~(b) Two environmental judges shall be appointed within the judicial branch who shall hear matters arising under 10 V.S.A. chapters 201 and 220 and matters arising under 24 V.S.A. chapter 117 and chapter 61, subchapter 12. In addition, the judges shall have original jurisdiction to revoke permits under 10 V.S.A. chapter 151 in the environmental division and to hear other matters in the superior court when so assigned by the administrative judge pursuant to 4 V.S.A. § 21a(c).~~

(c) An environmental judge shall be an attorney admitted to practice before the Vermont supreme court. An environmental judge shall be nominated, appointed, confirmed, paid, and retained, and shall receive all benefits in the manner of a superior ~~court~~ judge.

(d) An environmental judge shall be appointed on April 1, for a term of six years or the unexpired portion thereof.

(e) Evidentiary proceedings in the environmental ~~court~~ division shall be held in the county in which all or a portion of the land which is the subject of the appeal is located or where the violation is alleged to have occurred, unless the parties agree to another location; provided, however, that the environmental judge shall offer expeditious evidentiary hearings so that no such proceedings are moved to another county to obtain an earlier hearing. Unless otherwise ordered by the court, all nonevidentiary hearings may be conducted by telephone using an audio or video record. If a party objects to a telephone hearing, the court may require a personal appearance for good cause.

~~(f) The environmental court shall be provided with a dedicated minimum of one court manager, two law clerks, one case manager, and two docket clerk-courtroom operators. These positions shall not be subject to any rotation with other courts. The environmental court shall receive the same funding and provisions for security as provided to county courthouses. [Repealed.]~~

(g) The supreme court may enact rules and develop procedures consistent with this chapter to govern the operation of the environmental ~~court~~ division and proceedings in ~~the court~~ it. In adopting these rules, the supreme court shall ensure that the rules provide for:

(1) expeditious proceedings that give due consideration to the needs of pro se litigants;

(2) the ability of the judge to hold pretrial conferences by telephone;

(3) the use of scheduling orders under the Vermont Rules of Civil Procedure in order to limit discovery to that which is necessary for a full and fair determination of the proceeding; and

(4) the appropriate use of site visits by the presiding judge to assist the court in rendering a decision.

Sec. 53a. 4 V.S.A. § 1002 is amended to read:

§ 1002. CONDUCT OF HEARINGS

Hearings before the environmental ~~court~~ division shall be conducted in an impartial manner subject to rules of the supreme court providing for a summary, expedited proceeding.

Sec. 53b. 4 V.S.A. § 1004 is amended to read:

§ 1004. ACCESS TO INFORMATION

(a) In connection with any proceedings under chapter 201 of Title 10, each party shall provide all other parties with all written statements and information in the possession, custody, or control of the party relative to the violation, including any technical studies, tests and reports, maps, architectural and engineering plans and specifications, drawings, graphs, charts, photographs, and other data compilations from which information can be obtained, the names and addresses of the party's witnesses, and any other information which the environmental ~~court~~ division deems necessary, in its sole discretion, to a fair and full determination of the proceeding.

(b) No other discovery or depositions, written interrogatories or requests to admit shall be permitted except that which is necessary for a full and fair determination of the proceeding.

Sec. 53c. 10 V.S.A. § 8002 is amended to read:

§ 8002. DEFINITIONS

As used in this chapter:

* * *

(12) “Environmental court” means the environmental division of the superior court established by 4 V.S.A. § 30.

Sec. 53d. 10 V.S.A. § 8221 is amended to read:

§ 8221. CIVIL ENFORCEMENT

(a) The secretary, or the land use panel of the natural resources board with respect to matters relating to land use permits under chapter 151 of this title only, may bring an action in the civil division of the superior court to enforce the provisions of law specified in subsection 8003(a) of this title, to ensure compliance, and to obtain penalties in the amounts described in subsection (b)

of this section. The action shall be brought by the attorney general in the name of the state.

* * *

Sec. 53e. 10 V.S.A. § 8502 is amended to read:

§ 8502. DEFINITIONS

As used in this chapter:

* * *

(3) “Environmental court” means the environmental ~~court established under 4 V.S.A. chapter 27~~ division of the superior court established by 4 V.S.A. § 30.

* * *

Sec. 54. 4 V.S.A. § 1103 is amended to read:

§ 1103. VENUE

Venue for violation hearings in the judicial bureau shall be in the unit of the ~~district~~ superior court where the violation is alleged to have occurred.

Sec. 55. 4 V.S.A. § 1104 is amended to read:

§ 1104. APPOINTMENT OF HEARING OFFICERS

The administrative judge shall appoint members of the Vermont bar to serve as hearing officers to hear cases. Hearing officers shall be subject to the Code of Judicial Conduct. ~~At least one hearing officer shall reside in each territorial unit of the district court.~~

Sec. 55a. 4 V.S.A. § 1108 is amended to read:

§ 1108. ~~CIVIL ORDINANCE AND~~ TRAFFIC VIOLATIONS;

JURISDICTION OF ASSISTANT JUDGES

(a) Subject to the limits of this section and notwithstanding any provision of law to the contrary, an assistant judge sitting alone shall have the same jurisdiction, powers, and duties to hear and decide ~~civil ordinance and~~ traffic violations as a hearing officer has under the provisions of this chapter.

(b)(1) ~~An assistant judge who elects to~~ All assistant judges shall hear and decide civil ordinance and traffic violations. Prior to hearing traffic violations pursuant to this subsection, an assistant judge shall:

(A) ~~have served in that office for a minimum of two years;~~
[Repealed.]

(B) have successfully completed ~~at least 40 hours~~ a course of training ~~which shall be provided by the bureau~~ court administrator's office; and

(C) annually complete eight hours of continuing education every year supervised by the court administrator's office relating to jurisdiction exercised under this section.

(2) ~~Training shall be paid for by the county, which expenditure is hereby authorized. Law clerk assistance shall be available to the assistant judges. [Repealed].~~

(c) The administrative judge may assign or direct assignment of an assistant judge ~~with his or her consent to hear a civil ordinance or traffic violation case~~ cases within the county in which the assistant judge presides or in a county other than the county in which the assistant judge presides ~~if the assistant judge has elected to hear and decide civil ordinance and traffic violations under this section.~~

Sec. 56. 5 V.S.A. § 43 is amended to read:

§ 43. REVIEW BY SUPERIOR COURT

A party to a cause who feels aggrieved by the final order, judgment, or decree of the board may appeal to a superior court under Rule 74 of the Vermont Rules of Civil Procedure. However, the board, before final judgment, may permit an appeal to be taken by any party to a superior court for determination of questions of law in the same manner as the supreme court may by rule provide for appeals before final judgment from a superior court ~~or a district court~~. Notwithstanding the provisions of the Vermont Rules of Civil Procedure or the Vermont Rules of Appellate Procedure, neither the time for filing a notice of appeal nor the filing of a notice of appeal, as provided in this section, shall operate as a stay of enforcement of an order of the board unless the board or a superior court grants a stay under the provisions of section 44 of this title.

Sec. 57. 5 V.S.A. § 3535 is amended to read:

§ 3535. RIGHT OF ACTION ON NONPAYMENT OF DAMAGES

When a railroad corporation has entered upon and used land and real estate for the construction and accommodation of its railroad, and has, by its engineers, agents, or servants, entered upon land contiguous to the railroad or the works connected therewith, and taken materials to use in the construction of its road, and has not paid the owner therefor, nor, within two years from such entry, had the damages appraised by commissioners, and an award made and delivered, a person claiming damages, within six years after such entry, may bring an action therefor before a ~~district~~ superior court, ~~if the claim is not~~

~~over \$200.00, otherwise in the superior court.~~ An answer justifying the entry under the act incorporating the company shall not bar the action, but the plaintiff shall recover only his or her actual damages.

Sec. 58. 6 V.S.A. § 484(b) is amended to read:

(b) The secretary or his or her inspector may enter upon the premises of a licensed dealer or processor, at reasonable times, for purposes of inspecting the premises, records, equipment, and inventory in a reasonable manner to determine whether the provisions of this chapter and the rules adopted hereunder are being observed. If entry is refused, the secretary may apply to a superior ~~or district~~ court judge for an administrative search warrant.

Sec. 59. 6 V.S.A. § 3316(b) is amended to read:

(b) ~~Washington County superior court, or any other~~ The superior court, has legal and equitable jurisdiction to enforce, prevent, and restrain violations of this chapter and has legal and equitable jurisdiction in all other cases arising under this chapter. The superior ~~and district~~ courts are granted jurisdiction to handle criminal matters arising under this chapter and rules.

Sec. 60. 9 V.S.A. § 2154 is amended to read:

§ 2154. ASSIGNEE'S BOND

The assignee shall execute to the superior court for the ~~county~~ unit in which the assignor resides a bond with sureties to the satisfaction of such court and conditioned for the faithful performance of such trust. The assignee shall execute such bond at the time of making such assignment, and the same may be prosecuted by parties aggrieved as provided in chapter 101 of Title 14, relative to bonds ~~taken to the probate court~~ governed by that chapter.

Sec. 61. 10 V.S.A. § 497 is amended to read:

§ 497. REMOVAL OF SIGNS

The owner of a sign which is not licensed under this chapter and which is not a legal on-premise or exempt sign meeting the requirements set forth in this chapter, other than a sign which was lawfully erected and maintained prior to March 23, 1968, shall be in violation of this chapter until it is removed. The travel information council, or the secretary of transportation or his designee pursuant to authority delegated by the council, may, upon failure of the owner to remove such sign, order its removal by the agency of transportation, and the agency of transportation shall thereupon remove the sign without notice or further proceeding, at the expense of the owner. The expense may be recovered by the state in an action on this statute, which shall be instituted in the superior court ~~or Vermont district court having jurisdiction~~ in the unit for the area in which the sign is located. A copy of the notice of removal shall be

sent by certified mail to the owner at the last known address. If an illegal sign is re-erected after the initial removal notice is executed, the agency of transportation shall have the authority to remove that illegal sign without additional prior notice to the owner. The agency of transportation or the legislative body of a municipality shall have the authority to remove or relocate, or both, without prior notice, any sign, device, or display which is temporary in nature and not affixed to a substantive structure which is erected within 24.75 feet of the actual centerline of any highway under its jurisdiction and within the public highway right-of-way.

Sec. 62. 10 V.S.A. § 6205(c) is amended to read:

(c) A leaseholder may bring an action against the park owner for a violation of sections 6236–6243 of this title. The action shall be filed in ~~district~~ superior court for the ~~district unit~~ in which the alleged violation occurred. ~~If the leaseholder's claim against the owner exceeds the jurisdictional limit of the district court, an action may be brought in superior court in the county in which the alleged violation occurred.~~ No action may be commenced by the leaseholder unless the leaseholder has first notified the park owner of the violation by certified mail at least 30 days prior to bringing the action. During the pendency of an action brought by a leaseholder, the leaseholder shall pay rent in an amount designated in the lease, or as provided by law, which rental amount shall be deposited in an escrow account as directed by the court.

Sec. 63. 10 V.S.A. § 8014(a) and (b) are amended to read:

(a) The secretary may seek enforcement of a final administrative order or a landfill extension order in the civil, criminal, or environmental division of the superior or district court or before the environmental court.

(b) If a penalty is assessed and the respondent fails to pay the assessed penalty within the time prescribed, the secretary may bring a collection action in any civil or criminal division of the superior or district court. In addition, when a respondent, except for a municipality, fails to pay an assessed penalty or fails to pay a contribution under subdivision 8007(b)(2) of this title within the prescribed time period, the secretary or the land use panel shall stay the effective date or the processing of any pending permit application or renewal application in which the respondent is involved until payment in full of all outstanding penalties has been received. When a municipality fails to pay an assessed penalty or fails to pay a contribution under subdivision 8007(b)(2) of this title within the prescribed time period, the secretary or the land use panel may stay the effective date or the processing of any pending permit application or renewal application in which the municipality is involved until payment in full of all outstanding penalties has been received. For purposes of this

subsection, “municipality” shall mean a city, town, or village. The secretary or the land use panel may collect interest on an assessed penalty that a respondent fails to pay within the prescribed time. The secretary or the land use panel shall collect interest on a contribution under subdivision 8007(b)(2) of this title that a respondent fails to pay within the prescribed time.

Sec. 64. 11 V.S.A. § 441 is amended to read:

§ 441. CORPORATION TO PRODUCE BOOKS ON NOTICE

(a) A corporation doing business within this state, whether organized under the laws of this or any other state or country, when notice therefor is served upon it according to the provisions of section 442 of this title, shall produce before any court, magistrate, grand jury, tribunal, or commission, acting under the authority of this state, all books, documents, correspondence, memoranda, papers, and data which may contain any information concerning any suit, proceedings, action, charge, or subject of inquiry pending before or to be determined by the court, magistrate, grand jury, tribunal, or commission, except a civil action in a superior court ~~or the district court~~, and which have been made or kept at any time within this state, and are in the custody or control of the corporation in this state or elsewhere at the time of service of the notice upon it.

(b) When notice therefor is served upon it according to the provisions of section 442 of this title, the corporation shall produce before any court, magistrate, grand jury, tribunal, or commission acting under the authority of this state, all books, documents, correspondence, memoranda, papers, and data which may contain any information concerning any suit, proceedings, action, charge, or subject of inquiry pending before or to be determined by the court, magistrate, grand jury, tribunal, or commission, except a civil action in a superior court ~~or the district court~~, and which in any way relate to or contain entries, data, or memoranda concerning any transaction within this state or with any party residing or having a place of business within this state, and which are in the custody or control of the corporation in this state or elsewhere at the time of service of notice upon it.

Sec. 65. 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 or family case records ~~or family court 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 section 2056a.

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

(1) court schedules of the ~~district or family~~ superior court, or opinions of the ~~district~~ criminal division of the superior court; or

(2) state agencies in accordance with data dissemination contracts entered into under Rule 6 of the Vermont Rules of Electronic Access to Court Records.

Sec. 66. 12 V.S.A. § 122 is amended to read:

§ 122. SUPERIOR JUDGE, OR SUPERIOR COURT ~~AND DISTRICT COURT~~

When a party violates an order made against him or her in a cause brought to or pending before a superior judge or a superior court ~~or the district court~~ after service of the order upon that party, contempt proceedings may be instituted against him or her before the court or any superior judge. When, in a cause no longer on the docket of the court, the proceedings are brought before a superior judge, that judge forthwith shall order ~~forthwith~~ the cause to be brought forward on the docket of the court and may issue concurrently with the order a summons or capias against the party. The issuing of the summons or capias and any further proceedings thereon shall be minuted on the docket.

Sec. 67. 12 V.S.A. § 402 is amended to read:

§ 402. SUPERIOR COURT ACTIONS, VENUE GENERALLY; ~~RAILROADS~~

(a) An action before a superior court shall be brought in the county unit in which one of the parties resides, if either resides in the state; otherwise, on motion, the complaint shall be dismissed. If neither party resides in the state, the action may be brought in any county unit. Actions concerning real estate shall be brought in the county unit in which the lands, or some part thereof, lie.

(b) An action brought by a domestic railroad corporation to the superior court may be brought either in the county unit in which the corporation has its principal office for the transaction of business, or in the county unit in which a defendant resides. An action or suit brought to the superior court, in which the corporation is defendant, may be brought in any county unit in which a road owned or operated by the corporation is located.

Sec. 67a. 12 V.S.A. § 403 is amended to read:

§ 403. PATENT RIGHTS

An action to recover a debt or demand, arising from the sale of or license to use a patent right, whether such demand is in the form of a promissory note or

otherwise, shall be brought and tried in the ~~county~~ unit where the defendant resides or where such patent right was sold when such note or obligation purports to be given for a patent right, unless otherwise provided by law.

Sec. 68. 12 V.S.A. § 404 is amended to read:

§ 404. REMOVAL TO ANOTHER ~~COUNTY~~ UNIT

(a) When it appears to a presiding judge of a superior court that there is reason to believe that a civil action pending in such court cannot be impartially tried in the ~~county~~ unit where it is pending, on petition of either party, such judge shall order the cause removed to the superior court in another ~~county~~ unit for trial.

~~(b) Such petition shall be verified by affidavit and served upon the adverse party like a writ of summons, at least twelve days before the time of hearing. If the adverse party resides without the state, it may be served upon his attorney of record in the cause.~~

~~(c) When an order is made to remove a cause from one superior court to another and such order is filed with the clerk of the court in which the cause is pending, he shall forthwith transmit to the clerk of the court to which such cause is removed, the original papers with a certified copy of the docket entries therein and of the order of removal. He shall thereupon enter the same upon the docket and further proceedings shall be had as if the cause had been originally brought to and entered in such court.~~

~~(d) Attachments, recognizances, bonds, and orders in such cause, made before such removal, shall have the same validity as if the cause had continued in the court to which it was originally brought.~~

Sec. 69. 12 V.S.A. § 654(b) is amended to read:

(b) The signing of original writs is a ministerial act and may be done in advance of issuance. The signature of an attorney, except when he or she is the plaintiff, to a writ, pleading, notice of appeal, or other form, constitutes and shall be deemed security, by way of recognizance, for the issuance of such writ or the filing of such pleading, notice of appeal, or other form, and such attorney shall be liable to each defendant ~~in the sum of \$10.00 for writs returnable before the district court and in the sum of \$50.00 for writs returnable to a superior court.~~

Sec. 70. 12 V.S.A. § 1644 is amended to read:

§ 1644. WITNESSES MAY BE EXAMINED SEPARATELY

On the trial of a civil cause, in its discretion, upon the application of either party, the superior court ~~or district court~~ may order the witnesses of the adverse party examined separately and apart from each other.

Sec. 71. 12 V.S.A. § 1691(a) is amended to read:

(a) In the trial of actions at law, and on motion and due notice ~~thereof given~~, supreme, and superior ~~and district~~ courts may require the parties to produce any books or writings in their possession or power, which contain evidence pertinent to the issue or relative to the action, and if the party fails to comply with the order, the court may render judgment against such party by nonsuit or default.

Sec. 72. 12 V.S.A. § 2136 is amended to read:

§ 2136. COSTS IN SUPREME, COUNTY, AND ~~DISTRICT~~ SUPERIOR COURTS WHEN NOMINAL DAMAGES ARE RECOVERED

When the plaintiff in an action in ~~district~~, superior or supreme court recovers judgment for a nominal sum for debt or damages, in its discretion, the court may make such order in respect to plaintiff's costs as is equitable, but not to exceed his or her taxable costs.

Sec. 73. 12 V.S.A. § 2357 is amended to read:

§ 2357. APPEALS FROM PROBATE COURT IN PROBATE PROCEEDINGS—FRAUD, ACCIDENT, OR MISTAKE

When the petitioner has been prevented from taking or entering an appeal in a probate proceeding by fraud, accident, or mistake, on petition and proof thereof, the supreme or superior court in its discretion may grant leave to file a notice of appeal from an order, sentence, decree, or denial of a the probate division of the superior court or from a determination of commissioners on the estate of a deceased person in those cases which are by law appealable.

Sec. 74. 12 V.S.A. § 2386 is amended to read:

§ 2386. PASSING CAUSES BEFORE FINAL JUDGMENT

(a) Before final judgment in civil actions or proceedings in the superior courts, or the probate courts, ~~or the district court~~, an appeal to the supreme court for the determination of questions of law may be taken in such manner and under such conditions as the supreme court may by rule provide.

(b) In its discretion and before final judgment, a superior court ~~or the district court~~ may permit an appeal to be taken by the respondent or the state in

a criminal cause to the supreme court for determination of questions of law. The supreme court shall hear and determine the questions and render final judgment thereon or remand the proceedings as justice and the state of the cause may require.

Sec. 74a. 12 V.S.A. § 2386 is amended to read:

§ 2386. PASSING CAUSES BEFORE FINAL JUDGMENT

(a) Before final judgment in civil actions or proceedings in the superior courts ~~or the probate courts~~, an appeal to the supreme court for the determination of questions of law may be taken in such manner and under such conditions as the supreme court may by rule provide.

* * *

Sec. 75. 12 V.S.A. § 2551 is amended to read:

§ 2551. SUPREME COURT JURISDICTION OF PROBATE PROCEEDINGS IN SUPERIOR ~~AND PROBATE~~ COURTS

The supreme court shall have jurisdiction of questions of law arising in the course of the proceedings of the superior ~~and probate~~ courts in probate matters, as in other causes.

Sec. 76. 12 V.S.A. § 2556(a) is amended to read:

(a) In the two following cases, an executor, administrator, or creditor may appeal to the superior court from the decision and report of the commissioners, if notice of appeal is filed with the clerk of the superior court appealed to ~~and the register of the probate court~~ within ~~thirty~~ 30 days after the return of the commissioner's report:

* * *

Sec. 77. 12 V.S.A. § 3011 is amended to read:

§ 3011. ACTIONS

Trustee process may be used in any civil action commenced in a superior court ~~or the district court~~ except in actions for malicious prosecution, libel, slander, or alienation of affections.

Sec. 78. 12 V.S.A. § 3087 is amended to read:

§ 3087. —RECOGNIZANCE FOR TRUSTEE'S COSTS

The plaintiff in a trustee process shall give security for costs to the trustee by way of recognizance by some person other than the plaintiff. The security shall be ~~in the sum of \$10.00 for a summons returnable before the district court~~ ~~and~~ in the sum of \$50.00 for a summons returnable to a superior court. If

trustee process issues without a minute of the recognizance, with the name of the surety and the sum in which he or she is bound, signed by the clerk, thereon, the trustee shall be discharged.

Sec. 79. 12 V.S.A. § 3151 is amended to read:

§ 3151. —TRUSTEE MAY FILE BOND AND SELL PROPERTY

When such action is pending in the supreme, or superior, ~~or district~~ court, the trustee may sell the property, and the purchaser shall hold the same released from the mortgage and attachment, if such trustee files with the clerk of ~~such the~~ court ~~or with the judge of such district court~~:

* * *

Sec. 80. 12 V.S.A. § 4251 is amended to read:

§ 4251. ACTIONS FOR ACCOUNTING—JURY

The superior ~~courts~~ court shall have original jurisdiction, ~~exclusive of the district court~~, in actions for an accounting other than accountings involved in the administration of trusts under Title 14A. When the defendant in such an action brought in one of the following ways pleads in defense an answer which, if true, makes him or her not liable to account, the issue thus raised may be tried to a jury:

* * *

Sec. 81. 12 V.S.A. § 4711 is amended to read:

§ 4711. DECLARATORY JUDGMENT; SCOPE

Superior courts ~~and probate courts~~ within their ~~respective~~ jurisdictions shall have power to declare rights, status, and other legal relations whether or not further relief is or could be claimed. An action or proceeding shall not be open to objection on the ground that a declaratory judgment or decree is prayed for. The declaration may be either affirmative or negative in form and effect. Such declarations shall have the force and effect of a final judgment or decree.

Sec. 82. 12 V.S.A. § 5136(c) is amended to read:

(c) The office of the court administrator shall ensure that the superior court ~~and the district court~~ have has procedures in place so that the contents of orders and pendency of other proceedings can be known to ~~both~~ all courts for cases in which an order against stalking or sexual assault proceeding is related to a criminal proceeding.

Sec. 83. 12 V.S.A. § 5531(c) is amended to read:

(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, a district judge, or a member of the Vermont bar appointed pursuant to 4 V.S.A. § 22(b) shall be assigned to hear the action. [Repealed.]~~

Sec. 84. 12 V.S.A. § 5538 is amended to read:

§ 5538. APPEALS

Any party may appeal from a small claims judgment to superior court. The administrative judge shall assign the appeal to a district or superior judge who shall not have participated in any way in the decision being appealed. The appeal shall be heard and decided, based on the record made in the small claims ~~court~~ procedure. No appeal as of right exists to the supreme court. On motion made to the supreme court by a party to the action, the supreme court may allow an appeal from the superior court.

Sec. 85. 12 V.S.A. § 5541 is amended to read:

§ 5541. COMPOSITION OF ~~SMALL CLAIMS~~ COURT IN SMALL CLAIMS CASES

For the purposes of this chapter, the superior court shall consist of the presiding judge sitting alone, ~~an assistant judge sitting alone pursuant to section 5540 of this chapter, or an acting judge assigned pursuant to section 22(b) of Title 4 V.S.A. § 22(b), or a probate judge assigned pursuant to 4 V.S.A. § 272(d).~~

Sec. 86. 12 V.S.A. § 5702 is amended to read:

§ 5702. JURISDICTION AND VENUE

The Vermont ~~district~~ superior court shall have exclusive jurisdiction over proceedings under this chapter, any provision of any statute, municipal charter, or ordinance to the contrary notwithstanding, except as provided in chapter 24 of Title 23. Venue for adjudicating offenses prosecuted by use of the uniform snowmobile/boating complaint shall be in the unit of the ~~district~~ superior court having jurisdiction over the geographical area where the offense is alleged to have occurred.

Sec. 87. 12 V.S.A. § 5705(b) and (d) are amended to read:

(b) Three ~~district~~ superior court judges appointed by the court administrator shall establish schedules, within the limits prescribed by law, of the amounts of fines to be imposed. The court administrator shall appoint three persons who

shall meet with the ~~district~~ superior judges and recommend a fine schedule. One person appointed shall be a member of the department of public safety, one shall be a delegate from the Vermont association of snow travelers, and one shall be a member of the general public who has an interest in boating and boating safety.

(d) If a defendant fails to answer or appear as directed on a uniform snowmobile/boating complaint or by the ~~district~~ superior court judge, or fails to pay the fine imposed after judgment, the court may proceed under section 5704 of this title.

Sec. 88. 12 V.S.A. § 5852 is amended to read:

§ 5852. OATHS OF OFFICE; BY WHOM ADMINISTERED

When other provision is not made by law, oaths of office may be administered by any justice of the supreme court, superior judge, assistant judge, justice of the peace, ~~judge of the district court~~, notary public, or the presiding officer, secretary, or clerk of either house of the general assembly, or by the governor.

Sec. 89. 12 V.S.A. § 7105 is amended to read:

§ 7105. RULES OF PROCEDURE

Windsor county court diversion, in conjunction with the Windsor county youth court advisory board established pursuant to section 7109 of this title, and after consultation with the youth court officers, the Windsor county state's attorney, the office of the public defender for Windsor county, and the presiding judges in ~~Windsor family and district courts~~ the unit of the superior court that includes Windsor County, shall adopt rules of procedure for the youth court prior to its first hearing.

Sec. 90. 12 V.S.A. § 7109(a) is amended to read:

(a) The Windsor ~~county~~ County youth court advisory board is created. The board shall consist of the presiding ~~family court~~ superior judge in for the unit that includes Windsor county County or designee, the Windsor ~~county~~ County state's attorney or designee, the superintendents of the Hartford, Springfield, and Windsor southeast supervisory union school districts or their designees, three youth court officers, three persons to be appointed by the Vermont supreme court, and the chair of the Windsor county court diversion or designee. ~~All members of the board shall be appointed or designated by August 15, 1995, for terms expiring on June 30, 1999.~~ The supreme court appointees shall each be licensed to practice law in this state, and at least one of the supreme court appointees shall have at least three years' experience in

representing delinquent children. The members of the board shall serve on a voluntary basis without compensation.

Sec. 91. 12 V.S.A. § 7152 is amended to read:

§ 7152. JURISDICTION

The probate division of the superior court shall have exclusive jurisdiction over all proceedings concerning the emancipation of minors.

Sec. 92. 12 V.S.A. § 7153(a) is amended to read:

(a) A minor may petition the probate division of the superior court in the probate district in which the minor resides at the time of the filing for an order of emancipation. The petition shall state:

- (1) The minor's name and date of birth.
- (2) The minor's address.
- (3) The names and addresses, if known, of the minor's parents.

(4) The names and addresses of any guardians or custodians, including the commissioner of social and rehabilitation services, appointed for the minor, if appropriate.

(5) Specific facts in support of the emancipation criteria in section 7151(b) of this chapter.

- (6) Specific facts as to the reasons why emancipation is sought.

Sec. 93. 12 V.S.A. § 7155(d) is amended to read:

(d) Any order of guardianship or custody shall be vacated before the court may issue an order of emancipation. Other orders of any division of the family or probate superior court may be vacated, modified, or continued in this proceeding if such action is necessary to effectuate the order of emancipation. Child support orders relating to the support of the minor shall be vacated, except for the duty to make past-due payments for child support, which, under all circumstances, shall remain enforceable.

Sec. 94. 13 V.S.A. § 4 is amended to read:

§ 4. ACCESSORY BEFORE THE FACT

A person who is accessory before the fact by counseling, hiring, or otherwise procuring an offense to be committed may be informed against or indicted, tried, convicted, and punished as if he or she were a principal offender in the criminal division of the superior court in the ~~county or in the district court in the territorial~~ unit where the principal might be prosecuted.

Sec. 95. 13 V.S.A. § 6 is amended to read:

§ 6. —PROSECUTION AND VENUE

~~Such~~ An accessory after the fact may be prosecuted, convicted, and punished whether the principal has or has not been previously convicted, or is or is not amenable to justice, in the criminal division of the superior court in the ~~county or in the district court in the territorial~~ unit where such person became an accessory or where the principal offense is committed.

Sec. 96. 13 V.S.A. § 901 is amended to read:

§ 901. DUTIES OF OFFICERS

A ~~district~~ superior judge, sheriff, deputy sheriff, or constable having notice or knowledge of the unlawful, tumultuous, or riotous assemblage of three or more persons within his or her jurisdiction, among or as near as he or she can safely come to such rioters, shall command them in the name of the state of Vermont immediately and peaceably to disperse. If after such command ~~such~~ the rioters do not disperse, such officer or magistrate and ~~such~~ any other person as he or she commands to assist him or her shall apprehend and forthwith take them before a ~~district~~ criminal division of a superior court.

Sec. 97. 13 V.S.A. § 2502 is amended to read:

§ 2502. PETIT LARCENY

~~Superior and district courts shall have concurrent jurisdiction of the~~ For offenses mentioned in section 2501 of this title where the money or other property stolen does not exceed \$900.00 in value, ~~and the court~~ may sentence the person convicted to imprisonment for not more than one year or to pay a fine of not more than \$1,000.00, or both.

Sec. 98. 13 V.S.A. § 2561(c) is amended to read:

(c) A buyer, receiver, seller, possessor, or concealer under subsection (a) or (b) of this section may be prosecuted and punished in the criminal division of the superior court in the ~~county or in the district court in the territorial~~ unit where the person stealing the property might be prosecuted, although such property is bought, received, or concealed in another county or ~~territorial~~ unit.

Sec. 99. 13 V.S.A. § 3011 is amended to read:

§ 3011. OFFICERS IN CHARGE OF JURY

An officer, sworn to take charge of a jury impaneled by the superior ~~or district~~ court for the trial of a cause, who, after they have been charged by the court, suffers a person to speak to them upon matters submitted to their charge, or speaks to them himself or herself about the same, except to ask if they are

agreed upon a verdict, before they deliver their verdict in court, or are discharged, shall be fined not more than \$500.00. The constable or other person having charge of a jury impaneled by a justice, who in like manner offends, shall be fined not more than \$200.00.

Sec. 100. 13 V.S.A. § 3256(a) is amended to read:

(a) The victim of an offense involving a sexual act may obtain an order from the ~~district~~ criminal or family division of the superior court in which the offender was convicted of the offense, or was adjudicated delinquent, requiring that the offender be tested for the presence of the etiologic agent for acquired immune deficiency syndrome (AIDS) and other sexually-transmitted diseases, including gonorrhea, herpes, chlamydia, and syphilis. If requested by the victim, the state's attorney shall petition the court on behalf of the victim for an order under this section. For the purposes of this section, "offender" includes a juvenile adjudicated a delinquent.

Sec. 101. 13 V.S.A. § 4601 is amended to read:

§ 4601. GENERAL RULE

When not otherwise provided, criminal causes shall be tried in the criminal division of the superior court in the ~~county, or in the district court in the territorial~~ unit, where an offense within the jurisdiction of such court is committed.

Sec. 101a. 13 V.S.A. § 4602 is amended to read:

§ 4602. WHEN ACT IN ONE COUNTY OR ~~TERRITORIAL~~ UNIT
CAUSES DEATH IN ANOTHER

A person feloniously wounding or poisoning a person in one ~~county or territorial~~ unit of the ~~district~~ superior court, whose death results therefrom in another ~~county or territorial~~ unit, may be tried in the criminal division of the superior court in either ~~county or in the district court in either territorial~~ unit, if the offense is within the jurisdiction of such court.

Sec. 101b. 13 V.S.A. § 4603 is amended to read:

§ 4603. OFFENSE ON BOUNDARY

If an offense is committed on the boundary of two or more ~~counties or territorial~~ units of the ~~district~~ superior court, or within 100 rods of such boundary, such offense may be alleged in the information or indictment to have been committed and may be prosecuted in the criminal division of the superior court in any of such counties or in the ~~district~~ criminal division of the superior court in any of such ~~territorial~~ units, if the offense is within the jurisdiction of such court.

Sec. 102. 13 V.S.A. § 4631 is amended to read:

§ 4631. AUTHORITY

The supreme court may by rule provide for change of venue in criminal prosecutions ~~in the superior and district courts~~ upon motion, for the prevention of prejudice to the defendant or for the convenience of parties and witnesses and in the interests of justice. The court to which a prosecution is transferred shall thereby have jurisdiction of the cause, and the same proceedings shall be had therein as though ~~such court were in the county or territorial unit in which the offense was committed~~ the venue had not been changed.

Sec. 103. 13 V.S.A. § 4635 is amended to read:

§ 4635. ORDER FOR REMOVAL OF DEFENDANT

When a motion for change of venue has been granted and the defendant is in custody, the judge granting the motion shall issue an order in writing to the officer having the defendant in custody, commanding him or her to deliver the defendant to the keeper of the jail serving the ~~county or territorial unit of the district court~~ in which the ~~trial is~~ further proceedings are ordered to be had.

Sec. 104. 13 V.S.A. § 4638 is amended to read:

§ 4638. WHICH STATE'S ATTORNEY TO PROSECUTE

The state's attorney of the county in which the respondent is informed or complained against or indicted shall appear in behalf of the state ~~at the trial of the respondent~~ in the court to which the ~~trial case~~ is removed, and in proceedings relating thereto he or she shall have the same powers and be subject to the same duties and liabilities as though the trial were had in the county for which he or she is ~~such~~ the attorney.

Sec. 105. 13 V.S.A. § 4903 is amended to read:

§ 4903. TRANSPORTING PRISONER THROUGH STATE

Whenever an offender is apprehended in a neighboring state, and it may be necessary to transport him or her through this state to the place where the offense was committed, ~~the superior court, a presiding judge thereof, a superior judge or a judge of a district court,~~ upon application and proof that lawful process has issued against ~~such~~ the offender, shall issue a warrant under his or her hand and seal, directed to a sheriff or his or her deputy, or to a person by name who shall be sworn to the faithful performance of his or her duty, authorizing such conveyance.

Sec. 106. 13 V.S.A. § 4953 is amended to read:

§ 4953. ARREST PRIOR TO REQUISITION

Whenever any person within this state shall be charged on the oath of any credible person before any judge or magistrate of this state with the commission of any crime in any other state, and, except in cases arising under section 4946 of this title, with having fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his or her bail, probation, or parole, or whenever complaint shall have been before a superior judge, ~~assistant judge of the superior court, or judge of a district court~~ within this state, setting forth on the affidavit of a credible person in another state that a crime has been committed in such other state and that the accused has been charged in ~~such~~ that state with the commission of a crime, and, except in cases arising under section 4946, has fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his or her bail, probation, or parole and is believed to have been found in this state, such judge shall issue a warrant ~~directed~~ to any sheriff or constable directing him or her to apprehend the person charged, wherever he or she may be found in this state, and bring him or her before the same or any other superior judge, ~~assistant judge of the superior court or judge of a district court~~ who may be available in or convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit; and a certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

Sec. 107. 13 V.S.A. § 4954 is amended to read:

§ 4954. ARREST WITHOUT A WARRANT

The arrest of a person may be lawfully made by an officer or a private citizen without a warrant upon reasonable information that the accused stands charged in the courts of another state with a crime punishable by death or imprisonment for a term exceeding one year. When so arrested, the accused shall be taken before a superior judge, ~~assistant judge of the superior court, or judge of a district court~~ as soon as may be, and complaint shall be made against him or her under oath setting forth the ground for the arrest as in section 4953 of this title; and thereafter his or her answer shall be heard as if he or she had been arrested on a warrant.

Sec. 108. 13 V.S.A. § 5043 is amended to read:

§ 5043. HEARING, COMMITMENT, DISCHARGE

If an arrest is made in this state by an officer of another state in accordance with the provisions of section 5042 of this title, he or she shall without unnecessary delay take the person arrested before a superior judge, ~~assistant judge of the superior court, or a judge of a district court~~ of the county unit in which the arrest was made, who shall conduct a hearing for the purpose of determining the lawfulness of the arrest. If ~~such~~ the judge determines that the arrest was lawful, he or she shall commit the person arrested to await for a reasonable time the issuance of an extradition warrant by the governor of this state or admit such person to bail pending the issuance of such warrant. If ~~such~~ the judge determines that the arrest was unlawful, he or she shall discharge the person arrested.

Sec. 109. 13 V.S.A. § 5131 is amended to read:

§ 5131. APPLICATION FOR INQUEST

Upon the written application of the state's attorney, a judge of the superior court, ~~or of a district court~~, may institute and conduct an inquest upon any criminal matter under investigation by the state's attorney.

Sec. 109a. 13 V.S.A. § 5317 is amended to read:

§ 5317. GENERAL REQUIREMENTS FOR INFORMATION

(a) The information required to be furnished to victims under this chapter shall be provided upon request of the victim and, unless otherwise specifically provided, may be furnished either orally or in writing.

(b) A person responsible for furnishing information may rely upon the most recent name, address, and telephone number furnished by the victim.

(c) The court, state's attorneys, public defenders, law enforcement agencies, and the departments of corrections and of public safety may develop and implement an automated notification system to deliver the information required to be furnished to victims under this chapter.

Sec. 110. 13 V.S.A. § 6642 is amended to read:

§ 6642. SUMMONING WITNESSES IN THIS STATE TO TESTIFY IN ANOTHER STATE

If a judge of a court of record in any state which by its laws has made provision for commanding persons within that state to attend and testify in an action in this state, certifies under the seal of such court that there is ~~such~~ an action pending in ~~such~~ that court, that a person being within this state is a

material witness in ~~such~~ the action, and that his or her presence will be required for a specified number of days, upon presentation of ~~such~~ the certificate to any superior judge ~~or a judge of a district court~~ in the county unit in which ~~such~~ the person is, ~~such~~ the judge shall fix a time and place for a hearing in ~~such county~~ the unit and shall notify the witness ~~thereof~~ by an order stating the purpose of the hearing and directing him or her to appear therefor at a time and place certain.

Sec. 111. 13 V.S.A. § 6646 is amended to read:

§ 6646. WITNESS FROM ANOTHER STATE SUMMONED TO TESTIFY
IN THIS STATE

If a person in any state, which by its laws has made provision for commanding persons within its borders to attend and testify in an action in this state, is a material witness in ~~such an~~ an action pending in a court of record in this state, a superior judge ~~or a judge of a district court~~ may issue a certificate under the seal of the court stating these facts and specifying the number of days the witness will be required. ~~Such~~ The certificate may include a recommendation that the witness be taken into immediate custody and delivered to an officer of this state to assure his or her attendance in this state. ~~Such~~ The certificate shall be presented to a judge of a court of record of the state in which the witness is found.

Sec. 112. 13 V.S.A. § 7004 is amended to read:

§ 7004. RECORD OF CONVICTIONS; REPORT TO COMMISSIONER OF
PUBLIC SAFETY

In all cases of felony or misdemeanor in which a conviction or plea of guilty is had in their respective courts, clerks of the superior ~~and district courts~~ court shall forthwith forward to the commissioner of public safety, on quadruplicate forms to be furnished by him or her, for file in the identification and records division of the department of public safety, a certified report of ~~such~~ the conviction, together with the sentence and ~~such any~~ any other facts as which may be required by the commissioner. A fee of ~~50 cents~~ \$0.50 for such certified report shall be allowed by the commissioner of finance and management in settlement of the accounts of such courts.

Sec. 113. 13 V.S.A. § 7034 is amended to read:

§ 7034. ~~WHEN APPEALS FROM SEVERAL JUSTICE'S JUSTICES'
JUDGMENTS ARE NOT ENTERED~~

~~If such person appeals to the county or district superior court from two or more judgments by the same justice at different times, and fails to enter his or her appeals within the time required, the justice may issue a single mittimus to~~

~~carry his or her judgments into effect, as provided in section 7033 of this title, and the 24 hours shall commence from the time of signing the mittimus, and such time shall be indorsed thereon. [Repealed.]~~

Sec. 114. 13 V.S.A. § 7043(i) is amended to read:

(i) The restitution unit may bring an action, including a small claims procedure, to enforce a restitution order against an offender in the civil division of the superior or small claims court of the county unit where the offender resides or in the county unit where the order was issued. In an action under this subsection, a restitution order issued by the ~~district~~ criminal division of the superior court shall be enforceable in the civil division of the superior court or in a small claims court procedure in the same manner as a civil judgment. Superior and small claims ~~court~~ filing fees shall be waived for an action under this subsection, and for an action to renew a restitution judgment.

Sec. 115. 13 V.S.A. § 7178 is amended to read:

§ 7178. SUSPENSION OF FINES

A superior ~~or district court~~ judge, in his or her discretion, may suspend all or any part of the fine assessed against a respondent.

Sec. 116. 13 V.S.A. § 7401 is amended to read:

§ 7401. APPEAL

In criminal actions or proceedings ~~in the superior courts or the district court~~, the defendant may appeal to the supreme court as of right all questions of law involved in any judgment of conviction and in any other order or judgment as to which the state has appealed, provided that if the state fails to perfect or prosecute such appeal, the appeal of the defendant shall not be heard.

Sec. 117. 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 ~~by a superior or district court~~ 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 ~~to such superior or district court~~ 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 ~~of a district or superior court~~ 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 ~~of a district or superior court~~:

* * *

Sec. 118. 13 V.S.A. § 7554(d) and (f) are amended to read:

(d)(1) A person for whom conditions of release are imposed and who is detained as a result of his or her inability to meet the conditions of release or who is ordered released on a condition that he or she return to custody after specified hours shall, within 48 hours of application, be entitled to have the conditions reviewed by a judge in the court having original jurisdiction over the offense charged. A person applying for review shall be given the opportunity for a hearing. Unless the conditions of release are amended as requested, the judge shall set forth in writing or orally on the record a reasonable basis for continuing the conditions imposed. In the event that a judge in the court having original jurisdiction over the offense charged is not available, any ~~district or~~ superior judge may review such conditions.

(2) A person for whom conditions of release are imposed shall, within five working days of application, be entitled to have the conditions reviewed by a judge in the court having original jurisdiction over the offense charged. A person applying for review shall be given the opportunity for a hearing. Unless the conditions of release are amended as requested, the judge shall set forth in writing or orally on the record a reasonable basis for continuing the conditions imposed. In the event that a judge in the court having original jurisdiction over the offense charged is not available, any ~~district or~~ superior judge may review such conditions.

(f) The term “judicial officer” as used in this section and section 7556 of this title shall mean a clerk of a superior ~~or district~~ court or a superior ~~or district court~~ judge.

Sec. 119. 13 V.S.A. § 7560a(a) is amended to read:

(a) If a person who has been released on a secured or unsecured appearance bond or a surety bond fails to appear in court as required:

(1) The court may:

(A) issue a warrant for the arrest of the person; and

(B) upon hearing and notice thereof to the bailor or surety, forfeit any bail posted on the person.

(2)(A) The state’s attorney may file a motion to forfeit the amount of the bond against the surety in the civil or criminal division of the superior ~~or district~~ court where the bond was executed.

(B) A motion filed under this subdivision shall:

- (i) include a copy of the bond;
- (ii) state the facts upon which the motion is based; and
- (iii) be served upon the surety.

Sec. 120. 14 V.S.A. § 101 is amended to read:

§ 101. WILL NOT EFFECTIVE UNTIL ALLOWED

A will shall not pass either real or personal estate unless it is proved and allowed in the probate division of the superior court, or by appeal in the ~~superior or~~ supreme court.

Sec. 121. 14 V.S.A. § 203 is amended to read:

§ 203. PROBATE PROCEEDINGS ~~WITHIN THE EXCLUSIVE JURISDICTION OF PROBATE COURT~~; SERVICE; JURISDICTION OVER PERSONS

In proceedings within the exclusive jurisdiction of the probate division of the superior court where notice is required, interested persons may be bound by the orders of the court in respect to property in or subject to the laws of this state by notice in conformity with law or the rules of probate procedure. An order is binding as to all who are given notice of the proceeding though less than all interested persons are notified.

Sec. 122. 14 V.S.A. § 1728 is amended to read:

§ 1728. COURT TO DETERMINE QUESTIONS OF ADVANCEMENT

Questions as to an advancement made, or alleged to have been made by the deceased to an heir, may be heard and determined by the probate division of the superior court and shall be specified in the decree assigning the estate. The final decree of the probate ~~court~~ division, or of the ~~superior or~~ supreme court on appeal, shall be binding on the persons interested in the estate.

Sec. 123. 14 V.S.A. § 2664 is amended to read:

§ 2664. CREATION OF PERMANENT GUARDIANSHIP

(a) The family division of the superior court may establish a permanent guardianship at a permanency planning hearing or at any other hearing in which a permanent legal disposition of the child can be made, including a child protection proceeding pursuant to 33 V.S.A. § 5528, or a delinquency proceeding pursuant to 33 V.S.A. § 5529. The court shall also issue an order permitting or denying visitation, contact, or information with the parent at the same time the order of permanent guardianship is issued. Before issuing an

order for permanent guardianship, the court shall find by clear and convincing evidence all of the following:

* * *

(c) After the family division of the superior court issues a final order establishing permanent guardianship, the case shall be transferred to the appropriate probate court in the district in which the permanent guardian resides. Jurisdiction shall continue to lie in the probate court. Appeal of any decision by the probate court shall be de novo to the family court.

Sec. 123a. 14 V.S.A. § 2664 is amended to read:

§ 2664. CREATION OF PERMANENT GUARDIANSHIP

* * *

(c) After the family division of the superior court issues a final order establishing permanent guardianship, the case shall be transferred to the appropriate probate division of the superior court in the district in which the permanent guardian resides. Jurisdiction shall continue to lie in the probate court division. ~~Appeal of any decision by the probate court shall be de novo to the family court.~~

Sec. 124. 14 V.S.A. § 2927 is amended to read:

§ 2927. REMEDY, AFTER GUARDIAN'S DISCHARGE, REEXAMINATION OF ACCOUNTS

After the trust of a guardian is terminated, if the ward or the ward's legal representatives are dissatisfied with the account as allowed by the probate division of the superior court during the continuance of the trust, within two years, and if the ward or the legal representatives do not at the time of the termination of the trust reside in this state, within four years thereafter, they may file a motion to reopen the estate for a reexamination of the account. After notice as provided by the rules of probate procedure, the court shall reexamine accounts previously allowed. A party may appeal from the decision of the probate ~~court~~ division to the ~~superior~~ supreme court. The final allowance of accounts in these proceedings shall be conclusive between the parties.

Sec. 125. 14 V.S.A. § 3062 is amended to read;

§ 3062. JURISDICTION; REVIEW OF GUARDIAN'S ACTIONS

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

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

Sec. 126. 15 V.S.A. § 658(d) and (e) are amended to read:

(d) The ~~family~~ superior court judge or magistrate may order a parent who is in default of a child support order, to participate in employment, educational, or training related activities if the court finds that participation in such activities would assist in addressing the causes of the default. The court may also order the parent to participate in substance abuse or other counseling if the court finds that such counseling may assist the parent to achieve stable employment. Activities ordered under this section shall not be inconsistent with any requirements of a state or federal program in which the parent is participating. For the purpose of this subsection, "employment, educational, or training related activities" shall mean:

* * *

(e) A consent to the adoption of a child or the relinquishment of a child, for the purpose of adoption, covered by a child support order shall terminate an obligor's duty to provide future support for the adopted child without further order of the ~~family~~ court. Unpaid support installments accrued prior to adoption are not discharged and are subject to the jurisdiction of the ~~family~~ court. In a case involving a child covered by a Vermont child support order, the probate division of the superior court shall file the consent or relinquishment with the family division of the superior court ~~that issued in the case in which~~ the support order was issued and shall notify the office of child support of any order terminating parental rights and of the final adoption decree. Upon receipt of the consent or relinquishment, the office of child support shall terminate the obligor's duty to provide further support.

Sec. 126a. 15 V.S.A. § 658(e) is amended to read:

* * *

(e) A consent to the adoption of a child or the relinquishment of a child, for the purpose of adoption, covered by a child support order shall terminate an obligor's duty to provide future support for the adopted child without further order of the court. Unpaid support installments accrued prior to adoption are not discharged and are subject to the jurisdiction of the court. In a case involving a child covered by a Vermont child support order, the probate division of the superior court shall also file the consent or relinquishment with the family division of the superior court in the case in which the support order was issued and shall notify the office of child support of any order terminating parental rights and of the final adoption decree. Upon receipt of the consent or

relinquishment, the office of child support shall terminate the obligor's duty to provide further support.

Sec. 127. 15 V.S.A. § 1011(a) is amended to read:

(a) A ~~superior, juvenile or probate~~ court which has considered or is considering the custody or visitation of a minor child may award visitation rights to a grandparent of the child, upon written request of the grandparent filed with the court, if the court finds that to do so would be in the best interest of the child.

Sec. 128. 15 V.S.A. § 1101 is amended to read:

§ 1101. DEFINITIONS

The following words as used in this chapter shall have the following meanings:

* * *

(3) A "foreign abuse prevention order" means any protection order issued by the court of any other state that contains provisions similar to relief provisions authorized under this chapter, the Vermont ~~Family Court Rules for Family Proceedings~~, chapter 69 of Title 33, or chapter 178 of Title 12.

* * *

Sec. 129. 15 V.S.A. § 1102 is amended to read:

§ 1102. JURISDICTION AND VENUE

(a) The family division of the superior court shall have jurisdiction over proceedings under this chapter.

(b) Emergency orders under section 1104 of this title may be issued by a judge of the ~~district, criminal, civil, or family division of the superior or family~~ court.

* * *

Sec. 130. 15 V.S.A. § 1106 is amended to read:

§ 1106. PROCEDURE

(a) Except as otherwise specified in this chapter, proceedings commenced under this chapter shall be in accordance with the ~~family court rules~~ Vermont Rules for Family Proceedings and shall be in addition to any other available civil or criminal remedies.

(b) The court administrator shall establish procedures to insure access to relief after regular court hours, or on weekends and holidays. The court

administrator is authorized to contract with public or private agencies to assist plaintiffs to seek relief and to gain access to ~~district~~, superior ~~and family~~ courts. Law enforcement agencies shall assist in carrying out the intent of this section.

(c) The office of the court administrator shall ensure that the ~~family court and the district~~ superior court ~~have~~ has procedures in place so that the contents of orders and pendency of other proceedings can be known to ~~both~~ all courts for cases in which an abuse prevention proceeding is related to a criminal proceeding.

Sec. 131. 15A V.S.A. § 6-102(c) is amended to read:

(c) Within 30 days after a decree of adoption becomes final, the ~~register clerk~~ of the ~~probate~~ superior court ~~or the clerk of the family court~~ shall send to the registry a copy of any document signed pursuant to section 2-105 of this title.

Sec. 132. 17 V.S.A. § 2103 is amended to read:

§ 2103. DEFINITIONS

As used in this title, unless the context or a specific definition requires a different reading:

* * *

(10) “County officer” means ~~judge of probate~~, assistant judge of the superior court, state’s attorney, sheriff, high bailiff, and justice of the peace.

* * *

(43) “Probate district clerk” means, in a probate district as defined in 4 V.S.A. § 272, the clerk of the county having the largest population in the district.

Sec. 133. 17 V.S.A. § 2323 is amended to read:

§ 2323. PROBATE DISTRICT COMMITTEE

The “probate district committee” of a party shall consist of those members of ~~the each~~ county committee residing in a probate district. Such a committee shall elect its own officers when called upon to meet, but it need not meet unless required to perform some function under this title. The chair of the county committee in the county having the largest population within the district may call the first meeting by giving at least five days’ written notice to all other members; thereafter the committee shall meet at the call of the probate district chair.

Sec. 134. 17 V.S.A. § 2355 is amended to read:

§ 2355. NUMBER OF SIGNATURES REQUIRED

The number of signatures on primary petitions shall be not less than:

- (1) For state and congressional officers, ~~five hundred~~ 500;
- (2) For county officers, probate judges, or state senator, ~~one hundred~~ 100;
- (3) For representative to the general assembly, ~~fifty~~ 50.

Sec. 135. 17 V.S.A. § 2357(a) is amended to read:

(a) Primary petitions and consent forms shall be filed as follows:

- (1) For state and congressional officers, with the secretary of state;
- (2) For county officers with the county clerk;
- (3) For probate judge, with the probate district clerk;
- (4) For state senator, with the senatorial district clerk;
- ~~(4)~~(5) For representative to the general assembly, with the representative district clerk.

Sec. 136. 17 V.S.A. § 2368 is amended to read:

§ 2368. CANVASSING COMMITTEE MEETINGS

After the primary election is conducted, the canvassing committee for state and national offices and statewide public questions shall meet at 10 a.m. one week after the day of the election. The canvassing committee for county offices ~~and, probate judge~~, countywide public questions, and state senator shall meet at 10 a.m. on the third day following the election. The canvassing committees for local offices and local public questions, including state representative, shall meet at 10 a.m. on the day after the election, except that in the case of canvassing committees for state representative in ~~multi town~~ multitown representative districts, the committees shall meet at 10 a.m. on the third day after the election.

Sec. 137. 17 V.S.A. § 2382 is amended to read:

§ 2382. WHICH COMMITTEE TO NOMINATE

Nominations of party candidates pursuant to this subchapter shall be made by the following political committee of the party:

- (1) By the state committee in the case of state or congressional officers;
- (2) By the county committee in the case of county officers;

(3) By the probate district committee in the case of probate judges;

~~(4)~~ By the senatorial district committee in the case of the office of state senator;

~~(4)~~~~(5)~~ By the representative district committee in the case of the office of representative to the general assembly;

~~(5)~~~~(6)~~ By the town committee in the case of the office of justice of the peace.

Sec. 138. 17 V.S.A. § 2402(b) is amended to read:

(b)~~(1)~~ To constitute a valid nomination, a statement shall contain signatures of voters qualified to vote in an election for the office in question, equal in number to at least:

~~(1)~~~~(A)~~ For presidential and vice presidential offices, 1,000;

~~(2)~~~~(B)~~ For state and congressional offices, 500;

~~(3)~~~~(C)~~ For county officers, probate judges, or state senators, 100;

~~(4)~~~~(D)~~ For representative to the general assembly, 50;

~~(5)~~~~(E)~~ For justice of the peace, 30 or one percent of the legal voters of the municipality, whichever is less.

~~(2)~~ Signatures need not all be contained on one paper.

Sec. 139. 17 V.S.A. § 2592 is amended to read:

§ 2592. CANVASSING COMMITTEES; CANVASS OF VOTES IN GENERAL OR SPECIAL ELECTIONS

* * *

(c) For probate judge, the probate district clerk and the county chair of each major party in the county having the largest population within the district, or the chair's designee, shall constitute a canvassing committee to receive and tally returns and issue certificates.

~~(d)~~ For state senator, the senatorial district clerk₂ and the chair of the county committee of each major political party (or designee) in the county for which the senatorial district clerk is clerk shall constitute a canvassing committee to receive and tally returns and issue certificates.

~~(d)~~~~(e)~~ For state representative, the representative district clerk₂ and one other election official from the district shall serve as a canvassing committee to receive and, if necessary, tally returns and issue certificates.

~~(k)~~(k) The certificate shall be a sufficient credential of such person's election, unless superseded by a court order as provided by subchapter 9 of this chapter.

~~(l)~~(l) In the case of the offices of governor, lieutenant governor, treasurer, secretary of state, attorney general, and auditor of accounts, the canvassing committee shall prepare a certificate of election but shall not sign it. The prepared certificate shall be presented to the official canvassing committee appointed by the general assembly, pursuant to chapter II, section 47 of the Vermont constitution, for their use if they desire.

~~(m)~~(m) In the case of a tie vote, the canvassing committee shall forthwith petition the appropriate superior court for a recount pursuant to section 2602 of this title.

~~(n)~~(n) Each canvassing committee shall file a report of its findings with the secretary of state, who shall preserve the reports as permanent records.

Sec. 140. 17 V.S.A. § 2602(b) is amended to read:

(b) In the case of recounts other than specified in subsection (a) of this section, the following procedure shall apply. A petition for a recount shall be filed within 10 days after the election. The petition shall be filed with the civil division of the superior court, Washington County, in the case of candidates for state or congressional office, or for a presidential election; the petition shall be filed with the superior court in ~~any~~ the county with the largest population in which votes were cast for the office to be recounted, in the case of any other office. The petition shall be supported, if possible, by a certified copy of the certificate of election prepared by the canvassing committee, verifying the total number of votes cast and the number of votes cast for each candidate.

Sec. 141. 17 V.S.A. § 2603(c) is amended to read:

(c) The complaint shall be filed within 15 days after the election in question, or if there is a recount, within 10 days after the court issues its judgment on the recount. In the case of candidates for state or congressional office, for a presidential election, or for a statewide public question, the complaint shall be filed with the civil division of the superior court, Washington ~~county~~ County. In the case of ~~any other candidate or public question~~, the complaint shall be filed with the superior court in ~~any~~ the county with the largest population in which votes were cast for the office or question being challenged.

Sec. 142. DELETED

Sec. 143. 17 V.S.A. § 2821 is amended to read:

§ 2821. CAMPAIGN REPORTS; COUNTY OFFICE AND PROBATE JUDGE CANDIDATES

(a) Each candidate for county office or probate judge who has made expenditures or accepted contributions of \$500.00 or more shall file campaign finance reports with the officer with whom his or her nomination papers are filed as follows:

(1) 10 days before the primary election;

(2) 10 days before the general election;

(3) further campaign reports shall be filed on the 15th day of July and annually thereafter or until all contributions and expenditures have been accounted for and any indebtedness and surplus have been eliminated.

(b) Within 40 days after the general election, each candidate for county office or probate judge who has made expenditures or accepted contributions of \$500.00 or more shall file a “final report” which lists a complete accounting of all contributions and expenditures, and disposition of surplus, and which shall constitute the termination of his or her campaign activities.

(c) Copies of reports filed under this section shall be forwarded by the officer to the secretary of state within five days of receipt.

Sec. 144. 18 V.S.A. § 1055 is amended to read:

§ 1055. TUBERCULOSIS-COMPULSORY EXAMINATIONS

When the commissioner of health has reasonable cause to believe that any person has tuberculosis in an active stage or in a communicable form, ~~he~~ the commissioner may request the person to undergo an examination at a clinic or hospital approved by the secretary of the agency of human services for that purpose at the expense of the state by a physician qualified in chest diseases. If the person refuses the examination, the commissioner may petition the ~~district~~ superior court for the ~~district~~ unit where the person resides for an order requiring the person to submit to examination. When the court finds that there is reasonable cause to believe that the person has tuberculosis in an active stage or in a communicable form, it may order the person to be examined.

Sec. 145. 18 V.S.A. § 4053(b) is amended to read:

(b) In addition to the other remedies provided in this chapter, the board is hereby authorized through the attorney general or state’s attorneys to apply to the civil or criminal division of any superior ~~or district~~ court ~~to apply for~~, and the court shall have jurisdiction upon hearing and for cause shown, to grant a temporary or permanent injunction restraining any person from violating any

provision of this chapter, irrespective of whether or not there exists an adequate remedy at law.

Sec. 146. 18 V.S.A. § 4055 is amended to read:

§ 4055. MARKING; NOTICE

(a) Whenever a duly authorized agent of the board finds or has probable cause to believe that any food, drug, device, or cosmetic is adulterated, or so misbranded as to be dangerous or fraudulent, within the meaning of this chapter, he or she shall affix to such article a tag or other appropriate marking, giving notice that the article is, or is suspected of being, adulterated or misbranded and has been detained or embargoed, and warning all persons not to remove or dispose of the article by sale or otherwise until permission for removal or disposal is given by the agent or the court. It shall be unlawful for any person to remove or dispose of the detained or embargoed article by sale or otherwise without that permission.

(b) When an article detained or embargoed under subsection (a) has been found by the agent to be adulterated, or misbranded, he or she shall petition the ~~presiding judge~~ civil or criminal division of the superior court ~~or district court~~ in ~~whose jurisdiction~~ the unit where the article is detained or embargoed, for a libel for condemnation of the article. When the agent has found that an article so detained or embargoed is not adulterated or misbranded, he or she shall remove the tag or other marking.

(c) If the court finds that a detained or embargoed article is adulterated or misbranded, the article shall, after entry of the decree, be destroyed at the expense of the claimant thereof, under the supervision of the agent, and all court costs and fees, and storage and other proper expenses, shall be taxed against the claimant of the article or his or her agent; provided, that when the adulteration or misbranding can be corrected by proper labeling or processing of the article, the court, after entry of the decree and after the costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that the article shall be so labeled or processed, has been executed, may by order direct that the article be delivered to the claimant thereof for such labeling or processing under the supervision of an agent of the board. The expense of the supervision shall be paid by the claimant. The bond shall be returned to the claimant of the article on representation to the court by the board that the article is no longer in violation of this chapter and that the expenses of supervision have been paid.

* * *

Sec. 147. 18 V.S.A. § 5144(a) is amended to read:

(a) Marriages may be solemnized by a supreme court justice, a superior ~~court~~ judge, a ~~district judge~~, a judge of probate, an assistant judge, a justice of the peace, an individual who has registered as an officiant with the Vermont secretary of state pursuant to section 5144a of this title, a member of the clergy residing in this state and ordained or licensed, or otherwise regularly authorized thereunto by the published laws or discipline of the general conference, convention, or other authority of his or her faith or denomination, or by such a clergy person residing in an adjoining state or country, whose parish, church, temple, mosque, or other religious organization lies wholly or in part in this state, or by a member of the clergy residing in some other state of the United States or in the Dominion of Canada, provided he or she has first secured from the probate ~~court of the district~~ division of the superior court in the unit within which the marriage is to be solemnized a special authorization, authorizing him or her to certify the marriage if ~~such~~ the probate judge determines that the circumstances make the special authorization desirable. Marriage among the Friends or Quakers, the Christadelphian Ecclesia, and the Baha'i Faith may be solemnized in the manner heretofore used in such societies.

Sec. 148. 18 V.S.A. § 5231(a) and (f) are amended to read:

(a) Any individual who is a near relative of the decedent or the custodian of the decedent's remains may file an action in the probate division of the superior court requesting the court to appoint an individual to make decisions regarding the disposition of the decedent's remains or to resolve a dispute regarding the appropriate disposition of remains, including any decisions regarding funeral goods and services. The court or the individual filing the action may move to join any necessary person under the jurisdiction of the court as a party. The agency of human services may also be joined as a party if it is suggested on the record that there will be insufficient financial resources to pay for funeral goods and services.

(f) ~~Any appeal from the probate court shall be on the record to the superior court. There shall be no appeal as a matter of right to the supreme court. [Repealed.]~~

Sec. 149. 18 V.S.A. § 5531(c) is amended to read:

(c) The probate division of the superior court shall have jurisdiction to determine all questions arising under the provisions of this section.

Sec. 150. 18 V.S.A. § 7106 is amended to read:

§ 7106. NOTICE OF HOSPITALIZATION AND DISCHARGE

Whenever a patient has been admitted to a hospital ~~or training school~~ other than upon his or her own application, the head of the hospital ~~or school~~ shall immediately notify the patient's legal guardian, spouse, parent or parents, or nearest known relative or interested party, if known. If the involuntary hospitalization or admission was without court order, notice shall also be given to the ~~district~~ superior court judge for the ~~district~~ unit wherein the hospital is located. If the hospitalization or admission was by order of any court, the head of the hospital ~~or training school~~ admitting or discharging an individual shall forthwith make a report thereof to the commissioner and to the court which entered the order for hospitalization or admission.

Sec. 151. 18 V.S.A. § 8010(b) is amended to read:

(b) In that event and if the head of the hospital determines that the patient is a patient in need of further treatment, the head of the hospital may detain the patient for a period not to exceed four days from receipt of the notice to leave. Before expiration of the four-day period the head of the hospital shall either release the patient or apply to the ~~district~~ superior court in the ~~district~~ unit in which the hospital is located for the involuntary admission of the patient. The patient shall remain in the hospital pending the court's determination of the case.

Sec. 152. 18 V.S.A. § 8845(a) and (b) are amended to read:

(a) A person committed under this subchapter may be discharged from custody by a ~~district~~ superior judge after judicial review as provided herein or by administrative order of the commissioner.

(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 ~~district~~ 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.

Sec. 153. 18 V.S.A. § 9052 is amended to read:

§ 9052. TRANSFER OF PATIENTS

The compact administrator shall consult with the immediate family of any person whom he or she proposes to transfer from a state institution to an institution in another state which is a party to this compact and shall take final action as to the transfer of such person only with the approval of the ~~district~~ superior court of the ~~district~~ unit of original commitment.

Sec. 154. 18 V.S.A. § 9303 is amended to read:

§ 9303. JURISDICTION AND VENUE

(a) The family division of the superior court shall have exclusive jurisdiction over all proceedings brought under the authority of this chapter. Proceedings under this chapter shall be commenced in the family division of the superior court for the county in which the person with developmental disabilities is residing.

* * *

Sec. 154a. 18 V.S.A. § 9303 is amended to read:

§ 9303. JURISDICTION AND VENUE

(a) The superior court shall have exclusive jurisdiction over all proceedings brought under the authority of this chapter. Proceedings under this chapter shall be commenced in the superior court for the ~~county~~ unit in which the person with developmental disabilities is residing.

(b)(1) The probate division of the superior court shall have concurrent jurisdiction to appoint the commissioner to serve as a temporary guardian for a person in need of guardianship when:

(A) a petition has been filed pursuant to ~~section 14 V.S.A. § 3063 of Title 14;~~

(B) the probate division of the superior court finds that the respondent is a person in need of guardianship as defined in subdivision 9302(5) of this title; and

(C) no suitable private guardian can be located.

(2) Within 60 days after appointment as a temporary guardian, the commissioner shall file a petition in the family division of the superior court for appointment under this chapter and for modification or termination of the probate ~~court~~ division order.

Sec. 155. 18 V.S.A. § 9316(a) and (b) are amended to read:

(a) The commissioner shall provide guardianship services in accordance with the order of the probate or family division of the superior court until termination or modification thereof by the court.

(b) The commissioner, the person with developmental disabilities, or any interested person may petition the appointing court, if it exists, or the family superior court for the ~~district~~ unit where the person resides to modify or terminate the judgment pursuant to which the commissioner is providing guardianship. The petitioner, or the commissioner as petitioner, and the

respondent shall be the parties to a petition to modify or terminate guardianship.

Sec. 155a. 18 V.S.A. § 9316(a) is amended to read:

(a) The commissioner shall provide guardianship services in accordance with the order of the ~~probate or~~ superior court until termination or modification thereof by the court.

Sec. 156. 20 V.S.A. § 26 is amended to read:

§ 26. CHANGE OF VENUE BECAUSE OF ENEMY ATTACK

In the event that the place where a civil action or a criminal prosecution is required by law to be brought, has become and remains unsafe because of an attack upon the United States or Canada, such action or prosecution may be brought in or, if already pending, may be transferred to the superior ~~or district~~ court as appropriate in an unaffected county or territorial unit and there tried in the place provided by law for such court.

Sec. 157. 20 V.S.A. § 1882 is amended to read:

§ 1882. SUBPOENAS

In connection with any investigation into the internal affairs of the department, the commissioner may request subpoenas for the testimony of witnesses or the production of evidence. The fees for travel and attendance of witnesses shall be the same as for witnesses and officers before a ~~district superior~~ court. The fees in connection with subpoenas issued on behalf of the commissioner or the department shall be paid by the state, upon presentation of proper bills of costs to the commissioner. Notwithstanding 3 V.S.A. §§ 809a and 809b, subpoenas requested by the commissioner shall be issued and enforced by the ~~district superior~~ court of the ~~district unit~~ in which the person subpoenaed resides in accordance with the Vermont ~~District Court Civil~~ Rules of Civil Procedure.

Sec. 158. 20 V.S.A. § 1935 is amended to read:

§ 1935. PROCEDURE IF PERSON REFUSES TO GIVE SAMPLE

(a) If a person who is required to provide a DNA sample under this subchapter refuses to provide the sample, the commissioner of the department of corrections or public safety shall file a motion in the ~~district superior~~ court for an order requiring the person to provide the sample.

* * *

(f) Venue for proceedings under this section shall be in the territorial unit of the ~~district superior~~ court where the conviction occurred. Hearings under

this section shall be conducted by the ~~district~~ superior court without a jury and shall be subject to the ~~District Court Civil Rules~~ Vermont Rules of Civil Procedure as consistent with this section. The state has the burden of proof by a preponderance of the evidence. Affidavits of witnesses shall be admissible evidence which may be rebutted by witnesses called by either party. The affidavits shall be delivered to the other party at least five days prior to the hearing.

(g) A decision of the ~~district~~ superior court under this section may be appealed as a matter of right to the supreme court. The court's order shall not be stayed pending appeal unless the respondent is reasonably likely to prevail on appeal.

Sec. 159. 20 V.S.A. § 2056 is amended to read:

§ 2056. CERTIFIED RECORDS

Upon the request of a superior ~~or district court~~ judge, the attorney general, or a state's attorney, the center shall prepare the record of arrests, convictions, or sentences of a person. The record, when duly certified by the commissioner of public safety or the director of the center, shall be competent evidence in the courts of this state. Such other information as is contained in the center may be made public only with the express approval of the commissioner of public safety.

Sec. 160. 23 V.S.A. § 1205 is amended to read:

§ 1205. CIVIL SUSPENSION; SUMMARY PROCEDURE

* * *

(d) Form of notice. The notice of intention to suspend and of suspension shall be in a form prescribed by the supreme court. The notice shall include an explanation of rights, a form to be used to request a hearing, and, if a hearing is requested, the date, time, and location of the ~~district~~ criminal division of the superior court where the person must appear for a preliminary hearing. The notice shall also contain, in boldface print, the following:

* * *

(3) If you wish to request a hearing before the ~~district~~ superior court, you must mail or deliver your request for a hearing within seven (7) days after (date of notice).

* * *

(f) Review by ~~district~~ superior court. Within seven days following receipt of a notice of intention to suspend and of suspension, a person may make a request for a hearing before the ~~district~~ superior court by mailing or delivering

the form provided with the notice. The request shall be mailed or delivered to the commissioner of motor vehicles, who shall then notify the ~~district~~ criminal division of the superior court that a hearing has been requested and ~~who shall then~~ provide the state's attorney with a copy of the notice of intention to suspend and of suspension and the officer's affidavit.

* * *

(h) Final hearing.

* * *

(2) No less than seven days before the final hearing, and subject to the requirements of ~~District Court Civil Rule~~ Vermont Rule of Civil Procedure 11, the defendant shall provide to the state and file with the court a list of the issues (limited to the issues set forth in this subsection) that the defendant intends to raise. Only evidence that is relevant to an issue listed by the defendant may be raised by the defendant at the final hearing. The defendant shall not be permitted to raise any other evidence at the final hearing, and all other evidence shall be inadmissible.

* * *

(j) Venue and conduct of hearings. Venue for proceedings under this section shall be in the territorial unit of the ~~district~~ superior court where the offense is alleged to have occurred. Hearings under this section shall be summary proceedings conducted by the ~~district~~ criminal division of the superior court without a jury and shall be subject to the ~~District Court Civil Rules~~ Vermont Rules of Civil Procedure only as consistent with this section. The state has the burden of proof by a preponderance of the evidence. Affidavits of law enforcement officers, chemists of either party, or expert witnesses of either party shall be admissible evidence which may be rebutted by witnesses called by either party. The affidavits shall be delivered to the other party at least five days prior to the hearing.

(k) Appeal. A decision of the ~~district~~ criminal division of the superior court under this section may be appealed as a matter of right to the supreme court. The suspension shall not be stayed pending appeal unless the defendant is reasonably likely to prevail on appeal.

* * *

Sec. 161. 23 V.S.A. § 1213c(c) is amended to read:

(c) Service of notice. The notice of hearing shall be served as provided for in the ~~District Court Civil Rules~~ Vermont Rules of Civil Procedure on the registered owner or owners and any lienholders as shown on the certificate of

title for the vehicle as shown in the records of the department of motor vehicles in the state in which the vehicle is registered or titled.

Sec. 162. 23 V.S.A. § 3021(b) and (d) are amended to read:

(b) In addition to the powers specifically granted to the commissioner in this chapter, he or she may:

* * *

(5) compel the attendance of witnesses and order the production of any relevant books, records, papers, vouchers, accounts, or other documents of any person the commissioner has reason to believe is liable for the payment of a tax or of any person believed to have information pertinent to any matter under investigation by the commissioner at any hearing held under this chapter. The fees for travel and attendance of witnesses summoned or used by the commissioner and fees for officers shall be the same as for witnesses and officers before a ~~district~~ the criminal division of the superior court and shall be paid by the state upon presentation of proper bills of cost to the commissioner of finance and management, but no fees or expenses shall be payable to a witness charged with a use tax liability.

(d) Any superior or ~~district~~ judge upon application of the commissioner may compel the attendance of witnesses, the giving of testimony, and the production of any books, records, papers, vouchers, accounts, or documents before the commissioner in the same manner, to the same extent, and subject to the same penalties as if before a superior or ~~district~~ court.

Sec. 163. 24 V.S.A. § 71a is amended to read:

§ 71a. COURTHOUSES

(a) Except as provided herein, each county shall provide and own a suitable courthouse, pay all utility and custodial services, and keep such courthouse suitably furnished and equipped for use by the superior court and probate court, together with suitable offices for the county clerk, assistant judges, and probate judges. Office space for the probate court may be provided elsewhere by the county. ~~Each county shall provide fireproof safes or vaults for the safekeeping of the official files and records required to be kept by county officials, including the files and records of a justice of the peace who has vacated his or her office. Use of the county courthouse by the supreme court, district court, family court or the judicial bureau may be permitted by the assistant judges when such use does not conflict with the use of the building by the superior court, provided that the office of court administrator shall pay the cost of any such use should the assistant judges choose not to pay the cost by~~

~~use of county funds.~~ The county shall provide at least the facilities for judicial operations, including staff, that it provided on July 1, 2009.

(b) ~~If the state provides a building in which the superior court is held~~ all judicial operations in a county are contained in one court building owned by the state, the county clerk and assistant judges may also be located in the same building. ~~The assistant judges, the court administrator and the commissioner of buildings and general services shall be the superintendents of the building. They shall make decisions regarding building construction, space allocations, and use of the facility after consulting with the district court and the superior court presiding judges judge and the probate judge if housed in the building assistant judges.~~ The county shall no longer be required to maintain a courthouse.

(c) The court administrator, in consultation with the presiding judge of the superior court, shall determine what judicial operations will occur in the county courthouse.

Sec. 163a. 24 V.S.A. § 71a is amended to read:

§ 71a. COURTHOUSES

(a) Except as provided herein, each county shall provide and own a suitable courthouse, pay all utility and custodial services, and keep such courthouse suitably furnished and equipped for use by the superior court ~~and probate court,~~ together with suitable offices for the county clerk, assistant judges and probate judges. Office space for the probate division of the superior court may be provided elsewhere by the county. The county shall provide at least the facilities for judicial operations, ~~including staff,~~ that it provided on July 1, 2009.

* * *

Sec. 164. 24 V.S.A. § 72 is amended to read:

§ 72. —EXPENSES OF THE SUPERIOR COURT

(a) The expenses connected with the superior court, unless otherwise provided, shall be paid by the state.

~~(b) All filing fees in small claims actions, including postjudgment fees, shall be held by the county in which they are filed.~~

Sec. 165. 24 V.S.A. § 75 is amended to read:

§ 75. TELEPHONE

Each county shall provide adequate telephone service for the county courthouse, the offices of the county clerk, ~~probate judge or register thereof,~~ and the sheriff.

Sec. 166. 24 V.S.A. § 77 is amended to read:

§ 77. COUNTY LANDS; PURCHASE; CONDEMNATION

(a) Each county may acquire and own such lands and rights in lands as in the opinion of the assistant judges are needful for county purposes.

(b) A county may condemn land in situations similar to those in which a municipality may condemn under section 2805 of this title by complying with the procedures established in sections 2805 through 2812 of this title, with the assistant judges performing the duties assigned by those sections to the selectmen.

~~(c) In any proceeding brought by a county under subsection (b) of this section, the assistant judges shall be disqualified, and the proceeding shall be heard by the presiding judge, sitting alone.~~

Sec. 167. 24 V.S.A. § 131 is amended to read:

§ 131. POWERS AND DUTIES

The assistant judges ~~of the superior court~~ shall have the care and superintendence of county property, may take deeds and leases of real estate to the county, rent or sell and convey unused lands belonging to the county, keep the courthouse, jail, and other county buildings insured, and make needed repairs and improvements in and around the same.

Sec. 168. 24 V.S.A. § 137 is amended to read:

§ 137. JURISDICTION

~~District and superior~~ Superior courts, within their respective jurisdictions, may take cognizance of actions in favor of or against the county.

Sec. 169. 24 V.S.A. § 171 is amended to read:

§ 171. APPOINTMENT

The assistant judges ~~of the superior court, with the concurrence of the presiding judge of such court,~~ shall appoint a county clerk who shall be sworn and hold his or her office during the pleasure of such judges and until his or her successor is appointed and has qualified.

Sec. 170. 24 V.S.A. § 175 is amended to read:

§ 175. BOND TO COUNTY

Before entering upon the duties of his or her office, a county clerk shall become bound to the county in the sum of \$3,000.00, with sufficient sureties, by way of recognizance, before ~~two of the judges of the superior court~~ the assistant judges, or give a bond to the county executed by principal and sureties in like sum to be approved by ~~two of the judges of the superior court~~ the assistant judges, conditioned for the faithful performance of his or her duties. Such bonds of county clerks shall be taken biennially in the month of February and recorded in the office of the county clerk.

Sec. 171. 24 V.S.A. § 176 is amended to read:

§ 176. DEPUTY CLERK

A county clerk may, subject to the approval of the assistant judges, appoint one or more deputies who may perform the duties of clerk for whose acts he or she shall be responsible and whose deputations he or she may revoke at pleasure. A record of the appointments shall be made in the office of the clerk. In case of the death of the clerk or his or her inability to act, the deputy or deputies in order of appointment shall perform the duties of the office until a clerk is appointed. In case of the suspension of the clerk's duties as a condition of release pending trial for violating 13 V.S.A. § 2537, the assistant judges of the county shall appoint a person to perform the duties of the office until the charge of violating 13 V.S.A. § 2537 is resolved. ~~If the assistant judges cannot agree upon appointing a person, the judge of the superior court of the county shall make the appointment.~~ The compensation for the clerk and deputy clerk shall be fixed by the assistant judges and paid for by the county. Such compensation may include such employment benefits as are presently provided to state employees, including, ~~but not limited to,~~ health insurance, life insurance, and pension plan, the expense for which shall be borne by the county and the employees.

Sec. 172. 24 V.S.A. § 178 is amended to read:

§ 178. RECORD OF SHERIFF'S COMMISSION; COPIES; EVIDENCE

~~Such~~ The county clerk shall record, in a book kept for that purpose, sheriffs' commissions with the oath of office indorsed thereon, ~~and recognizances taken by the judges of the superior court, out of court, for the appearance of criminals confined in jail.~~ In case of loss or destruction of an original commission or recognizance, a certified copy of the record may be used in court as evidence of the facts therein contained.

Sec. 173. 24 V.S.A. § 183 is amended to read:

§ 183. CERTIFICATE OF APPOINTMENT OF NOTARY PUBLIC
~~OR MASTER~~

Immediately after the appointment of a notary public ~~or master~~, the county clerk shall send to the secretary of state a certificate of such appointment, on blanks furnished by ~~such~~ the secretary, containing the name, signature, and legal residence of the appointee, and the term of office of each notary public. ~~Such~~ The secretary shall cause such certificates to be bound in suitable volumes and to be indexed. Upon request, ~~such~~ the secretary may certify the appointment, qualification and signature of ~~such~~ a notary public ~~or master~~ on tender of his or her legal fees.

Sec. 174. 24 V.S.A. § 211 is amended to read:

§ 211. APPOINTMENT; VACANCY

Biennially, on February 1, the assistant judges ~~of the superior court~~ shall appoint a treasurer for the county who shall hold office for two years and until his or her successor is appointed and qualified. If ~~such~~ the treasurer dies or in the opinion of the assistant judges becomes disqualified, they may appoint a treasurer for the unexpired term. If the treasurer has his or her duties suspended as a condition of release pending trial for violating 13 V.S.A. § 2537, the assistant judges of the county shall appoint a person to perform the duties of the treasurer until the charge of violating 13 V.S.A. § 2537 is resolved. If the assistant judges cannot agree upon whom to appoint, the auditor of accounts shall make the appointment.

Sec. 175. 24 V.S.A. § 212 is amended to read:

§ 212. BOND

Before entering upon the duties of his or her office, a county treasurer shall become bound to the county in the sum of \$5,000.00, with sufficient sureties, by way of recognizance, before ~~two of the judges of the superior court~~ the assistant judges, or give a bond to the county executed by principal and sureties in like sum to be approved by ~~two of the judges of the superior court~~ the assistant judges, conditioned for the faithful performance of his or her duties. ~~Such~~ The recognizance or bond shall be lodged with and recorded by the county clerk. ~~Such bond shall be~~ and renewed annually in the month of February.

Sec. 176. 24 V.S.A. § 291 is amended to read:

§ 291. BOND; OATH

Before entering upon the duties of his or her office, a sheriff shall become bound to the treasurer of the county in the sum of \$100,000.00, with two or more sufficient sureties by way of recognizance, before ~~a justice of the supreme court or the two assistant judges of the superior court~~ in such county, or give a bond to the treasurer executed by such sheriff with sufficient sureties in like sum to be approved by ~~a justice of the supreme court or by the two assistant judges of the superior court~~, conditioned for the faithful performance of his or her duties and shall take the oath of office before one of ~~such~~ the judges, who shall certify the same on the sheriff's commission. Such recognizance or bond and the commission shall be forthwith recorded in the office of the county clerk.

Sec. 177. 24 V.S.A. § 294 is amended to read:

§ 294. SHERIFF IMPRISONED

If a sheriff is confined in prison by legal process, his or her functions as sheriff shall be suspended. When ~~he~~ the sheriff is released from imprisonment during his or her term of office, he or she shall file a certificate of his or her discharge signed by one of the judges of the superior court, in the office of the county clerk, and deliver a like certificate to the high bailiff. Thereupon he or she shall resume the powers and execute the duties of sheriff.

Sec. 178. 24 V.S.A. § 361(a) is amended to read:

(a) A state's attorney shall prosecute for offenses committed within his or her county, and all matters and causes cognizable by the supreme, and superior and district courts in behalf of the state; file informations and prepare bills of indictment, deliver executions in favor of the state to an officer for collection immediately after final judgment, taking duplicate receipts therefor, one of which shall be sent to the commissioner of finance and management, and take measures to collect fines and other demands or sums of money due to the state or county.

Sec. 179. 24 V.S.A. § 441 is amended to read:

§ 441. APPOINTMENT; JURISDICTION; EX OFFICIO NOTARIES;
APPLICATION

(a) The assistant ~~judges of the superior court~~ may appoint as many notaries public for the county as the public good requires, ~~to hold~~. Notaries public so appointed shall hold office until ten days after the expiration of the term of office of such judges, ~~whose~~ and their jurisdiction shall extend throughout the state.

(b) The clerk of the supreme court, county clerks, ~~district~~ superior court clerks, ~~family~~ deputy superior court clerks, justices of the peace, and town clerks and their assistants shall be ex officio notaries public.

(c) Every applicant for appointment and commission as a notary public shall complete an application to be filed with the county clerk ~~of the superior court~~ stating that the applicant is a resident of the county and has reached the age of majority, giving his or her business or home address and providing a handwritten specimen of the applicant's official signature.

(d) An ex officio notary public shall cease to be a notary public when he or she vacates the office on which his or her status as a notary public depends.

Sec. 180. 24 V.S.A. § 441a is amended to read:

§ 441a. NONRESIDENT NOTARY PUBLIC

A nonresident may be appointed as a notary public, provided the individual resides in a state adjoining this state and maintains, or is regularly employed in, a place of business in this state. Before a nonresident may be appointed as a notary public, the individual shall file with the assistant judges ~~of the superior court~~ in the county where the individual's place of employment is located an application setting forth the individual's residence and the place of employment in this state. A nonresident notary public shall notify the assistant judges ~~of the superior court~~, in writing, of any change of residence or of place of employment in this state.

Sec. 181. 24 V.S.A. § 442 is amended to read:

§ 442. OATH; CERTIFICATE OF APPOINTMENT RECORDED; FORM

(a) A person appointed as notary public shall cause the certificate of his or her appointment to be filed and recorded in the office of the county clerk where issued. Before entering upon the duties of ~~his~~ office, he or she, as well as an ex officio notary, shall take the oath prescribed by the constitution, and shall duly subscribe the same with his or her correct signature, which oath thus subscribed shall be kept on file by the county clerk as a part of the records of such county.

(b) The certificate of appointment shall be substantially in the following form:

STATE OF VERMONT, ss.

_____ County

This is to certify that A.B. of _____ in such county, was, on the _____ day of _____, 20 _____, appointed by the

~~assistant judges of the superior court~~ for such county a notary public for the term ending on February 10, 20 ____.

Assistant Judges of the
superior court.

And at _____ in such county, on this _____ day of _____, 20 _____ personally appeared A.B. _____ and took oath of office prescribed in the constitution.

Before me,

C. D. _____

(Designation of the officer administering the oath).

Sec. 182. 24 V.S.A. § 1974(c) is amended to read:

(c) Prosecutions of criminal ordinances shall be brought before the ~~district superior court~~ pursuant to ~~section 4 V.S.A. § 441 of Title 4.~~

Sec. 183. 24 V.S.A. § 3117 is amended to read:

§ 3117. APPEAL FROM ORDER

An owner or person interested who is aggrieved by such order may appeal as provided in the case of a person aggrieved by an order of a building inspector. However, the provisions of this section shall not prevent ~~such the~~ municipality from recovering the forfeiture provided in section 3116 of this title from the date of the service of the original notice, unless ~~such the~~ order is annulled by the board of arbitration, ~~district court~~ or a superior judge, as the case may be.

Sec. 184. 24 V.S.A. § 3808 is amended to read:

§ 3808. LIABILITY OF PERSON BOUND TO BUILD FENCE

When a person bound to support a portion of the division fence does not make or maintain his or her portion, he or she shall be liable for damages done to or suffered by the opposite party in consequence of such neglect. An owner or occupant of adjoining lands, after 10 days from the time notice is given to the opposite party, may make or put in repair the fence and recover from the opposite party damages arising from the neglect, with the expense of building or repairing the fence. ~~Actions under this section may be brought before a district court when the amount claimed does not exceed \$200.00.~~

Sec. 185. 28 V.S.A. § 103 is amended to read:

§ 103. INQUIRIES AND INVESTIGATIONS INTO THE
ADMINISTRATION OF THE DEPARTMENT

* * *

(c) In any inquiry or investigation conducted by the commissioner, he or she shall have the same powers as are possessed by ~~district court or~~ superior judges in chambers, and which shall include the power to:

- (1) Administer oaths;
- (2) Compel the attendance of witnesses;
- (3) Compel the production of documentary evidence.

(d) If any person disobeys any lawful order or subpoena issued by the commissioner pursuant to this section or refuses to testify to any matter regarding which he or she may be questioned lawfully, any ~~district court or~~ superior judge, upon application by the commissioner, shall order the obedience of the person in the same manner as if the person had disobeyed an order or subpoena of the ~~district court or~~ superior judge.

(e) The fees and traveling expenses of witnesses shall be the same as are allowed witnesses in the ~~district or~~ superior courts of the state and shall be reimbursed by the commissioner out of any appropriation or funds at the disposal of the department.

Sec. 186. 28 V.S.A. § 1531 is amended to read:

§ 1531. APPROPRIATE COURT

The phrase “appropriate court” as used in the agreement on detainees, with reference to the courts of this state, means the superior court where the Vermont charge is pending ~~or the district court~~.

Sec. 187. 29 V.S.A. § 1158 is amended to read:

§ 1158. —ACTS AND RESOLVES; VERMONT STATUTES
ANNOTATED; DISTRIBUTION

(a) The state librarian shall deliver the acts and resolves as follows: to the secretary of state, six copies; to the clerk of the United States supreme court for the use of the court, one copy; to the governor’s office and to the governor and lieutenant governor, one copy each; to the ~~Library~~ Library of Congress, four copies; to each county clerk, three copies; one to each of the following officers and institutions: each department of the United States government and upon request to federal libraries, elective and appointive state officers, the clerk of each state board or commission, superintendent of each state institution, the

library of the ~~university~~ University of Vermont, the libraries of Castleton, Johnson, and Lyndon ~~state colleges~~ State Colleges, Vermont ~~technical college~~ Technical College, Middlebury ~~college~~ College, Norwich ~~university~~ University, St. Michael's ~~college~~ College, senators and representatives of this state in Congress, members of the general assembly during the session at which such laws were adopted, the secretary and assistant secretary of the senate, clerk and assistant clerks of the house of representatives, the judges, attorney, marshal, and clerk of the United States district court in this state, the judge of the second circuit United States court of appeals from Vermont, justices and ex-justices of the supreme court, superior judges, ~~district court judges~~, the reporter of decisions, judges and registers of probate, sheriffs, state's attorneys, town clerks; one each, upon request and as the available supply permits, to assistant judges ~~of the superior court~~, justices of the peace, chairman of the legislative body of each municipality and town treasurers; one within the state, to the Vermont historical society, to each county or regional bar law library, and one copy to each state or territorial library or supreme court library, and foreign library which makes available to Vermont its comparable publication, provided that if any of these officials hold more than one of the offices named, that official shall be entitled to only one copy.

(b) The state librarian shall distribute the copies of Vermont Statutes Annotated and cumulative pocket part supplements thereto, when issued, as follows: one each to the governor, lieutenant governor, speaker of the house of representatives, the state treasurer, secretary of state, auditor of accounts, adjutant general, commissioner of buildings and general services, commissioner of taxes, sergeant at arms, and the head of each administrative department; four copies to the attorney general; one to each town clerk, three to each county clerk; one to each probate judge and two to the clerk of the supreme court; one to each ex-justice and justice of the supreme court, each superior judge, ~~district judge~~, and state's attorney; two to the judge of the second circuit United States court of appeals from Vermont and four to the United States district judges for the district of Vermont. One copy shall be given to each state institution, each county or regional bar law library, each university, college, and public library, as requested, and as many sets as are needed to effect exchange with state libraries and state law libraries. Current copies of the Vermont Statutes Annotated and supplements shall be kept for use in the offices of the officers and institutions mentioned. One copy shall be given to each member of the commission established by chapter 3 of Title 1 and counsel therefor, unless they are authorized to receive one in another capacity, and one to each of the ~~fifteen~~ 15 members of the joint special committee on revision of the laws authorized by No. 86 of the Acts of 1959.

Additional copies may be sold to parties identified in this subsection at a price to be fixed by the state librarian.

Sec. 188. 30 V.S.A. § 12 is amended to read:

§ 12. REVIEW BY SUPREME COURT

A party to a cause who feels ~~himself or herself~~ aggrieved by the final order, judgment, or decree of the board may appeal to the supreme court. However, the board, in its discretion and before final judgment, may permit an appeal to be taken by any party to the supreme court for determination of questions of law in such manner as the supreme court may by rule provide for appeals before final judgment from a superior court ~~or the district court~~. Notwithstanding the provisions of the Vermont ~~rules of civil procedure~~ Rules of Civil Procedure or the Vermont ~~rules of appellate procedure~~ Rules of Appellate Procedure, neither the time for filing a notice of appeal nor the filing of a notice of appeal, as provided herein, shall operate as a stay of enforcement of an order of the board unless the board or the supreme court grants a stay under the provisions of section 14 of this title.

Sec. 189. 32 V.S.A. § 467 is amended to read:

§ 467. ACCOUNTS WITH ~~COUNTY~~ SUPERIOR COURT CLERKS

The commissioner of finance and management shall issue ~~his or her~~ a warrant in favor of each ~~county~~ superior court clerk when ~~such~~ the clerk requires money for election or court expenses, and the state treasurer shall charge the same to the clerk. The clerk shall be credited for moneys properly disbursed by him or her, and the balance shall be paid by the clerk into the treasury.

Sec. 190. 32 V.S.A. § 469 is amended to read:

§ 469. REQUISITION FOR COURT EXPENSES

With the approval of the court administrator, the supreme court, ~~the environmental court~~, the judicial bureau, ~~the probate court~~, and the superior court, ~~the district court and the family court~~ may requisition money from the state to pay fees and expenses related to grand and petit jurors, fees and expenses of witnesses approved by the judge, expenses of guardians ad litem, expenses of elections, and other expenses of court operations. The cash advances shall be administered under the provisions of section 466 of this title.

Sec. 191. 32 V.S.A. § 503 is amended to read:

§ 503. PAYMENT OF MONEYS INTO TREASURY

Quarterly and oftener if the commissioner of finance and management so directs, ~~county~~ superior court clerks and other collectors and receivers of

public money, except justices, shall pay all such money collected or held by them into the state treasury.

Sec. 192. 32 V.S.A. § 504 is amended to read:

§ 504. FINES PAID ~~COUNTY~~ SUPERIOR COURT CLERK

Damages and costs received in actions to which the state is a party, and fines and the amount of bonds and recognizances to the state taken in any county, shall be paid to the ~~county~~ superior clerk. His or her receipt shall be the only valid discharge thereof and he or she shall pay the same into the state treasury.

Sec. 193. 32 V.S.A. § 506 is amended to read:

§ 506. FAILURE OF ~~COUNTY~~ SUPERIOR COURT CLERK TO PAY OVER

If a ~~county~~ superior court clerk neglects to make a return or pay into the state treasury any money as provided in this chapter, the commissioner of finance and management shall forthwith notify the state's attorney, who shall immediately prosecute the clerk and the sureties on his or her official bond.

Sec. 194. 32 V.S.A. § 508 is amended to read:

§ 508. RECEIPTS GIVEN BY STATE OFFICERS

State officers, except ~~county~~ superior court clerks and ~~district~~ superior judges, and every person in the employ of the state under salary or per diem established by statute, receiving money belonging to or for the use of the state, shall give the person paying such money a receipt therefor in such form as shall be prescribed by the state treasurer.

Sec. 195. 32 V.S.A. § 541 is amended to read:

§ 541. COLLECTION OF FINES AND COSTS

All fines, costs, including costs taxed as state's attorneys' and court fees, bail, and unclaimed fees collected by judges ~~of district courts~~ shall be paid into the proper treasury.

Sec. 196. 32 V.S.A. § 581 is amended to read:

§ 581. UNCLAIMED COSTS TO REVERT TO STATE

Fees allowed in a bill of costs to a ~~justice or~~ judge which are not demanded by the party to whom such fees are due within six months after such bill is allowed, shall revert to the use of the state ~~and, in the case of a justice, shall be paid by the justice to the county clerk within 30 days from the expiration of such period of six months;~~ and such ~~justice or~~ the judge, after the expiration of

six months, shall be relieved from all liability to parties to whom ~~such~~ the fees were due.

Sec. 197. 32 V.S.A. § 809 is amended to read:

§ 809. AUDITING OF COURT CLERK ACCOUNTS OF PROBATE JUDGES

The auditor shall examine the accounts of the ~~judges of probate~~ superior court clerks and ascertain whether their fees are properly and uniformly charged and rendered, and if ~~he or she~~ the auditor finds they are not, he or she shall direct the proper corrections to be made. ~~He or she~~ The auditor shall endeavor to obtain a uniform practice in the ~~probate~~ superior courts in that respect.

Sec. 198. 32 V.S.A. § 1141 is amended to read:

§ 1141. ASSISTANT JUDGES OF SUPERIOR COURTS

(a) The compensation of each assistant judge of the superior court, which shall be paid by the state, shall be ~~\$136.28 a day as of July 9, 2006 and~~ \$142.04 a day as of July 8, 2007 for time spent in the performance of official duties and necessary expenses as allowed to classified state employees. Compensation under this section shall be based on a half-day minimum and hourly thereafter.

~~(b) Assistant judges of the superior court shall receive pay for such days as they attend court when it is in actual session, or during a court recess when engaged in the special performance of official duties.~~

Sec. 199. 32 V.S.A. § 1142 is amended to read:

§ 1142. JUDGES OF PROBATE JUDGES

(a) The annual salaries of the ~~judges of probate~~ judges in the several probate districts, which shall be paid by the state in lieu of all fees or other compensation, shall be as follows:

	Annual Salary	
	as of	
	July 8, 2007	
(1) Addison	\$59,321	
(2) Bennington/ <u>Windham</u>	59,321	<u>91,402</u>
(3) Caledonia/ <u>Essex/Orleans</u>	59,321	<u>91,402</u>
(4) Chittenden	91,402	

(5) Essex	28,853	
(6) Fair Haven	43,594	
(7) <u>(5)</u> Franklin/ <u>Grand Isle</u>	59,321	
(8) Grand Isle	28,853	
(9) Hartford	59,321	
(10) <u>(6)</u> Lamoille/ <u>Washington</u>	53,594	<u>91,402</u>
(11) Marlboro	51,559	
(12) <u>(7)</u> Orange/ <u>Windsor</u>	51,559	<u>91,402</u>
(13) Orleans	51,559	
(14) <u>(8)</u> Rutland	75,859	<u>91,402</u>
(15) Washington	75,859	
(16) Westminster	43,594	
(17) Windsor	51,559	

(b) ~~Judges of probate~~ Probate judges shall be paid by the state their actual and necessary expenses under the rules and regulations pertaining to classified state employees.

Sec. 200. 32 V.S.A. § 1143 is amended to read:

§ 1143. –COMPENSATION OF APPOINTEES

Persons acting under the authority of the probate division of the superior court shall be paid as follows:

(1) For each day's attendance by executor, administrator, trustee, agent, or guardian, on the business of their appointment, \$4.00;

(2) For each day's attendance of commissioners, appraisers, or committee, \$4.00; and

(3) The probate division of the superior court may allow in cases of unusual difficulty or responsibility, such further sum as it judges reasonable.

Sec. 201. 32 V.S.A. § 1144 is amended to read:

~~§ 1144. –COMPENSATION OF APPRAISERS~~

~~An appraiser appointed in accordance with the provisions of chapters 181 and 183 of this title shall receive \$4.00 a day and his or her necessary expenses shall be paid by the state on the certificate of the judge of probate. But in cases~~

~~requiring the appointment of an expert, the judge of probate may allow such further sum as he or she deems reasonable. [Repealed.]~~

Sec. 202. 32 V.S.A. § 1145 is amended to read:

§ 1145. —ILLEGAL FEES

A probate judge or register of probate who directly or indirectly accepts or receives, under color of his or her office, money or other valuable thing, by way of fees, remuneration, or compensation for the performance of an act as such judge or register, except as provided in this title, shall be fined not more than \$500.00 nor less than \$200.00.

Sec. 203. 32 V.S.A. § 1431 is amended to read:

§ 1431. FEES IN SUPREME, AND SUPERIOR, ~~DISTRICT, FAMILY, AND ENVIRONMENTAL~~ COURTS

(a) Prior to the entry of any cause in the supreme court, there shall be paid to the clerk of the court for the benefit of the state a fee of \$250.00 in lieu of all other fees not otherwise set forth in this section.

(b)(1) ~~Prior~~ Except as provided in subdivisions (2)–(5) of this subsection, prior to the entry of any cause in the superior court ~~or environmental court,~~ there shall be paid to the clerk of the court for the benefit of the state a fee of \$250.00 in lieu of all other fees not otherwise set forth in this section.

(2) Prior to the entry of any divorce or annulment proceeding in the ~~family~~ superior court, there shall be paid to the clerk of the court for the benefit of the state a fee of \$250.00 in lieu of all other fees not otherwise set forth in this section; however, if the divorce or annulment complaint is filed with a stipulation for a final order acceptable to the court, the fee shall be \$75.00.

(3) Prior to the entry of any parentage or desertion and support proceeding brought under chapter 5 of Title 15 in the ~~family~~ superior court, there shall be paid to the clerk of the court for the benefit of the state a fee of \$100.00 in lieu of all other fees not otherwise set forth in this section; however, if the parentage or desertion and support complaint is filed with a stipulation for a final order acceptable to the court, the fee shall be \$25.00.

(4) Prior to the entry of any motion or petition to enforce an order for parental rights and responsibilities, parent-child contact, or maintenance in the ~~family~~ superior court, there shall be paid to the clerk of the court for the benefit of the state a fee of \$75.00 in lieu of all other fees not otherwise set forth in this section. Prior to the entry of any motion or petition to vacate or modify an order for parental rights and responsibilities, parent-child contact, or maintenance in the ~~family~~ superior court, there shall be paid to the clerk of the court for the benefit of the state a fee of \$100.00 in lieu of all other fees not

otherwise set forth in this section. However, if the motion or petition is filed with a stipulation for an order acceptable to the court, the fee shall be \$25.00. All motions or petitions filed by one party at one time shall be assessed one fee.

(5) Prior to the entry of any motion or petition to vacate or modify an order for child support in the ~~family superior~~ court, there shall be paid to the clerk of the court for the benefit of the state a fee of \$35.00 in lieu of all other fees not otherwise set forth in this section; however, if the motion or petition is filed with a stipulation for an order acceptable to the court, there shall be no fee. A motion or petition to enforce an order for child support shall require no fee. All motions or petitions filed by one party at one time shall be assessed one fee; if a simultaneous motion is filed by a party under subdivision (4) of this subsection, the ~~subdivision (4)~~ fee under subdivision (4) shall be the only fee assessed.

* * *

(d) Prior to the entry of any subsequent pleading which sets forth a claim for relief in the supreme court or the superior, ~~environmental, or district~~ court, there shall be paid to the clerk of the court for the benefit of the state a fee of \$100.00 for every appeal, cross-claim, or third-party claim and a fee of \$75.00 for every counterclaim in the superior ~~or environmental~~ court in lieu of all other fees not otherwise set forth in this section. The fee for an appeal of a magistrate's decision in the family superior court shall be \$100.00. The filing fee for civil suspension proceedings filed pursuant to 23 V.S.A § 1205 shall be \$75.00, which shall be taxed in the bill of costs in accordance with sections 1433 and 1471 of this title.

(e) Prior to the filing of any postjudgment motion in the superior, ~~environmental, or district~~ court, including motions to reopen civil suspensions, there shall be paid to the clerk of the court for the benefit of the state a fee of \$75.00 except for small claims actions.

(f) The filing fee for all actions filed in the judicial bureau shall be \$50.00; the state or municipality shall not be required to pay the fee; however, if the respondent denies the allegations on the ticket, the fee shall be taxed in the bill of costs in accordance with sections 1433 and 1471 of this title and shall be paid to the clerk of the bureau for the benefit of the state.

(g) Prior to the filing of any postjudgment motion in the judicial bureau there shall be paid to the clerk of the bureau, for the benefit of the state, a fee of \$35.00. Prior to the filing of any appeal from the judicial bureau to the ~~district superior~~ court, there shall be paid to the clerk of the court, for the benefit of the state, a fee of \$100.00.

(h) Pursuant to Vermont Rules of Civil Procedure 3.1, or Vermont Rules of Appellate Procedure 24(a), ~~or District Court Civil Rules 3.1~~, part or all of the filing fee may be waived if the court finds that the applicant is unable to pay it. The clerk of the court or the clerk's designee shall establish the in forma pauperis fee in accordance with procedures and guidelines established by administrative order of the supreme court.

Sec. 203a. 32 V.S.A. § 1431 is amended to read:

§ 1431. FEES IN SUPREME, AND SUPERIOR, ~~—AND ENVIRONMENTAL~~ COURTS

* * *

(c) Prior to the entry of a small claims action, ~~there shall be paid to the clerk for the benefit of the county~~ superior court for the benefit of the state in lieu of all other fees not otherwise set forth in this section, a fee of \$75.00 if the claim is for more than \$1,000.00 and \$50.00 if the claim is for \$1,000.00 or less. Prior to the entry of any postjudgment motion in a small claims action, there shall be paid to the ~~clerk for the benefit of the county~~ superior court for the benefit of the state a fee of \$50.00. The fee for every counterclaim in small claims proceedings shall be \$25.00, payable to the ~~county superior court for the benefit of the state~~, if the counterclaim is for more than \$500.00, and \$15.00 if the counterclaim is for \$500.00 or less.

* * *

Sec. 204. 32 V.S.A. § 1434 is amended to read:

§ 1434. PROBATE ~~COURTS~~ CASES

(a) The following entry fees shall be paid to the probate division of the superior court for the benefit of the state, except for subdivision (17) of this subsection which shall be for the benefit of the county in which the fee was collected:

* * *

(b) For economic cause, the probate judge may waive this fee. No fee shall be charged for necessary documents pertaining to the opening of estates, trusts, and guardianships, including the issuance of two certificates of appointment and respective letters. No fee shall be charged for the issuance of two certified copies of adoption decree and two certified copies of instrument changing name.

(c) A fee of \$5.00 shall be paid for each additional certification of appointment of a fiduciary.

Sec. 205. 32 V.S.A. § 1436(b) is amended to read:

(b) Notwithstanding any statute to the contrary, fees collected as a result of this section shall be in lieu of any payments by the state to the county for the use of the county courthouse by the supreme, ~~district, family, and environmental~~ and superior courts or by the judicial bureau.

Sec. 206. 32 V.S.A. § 1471 is amended to read:

§ 1471. TAXATION OF COSTS

(a) There shall be taxed in the bill of costs to the recovering party in the supreme, and superior, ~~family, district, or environmental~~ courts or the judicial bureau a fee equal to the entry fees, the cost of service fees incurred, and the total amount of the certificate of witness fees paid.

(b) Any costs taxed to the respondent in any action filed by the office of child support shall be paid to the clerk of the court for deposit in the general fund.

Sec. 207. 32 V.S.A. § 1511 is amended to read:

§ 1511. GRAND AND PETIT JURORS IN SUPERIOR ~~AND DISTRICT~~ COURT

There shall be allowed to grand and petit jurors in the superior ~~and district~~ court the following fees and expenses:

(1) For attendance, \$30.00 a day, on request, unless the jurors were otherwise compensated by their employer;

(2) For each talesman, \$30.00 a day, on request, unless the talesmen were otherwise compensated by their employer;

(3) Upon request and upon a showing of hardship, reimbursement for expenses necessarily incurred for travel from home to court, and return, at the rate of reimbursement allowed state employees for travel under the terms of the prevailing collective bargaining agreement.

Sec. 208. 32V.S.A. § 1514 is amended to read:

§ 1514. BOARD AND LODGING OF JURORS

When in a grand jury investigation or in the trial of a criminal or civil cause jurors are kept together by order of the court, their board and lodging and that of the officers having such jurors in charge shall be paid by the state. ~~This provision shall apply only to grand jurors and petit jurors in superior courts and petit jurors in district courts.~~

Sec. 209. 32 V.S.A. § 1518 is amended to read:

§ 1518. TOWN GRAND JURORS

In criminal causes ~~before a district court~~, the grand juror or other prosecuting officer shall be paid:

- (1) If the cause is disposed without trial, \$1.50;
- (2) For trial by court, \$2.00;
- (3) For trial by jury, \$2.50;
- (4) For each subsequent day, \$2.00 additional;
- (5) Ten cents a mile travel one way for one trip for each cause, provided a separate trip for such cause has been made; but if a separate trip has not been made, then at \$0.05 a mile one way for each cause;
- (6) No grand juror shall receive in fees more than \$400.00 in any one year.

Sec. 210. 32 V.S.A. § 1551 is amended to read:

§ 1551. ATTENDANCE FEES

There shall be allowed to witnesses the following fees:

- (1) For attendance before a ~~district or superior court or court of jail delivery~~, or to give a deposition before a notary public, \$30.00 a day;
- (2) For attendance before an appraiser appointed by the commissioner of taxes, \$30.00 a day; such fees to be apportioned as the appraiser may direct;
- (3) For attendance on other courts or tribunals, \$30.00 a day;
- (4) For travel in the state, all witnesses shall receive mileage at the rate of reimbursement allowed state employees for travel under the terms of the prevailing collective bargaining agreement.

Sec. 211. 32 V.S.A. § 1596 is amended to read:

§ 1596. FEES FORBIDDEN

Fees shall not be allowed to an officer for the service of a capias, bench warrant, or other writ for the arrest of a person who is under a recognizance taken before a ~~district court judge or other~~ an officer authorized by law to take such recognizance, requiring the appearance of such person before the superior court.

Sec. 212. 32 V.S.A. § 1631 is amended to read:

§ 1631. TRUSTEES' FEES

The person summoned as trustee shall be allowed \$0.06 a mile for his or her travel, and \$1.50 for each day's attendance before the superior court, the same for travel and \$0.75 for each day's attendance before a commissioner ~~or district court.~~

Sec. 213. 32 V.S.A. § 1751 is amended to read:

§ 1751. FEES WHEN NOT OTHERWISE PROVIDED

(a)~~(1)~~ Officers and persons whose duty it is to record deeds, proceedings, depositions, or make copies of records, proceedings, docket entries, or minutes in their offices, when no other provision is made, shall be allowed:

~~(1)~~~~(A)~~ The sum of \$0.60 a folio therefor with a minimum fee of \$1.00;

~~(2)~~~~(B)~~ The sum of \$2.00 for each official certificate;

~~(3)~~~~(C)~~ For the authentication of documents, \$2.00;

~~(4)~~~~(D)~~ For other services such sum as is in proportion to the fees established by law.

~~(2)~~ Provided, however, that no fees shall be charged to honorably discharged veterans of the armed forces of the United States, or to their dependents or beneficiaries, for copies of records required in the prosecution of any claim for benefits from the United States government, or any state agency, and fees for copies of records so furnished at the rates provided by law shall be paid such officers by the town or city wherein such record is maintained.

(b)~~(1)~~ Whenever ~~probate, district, environmental, family, or superior~~ court officers and employees or officers and employees of the judicial bureau furnish copies or certified copies of records, the following fees shall be collected for the benefit of the state:

~~(1)~~~~(A)~~ The sum of \$0.60 a folio with a minimum fee of \$1.00 when a copy is reproduced by typewriter or hand;

~~(2)~~~~(B)~~ The sum of \$0.25 a page with a minimum fee of \$1.00 when a copy is reproduced photographically;

~~(3)~~~~(C)~~ For each official certificate, \$5.00; however, one conformed copy of any document issued by a court shall be furnished without charge to a party of record to the action;

~~(4)~~~~(D)~~ For the authentication of documents, \$5.00;

~~(5)~~(E) For a response to a request for a record of criminal history of a person based upon name and date of birth, \$30.00.

~~(6)~~(F) For appointment as an acting judge pursuant to 4 V.S.A § 22(b) for the purpose of performing a civil marriage, \$100.00.

(2) However, the fees provided for in this subsection shall not be assessed by these officers and employees in furnishing copies or certified copies of records to any agency of any municipality, state, or federal government or to veterans honorably discharged from the armed forces of the United States, their dependents or beneficiaries, in the prosecution of any claim for benefits from the United States government, or any state agency.

Sec. 214. 32 V.S.A. § 1753 is amended to read:

§ 1753. INQUESTS

The fees and expenses of inquests on the dead, and buildings burned shall be the same as in criminal causes before a ~~district~~ court.

Sec. 215. 32 V.S.A. § 1760 is amended to read:

§ 1760. FEES OF COUNTY CLERKS FOR INDEX OF DEEDS AND INDEX OF RECORDS

The county clerks shall receive from the county, for making the general index of existing land records under ~~section 27 V.S.A. § 401 of Title 27~~, \$1.00 for each 100 entries upon such index; and for making an index as provided in ~~section 4 V.S.A. § 656 of Title 4~~, such sum as the assistant judges ~~of the superior court~~ certify to be reasonable, to be allowed by the commissioner of finance and management in the accounts of the clerks.

Sec. 216. 32 V.S.A. § 5932 is amended to read:

§ 5932. DEFINITIONS

As used in this chapter:

* * *

(8) "Court" means a superior court, ~~a district court~~, or the judicial bureau.

* * *

Sec. 217. 32 V.S.A. § 5936(b) is amended to read:

(b) The final determination of any claimant agency regarding the validity and amount of any debt may be appealed within 30 days to the civil division of the superior court of the county unit in which the taxpayer resides, except that if the claimant agency is the office of child support the appeal shall be to the

family division of the superior court. Upon appeal, the provisions of the Vermont Rules of Civil Procedure or the Vermont Rules for Family Proceedings, as appropriate, shall apply, and the court shall proceed de novo to determine the debt owed.

Sec. 218. 32 V.S.A. § 7449 is amended to read:

§ 7449. ~~REGISTER OF PROBATE~~ CLERK OF SUPERIOR COURT TO SEND COMMISSIONER NOTICE OF ESTATE

The ~~register of the probate~~ clerk of the superior court shall send to the commissioner by mail at the time of granting letters of administration in any estate and upon forms to be furnished by the commissioner, the name of the decedent, the date of his or her death, and the name and address of the administrator or executor.

Sec. 219. 32 V.S.A. § 8171 is amended to read:

§ 8171. RECOVERY OF TAXES AND PENALTIES

Taxes imposed by this chapter may be recovered in the name of the state in a civil action, on the statute imposing them, returnable to any superior ~~or district~~ court. The penalties so imposed may be so recovered in a civil action on the statute imposing them. The amount of taxes assessed or penalties accrued up to the time of trial may be recovered in such suit; but a court wherein an action is pending to recover a forfeiture, in its discretion, may remit such part thereof as it shall deem just and equitable in the circumstances. The state shall not be required in any proceeding under this chapter to furnish recognizance or bond for costs, nor injunction bonds. Upon final judgment, the court may make such order relating to the payment of costs, by the state or the defendant, as it shall deem just and equitable.

Sec. 220. 32 V.S.A. § 10102(a) is amended to read:

(a) In addition to any other powers granted to the commissioner and the secretary in this chapter, they may:

* * *

(5) require the attendance of, the giving of testimony by, and the production of any books and records of any person believed to be liable for the payment of tax or to have information pertinent to any matter under investigation by the commissioner or the secretary. The fees of witnesses required to attend any hearing shall be the same as those allowed witnesses appearing in the superior court, but no fees shall be payable to a person charged with a tax liability under this chapter. Any superior ~~or district~~ judge may, upon application of the commissioner or the secretary, compel the attendance of witnesses, the giving of testimony, and the production of books

and records before the commissioner or the secretary in the same manner, to the same extent, and subject to the same penalties as if before a superior ~~or district~~ court.

Sec. 221. 33 V.S.A. § 4916a(c)(2) is amended to read:

(2) The administrative review may be stayed upon request of the person alleged to have committed abuse or neglect if there is a related ~~criminal or family court~~ case pending in the criminal or family division of the superior court which arose out of the same incident of abuse or neglect for which the person was substantiated. During the period the review is stayed, the person's name shall be placed on the registry. Upon resolution of the superior court criminal or family ~~court~~ case, the person may exercise his or her right to review under this section.

Sec. 222. 33 V.S.A. § 4916b(c) is amended to read:

(c) A hearing may be stayed upon request of the petitioner if there is a related ~~criminal or family court~~ case pending in the criminal or family division of the superior court which arose out of the same incident of abuse or neglect for which the person was substantiated.

Sec. 223. 33 V.S.A. § 5102 is amended to read:

§ 5102. DEFINITIONS AND PROVISIONS OF GENERAL APPLICATION

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

* * *

(8) "Custodian" means a person other than a parent or legal guardian to whom legal custody of the child has been given by order of a Vermont ~~family or probate~~ superior court or a similar court in another jurisdiction.

* * *

(12) "Guardian" means a person who, at the time of the commencement of the juvenile judicial proceeding, has legally established rights to a child pursuant to an order of a Vermont ~~probate~~ superior court or a similar court in another jurisdiction.

Sec. 224. 33 V.S.A. § 5103(a) and (b) are amended to read:

(a) The family division of the superior court shall have exclusive jurisdiction over all proceedings concerning a child who is or who is alleged to be a delinquent child or a child in need of care or supervision brought under the authority of the juvenile judicial proceedings chapters, except as otherwise provided in such chapters.

(b) Orders issued under the authority of the juvenile judicial proceedings chapters shall take precedence over orders in other family ~~court~~ division proceedings and any order of another court of this state, to the extent they are inconsistent. This section shall not apply to child support orders in a divorce, parentage, or relief from abuse proceedings until a child support order has been issued in the juvenile proceeding.

Sec. 225. 33 V.S.A. § 5104(a) is amended to read:

(a) The family division of the superior court may retain jurisdiction over a youthful offender up to the age of 22.

Sec. 226. 33 V.S.A. § 5203(e) is amended to read:

(e) Motions to transfer a case to the family division of the superior court for youthful offender treatment shall be made under section 5281 of this title.

Sec. 227. 33 V.S.A. § 5281 is amended to read:

§ 5281. MOTION IN ~~DISTRICT~~ CRIMINAL DIVISION OF SUPERIOR
COURT

(a) A motion may be filed in the ~~district~~ criminal division of the superior court requesting that a defendant under 18 years of age in a criminal proceeding who had attained the age of 10 but not the age of 18 at the time the offense is alleged to have been committed be treated as a youthful offender. The motion may be filed by the state's attorney, the defendant, or the court on its own motion.

(b) Upon the filing of a motion under this section and the entering of a conditional plea of guilty by the youth, the ~~district court~~ criminal division shall enter an order deferring the sentence and transferring the case to the family ~~court~~ division for a hearing on the motion. Copies of all records relating to the case shall be forwarded to the family ~~court~~ division. Conditions of release and any department of corrections supervision or custody shall remain in effect until the family ~~court~~ division approves the motion for treatment as a youthful offender and orders conditions of juvenile probation pursuant to section 5284 of this title.

(c) A plea of guilty entered by the youth pursuant to subsection (b) of this section shall be conditional upon the family ~~court~~ division granting the motion for youthful offender status.

(d)(1) If the family ~~court~~ division denies the motion for youthful offender treatment pursuant to subsection 5284 of this title, the case shall be returned to the ~~district court~~ criminal division, and the youth shall be permitted to withdraw the plea. The conditions of release imposed by the ~~district court~~

criminal division shall remain in effect, and the case shall proceed as though the motion for youthful offender treatment had not been made.

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

Sec. 228. 33 V.S.A. § 5282 is amended to read:

§ 5282. REPORT FROM THE DEPARTMENT

(a) Within 30 days after the case is transferred to the family court division, unless the court extends the period for good cause shown, the department shall file a report with the family court.

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

(1) A recommendation as to whether youthful offender status is appropriate for the youth.

(2) A disposition case plan including proposed services and proposed conditions of juvenile probation in the event youthful offender status is approved.

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

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

Sec. 229. 33 V.S.A. § 5283 is amended to read:

§ 5283. HEARING IN FAMILY ~~COURT~~ DIVISION

(a) Timeline. A hearing on the motion for youthful offender status shall be held no later than 35 days after the transfer of the case from ~~district court~~ the criminal division.

(b) Notice. Notice of the hearing shall be provided to the state's attorney; the youth; the youth's parent, guardian, or custodian; the department; and the department of corrections.

(c) Hearing procedure.

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

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

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

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

Sec. 230. 33 V.S.A. § 5285 is amended to read:

§ 5285. MODIFICATION OR REVOCATION OF DISPOSITION

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

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

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

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

(2) revoke the youth's status as a youthful offender status and return the case to the ~~district court~~ criminal division for sentencing; or

(3) transfer supervision of the youth to the department of corrections.

(d) If a youth's status as a youthful offender is revoked and the case is returned to the ~~district court~~ criminal division under subdivision (c)(2) of this

section, the ~~district~~ court shall hold a sentencing hearing and impose sentence. When determining an appropriate sentence, the ~~district~~ court may take into consideration the youth's degree of progress toward rehabilitation while on youthful offender status. The ~~district court~~ criminal division shall have access to all family ~~court~~ division records of the proceeding.

Sec. 231. 33 V.S.A. § 5286(a) and (c) are amended to read:

(a) The family ~~court~~ division shall review the youth's case before he or she reaches the age of 18 and set a hearing to determine whether the court's jurisdiction over the youth should be continued past the age of 18. The hearing may be joined with a motion to terminate youthful offender status under section 5285 of this title. The court shall provide notice and an opportunity to be heard at the hearing to the state's attorney, the youth, the department, and the department of corrections.

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

(1) The department shall report its recommendations, with supporting justifications, as to whether the family ~~court~~ division should continue jurisdiction over the youth past the age of 18 and, if continued jurisdiction is recommended, whether the department or the department of corrections should be responsible for supervision of the youth.

* * *

Sec. 232. 33 V.S.A. § 5287(a) and (c) are amended to read:

(a) A motion may be filed at any time in the family ~~court~~ division requesting that the court terminate the youth's status as a youthful offender and discharge him or her from probation. The motion may be filed by the state's attorney, the youth, the department, or the court on its own motion. The court shall set the motion for hearing and provide notice and an opportunity to be heard at the hearing to the state's attorney, the youth, and the department.

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

Sec. 233. 33 V.S.A. § 6932(a) and (b) are amended to read:

(a) The family division of the superior court shall have jurisdiction over proceedings under this subchapter.

(b) Emergency orders under section 6936 of this title may be issued by a judge of the ~~district,~~ criminal, civil, or family division of the superior or family court.

Sec. 234. 33 V.S.A. § 6938(a) and (c) are amended to read:

(a) Except as otherwise provided in this subchapter, proceedings commenced under this subchapter shall be in accordance with the Rules for Family Court Rules Proceedings and shall be in addition to any other available civil or criminal remedies.

(c) The court administrator shall establish procedures to insure access to relief after regular court hours, or on weekends and holidays. The court administrator is authorized to contract with public or private agencies to assist persons to seek relief and to gain access to ~~district,~~ superior ~~and family~~ court judges. Law enforcement agencies shall assist in carrying out the intent of this section.

Sec. 235. Sec. 121(a) of No. 4 of the Acts of 2009 is amended to read:

(a) The probate courts of the probate districts of Bennington and Manchester are consolidated as of the effective date of this act to form the probate court of the probate district of Bennington, which is deemed to be a continuation of the probate courts of the probate districts of Bennington and Manchester. The current probate judge for the probate court of the probate district of Manchester shall become the probate judge for the probate court of the probate district of Bennington. The current probate registers of the probate districts of Bennington and Manchester shall become the registers for the probate district of Bennington and shall be allowed to maintain their employment status that was in effect on January 31, 2009 until January 31, 2011, ~~at which time the probate judge taking office February 1, 2011 shall appoint a single probate register for the district.~~ The records of the probate courts of the probate districts of Bennington and Manchester shall become the records of the probate court of the probate district of Bennington. The newly consolidated probate court of the probate district of Bennington shall have jurisdiction over all proceedings, records, orders, decrees, judgments and other acts of the probate courts of the probate districts of Bennington and Manchester, including all pending matters and appeals. The probate court of the probate district of Bennington shall have full authority to do all acts concerning all such proceedings and other matters as if they had originated in that court. The assistant judges of Bennington County shall maintain offices for the newly formed district in the former districts which may be used by the probate court full or part time to provide access to probate services. The judge of the newly formed district with the approval of the court administrator shall establish the hours of operation and staffing for each office.

Sec. 235a. AMERICANS WITH DISABILITIES ACT; COURT
FACILITIES; REPORT

(a) Intent. It is the intent of the general assembly that judicial proceedings occur in facilities that meet the accessible facility standards of the Americans with Disability Act (ADA).

(b) Report. The commissioner of the department of buildings and general services and the court administrator shall study the county courthouses to evaluate whether the courthouses comply with ADA accessibility standards, and shall report the results of the study to the general assembly, along with any recommendations and estimates of the costs of bringing courthouses into compliance, on or before December 15, 2010. Where it is necessary that expenses be incurred in order to bring a courthouse into compliance with the ADA, the judiciary shall submit a capital budget request to the commissioner of buildings and general services for consideration in the capital budget request process.

Sec. 236. LEGISLATIVE COUNCIL STATUTORY REVISION
AUTHORITY

The staff of the legislative council, in its statutory revision capacity, is authorized and directed to make such amendments to the Vermont Statutes Annotated as are necessary to effect the purpose of this act, including where applicable, substituting the words "superior court," "civil division," "criminal division," "family division," "environmental division," or "probate division," as appropriate, for the words "district court," "family court," "probate court," and "environmental court." These amendments shall be made when new legislation is proposed or there is a republication of a volume of the Vermont Statutes Annotated.

Sec. 237. TRANSITIONAL PROVISIONS

(a) The judicial office of district judge is eliminated. On the effective date of Sec. 9 of this act, each district judge shall become a superior judge and have all of the powers and duties of a superior judge. The term of each superior judge who reached the office by virtue of this subsection shall be the same as if the person had remained a district judge.

(b) On July 1, 2010:

(1) the superior court as it formerly existed shall be redesignated as the civil division of the superior court, and all cases and files of the former superior court shall be transferred to the civil division of the superior court;

(2) the family court as it formerly existed shall be redesignated as the family division of the superior court, and all cases and files of the former family court shall be transferred to the family division of the superior court;

(3) the district court as it formerly existed shall be redesignated as the criminal division of the superior court, and all cases and files of the former district court shall be transferred to the criminal division of the superior court; and

(4) the environmental court as it formerly existed shall be redesignated as the environmental division of the superior court, and all cases and files of the former environmental court shall be transferred to the environmental division of the superior court.

(c) On February 1, 2011, the probate court shall be redesignated as the probate division of the superior court, and all cases and files of the former probate court shall be transferred to the probate division of the superior court.

(d) Until February 1, 2011, each county clerk shall provide each superior clerk with deputies to work in the superior court. The number of deputies provided shall be equal to the number of deputies working in the superior court on July 1, 2009.

(e)(1) The court administrator shall assign, from the positions currently authorized for the judicial branch, the positions that will provide staff support to the divisions of the superior court. The court administrator shall establish the organizational structure of the positions assigned to the units of the court. In the transition from the existing courts to the superior court, hiring preference shall be given to current state and county judiciary employees. Where the position of an incumbent permanent state judiciary employee is reassigned to the superior court, the employee may choose to continue in the position or exercise reduction in force rights.

(2) Upon passage of this act and until February 1, 2011, the salaries of county employees working as chief deputy clerks, deputy clerks, assistant clerks, office clerks, docket clerks, office assistants, assistant deputy clerks, senior deputy clerks, senior accounting clerks, or court recorders for the superior court shall be frozen at the employee's current level, unless a collective bargaining agreement in effect on the date of passage of this act requires otherwise. Also upon passage, no change may be made to leave policies covering the county positions described in this subdivision except if a collective bargaining agreement in effect on that date requires otherwise.

(3) Upon passage of this act and until February 1, 2011, vacancies that occur in positions listed in subdivision (2) of this subsection may not be filled without the authorization of the court administrator.

(4) By December 31, 2010, the county shall report to the court administrator the current employees of the county who serve the superior court, each employee's hire date with the county, hourly rate, and leave balances, and a description of the employee's benefits.

(5) Any county employee who becomes a state employee pursuant to this act shall be immediately eligible to enroll in the state health plan.

Sec. 238. REPEALS AND REPLACEMENTS

(a) The following sections are hereby repealed:

(1) 4 V.S.A. §§ 24 (designation and special assignment of district or superior judge to hear child support enforcement actions), 111a (designation and jurisdiction of superior court), 113 (jurisdiction of superior court), 114 (criminal jurisdiction of superior court), 116 (special sessions of superior court), 117 (special hearings of superior court), 119 (completion of cases commenced in superior court), 151 (opening and adjournment of court by judge or sheriff), 152 (adjournment of court to another day), 153 (change in time of holding sessions), 154 (designation of time of commencement of term), 275 (Fair Haven and Rutland probate districts), 276 (Marlboro and Westminster probate districts), 277 (Hartford and Windsor probate districts), 436 (district court created), 437 (civil jurisdiction of district court), 439 (jurisdiction of district court in felony cases), 440 (jurisdiction of district court in misdemeanor cases), 441 (jurisdiction of district court with respect to violations of bylaws or ordinances), 442 (powers of the district court), 443 (appeals from district court), 444 (number, appointment, and assignment of district judges), 444a (powers of Essex County assistant judges in district court), 446 (court officer in district court), 451 (family court created), 452 (composition of family court), 453 (powers of family court), 454 (jurisdiction of family court), 456 (appeals from family court), 457 (participation and availability of assistant judges in family court), 459 (powers of assistant judges not restricted), 461a (powers of Essex County assistant judges and magistrates in family court proceedings), 461b (powers of Essex and Orleans County assistant judges in parentage proceedings), 461c (powers of assistant judges in divorce proceedings), 604 (district judge declaration of intent to continue office), 651a (county clerk to be superior court clerk), 693 (district court docket and records), 694 (filing of process with judge or clerk in district court), 799 (assignment of reporters to probate court), and 951 (office of jury commission established).

(2) 12 V.S.A. §§ 1949 (district court jury), 5540a (assistant judges' jurisdiction over small claims), 5805 (contents of juror's oath for civil cases in district court), and 5809 (contents of jury officer's oath in district court);

(3) 24 V.S.A. §§ 76 (county law library), 139 (assistant judge judicial education), 174 (superior court seal may be used as county seal), 182 (county clerk's return of fees to commissioner of finance and management), 401 (superior court judges to appoint commissioners of jail delivery), 402 (vacancy in office of commissioner of jail delivery), 403 (quorum for transaction of business by commission of jail delivery), and 404 (procedure when commissioners of jail delivery disqualified); and

(4) 32 V.S.A. §§ 526 (fees disallowed when justice has not filed return with county clerk), 527 (bill of costs disallowed when justice has not filed returns with county clerk), 528 (penalty when justice fails to make returns), 1146 (expenses and fees for district judges), 1181 (salaries of county clerks), and 1474 (costs and fees allowed in district courts).

(b) In the following sections, the phrase "district court," wherever it appears, is replaced with "criminal division of the superior court":

(1) 3 V.S.A. §§ 965 and 1030;

(2) 4 V.S.A. §§ 23, 1107, 1109, and 1110;

(3) 7 V.S.A. §§ 563, 572, and 657;

(4) 9 V.S.A. § 2575;

(5) 10 V.S.A. §§ 2671, 2674, 4552, and 4555;

(6) 12 V.S.A. §§ 5717 and 5854;

(7) 13 V.S.A. §§ 353, 354, 1460, 4822, 4823, 5132, 5411, 5411d, 6504, 6606, 7002, and 7573;

(8) 17 V.S.A. § 2616;

(9) 18 V.S.A. §§ 1060, 7312, 7510, 7612, 7615, 7801, 7802, 8403, and 8840;

(10) 19 V.S.A. §§ 5, 7a, and 726;

(11) 20 V.S.A. §§ 2056c and 2864;

(12) 21 V.S.A. §§ 1352, 1622, and 1727;

(13) 23 V.S.A. §§ 105, 304a, 1209a, 1215, 2202, 2205, and 3318;

(14) 24 V.S.A. §§ 299, 1311, 1932, 1936a, 1981, 1983, and 3109;

(15) 28 V.S.A. §§ 373, 374, 504, and 705;

(16) 32 V.S.A. §§ 542, 543, 544, and 7781; and

(17) 33 V.S.A. §§ 5203, 5204, and 5293.

(c) In the following sections, the phrase “family court,” wherever it appears, is replaced with “family division of the superior court”:

(1) 3 V.S.A. § 476a;

(2) 4 V.S.A. §§ 458, 465, and 466;

(3) 14 V.S.A. §§ 2663 and 2667;

(4) 15 V.S.A. §§ 293, 303, 606, 653, 668a, 782, 787, 798, 799, 1108, and 1206;

(5) 15A V.S.A. §§ 1-112, 2-407, 3-101, and 3-207;

(6) 15B V.S.A. § 102;

(7) 16 V.S.A. § 1946b;

(8) 18 V.S.A. §§ 5004, 7624, 9305, 9306, 9309, 9314, and 9315;

(9) 24 V.S.A. § 5066a; and

(10) 33 V.S.A. §§ 3901, 4102, 4103, 4105, 4108, 4916, 5102, 5117, 5118, 5252, 5301, and 6940.

Sec. 238a. REPEALS AND REPLACEMENTS

(a) The following sections are hereby repealed:

(1) 4 V.S.A. §§ 271 (probate districts), § 311 (probate court jurisdiction), 314 (probate court retention of jurisdiction over estate once taken), 315 (contest of probate court jurisdiction), 351 (record and seal of probate court), 352 (impression of probate court seal to be kept by governor), 353 (probate court always open), 358 (duties of probate court register), 359 (judge may perform probate court register’s duties), 360 (card index required in probate court), 361 (maintenance of ledger in probate court), 363 (powers of probate court), 366 (costs taxed to witnesses in probate court), and 367 (security for costs taxed to witnesses in probate court);

(2) 12 V.S.A. §§ 2553 (appellate jurisdiction of superior court in probate matters) and 2555 (standing to appeal probate matter to superior court);

(3) 14 V.S.A. § 905 (appeal to superior court of probate court order appointing administrator);

(4) 24 V.S.A. § 71b (assistant judge and sheriff responsible for county courthouse security);

(5) 32 V.S.A. § 1558 (costs for witnesses in probate court); and

(6) the following sections of No. 4 of the Acts of 2009: Secs. 122 (single probate districts in each county), 123 (salaries of probate judges), 124

(repeal of multiple probate district counties), 125 (transitional provisions), and 130(c) (February 1, 2011 effective date of Secs. 122–125).

(b) In the following sections, the phrase “probate court,” wherever it appears, is replaced with “probate division of the superior court”:

(1) 3 V.S.A. §§ 465 and 468;

(2) 8 V.S.A. §§ 2201, 2407, 12602, 14205, and 14405;

(3) 9 V.S.A. §§ 2480n and 4359;

(4) 12 V.S.A. §§ 2358, 5136(c), 7154, and 7159;

(5) 14 V.S.A. §§ 2, 103, 104, 105, 106, 107, 113, 114, 116, 202, 312, 313, 314, 315, 681, 684, 902, 903, 904, 906, 907, 909, 917, 917a, 919, 921, 922, 923, 924, 928, 929, 931, 961, 962, 963, 964, 965, 1051, 1054, 1056, 1059, 1065, 1066, 1068, 1201, 1204, 1206, 1210, 1410, 1416, 1455, 1492, 1551, 1554, 1557, 1558, 1559, 1611, 1612, 1613, 1614, 1615, 1651, 1652, 1653, 1655, 1656, 1657, 1658, 1659, 1660, 1661, 1662, 1665, 1721, 1729, 1730, 1731, 1736, 1737, 1739, 1741, 1742, 1743, 1801, 1804, 1952, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2201, 2202, 2203, 2303, 2305, 2306, 2307, 2318, 2327, 2402, 2403, 2501, 2502, 2602, 2603, 2645, 2650, 2653, 2654, 2656, 2658, 2665, 2666, 2667, 2671, 2684, 2687, 2711, 2712, 2751, 2752, 2753, 2754, 2791, 2792, 2794, 2795, 2800, 2802, 2803, 2804, 2841, 2843, 2846, 2881, 2882, 2886, 2887, 2890, 2921, 2923, 2924, 2925, 2928, 2961, 2963, 2964, 3001, 3004, 3011, 3063, 3064, 3069, 3075, 3076, 3076, 3081, 3091, 3093, 3094, 3095, 3101, 3201, and 3509;

(6) 15 V.S.A. §§ 811, 812, 813, and 816;

(7) 15A V.S.A. §§ 1-101, 1-105, 1-110, 1-113, 2-105, 2-206, 3-101, 3-102, 5-104, 6-102, 6-103, and 6-105;

(8) 16 V.S.A. §§ 1940 and 1941;

(9) 18 V.S.A. §§ 5075, 5076, 5077, 5150, 5151, 5168, 5169, 5202a, 5212, 5212a, 5219, 5227, 5228, 5230, 5232, 5308, 5438, 5534, 5537, 5576, 7401, 9701, 9703, 9707, 9711, 9714, and 9718;

(10) 24 V.S.A. §§ 5059 and 5061;

(11) 27 V.S.A. §§ 105, 106, 143, 145, 184, 185, 465, 466, and 1270;

(12) 28 V.S.A. § 814;

(13) 32 V.S.A. §§ 7109, 7303, 7304, 7450, 7451, and 745; and

(14) 33 V.S.A. §§ 102, 123, 302, and 4921.

Sec. 239. EFFECTIVE DATES

(a) Except as provided in subsection (b) or (c) of this section, this act shall take effect on July 1, 2010.

(b) Sec. 42 of this act shall take effect on July 1, 2010, except that the power to hire and remove staff, which is currently performed by county employees, as set forth in 4 V.S.A. § 491 as amended by Sec. 42 of this act, shall take effect on February 1, 2011.

(c) The following sections of this act shall take effect on February 1, 2011: Secs. 7a, 7f, 18, 18a, 19, 20, 21, 23, 24, 25, 28a, 73, 74a, 75, 76, 81, 91, 92, 120, 121, 122, 124, 125, 126a, 148, 149, 154a, 155a, 163a, 165, 197, 199, 200, 201, 203a, 204, and 238a.

(Committee Vote: 10-0-1)

Rep. Heath of Westford, for the Committee on **Appropriations**, recommends the bill ought to pass when amended as recommended by the Committee on **Judiciary**.

(Committee Vote: 10-1-0)

Amendment to be offered by Rep. Kilmartin of Newport City to the recommendation of amendment of the Committee on Judiciary to H. 470

Rep. Kilmartin of Newport City moves to amend the report of the committee on Judiciary as follows:

First: In Sec. 3, 4 V.S.A. § 21a, by striking subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read as follows:

(c) In making any assignments to the environmental ~~court~~ division under this section, the administrative judge shall regularly assign ~~both environmental judges through August 2008 and a minimum of two judges thereafter~~, at least one of whom shall be an environmental judge. An environmental judge may be assigned to ~~another~~ other divisions in the superior court only with the judge's consent and for a period of time not exceeding two years. When assigned to other divisions in the superior court, the environmental judge shall have all the powers and responsibilities of a superior judge.

Second: In Sec. 53, 4 V.S.A. § 1001(b), after the word "when" by inserting the words "consented to by the judge and"

Third: In Sec. 53, 4 V.S.A. § 1001, by striking subsection (f) in its entirety and inserting in lieu thereof a new subsection (f) to read as follows:

(f) The environmental court shall be provided with a dedicated minimum of one court manager, two law clerks, one case manager, and two docket clerk-courtroom operators. These positions shall not be subject to any rotation

with other courts. The environmental court shall receive the same funding and provisions for security as provided to county courthouses.

Amendment to be offered by Rep. Kilmartin of Newport City to the recommendation of amendment of the Committee on Judiciary to H. 470

Rep. Kilmartin of Newport City moves to amend the report of the committee on Judiciary as follows:

First: In Sec. 13, 4 V.S.A. § 111, by striking subsections (a) and (b) in their entirety and inserting in lieu thereof new subsections (a) and (b) to read as follows:

(a) ~~A superior court shall be held in each county at the times and places appointed by law.~~

~~(b)~~ When the business of a superior court cannot otherwise be disposed of with reasonable dispatch, by direction of the administrative judge there may be held additional sessions of that superior court simultaneously with the regular session consisting of a presiding judge and one or more assistant judges, if ~~available~~ elected by either party pursuant to section 112 of this title.

Second: By striking subsection Sec. 14 in its entirety and inserting in lieu thereof a new Sec. 14 to read as follows:

Sec. 14. 4 V.S.A. § 112 is amended to read:

§ 112. COMPOSITION OF COURT; PARTY'S ELECTION THAT ASSISTANT JUDGES SIT

(a)(1) The superior court shall consist of one presiding judge and two assistant judges, if available unless a party has made an election pursuant to subdivision (2) of this subsection.

(2) The A party may elect that assistant judges sit on a case in the superior or family division of superior court. If a party makes an election pursuant to this subdivision, the superior court shall consist of one presiding judge and two assistant judges if a party.

(b) Questions of law and fact. In all proceedings, questions of law shall be decided by the presiding judge. In cases not tried before a jury, questions of fact shall be decided by the ~~court~~ presiding judge and two assistant judges when a party has made an election pursuant to subsection (a) of this section, and by the presiding judge alone when a party has not made such an election. Mixed questions of law and fact shall be deemed to be questions of law. The presiding judge alone shall decide which are questions of law, questions of fact, and mixed questions of law and fact. Written or oral stipulations of fact submitted by the parties shall establish the facts related therein, except that the

presiding judge, in his or her discretion, may order a hearing on any such stipulated fact. Neither the decision of the presiding judge under this subsection nor participation by an assistant judge in a ruling of law shall be grounds for reversal unless a party makes a timely objection and raises the issue on appeal.

(c) Availability of assistant judges. If two a party has made an election pursuant to subdivision (a)(2) of this section, both of the county's assistant judges shall sit on the matter. If either or both of the county's assistant judges are not available, the court shall consist of one presiding judge and one assistant judge. In the event that court is being held by the presiding judge and one assistant judge, and they do not agree on a decision, a mistrial shall be declared. If neither assistant judge is available, the court shall consist of the presiding judge alone, and the unavailability of an assistant judge shall not constitute reversible error administrative judge shall assign an assistant judge or judges from an adjoining county to fill the position or positions. If not enough assistant judges from adjoining counties are available, the administrative judge shall assign any other assistant judge to fill the position or positions.

~~(d) Method of determining availability. Before commencing a hearing in any matter in which the court by law may consist of the presiding judge and assistant judges, the assistant judges physically present in the courthouse shall determine whether they are available for the case. If two or more cases are being heard at one time, and assistant judges may by law participate in either, each assistant judge may determine in which case he will participate. Notwithstanding any other provision of law, an assistant judge shall not perform any other judicial duties if performance of the duties substantially interferes with the duties required by this section.~~

(e) Duty to complete hearing or trial. After an a party has elected that the assistant judge has decided to judges participate in a hearing or trial, he they shall not withdraw therefrom except for cause. However, if he is they are not available for a scheduled hearing or trial or becomes become unavailable during trial, the matter may continue without his their participation, and he they may not return to participate.

(f) Emergency relief. A presiding judge may hear a petition for emergency relief when the court is not sitting, and may issue temporary orders as necessary.

(g) Jury trial. In order to preserve the right to trial by jury, when the claims of one party sound in equity and the claims of the opposing party sound in law, the latter party may demand that the claims be tried separately. Where a party has a right to trial by jury, that party does not waive the right by also seeking

temporary or preliminary injunctive relief in the same action issues sounding in law and in equity are presented in the same action, the supreme court shall provide by rule for trial by jury, when demanded, of issues sounding in law.

Third: By striking Sec. 55a in its entirety.

Fourth: In Sec. 238(a)(1), after “444 (number, appointment, and assignment of district judges),” by striking “444a (powers of Essex County assistant judges in district court),”

Fifth: In Sec. 238(a)(1), after “456 (appeals from family court),” by striking “457 (participation and availability of assistant judges in family court), 459 (powers of assistant judges not restricted), 461a (powers of Essex County assistant judges and magistrates in family court proceedings), 461b (powers of Essex and Orleans County assistant judges in parentage proceedings), 461c (powers of assistant judges in divorce proceedings),”

Sixth: In Sec. 238(a)(2), after “12 V.S.A. §§ 1949 (district court jury),” by striking “5540a (assistant judges’ jurisdiction over small claims),”

Amendment to be offered by Rep. Kilmartin of Newport City to the recommendation of amendment of the Committee on Judiciary to H. 470

Rep. Kilmartin of Newport City moves to amend the report of the committee on Judiciary as follows:

First: By striking Sec. 17 in its entirety and inserting in lieu thereof a new Sec. 17 to read as follows:

Sec. 17. 4 V.S.A. § 272 is added to read:

§ 272. PROBATE DISTRICTS; PROBATE JUDGES

(a) There shall be one probate district in each county, which shall be designated by the name of the county. Each probate district shall elect one probate judge.

(b) Except as provided in section 355 of this title, a probate judge shall only hear probate cases in the district in which the judge was elected. Each probate judge shall maintain the probate court records of the judge’s district.

Second: By striking Sec. 20 in its entirety and inserting in lieu thereof a new Sec. 20 to read as follows:

Sec. 20. 4 V.S.A. § 355 is amended to read:

§ 355. DISQUALIFICATION OR DISABILITY OF JUDGE

(a) When a probate judge is incapacitated for the duties of his office by absence, removal from the district, resignation, sickness, death, or otherwise or

if ~~he, his wife~~ the judge or the judge's spouse or child is heir or legatee under a will filed in ~~his~~ the judge's district, or if ~~he~~ the judge is executor or administrator of the estate of a deceased person in his or her district, or is interested as a creditor or otherwise in a question to be decided by the court, ~~he shall not act as judge. His duties shall be performed by the register, if not disqualified, or a judge of another district or an assistant judge of the superior court of the county in which such district is situated. The register or judge shall have jurisdiction to act while such disqualification, incapacity or vacancy exists~~ the assignment judge elected pursuant to subsection (b) of this section shall appoint another probate judge to hear the matter.

(b)(1) The probate judges of the state shall elect one probate judge to serve as the assignment judge and one probate judge to serve as the alternate assignment judge. The assignment judge and the alternate assignment judge shall each serve two-year terms, and at the expiration of the terms, the probate judges shall elect one probate judge to fill each vacancy as provided in this subsection.

(2) If the assignment judge is disqualified or unavailable to make an assignment under subsection (a) of this section, the alternate assignment judge shall make the assignment. If both the assignment judge and the alternate assignment judge are disqualified or unavailable to make an assignment under subsection (a) of this section, the administrative judge shall make the assignment.

Third: By striking Sec. 22 in its entirety in its entirety and inserting in lieu thereof a new Sec. 22 to read as follows:

Sec. 22. DELETED

Fourth: By striking Sec. 120 in its entirety in its entirety and inserting in lieu thereof a new Sec. 120 to read as follows:

Sec. 120. 14 V.S.A. § 101 is amended to read:

§ 101. WILL NOT EFFECTIVE UNTIL ALLOWED

A will shall not pass either real or personal estate unless it is proved and allowed in the probate division of the superior court, or by appeal in the superior or supreme court.

Fifth: By striking Sec. 199 in its entirety in its entirety and inserting in lieu thereof a new Sec. 199 to read as follows:

Sec. 199. DELETED

Sixth: In Sec. 238a(a), by striking subdivisions (2) and (6) in their entirety and renumbering the remaining subdivisions to be numerically correct

H. 749

An act relating to the Interstate Compact for Juveniles

Rep. Andrews of Rutland City, for the Committee on **Human Services**, recommends the bill be amended as follows:

In Sec. 1, 33 V.S.A. § 5726, by striking subsection (f) in its entirety and inserting in lieu thereof a new subsection (f) to read as follows:

(f) The existing rules governing the operation of the Interstate Compact on Juveniles superseded by this chapter shall be null and void 12 months after the second meeting of the Interstate Commission created by section 5723 of this title.

(Committee Vote: 8-1-2)

Senate Proposal of Amendment to House Proposal of Amendment S. 77

An act relating to the disposal of electronic waste

The Senate has concurred in the House proposal of amendment, with further proposals of amendment as follows:

First: In Sec. 2, 10 V.S.A. § 7551(3), by striking out the following: “covered electronic devices” where it appears and inserting in lieu thereof the following: electronic waste

Second: In Sec. 2, 10 V.S.A. § 7551(10), in the first sentence, by inserting a semicolon between “computer peripheral” and “device containing” and in the second sentence by inserting the following: library, between “industrial,” and “research and development”

Third: In Sec. 2, 10 V.S.A. § 7551(11), by striking out subdivision (11)(D) in its entirety and inserting in lieu thereof the following:

(D) Imports into the United States for sale in the state a covered electronic device manufactured by a person without a presence in the United States;

Fourth: In Sec. 2, 10 V.S.A. § 7553(h)(5) by striking out the following: “to accurately reflect the manufacturer’s actual market share” where it appears and inserting in lieu thereof the following: to accurately reflect the actual cost of the program and the manufacturer’s market share

Fifth: In Sec. 6c(a), by striking out the following: “In fiscal year 2011,” where it appears and inserting in lieu thereof the following: In fiscal years 2011 and 2012,

(For text see House Journal 2/24/2010)

Action Postponed Until May 28, 2010

Governors Veto

H. 436

An act relating to decommissioning funds of nuclear energy generation plants.

Pending Question: Shall the House sustain the Governor's veto?

NOTICE CALENDAR

Committee Bill for Second Reading

H. 783

An act relating to miscellaneous tax provisions.

(Rep. Ancel of Calais will speak for the Committee on **Ways and Means.**)

H. 784

An act relating to the state's transportation program.

(Rep. Brennan of Colchester will speak for the Committee on **Transportation.**)

Favorable with Amendment

H. 527

An act relating to municipal recovery of costs of fire department response

Rep. Shand of Weathersfield, for the Committee on **Commerce and Economic Development**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. MUNICIPAL COST RECOVERY STUDY COMMITTEE

(a) There is created the municipal cost recovery study committee to evaluate whether or not, or to what extent, to allow municipalities to recover the costs of fire department response to emergencies and nonemergencies on class 1 and federal highways.

(b) The committee shall be comprised of seven members as follows:

(1) Two members appointed by the Vermont League of Cities and Towns, one representing a large municipality and one representing a small municipality;

(2) The commissioner of banking, insurance, securities, and health care administration or designee;

(3) The commissioner of public safety or designee;

(4) The secretary of transportation or designee;

(5) Two members appointed by the Vermont Coalition of Fire and Rescue Services, one representing volunteer firefighters and one representing career firefighters.

(c) The committee shall study and evaluate, as it relates to the issue of allowing municipalities to recover the costs of fire department response to emergencies and nonemergencies on class 1 and federal highways:

(1) The state's public policy;

(2) The state's responsibility;

(3) The state's fiscal responsibility, including potential funding mechanisms;

(4) Costs to insurance companies;

(5) Inequities between and among municipalities;

(6) Approaches taken in other states.

(d) The department of public safety shall ensure that administrative support is provided to the committee, and the department may do so by arranging for that support to be provided by a willing municipal member of the Vermont League of Cities and Towns.

(e) By January 1, 2011 the committee shall report its recommendations in the form of proposed legislation to the general assembly.

(f) The committee may meet as often as necessary to fulfill its obligations under this section.

(Committee Vote: 10-0-1)

H. 722

An act relating to the resale of tickets

Rep. Lorber of Burlington, for the Committee on **Commerce and Economic Development**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 9 V.S.A. Chapter 117 is added to read:

CHAPTER 117. INTERNET SALES

§ 4190. INTERFERING WITH INTERNET TICKET SALES

(a) A person shall not intentionally use a computer program or other

software to interfere with or circumvent on a ticket seller's website a security measure, access control system, or other control or measure used to ensure an equitable ticket buying process for tickets of admission to a sporting event, theatre, musical performance, or place of public entertainment or amusement of any kind.

(b) A person who suffers damages or injury as a result of a violation of this section may sue for:

- (1) appropriate equitable relief;
- (2) reasonable attorney's fees and costs; and
- (3) the greater of:
 - (A) actual damages suffered; or
 - (B) \$25,000 per violation of this section.

Sec. 2. 9 V.S.A. § 2435 is amended to read:

§ 2435. NOTICE OF SECURITY BREACHES

(a) This section shall be known as the Security Breach Notice Act.

(b) Notice of breach.

(1) Except as set forth in subsection (d) of this section, any data collector that owns or licenses computerized personal information that includes personal information concerning a consumer shall notify the consumer that there has been a security breach following discovery or notification to the data collector of the breach. Notice of the security breach shall be made in the most expedient time possible ~~and~~, without unreasonable delay, and within 45 days of discovery of the breach, unless delay is requested by law enforcement pursuant to consistent with the legitimate needs of the law enforcement agency, as provided in subdivision (3)(4) of this subsection, or with necessitated by any measures necessary to determine the scope of the security breach and restore the reasonable integrity, security, and confidentiality of the data system.

(2) Any data collector that maintains or possesses computerized data containing personal information of a consumer that the ~~business data collector~~ does not own or license or any data collector that acts or conducts business in Vermont that maintains or possesses records or data containing personal information that the data collector does not own or license shall notify the owner or licensee of the information of any security breach immediately following discovery of the breach, consistent with the legitimate needs of law enforcement as provided in subdivision ~~(3)~~(4) of this subsection.

(3) In the most expedient time possible and within 45 days of discovery of the security breach, unless delay is necessary to determine the scope of the security breach under subdivision (1) of this subsection or is requested by law enforcement pursuant to subdivision (4) of this subsection, a data collector or other entity subject to this subchapter, other than a person or entity licensed or registered with the department of banking, insurance, securities, and health care administration under Title 8 or this title, shall provide the attorney general's office notice of a security breach, notice of the number of Vermont consumers affected if known to the data collector, and a copy of the notice provided to a consumer under subdivision (1) of this subsection.

~~(3)~~(4) The notice to a consumer required by this subsection shall be delayed upon request of a law enforcement agency. A law enforcement agency may request the delay if it believes that notification may impede a law enforcement investigation, or a national or homeland security investigation or jeopardize public safety or national or homeland security interests. In the event law enforcement makes the request in a manner other than in writing, the data collector shall document such request contemporaneously in writing, including the name of the law enforcement officer making the request and the officer's law enforcement agency engaged in the investigation. A law enforcement agency shall promptly notify the data collector when the law enforcement agency no longer believes that notification may impede a law enforcement investigation, or a national or homeland security investigation or jeopardize public safety or national or homeland security interests. The data collector shall provide notice required by this section without unreasonable delay upon receipt of a written communication, which includes facsimile or electronic communication, from the law enforcement agency withdrawing its request for delay.

~~(4)~~(5) The notice to a consumer shall be clear and conspicuous. The notice shall include a description of each of the following, if known to the data collector:

(A) The incident in general terms.

(B) The type of personal information that was subject to the security breach ~~unauthorized access or acquisition~~.

(C) The general acts of the ~~business~~ data collector to protect the personal information from further unauthorized access or acquisition.

(D) A toll-free telephone number that the consumer may call for further information and assistance.

(E) Advice that directs the consumer to remain vigilant by reviewing account statements and monitoring free credit reports.

(F) The date or dates of the security breach and the date of the data collector's discovery of the security breach.

Sec. 3. EFFECTIVE DATE

This act shall take effect upon passage.

and that the title of the bill be amended to read: "An act relating to notice of security breaches and internet ticket sales"

(**Committee Vote: 10-0-1**)

H. 769

An act relating to the licensing and inspection of plant and tree nurseries.

(Rep. Taylor of Barre City will speak for the Committee on Agriculture.)

Rep. Zuckerman of Burlington, for the Committee on **Ways and Means,** recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following::

Sec. 1. 6 V.S.A. § 4021 is amended to read:

§ 4021. DEFINITIONS

As used in this chapter:

(1) "Secretary" means the secretary of agriculture, food and markets or his or her designee.

(2) "Agency" means the agency of agriculture, food and markets.

(3) "Nursery" means all lands, premises, and buildings on or in which nursery stock is grown, transported, or offered for sale.

(4) "Nursery dealer" means any person who buys, sells, or distributes nursery stock for commercial gain.

(5) "Nursery grower" means any person engaged in growing, propagating, or production of nursery stock for commercial gain.

(6) "Nursery license" means the license issued to nursery dealers or nursery growers under section 4024 of this title.

(7) "Nursery stock" means all woody or herbaceous shrubs, trees, plants, and vines, including bulbs and rhizomes as well as buds, grafts, scions, and other parts capable of propagation whether wild, cultivated, or grown under artificial covering. This definition does not include cut flowers or seeds.

Sec. 2. 6 V.S.A. § 4023 is amended to read:

§ 4023. NURSERY INSPECTION; ~~ISSUANCE OF CERTIFICATE FEES~~

~~(a) The secretary shall, at least annually, but not more than three times a year, inspect all nurseries or places within the state where nursery stock is grown, collected or stored. If, upon examination, the nursery stock is found to be healthy and apparently free from pests and diseases, the secretary shall issue a certificate. The secretary shall establish by rule the conditions for the issuance, suspension or revocation of the certificate, and may place any restrictions or requirements upon the certificate which he or she deems necessary.~~

~~(b) No person may operate a nursery without a valid certificate.~~

~~(c) The secretary may charge a fee for any inspection conducted under the provisions of this chapter. The amount of the fee shall be determined in a manner to be established by rule, but shall be no greater than is necessary, in the judgment of the secretary, to meet all expenses incurred in making the inspection. The secretary, as he or she deems necessary, may inspect nursery stock in the possession of a nursery grower or nursery dealer licensed under section 4024 of this title or any place within the state where nursery stock is grown, collected, stored, sold, offered for sale, or distributed. After the inspection of a licensed nursery grower or nursery dealer, the secretary may issue an inspection certificate.~~

~~(b) The secretary shall charge a fee for any inspection of a nursery grower or nursery dealer that is not licensed under section 4024 of this title. The secretary shall charge a fee for an inspection of a nursery dealer or nursery grower licensed under section 4024 of this title, provided that the initial inspection of a licensed nursery grower or nursery dealer in any calendar year shall be at no cost. The amount of the inspection fee shall be the same fee as that charged for a nursery dealer's license as required by section 4024 of this title. The secretary shall not charge an inspection fee when responding to consumer complaints or for technical assistance under section 1036 of this title for the management of plant pests, as that term is defined in section 1030 of this title.~~

Sec. 3. 6 V.S.A. § 4024 is amended to read:

§ 4024. ~~NURSERY DEALERS;~~ NURSERY LICENSE

~~(a) Every nursery dealer purchasing, selling or installing stock in this state shall annually apply for and receive a nursery dealer's license from the secretary. The secretary may inspect nursery stock in the possession of licensed dealers as he or she deems necessary. The secretary shall establish by rule the conditions for the issuance, suspension or revocation of the license, and may place any restrictions or requirements upon the license which he or she deems necessary.~~

~~(b) Any person soliciting orders for, selling, delivering or installing nursery stock shall have in his or her possession a copy of the license of the nursery which he or she represents or his or her own license, if required by subsection (a) of this section, which he or she shall show upon demand to prospective buyers or the secretary.~~

~~(c) Any person who has been issued a certificate by the secretary under section 4023 of this title shall automatically be issued a nursery dealer's license. No person shall operate as a nursery grower or nursery dealer in the state without first obtaining a nursery license from the secretary. A nursery grower or nursery dealer shall apply annually for a nursery license on a form provided by the secretary. The secretary shall establish by rule the conditions for the issuance, suspension, or revocation of a nursery license, and may place any restrictions or requirements upon the license which he or she deems necessary.~~

(b) A nursery dealer licensed under section 4024 of this title shall pay the following fee for a license:

(1) \$50.00, if the nursery owns or controls:

(A) a nursery of one-half acre or more;

(B) greenhouse space of 25,000 square feet or more; or

(C) retail space of 25,000 square feet or more.

(2) \$20.00 for all other nursery dealers.

(c) Any person soliciting orders for, offering for sale, or distributing nursery stock shall have in his or her possession a copy of the nursery license required under subsection (a) of this section, which he or she shall show upon demand to prospective buyers or the secretary.

Sec. 4. 6 V.S.A. § 4025 is amended to read:

§ 4025. SHIPMENTS BY NURSERY DEALERS TO BE ACCOMPANIED
BY INSPECTION CERTIFICATES

Whenever a nursery dealer or nursery grower licensed under this chapter ships or delivers any nursery stock grown within this state, he or she shall include with each shipment a copy of the inspection certificate issued by the secretary, or an approved facsimile, stating that the nursery dealer or nursery grower is licensed and has been inspected and approved as required by this chapter and the nursery stock is believed to be free from injurious pests or plant diseases.

Sec. 5. 6 V.S.A. § 4027 is amended to read:

§ 4027. DISEASED OR INFESTED STOCK; STOP-SALE; DESTRUCTION

(a) Only sound, healthy nursery stock which will maintain its vigor shall be offered for sale. Offering for sale stock which is diseased or infested with injurious pests is a violation of this chapter. Whenever the secretary has reason to believe that any nursery, nursery grower, or nursery dealer in the state has produced, introduced, installed, sold, or offered for sale, diseased or infested nursery stock, the secretary shall inspect that nursery. If, upon inspection, the secretary finds any diseased or infested stock, he or she may order the plants, either individually or in blocks, to be:

- (1) put on stop-sale;
- (2) treated in a particular manner; or
- (3) destroyed according to the secretary's instructions.

(b) Plants ordered destroyed or placed on stop-sale must be clearly separable from noninfested stock. Any order must be confirmed in writing within seven days. The writing shall include the reason for action, a description of the nursery stock affected, and any recommended treatment. Stop-sale tags may not be removed except by written permission of the secretary or upon suitable disposal of the infested plants as determined by the secretary.

* * *

Sec. 6. 6 V.S.A. § 4028 is amended to read:

§ 4028. ACCESS TO RECORDS; NURSERY STOCK

A nursery dealer or nursery grower engaged in the sale, distribution, or installation of nursery stock shall:

- (1) provide access for inspection by the secretary of all nursery stock;
- (2) follow appropriate practices so that an adequate inspection of the nursery can be made; and
- (3) maintain for one year records of plant purchases, acquisitions, sales, or other distributions, and make the records available upon request to the secretary for inspection.

Sec. 7. EFFECTIVE DATE

This act shall take effect on July 1, 2010.

(Committee Vote 11-0-0)

Ordered to Lie

H.R. 19

House resolution urging the agency of natural resources to retain delegated authority to administer the federal Clean Water Act in Vermont.

Pending Question: Shall the House adopt the resolution?

Consent Calendar

Concurrent Resolutions for Adoption Under Joint Rule 16a

The following concurrent resolutions have been introduced for approval by the Senate and House and will be adopted automatically unless a Senator or Representative requests floor consideration before today's adjournment. Requests for floor consideration in either chamber should be communicated to the Secretary's office and/or the House Clerk's office, respectively. For text of resolutions, see Addendum to House Calendar and Senate Calendar of 3/19/2010.

H.C.R. 273

House concurrent resolution congratulating the 2010 U-32 Raiders Division II championship boys' basketball team

H.C.R. 274

House concurrent resolution congratulating the 2010 Lamoille Union High School Lady Lancers Division II championship girls' basketball team

H.C.R. 275

House concurrent resolution commemorating the 200th anniversary of the birth of Senator Justin Smith Morrill, the father of America's land-grant colleges

H.C.R. 276

House concurrent resolution honoring the federal TRIO programs in Vermont

H.C.R. 277

House concurrent resolution congratulating the 2010 Williamstown Blue Devils Division IV championship boys' basketball team

H.C.R. 278

House concurrent resolution congratulating the 2010 U-32 Raiders Division II championship girls' ice hockey team

H.C.R. 279

House concurrent resolution designating October 16, 2010, as Vermont Pumpkin Carving Day

H.C.R. 280

House concurrent resolution designating March 25, 2010, as Afterschool Program Day at the state house

H.C.R. 281

House concurrent resolution congratulating the 2010 Missisquoi Valley Union High School Thunderbirds Division II championship boys' ice hockey team

H.C.R. 282

House concurrent resolution congratulating the 2010 St. Johnsbury Academy Hilltoppers Division I championship girls' basketball team

H.C.R. 283

House concurrent resolution in memory of Burr & Burton Academy film and technology teacher Brian Gawlik

H.C.R. 284

House concurrent resolution honoring the outstanding efforts of those who care for, educate, and advocate for our young children in Vermont

S.C.R. 44

Senate concurrent resolution in memory of Henry P. Albarelli Sr. of Burlington