

1 H.628

2 Introduced by Representative Pugh of South Burlington

3 Referred to Committee on

4 Date:

5 Subject: Human services; Title 33 reorganization

6 Statement of purpose: This bill proposes to reorganize and update Title 33 of
7 the Vermont Statutes Annotated. It would also move provisions of existing
8 law from other titles to Title 33 and from Title 33 to other titles and make other
9 technical, clarifying, and conforming changes.

10 An act relating to reorganizing and updating Title 33

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

12 Sec. 1. 33 V.S.A. chapter 1 is redesignated to read:

13 CHAPTER 1. DEPARTMENT ~~OF PREVENTION, ASSISTANCE,~~
14 ~~TRANSITION, AND HEALTH ACCESS FOR CHILDREN AND FAMILIES~~

15 Sec. 2. 33 V.S.A. § 101 is amended to read:

16 § 101. ~~SOCIAL WELFARE POLICY OF THE STATE OF VERMONT~~

17 It is the policy of the state of Vermont that:

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

1 (2) It is the purpose of its social and child welfare laws to establish and
2 support programs which contribute to the prevention of dependency and social
3 maladjustment and contribute to the rehabilitation and protection of persons of
4 the state;

5 (3) Assistance and benefits shall be administered promptly, with due
6 regard for the preservation of family life, and without restriction of individual
7 rights or discrimination on account of race, religion, political affiliation, or
8 place of residence within the state;

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

16 (5) The programs of the department for children and families shall be
17 designed to strengthen family life for the care and protection of children; to
18 assist and encourage the use by any family of all available personal and
19 reasonable community resources to this end; and to provide substitute care of
20 children only when the family, with the use of available resources, is unable to

1 provide the necessary care and protection to assure the right of any child to
2 sound health and to normal physical, mental, spiritual, and moral development.

3 Sec. 3. 33 V.S.A. § 102 is amended to read:

4 § 102. DEFINITIONS AND CONSTRUCTION

5 (a) ~~Unless otherwise expressly provided, the words and phrases in this~~
6 ~~chapter mean~~ For the purposes of this chapter:

7 (1) ~~Aid:~~ “Aid” means financial assistance.

8 (2) ~~Assistance~~ “Assistance” (when not modified by an adjective): means
9 general assistance or public assistance or both.

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

12 (4) ~~Commissioner:~~ “Commissioner” means the commissioner for
13 children and families.

14 (5) ~~Department:~~ “Department” means the department for children and
15 families.

16 (6) ~~Federal department (or federal agency):~~ “Federal department” or
17 “federal agency” means a department or agency of the United States of
18 America.

19 (7) ~~Guardian:~~ “Guardian” means a legal guardian appointed by a probate
20 division of the superior court or by a court in a divorce or other proceeding or
21 action.

1 (8) ~~Public assistance:~~ “Public assistance” means aid provided by the
2 department under Titles IV, XVI, or XIX of the Social Security Act.

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

4 (10) ~~Secretary:~~ “Secretary” means the secretary of the federal
5 ~~department of health and human services~~ Department of Health and Human
6 Services.

7 (11) ~~Social Security Act:~~ “Social Security Act” means the federal Social
8 Security Act and rules and regulations made thereunder, as amended at any
9 time.

10 (12) ~~[Deleted.]~~

11 (13) ~~[Deleted.]~~

12 (b) The laws relating to ~~the programs~~ of the department for children and
13 families and its programs shall be construed liberally to carry out the policies
14 stated in this chapter.

15 Sec. 4. 33 V.S.A. § 103 is amended to read:

16 § 103. COMPOSITION OF DEPARTMENT

17 The department for children and families, created ~~under section~~ pursuant to
18 3 V.S.A. §§ 212 and 3084 of Title 3, shall consist of the commissioner for
19 children and families and all divisions, councils, boards, committees, and
20 offices within the department.

1 Sec. 5. 33 V.S.A. § 104 is amended to read:

2 § 104. FUNCTION AND POWERS OF DEPARTMENT

3 (a) The department shall administer all laws specifically assigned to it for
4 administration.

5 (b) In addition to other powers vested in it by law, the department may:

6 (1) Provide ~~aid required~~ for the administration of the following
7 programs ~~of~~ and services:

8 (A) Aid to the aged, blind, and disabled.

9 (B) ~~Aid to needy families with children~~ Reach Up financial
10 assistance and support services.

11 (C) ~~Community work and training.~~ [Deleted.]

12 (D) Federal ~~supplementary~~ supplemental nutrition assistance program
13 benefits.

14 (E) General assistance.

15 (F) Medical assistance.

16 (G) Public assistance programs funded with state general funds or the
17 temporary assistance to needy families (TANF) block grant.

18 (2) Cooperate with the appropriate federal agencies in receiving, to the
19 extent available, federal funds in support of programs which the department
20 administers.

1 (3) Submit plans and reports, make regulations, and in other respects
2 comply with the provisions of the ~~social security act~~ Social Security Act which
3 pertain to programs administered by the department.

4 (4) Receive and disburse funds which are assigned, donated, or
5 bequeathed to it for charitable purposes or for the benefit of recipients of
6 assistance ~~or~~ benefits, or social services. This subdivision shall not be
7 construed to require the department to accept funds or trusts when the
8 commissioner, with the approval of the governor, considers it in the best
9 interests of the state to refuse them.

10 (5) Receive in trust and expend in accordance with the provisions of the
11 trust, funds, and property assigned, donated, devised, or bequeathed to it for
12 charitable purposes or for the benefit of recipients of assistance ~~or~~ benefits, or
13 social services. Trust funds accepted by the department shall be safely
14 invested by the state treasurer. Real property received in trust may, at the
15 discretion of the commissioner, be administered by the department of buildings
16 and general services of the agency of administration. ~~Neither this nor the~~
17 preceding This subdivision shall not be construed to require the department to
18 accept funds or trusts; when the commissioner, with the approval of the
19 governor, considers it in the best interests of the state to refuse them.

20 (6) Aid and assist in charitable work as in the judgment of the
21 commissioner will best promote the general welfare of the state.

1 (7) Visit all institutions, homes, places, and establishments soliciting
2 public support and located in the state, which are devoted to or used for the
3 care of needy persons.

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

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

9 (c) The department for children and families, in cooperation with the
10 department of corrections, shall have the responsibility to administer a
11 comprehensive program, developed by the commission on juvenile justice
12 established pursuant to 3 V.S.A. § 3085c, for youthful offenders and children
13 who commit delinquent acts, including utilization of probation services; of a
14 range of community-based and other treatment, training, and rehabilitation
15 programs; and of secure detention and treatment programs when necessary in
16 the interests of public safety, designed with the objective of preparing those
17 children to live in their communities as productive and mature adults.

18 Sec. 6. 33 V.S.A. § 105 is amended to read:

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

20 POWERS

21 (a) ~~{Repealed.}~~

1 ~~(b)~~ The commissioner may exercise the powers and perform duties required
2 for effective administration of the department, and he or she shall determine
3 the policies of the department.

4 ~~(e)~~(b) In addition to other duties imposed by law, the commissioner shall:

5 (1) Administer the laws assigned to the department.

6 (2) Fix standards and issue regulations necessary to administer those
7 laws and for the custody and preservation of records of the department. Those
8 regulations shall contain provisions restricting the use or disclosure of
9 information contained in the records to purposes directly connected with the
10 administration of the department. As used in this subdivision, the word
11 “records” includes records, papers, files, and communications.

12 (3) Appoint all necessary assistants, prescribe their duties, and issue
13 regulations necessary to assure that the assistants shall hold merit system status
14 while in the employ of the department, unless otherwise specifically provided
15 by law.

16 ~~(4) [Repealed.]~~

17 ~~(d)~~(c) The commissioner, or the governor, whenever the federal law so
18 provides, may cooperate with the federal government in providing relief and
19 work relief, and community work and training programs in the state.

1 ~~(e)~~(d) The commissioner, with the approval of the attorney general, may
2 enter into reciprocal agreements with social and child welfare agencies in other
3 states in matters relating to social welfare, children, and families.

4 (e) The commissioner shall ensure the provision of services to children and
5 adolescents with a severe emotional disturbance in coordination with the
6 commissioners of education, of mental health, and of disabilities, aging, and
7 independent living in accordance with the provisions of chapter 43 of this title.

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

14 (g) The commissioner may publicly disclose findings or information about
15 any case of child abuse or neglect that has resulted in the fatality or near
16 fatality of a child, including information obtained under chapter 49 of this title,
17 unless the state's attorney or attorney general who is investigating or
18 prosecuting any matter related to the fatality requests the commissioner to
19 withhold disclosure, in which case the commissioner shall not disclose any
20 information until completion of any criminal proceedings related to the fatality

1 or until the state's attorney or attorney general consents to disclosure,
2 whichever occurs earlier.

3 * * *

4 Sec. 7. 33 V.S.A. § 111(b) is amended to read:

5 (b) A person shall not:

6 (1) Publish, use, disclose, or divulge any of those records for purposes
7 not directly connected with the administration of programs of the department,
8 or contrary to regulations issued by the commissioner; or

9 * * *

10 Sec. 8. REPEAL

11 33 V.S.A. § 113 (desertion and nonsupport, information from governmental
12 entities and public utilities) is repealed.

13 Sec. 9. REPEAL

14 33 V.S.A. § 115 (access to financial records of deposit accounts of
15 individuals who owe overdue child support) is repealed.

16 Sec. 10. 33 V.S.A. § 116 is added to read:

17 § 116. STATE-PLACED STUDENTS

18 To enable a school district to determine if a student is a state-placed student,
19 as defined in 16 V.S.A. § 11(a)(28), the commissioner for children and
20 families shall immediately notify the superintendent of schools for the school

1 district educating the student if the parent or parents of a student under the care
2 and custody of the commissioner move from or into that school district.

3 Sec. 11. REPEAL

4 33 V.S.A. § 132 (remedies; penalty) is repealed.

5 Sec. 12. 33 V.S.A. § 141 is amended to read:

6 § 141. FRAUD

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

17 (b) A person who knowingly uses, transfers, acquires, traffics, alters,
18 forges, or possesses; or who knowingly attempts to use, transfer, acquire,
19 traffic, alter, forge, or possess; or who knowingly aids and abets another
20 person in the use, transfer, acquisition, traffic, alteration, forgery, or possession
21 of a ~~food stamp, food stamp identification~~ supplemental nutrition assistance

1 program benefit card, authorization for the purchase of ~~food stamps~~
2 supplemental nutrition assistance program benefits, certificate of eligibility for
3 medical services, or ~~Medicaid~~ state health care program identification card in a
4 manner not authorized by law shall be punished as provided in section 143 of
5 this title. ~~For the purposes of this section, the value of an authorization to~~
6 ~~purchase food stamps shall be the difference between the coupon allotment and~~
7 ~~the amount paid by the recipient for that allotment.~~

8 (c) A person who administers a state or ~~federally funded~~ federally funded
9 assistance program who fraudulently misappropriates, attempts to
10 misappropriate, or aids and abets in the misappropriation of a ~~food stamp~~
11 supplemental nutrition assistance program benefit, authorization for ~~food~~
12 ~~stamps~~ supplemental nutrition assistance program benefits, ~~food stamp a~~
13 supplemental nutrition assistance program benefit identification card,
14 certificate of eligibility for prescribed medicine, ~~Medicaid~~ state health care
15 program identification card, or assistance from any other state or
16 ~~federally funded~~ federally funded program with which he or she has been
17 entrusted or of which he or she has gained possession by virtue of his or her
18 position; or who knowingly misappropriates, attempts to misappropriate, or
19 aids or abets in the misappropriation of funds given in exchange for ~~food~~
20 ~~stamps~~ supplemental nutrition assistance program benefits shall be punished as
21 provided in section 143 of this title.

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

12 * * *

13 Sec. 13. 33 V.S.A. chapter 1, subchapter 6 is added to read:

14 Subchapter 6. Licensing and Registration

15 § 151. LICENSING AND REGISTRATION; VIOLATIONS

16 This subchapter shall apply to all licenses, registrations, and applications for
17 licenses and registrations which the commissioner or the department may issue
18 or grant, unless otherwise specifically provided.

19 (1) The commissioner shall adopt rules governing applications for and
20 issuance, revocation, term, and renewal of licenses and registrations. In the
21 regulations, he or she may prescribe standards and conditions to be met.

1 records to be kept, and reports to be filed. Licenses and registration shall be
2 for a term of one year from issuance unless otherwise prescribed by regulation.

3 (2) Premises covered by a license or registration may be visited and
4 inspected by the department at reasonable hours. A person who accepts a
5 license or registration shall permit visits and inspections and examinations of
6 the records he or she is required to keep.

7 (3) A license or registration may be revoked for cause after hearing and
8 may be suspended in situations which immediately imperil the health, safety,
9 or well-being of persons in the care of the licensee or registrant.

10 (4) Before a license is granted, the department shall visit and inspect the
11 premises for which the license is requested and make further inquiry and
12 investigation as the commissioner may direct. Before a family child care home
13 registration is granted, the department shall make inquiry and investigation.
14 Inquiry and investigation may include a visit to and inspection of the premises
15 for which the registration is requested. Further inquiry and investigation may
16 be made as the commissioner may direct.

17 (5) Whenever the attorney general has reason to believe that a facility
18 required by the commissioner to be licensed or registered is being operated
19 without such license or registration, the attorney general may bring an action
20 for equitable relief in the name of the state against the operator of such facility
21 to restrain such operation. The action may be brought in the superior court of

1 the county in which the facility is located. The court is authorized to grant
2 equitable relief to restrain and prevent such operation.

3 (6) Any person who violates the terms of an injunction or restraining
4 order issued under subdivision (5) of this section shall forfeit and pay to the
5 state a civil penalty of not more than \$100.00 for each violation. In such cases,
6 the attorney general acting in the name of the state may petition for recovery of
7 such civil penalty.

8 (7) Whenever the department determines that a licensed child care
9 facility or registered family child care home has violated a health or safety
10 rule, the facility or home shall post the department's notice of violation in a
11 conspicuous place in the facility or home. In the case of a serious violation, as
12 defined by the department by rule, the facility or home shall also notify by mail
13 a person responsible for the welfare of each child attending that facility or
14 home. A serious violation shall include violation of group size and staffing
15 requirements and any violation involving a situation which immediately
16 imperils the health, safety, or well-being of persons in the care of the licensee
17 or registrant.

18 § 152. ACCESS TO RECORDS

19 (a) The commissioner may obtain from the Vermont crime information
20 center the record of convictions of any person to the extent the commissioner
21 has determined by rule that such information is necessary to regulate a facility

1 or individual subject to regulation by the department. The commissioner shall
2 first notify the person whose record is being requested.

3 (b) The owner or operator of a facility licensed or registered by the
4 department may ask the commissioner for the record of convictions and the
5 record of substantiated reports of child abuse of a current employee or a person
6 to whom the owner or operator has given a conditional offer of employment.
7 The request shall be in writing and shall be accompanied by a release signed
8 by the current or prospective employee. The owner or operator shall inform
9 the current or prospective employee that he or she has the right to appeal the
10 accuracy and completeness of the record. Upon receiving a request under this
11 subsection, the commissioner shall ask the Vermont crime information center
12 for the record of convictions of the current or prospective employee.

13 (c) If the person has a record of convictions, the commissioner shall
14 provide the owner or operator with a copy of the record. If the person has a
15 record of substantiated reports of child abuse, the commissioner shall inform
16 the requesting owner or operator that such record exists.

17 (d) Information released to an owner or operator under this section shall not
18 be released or disclosed by the owner or operator to any other person. Release
19 or disclosure of such information by an owner or operator may result in the
20 loss of the license or registration.

21 (e) As used in this section:

1 * * *

2 Sec. 17. REPEAL

3 33 V.S.A. chapters 7 (office of alcohol and drug abuse) and 8 (alcohol and
4 drug abuse counselors) are repealed.

5 Sec. 18. 33 V.S.A. § 900 is amended to read:

6 § 900. DEFINITIONS

7 Unless otherwise required by the context, the words and phrases in this
8 chapter shall be defined as follows:

9 (1) "Agency" means the agency of human services.

10 (2) "Director" means the director of rate setting.

11 (3) "Division" means the division of rate setting.

12 (4) ~~"State-assisted" means a person eligible for or receiving benefits~~
13 ~~administered by or in coordination with the agency.~~

14 (5) "Provider" means any entity, excluding a hospital or a physician,
15 providing services to state-assisted persons pursuant to a contract or other form
16 of agreement with the state.

17 (6)(5) "Secretary" means the secretary of human services.

18 (6) "State-assisted" means a person eligible for or receiving benefits
19 administered by or in coordination with the agency.

1 Sec. 19. 33 V.S.A. § 904(b) is amended to read:

2 (b) No payment shall be made to any nursing home, on account of any
3 state-assisted person, unless the nursing home is certified to participate in the
4 state/federal medical assistance program and has in effect a provider
5 agreement.

6 Sec. 20. 33 V.S.A. § 905(a) is amended to read:

7 (a) Consistent with the objectives established under section 901 of this title,
8 the division shall develop a payment system based on cost categories
9 established for each nursing home. The system shall include no fewer than the
10 following three cost categories:

11 (1) Direct care costs, which refer, at a minimum, to nursing salaries and
12 nursing assistant wages, fringe benefits, and payroll taxes associated therewith.

13 (2) Indirect costs, which refer to all operating costs not established
14 under subdivision (1) of this subsection.

15 (3) Property and related costs.

16 (4) At the discretion of the director, the cost categories referred to in
17 subdivisions ~~(4)–(3)~~ (1) through (3) of this subsection may be subdivided.

18 Facilities may also be divided into groups, based on considerations such as size
19 or other appropriate determinants within each cost category or subdivision
20 thereof.

1 Sec. 21. 33 V.S.A. § 908(b) is amended to read:

2 (b) The division shall have the power to examine books and accounts of
3 any nursing home or other provider caring for state-assisted persons, to
4 subpoena witnesses and documents, to administer oaths to witnesses, and to
5 examine them on all matters of which the division has jurisdiction.

6 Sec. 22. 33 V.S.A. § 910 is amended to read:

7 § 910. AVAILABILITY OF PAYMENT FOR NURSING HOME SERVICES

8 In addition to any other reductions required by this act, the secretary may,
9 with 90 days' notice to the nursing home, reduce the number of days of nursing
10 home service or the number of nursing home beds for which payments are
11 available under the state/federal medical assistance program in order to meet
12 state budgetary goals, provided that the standards of care, required by section
13 7117 of this title and by rule, ~~adopted by January 1, 1997,~~ are maintained.

14 Sec. 23. 33 V.S.A. § 1101 is amended to read:

15 § 1101. DEFINITIONS

16 As used in this chapter:

17 (1) "Able-to-work" means to be free of any physical, emotional, or
18 mental condition that would prevent the individual from engaging in any
19 combination of the work activities, identified in subdivisions ~~1101(28)(A)~~
20 through (E) of this ~~title~~ section, for at least 35 hours per week.

1 Sec. 26. 33 V.S.A. § 1107 is amended to read:

2 § 1107. CASE MANAGEMENT; FAMILY DEVELOPMENT PLANS;

3 COORDINATED SERVICES

4 * * *

5 (d) The commissioner of education, with the assistance and support of the
6 commissioner for children and families; the commissioner of disabilities,
7 aging, and independent living; and the commissioner of labor, shall develop
8 and implement comparable and reciprocally recognized literacy assessment
9 protocols that will be used for all clients seeking ~~adult basic education~~ adult
10 education and literacy services; related services of the department of
11 education; ~~or~~ the services of the department of disabilities, aging, and
12 independent living; the department of labor; or the department for children
13 and families, when such services are being sought for the purpose of
14 developing or strengthening competencies or skills related to the clients'
15 current or future employment. Such protocols shall, to the extent practicable,
16 utilize the same terminology and apply comparable criteria, consistent with
17 individual program purposes and authorization, in determining when testing,
18 other standardized measurement tools, or referrals to relevant professionals for
19 evaluation or diagnosis are appropriate.

20 (e) The secretary shall work cooperatively with public and private, local,
21 and regional entities:

1 (1) to develop subsidized jobs with employers, using the same health
2 and safety standards in effect for unsubsidized jobs;

3 (2) to develop work placements that incorporate an ~~adult basic education~~
4 adult education and literacy component into the hours of work for participants
5 who need to continue to work on their secondary education while fulfilling
6 their work requirement;

7 (3) to adopt rules which set priorities for services of benefit to the
8 people of Vermont, and which prevent displacement of previous unsubsidized
9 workers by subsidized Reach Up program participants; and

10 (4) to ensure that necessary support services are available, appropriate,
11 and within a reasonable distance, including child care, health care, and
12 transportation.

13 * * *

14 Sec. 27. 33 V.S.A. § 1108 is amended to read:

15 § 1108. OBLIGATION TO ASSIST ELIGIBLE FAMILIES WITH
16 DEPENDENT CHILDREN

17 Except as specifically authorized herein, the commissioner shall not adopt
18 any rule that would result in the termination of financial assistance to a
19 participating family, including a dependent child, on the basis of an adult
20 family member's having received TANF-funded financial assistance, as an
21 adult, for 60 or more months in his or her lifetime. This provision shall not

1 prevent the commissioner from adopting rules that impose limitations on ~~how~~
2 ~~many~~ the number of months that ~~families, including a family in which~~ a parent
3 ~~who has received~~ obtained an ~~associate~~ associate's or bachelor's degree while
4 receiving support from the postsecondary education program authorized by
5 section 1121 of this chapter; may receive financial assistance authorized by
6 this chapter ~~in~~ during the five-year period immediately following the receipt of
7 such ~~associate~~ associate's or bachelor's degree.

8 Sec. 28. 33 V.S.A. § 1113 is amended to read:

9 § 1113. WORK REQUIREMENTS

10 * * *

11 (b)(1) The work requirement shall become effective as soon as the
12 participating adult is work-ready, or upon the family's receipt of 12 cumulative
13 months of financial assistance, whichever is sooner, unless at the end of the
14 12-cumulative-month period the participant's case manager concludes that the
15 participant is unable to meet the hours of the applicable unmodified work
16 requirement, as established in subsection (c) of this section. In such cases, the
17 case manager shall prepare a written request on behalf of the participant for an
18 extension of up to six months. The request shall identify the particular reasons
19 why the participant is unable to meet the work requirement and the remedial
20 actions and services to be provided to the recipient to enable fulfillment of the
21 requirement. The request shall be submitted to the ~~district director and the~~

1 commissioner or the commissioner's designee for approval. The request shall
2 be approved unless the participant is able to meet the work requirement or a
3 modified work requirement established in accordance with section 1114 of this
4 title.

5 * * *

6 (c) The hours of the work requirement shall be as follows:

7 * * *

8 (3) All other able-to-work participants and able-to-work-part-time
9 participants who are not subject to the work requirement established by
10 subdivision (1) of this subsection; or who are exempted from the work
11 requirement in accordance with subdivision (2) of this subsection; shall comply
12 with the following requirements:

13 * * *

14 (d)(1) A participant required to fulfill a work requirement shall accept any
15 unsubsidized job he or she is capable of performing, even if it pays wages that
16 are less than the financial assistance grant. In cases in which monthly wages
17 are less than the financial assistance grant and the family is otherwise eligible,
18 the wages shall be supplemented with a partial financial assistance grant. The
19 commissioner shall establish by rule criteria for jobs that must be accepted if
20 offered, including the criterion that each job must pay at least minimum wage.

1 Sec. 29. 33 V.S.A. § 1116 is amended to read:

2 § 1116. SANCTIONS

3 * * *

4 (b) Prior to the reduction in a family's financial assistance grant resulting
5 from a sanction imposed under this section, the department shall provide an
6 independent review of the participant's circumstances and the basis for his or
7 her noncompliance. The ~~district director~~ commissioner or the ~~district~~
8 ~~director's~~ commissioner's designee shall perform the review.

9 * * *

10 (i) A family sanctioned under this section for failure to meet work or
11 family development plan requirements shall remain eligible for ~~Food Stamps~~
12 supplemental nutrition assistance program benefits and shall not, because of
13 such failure, be sanctioned under the ~~Food Stamp~~ supplemental nutrition
14 assistance program for reasons of "failure to comply without good cause" and
15 "voluntary quit without good cause," provided that such eligibility and waivers
16 of such sanctions are consistent with federal law and regulations governing the
17 ~~Food Stamp~~ supplemental nutrition assistance program.

18 Sec. 30. 33 V.S.A. § 1133(a) is amended to read:

19 (a) The department shall transfer the family to Reach Up, a separate state
20 program, or a solely state-funded program established under chapter 11 of this
21 title if, after four months of receiving support in Reach First or sooner at the

1 department's discretion, a family is assessed as needing ongoing financial
2 assistance and the family is financially eligible for Reach Up, a separate state
3 program, or a solely state-funded program established under chapter 11 of this
4 title, unless the family chooses not to participate.

5 Sec. 31. 33 V.S.A. § 1134(a) is amended to read:

6 (a) On or before January 31 of each year, the commissioner shall design
7 and implement procedures to evaluate, measure, and report to the governor and
8 the general assembly the department's progress in implementing Reach First,
9 Reach Up, and Reach Ahead and achieving the goals of the programs provided
10 for in sections 1002, 1102, and 1202 of this title. The report shall include:

11 (1) The types of barriers facing Reach Up families seeking economic
12 self-sufficiency, the number of families with each type of barrier, the
13 frequency of occurrence of each type of barrier, and how support services and
14 incentives assist in overcoming barriers.

15 (2) Documentation of participant outcomes, including specific
16 information relating to the number of persons employed, by occupation,
17 industry, and wage; the types of subsidized and unsubsidized jobs secured by
18 participants; any available information about outcomes for children who have
19 participated in the programs, including objective indicators of improved
20 conditions; the number of participating families involved in training programs;

1 and whether the support services and incentives assist in keeping families
2 employed.

3 (3) Data about the ~~food stamp~~ supplemental nutrition assistance program
4 participation of households who have left the programs during the last fiscal
5 year, including the number of households, adults, and children participating in
6 the ~~food stamp~~ supplemental nutrition assistance program three months after
7 leaving the applicable program, broken down by reason for termination or
8 leaving, and the department's plan to identify and assist eligible households to
9 apply for ~~food stamps~~ supplemental nutrition assistance program benefits.

10 Sec. 32. 33 V.S.A. § 1201(9) is amended to read:

11 (9) "Food assistance" means a monthly benefit to supplement the
12 family's ~~food stamp benefit~~ supplemental nutrition assistance program benefits
13 as determined under section 1204 of this chapter.

14 Sec. 33. 33 V.S.A. § 1204(b) is amended to read:

15 (b) Food assistance may be used only to purchase eligible food items as
16 defined in the ~~food stamp~~ supplemental nutrition assistance program federal
17 rules and shall be disregarded as income for the purposes of determining ~~food~~
18 ~~stamp~~ supplemental nutrition assistance program eligibility and the amount of
19 the ~~food stamp benefits~~ supplemental nutrition assistance program benefit.

1 Sec. 34. 33 V.S.A. § 1303 is amended to read:

2 § 1303. STATE AID TO THE DISABLED

3 (a) State aid to the disabled shall be granted to a person who meets the
4 eligibility requirements of section 1301 of this title and who in addition:

5 (1) Is permanently and totally disabled as defined in Title XVI of the
6 Social Security Act, as amended, ~~effective January 1, 1974~~; and

7 (2) Is not, at the date of receiving aid, an inmate of any public
8 institution.

9 (b) An individual is also considered disabled for purposes of this chapter if
10 he or she was disabled as defined under this chapter and the regulations in
11 effect under this chapter on December 31, 1973, and received aid under this
12 chapter for December, 1973, so long as he or she has been, since that time,
13 continuously disabled.

14 Sec. 35. 33 V.S.A. § 1304 is amended to read:

15 § 1304. STATE AID TO THE BLIND

16 (a) State aid to the blind shall be granted to a person who meets the
17 eligibility requirements of section 1301 of this title and in addition:

18 (1) Is blind as defined in Title XVI of the Social Security Act, as
19 amended, ~~effective January 1, 1974~~; and

20 (2) Is not, at the date of receiving aid, an inmate of any public
21 institution.

1 (b) An individual is also considered blind for purposes of this chapter if he
2 or she was blind as defined under this chapter and the regulations in effect
3 under this chapter on December 31, 1973, and received aid under this chapter
4 for December, 1973, so long as he or she has been, since that time,
5 continuously blind.

6 Sec. 36. 33 V.S.A. § 1701 is amended to read:

7 § 1701. SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM

8 (a) The state of Vermont may participate in the federal supplemental
9 nutrition assistance program which is provided for under ~~Public Law 88-525,~~
10 ~~also known as the Food Stamp and Nutrition Act of 1964, as amended~~ 7 U.S.C.
11 chapter 51. The commissioner may adopt, ~~and from time to time amend,~~ or
12 repeal, ~~regulations~~ rules governing the operation of the program in the state.

13 * * *

14 Sec. 37. 33 V.S.A. § 1900 is added to read:

15 § 1900. DEFINITIONS

16 As used in this subchapter, unless otherwise indicated:

17 (1) “Agency” means the agency of human services.

18 (2) “Commissioner” means the commissioner of Vermont health access.

19 (3) “Department” means the department of Vermont health access.

20 (4) “Insurer” means any insurance company, prepaid health care
21 delivery plan, self-funded employee benefit plan, pension fund, hospital or

1 medical service corporation, managed care organization, pharmacy benefit
2 manager, prescription drug plan, retirement system, or similar entity that is
3 under an obligation to make payments for medical services as a result of an
4 injury, illness, or disease suffered by an individual.

5 (5) “Legally liable representative” means a parent or person with an
6 obligation of support to a recipient whether by contract, court order, or statute.

7 (6) “Provider” means any person that has entered into an agreement with
8 the state to provide any medical service.

9 (7) “Recipient” means any person or group of persons who receive
10 Medicaid.

11 (8) “Secretary” means the secretary of the agency of human services.

12 (9) “Third party” means a person having an obligation to pay all or any
13 portion of the medical expense incurred by a recipient at the time the medical
14 service was provided. The obligation is not discharged by virtue of being
15 undiscovered or undeveloped at the time a Medicaid claim is paid. Third
16 parties include:

17 (A) Medicare.

18 (B) Health insurance, including health and accident but not that
19 portion specifically designated for “income protection” which has been
20 considered in determining recipient eligibility to participate in the Medicaid
21 program.

1 program, including VPharm and VermontRx. The departments shall allocate
2 supplemental rebate savings to each program proportionate to expenditures in
3 each program. During the second week of each month, the department of
4 Vermont health access shall report such actual and anticipated caseload,
5 revenue, expenditure, and savings information to the joint fiscal committee and
6 to the health access oversight committee.

7 * * *

8 (c)(1) If at any time after enrollment ceases under subsection (b) of this
9 section expenditures for VermontRx, including expenditures attributable to
10 renewed enrollment, are anticipated, by reason of increased federal financial
11 participation or any other reason, to be equal to or less than the aggregate
12 amount of state funds expressly appropriated for such state pharmaceutical
13 assistance programs during any fiscal year, the department of Vermont health
14 access shall recommend to the joint fiscal committee and notify the health
15 access oversight committee of a plan to renew enrollment in VermontRx, with
16 priority given to individuals with incomes more than 175 percent and less than
17 225 percent of the federal poverty level, if adequate funds are anticipated to be
18 available for each program for the remainder of the fiscal year.

19 * * *

20 (d) As used in this section:

21 * * *

1 (2) “VermontRx” means the program established in section 2074 of this
2 title.

3 (3) “VHAP” or “Vermont health access plan” means the programs of
4 health care assistance authorized by federal waivers under Section 1115 of the
5 Social Security Act, by No. 14 of the Acts of 1995, and by further acts of the
6 ~~General Assembly~~ general assembly.

7 ~~(3)~~(4) “VHAP-Pharmacy” or “VHAP-Rx” means the VHAP program of
8 state pharmaceutical assistance for elderly and disabled Vermonters with
9 income up to and including 150 percent of the federal poverty level
10 (hereinafter “FPL”).

11 ~~(4)~~(5) “VScript” means the Section 1115 waiver program of state
12 pharmaceutical assistance for elderly and disabled Vermonters with income
13 over 150 and less than or equal to 175 percent of FPL, and administered under
14 ~~subchapter 4 of chapter 19, subchapter 4~~ of this title.

15 ~~(5)~~(6) “VScript-Expanded” means the state-funded program of
16 pharmaceutical assistance for elderly and disabled Vermonters with income
17 over 175 and less than or equal to 225 percent of FPL, and administered under
18 ~~subchapter 4 of chapter 19, subchapter 4~~ of this title.

19 (7) “VPharm” means the program established in section 2073 of this
20 title.

1 Global Commitment for Health Medicaid Section 1115 waiver, including the
2 amount of the investment and the agency or departments office authorized to
3 make the investment.

4 Sec. 41. REPEAL

5 33 V.S.A. § 1904 (definitions) is repealed.

6 Sec. 42. 33 V.S.A. § 1906a is amended to read:

7 § 1906a. RECOVERY AGAINST ESTATE; HOMESTEAD EXEMPTIONS

8 No recovery of medical expenses shall be made under this subchapter
9 against a homestead; provided that the homestead would pass to one or more
10 lineal heirs or siblings of the decedent who either have income below 300
11 percent of the federal poverty level or who have contributed significantly,
12 monetarily or otherwise, to the decedent so as to allow the decedent to delay or
13 avoid nursing home placement. ~~This section shall take effect when the~~
14 ~~amended state plan is deemed approved by the Health Care Financing~~
15 ~~Administration (HCFA) pursuant to 42 C.F.R. § 430.16. If such approval is~~
16 ~~received after June 30, 1999 the exemption shall be retroactive and apply to all~~
17 ~~probate estates opened after June 30, 1999. If the agency of human services~~
18 ~~does not receive approval of the state plan amendment, it shall exhaust all~~
19 ~~administrative appeals and seek approval of another state plan amendment at~~
20 ~~the maximum homestead value exemption the health care financing~~
21 ~~administration (HCFA) will allow. If a maximum homestead value exemption~~

1 is ~~approved by HCFA~~ allowed by federal law, then any recoveries due ~~HCFA~~
2 to the United States Department of Health and Human Services on homesteads
3 valued between such maximum and \$125,000.00 shall be paid through state
4 general funds provided the caregiving or poverty standards set forth ~~above~~ in
5 this section are also met and the probate estate was opened after June 30, 2000.

6 Sec. 43. 33 V.S.A. § 1907 is amended to read:

7 § 1907. SUBROGATION

8 To the extent that payment for covered expenses has been made under the
9 ~~state~~ Medicaid program or through any state agency administering health
10 benefits or a health benefit plan for which Medicaid is a source of funding for
11 health care items or services furnished to an individual, in any case where a
12 third party has a legal liability to make payments, the state is considered to
13 have acquired the rights of the individual to payment by any other party for
14 those health care items or services. An insurer shall accept the agency's right
15 to recovery and the assignment to the agency of any right of a person to
16 payment from the third party for medical services for which the agency has
17 made payment under this chapter.

18 Sec. 44. 33 V.S.A. § 1921(a) is amended to read:

19 (a) At the date specified in 32 V.S.A. § 7785 or 7813, for monthly reports
20 from wholesale dealers or distributors, or at such date and frequency as the
21 commissioner may require for other stamping agents, which will be at least

1 quarterly, each stamping agent shall submit such information as the
2 commissioner requires to facilitate compliance with subchapter 1A of this
3 chapter and this subchapter, including, ~~but not limited to,~~ a list by brand family
4 of the total number of cigarettes, or, in the case of roll-your-own tobacco, the
5 equivalent stick count, as determined pursuant to the formula set forth in
6 subchapter 1A of this chapter, for which the stamping agent affixed stamps
7 during the reporting period or otherwise paid the tax due for such cigarettes.
8 Stamping agents shall maintain, and make available to the commissioner, all
9 documentation and other information relied upon in reporting to the
10 commissioner for a period of six years.

11 Sec. 45. 33 V.S.A. § 1951 is amended to read:

12 § 1951. DEFINITIONS

13 As used in this subchapter:

14 (1) "Assessment" means a tax levied on a health care provider pursuant
15 to this chapter.

16 (2) "Core home health care services" means those medically-necessary
17 skilled nursing, home health aide, therapeutic, and personal care attendant
18 services, provided exclusively in the home by home health agencies. Core
19 home health services do not include private duty nursing, hospice, homemaker
20 or physician services, or services provided under early periodic screening,
21 diagnosis, and treatment (EPSDT), traumatic brain injury (TBI), high

1 technology programs, or services provided by a home for the terminally ill as
2 defined in subdivision ~~7102(10)~~ 7102(3) of this title.

3 * * *

4 Sec. 46. 33 V.S.A. § 1973(f)(3)(C) is amended to read:

5 (f) For purposes of this section, “uninsured” means:

6 * * *

7 (3) An individual who lost private insurance or employer-sponsored
8 coverage during the prior 12 months for any of the following reasons:

9 * * *

10 (C)~~(i)~~ The individual lost health insurance as a result of domestic
11 violence. The individual shall provide the agency of human services with
12 satisfactory documentation of the domestic violence. The documentation may
13 include a sworn statement from the individual attesting to the abuse, law
14 enforcement or court records, or other documentation from an attorney or legal
15 advisor, member of the clergy, or health care provider, as defined in ~~section~~
16 18 V.S.A. § 9402 of Title 18. Information relating to the domestic violence,
17 including the individual’s statement and corroborating evidence, provided to
18 the agency shall not be disclosed by the agency unless the individual has
19 signed a consent to disclose form. In the event the agency is legally required
20 to release this information without consent of the individual, the agency shall

1 notify the individual at the time the notice or request for release of information
2 is received by the agency and prior to releasing the requested information.

3 ~~(ii) Subdivision (i) of this subdivision (C) shall take effect upon~~
4 ~~issuance by the Centers for Medicare and Medicaid Services of approval of an~~
5 ~~amendment to the waiver set forth in subsection (a) of this section allowing for~~
6 ~~a domestic violence exception to the VHAP waiting period.~~

7 Sec. 47. 33 V.S.A. § 1974 is amended to read:

8 § 1974. EMPLOYER-SPONSORED INSURANCE, PREMIUM

9 ASSISTANCE

10 * * *

11 (c) Uninsured individuals; premium assistance.

12 (1) For the purposes of this subsection:

13 * * *

14 (B) "Uninsured" means an individual who does not qualify for
15 Medicare, Medicaid, the Vermont health access plan, or Dr. Dynasaur and had
16 no private insurance or employer-sponsored coverage that includes both
17 hospital and physician services within 12 months prior to the month of
18 application, or lost private insurance or employer-sponsored coverage during
19 the prior 12 months for the following reasons:

20 * * *

1 program established by this section, no more than \$250,000.00 may be
2 expended for start up and initial administrative expenses until the report as
3 required by subdivision (2) of this subsection has been received and approved.

4 ~~(2) No additional amounts appropriated in No. 215 of the Act of the~~
5 ~~2005 Adj. Sess. (2006) for the employer sponsored premium assistance~~
6 ~~program may be made after November 15, 2006 without approval of a majority~~
7 ~~of the combined membership of the joint fiscal committee and the health~~
8 ~~access oversight committee at a joint meeting upon receipt of a report from the~~
9 ~~agency, which must include the following:~~

10 ~~(A) a plan for the additional expenditures;~~

11 ~~(B) a survey to determine whether and how many individuals~~
12 ~~currently enrolled in VHAP, including those eligible as caretakers, are~~
13 ~~potentially eligible for employer sponsored premium assistance under this~~
14 ~~section;~~

15 ~~(C) the sliding scale premium and cost sharing assistance amounts~~
16 ~~provided under the premium assistance program to individuals;~~

17 ~~(D) a description and estimate of benefits offered by the Vermont~~
18 ~~health access plan that are likely to be provided as supplemental benefits for~~
19 ~~the employer sponsored premium assistance program enrollees;~~

20 ~~(E) a plan for covering dependent children through the premium~~
21 ~~assistance program; and~~

1 ~~(F)~~ the anticipated budgetary impact of an employer-sponsored
2 insurance premium assistance program for fiscal year 2008, including savings
3 attributable to enrolling current VHAP enrollees in the premium assistance
4 program established under this section, the start-up and administrative costs of
5 the program, and the cost of providing the subsidy to these enrollees.

6 ~~(h)~~(g) The agency shall report monthly to the joint fiscal committee and the
7 health access oversight committee on the number of individuals enrolled in the
8 premium assistance program, the income levels of the individuals, a
9 description of the range and types of employer-sponsored plans that have been
10 approved, the percentage of premium and cost-sharing amounts paid by
11 employers whose employees participate in the premium assistance program,
12 and the net savings or cost of the program.

13 ~~(+)~~(h) The health access oversight committee shall monitor the
14 development, implementation, and ongoing operation of the employer-
15 sponsored premium assistance program under this section.

16 ~~(+)~~(i) The premium contributions for individuals shall be as follows:

17 (1) Monthly premiums for each individual who is eligible for premium
18 assistance under subsection (b) of this section shall be the same as charged in
19 the Vermont health access plan.

1 to release this information without consent of the individual, the agency shall
2 notify the individual at the time the notice or request for release of information
3 is received by the agency and prior to releasing the requested information.

4 ~~(ii) Subdivision (i) of this subdivision (C) shall take effect upon~~
5 ~~issuance by the Centers for Medicare and Medicaid Services of approval of an~~
6 ~~amendment to the Global Commitment for Health Medicaid Section 1115~~
7 ~~Waiver allowing for a domestic violence exception to the Catamount Health~~
8 ~~premium assistance waiting period.~~

9 Sec. 49. 33 V.S.A. § 1983(a) is amended to read:

10 (a)(1) Except as provided in subdivisions (3), (4), and (5) of this
11 subsection, an individual shall be eligible for Catamount Health assistance if
12 the individual is an uninsured Vermont resident without access to an approved
13 employer-sponsored insurance plan under section 1974 of this title.

14 (2) An individual who has access to an employer-sponsored insurance
15 shall be eligible for assistance under this subchapter only if the individual does
16 not have employer-sponsored insurance approved for premium assistance
17 under section 1974 of this title or if it is more cost-effective to the state for the
18 individual to purchase Catamount Health with the assistance under this
19 subchapter than for the state to provide premium assistance under section 1974
20 of this title. In addition, an individual may receive assistance under this
21 subchapter temporarily until the individual is able to enroll in an approved

1 employer-sponsored plan and receive premium assistance under section 1974
2 of this title. Decisions regarding plan approval and cost-effectiveness are
3 matters fully within the agency's discretion. On appeal pursuant to ~~section~~
4 3 V.S.A. § 3091 of Title 3, the human services board may overturn the
5 agency's decision only if it is arbitrary or unreasonable.

6 (3) An individual shall not be eligible for Catamount Health assistance if
7 the individual is of the age of majority and is claimed on a tax return as a
8 dependent of a resident of another state.

9 (4) An individual who is or becomes eligible for Medicare shall not be
10 eligible for premium assistance under this subchapter.

11 (5) Notwithstanding any other provision of law, when an individual is
12 enrolled in Catamount Health solely under the high deductible standard
13 outlined in ~~subdivision 8 V.S.A. § 4080f(a)(9) of Title 8~~, the individual shall
14 not be eligible for premium assistance for the 12-month period following the
15 date of enrollment in Catamount Health.

16 Sec. 50. 33 V.S.A. § 1998(f) and (g) are amended to read:

17 (f)(1) The drug utilization review board shall make recommendations to the
18 director for the adoption of the preferred drug list. The board's
19 recommendations shall be based upon evidence-based considerations of
20 clinical efficacy, adverse side effects, safety, appropriate clinical trials, and
21 cost-effectiveness. "Evidence-based" shall have the same meaning as in

1 ~~section 4622 of Title 18~~ V.S.A. § 4621. The director shall provide the board
2 with evidence-based information about clinical efficacy, adverse side effects,
3 safety, appropriate clinical trials, and shall provide information about
4 cost-effectiveness of available drugs in the same therapeutic class.

5 (2) The board shall meet at least quarterly. The board shall comply with
6 the requirements of 1 V.S.A. chapter 5, subchapter 2 ~~of chapter 5 of Title 1~~
7 (open meetings) and subchapter 3 ~~of chapter 5 of Title 1~~ (open records), except
8 that the board may go into executive session to discuss drug alternatives and
9 receive information on the relative price, net of any rebates, of a drug under
10 discussion and the drug price in comparison to the prices, net of any rebates, of
11 alternative drugs available in the same class to determine cost-effectiveness,
12 and in order to comply with subsection 2002(c) of this title to consider
13 information relating to a pharmaceutical rebate or to supplemental rebate
14 agreements, which ~~is~~ are protected from disclosure by federal law or the terms
15 and conditions required by the Centers for Medicare and Medicaid Services as
16 a condition of rebate authorization under the Medicaid program.

17 * * *

18 (g) The office shall seek assistance from entities conducting independent
19 research into the effectiveness of prescription drugs to provide technical and
20 clinical support in the development and the administration of the preferred

1 drug list and the evidence-based education program established in 18 V.S.A.
2 chapter 91, subchapter 2 of Title 18.

3 Sec. 51. 33 V.S.A. § 1999(e)(1) is amended to read:

4 (e)(1) The prior authorization process shall be designed to minimize
5 administrative burdens on prescribers, pharmacists, and consumers. The
6 provisions of this section shall apply to the program's prior authorization
7 process, ~~except to the extent that different prior authorization rules are~~
8 ~~established in section 2004 of this title.~~

9 Sec. 52. 33 V.S.A. § 2003 is amended to read:

10 § 2003. PHARMACY DISCOUNT PLANS

11 * * *

12 (c) As used in this section:

13 * * *

14 (5) "Labeler" means an entity or person that receives prescription drugs
15 from a manufacturer or wholesaler and repackages those drugs for later retail
16 sale and that has a labeler code from the federal Food and Drug Administration
17 under ~~21 Code of Federal Regulations, 207.20 (1999)~~ 21 C.F.R. § 207.20.

18 (6) "Participating retail pharmacy" means a retail pharmacy located in
19 this state or another business licensed to dispense prescription drugs in this
20 state that participates in the program according to rules established by the

1 department and provides discounted prices to eligible beneficiaries of the
2 program.

3 (7) "Rebate amount" means the rebate negotiated by the director and
4 required from a drug manufacturer or labeler under this section. In
5 determining the appropriate rebate, the director shall:

6 (A) take into consideration the rebate calculated under the Medicaid
7 Rebate Program under ~~section 1396r-8 of Title 42 of the United States Code~~
8 42 U.S.C. § 1396r-8, the average wholesale price of prescription drugs, and
9 any other information on prescription drug prices and price discounts;

10 (B) use his or her best efforts to obtain an initial rebate amount equal
11 to or greater than the rebate calculated under the Medicaid program under
12 ~~section 1396r-8 of Title 42 of the United States Code~~ 42 U.S.C. § 1396r-8;

13 (C) use his or her best efforts to obtain an amount equal to or greater
14 than the amount of any discount, rebate, or price reduction for prescription
15 drugs provided to the federal government.

16 (8) "Secondary discounted cost" means, under the Healthy Vermonters
17 program, the price of the drug based on the Medicaid fee schedule, less
18 payment by the state of at least two percent of the Medicaid rate, less any
19 rebate amount negotiated by the director and paid for out of the Healthy
20 Vermonters dedicated fund established under subsection ~~(j)~~(h) of this section
21 and, under the Healthy Vermonters Plus program, the average wholesale price

1 of the drug, less payment by the state of at least two percent of the Medicaid
2 rate, less any rebate amount negotiated by the director and paid for out of the
3 Healthy Vermonters dedicated fund established under subsection ~~(j)~~(h) of this
4 section.

5 (9) “Without adequate coverage” includes beneficiaries with no
6 coverage for prescription drugs or certain types of prescription drugs, and
7 beneficiaries whose annual maximum coverage limit under their health benefit
8 plan has been reached.

9 * * *

10 (f) The names of drug manufacturers and labelers who do and do not enter
11 into rebate agreements under pharmacy discount plans are public information.
12 The department of Vermont health access shall release this information to
13 health care providers and the public on a regular basis and shall publicize
14 participation by manufacturers and labelers. The department shall impose
15 prior authorization requirements in the Medicaid program, as permitted by law,
16 to the extent the department determines it is appropriate to do so in order to
17 encourage manufacturer and labeler participation in the pharmacy discount
18 plans and so long as the additional prior authorization requirements remain
19 consistent with the goals of the Medicaid program and the requirements of
20 Title XIX of the ~~federal~~ Social Security Act.

21 * * *

1 Sec. 53. 33 V.S.A. § 2004a(a) is amended to read:

2 (a) The evidence-based education and advertising fund is established in the
3 treasury as a special fund to be a source of financing for activities relating to
4 fund collection and analysis of information on pharmaceutical marketing
5 activities under ~~sections~~ 18 V.S.A. §§ 4632 and 4633 of Title 18, analysis of
6 prescription drug data needed by the attorney general's office for enforcement
7 activities, and for the evidence-based education program established in
8 18 V.S.A. chapter 91, subchapter 2 of Title 18. Monies deposited into the fund
9 shall be used for the purposes described in this section.

10 Sec. 54. 33 V.S.A. § 2071 is amended to read:

11 § 2071. DEFINITIONS

12 For purposes of this subchapter:

13 (1) "Individual with disabilities" means an individual who is under age
14 65 and is entitled, under the ~~federal~~ Social Security Act, to disability insurance
15 benefits or is eligible for Medicare.

16 (2) "Maintenance drug" means a drug approved by the ~~FDA~~ federal
17 Food and Drug Administration for continuous use and prescribed to treat a
18 chronic condition for a prolonged period of time of 30 days or longer and
19 includes insulin, an insulin syringe, and an insulin needle.

20 (3) "Medicare ~~part~~ Part D" means the prescription drug program
21 established under the Medicare Prescription Drug, Improvement and

1 Modernization Act of 2003, P.L. 108-173, including the prescription drug
2 plans offered pursuant to the act.

3 * * *

4 Sec. 55. 33 V.S.A. § 2101 is amended to read:

5 § 2101. DEFINITIONS

6 Unless otherwise expressly provided, the words and phrases in this chapter
7 mean:

8 (1) ~~“District welfare director” means an employee of the agency of~~
9 ~~human services so designated by the secretary.~~ “Commissioner” means the
10 commissioner for children and families.

11 (2) “Family” means persons whom the recipient of general assistance is
12 required by law to support.

13 (3) “Found” means discovered, come upon, chanced upon, met with by
14 accident.

15 (4) “General assistance” means financial aid to provide the necessities
16 of life including food, clothing, shelter, fuel, electricity, medical care, and
17 other items as the commissioner may prescribe by regulation when a need is
18 found to exist and the applicant is otherwise found eligible.

19 * * *

1 Sec. 56. 33 V.S.A. § 2104 is amended to read:

2 § 2104. APPLICATION OR INFORMATION

3 (a) A person may apply for general assistance to the ~~nearest available town~~
4 ~~service officer or district welfare director in the manner required~~ person or
5 persons designated for that purpose by the commissioner.

6 (b) When a ~~town service officer or district welfare director~~ person
7 designated by the commissioner pursuant to subsection (a) of this section
8 receives an application for general assistance or is informed that a person is in
9 need of general assistance, he or she shall investigate and make a
10 determination as to the applicant's eligibility for general assistance, and
11 provide under regulations of the department emergency assistance as may be
12 required. ~~The town service officer shall promptly notify the district welfare~~
13 ~~director of all determinations which he or she makes as to an applicant's~~
14 ~~eligibility.~~

15 Sec. 57. 33 V.S.A. § 2107(a) is amended to read:

16 (a) When the ~~town service officer or district welfare director or~~
17 commissioner a person designated by the commissioner pursuant to section
18 2104 of this title has reason to believe that an applicant for or recipient of
19 general assistance came into the state for the purpose of receiving general
20 assistance ~~they,~~ he or she may find the applicant or recipient ineligible for
21 general assistance.

1 Sec. 58. 33 V.S.A. § 2109(b) is amended to read:

2 (b) Except as provided in subsection (c) of this section, in the case of a
3 hospital the notice required in subsection (a) of this section shall be
4 supplemented, as soon as reasonably possible, with a plan or proposed method
5 of collecting from the person for relief and care, and other pertinent
6 information requested by the department. In the case of a person, after giving
7 notice required in subsection (a) of this section, he or she shall file additional
8 information with the department on a form prescribed by the commissioner.

9 Sec. 59. 33 V.S.A. § 2301(e) is amended to read:

10 (e) For the purpose of this chapter, “burial” means the final disposition of
11 human remains including interring or cremating a decedent and the ceremonies
12 directly related to that cremation or interment at the gravesite; “department”
13 means the department for children and families; and “funeral” means the
14 ceremonies prior to burial by interment, cremation, or other method.

15 Sec. 60. REDESIGNATION

16 33 V.S.A. § 2501a (office of home energy assistance) is redesignated as
17 33 V.S.A. § 2602a.

18 Sec. 61. 33 V.S.A. § 2503 is amended to read:

19 § 2503. FUEL GROSS RECEIPTS TAX

20 * * *

1 (c) The tax shall be administered by the commissioner of taxes, and all
2 receipts shall be deposited by the commissioner in the home weatherization
3 assistance trust fund. All provisions of law relating to the collection,
4 administration, and enforcement of the sales and use tax imposed by 32 V.S.A.
5 chapter 233 of Title 32 shall apply to the tax imposed by this chapter.

6 (d) ~~Repealed.~~

7 (e) Fuel sellers, which are regulated “companies” as defined in subsection
8 30 V.S.A. § 201(a), which provide conservation programs that meet the goals
9 of the weatherization program in a manner approved by the public service
10 board, and which enhance the weatherization program’s capacity to serve low
11 income households may be eligible for rebates from the fuel gross receipts tax
12 imposed under this section. To establish rebate eligibility, such a company
13 shall file with the public service board, on or before August 15 of each year, a
14 request for approval of rebates based on the company’s activities during the
15 prior fiscal year. The public service board shall make a determination of the
16 amount of rebate for each applicant on or before January 15 of each year, and
17 such amount shall be rebated by the state economic opportunity office under
18 the provisions of subsection ~~(g)~~(f) of this section. The public service board
19 shall authorize rebates equal to the expenditures undertaken by the regulated
20 utilities provided that such expenditures were prudently incurred and
21 cost-effective, that they provided weatherization services following a

1 comprehensive energy audit and work plan, except in cases where the fuel
2 seller and weatherization staff jointly conclude that the need for weatherization
3 services can be determined without a comprehensive energy audit, and that
4 they were targeted to households that meet the eligibility criteria for low
5 income weatherization services as determined by the office of economic
6 opportunity.

7 ~~(f)~~(e) Unregulated fuel sellers that provide conservation programs that meet
8 the goals of the weatherization program in a manner approved by the state
9 economic opportunity office and which enhance the weatherization program's
10 capacity to serve low income households may be eligible for rebates from the
11 fuel gross receipts tax imposed under this section. To establish rebate
12 eligibility, such a company shall file with the state economic opportunity
13 office, on or before August 15 of each year, a request for approval of rebates
14 based on the company's activities during the prior fiscal year. The state
15 economic opportunity office shall make a determination of the amount of
16 rebate for each applicant on or before January 15 of each year, and such
17 amount shall be rebated by the state economic opportunity office under the
18 provisions of this subsection. The state economic opportunity office shall
19 authorize rebates equal to the expenditures undertaken by the unregulated fuel
20 sellers provided that such expenditures were prudently incurred and
21 cost-effective, that they provided weatherization services following a

1 comprehensive energy audit and work plan, except in cases where the fuel
2 seller and weatherization staff jointly conclude that the need for weatherization
3 services can be determined without a comprehensive energy audit, and that
4 they were targeted to households at or below 150 percent of the
5 federally-established poverty guidelines.

6 ~~(g)~~(f) On or before August 7 of each year, the director of the state
7 economic opportunity office shall set aside a sum of money equaling two and
8 one-half percent of the tax receipts of the fuel gross receipts tax for the
9 preceding fiscal year in an escrow account. The monies in the escrow account
10 are to be used for rebate, as approved under subsections (d) and (e) ~~and (f)~~ of
11 this section, of the gross receipts tax established in subsection (a) of this
12 section. Upon approval of rebates, the director shall pay the approved rebates
13 out of the escrow account. In the event that the approved rebates exceed the
14 amount of money set aside in the escrow account, the director shall prorate
15 each rebate. Any balance of rebate awards remaining unpaid as a result of
16 proration may be carried forward for payment in a succeeding year. If monies
17 set aside exceed approved rebates, then the balance shall be returned to the
18 trust fund. The director of the state economic opportunity office shall use the
19 remainder of the tax receipts of the fuel gross receipts tax for the preceding
20 fiscal year to assure the provision of weatherization services as described in
21 subsections 2502(a), (b), and (c) of this title.

1 ~~(h)~~(g) No tax under this section shall be imposed for any quarter ending
2 after June 30, 2016. Monies from the escrow account shall be issued for
3 rebates pursuant to subsection ~~(g)~~(f) of this section until March 1, 2017.

4 Sec. 62. 33 V.S.A. § 2604(b) is amended to read:

5 (b) Fuel cost requirements. The secretary of human services or designee
6 shall by procedure establish a table that contains amounts that will function as
7 a proxy for applicant households' annual heating fuel cost for the previous
8 year. The seasonal fuel expenditure estimates contained within such table shall
9 closely approximate the actual home heating costs experienced by participants
10 in the home heating fuel assistance program. Such table shall be revised no less
11 frequently than every three years based on data supplied by certified fuel
12 suppliers, the department of public service, and other industry sources to the
13 office of home heating fuel assistance. The secretary or designee shall provide
14 a draft of the table to the home energy assistance task force established
15 pursuant to subsection ~~2501a(e)~~ 2602a(c) of this title and solicit input from the
16 task force prior to finalizing the table.

17 Sec. 63. 33 V.S.A. § 2607(f) is amended to read:

18 (f) The secretary of human services or designee shall negotiate with one or
19 more certified fuel suppliers to obtain the most advantageous pricing ~~and~~,
20 payment terms, and delivery methods possible for eligible households.

1 Sec. 64. 33 V.S.A. § 3303(a) is amended to read:

2 (a) The council shall assist state agencies and the departments in the
3 development, improvement, and coordination of primary prevention programs
4 and activities at the state and local levels. In providing this service, the council
5 shall:

6 (1) acquire and provide pertinent research data and technical assistance
7 related to the development and practice of primary prevention programs;

8 (2) develop a state primary prevention plan that coordinates and
9 consolidates the primary prevention planning efforts of the state agencies and
10 departments specified in section ~~3304~~ 3305 of this title;

11 * * *

12 Sec. 65. 33 V.S.A. § 3304 is amended to read:

13 § 3304. STATE PRIMARY PREVENTION PLAN

14 * * *

15 ~~(b) By July 1, 1984, the council shall submit a prevention plan to the~~
16 ~~governor and to the senate and house committees on health and welfare and~~
17 ~~appropriations. Such plan shall incorporate and consolidate the proposals and~~
18 ~~recommendations for primary prevention developed by:~~

19 ~~(1) the department of education;~~

20 ~~(2) the agency of human services, including all departments;~~

21 ~~(3) the department of motor vehicles.~~

1 ~~(e) By July 1, 1985, the council shall submit a revised prevention plan to~~
2 ~~the governor and to the senate and house committees on health and welfare and~~
3 ~~appropriations. The revised plan shall incorporate and consolidate proposals~~
4 ~~and recommendations for primary prevention developed by:~~

5 ~~(1) the office of the attorney general;~~

6 ~~(2) the agency of commerce and community development;~~

7 ~~(3) the department of labor;~~

8 ~~(4) the department of public safety;~~

9 ~~(5) the department of forests, parks and recreation.~~

10 ~~(d)(b) By July 1, 1986, and biennially thereafter~~ of each even-numbered
11 year, the council shall revise the state primary prevention plan which shall be
12 submitted to the governor ~~and the senate and house committees,~~ the house
13 committee on human services, the house committee on appropriations, the
14 senate committee on health and welfare, and the senate committee on
15 appropriations.

16 Sec. 66. 33 V.S.A. § 3305 is amended to read:

17 § 3305. IMPLEMENTATION AND EVALUATION OF PRIMARY
18 PREVENTION PLAN

19 ~~The state agencies and departments specified in section 3304 this title shall~~
20 ~~formulate primary~~ Primary prevention policies and implementation practices
21 ~~that are consistent with the state primary prevention plan. Such policies and~~

1 ~~practices~~ shall be targeted to specific goals, objectives, and key result areas and
2 shall be consistent with the state primary prevention plan. The following
3 departments and agencies shall formulate the policies and practices:

4 (1) the department of education;

5 (2) the agency of human services, including all departments;

6 (3) the department of motor vehicles;

7 (4) the office of the attorney general;

8 (5) the agency of commerce and community development;

9 (6) the department of labor;

10 (7) the department of public safety;

11 (8) the department of forests, parks and recreation.

12 Sec. 67. 33 V.S.A. § 3501 is amended to read:

13 § 3501. ~~FOSTER CARE AND PLACEMENT LICENSING~~ DIVISION OF
14 CHILD DEVELOPMENT; DUTIES

15 ~~(a) A person, other than an employee of a department within the agency of~~
16 ~~human services shall not place any child in foster care for more than 15~~
17 ~~consecutive days unless the person has a license from the department to do so~~
18 ~~or is an employee of a child placing agency licensed by such department.~~

19 ~~(b) A person shall not receive, board or keep any child in foster care for~~
20 ~~more than 15 consecutive days unless he or she has a license from the~~
21 ~~department to do so. This subsection shall not apply to foster homes approved~~

1 ~~by a department within the agency of human services or by a licensed child~~
2 ~~placing agency nor shall it apply to those facilities where educational or~~
3 ~~vocational training is the primary service and foster care is a supportive service~~
4 ~~only.~~

5 ~~(c) This section shall not restrict the right of a court, parent, guardian, or~~
6 ~~relative to place a child, nor the right of a person not in the business of~~
7 ~~providing foster care or child care to receive, board and keep a child when a~~
8 ~~valuable consideration is not demanded or received for the child's care and~~
9 ~~maintenance.~~

10 The division of child development shall:

11 (1) encourage the development of a comprehensive child care services
12 system which promotes the wholesome growth and educational development
13 of children;

14 (2) facilitate the development of child care facilities;

15 (3) encourage and promote the provision by child care providers of
16 parenting education, developmentally appropriate activities, and primary
17 prevention services;

18 (4) facilitate cooperation between the private and public sectors to
19 promote the expansion of child care services;

1 not incidental to its primary purpose in which case subsection (a) of this
2 section shall apply to those nonincidental additional services.

3 * * *

4 (g) ~~[Deleted.]~~ [Repealed.]

5 * * *

6 Sec. 69. 33 V.S.A. § 3511 is amended to read:

7 § 3511. DEFINITIONS

8 As used in this chapter:

9 (1) “Child” means an individual under the age of 13.

10 (2) “Child care facility” means any place or program operated as a
11 business or service on a regular or continuous basis, whether for compensation
12 or not, whose primary function is protection, care, and supervision of children
13 under 16 years of age outside their homes for periods of fewer than 24 hours a
14 day by a person other than a child’s own parent, guardian, or relative, as
15 defined by rules adopted by the department for children and families, but not
16 including a kindergarten approved by the state board of education.

17 (3) “Child care provider” means a person licensed or registered by the
18 department for children and families, or authorized by the department, to
19 provide child care.

1 ~~(3)~~(4) “Child care services” include, ~~but are not limited to,~~
2 developmentally appropriate care and supervision for children under the age of
3 13 for fewer than 24 hours a day by a child care provider.

4 ~~(4)~~(5) “Commissioner” means the commissioner for children and
5 families.

6 ~~(5)~~(6) “Division” means the child development division.

7 ~~(6)~~(7) “Family child care home” means a child care facility which
8 provides care on a regular basis in the caregiver’s own residence for not more
9 than 10 children at any one time. Of this number, up to six children may be
10 provided care on a full-time basis and the remainder on a part-time basis. For
11 the purpose of this subdivision, care of a child on a part-time basis shall mean
12 care of a school-age child for not more than four hours a day. These limits
13 shall not include children who reside in the residence of the caregiver; except:

14 (A) these part-time school-age children may be cared for on a
15 full-day basis during school closing days, snow days, and vacation days which
16 occur during the school year; and

17 (B) during the school summer vacation, up to 12 children may be
18 cared for provided that at least six of these children are of school age and a
19 second staff person is present and on duty when the number of children in
20 attendance exceeds six. These limits shall not include children who are

1 required by law to attend school (age seven and older) and who reside in the
2 residence of the caregiver.

3 (8) "Training" means an activity, approved by the commissioner or the
4 commissioner's designee, which is likely to lead to employment or required to
5 maintain employment.

6 Sec. 70. 33 V.S.A. § 3513 is amended to read:

7 § 3513. PROTECTIVE AND FAMILY SUPPORT CHILD CARE
8 SERVICES

9 The division shall establish a program which subsidizes, in whole or in part,
10 the cost of child care services provided to protective services children or to
11 families for the purpose of preserving, rehabilitating, or reunifying such
12 families.

13 Sec. 71. 33 V.S.A. § 3521 is redesignated to read:

14 § 3521. CHILD CARE FACILITIES FINANCING PROGRAM
15 ESTABLISHED; ~~ADVISORY BOARD~~

16 Sec. 72. 33 V.S.A. § 3531 is amended to read:

17 § 3531. CHILD CARE—BUILDING BRIGHT SPACES FOR BRIGHT
18 FUTURES FUNDS

19 (a) A child care facilities financing program is established to facilitate the
20 development and expansion of child care facilities in the state. The program

1 shall be administered by the department of ~~social and rehabilitation services~~ for
2 children and families.

3 (b) The program shall be supported from a special fund, to be known as the
4 “building bright spaces for bright futures fund,” hereinafter referred to as “the
5 bright futures fund,” hereby created for this purpose to be administered by the
6 commissioner of ~~social and rehabilitation services~~ for children and families.
7 Subject to approvals required by 32 V.S.A § 5, the fund may accept gifts and
8 donations from any source, and the commissioner may take appropriate actions
9 to encourage contributions and designations to the account, including
10 publicizing explanations of the purposes of the fund and the uses to which the
11 bright futures fund has been or will be applied.

12 (c) Funds appropriated for this program shall be used by the commissioner
13 to award grants to eligible applicants for the development and expansion of
14 child care options and community programs targeted for youths aged 14
15 through 18. These options may include recreational programs and related
16 equipment or facilities, development or expansion of child care facilities and
17 community-based programs which address specific child care and youth
18 program needs of the applicant region. The commissioner shall establish, by
19 rule, criteria, conditions, and procedures for awarding such grants and
20 administering this program.

1 Sec. 73. 33 V.S.A. § 3901(2) is amended to read:

2 (2) “Custodial parent” means any person with whom a dependent child
3 actually resides, whether or not the parent is receiving public assistance
4 benefits under chapter 11 of this title, or the commissioner ~~of the Vermont~~
5 ~~department of social and rehabilitation services~~ for children and families if the
6 dependent child is under the care and control of that department.

7 Sec. 74. 33 V.S.A. § 4105(e) is added to read:

8 (e) A public utility company as defined in 30 V.S.A. § 201(a), or a cable
9 television company as defined in 30 V.S.A. § 501, when requested by the
10 office of child support, shall provide the address as it appears in its customer
11 records of a parent or person named in the request.

12 Sec. 75. 33 V.S.A. § 4111 is added to read:

13 § 4111. ACCESS TO FINANCIAL RECORDS OF DEPOSIT ACCOUNTS
14 OF INDIVIDUALS WHO OWE OVERDUE CHILD SUPPORT

15 (a) As used in this section:

16 (1) “Depositor” means an owner of an account in a financial institution
17 and includes “share account holders” of credit unions.

18 (2) “Financial institution” means a trust company, savings bank,
19 industrial bank, commercial bank, savings and loan association, or credit union
20 organized under the laws of this state or authorized to do business in this state.

1 (3) “Match” means an automated comparison by name, Social Security
2 number, and, if available, date of birth of a list of obligors provided to a
3 financial institution by the office and a list of depositors of a financial
4 institution.

5 (4) “Obligor” means a person who owes child support.

6 (5) “Office” means the office of child support.

7 (6) “Overdue support” means a debt of one-quarter of the annual support
8 obligation or more for maintenance and support of a child or children and the
9 obligor had prior notice of the debt and a prior opportunity to contest the
10 amount owed. “Overdue support” includes spousal support or alimony being
11 collected in conjunction with child support.

12 (b) Upon written request from the director of the office of child support and
13 provided the institution has the technological capacity to perform a match, a
14 financial institution shall perform a match of obligors who owe overdue child
15 support. The office shall make its computerized information necessary for a
16 match available in a form that is compatible with the technology used by the
17 financial institution that will perform the search. A financial institution shall
18 not be required to perform a match under this section more often than once
19 every quarter.

20 (c) After completing a match requested under subsection (b) of this section,
21 a financial institution shall notify the office of child support. The notification

1 shall contain the following information, if available to the financial institution
2 through its matching procedure, for each account identified:

3 (1) The full name, date of birth, and address of the obligor.

4 (2) The Social Security number of the obligor.

5 (3) The obligor's account number.

6 (4) The amount of deposits contained in the obligor's account.

7 (d) A financial institution shall send a match list compiled under this
8 section to the office at the address designated by the office.

9 (e) The financial institution shall not provide notice in any form to a
10 depositor contained in a match list submitted to the office under subsection (d)
11 of this section. Failure to provide notice to a depositor shall not constitute a
12 violation of the financial institution's duty of good faith to its customers.

13 (f) A financial institution may charge the office a fee for services provided
14 under this section; provided that the fee shall not exceed the actual costs
15 incurred by the financial institution.

16 (g) The information provided by the office to a financial institution under
17 this section shall be confidential and shall be used only for the purpose of
18 carrying out the requirements of this section.

19 Sec. 76. 33 V.S.A. § 4302 is amended to read:

20 § 4302. STATE INTERAGENCY TEAM

21 (a) A state interagency team is created and shall consist of eight members:

1 (1) the director of the division responsible for special education for the
2 department of education;

3 (2) the department of education's consultant for children and
4 adolescents with a severe emotional disturbance;

5 (3) the director of the division responsible for children's mental health
6 ~~services~~ for the department of ~~developmental and~~ mental health ~~services~~;

7 (4) the ~~children's program specialist for~~ chief of the children,
8 adolescents, and family unit in the division ~~responsible for~~ of children's mental
9 health ~~services~~ for the department of ~~developmental and~~ mental health
10 ~~services~~;

11 (5) the ~~director of the~~ deputy commissioner for the family services
12 ~~division responsible for social services for the department of social and~~
13 ~~rehabilitation services~~ of the department for children and families;

14 (6) the placement consultant for the family services ~~division responsible~~
15 ~~for social services for the department of social and rehabilitation services~~ of
16 the department for children and families;

17 (7) a representative of the secretary of ~~the agency of~~ human services;

18 (8) a parent of a child or adolescent with a severe emotional disturbance.

19 Such parent shall receive compensation in accordance with the provisions of
20 ~~section 1010 of Title 32~~ V.S.A. § 1010, and such compensation shall be paid
21 for by the agency of human services.

1 (b) The state interagency team shall have the following powers and duties:

2 (1) submit an annual report to the commissioners of ~~developmental and~~
3 ~~mental health services, social and rehabilitation services~~ for children and
4 families, and of education on the status of programs for children and
5 adolescents with a severe emotional disturbance which shall include a system
6 of care plan. The system of care plan shall identify the characteristics and
7 number of children and adolescents with a severe emotional disturbance in
8 need of services, describe the educational, residential, mental health, or other
9 services needed, describe the programs and resources currently available,
10 recommend a plan to meet the needs of such children and adolescents, and
11 recommend priorities for the continuation or development of programs and
12 resources;

13 (2) ~~ensure that local interagency teams are established by January 1,~~
14 ~~1989;~~

15 (3) develop and coordinate the provision of services to children and
16 adolescents with a severe emotional disturbance;

17 (4)(3) make recommendations to the local interagency team for
18 resolution of any case of a child or adolescent with a severe emotional
19 disturbance referred by a local interagency team under subsection 4303(f) of
20 this chapter; and

1 ~~(5)~~(4) recommend to the secretary of ~~the agency of~~ human services and
2 to the commissioners of ~~the departments of~~ education, ~~developmental and of~~
3 mental health ~~services~~, and ~~social and rehabilitation services~~ for children and
4 families any fiscal, policy, or programmatic change at the local, regional, or
5 state level necessary to enhance the state's system of care for children and
6 adolescents with a severe emotional disturbance and their families.

7 Sec. 77. 33 V.S.A. § 4303 is amended to read:

8 § 4303. LOCAL INTERAGENCY TEAMS

9 (a) There shall be at least one local interagency team for each
10 administrative district established by the department ~~of social and~~
11 ~~rehabilitation services~~ for children and families whose permanent membership
12 shall include:

13 (1) the person from the designated community mental health agency for
14 that district responsible for coordinating children's services;

15 (2) the person managing the family services district office of the
16 department ~~of social and rehabilitation services~~ for children and families for
17 that district;

18 (3) a special education administrator from a school district in that
19 district;

20 (4) a person designated by the secretary of ~~the agency of~~ human
21 services;

1 to receive any educational, residential, mental health, or other service until and
2 unless the general assembly further provides that such children and adolescents
3 or any subgroup thereof are so entitled.

4 (b)(1) The state board of education ~~and the departments of developmental~~
5 ~~and, the department of~~ mental health services ~~and social and rehabilitation~~
6 ~~services, and the department for children and families~~ shall jointly adopt rules
7 by January 1, 1991 implementing the provisions of this chapter. Such rules
8 shall:

9 (1)(A) provide guidelines for local interagency teams for development
10 of procedures, with public participation, relating to:

11 (A)(i) referral, assessment, development, annual review and revision
12 of coordinated service plans, and time frames for these activities;

13 (B)(ii) fixing responsibility for case management; and

14 (C)(iii) notice to parents and guardians and other agencies.

15 ~~Local interagency teams shall submit procedures developed in accordance~~
16 ~~with the rules adopted under this subdivision to the advisory board for review~~
17 ~~and comment. Thereafter, the proposed procedures shall be submitted to the~~
18 ~~commissioners, who shall approve the procedures if all the elements of these~~
19 ~~subdivisions are satisfied.~~

20 (2)(B) protect the rights of children and adolescents and their parents
21 and guardians concerning consent and confidentiality;

1 ~~the characteristics and number of children with disabilities in need of services,~~
2 ~~describe the educational, residential, mental health, or other services needed,~~
3 ~~describe currently available programs and resources, recommend priorities for~~
4 ~~the needs of children with disabilities, and recommend a plan to meet the~~
5 ~~continuation or development of programs and resources.~~

6 (e) Nothing contained in this chapter shall be construed to diminish the
7 rights of children with disabilities, their parents, guardians, or surrogate parents
8 under federal or state law, including ~~but not limited to~~ confidentiality, consent
9 for services and evaluation, and parental involvement.

10 (f)(e) Nothing contained in this chapter shall entitle children and
11 adolescents with a severe emotional disturbance to special education services
12 unless they are otherwise eligible for such services under state or federal law.

13 (g)(f) Except as otherwise provided in ~~chapter 55~~ chapters 51, 52, and 53 of
14 this title, the receipt of appropriate services for a child or adolescent with a
15 severe emotional disturbance or the child or adolescent's family, including an
16 out-of-home placement, shall not be conditioned on placement of the child or
17 adolescent in the legal custody, protective supervision or protection of the
18 ~~department of social and rehabilitation services~~ for children and families.

19 Sec. 80. REPEAL

20 33 V.S.A. chapter 45 (children's dental health program) is repealed.

1 Sec. 81. 33 V.S.A. § 4902 is amended to read:

2 § 4902. DEFINITIONS

3 Unless otherwise specifically provided, ~~the following words and phrases in~~
4 for purposes of this chapter ~~mean:~~

5 (1) ~~Child:~~ “Child” means a person under the age of 18 years committed
6 by the juvenile court to the department for children and families ~~prior to~~
7 ~~April 14, 1974 and to the department for children and families thereafter,~~
8 ~~except that for the purpose of subchapter 1 of chapter 35 of this title, a child is~~
9 ~~a person under the age of 16 years.~~

10 (2) ~~Child care facility: any place or program operated as a business or~~
11 ~~service on a regular or continuous basis, whether for compensation or not,~~
12 ~~whose primary function is protection, care, and supervision of children under~~
13 ~~16 years of age outside their homes for periods of less than 24 hours a day by a~~
14 ~~person other than a child’s own parent, guardian, or relative, as defined by~~
15 ~~rules adopted by the department for children and families, but not including a~~
16 ~~kindergarten approved by the state board of education. “Commissioner”~~
17 means the commissioner for children and families.

18 (3) ~~A family child care home: is a child care facility which provides for~~
19 ~~care on a regular basis in the caregiver’s own residence for not more than 10~~
20 ~~children at any one time. Of this number, up to six children may be provided~~
21 ~~care on a full-time basis and the remainder on a part-time basis. For the~~

1 ~~purpose of this subdivision, care of a child on a part-time basis shall mean care~~
2 ~~of a school-age child for not more than four hours a day. These limits shall not~~
3 ~~include children who reside in the residence of the caregiver; except:~~

4 ~~(A) these part-time school-age children may be cared for on a~~
5 ~~full-day basis during school closing days, snow days and vacation days which~~
6 ~~occur during the school year; and~~

7 ~~(B) during the school summer vacation, up to 12 children may be~~
8 ~~cared for provided that at least six of these children are school age and a~~
9 ~~second staff person is present and on duty when the number of children in~~
10 ~~attendance exceeds six. These limits shall not include children who are~~
11 ~~required by law to attend school (age seven and older) and who reside in the~~
12 ~~residence of the caregiver. “Department” means the department for children~~
13 ~~and families.~~

14 ~~(4) Foster care: “Foster care” means care of a child, for a valuable~~
15 ~~consideration, in a ~~child-care~~ child care institution or in a family other than that~~
16 ~~of the child’s parent, guardian, or relative.~~

17 ~~(5) Commissioner: the commissioner for children and families.~~

18 ~~(6) Department: the department for children and families.~~

1 Sec. 82. 33 V.S.A. § 4905 is added to read:

2 § 4905. FOSTER CARE AND PLACEMENT LICENSING

3 (a) A person other than an employee of a department within the agency of
4 human services shall not place any child in foster care for more than 15
5 consecutive days unless the person has a license from the department to do so
6 or is an employee of a child-placing agency licensed by such department.

7 (b) A person shall not receive, board, or keep any child in foster care for
8 more than 15 consecutive days unless he or she has a license from the
9 department to do so. This subsection shall not apply to foster homes approved
10 by a department within the agency of human services or by a licensed
11 child-placing agency, nor shall it apply to those facilities where educational or
12 vocational training is the primary service and foster care is a supportive
13 service only.

14 (c) This section shall not restrict the right of a court, parent, guardian, or
15 relative to place a child, nor the right of a person not in the business of
16 providing foster care or child care to receive, board, and keep a child when a
17 valuable consideration is not demanded or received for the child's care and
18 maintenance.

19 Sec. 83. 33 V.S.A. § 4912 is amended to read:

20 § 4912. DEFINITIONS

21 As used in this subchapter:

1 (1) ~~“Child” means an individual under the age of majority. “Abused or~~
2 ~~neglected child” means a child whose physical health, psychological growth~~
3 ~~and development, or welfare is harmed or is at substantial risk of harm by the~~
4 ~~acts or omissions of his or her parent or other person responsible for the child’s~~
5 ~~welfare. An “abused or neglected child” also means a child who is sexually~~
6 ~~abused or at substantial risk of sexual abuse by any person.~~

7 (2) ~~An “abused or neglected child” means a child whose physical health,~~
8 ~~psychological growth and development or welfare is harmed or is at substantial~~
9 ~~risk of harm by the acts or omissions of his or her parent or other person~~
10 ~~responsible for the child’s welfare. An “abused or neglected child” also means~~
11 ~~a child who is sexually abused or at substantial risk of sexual abuse by any~~
12 ~~person. “Assessment” means a response to a report of child abuse or neglect~~
13 ~~that focuses on the identification of the strengths and support needs of the child~~
14 ~~and the family and any services they may require to improve or restore their~~
15 ~~well-being and to reduce the risk of future harm. The child and family~~
16 ~~assessment does not result in a formal determination as to whether the reported~~
17 ~~abuse or neglect has occurred.~~

18 (3) ~~“Harm” can occur by:~~

19 (A) ~~Physical injury or emotional maltreatment;~~

20 (B) ~~Failure to supply the child with adequate food, clothing, shelter,~~
21 ~~or health care. For the purposes of this subchapter, “adequate health care”~~

1 includes any medical or nonmedical remedial health care permitted or
2 authorized under state law. Notwithstanding that a child might be found to be
3 without proper parental care under chapter 55 of Title 33, a parent or other
4 person responsible for a child's care legitimately practicing his or her religious
5 beliefs who thereby does not provide specified medical treatment for a child
6 shall not be considered neglectful for that reason alone; or

7 ~~(C) Abandonment of the child. "Child" means an individual under~~
8 the age of majority.

9 (4) ~~"Risk of harm" means a significant danger that a child will suffer~~
10 ~~serious harm other than by accidental means, which harm would be likely to~~
11 ~~cause physical injury, neglect, emotional maltreatment or sexual abuse. "Child~~
12 protection registry" means a record of all investigations that have resulted in a
13 substantiated report on or after January 1, 1992.

14 (5) ~~"A person responsible for a child's welfare" includes the child's~~
15 ~~parent; guardian; foster parent; any other adult residing in the child's home~~
16 ~~who serves in a parental role; an employee of a public or private residential~~
17 ~~home, institution or agency; or other person responsible for the child's welfare~~
18 ~~while in a residential, educational, or child care setting, including any staff~~
19 ~~person. "Emotional maltreatment" means a pattern of malicious behavior~~
20 which results in impaired psychological growth and development.

1 (6) ~~“Physical injury” means death, or permanent or temporary~~
2 ~~disfigurement or impairment of any bodily organ or function by other than~~
3 ~~accidental means. “Harm” can occur by:~~

4 (A) Physical injury or emotional maltreatment;

5 (B) Failure to supply the child with adequate food, clothing, shelter,
6 or health care. For the purposes of this subchapter, “adequate health care”
7 includes any medical or nonmedical remedial health care permitted or
8 authorized under state law. Notwithstanding that a child might be found to be
9 without proper parental care under chapters 51 and 53 of this title, a parent or
10 other person responsible for a child’s care legitimately practicing his or her
11 religious beliefs who thereby does not provide specified medical treatment for
12 a child shall not be considered neglectful for that reason alone; or

13 (C) Abandonment of the child.

14 (7) ~~“Emotional maltreatment” means a pattern of malicious behavior~~
15 ~~which results in impaired psychological growth and development.~~

16 “Investigation” means a response to a report of child abuse or neglect that
17 begins with the systematic gathering of information to determine whether the
18 abuse or neglect has occurred and, if so, the appropriate response. An
19 investigation shall result in a formal determination as to whether the reported
20 abuse or neglect has occurred.

1 (8) ~~“Sexual abuse” consists of any act or acts by any person involving~~
2 ~~sexual molestation or exploitation of a child including but not limited to incest,~~
3 ~~prostitution, rape, sodomy, or any lewd and lascivious conduct involving a~~
4 ~~child. Sexual abuse also includes the aiding, abetting, counseling, hiring, or~~
5 ~~procuring of a child to perform or participate in any photograph, motion~~
6 ~~picture, exhibition, show, representation, or other presentation which, in whole~~
7 ~~or in part, depicts a sexual conduct, sexual excitement or sadomasochistic~~
8 ~~abuse involving a child. “Member of the clergy” means a priest, rabbi, clergy~~
9 ~~member, ordained or licensed minister, leader of any church or religious body,~~
10 ~~accredited Christian Science practitioner, person performing official duties on~~
11 ~~behalf of a church or religious body that are recognized as the duties of a~~
12 ~~priest, rabbi, clergy, nun, brother, ordained or licensed minister, leader of any~~
13 ~~church or religious body, or accredited Christian Science practitioner.~~

14 (9) “Multidisciplinary team” means a group of professionals,
15 paraprofessionals, and other appropriate individuals, empanelled by the
16 commissioner under this chapter, for the purpose of assisting in the
17 identification and review of cases of child abuse and neglect, coordinating
18 treatment services for abused and neglected children and their families, and
19 promoting child abuse prevention.

20 (10) ~~“Substantiated report” means that the commissioner or the~~
21 ~~commissioner’s designee has determined after investigation that a report is~~

1 ~~based upon accurate and reliable information that would lead a reasonable~~
2 ~~person to believe that the child has been abused or neglected. “Person~~
3 ~~responsible for a child’s welfare” includes the child’s parent; guardian; foster~~
4 ~~parent; any other adult residing in the child’s home who serves in a parental~~
5 ~~role; an employee of a public or private residential home, institution, or~~
6 ~~agency; or other person responsible for the child’s welfare while in a~~
7 ~~residential, educational, or child care setting, including any staff person.~~

8 (11) ~~[Repealed.] “Physical injury” means death or permanent or~~
9 ~~temporary disfigurement or impairment of any bodily organ or function by~~
10 ~~other than accidental means.~~

11 (12) ~~“Member of the clergy” means a priest, rabbi, clergy member,~~
12 ~~ordained or licensed minister, leader of any church or religious body,~~
13 ~~accredited Christian Science practitioner, person performing official duties on~~
14 ~~behalf of a church or religious body that are recognized as the duties of a~~
15 ~~priest, rabbi, clergy, nun, brother, ordained or licensed minister, leader of any~~
16 ~~church or religious body, or accredited Christian Science practitioner.~~

17 ~~“Redacted investigation file” means the intake report, the investigation~~
18 ~~activities summary, and case determination report that are amended in~~
19 ~~accordance with confidentiality requirements set forth in section 4913 of this~~
20 ~~title.~~

1 (13) ~~“Redacted investigation file” means the intake report, the~~
2 ~~investigation activities summary, and case determination report that are~~
3 ~~amended in accordance with confidentiality requirements set forth in~~
4 ~~subsection 4913(d) of this title. “Registry record” means an entry in the child~~
5 ~~protection registry that consists of the name of an individual substantiated for~~
6 ~~child abuse or neglect, the date of the finding, the nature of the finding, and at~~
7 ~~least one other personal identifier, other than a name, listed in order to avoid~~
8 ~~the possibility of misidentification.~~

9 (14) ~~“Child protection registry” means a record of all investigations that~~
10 ~~have resulted in a substantiated report on or after January 1, 1992. “Risk of~~
11 ~~harm” means a significant danger that a child will suffer serious harm other~~
12 ~~than by accidental means, which harm would be likely to cause physical injury,~~
13 ~~neglect, emotional maltreatment, or sexual abuse.~~

14 (15) ~~“Registry record” means an entry in the child protection registry~~
15 ~~that consists of the name of an individual substantiated for child abuse or~~
16 ~~neglect, the date of the finding, the nature of the finding, and at least one other~~
17 ~~personal identifier, other than a name, listed in order to avoid the possibility of~~
18 ~~misidentification. “Sexual abuse” consists of any act or acts by any person~~
19 ~~involving sexual molestation or exploitation of a child, including incest,~~
20 ~~prostitution, rape, sodomy, or any lewd and lascivious conduct involving a~~
21 ~~child. Sexual abuse also includes the aiding, abetting, counseling, hiring, or~~

1 procuring of a child to perform or participate in any photograph, motion
2 picture, exhibition, show, representation, or other presentation which, in whole
3 or in part, depicts sexual conduct, sexual excitement, or sadomasochistic abuse
4 involving a child.

5 ~~(16) “Investigation” means a response to a report of child abuse or~~
6 ~~neglect that begins with the systematic gathering of information to determine~~
7 ~~whether the abuse or neglect has occurred and, if so, the appropriate response.~~
8 ~~An investigation shall result in a formal determination as to whether the~~
9 ~~reported abuse or neglect has occurred. “Substantiated report” means that the~~
10 ~~commissioner or the commissioner’s designee has determined after~~
11 ~~investigation that a report is based upon accurate and reliable information that~~
12 ~~would lead a reasonable person to believe that the child has been abused or~~
13 ~~neglected.~~

14 ~~(17) “Assessment” means a response to a report of child abuse or~~
15 ~~neglect that focuses on the identification of the strengths and support needs of~~
16 ~~the child and the family, and any services they may require to improve or~~
17 ~~restore their well being and to reduce the risk of future harm. The child and~~
18 ~~family assessment does not result in a formal determination as to whether the~~
19 ~~reported abuse or neglect has occurred.~~

1 Sec. 84. 33 V.S.A. § 4913(c) is amended to read:

2 (c) Any person enumerated in subsection (a) or (b) of this section, other
3 than a person suspected of child abuse, who in good faith makes a report to the
4 department of ~~social and rehabilitation services~~ for children and families shall
5 be immune from any civil or criminal liability which might otherwise be
6 incurred or imposed as a result of making a report.

7 Sec. 85. 33 V.S.A. § 4915a(c) is amended to read:

8 (c) Families have the option of declining the services offered as a result of
9 the assessment. If the family declines the services, the case shall be closed
10 unless the department determines that sufficient cause exists to begin an
11 investigation or to request the state's attorney to file a petition pursuant to
12 ~~chapter 55~~ chapters 51 and 53 of this title. In no instance shall a case be
13 investigated solely because the family declines services.

14 Sec. 86. 33 V.S.A. § 5801(d) is amended to read:

15 (d) Notwithstanding any other provision of law, a person under the age of
16 18 at the time of the offense charged may be detained at the facility if the
17 offense charged is a misdemeanor as defined in ~~section 13~~ 13 V.S.A. § 1 of Title
18 ~~43~~, provided the person is adjudicated a youthful offender under section ~~5505~~
19 5284 of this title, and no person over the age of 18 may be detained at the
20 facility. A person under the age of 18 at the time of the offense charged who
21 has not been adjudicated a youthful offender under section ~~5505~~ 5284 of this

1 title may be detained at the facility at the discretion of the secretary if the
2 offense charged is a misdemeanor as defined in ~~section 1 of Title~~
3 13 V.S.A. § 1.

4 Sec. 87. 33 V.S.A. § 5922 is amended to read:

5 § 5922. APPROPRIATE PUBLIC AUTHORITIES

6 The “appropriate public authorities” as used in Article II of the Interstate
7 Compact on the Placement of Children shall, with reference to this state, mean
8 the department of ~~social and rehabilitation services~~ for children and families
9 and ~~said~~ the department shall receive and act with reference to notices required
10 by ~~said~~ Article III.

11 Sec. 88. 33 V.S.A. § 5923 is amended to read:

12 § 5923. COMMISSIONER OF ~~SOCIAL AND REHABILITATION~~
13 SERVICES FOR CHILDREN AND FAMILIES

14 As used in paragraph (a) of Article V of the Interstate Compact on the
15 Placement of Children, the phrase “appropriate authority in the receiving state”
16 with reference to this state shall mean the commissioner of ~~social and~~
17 ~~rehabilitation services~~ for children and families.

18 Sec. 89. 33 V.S.A. § 6303(a) is amended to read:

19 (a) Consistent with the requirements of this section, the commissioner of
20 disabilities, aging, and independent living shall adopt by rule minimum
21 program standards for the purpose of providing quality oversight of the home

1 health agencies authorized to provide home health services under this
2 subchapter. The minimum program standards shall include performance
3 standards, quality indicators, grievance and complaint procedures, patient
4 safety standards, consumer input mechanisms, accessibility standards, medical
5 necessity standards, and practices to ensure confidentiality of patient records.
6 The rules shall include also minimum program standards to ensure home health
7 agencies do not discriminate in the provision of services based on income,
8 funding source, geographic status, or severity of health needs and to ensure the
9 attainment or continuance of universal access to medically necessary home
10 health services.

11 Sec. 90. 33 V.S.A. § 6504 is amended to read:

12 § 6504. MEDICARE BENEFICIARY TO SIGN STATEMENT

13 Annually and prior to treatment, a physician may request that a Medicare
14 beneficiary sign a statement prepared in accordance with this section to
15 determine whether or not the beneficiary may be balance billed. The
16 exceptions contained in subdivision 6503(1) of this title shall not apply if the
17 physician does not request that the beneficiary sign the statement. ~~The~~
18 ~~statement shall be prepared by the department of disabilities, aging, and~~
19 ~~independent living, and shall incorporate the exceptions contained in~~
20 ~~subdivision 6503(1) of this title.~~

1 Sec. 91. 33 V.S.A. § 6506 is amended to read:

2 § 6506. POSTING

3 A physician who treats Medicare or general assistance beneficiaries shall
4 post a summary of the provisions of this chapter in a conspicuous place in his
5 or her office. The summary shall include the statement that any person
6 aggrieved by a physician's failure to comply with the provisions of this chapter
7 may contact the department of disabilities, aging, and independent living for
8 assistance or file a complaint with the ~~division of registration, licensing and~~
9 ~~secretarial services~~ state board of medical practice within the ~~office of the~~
10 ~~secretary of state~~ department of health and shall include toll-free telephone
11 numbers to be used for these purposes. ~~The summary shall be written by the~~
12 ~~department of disabilities, aging, and independent living and distributed by the~~
13 ~~secretary of state.~~

14 Sec. 92. 33 V.S.A. § 6507 is amended to read:

15 § 6507. ADMINISTRATION; ENFORCEMENT

16 (a) A person aggrieved by a violation of the provisions of this chapter may
17 file a complaint with the ~~division of registration, licensing and secretarial~~
18 ~~services~~ state board of medical practice within the ~~office of the secretary of~~
19 ~~state~~ department of health. The matter shall be ~~heard~~ investigated by the
20 ~~secretary of state, or a hearing officer designated by the secretary, board and~~

1 shall be subject to the provisions of 3 V.S.A. chapter 25 of Title 3, relating to
2 contested cases.

3 (b) The ~~secretary of state or the hearing officer~~ board of medical practice
4 may, after hearing, impose an administrative penalty of not more than \$50.00
5 against any physician who violates the provisions of ~~sections~~ section 6505 or
6 6506 of this title relating to assistance and posting.

7 (c) The ~~secretary of state or the hearing officer~~ board of medical practice
8 may, after hearing, order a physician who balance billed in violation of the
9 provisions of this chapter to make restitution of any monies received from a
10 Medicare or general assistance beneficiary as a result of such billing.

11 Sec. 93. REPEAL

12 33 V.S.A. § 6508 (Medicare billing report required) is repealed.

13 Sec. 94. 33 V.S.A. § 6902 is amended to read:

14 § 6902. DEFINITIONS

15 As used in this chapter:

16 (1) "Abuse" means:

17 (A) Any treatment of a vulnerable adult which places life, health, or
18 welfare in jeopardy or which is likely to result in impairment of health;

19 (B) Any conduct committed with an intent or reckless disregard that
20 such conduct is likely to cause unnecessary harm, unnecessary pain, or
21 unnecessary suffering to a vulnerable adult;

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* * *

(2) "Caregiver" means a person, agency, facility or other organization with responsibility for providing subsistence or medical or other care to an elderly or disabled adult, who has assumed the responsibility voluntarily, by contract or by an order of the court; or a person providing care, including ~~but not limited to~~ medical care, custodial care, personal care, mental health services, rehabilitative services, or any other kind of care provided which is required because of another's age or disability.

* * *

(4) "Department" means the ~~state~~ Vermont department of disabilities, aging, and independent living.

* * *

(6) "Exploitation" means:

(A) Willfully using, withholding, transferring, or disposing of funds or property of a vulnerable adult without or in excess of legal authority for the wrongful profit or advantage of another;

* * *

(7) "Neglect" means purposeful or reckless failure or omission by a caregiver to:

(A)(i) provide care or arrange for goods or services necessary to maintain the health or safety of a vulnerable adult, including, ~~but not limited~~

1 ~~to~~, food, clothing, medicine, shelter, supervision, and medical services, unless
2 the caregiver is acting pursuant to the wishes of the vulnerable adult or his or
3 her representative, or a ~~terminal care document~~ an advance directive, as
4 defined in ~~subchapter 2 of chapter 111 of Title 18~~ V.S.A. § 9701;

5 * * *

6 (iii) carry out a plan of care for a vulnerable adult when such
7 failure results in or could reasonably be expected to result in physical or
8 psychological harm or a substantial risk of death to the vulnerable adult, unless
9 the caregiver is acting pursuant to the wishes of the vulnerable adult or his or
10 her representative, or a ~~terminal care document~~ an advance directive, as
11 defined in ~~subchapter 2 of chapter 111 of Title 18~~ V.S.A. § 9701; or

12 * * *

13 (8) "Plan of care" includes, ~~but is not limited to~~, a duly approved plan of
14 treatment, protocol, individual care plan, rehabilitative plan, plan to address
15 activities of daily living or similar procedure describing the care, treatment, or
16 services to be provided to address a vulnerable adult's physical, psychological,
17 or rehabilitative needs.

18 (9) "Protective services" means services, action, or intervention that
19 will, through voluntary agreement or through appropriate court action, prevent
20 further neglect, abuse, or exploitation of vulnerable adults. Such services may
21 include, ~~but not be limited to~~, supervision, guidance, counseling, petitioning

1 for appointment of a guardian, and, when necessary, assistance in the securing
2 of safe and sanitary living accommodations. However, nothing in this chapter
3 gives the commissioner authority to place the vulnerable adult in a state school
4 or hospital, except pursuant to 18 V.S.A. chapter 181 or ~~chapter 206~~
5 ~~of Title 18.~~

6 * * *

7 (11) "Sexual activity" means a sexual act as defined in 13 V.S.A.
8 § 3251, other than appropriate medical care or personal hygiene, or lewd and
9 lascivious conduct.

10 (12) "Substantiated report" means that the commissioner or the
11 commissioner's designee has determined after the investigation that a report is
12 based upon accurate and reliable information that would lead a reasonable
13 person to believe that the vulnerable adult has been abused, neglected, or
14 exploited.

15 (13) "Volunteer" means an individual who, without compensation,
16 provides services through a private or public organization.

17 * * *

1 Sec. 95. 33 V.S.A. § 6903 is amended to read:

2 § 6903. REPORTING SUSPECTED ABUSE, NEGLECT, AND
3 EXPLOITATION OF VULNERABLE ADULTS

4 (a) Any of the following, other than a crisis worker acting pursuant to
5 ~~section 12 V.S.A. § 1614 of Title 12~~, who knows of or has received
6 information of abuse, neglect, or exploitation of a vulnerable adult or who has
7 reason to suspect that any vulnerable adult has been abused, neglected, or
8 exploited shall report or cause a report to be made in accordance with the
9 provisions of section 6904 of this title within 48 hours:

10 (1) All employees, contractors, and grantees of the agency of human
11 services who are involved in caregiving.

12 (2) A physician, osteopath, chiropractor, or physician's assistant, nurse,
13 medical examiner, licensed nursing assistant, emergency medical services
14 personnel, dentist, or psychologist.

15 (3) A school teacher, school librarian, school administrator, school
16 guidance counselor, school aide, school bus driver, or school employee or
17 school contractor who works regularly with students.

18 (4) A mental health professional, social worker, person, or organization
19 that offers, provides, or arranges for personal care for vulnerable adults; a
20 caregiver employed by a vulnerable adult; an employee of or contractor
21 involved in caregiving for a community mental health center; a law

1 enforcement officer, ~~and~~; or an individual who works regularly with vulnerable
2 adults and who is an employee of an adult day care center, area agency on
3 aging, senior center, or meal program designed primarily to serve vulnerable
4 adults.

5 (5) A hospital, nursing home, residential care home, home health
6 agency, or any entity providing nursing or nursing related services for
7 remuneration; intermediate care facility for adults with mental retardation;
8 therapeutic community residence, group home, developmental home, school,
9 or contractor involved in caregiving; or an operator or employee of any of
10 these facilities or agencies.

11 (b) Any other concerned person not listed in subsection (a) of this section
12 who knows of or has received a complaint of abuse, neglect, or exploitation of
13 a vulnerable adult or who has reason to suspect that any vulnerable adult has
14 been abused, neglected, or exploited may report or cause a report to be made in
15 accordance with the provisions of section 6904 of this title.

16 * * *

17 Sec. 96. 33 V.S.A. § 6909 is amended to read:

18 § 6909. RETALIATORY ACTION BY EMPLOYER PROHIBITED

19 No employer or supervisor may discharge; demote; transfer; reduce pay,
20 benefits, or work privileges; prepare a negative work performance evaluation;
21 or take any other action detrimental to any employee who files a good faith

1 report in accordance with the provisions of this chapter, by reason of the
2 report. Any person making a report under this chapter shall have a civil cause
3 of action for appropriate compensatory and punitive damages against any
4 person who causes detrimental changes in the employment status of the
5 reporting party by reason of his or her making a report.

6 Sec. 97. 33 V.S.A. § 6914 is amended to read:

7 § 6914. ACCESS TO CRIMINAL RECORDS

8 * * *

9 (b) An employer may ask the commissioner to obtain from the Vermont
10 crime information center the record of convictions of a person who is a current
11 employee, volunteer, or contractor, or a person to whom the employer has
12 given a conditional offer of a contract, volunteer position, or employment. The
13 request shall be in writing and shall be accompanied by a release by the current
14 or prospective contractor or employee. If the person has a record of
15 convictions, the commissioner shall inform the employer of the date and type
16 of conviction.

17 * * *

18 (d) The commissioner and the commissioners of health and of mental
19 health, or the commissioner's designee their designees, may, for purposes
20 related to oversight and monitoring of persons who are served by or
21 compensated with funds provided by the ~~department~~ departments of

1 disabilities, aging, and independent living, of health, and of mental health, may
2 ask the Vermont crime information center for the record of convictions of a
3 person who is a current employee, volunteer, or contractor, or a person to
4 whom the employer has given a conditional offer of a contract, volunteer
5 position, or employment. If the individual has a record of convictions, the
6 Vermont crime information center shall inform the appropriate commissioner,
7 or the commissioner's designee, of the date and type of conviction.

8 * * *

9 ~~(g) As used in this section, "commissioner" means the commissioner of the~~
10 ~~department of disabilities, aging, and independent living or the commissioner~~
11 ~~of health, or the commissioner's designees.~~

12 Sec. 98. 33 V.S.A. § 6937 is amended to read:

13 § 6937. SERVICE

14 A petition or ex parte temporary order or final order issued under this
15 subchapter shall be served by any sheriff or constable or any municipal or state
16 police officer in accordance with the Vermont Rules of Civil Procedure. The
17 person making service shall file a return of service with the court stating the
18 date, time, and place at which the order was delivered personally to the
19 defendant.

1 Sec. 102. 33 V.S.A. § 7117 is amended to read:

2 § 7117. RULES

3 (a) In accordance with 3 V.S.A. chapter 25 of Title 3, the secretary of
4 human services may adopt reasonable rules to carry out the provisions of this
5 chapter, and may prescribe minimum standards of care, program,
6 administration, and sanitation for facilities licensed under this chapter.

7 (b) No later than January 1, 1997, the secretary of human services shall
8 adopt comprehensive rules for licensing of nursing homes to include criteria
9 deemed appropriate by the secretary, including criteria for accessibility,
10 quality, and safety standards. The rules for nursing home licensing shall:

11 (1) require that nursing facilities provide the care and services necessary
12 to help each resident attain or maintain the highest practicable physical,
13 mental, and psychosocial well-being in accordance with a comprehensive
14 assessment and plan of care and prevailing standards of care as determined by
15 the commissioner of aging and disabilities, aging, and independent living; and

16 (2) promote a standard of care that assures that the ability of each
17 resident to perform activities of daily living does not diminish unless the
18 resident's ability is diminished solely as a result of a change in the resident's
19 clinical condition.

1 Sec. 103. 33 V.S.A. § 7303 is amended to read:

2 § 7303. NOTICE TO RESIDENTS; POSTING

3 (a) A summary of the obligations of the nursing home to residents using its
4 facilities shall be written in clear language, in easily readable print, and posted
5 conspicuously in a public place on each floor of the home. This notice shall
6 also summarize the facility's grievance procedure and directions for contacting
7 the ombudsman program. The directions for contacting the ombudsman
8 program shall be written by the department of disabilities, aging, and
9 independent living, shall include a description of the ombudsman program, and
10 shall be underscored.

11 (b) A readable copy of this same notice shall be presented to each resident
12 on admission together with an oral explanation of the rights, grievance
13 procedure, and directions for contacting the ombudsman program.

14 ~~(c) Residents admitted to a nursing home prior to July 1, 1986 shall, within~~
15 ~~a reasonable period of time after July 1, 1986, receive a readable copy of said~~
16 ~~notice.~~

17 Sec. 104. 33 V.S.A. § 7306(a) is amended to read:

18 (a) The rights and obligations established under this chapter shall devolve
19 to a resident's reciprocal beneficiary, guardian, next of kin, sponsoring agency,
20 or representative payee (except when the facility itself is a representative
21 payee) if the resident:

1 * * *

2 Sec. 105. 33 V.S.A. § 7501 is amended to read:

3 § 7501. DEFINITIONS

4 For purposes of this chapter:

5 (1) “Long-term care” means care or services received by an individual
6 in a long-term care facility or provided to an individual under the long-term
7 care Medicaid Section 1115 waiver.

8 * * *

9 Sec. 106. 33 V.S.A. § 7508(b) is amended to read:

10 (b) A person who takes discriminatory, disciplinary, or retaliatory action
11 against an employee, resident, or volunteer of a long-term care facility or
12 agency for any communication made, or information disclosed, to aid the
13 office in carrying out its duties and responsibilities, unless the communication
14 or disclosure was done maliciously or without good faith, shall be imprisoned
15 not more than one year, or fined not more than \$5,000.00, or both. An
16 employee, resident, or volunteer of a long-term care facility or agency may
17 seek damages in superior court against a person who takes such action
18 prohibited by this subsection.

19 Sec. 107. 33 V.S.A. § 7509(b) is amended to read:

20 (b) The state ombudsman, consistent with the requirements of the Older
21 Americans Act, shall be able to speak on behalf of the interest of individuals

1 receiving long-term care and to carry out all duties prescribed in this chapter
2 without being made subject to any disciplinary or retaliatory personnel or other
3 action as a consequence of so doing. The commissioner of disabilities, aging,
4 and independent living shall establish a committee of no fewer than five
5 persons, who represent the interests of individuals receiving long-term care and
6 who are not state employees, for the purpose of assuring that the state
7 ombudsman is able to carry out all prescribed duties without a conflict of
8 interest. The commissioner shall solicit from this committee its assessment of
9 the state ombudsman's capacity to perform in accordance with this subsection
10 and shall submit that assessment as an appendix to the report required under
11 subdivision 7503(10) of this title. The department, in consultation with this
12 committee, shall establish rules which implement this subsection.

13 Sec. 108. 1 V.S.A. § 145 is added to read:

14 § 145. INCLUDE, INCLUDES, AND INCLUDING

15 The terms "include," "includes," and "including" mean that the language
16 following the term is an illustrative but inexhaustive list, and shall have the
17 same meaning as though the term were followed by the words "but not
18 limited to."

19 Sec. 109. 3 V.S.A. § 128(a) is amended to read:

20 (a) Any hospital, clinic, community mental health center, or other health
21 care institution in which a licensee performs professional services shall report

1 to the appropriate board, along with supporting information and evidence, any
2 disciplinary action taken by it or its staff, after an initial investigation or
3 hearing in which the licensee has been afforded the opportunity to participate,
4 which limits or conditions the licensee's privilege to practice or leads to
5 suspension or expulsion from the institution. The report shall be made within
6 ten days of the date such disciplinary action was taken, regardless of whether
7 the action is the subject of a pending appeal, and in the case of a licensee who
8 is employed by, or under contract with, a community mental health center, a
9 copy of the report shall also be sent to the commissioner of mental health ~~and~~
10 ~~mental retardation, commissioner of health, or commissioner of disabilities,~~
11 aging, and independent living, as appropriate. This section shall not apply to
12 cases of resignation, separation from service, or changes in privileges which
13 are unrelated to:

14 * * *

15 Sec. 110. 3 V.S.A. § 212 is amended to read:

16 § 212. DEPARTMENTS CREATED

17 The following administrative departments are hereby created, through the
18 instrumentality of which the governor, under the constitution, shall exercise
19 such functions as are by law assigned to each department respectively:

20 * * *

21 (22) The department of environmental conservation

1 (23) The department of disabilities, aging, and independent living

2 (24) The department of Vermont health access.

3 Sec. 111. REPEAL

4 3 V.S.A. § 3083 (department of developmental and mental health services)
5 is repealed.

6 Sec. 112. 3 V.S.A. § 3085c is amended to read:

7 § 3085c. COMMISSION ON JUVENILE JUSTICE

8 (a) The commission on juvenile justice is created as a joint venture between
9 the department of ~~social and rehabilitation services~~ for children and families
10 and the department of corrections.

11 (b) The commission shall be composed of three members:

12 (1) The juvenile justice director, who shall be chair of the commission.

13 (2) The commissioner of ~~the department of social and rehabilitation~~
14 ~~services~~ for children and families.

15 (3) The commissioner of ~~the department of~~ corrections.

16 (c) The commission on juvenile justice shall have the following duties:

17 (1) To develop a comprehensive system of juvenile justice for persons
18 under age 21 who commit delinquent or criminal acts, including utilization of
19 probation services, a range of community-based treatment, training and
20 rehabilitation programs, and secure detention and treatment programs when
21 necessary in the interests of public safety, designed with the objective of

1 preparing those persons to live in their communities as productive and mature
2 adults. The program developed by the commission shall be consistent with the
3 policy that a successful juvenile justice system should:

4 * * *

5 (I) Provide a comprehensive aftercare component, including
6 follow-up and nonresidential ~~post-release~~ post-release services when juveniles
7 return to their families or communities.

8 * * *

9 (5) To review or participate in the development of laws, rules, and other
10 governmental initiatives which may affect individuals involved in the juvenile
11 justice system and their families.

12 (6) To provide advice regarding revisions, coordination of services,
13 accountability, and appropriations.

14 * * *

15 (d)(1) There are established within the commission, and reporting to the
16 juvenile justice director, the following positions:

17 (A) A prevention specialist, responsible for programs intended to
18 reduce delinquency and crime among juvenile offenders, including mentoring
19 programs, early assessments, substance abuse screening, child care services,
20 afterschool programs, and screening for problems which contribute to
21 delinquency and juvenile crime.

1 (A) if the adopting person or persons are residents of this state, in the
2 district where they reside; or

3 (B) if the adopting person or persons are nonresidents, in a court of
4 competent jurisdiction where they reside; or

5 (C) if the prospective adoptee is a minor who has been relinquished
6 or committed to the department of social and rehabilitation services for
7 children and families or a licensed child placing agency, in the district where
8 the department or agency is located or has its principal office.

9 Sec. 114. 4 V.S.A. § 464(a) is amended to read:

10 (a) Any person or other legal entity, including the state, shall be entitled but
11 not required to be represented by an attorney before a magistrate. Nonattorney
12 employees of the office of child support who have been duly qualified by the
13 office of child support may sign complaints and motions, and may participate
14 in child support hearings before a magistrate, including those arising under
15 ~~section 5533 of Title 33~~ V.S.A. § 5116 subject to the conditions in subsections
16 (b) and (c) of this section. Such participation shall not be considered the
17 unauthorized practice of law.

18 Sec. 115. 7 V.S.A. § 505 is amended to read:

19 § 505. NOTICE TO PROHIBIT SALES TO CERTAIN PERSONS

20 The father, mother, husband, wife, child, brother, sister, guardian, or
21 employer of a person ~~or the commissioner of prevention, assistance, transition,~~

1 ~~and health access~~, may, in writing, notify any board of control commissioners
2 as defined in section 2 of this title, who may, on investigation, forbid the sale
3 or furnishing of spirituous liquor or malt and vinous beverages or both by
4 licensees as defined in section 2 of this title, within the jurisdiction of such
5 board of control commissioners to such person.

6 Sec. 116. 12 V.S.A. § 5611 is amended to read:

7 § 5611. INTEREST OF MINORS

8 A petition on any matter affecting the interests of a minor under ~~chapter 55~~
9 ~~of Title 33~~ V.S.A. chapter 51, 52, or 53, 15 V.S.A. chapter 9 of Title 15, or
10 chapter 107 of this title shall be set down for hearing at the earliest possible
11 time and shall take precedence over all matters except older matters of the
12 same character.

13 Sec. 117. 12 V.S.A. § 7151(b) is amended to read:

14 (b) In order to become an emancipated minor by court order under this
15 chapter, a minor at the time of the order must be a person who:

16 (1) is 16 years of age or older but under the age of majority;

17 (2) has lived separate and apart from his or her parents, custodian, or
18 legal guardian for three months or longer;

19 (3) is managing his or her own financial affairs;

20 (4) has demonstrated the ability to be self-sufficient in his or her
21 financial and personal affairs, including proof of employment or his or her

1 other means of support. "Other means of support" does not include general
2 assistance ~~or Aid to Needy Families with Children, Reach Up financial~~
3 assistance, or relying on the financial resources of another person who is
4 receiving such assistance or aid;

5 (5) holds a high school diploma or its equivalent or is earning passing
6 grades in an educational program approved by the court and directed towards
7 the earning of a high school diploma or its equivalent;

8 (6) is not under a legal guardianship or in the custody ~~or guardianship~~ of
9 the commissioner ~~of social and rehabilitation services for children and~~
10 families;

11 (7) is not under the supervision or in the custody of the commissioner of
12 corrections.

13 Sec. 118. 12 V.S.A. § 7154(d) is amended to read:

14 (d) If the minor has been committed to the custody or guardianship of the
15 commissioner ~~of social and rehabilitation services for children and families~~, or
16 a petition has been filed to commit the minor to the custody of the
17 commissioner, the commissioner shall be a party to the action under this
18 chapter.

19 Sec. 119. 13 V.S.A. § 1311(c) is amended to read:

20 (c) Exempt from the prohibitions of this section are:

1 (1) A shelter, or the directors, agents or employees of a shelter,
2 designated by the commissioner for children and families pursuant to ~~section~~
3 ~~5512~~ of Title 33 V.S.A. § 5304, provided that the requirements of ~~subsection~~
4 ~~5512(b)~~ of Title 33 V.S.A. § 5303(b) are satisfied.

5 (2) A person who has taken the child into custody pursuant to ~~section~~
6 ~~5510~~ of Title 33 V.S.A. § 5251 or 5301.

7 Sec. 120. 13 V.S.A. § 1460(a) is amended to read:

8 (a) The general public shall be excluded from hearings held in superior
9 court under this chapter where the defendant is under the age of 16. Only the
10 parties, their counsel, the complainant, witnesses and other persons
11 accompanying a party for the party's assistance and such other persons as the
12 court finds to have a proper interest in the case, or in the work of the court,
13 may be admitted by the court. In such a case, there shall be no publicity given
14 by any person to any proceedings under the authority of this chapter except
15 with the consent of the defendant and his or her parent or guardian. The
16 records in such a case shall be subject to the confidentiality provision of
17 33 V.S.A. ~~§ 5536~~ § 5117. Upon its own motion or the motion of a party, the
18 court may open the hearing for good cause shown, in consideration of relevant
19 factors, including the likelihood that a court would make a determination that
20 charges against the defendant with respect to the underlying crime on which

1 the hate-motivated crime injunction is based should be heard in the criminal
2 division of the superior court pursuant to 33 V.S.A. chapter 52 ~~of Title 33.~~

3 Sec. 121. 13 V.S.A. § 4822 is amended to read:

4 § 4822. FINDINGS AND ORDER; MENTALLY ILL PERSONS

5 (a) If the court finds that such person is a person in need of treatment or a
6 patient in need of further treatment as defined in 18 V.S.A. § 7101, the court
7 shall issue an order of commitment directed to the commissioner of
8 ~~developmental and mental health services~~, which shall admit the person to the
9 care and custody of the department of ~~developmental and mental health~~
10 ~~services~~ for an indeterminate period. In any case involving personal injury or
11 threat of personal injury, the committing court may issue an order requiring a
12 court hearing before a person committed under this section may be discharged
13 from custody.

14 (b) ~~Such~~ An order of commitment issued pursuant to this section shall have
15 the same force and effect as an order issued under 18 V.S.A. §§ 7611–7622,
16 and persons committed under such an order shall have the same status, and the
17 same rights, including the right to receive care and treatment, to be examined
18 and discharged, and to apply for and obtain judicial review of their cases, as
19 persons ordered committed under 18 V.S.A. §§ 7611–7622.

20 (c) Notwithstanding the provisions of subsection (b) of this section, at least
21 10 days prior to the proposed discharge of any person committed under this

1 section, the commissioner of ~~developmental and mental health services~~ shall
2 give notice thereof to the committing court and state's attorney of the county
3 where the prosecution originated. In all cases requiring a hearing prior to
4 discharge of a person found incompetent to stand trial under section 4817 of
5 this title, the hearing shall be conducted by the committing court issuing the
6 order under that section. In all other cases, when the committing court orders a
7 hearing under subsection (a) of this section or when, in the discretion of the
8 commissioner of ~~developmental and mental health services~~, a hearing should
9 be held prior to the discharge, the hearing shall be held in the criminal division
10 of the superior court, ~~Waterbury circuit~~ to determine if the committed person is
11 no longer a person in need of treatment or a patient in need of further treatment
12 as set forth in subsection (a) of this section. Notice of the hearing shall be
13 given to the commissioner, the state's attorney of the county where the
14 prosecution originated, the committed person, and the person's attorney. Prior
15 to the hearing, the state's attorney may enter an appearance in the proceedings
16 and may request examination of the patient by an independent psychiatrist,
17 who may testify at the hearing.

18 (d) The court may continue the hearing provided in subsection (c) of this
19 section for a period of 15 additional days upon a showing of good cause.

1 (e) If the court determines that commitment shall no longer be necessary, it
2 shall issue an order discharging the patient from the custody of the department
3 of ~~developmental and~~ mental health services.

4 (f) The court shall issue its findings and order not later than 15 days from
5 the date of hearing.

6 Sec. 122. 13 V.S.A. § 5236(a) is amended to read:

7 (a) The determination whether a person covered by sections 5231-5234 of
8 this title is a needy person shall be deferred until his or her first appearance in
9 court or in a suit for payment or reimbursement under section 5255 of this title,
10 whichever occurs earlier. Thereafter, the court shall determine, with respect to
11 each proceeding, whether the person is a needy person. For purposes of this
12 section, an appeal is a separate proceeding. The determination of need, for
13 purposes of an appeal, shall be based on a separate application submitted on or
14 after the date of the order appealed from, except that an appeal from a
15 proceeding under 33 V.S.A. chapter 51, 52 of Title 33, or 53 is not a separate
16 proceeding and does not require a separate application.

17 Sec. 123. 13 V.S.A. § 5318(b) is amended to read:

18 (b) If a victim is a minor or is incapacitated, incompetent, or deceased, a
19 family member of the victim may exercise the rights of the victim under
20 sections 5305, 5308-5317, and 7006 of this title; 28 V.S.A. §§ 205, 252, and
21 507; and 33 V.S.A. § ~~5529a~~ 5233.

1 Sec. 124. 15 V.S.A. § 901(c) is amended to read:

2 (c) In an action under this section against a minor's parents, nothing
3 contained in the record of any juvenile proceeding involving the minor shall be
4 admissible as evidence except as provided in ~~section 5536 of Title 33 V.S.A.~~
5 § 5117.

6 Sec. 125. 15 V.S.A. § 1140(b) is amended to read:

7 (b) The commission shall ~~be comprised of~~ comprise 17 members,
8 consisting of the following:

- 9 (1) the attorney general, or his or her designee;
- 10 (2) the commissioner of ~~the department of health,~~ or his or her designee;
- 11 (3) the commissioner of ~~social and rehabilitation services,~~ for children
12 and families or his or her designee;

13 * * *

14 Sec. 126. 15 V.S.A. § 1151(4) is amended to read:

15 (4) "Law enforcement agency" means the department of public safety, a
16 municipal police department, a sheriff's department, the attorney general's
17 office, a state's attorney's office, or certified law enforcement officers of the
18 department of motor vehicles, the agency of natural resources, or the
19 department of liquor control. "Law enforcement agency" shall also mean the
20 department of ~~social and rehabilitation services~~ for children and families when
21 engaged in:

1 (A) the investigation of child abuse and neglect;

2 (B) the delivery of services to families and children with whom the
3 department is working ~~with~~ pursuant to the provisions of ~~chapter 55 of Title~~
4 33 V.S.A. chapters 51, 52, and 53; or

5 (C) the performance of the department's responsibilities pursuant to
6 an interstate compact to which the state is a party.

7 Sec. 127. 15A V.S.A. § 1-101(7) is amended to read:

8 (7) "Department" means the department ~~of social and rehabilitation~~
9 services for children and families.

10 Sec. 128. 16 V.S.A. § 563a is amended to read:

11 § 563a. SCHOOL BOARDS; PREVENTION, IDENTIFICATION, AND
12 REPORTING OF CHILD SEXUAL ABUSE AND SEXUAL
13 VIOLENCE

14 The school board of a school district shall ensure that adults employed in
15 the schools maintained by the district receive orientation, information, or
16 instruction on the prevention, identification, and reporting of child sexual
17 abuse, as defined in 33 V.S.A. § ~~4912(8)~~ 4912(15), and sexual violence. This
18 shall include information regarding the signs and symptoms of sexual abuse,
19 sexual violence, grooming processes, recognizing the dangers of child sexual
20 abuse in and close to the home, and other predatory behaviors of sex offenders.
21 The school board shall also provide opportunities for parents, guardians, and

1 other interested persons to receive the same information. The department of
2 education and the agency of human services shall provide materials and
3 technical support to any school board that requests assistance in implementing
4 this section.

5 Sec. 129. 18 V.S.A. § 1751 is amended to read:

6 § 1751. DEFINITIONS

7 * * *

8 (b) For the purposes of this chapter:

9 * * *

10 (3) "Child care facility" means a child care facility or family child care
11 home as defined in 33 V.S.A. ~~§ 4902~~ § 3511 that was constructed prior to
12 1978.

13 * * *

14 Sec. 130. 18 V.S.A. § 1758(c) is amended to read:

15 (c) The department ~~of social and rehabilitation services~~ for children and
16 families shall identify all child care facilities in which the owners have
17 completed essential maintenance practices or lead hazard control measures and
18 provide the findings to the department annually.

1 Sec. 131. 18 V.S.A. chapter 94 is added to read:

2 CHAPTER 94. DIVISION OF ALCOHOL AND

3 DRUG ABUSE PROGRAMS

4 § 4801. DECLARATION OF POLICY

5 (a) It is the policy of the state of Vermont that alcoholism and alcohol
6 abuse are correctly perceived as health and social problems rather than
7 criminal transgressions against the welfare and morals of the public.

8 (b) The general assembly therefore declares that:

9 (1) alcoholics and alcohol abusers shall no longer be subjected to
10 criminal prosecution solely because of their consumption of alcoholic
11 beverages or other behavior related to consumption which is not directly
12 injurious to the welfare or property of the public;

13 (2) alcoholics and alcohol abusers shall be treated as sick persons and
14 shall be provided adequate and appropriate medical and other humane
15 rehabilitative services congruent with their needs.

16 § 4802. DEFINITIONS

17 For the purposes of this chapter:

18 (1) “Alcoholic” means a person suffering from the condition of
19 alcoholism.

20 (2) “Alcoholism” means addiction to the drug alcohol. It is
21 characterized by:

1 (A) chronic absence of control by the drug user over the frequency or
2 the volume of his or her alcohol intake; and

3 (B) inability of the drug user to consistently moderate his or her
4 drinking practices in spite of the onset of a variety of consequences deleterious
5 to his or her health.

6 (3) “Approved substance abuse treatment program” means a treatment
7 program which is approved by the secretary as qualified to provide treatment
8 for substance abuse.

9 (4) “Client” means a person who is provided treatment services by an
10 approved substance abuse treatment program, substance abuse crisis team, or a
11 designated substance abuse counselor.

12 (5) “Designated substance abuse counselor” means a person approved
13 by the secretary to evaluate and treat substance abusers, pursuant to the
14 provisions of this chapter.

15 (6) “Detoxification” means the planned withdrawal of an individual
16 from a state of acute or chronic intoxication, under qualified supervision and
17 with or without the use of medication. Detoxification is monitoring and
18 management of the physical and psychological effects of withdrawal, for the
19 purpose of assuring safe and rapid return of the individual to normal bodily and
20 mental functioning.

1 (7) “Incapacitated” means that a person, as a result of his or her use of
2 alcohol or other drugs, is in a state of intoxication, or mental confusion
3 resulting from withdrawal, such that the person:

4 (A) appears to need medical care or supervision by approved
5 substance abuse treatment personnel, as defined in this section, to assure his or
6 her safety; or

7 (B) appears to present a direct active or passive threat to the safety of
8 others.

9 (8) “Intoxicated” means a condition in which the mental or physical
10 functioning of an individual is substantially impaired as a result of the presence
11 of alcohol or other drugs in his or her system.

12 (9) “Law enforcement officer” means a law enforcement officer
13 certified by the Vermont criminal justice training council as provided in
14 20 V.S.A. §§ 2355–2358, or appointed by the commissioner of public safety as
15 provided in 20 V.S.A. § 1911.

16 (10) “Licensed hospital” means a hospital licensed under chapter 43 of
17 this title.

18 (11) “Protective custody” means a civil status in which an incapacitated
19 person is detained by a law enforcement officer for the purposes of:

20 (A) assuring the safety of the individual or the public, or both; and

21 (B) assisting the individual to return to a functional condition.

1 (12) “Secretary” means the secretary of human services or the
2 secretary’s designee.

3 (13) “Substance abuse crisis team” means an organization approved by
4 the secretary to provide emergency treatment and transportation services to
5 substance abusers pursuant to the provisions of this chapter.

6 (14) “Substance abuser” means anyone who drinks alcohol or consumes
7 other drugs to an extent or with a frequency which impairs or endangers his or
8 her health or the health and welfare of others.

9 (15) “Treatment” means the broad range of medical, detoxification,
10 residential, outpatient, aftercare, and follow-up services which are needed by
11 substance abusers, and may include a variety of other medical, social,
12 vocational, and educational services relevant to the rehabilitation of these
13 persons.

14 § 4803. ALCOHOL AND DRUG ABUSE COUNCIL; CREATION; TERMS;

15 PER DIEM

16 (a) The alcohol and drug abuse council is established within the agency of
17 human services to promote the reduction of problems arising from alcohol and
18 drug abuse.

19 (b) The council shall consist of 11 members:

1 (1) the secretary of human services, commissioner of public safety,
2 commissioner of education, commissioner of liquor control, and commissioner
3 of motor vehicles, or their designees;

4 (2) one member shall be a member of a mental health agency who shall
5 be appointed by the governor; and

6 (3) five members shall be appointed by the governor of which every
7 consideration shall be given, if possible, to equal geographic apportionment.
8 One of these members shall be a certified practicing teacher and one of these
9 members shall be a school administrator.

10 (c) The term of office of members appointed pursuant to subdivisions
11 (b)(2) and (3) of this section shall be three years.

12 (d) The secretary of human services or designee shall serve as chairperson.

13 (e) All members shall be voting members.

14 (f) At the expiration of the term of an appointed member, or in the event of
15 a vacancy during an unexpired term, the new member shall be appointed in the
16 same manner as his or her predecessor. Members of the council may be
17 reappointed.

18 (g) Each member of the council not otherwise receiving compensation from
19 the state of Vermont or any political subdivision thereof shall be entitled to
20 receive per diem compensation of \$30.00 for each day. Each member shall be
21 entitled to his or her actual and necessary expenses.

1 § 4804. ADMINISTRATIVE SUPPORT

2 The agency of human services shall provide the council with such
3 administrative support as is necessary for it to accomplish the purposes of this
4 chapter.

5 § 4805. DUTIES

6 The council shall:

7 (1) advise the governor as to the nature and extent of alcohol and drug
8 abuse problems and the programs necessary to understand, prevent, and
9 alleviate those problems;

10 (2) make recommendations to the governor for developing a
11 comprehensive and coordinated system for delivering effective programs,
12 including any appropriate reassignment of responsibility for such programs;

13 (3) provide for coordination and communication among the regional
14 alcohol and drug abuse councils, state agencies and departments, providers,
15 consumers, consumer advocates, and interested citizens;

16 (4) jointly, with the state board of education, develop educational and
17 preventive programs; and

18 (5) develop a five-year plan for effectively providing preventive,
19 education, and treatment services to the Vermont public.

1 § 4806. DIVISION OF ALCOHOL AND DRUG ABUSE PROGRAMS

2 (a) The division of alcohol and drug abuse programs shall plan, operate,
3 and evaluate a consistent, effective program of substance abuse programs. All
4 duties, responsibilities, and authority of the division shall be carried out and
5 exercised by and within the department of health.

6 (b) The division shall be responsible for the following services:

7 (1) prevention and intervention;

8 (2) licensure of alcohol and drug counselors;

9 (3) project CRASH schools; and

10 (4) alcohol and drug treatment.

11 (c) Under the direction of the commissioner of health, the deputy
12 commissioner of alcohol and drug abuse programs shall review and approve all
13 alcohol and drug programs developed or administered by any state agency or
14 department, except for alcohol and drug education programs developed by the
15 department of education in conjunction with the alcohol and drug abuse
16 council pursuant to 16 V.S.A. § 909.

17 (d) Any federal or private funds received by the state for purposes of
18 subdivision (b)(4) of this section shall be in the budget of, and administered by,
19 the department of health.

20 (e) Under subdivision (b)(4) of this section, the commissioner of health
21 may contract with the secretary of state for provision of adjudicative services

1 of one or more administrative law officers and other investigative, legal, and
2 administrative services related to licensure and discipline of alcohol and drug
3 counselors.

4 § 4807. AUTHORITY AND ACCOUNTABILITY FOR ALCOHOLISM
5 SERVICES; RULES FOR ACCEPTANCE INTO TREATMENT

6 (a) The secretary shall have the authority and accountability for providing
7 or arranging for the provision of a comprehensive system of alcoholism
8 prevention and treatment services.

9 (b) All state funds appropriated specifically for the prevention and
10 treatment of alcoholism, and any federal or private funds which are received by
11 the state for these purposes, shall be in the budget of, and be administered by, a
12 single governmental unit designated by the secretary. This provision does not
13 apply to the programs of the department of corrections.

14 (c) The secretary shall adopt rules and standards under 3 V.S.A. chapter 25
15 for the implementation of the provisions of this chapter. In establishing rules
16 regarding admissions to alcohol treatment programs, the secretary shall adhere
17 to the following guidelines:

18 (1) A client shall be initially assigned or transferred to outpatient
19 treatment, unless he or she is found to require medical treatment,
20 detoxification, or residential treatment;

1 (2) A person shall not be denied treatment solely because he or she has
2 withdrawn from treatment against medical advice on a prior occasion or
3 because he or she has relapsed after earlier treatment;

4 (3) An individualized treatment plan shall be prepared and maintained
5 on a current basis for each client; and

6 (4) Provision shall be made for a continuum of coordinated treatment
7 services, so that a person who leaves a program or a form of treatment shall
8 have available and utilize other appropriate treatment.

9 § 4808. TREATMENT AND SERVICES

10 (a) When a law enforcement officer encounters a person who, in the
11 judgment of the officer, is intoxicated as defined in section 4802 of this title,
12 the officer may assist the person, if he or she consents, to his or her home, to
13 an approved substance abuse treatment program, or to some other mutually
14 agreeable location.

15 (b) When a law enforcement officer encounters a person who, in the
16 judgment of the officer, is incapacitated as defined in section 4802 of this title,
17 the person shall be taken into protective custody by the officer. The officer
18 shall transport the incapacitated person directly to an approved substance abuse
19 treatment program with detoxification capabilities or to the emergency room of
20 a licensed general hospital for treatment, except that if a substance abuse crisis
21 team or a designated substance abuse counselor exists in the vicinity and is

1 available, the person may be released to the team or counselor at any location
2 mutually agreeable between the officer and the team or counselor. The period
3 of protective custody shall end when the person is released to a substance
4 abuse crisis team, a designated substance abuse counselor, a clinical staff
5 person of an approved substance abuse treatment program with detoxification
6 capabilities, or a professional medical staff person at a licensed general
7 hospital emergency room. The person may be released to his or her own
8 devices if, at any time, the officer judges him or her to be no longer
9 incapacitated. Protective custody shall in no event exceed 24 hours.

10 (c) If an incapacitated person is taken to an approved substance abuse
11 treatment program with detoxification capabilities and the program is at
12 capacity, the person shall be taken to the nearest licensed general hospital
13 emergency room for treatment.

14 (d) A person judged by a law enforcement officer to be incapacitated and
15 who has not been charged with a crime may be lodged in protective custody in
16 a secure facility not operated by the department of corrections for up to
17 24 hours or until judged by the person in charge of the facility to be no longer
18 incapacitated, if and only if:

19 (1) The person refuses to be transported to an appropriate facility for
20 treatment, or if once there, refuses treatment or leaves the facility before he or

1 she is considered by the responsible staff of that facility to be no longer
2 incapacitated; or

3 (2) No approved substance abuse treatment program with detoxification
4 capabilities and no staff physician or other medical professional at the nearest
5 licensed general hospital can be found who will accept the person for
6 treatment.

7 (e) No person shall be lodged in a secure facility under subsection (d) of
8 this section without first being evaluated and found to be indeed incapacitated
9 by a substance abuse crisis team, a designated substance abuse counselor, a
10 clinical staff person of an approved substance abuse treatment program with
11 detoxification capabilities, or a professional medical staff person at a licensed
12 general hospital emergency room.

13 (f) A lockup not operated by the department of corrections shall not refuse
14 to admit an incapacitated person in protective custody whose admission is
15 requested by a law enforcement officer, in compliance with the conditions of
16 this section.

17 (g) Notwithstanding subsection (d) of this section, a person under 18 years
18 of age who is judged by a law enforcement officer to be incapacitated and who
19 has not been charged with a crime shall not be held at a lockup or community
20 correctional center. If needed treatment is not readily available, the person
21 shall be released to his or her parent or guardian. If the person has no parent or

1 guardian in the area, arrangements shall be made to house him or her according
2 to the provisions of 33 V.S.A. chapter 53. The official in charge of an adult
3 jail or lockup shall notify the director of the office of drug and alcohol abuse
4 programs of any person under the age of 18 brought to an adult jail or lockup
5 pursuant to this chapter.

6 (h) If an incapacitated person in protective custody is lodged in a secure
7 facility, his or her family or next of kin shall be notified as promptly as
8 possible. If the person is an adult and requests that there be no notification, his
9 or her request shall be respected.

10 (i) A taking into protective custody under this section is not an arrest.

11 (j) Law enforcement officers, persons responsible for supervision in a
12 secure facility, members of a substance abuse crisis team, and designated
13 substance abuse counselors who act under the authority of this section are
14 acting in the course of their official duty and are not criminally or civilly liable
15 therefor, unless for gross negligence or willful or wanton injury.

16 § 4809. INCARCERATION FOR INEBRIATION PROHIBITED

17 A person who has not been charged with a crime shall not be incarcerated in
18 a facility operated by the department of corrections on account of the person's
19 inebriation.

1 (D) Medicaid, the Vermont health access plan, ~~Vermont Rx~~
2 VermontRx, and any other public health care assistance program.

3 Sec. 135. 18 V.S.A. § 9504(g) is amended to read:

4 (g) No member of the board shall have any direct or knowing affiliation or
5 contractual relationship with any tobacco company, its affiliates, its
6 subsidiaries, or its parent company. ~~All~~ Each board ~~members~~ member shall
7 file a conflict of interest statement, stating that he or she has no such affiliation
8 or contractual relationship.

9 Sec. 136. 18 V.S.A. § 9505 is amended to read:

10 § 9505. GENERAL POWERS AND DUTIES

11 The board shall have all the powers necessary and convenient to carry out
12 and effectuate the purposes and provisions of this section, and shall:

13 * * *

14 (5) review and make recommendations ~~to~~ regarding the overall plan and
15 any memorandum of understanding developed jointly by the department of
16 health and department of education for school-based programs funded through
17 the tobacco program fund;

18 (6) review and make recommendations ~~to~~ regarding enforcement
19 activities administered by the department of liquor control in accordance with
20 the provisions of this chapter;

1 Sec. 137. 18 V.S.A. § 9506 is amended to read:

2 § 9506. ALLOCATION SYSTEM

3 (a) In determining the allocation of funds available for the purposes of this
4 chapter, the department and the board shall consider, ~~but not be limited to, the~~
5 ~~following~~ all relevant factors, including:

6 * * *

7 (b) The department's and board's allocation system shall include a method,
8 developed jointly, that evaluates the need for, and impact and quality of, the
9 activities proposed by eligible applicants, including, ~~where~~ if appropriate,
10 measuring the outcomes of the project through reductions in adult and youth
11 smoking rates.

12 Sec. 138. 18 V.S.A. § 9507 is amended to read:

13 § 9507. ANNUAL REPORT

14 (a) By January 15 of each year, the board shall submit a report concerning
15 its activities under this chapter to the governor and the general assembly
16 ~~which.~~ The report shall include, to the extent possible, the following:

17 * * *

18 Sec. 139. 21 V.S.A. § 1314(e) is amended to read:

19 (e)(1) Subject to such restrictions as the board may by regulation prescribe,
20 information from unemployment insurance records may be made available to
21 any public officer or public agency of this or any other state or the federal

1 government dealing with the administration or regulation of relief, public
2 assistance, unemployment compensation, a system of public employment
3 offices, wages and hours of employment, workers' compensation,
4 misclassification or miscoding of workers, occupational safety and health, or a
5 public works program for purposes appropriate to the necessary operation of
6 those offices or agencies. The commissioner may also make information
7 available to colleges, universities, and public agencies of the state for use in
8 connection with research projects of a public service nature, and to the
9 Vermont economic progress council with regard to the administration of
10 32 V.S.A. chapter 151, subchapter 11E ~~of chapter 151 of Title 32~~; but no
11 person associated with those institutions or agencies may disclose that
12 information in any manner which would reveal the identity of any individual or
13 employing unit from or concerning whom the information was obtained by the
14 commissioner.

15 (A) The department of labor shall participate in the income and
16 eligibility verification procedures under Federal Public Law 98-369 (The
17 Deficit Reduction Act of 1984) which provides for the exchange of
18 information among state agencies administering ~~federally-assisted~~ programs
19 ~~for AFDC~~ funded with federal monies provided under the Temporary
20 Assistance for Needy Families (TANF) block grant, Medicaid, Food Stamps
21 Supplemental Nutrition Assistance Program (SNAP), SSI, Unemployment

1 Compensation, and any other state program under a plan approved under
2 Title I, X, XIV, or XVI of the Social Security Act.

3 (B) The department of labor is designated as the Vermont agency for
4 the collection of wage records on workers covered under this chapter, as
5 required by PL 98-369.

6 (2)(A)(i) The department of labor shall disclose, upon request, to
7 officers or employees of any state or local child support enforcement agency,
8 any wage information or other information material to the location of an
9 individual, the individual's assets, or the individual's place of employment or
10 other source of income contained in the department's unemployment
11 compensation claim records with respect to an identified individual which is
12 contained in those records.

13 (ii) The term "state or local child support enforcement agency"
14 means any agency of a state or political subdivision thereof operating pursuant
15 to a plan described in ~~section~~ Section 454 of the Social Security Act, which has
16 been approved by the Secretary of Health and Human Services under part D,
17 Title IV of the Social Security Act.

18 (B) The requesting agency shall agree that information provided
19 under this subsection is to be used only for the following purposes:

20 (i) establishing and collecting child support obligations from, and
21 locating, individuals owing such obligations which are being enforced pursuant

1 to a plan described in ~~section~~ Section 454 of the Social Security Act which has
2 been approved by the Secretary of Health and Human Services under part D,
3 Title IV of the Social Security Act; and

4 (ii) establishing parentage and expediting procedures relating to
5 establishing parentage pursuant to ~~section~~ Section 466(c)(1) of the Social
6 Security Act as added by section 325(a)(2) of the Personal Responsibility and
7 Work Opportunity Reconciliation Act of 1996 (Public Law 104-193).

8 (3)(A) The department of labor shall disclose, upon request, to officers
9 and employees of the U.S. Department of Agriculture and any state ~~food stamp~~
10 agency, with respect to an identified individual, any of the following
11 information which is contained in its records:

12 (i) wage information;

13 (ii) whether the individual is receiving, has received, or has made
14 application for unemployment compensation and the amount of any
15 compensation being received or to be received by such individual;

16 (iii) the current or most recent home address of the individual; and

17 (iv) whether the individual has refused an offer of employment,
18 and if so, a description of the employment offered and the terms, conditions
19 and rate of pay therefor.

20 (B) The term “state ~~food stamp~~ agency” means any agency described
21 in ~~section (3)(n)(1) of the Food Stamp Act of 1977~~ 7 U.S.C. § 2012(n), which

1 administers the ~~food stamp~~ supplemental nutrition assistance program
2 established under such act.

3 (C) The requesting agency shall agree that such information shall be
4 used only for purposes of determining the applicant's eligibility for benefits, or
5 the amount of benefits, under the ~~food stamp~~ supplemental nutrition assistance
6 program established under ~~the Food Stamp Act of 1977~~ 7 U.S.C. chapter 51.

7 (D) The information shall not be released unless the requesting
8 agency agrees to reimburse the costs involved for furnishing such information.

9 (E) In addition to the requirements of this subdivision, all other
10 requirements with respect to confidentiality of information obtained in the
11 administration of this chapter and the sanctions imposed for improper
12 disclosure of information obtained in the administration of this chapter shall
13 apply to the use of such information by the officers and employees of any ~~food~~
14 ~~stamp~~ state agency or the U.S. Department of Agriculture.

15 * * *

16 Sec. 140. 21 V.S.A. § 1367b is amended to read:

17 § 1367b. ~~FOOD STAMP~~ SUPPLEMENTAL NUTRITION ASSISTANCE
18 PROGRAM INTERCEPT OF UNEMPLOYMENT BENEFITS

19 (a) An individual filing a new claim for unemployment compensation shall,
20 at the time of filing such claim, disclose whether ~~or not~~ he or she owes an
21 uncollected ~~over-issuance~~ overissuance (as defined in ~~section 13(e)(1) of the~~

1 ~~Food Stamp Act of 1977~~ 7 U.S.C. § 2022(c)(1) of ~~food stamp coupons~~
2 supplemental nutrition assistance program benefits. The commissioner shall
3 notify the state ~~food stamp~~ agency administering the supplemental nutrition
4 assistance program enforcing such obligation of any individual who discloses
5 that he or she owes an uncollected ~~over-issuance~~ overissuance of ~~food stamp~~
6 ~~coupons~~ supplemental nutrition assistance program benefits and who is
7 determined to be eligible for unemployment compensation.

8 (b) Notwithstanding the provisions of sections 1366 and 1367 of this title,
9 the commissioner shall deduct and withhold from any unemployment
10 compensation payable to an individual who owes an uncollected ~~over-issuance~~
11 overissuance of ~~food stamp coupons~~ supplemental nutrition assistance program
12 benefits:

13 (1) the amount specified by the individual to the commissioner to be
14 deducted and withheld under this section; or

15 (2) the amount ~~(if any)~~, if any, determined pursuant to an agreement
16 submitted to the state ~~food stamp~~ agency administering the supplemental
17 nutrition assistance program under ~~section 13(c)(3)(A) of the Food Stamp Act~~
18 ~~of 1977~~ 7 U.S.C. § 2022(c)(3)(A); or

19 (3) any amount otherwise required to be deducted and withheld from
20 unemployment compensation pursuant to ~~section 13(c)(3)(B) of the Food~~
21 ~~Stamp Act of 1977~~ 7 U.S.C. § 2022(c)(3)(B).

1 (c) Any amount deducted and withheld under subsection (b) of this section
2 shall be paid by the commissioner to the appropriate state ~~food-stamp~~ agency
3 administering the supplemental nutrition assistance program.

4 (d) Any amount deducted and withheld under subsection (b) of this section
5 shall for all purposes be treated as if it were paid to the individual as
6 unemployment compensation and paid by such individual to the state ~~food~~
7 ~~stamp~~ agency administering the supplemental nutrition assistance program as
8 repayment of the individual's uncollected ~~over-issuance~~ overissuance of ~~food~~
9 ~~stamp-coupons~~ supplemental nutrition assistance program benefits.

10 (e) For purposes of this section, the term "unemployment compensation"
11 means any compensation payable under this chapter, and any federal benefit
12 payments made pursuant to agreements with the United States Department of
13 Labor.

14 (f) This section applies only if arrangements have been made for
15 reimbursement by the state ~~food-stamp~~ agency administering the supplemental
16 nutrition assistance program for the administrative costs incurred by the
17 commissioner under this section which are attributable to the repayment of
18 uncollected ~~over-issuances~~ overissuances of ~~food-stamp-coupons~~ supplemental
19 nutrition assistance program benefits to the state agency administering the
20 supplemental nutrition assistance program.

1 (g) Any deduction and withholding authorized by this section shall not
2 exceed 25 percent of the individual's weekly benefit amount.

3 Sec. 141. 24 V.S.A. § 4412(5) is amended to read:

4 (5) Child care. A "family child care home or facility" as used in this
5 subdivision means a home or facility where the owner or operator is to be
6 licensed or registered by the state for child care. A family child care home
7 serving six or fewer children shall be considered to constitute a permitted
8 single-family residential use of property. A family child care home serving no
9 more than six full-time children and four part-time children, as defined in
10 ~~subdivision 33 V.S.A. § 4902(3)(A)~~ § 3511(7), shall be considered to
11 constitute a permitted use of property but may require site plan approval based
12 on local zoning requirements. A family child care facility serving more than
13 six full-time and four part-time children may, at the discretion of the
14 municipality, be subject to all applicable municipal bylaws.

15 Sec. 142. 23 V.S.A. § 304c is amended to read:

16 § 304c. MOTOR VEHICLE REGISTRATION PLATES: BUILDING

17 BRIGHT SPACES FOR BRIGHT FUTURES FUND

18 (a) The commissioner shall, upon application, issue "building bright spaces
19 for bright futures fund," hereinafter referred to as "the bright futures fund,"
20 registration plates for use only on vehicles registered at the pleasure car rate,
21 on trucks registered for less than 26,001 pounds, on vehicles registered to state

1 agencies under section 376 of this title, and excluding vehicles registered under
2 the International Registration Plan. Plates so acquired shall be mounted on the
3 front and rear of the vehicle. The commissioner of motor vehicles shall utilize
4 the graphic design recommended by the commissioner ~~of social and~~
5 ~~rehabilitation services~~ for children and families for the special plates to
6 enhance the public awareness of the state's interest in supporting children's
7 services. Applicants shall apply on forms prescribed by the commissioner of
8 motor vehicles, and shall pay an initial fee of \$20.00 in addition to the annual
9 fee for registration. In following years, in addition to the annual registration
10 fee, the holder of a bright futures fund plate shall pay a renewal fee of \$20.00.
11 The commissioner shall adopt rules under 3 V.S.A. chapter 25 to implement
12 the provisions of this subsection.

13 * * *

14 (c) Renewal fees collected under subsection (a) of this section shall be
15 allocated as follows:

16 (1) \$17.00 to the department for children and ~~families~~ families for
17 deposit in the bright futures fund in 33 V.S.A. § 3531.

18 (2) \$3.00 to the transportation fund.

19 * * *

1 Sec. 143. 26 V.S.A. chapter 28, subchapter 4 is added to read:

2 Subchapter 4. Sexual Assault Nurse Examiners

3 § 1621. DEFINITION

4 As used in this subchapter, "SANE" means sexual assault nurse examiner.

5 § 1622. SANE BOARD

6 (a) The SANE board is created for the purpose of regulating sexual assault
7 nurse examiners.

8 (b) The SANE board shall be composed of the following members:

9 (1) the executive director of the Vermont State Nurses Association or
10 designee;

11 (2) the president of the Vermont Association of Hospitals and Health
12 Systems;

13 (3) the director of the Vermont state police crime lab or designee;

14 (4) the director of the Vermont Network Against Domestic and Sexual
15 Violence or designee;

16 (5) an attorney with experience prosecuting sexual assault crimes,
17 appointed by the attorney general;

18 (6) the executive director of the Vermont center for crime victim
19 services or designee;

20 (7) a law enforcement officer assigned to one of Vermont's special units
21 of investigation, appointed by the commissioner of public safety;

1 (8) a law enforcement officer employed by a municipal police
2 department, appointed by the executive director of the Vermont criminal
3 justice training council;

4 (9) three sexual assault nurse examiners, appointed by the attorney
5 general;

6 (10) a physician whose practice includes the care of victims of sexual
7 assault, appointed by the Vermont Medical Society;

8 (11) a pediatrician whose practice includes the care of victims of sexual
9 assault, appointed by the Vermont chapter of the American Academy of
10 Pediatrics;

11 (12) the coordinator of the Vermont victim assistance program or
12 designee;

13 (13) the president of the Vermont alliance of child advocacy centers or
14 designee;

15 (14) the chair of the Vermont state board of nursing or designee; and

16 (15) the commissioner for children and families or designee.

17 § 1623. SANE PROGRAM CLINICAL COORDINATOR

18 A grant program shall be established by the Vermont center for crime
19 victim services, subject to available funding, to fund a clinical coordinator
20 position for the purpose of staffing the SANE program. The position shall be
21 contracted through the Vermont Network Against Domestic and Sexual

1 Violence. The clinical coordinator shall consult with the SANE board in
2 performing the following duties:

3 (1) overseeing the recruitment and retention of SANEs in the state of
4 Vermont;

5 (2) administering a statewide training program, including:

6 (A) the initial SANE certification training;

7 (B) ongoing training to ensure currency of practice for SANEs; and

8 (C) advanced training programs as needed;

9 (3) providing consultation and technical assistance to SANEs and
10 hospitals regarding the standardized sexual assault protocol; and

11 (4) providing training and outreach to criminal justice and community-
12 based agencies as needed.

13 § 1624. SANE BOARD; DUTIES

14 (a) A person licensed under this chapter may obtain a specialized
15 certification as a sexual assault nurse examiner if he or she demonstrates
16 compliance with the requirements for specialized certification as established by
17 the SANE board by rule.

18 (b) The SANE board shall adopt the following by rule:

19 (1) educational requirements for obtaining specialized certification as a
20 sexual assault nurse examiner and statewide standards for the provision of
21 education;

1 (2) continuing education requirements and clinical experience necessary
2 for maintenance of the SANE specialized certification;

3 (3) a standardized sexual assault protocol and kit to be used by all
4 physicians or hospitals in this state when providing forensic examinations of
5 victims of alleged sexual offenses;

6 (4) a system of monitoring for compliance; and

7 (5) processes for investigating complaints, revoking certification, and
8 appealing decisions of the board.

9 (c) The SANE board may investigate complaints against a sexual assault
10 nurse examiner and may revoke certification as appropriate.

11 Sec. 144. 26 V.S.A. chapter 62 is added to read:

12 CHAPTER 62. ALCOHOL AND DRUG ABUSE COUNSELORS

13 § 3231. DEFINITIONS

14 As used in this chapter:

15 (1) “Alcohol and drug abuse counselor” means a person who engages in
16 the practice of alcohol and drug abuse counseling for compensation.

17 (2) “Commissioner” means the commissioner of the department of
18 health.

19 (3) “Deputy commissioner” means the deputy commissioner of the
20 division of alcohol and drug abuse programs.

1 (4) “Disciplinary action” means any action taken by the administrative
2 law officer appointed pursuant to 3 V.S.A. § 129(j) against a licensee or
3 applicant based on a finding of unprofessional conduct by the licensee or
4 applicant. “Disciplinary action” includes issuance of warnings and all
5 sanctions, including denial, suspension, revocation, limitation, or restriction of
6 licenses and other similar limitations.

7 (5) “Practice of alcohol and drug abuse counseling” means the
8 application of methods, including psychotherapy, which assist an individual or
9 group to develop an understanding of alcohol and drug abuse dependency
10 problems and to define goals and plan actions reflecting the individual’s or
11 group’s interests, abilities, and needs as affected by alcohol and drug abuse
12 dependency problems and co-morbid conditions.

13 (6) “Supervision” means the oversight of a person for the purposes of
14 teaching, training, or clinical review by a professional in the same area of
15 specialized practice.

16 § 3232. PROHIBITION; PENALTIES

17 (a) No person shall perform any of the following acts:

18 (1) Practice or attempt to practice alcohol and drug abuse counseling
19 without a valid license issued in accordance with this chapter, except as
20 otherwise provided in section 3233 of this title.

1 (2) Use in connection with the person's name any letters, words, or
2 insignia indicating or implying that the person is an alcohol and drug abuse
3 counselor, unless the person is licensed in accordance with this chapter.

4 (b) A person who violates any of the provisions of this section shall be
5 subject to the penalties provided in 3 V.S.A. § 127(c).

6 § 3233. EXEMPTIONS

7 The provisions of subdivision 3232(a)(1) of this chapter, relating to the
8 practice of alcohol and drug abuse counseling, shall not apply to:

9 (1) The activities and services of a rabbi, priest, minister, Christian
10 Science practitioner, or clergy of any religious denomination or sect when
11 engaging in activities that are within the scope of the performance of the
12 person's regular or specialized ministerial duties and for which no separate
13 charge is made, or when these activities are performed, with or without charge,
14 for or under the auspices or sponsorship, individually or in conjunction with
15 others, of an established and legally recognizable church, denomination, or
16 sect, and when the person rendering services remains accountable to the
17 established authority of that church, denomination, or sect.

18 (2) The activities and services of a person licensed, certified, or
19 registered under other laws of this state while acting within the scope of his or
20 her profession or occupation, provided the person does not hold himself or
21 herself out to the public as possessing a license issued pursuant to this chapter.

1 (3) The activities and services of a student intern or trainee in alcohol
2 and drug abuse counseling who is pursuing a course of study in an accredited
3 institution of higher education or a training course approved by the director,
4 provided these activities are performed under supervision of and constitute a
5 part of an approved course of study.

6 (4) The activities and services of approved alcohol and drug counselors
7 who are working under the supervision of a licensed alcohol and drug abuse
8 counselor.

9 (5) A person acting as a member of a voluntary group of individuals
10 who offer peer support to each other in recovering from an addiction.

11 § 3234. COORDINATION OF PRACTICE ACTS

12 Notwithstanding any provision of law to the contrary, a person may practice
13 psychotherapy when acting within the scope of a license granted under this
14 chapter, provided he or she does not hold himself or herself out as a
15 practitioner of a profession for which he or she is not licensed.

16 § 3235. DEPUTY COMMISSIONER; DUTIES

17 (a) The deputy commissioner shall:

18 (1) Provide general information to applicants for licensure as alcohol
19 and drug abuse counselors.

20 (2) Administer fees collected under this chapter.

21 (3) Administer examinations.

1 (4) Explain appeal procedures to licensees and applicants for licensure.

2 (5) Receive applications for licensure under this chapter; issue and
3 renew licenses; and revoke, suspend, reinstate, or condition licenses as ordered
4 by an administrative law officer.

5 (6) Contract with the office of professional regulation to adopt and
6 explain complaint procedures to the public, manage case processing,
7 investigate complaints, and refer adjudicatory proceedings to an administrative
8 law officer.

9 (b) The commissioner of health, with the advice of the deputy
10 commissioner, may adopt rules necessary to perform the deputy
11 commissioner's duties under this section.

12 § 3236. ELIGIBILITY

13 To be eligible for licensure as an alcohol and drug abuse counselor, an
14 applicant shall:

15 (1) Have received a master's degree or doctorate in a human services
16 field from an accredited educational institution, including degrees in
17 counseling, social work, psychology, or in an allied mental health field, or a
18 master's degree or higher in a health care profession regulated under this title
19 or Title 33, after having successfully completed a course of study with course
20 work, including theories of human development, diagnostic and counseling

1 techniques, and professional ethics, and which includes a supervised clinical
2 practicum.

3 (2) Have been awarded an approved counselor credential from the
4 division of alcohol and drug abuse programs in accordance with rules adopted
5 by the commissioner.

6 § 3237. APPLICATION

7 An individual may apply for a license under this chapter by filing, with the
8 deputy commissioner, an application provided by the deputy commissioner.
9 The application shall be accompanied by the required fees and evidence of
10 eligibility.

11 § 3238. BIENNIAL RENEWALS

12 (a) Licenses shall be renewed every two years upon payment of the
13 required fee, provided the person applying for renewal completes at least 40
14 hours of continuing education, approved by the deputy commissioner, during
15 the preceding two-year period. The deputy commissioner shall establish, by
16 rule, guidelines and criteria for continuing education credit.

17 (b) Biennially, the deputy commissioner shall forward a renewal form to
18 each license holder. Upon receipt of the completed form and the renewal fee,
19 the deputy commissioner shall issue a new license.

1 (c) Any application for renewal of a license which has expired shall be
2 accompanied by the renewal fee and a reinstatement fee. A person shall not be
3 required to pay renewal fees for years during which the license was lapsed.

4 (d) The commissioner of health may, after notice and opportunity for
5 hearing, revoke a person's right to renew a license if the license has lapsed for
6 five or more years.

7 § 3239. UNPROFESSIONAL CONDUCT

8 The following conduct and the conduct set forth in 3 V.S.A. § 129a, by a
9 person authorized to provide alcohol and drug abuse services under this
10 chapter or an applicant for licensure, constitutes unprofessional conduct:

11 (1) Violation of any provision of this chapter or rule adopted under this
12 chapter.

13 (2) Failing to use a complete title in professional activity.

14 (3) Conduct which evidences moral unfitness to practice alcohol and
15 drug abuse counseling.

16 (4) Negligent, incompetent, or wrongful conduct in the practice of
17 alcohol and drug abuse counseling.

18 (5) Harassing, intimidating, or abusing a client.

19 (6) Agreeing with any other person or organization, or subscribing to
20 any code of ethics or organizational bylaws, when the intent or primary effect

1 of that agreement, code, or bylaw is to restrict or limit the flow of information
2 concerning alleged or suspected unprofessional conduct to the director.

3 § 3240. REGULATORY FEE FUND

4 (a) An alcohol and drug counselor regulatory fee fund is created. All
5 counselor licensing and examination fees received by the division shall be
6 deposited into the fund, and used to offset the costs incurred by the division for
7 these purposes and for the costs of investigations and disciplinary proceedings.

8 (b) To ensure that revenues derived by the division are adequate to offset
9 the cost of regulation, the commissioner of health and the deputy
10 commissioner shall review fees from time to time, and present proposed fee
11 changes to the general assembly.

12 § 3241. FEES

13 In addition to the fees otherwise authorized by law, the deputy
14 commissioner may charge the following fees:

15 (1) Late renewal penalty, \$25.00 for a renewal submitted less than 30
16 days late. Thereafter, the deputy commissioner may increase the late renewal
17 penalty by \$5.00 for every additional month or fraction of a month, provided
18 that the total penalty for a late renewal shall not exceed \$100.00.

19 (2) Reinstatement of revoked or suspended license, \$20.00.

20 (3) Replacement of license, \$20.00.

21 (4) Verification of license, \$20.00.

1 (5) An examination fee established by the deputy commissioner, which
2 shall be no greater than the costs associated with examinations.

3 (6) Licenses granted under rules adopted pursuant to 3 V.S.A.
4 § 129(a)(10), \$20.00.

5 (7) Application for registration, \$75.00.

6 (8) Application for licensure or certification, \$100.00.

7 (9) Biennial renewal, \$135.00.

8 (10) Limited temporary license or work permit, \$50.00.

9 Sec. 145. 28 V.S.A. § 3(1) is amended to read:

10 (1) “Child” means any person:

11 (A) Charged with having committed a delinquent act as defined in
12 ~~section 5502 of Title 33~~ V.S.A. § 5102 or adjudicated a delinquent and
13 committed to the custody of the commissioner;

14 (B) Charged with being or adjudicated unmanageable as defined in
15 ~~section 5502 of Title 33~~ by 33 V.S.A. § 5102 (3)(C) and (D), and committed to
16 the custody of the commissioner ~~of social and rehabilitation services~~ for
17 children and families and subsequently transferred to the custody of the
18 commissioner;

19 ~~(C) Who has been admitted to the Weeks School upon application~~
20 ~~pursuant to sections 1151 and 1152 of this title;~~

1 Sec. 146. 28 V.S.A. § 702(a) is amended to read:

2 (a) The commissioner may transfer any inmate committed to his or her
3 custody between any of the correctional facilities except that the commissioner
4 shall not have the authority to transfer a child, as defined in this title, to any
5 facility except in accordance with ~~section 5530 of Title 33~~ V.S.A. § 5293.

6 Sec. 147. 28 V.S.A. § 1003 is amended to read:

7 § 1003. COMMITMENTS

8 When process is delivered to an officer to serve, requiring the officer to
9 commit a person to jail to await examination or trial before a district or
10 superior court, if the order for commitment was made within the limits of a
11 town, incorporated village or a county maintaining a lockup, that person may
12 be committed for not more than 72 hours unless the time is extended by court
13 order, to the lockup and be subject to the restraints and entitled to the
14 privileges provided by law for persons confined in a correctional facility. A
15 person under 18 years of age charged or convicted of a misdemeanor may not
16 be detained in a lockup used to house inmates over 18 years of age, except as
17 provided in ~~section 5530 of Title 33~~ V.S.A. § 5293.

1 Sec. 148. 28 V.S.A. § 1101 is amended to read:

2 § 1101. POWERS AND RESPONSIBILITIES OF THE COMMISSIONER
3 REGARDING JUVENILE SERVICES

4 The commissioner is charged with the following powers and responsibilities
5 regarding the administration of juvenile services:

6 (1) To provide appropriate, separate facilities for the custody and
7 treatment of children committed to his or her custody in accordance with the
8 laws of the state;

9 (2) To supervise and administer and oversee the maintenance of the
10 facilities, in accordance with the various powers and responsibilities
11 established in the office of commissioner by this title, by 33 V.S.A. chapter 55
12 ~~of Title 33 52~~ and by 3 V.S.A. § §§ 3052 and 3053;

13 (3) To advise, upon request and in his or her discretion, local, state and
14 federal officials and public and private agencies and lay groups on the needs
15 for and possible methods of the reduction and prevention of delinquency and
16 the treatment of delinquents;

17 (4) To cooperate with other agencies whose services deal with the care
18 and treatment of delinquents to the end that children who are committed to the
19 custody of the commissioner may wherever possible be assisted to a successful
20 adjustment outside of institutional care;

1 conflict, the substantive changes in other acts shall take precedence over the
2 technical changes in this act.

3 Sec. 151. EFFECTIVE DATES

4 (a) Secs. 17 (repeal of alcohol and drug abuse provisions in 33 V.S.A.
5 chapters 7 and 8) and 131 (enacting alcohol and drug abuse provisions in
6 18 V.S.A. chapter 94) of this act shall take effect on July 1, 2012.

7 (b) Sec. 108 (1 V.S.A. § 145) of this act shall take effect on passage and
8 shall apply to all statutes in effect as of such date and to all statutes enacted,
9 amended, or otherwise effective on or after such date.

10 (c) The remaining sections of this act, including this section, shall take
11 effect on passage.