Senate Calendar

THURSDAY, APRIL 05, 2012

SENATE CONVENES AT: 1:30 P.M.

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Favorable with Proposal of Amendment

CONCURRENT RESOLUTIONS FOR NOTICE

ORDERS OF THE DAY

ACTION CALENDAR

NEW BUSINESS

Third Reading

H. 21.

An act relating to the mutual benefit enterprise act.

H. 413.

An act relating to creating a civil action against those who abuse, neglect, or exploit a vulnerable adult.

Second Reading

Favorable with Proposal of Amendment

H. 752.

An act relating to permitting stormwater discharges in impaired watersheds.

Reported favorably with recommendation of proposal of amendment by Senator McCormack for the Committee on Natural Resources and Energy.

The Committee recommends that the Senate propose to the House to amend the bill in Sec. 2, 27 V.S.A. § 613, by striking out "January 15, 2016" where it appears in subdivision (b)(2) and inserting in lieu thereof June 30, 2016

(Committee vote: 5-0-0)

(No House amendments.)

NOTICE CALENDAR

Second Reading

Favorable with Recommendation of Amendment

S. 99.

An act relating to agricultural economic development.

Reported favorably with recommendation of amendment by Senator Ashe for the Committee on Economic Development, Housing and General Affairs.

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

Sec. 1. FINDINGS AND PURPOSE

The general assembly finds:

(1) The damage resulting throughout Vermont from both the 2011 spring flooding and from Tropical Storm Irene had a devastating impact in many areas on mobile homes and mobile home parks.

(2) Given that mobile homes represent one of few available affordable housing options in the state, these storms caused significant hardship for many lower and middle income Vermonters whose homes were damaged or destroyed.

(3) Although the local, state, and federal housing and disaster relief officials have worked cooperatively throughout the recovery, questions on authority to issue condemnation letters to homeowners who could then apply for FEMA assistance may have cost some homeowners the opportunity for significant federal reimbursement for their destroyed homes.

(4) Given the economic costs endured by mobile home owners, it is appropriate at this time to exempt the purchase of mobile homes from sales and use tax, local option sales tax, and property transfer tax when such homes are purchased to replace homes destroyed by recent flooding and natural disasters.

(5) During the course of exploring the issues surrounding the impacts of these disasters, it is apparent that mobile home owners and mobile home park owners face unique economic pressures, and more assistance should be focused to facilitate the availability and ownership of modern, safe, mobile homes and the availability of suitable lots, and to facilitate the sale of parks to residents or nonprofit entities in order to preserve affordability and availability of housing.

(6) It is the purpose of this act to focus state, municipal, and private resources on assisting mobile home owners recovering from the storms, and on ensuring that in the long term, Vermonters have an adequate supply of safe, affordable housing.

Sec. 2. 10 V.S.A. chapter 153 is amended to read:

CHAPTER 153. MOBILE HOME PARKS

§ 6201. DEFINITIONS

As used in this chapter, unless the context requires otherwise:

(1) "Mobile home" means:

(A) a structure or type of manufactured home, including the plumbing, heating, air-conditioning, and electrical systems contained in the structure, that is:

(i) built on a permanent chassis ~~and is~~;

(ii) designed to be used as a dwelling with or without a permanent foundation~~, includes plumbing, heating, cooling, and electrical systems, and is:~~ when connected to the required utilities;

~~(A)~~(iii) transportable in one or more sections; and

~~(B)~~(iv)(I) at least eight feet wide ~~or~~, 40 feet long, or when erected has at least 320 square feet; or

(II) if the structure was constructed prior to June 15, 1976, at least eight feet wide or 32 feet long; or

~~(C)~~(B) any structure that meets all the requirements of this subdivision (1) except ~~for~~ the size requirements, and for which the manufacturer voluntarily files a certification required by the U.S. Department of Housing and Urban Development and complies with the construction and safety standards established under Title 42 of the U.S. Code.

* * *

(4) ~~"Commission" means the advisory commission on manufactured homes, established under section 6202 of this title.~~ [Repealed.]

* * *

(8) "Department" means the ~~department of housing and community affairs~~ department of economic, housing and community development.

(9) "Good faith" means honesty in fact and the observance of reasonable standards and fair dealing, such that each party shall respond promptly and fairly to offers from the other party.

(10) ~~[Expired.]~~ "Lot rent" means a charge assessed on a mobile home park resident for the occupancy of a mobile home lot, but does not include charges permitted under section 6238 of this title.

(11) "Commissioner" means the commissioner of ~~housing and community affairs~~ economic, housing and community development.

* * *

§ 6231. RULES

(a) [Deleted.]

(b) The department may adopt rules to carry out the provisions ~~of sections 6236-6243~~ of this ~~title~~ chapter.

(c) A mobile home park that has been closed pursuant to section 6237a of this title and reduced to no more than two occupied leased lots, shall be required, if the number of occupied leased lots subsequently is increased to more than two, to obtain all state land use and environmental permits required

for a mobile home park that has been established or expanded after May 31, 1970.

§ 6236. LEASE TERMS; MOBILE HOME PARKS

* * *

(e) All mobile home lot leases shall contain the following:

* * *

(3) Notice that the park owner shall not discriminate for reasons of race, religious creed, color, sex, sexual orientation, gender identity, marital status, ~~handicap~~ disability, ~~or~~ national origin, or because a person is a recipient of public assistance.

(4) Notice that the park owner shall not discriminate based on age or the presence of one or more minor children in the household, except as permitted under 9 V.S.A. § 4503(b) and (c). If age restrictions exist in all or part of a park, the specific restrictions and geographic sections in which restrictions apply shall be documented in the lease.

* * *

§ 6237. EVICTIONS

(a) A leaseholder may be evicted only for nonpayment of rent or for a substantial violation of the lease terms of the mobile home park, or if there is a change in use of the park land or parts thereof or a termination of the mobile home park, and only in accordance with the following procedure:

* * *

(4) A substantial violation of the lease terms, other than an uncured nonpayment of rent, will be insufficient to support a judgment of eviction unless the proceeding is commenced within 60 days of the last alleged violation. A substantial violation of the lease terms based upon criminal activity will be insufficient to support a judgment of eviction unless the proceeding is commenced no later than 60 days after arraignment.

* * *

§ 6237a. MOBILE HOME PARK CLOSURES

* * *

(b) Prior to issuing a closure notice pursuant to subsection (a) of this section, a park owner shall first ~~notify all mobile home owners of the park owner's~~ issue a notice of intent to sell in accordance with section 6242 of this title that discloses the potential closure of the park. However, if the park owner sends a notice of closure to the residents and leaseholders without first

providing the mobile home owners with a notice of ~~sale~~ intent to sell under section 6242 that discloses the potential closure of the park, then the park owner must retain ownership of the land for five years after the date the closure notice was provided. If required, the park owner shall record the notice of the five-year restriction in the land records of the municipality in which the park is located. The park owner may apply to the commissioner for relief from the notice and holding requirements of this subsection if the commissioner determines that strict compliance is likely to cause undue hardship to the park owner or the leaseholders, or both. This relief shall not be unreasonably withheld.

* * *

(d) A park owner who gives notice of intent to sell pursuant to section 6242 of this title shall not give notice of closure until after:

(1) At least 45 days after giving notice of intent to sell.

(2) If applicable, the commissioner receives notice from the mobile home owners and the park owner that negotiations have ended following the ~~90-day~~ 120-day negotiation period provided in subdivision 6242(c)(1) of this title.

* * *

§ 6242. MOBILE HOME OWNERS' RIGHT TO NOTIFICATION PRIOR TO PARK SALE

(a) Content of notice. A park owner shall give to each mobile home owner and to the commissioner of the department of economic, housing and community ~~affairs~~ development notice by certified mail of his or her intention to sell the mobile home park. Nothing herein shall be construed to restrict the price at which the park owner offers the park for sale. The notice shall state all the following:

(1) That the park owner intends to sell the park.

(2) The price, terms, and conditions under which the park owner offers the park for sale.

(3) A list of the affected mobile home owners and the number of leaseholds held by each.

(4) The status of compliance with applicable statutes, regulations and permits, to the park owner's best knowledge, and the reasons for any noncompliance.

(5) That for 45 days following the notice the park owner shall not make a final unconditional acceptance of an offer to purchase the park and that if within the 45 days the park owner receives notice pursuant to subsection (c) of

this section that a majority of the mobile home owners intend to consider purchase of the park, the park owner shall not make a final unconditional acceptance of an offer to purchase the park for an additional ~~90~~ 120 days, starting from the 46th day following notice, except one from a group representing a majority of the mobile home owners or from a nonprofit corporation approved by a majority of the mobile home owners.

(b) Resident intent to negotiate; timetable. The mobile home owners shall have 45 days following notice under subsection (a) of this section in which to determine whether they intend to consider purchase of the park through a group representing a majority of the mobile home owners or a nonprofit corporation approved by a majority of the mobile home owners. A majority of the mobile home owners shall be determined by one vote per leasehold and no mobile home owner shall have more than three votes or 30 percent of the aggregate park vote, whichever is less. During this 45-day period, the park owner shall not accept a final unconditional offer to purchase the park.

(c) Response to notice; required action. If the park owner receives no notice from the mobile home owners during the 45-day period or if the mobile home owners notify the park owner that they do not intend to consider purchase of the park, the park owner has no further restrictions regarding sale of the park pursuant to this section. If during the 45-day period, the park owner receives notice in writing that a majority of the mobile home owners intend to consider purchase of the park then the park owner shall do all the following:

(1) Not accept a final unconditional offer to purchase from a party other than leaseholders for ~~90~~ 120 days following the 45-day period, a total of ~~135~~ 165 days following the notice from the leaseholders.

(2) Negotiate in good faith with the group representing a majority of the mobile home owners or a nonprofit corporation approved by a majority of the mobile home owners concerning purchase of the park.

(3) Consider any offer to purchase from a group representing a majority of the mobile home owners or from a nonprofit corporation approved by a majority of the mobile home owners.

* * *

(f) Relief from additional notice requirement. ~~No additional notice pursuant to subsection (a) of this section shall be required if the sale is in compliance with either of the following~~ A notice of intent to sell issued pursuant to subsection (a) of this section shall be valid for a period of one year from the expiration of the 45-day period following the date of the notice, and a new notice shall not be required under subsection (a) if:

(1) The park owner completes a sale of the park within one year from the expiration of the 45-day period following the date of the notice and the sale price is either of the following:

(A) No ~~less than~~ more than five percent below the price for which the park was offered for sale pursuant to subsection (a) of this section.

(B) ~~Substantially higher than~~ More than five percent above the final written offer from a group representing a majority of the mobile home owners or a nonprofit corporation approved by a majority of the mobile home owners.

(2) The park owner has not completed a sale of the park but has entered into a binding purchase and sale agreement with a group representing a majority of the mobile home owners or a nonprofit corporation approved by a majority of the mobile home owners ~~with a closing date later than one year from~~ within one year from the expiration of the 45-day period following the date of the notice.

* * *

§ 6245. ILLEGAL EVICTIONS

(a) No park owner may ~~wilfuly~~ willfully cause, directly or indirectly, the interruption or termination of any utility service to a mobile home except for temporary interruptions for necessary repairs.

(b) No park owner may directly or indirectly deny a leaseholder access to and possession of ~~a mobile home~~ the leaseholder's leased premises, except through proper judicial process.

(c) No park owner may directly or indirectly deny a leaseholder access to and possession of the leaseholder's ~~rented or leased~~ mobile home and personal property, except through proper judicial process.

* * *

§ 6251. MOBILE HOME LOT RENT INCREASE; NOTICE; MEETING

(a) A mobile home park owner shall provide written notification on a form provided by the department to the commissioner and all the affected mobile home park leaseholders of any lot rent increase no later than 60 days before the effective date of the proposed increase. The notice shall include all the following:

(1) The amount of the proposed lot rent increase, including any amount of the increase that is attributable to a surcharge for any capital improvements of the mobile home park pursuant to subsection (b) of this section, the estimated cost~~, which includes interest,~~ of the capital improvements, and the proposed duration of the surcharge prorated in 12-month increments sufficient to recover the estimated cost of the capital improvements.

(2) The effective date of the increase.

(3) A copy of the mobile home park leaseholder's rights pursuant to this section and sections 6252 and 6253 of this title.

(4) ~~[Deleted.]~~ The percentage of increase from the current base lot rent.

* * *

§ 6254. REGISTRATION OF MOBILE HOME PARKS; REPORT

(a) No later than September 1 each year, each park owner shall register with the department on a form provided by the department. The form shall include the following information:

* * *

(8) The lot rent to be charged for each lot as ~~of the preceding~~ scheduled for October 1 of that year, and the effective date of that lot rent charge.

* * *

* * * Affordable Housing Tax Credit * * *

Sec. 3. 32 V.S.A. § 5930u(g) is amended to read:

(g) In any fiscal year, the allocating agency may award up to $400,000.00 in total first-year credit allocations to all applicants for rental housing projects; and may award up to ~~$100,000.00~~ $300,000.00 per year for owner-occupied unit applicants. In any fiscal year, total first-year allocations plus succeeding-year deemed allocations shall not exceed ~~$2,500.000.00~~ $3,500.000.00.

* * * DEHCD Study and Planning * * *

Sec. 4. DEHCD STUDIES; LONG-RANGE PLANNING FOR THE VIABILITY AND DISASTER RESILIENCY OF MOBILE HOME OWNERSHIP AND PARKS

(a) The department of economic, housing and community development shall, in collaboration with other organizations and interested stakeholders, develop a plan for the future viability and disaster resiliency of mobile home ownership and parks.

(b) The plan shall:

(1) With input from the agency of natural resources, identify parks vulnerable to natural hazards such as flooding and develop a strategy for improving their safety and resiliency through education, emergency planning, mitigation measures, reconfiguration, and relocation.

(2) Identify barriers to mobile home ownership including the availability of financing and mortgage insurance and recommend methods for the state to

assist, including coordinating with USDA Rural Development to extend its pilot program under the section 502 direct loan and guarantee loan programs and working with public, private, and nonprofit entities to develop solutions.

(3) Address the potential loss of mobile home parks and affordability due to sale, closure, or natural disaster by recommending actions to encourage resident or nonprofit purchase and ownership and the creation of new mobile home parks or lots through technical assistance and planning guidance to municipalities and developers.

(4) Assess other housing designs as alternatives to mobile homes that are affordable when all related costs, such as siting, water and sewer, and energy use are taken into consideration.

Sec. 5. 20 V.S.A. § 2731(k) is added to read:

(k) Building codes. Pursuant to his or her authority under this section, the commissioner of public safety shall:

(1) Develop and maintain on the department website a graphic chart or grid depicting categories of construction, including new construction, major rehabilitation, change of use, and additions, and the respective building codes that apply to each category.

(2) Whenever practicable and appropriate, offer the opportunity to construction and design professionals to participate in division of fire safety staff training.

(3) Update building codes on three-year cycles, consistent with codes developed by code-writing authorities, to keep pace with technology, products, and design.

(4) Create a publicly accessible database of decisions that are decided on appeal to the commissioner.

(5) Apply the International Building Code (IBC) to new construction.

Sec. 6. 9 V.S.A. § 2461b(h) is added to read:

(h)(1) The owner of a propane storage tank shall anchor the tank or affix the tank to a structure or other fixture to ensure the safety of persons and property in the event of a flood or other natural disaster.

(2) In the event a propane storage tank becomes unsecured due to flood or other natural disaster, the owner of the tank shall be responsible for the recovery and, if applicable, appropriate disposal of the tank and its contents.

Sec. 7. 9 V.S.A. § 4503 is amended to read:

§ 4503. UNFAIR HOUSING PRACTICES

(a) It shall be unlawful for any person:

* * *

(12) To discriminate in land use decisions or in the permitting of housing because of race, sex, sexual orientation, gender identity, age, marital status, religious creed, color, national origin, disability, the presence of one or more minor children, income, or except as otherwise provided by law.

* * *

Sec. 8. 24 V.S.A. § 4412 is amended to read:

§ 4412. REQUIRED PROVISIONS AND PROHIBITED EFFECTS

Notwithstanding any existing bylaw, the following land development provisions shall apply in every municipality:

(1) Equal treatment of housing and required provisions for affordable housing.

(A) No bylaw nor its application by an appropriate municipal panel under this chapter shall have the effect of excluding housing that meets the needs of the population as determined in the housing element of its municipal plan as required under subdivision 4382(a)(10) of this title or the effect of discriminating in the permitting of housing as specified in 9 V.S.A. § 4503.

* * *

* * * Allocation of Rental Housing Subsidies by State Entities (VSHA) * * *

Sec. 9. ADMINISTRATION OF RENTAL HOUSING SUBSIDIES; FINDINGS AND PURPOSE

The general assembly finds:

(1) Administration of rental housing subsidies in Vermont, including federal housing funds, is a public and essential governmental function to be focused primarily on assuring safe and decent housing for low and moderate income persons without undue regard for the generation of profit or surplus.

(2) In recent years, private entities, including nominally private entities controlled by public jurisdictions from other states, have sought contracts to administer allocations of federal rental subsidies throughout the United States.

(3) To the maximum extent permitted by applicable law, it is the purpose of Sec. 10 of this act to limit the administrative control of federal rental subsidies to state of Vermont public bodies.

Sec. 10. 24 V.S.A. § 4005(e) is added to read:

(e) Notwithstanding any provision of law, no person, domestic or foreign, shall be authorized to administer allocations of money under 42 U.S.C.A. § 1437a or 1437f or other federal statute authorizing rental subsidies for the benefit of persons of low or moderate income, except:

(1) a subcontractor of the state authority; or

(2) a state public body authorized by law to administer such allocations.

* * * Expedited Removal of Mobile Home by Municipality * * *

Sec. 11. 9 V.S.A. § 2608 is added to read:

§ 2608. MUNICIPAL ACTION FOR SALE OF ABANDONED MOBILE HOME

(a) In the alternative to the process for foreclosure of a tax lien on a mobile home pursuant to 32 V.S.A. chapter 133, a municipality shall have the authority to commence an action to sell at public auction an abandoned mobile home located within the municipality pursuant to this section.

(b) A municipality shall file a verified complaint in the civil division of the superior court for the county in which the municipality is located, which shall be entitled "In re: Abandoned Mobile Home of [name of owner]," and shall include the following information:

(1) The physical location and address of the mobile home.

(2) The name and last known mailing address of the owner of the mobile home.

(3) A description of the mobile home, including make, model, and serial number, if available.

(4) The names and addresses of creditors, holders of housing subsidy covenants, or others having an interest in the mobile home based on liens or notices of record in the municipality offices or the office of the secretary of state.

(5) The facts supporting the claim that the mobile home has been abandoned.

(6) The name of a person disinterested in the mobile home or of a municipality employee who will be responsible for the sale of the mobile home at a public auction.

(7) A statement of the amount of taxes, fees, and other charges due or which will become due to the municipality.

(8) If the mobile home is located on leased land, the name and address of the landowner.

(c) A municipality may request an order approving transfer of a mobile home which is unfit for human habitation to the municipality without a public sale by filing a verified complaint containing the information required in subsection (a) of this section and the facts supporting the claim that the mobile home is unfit for human habitation.

(d) When a verified complaint is filed under this section, the clerk of the civil division of the superior court shall set a hearing to be held at least 15 days but no later than 30 days after the filing of the complaint.

(e) Within five days after filing the verified complaint, the municipality shall post a copy of the verified complaint and order for hearing on the mobile home and send a copy of the verified complaint and order for hearing by certified mail, return receipt requested, to the mobile home owner's last known mailing address, to the landowner if the mobile home is located on leased land, and to all lien-holders of record.

(f) The municipality shall publish the verified complaint and order for hearing in a newspaper of general circulation in the municipality where the mobile home is located. The notice shall be published no later than five calendar days before the date of hearing.

(g) If prior to or at the hearing any lien-holder certifies to the court that the lien-holder has paid to the municipality all taxes, charges, and fees due the municipality and will commence or has commenced proceedings to enforce the lien and will continue to pay municipal taxes, charges, and fees during the proceedings under this section, the court shall, upon confirmation of the representations of the lien-holder, stay the action under this section pending completion of the lien-holder's action.

(h) At the hearing, the municipality shall prove ownership of the mobile home; abandonment of the mobile home; the amount of taxes, fees, and other charges due the municipality; and the amount of attorney fees claimed. The municipality shall also prove compliance with the notice requirements of subsections (e) and (f) of this section. Whether a mobile home is abandoned shall be a question of fact determined by the court.

(i) If the court finds that the municipality has complied with subsection (h) of this section, the court shall enter an order approving the sale of the mobile home at a public auction to be held within 15 days of the date of the order. The municipality shall send the order by first-class mail to the mobile home owner, to the landowner if the mobile home is located on leased land, and to all lien-holders of record. The order shall require all the following:

(1) That the sale shall be conducted by the person identified in the verified complaint or some other person approved by the court.

(2) That notice of the sale shall be published in a newspaper of general circulation in the municipality where the mobile home is located and sent by first-class mail to the mobile home owner, to the landowner if the mobile home is located on leased land, and to all lien-holders of record. The notice of sale shall be published two times, at least five days apart with the second publication being no later than three calendar days before the date of sale.

(3) That the terms of sale provide for conveyance of the mobile home by real estate deed or by uniform mobile home bill of sale, as appropriate under this chapter, executed on behalf of the mobile home owner pursuant to the order of the court by the person authorized by the court, in "as is" condition, and free and clear of all liens and other encumbrances of record.

(4) A minimum bid established by the court sufficient to cover the total costs listed in subdivisions (7)(A)–(D) of this subsection. The mobile home shall be sold to the highest bidder over the minimum bid set by the court; provided, however, that if no bid meets or exceeds the minimum bid set by the court, the court shall order transfer of the mobile home to the municipality upon payment of costs due to the person who conducted the sale.

(5) The successful bidder, if other than the municipality:

(A) shall make full payment at the auction if the bid does not exceed $2,000.00; or

(B) if the bid exceeds $2,000.00, shall provide a nonrefundable deposit at the time of the auction of at least $2,000.00 or 25 percent of the bid, whichever is greater, and shall make full payment within three working days after the auction.

(6) A successful bidder, if other than the municipality, shall remove the mobile home from its current location within five working days after the auction unless the municipality permits the mobile home to remain on the site or permits removal of the mobile home at a later date. If the mobile home is located on leased land, the mobile home shall be removed within five days unless the landowner grants permission to the successful bidder, including the municipality, for the mobile home to remain on the leased land.

(7) The person who conducted the public sale shall report to the court the results of the sale, the proposed distribution of the proceeds of the sale, and the bank in which any excess proceeds are deposited and shall send a copy of the report to the mobile home owner, the municipality, the landowner if the mobile home is located on leased land, and all lien-holders of record by certified mail, return receipt requested, within three working days after the sale. Anyone claiming impropriety in the conduct of the sale may file an objection with the court within seven days after the sale. The filing of an objection shall not invalidate the sale or delay transfer of ownership of the

abandoned mobile home. If an objection is filed and if the court finds impropriety in the conduct of the sale, the court may order distribution of the proceeds of the sale as is fair, taking into account the impropriety. If no objection is filed with the court, on the eighth day after the sale, the proceeds shall be distributed as follows:

(A) To the person conducting the sale for costs of the sale.

(B) To the municipality for court costs, publication and mailing costs, and attorney fees incurred in connection with the action in an amount approved by the court.

(C) To the municipality for taxes, penalties, and interest owed in an amount approved by the court.

(D) To the landowner for unpaid lot rent if the mobile home is located on leased land.

(E) The balance to a bank account in the name of the mobile home municipality as trustee, for the benefit of the mobile home owner and lien-holders of record, to be distributed pursuant to further order of the court.

(j) Notwithstanding provisions of this section and 10 V.S.A. § 6249 (sale of abandoned mobile home by park owner) to the contrary, if an action is commenced by a municipality pursuant to this section and by a mobile home park owner pursuant to 10 V.S.A. § 6249 for the sale of the same abandoned mobile home within 30 days of one another, the court shall consolidate the cases and shall distribute the proceeds of a sale as follows:

(1) To the person conducting the sale for costs of the sale.

(2) To the municipality and the park owner equitably in the discretion of the court:

(A) for court costs, publication and mailing costs, and attorney fees incurred in connection with the action in an amount approved by the court;

(B) for taxes, penalties, and interest owed the municipality in an amount approved by the court; and

(C) for rent and other charges owed to the park owner in an amount approved by the court.

(3) The balance to a bank account in the name of the mobile home municipality as trustee for the benefit of the mobile home owner and lien-holders of record, to be distributed pursuant to further order of the court.

(k) If a municipality requests an order approving transfer of a mobile home to the municipality without a public sale, the court shall approve that order if it finds that the municipality has complied with subsection (h) of this section and

has proved that the mobile home is unfit for human habitation. In determining whether a mobile home is unfit for human habitation, the court shall consider whether the mobile home:

(1) contains functioning appliances and plumbing fixtures;

(2) contains safe and functioning electrical fixtures and wiring;

(3) contains a safe and functioning heating system;

(4) contains a weather-tight exterior closure;

(5) is structurally sound;

(6) is reasonably free of trash, debris, filth, and pests.

Sec. 12. 9 V.S.A. § 4462 is amended to read:

§ 4462. ABANDONMENT; UNCLAIMED PROPERTY

* * *

(d) Any personal property remaining in the dwelling unit or leased premises after the tenant has vacated may be disposed of by the landlord without notice or liability to the tenant or owner of the personal property, provided that one of the following has occurred:

(1) The tenant provided actual notice to the landlord that the tenant has vacated the dwelling unit ~~or~~, leased premises, or mobile home lot.

(2) The tenant has vacated the dwelling unit ~~or~~, leased premises, or mobile home lot at the end of the rental agreement.

(3) Fifteen days have expired following service of a writ of possession pursuant to 10 V.S.A. chapter 153, 11 V.S.A. chapter 13, or 12 V.S.A. chapter 169.

Sec. 13. SALES AND USE TAX HOLIDAYS FOR MOBILE HOMES

(a) Notwithstanding the provisions of 32 V.S.A. § 233 and 24 V.S.A. § 138, no sales and use tax, local option sales tax, or property transfer tax shall be imposed or collected on sales to individuals for mobile homes purchased after April 1, 2011 to replace a mobile home that was damaged or destroyed as a result of flooding and storm damage that occurred after that date.

(b) Any resident of Vermont who purchased a mobile home after August 28, 2011 and prior to the effective date of this act, and the mobile home was purchased to replace a mobile home that was damaged or destroyed as a result of Tropical Storm Irene, shall be entitled to a reimbursement in the amount of any sales and use tax, local option sales tax, or property transfer tax paid.

(c) The department of taxes may establish standards and procedures necessary to implement this section. The department of taxes shall reimburse taxpayers that qualify under subsection (b) of this section.

Sec. 14. APPROPRIATIONS

(a) The amount of $100,000.00 is appropriated from the general fund to the department of economic, housing and community development as follows:

(1) $50,000.00 for a grant to the Champlain Valley Office of Economic Opportunity to increase its ability to provide start-up and ongoing technical assistance to mobile home park residents interested in cooperative ownership of their parks.

(2) $50,000.00 to increase department staff for long-range planning for the preservation and replacement of mobile home parks noticed for sale or closure or damaged by flooding.

(b) The amount of $50,000.00 is appropriated from the general fund to the Vermont housing and conservation board's project feasibility fund to conduct financial feasibility and infrastructure needs analyses of mobile home parks noticed for sale or closure or damaged by flooding.

(c) The amount of $500,000.00 is appropriated from the settlement funds due the state under the joint state–federal settlement of claims with the five largest mortgage servicers arising from mortgage foreclosure practices to the department of economic, housing and community development to develop and implement with the Champlain Housing Trust, the Central Vermont Community Land Trust, Gilman Housing Trust, NeighborWorks of Western Vermont, and Windham & Windsor Housing Trust, and other stakeholders a program to help finance the purchase, repair, refinance, and replacement of up to 100 individual mobile homes. The department shall coordinate with the Champlain Housing Trust and other stakeholders to secure at minimum an additional $1,800,000.00 in grant capital to help fund the program from a variety of public and private sources, including equity from the sale of Vermont affordable housing tax credits, the Vermont community development block grant program, the Vermont Community Foundation, and the Vermont disaster relief fund.

(d)(1) The amount of $2,500,000.00 is appropriated to the department of economic, housing and community development to fund the following activities related to mobile home parks that will be maintained as affordable housing for low income Vermonters on a perpetual basis:

(A) the purchase of mobile home parks, including purchase by resident-owned cooperatives;

(B) infrastructure improvements; and

(C) disaster recovery, including relocation or replacement of mobile home parks damaged by flooding.

(2) The amount appropriated pursuant to this subsection shall come from the following sources:

(A) $500,000.00 from the settlement funds due the state under the joint state–federal settlement of claims with the five largest mortgage servicers arising from mortgage foreclosure practices; and

(B) $2,000,000.00 in state capital appropriations.

Sec. 15. AUTHORITY TO ISSUE LETTER OF CONDEMNATION

(a) Because repairs to homes damaged in natural disasters must be done in accordance with local codes and ordinances, the Federal Emergency Management Agency (FEMA) recognizes that there may be reasons for a local authority to deem a home condemned.

(b) According to FEMA policy, the letter must come from the jurisdictional authority and the condemnation notice of demolition must be disaster-related. FEMA then reviews each notice on a case-by-case basis for approval of replacement assistance up to the maximum award.

(c) Accordingly, for purposes of complying with FEMA policies and procedures, any state or local person or entity empowered to condemn property by statute, rule, regulation, ordinance, or similar legal authority shall qualify as a jurisdictional authority with all the necessary rights and powers to declare property to be condemned, provide notice of condemnation and demolition to FEMA or any other entity, and take such other steps as are necessary to ensure Vermonters are eligible for receiving the maximum amount of state and federal recovery assistance otherwise available.

Sec. 16. EFFECTIVE DATE

This act shall take effect on passage, except that Sec. 15 (authority to issue letter of condemnation) of this act shall apply retroactively to January 1, 2011.

and that when so amended the bill ought to pass, and that after passage the title of the bill be amended to read: "An act relating to supporting mobile home ownership, strengthening mobile home parks, and preserving affordable housing"

(Committee vote: 4-0-1)

Reported favorably with recommendation of amendment by Senator Cummings for the Committee on Finance.

The Committee recommends that the bill be amended by striking out Secs. 3, 6 and 13 in their entirety and by renumbering the remaining sections to be numerically correct.

(Committee vote: 7-0-0)

Reported favorably with recommendation of amendment by Senator Illuzzi for the Committee on Appropriations.

The Committee recommends that the bill be amended by striking Sec. 14 in its entirety and inserting in lieu thereof a new Sec. 14 to read as follows:

Sec. 14. PRIORITIES FOR MOBILE HOME INVESTMENTS

In the event that sources of funding are available for investments in securing mobile home infrastructure, expanding affordable ownership opportunities, and other activities consistent with the goals and purposes of this act, it is the intent of the general assembly to invest in the following priorities:

(1) Investment in the department of economic, housing and community development:

(A) for one or more grants to the Champlain Valley Office of Economic Opportunity to increase its ability to provide start-up and ongoing technical assistance to mobile home park residents interested in cooperative ownership of their parks.

(B) to increase department staff for long-range planning for the preservation and replacement of mobile home parks noticed for sale or closure or damaged by flooding.

(2) Investment in the Vermont housing and conservation board's project feasibility fund to conduct financial feasibility and infrastructure needs analyses of mobile home parks noticed for sale or closure or damaged by flooding.

(3) Investment in the department of economic, housing and community development to develop and implement with the Champlain Housing Trust, the Central Vermont Community Land Trust, Gilman Housing Trust, NeighborWorks of Western Vermont, Windham & Windsor Housing Trust, and other stakeholders a program to help finance the purchase, repair, refinance, and replacement of up to 100 individual mobile homes. The general assembly further recommends that the department coordinate with the Champlain Housing Trust and other stakeholders to secure additional grant capital to help fund the program from a variety of public and private sources.

(4) Investment in the department of economic, housing and community development to fund the following activities related to mobile home parks that will be maintained as affordable housing for low-income Vermonters on a perpetual basis:

(A) the purchase of mobile home parks, including purchase by resident-owned cooperatives;

(B) infrastructure improvements; and

(C) disaster recovery, including relocation or replacement of mobile home parks damaged by flooding.

(Committee vote: 5-0-2)

S. 142.

An act relating to pet merchants.

Reported favorably with recommendation of amendment by Senator White for the Committee on Government Operations.

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

Sec. 1. 20 V.S.A. § 3681 is amended to read:

§ 3681. PERMIT

(a) ~~The owner or keeper of two or more domestic pets or wolf-hybrids four months of age or older kept for sale or for breeding purposes, except for his or her own use,~~ A person who sells, exchanges, or donates or offers to sell, exchange, or donate for monetary consideration three or more litters of domestic pets or wolf-hybrids in a calendar year shall apply to the municipal clerk of the town or city in which the domestic pets or wolf-hybrids are kept for a kennel permit to be issued on forms prescribed by the commissioner and pay the clerk a fee of ~~$10.00~~ $25.00 for the same. The provisions of subchapters 1, 2, and 4 of this chapter not inconsistent with this subchapter, shall apply to the permit which shall be in addition to other permits required. A kennel permit shall expire on March 31 next after issuance, and shall be displayed prominently on the premises on which the domestic pets or wolf-hybrids are kept. If the permit fee is not paid by April 1, the owner or keeper may thereafter procure a permit for that license year by paying a fee of ~~fifty~~ 50 percent in excess of that otherwise required. Municipal clerks shall maintain a record of the type of animals being kept by the permit holder.

(b) A person possessing a kennel permit issued under this section must include the permit number in any form of advertising, including Internet advertising, a brochure, or a sign that announces the availability of an animal

for sale or exchange. The person's name and kennel permit number must be provided to the person purchasing or otherwise receiving an animal.

(c) The legislative body of a municipality may assess a penalty against any person who violates subsection (b) of this section.

Sec. 2. 20 V.S.A. § 3682 is amended to read:

§ 3682. INSPECTION OF PREMISES

These premises may be inspected at any ~~reasonable~~ time between 9:00 a.m. and 5:00 p.m. in the presence of or with the consent of the owner by a law enforcement officer, a representative of the agency of agriculture, food and markets, or an officer or agent of ~~an~~ a Vermont incorporated humane society and a veterinarian licensed to practice in Vermont, designated by such officer, agent or agency.

(Committee vote: 4-0-1)

Reported favorably by Senator Cummings for the Committee on Finance.

(Committee vote: 7-0-0)

S. 180.

An act relating to the universal service fund and establishment of a high-cost program.

Reported favorably with recommendation of amendment by Senator Cummings for the Committee on Finance.

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

Sec. 1. FINDINGS AND PURPOSE

(a) The general assembly finds:

(1) Incumbent local exchange carriers (ILECs) are obligated to provide broad-based access to telephone services, even in areas that are high cost, sparsely populated, or filled with subscribers of limited means.

(2) Traditionally, ILECs were rewarded with an exclusive franchise in return for carrying out their regulatory responsibilities in unprofitable areas.

(3) However, with increased competition in the telecommunications field, particularly in profitable areas, ILECs have less of an opportunity to cover the costs of serving unprofitable areas.

(4) Vermont has a state universal service fund which is currently used to support the lifeline and enhanced 911 programs. Funds are generated by an

end-user surcharge on all retail telecommunications service provided to a Vermont address.

(b) It is the purpose of this act to establish a new regulatory model under which ILECs can continue their costly responsibilities over wide areas and still have an opportunity to cover their costs, even in the presence of competitors.

* * * Universal Service Fund Studies * * *

Sec. 2. 30 V.S.A. § 7515 is amended to read:

§ 7515. HIGH-COST BASIC TELECOMMUNICATIONS SERVICE

(a) The general assembly intends that the universal service charge be used in the future as a means of keeping basic telecommunications service affordable in all parts of this state, thereby maintaining universal service. ~~In the future, and after this section has been amended by further act of legislation, payments may be made to reduce the cost of basic telecommunications service in areas where that cost would otherwise jeopardize universal service or uniform economic development.~~

(b) The commissioner of public service, in conjunction with the public service board, shall conduct a study of the costs and other factors affecting the delivery of local exchange service by the incumbent local exchange carriers (the providers of last resort). The study shall ~~be conducted either as an independent inquiry or as part of a proceeding or docket affecting other matters~~ include an informal workshop process to be conducted by the board. Such process shall be noticed to the general public and structured to allow written and verbal comments by the general public, service providers, public officials, and others as determined by the board. The study shall:

(1) After considering information on how various factors affect the costs of providing telecommunications service in Vermont and elsewhere, estimate the current costs and estimate, on a forward-looking basis, the differential costs of providing local exchange service to various customer groups throughout Vermont.

(2) Estimate the relationship between basic telecommunications service charges and universal service, and the threshold level beyond which universal residential service is likely to be harmed.

(3) Estimate the relationship between basic telecommunications service charges and opportunities for uniform economic development throughout the state, and the threshold prices beyond which such opportunities may be adversely affected.

(4) Estimate the potential effects of local exchange competition on uniform and affordable basic telecommunications service charges in all parts of the state.

(5) Examine policy options by which the cost to customers may be managed so as not to jeopardize universal service and the uniform economic development opportunities, including at least the following:

(A) establishing a maximum price for basic telecommunications service, beyond which customers would have access, without regard to income, to credits or vouchers negotiable for local exchange service from a local exchange provider or competitive access provider;

(B) broadening eligibility for the lifeline program; and

(C) establishing a mechanism to adjust the level of support for higher cost customers over time to reflect legal rights, recover historic costs, and reflect the advantages of improved technology and increased efficiency.

(6) Examine the actions, if any, of the Federal Communications Commission (FCC) in revising its universal service fund, and the need, if any, for additional action in Vermont. In particular, the study shall examine the impact on Vermont services caused by the FCC's report and order released November 18, 2011, which, among other things, expands the federal universal service fund to include broadband deployment in unserved areas. Further, the study shall consider the potential impact of various legal challenges to the FCC action on the federal universal service fund.

(7) Propose mechanisms to support universal service and rural economic development while securing the benefits of telecommunications competition for Vermont households and businesses.

(8) Include an audit of the universal service fund to examine, among other things, the contributions made to the fund in terms of the categories of telecommunications service providers covered as well as the specific services charged. In addition, the audit shall assess the disbursements made from the fund.

(9) Consider any other relevant issues that may arise during the course of the study.

(c) The results of the study, together with any plan for amending and distributing funds under this section, shall be submitted to the ~~general assembly~~ house committee on commerce and economic development and the senate committee on finance on or before ~~January 15, 1996~~ December 1, 2012.

(d) The commissioner of public service may contract with a consultant to conduct the study required by this section. Costs incurred in conducting the study shall be reimbursed from the state universal service fund up to $75,000.00.

(e) To the extent this study may require disclosure of confidential information by a telecommunications service provider, such confidential

information shall be disclosed to a third party pursuant to a protective agreement. In no event shall the third party be a person or persons employed by a business competitor or whose primary duties engage them in business competition with a telecommunications service provider submitting the confidential information. The third party may be the consultant retained by the commissioner under subsection (d) of this section or may be another third party agreed upon by the commissioner and the telecommunications service providers. The third party shall be responsible for aggregating the information and, once aggregated, may publicly disclose such information consistent with the purposes of this section. The confidentiality requirements of this subsection shall not affect whether information provided to an agency of the state or a political subdivision of the state pursuant to other laws is or is not subject to disclosure.

Sec. 3. CREATION OF ONE-YEAR HIGH-COST PROGRAM

(a) There is created a high-cost program under which the universal service charge shall be used as a means of keeping basic telecommunications service affordable in all parts of this state, thereby maintaining universal service. Payments shall be made to Vermont's incumbent local exchange carriers (ILECs) for the purpose of reducing the cost of providing basic local telecommunications service in areas where that cost would otherwise jeopardize universal service or uniform economic development.

(b) Funds distributed under the high-cost program are intended to defray the cost an ILEC incurs in building and maintaining its network so that it stands ready to serve any customer in its service area, even those in the most remote areas of Vermont. In order to achieve this goal, funding shall not be based upon the number of basic telecommunications services ordered, but rather upon the cost to serve any customer in that service area who may request basic local exchange service. This includes the costs of building and maintaining the entire network in each exchange in the applicable service area.

(c) The fiscal agent shall make distributions for the high-cost program to the ILECs, as required by this section. The percentage of funds distributed to each ILEC shall reflect the percentage of total access lines reported by each ILEC in its annual report to the public service board.

(d) Any funds in excess of $1,000,000.00 remaining in the Vermont universal service fund as of September 1, 2012 shall be distributed among all the ILECs in a manner determined by the commissioner of public service.

Sec. 4. STUDY ON THE STATE USF AND PREPAID WIRELESS TELECOMMUNICATIONS SERVICES

(a) The commissioner of public service or designee, in consultation with the commissioner of taxes or designee, shall convene a work group to study

issues related to application of the state's universal service charge established under 30 V.S.A. chapter 88 to prepaid wireless telecommunications services. The work group shall include representatives of prepaid wireless telecommunications service providers, Vermont retailers of prepaid wireless telecommunications services, consumers, the enhanced-911 program, and any other stakeholders identified by the commissioner. The study shall consider:

(1) the retail transactions subject to the charge;

(2) the amount of the charge;

(3) application of the charge to bundled telecommunications services;

(4) the effective date of any adjustments to the charge;

(5) billing and collection procedures, including:

(A) notice of charges to consumers; and

(B) various payment and collection methods, including payment and collection procedures similar to those used for the sales and use tax imposed under 32 V.S.A. chapter 233;

(6) the ability of retailers or the department of taxes, if applicable, to retain a percentage of the fees collected to offset collection and administration costs and, if so, the percentage which may be retained; and

(7) any other matter deemed relevant by the commissioner.

(b) The commissioner, on behalf of the work group established under subsection (a) of this section, shall report his or her findings and recommendations to the house committee on commerce and economic development and the senate committee on finance not later than December 1, 2012. The report shall include draft legislation for consideration during the 2013 legislative session.

(c) It is the intent of the general assembly that the study authorized under this section shall not circumscribe any obligation which may be imposed on a wireless telecommunications service provider in pending or future proceedings before the public service board concerning designation as an eligible telecommunications carrier.

Sec. 5. EFFECTIVE DATE

(a) This act shall take effect on passage.

(b) Sec. 3 of this act (creation of high cost program) shall take effect on passage and shall be repealed on June 30, 2013.

(Committee vote: 5-0-2)

Reported favorably by Senator Illuzzi for the Committee on Appropriations.

(Committee vote: 5-0-2)

J.R.S. 11.

Joint resolution urging the United States Congress to propose an amendment to the United States Constitution for the states' consideration which provides that corporations are not persons under the laws of the United States or any of its jurisdictional subdivisions.

Reported favorably with recommendation of amendment by Senator Pollina for the Committee on Government Operations.

The Committee recommends that the joint resolution be amended by striking out all after the title and inserting in lieu thereof the following:

Whereas, the U.S. Bill of Rights provides certain inalienable rights to natural persons, and

Whereas, corporations are not mentioned in the U.S. Constitution, and

Whereas, corporations are legal entities that governments create, and the rights they enjoy under the U.S. Constitution should be more narrowly defined than the rights that are afforded to natural persons, and

Whereas, the decision to regulate corporate financial campaign contributions is one that historically Congress and the states have been constitutionally allowed to address, and

Whereas, in 1907, Congress enacted the Tillman Act prohibiting corporate financial contributions to federal election campaigns for public office, and

Whereas, in 2010, the U.S. Supreme Court in *Citizens United v. Federal Election Commission*, 130 S.Ct. 876 (U.S. 2010), ruled that Congress and the states lacked the constitutional right to ban independent corporate expenditures to political campaigns for public office, and

Whereas, the U.S. Supreme Court in the *Citizens* decision relied on its previously issued opinion in the 1976 case *Buckley v. Valeo*, 424 U.S. 1 (U.S. 1976), in which it equated the spending of money for electing candidates to public office as speech, and

Whereas, the *Citizens* decision has allowed for the creation of super political action committees in election campaigns for public office that allow for unregulated campaign expenditures in unprecedented amounts, and

Whereas, as a result of the *Citizens* decision, Congress and the state legislatures were denied any legal authority to regulate independent corporate political expenditures, and

Whereas, a restoration of the guidelines established in the Bipartisan Campaign Reform Act of 2002 is imperative so that Congress and the state legislatures may exercise their historic authority to make their own decisions about whether to regulate corporate political expenditures, and

Whereas, this policy change will require that the U.S. Constitution be amended to authorize congressional or state regulation of individual and corporate financial participation in political campaigns, and

Whereas, on Vermont town meeting day, March 6, 2012, 64 Vermont towns and cities passed resolutions urging the Vermont congressional delegation and the U.S. Congress to propose legislative or congressional action to address the issues raised by *Citizens* including that money is not speech and corporations are not persons under the U.S. Constitution, and

Whereas, these resolutions, passed by towns on town meeting day, also urged the general assembly to pass a similar resolution directed at the Vermont congressional delegation, and

Whereas, U.S. Senator Tom Udall of New Mexico with 22 cosponsors has introduced Senate Joint Resolution 29, "proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections," that would give the Congress and the states the authority to regulate the raising and spending of moneys with respect to elections, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly expresses its disagreement with the holdings of the U.S. Supreme Court in *Buckley* and in *Citizens* that money is speech and urges Congress to adopt Senate Joint Resolution 29, *and be it further*

Resolved: That the General Assembly urges Congress to consider the request of many Vermont cities and towns to propose a U.S. constitutional amendment for the state's consideration that provides that money is not speech and corporations are not persons under the U.S. Constitution and that also affirms the constitutional rights of natural persons, *and be it further*

Resolved: That the General Assembly does not support an amendment to the U.S. Constitution that would abridge the constitutional rights of any person or organization including freedom of religion or freedom of the press, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Vermont Congressional Delegation.

After adoption, the title of this resolution be amended to read:

Joint resolution urging the United States Congress to propose amendments to the United States Constitution for the states' consideration relating to contributions and expenditures intended to affect elections and relating to the rights of corporations.

(Committee vote: 4-1-0)

Favorable with Proposal of Amendment

H. 403.

An act relating to foreclosure of mortgages.

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

The Committee recommends that the Senate propose to the House to amend the bill by striking out Sec. 3 in its entirety and inserting in lieu thereof a new Sec. 3 and Secs. 4, 5, and 6 to read as follows:

Sec. 3. 12 V.S.A. § 506 is amended to read:

§ 506. JUDGMENTS

Actions on judgments and actions for the renewal or revival of judgments shall be brought by filing a new and independent action on the judgment and recording a copy of the complaint in the land records where the property lies within eight years after the rendition of the judgment, and not after.

Sec. 4. 12 V.S.A. § 2903(b) is amended to read:

(b) A judgment which is renewed or revived pursuant to section 506 of this title shall constitute a lien on real property for eight years from the issuance of the renewed or revived judgment if recorded in accordance with this chapter and shall relate back to the date on which the original lien was first recorded if a copy of the complaint to renew the judgment was recorded in the land records where the property lies within eight years after the rendition of the judgment.

Sec. 5. 27 V.S.A. § 612(b) is amended to read:

(b) A purchaser shall have the right to terminate a binding contract for the sale of real estate if, prior to closing, the purchaser determines and gives written notice to the seller that land development has occurred on the real estate without a required municipal land use permit or in violation of an existing municipal land use permit. Following the receipt of written notice, the seller shall have 30 days, unless the parties agree to a shorter or longer period, either to obtain the required municipal land use permits or to comply with existing municipal land use permits. If the seller does not obtain the required municipal land use permits or comply with existing municipal land use

permits, the purchaser may terminate the contract if, as an owner or occupant of the real estate, the purchaser may be subject to an enforcement action under ~~24 V.S.A. § 4496~~ 24 V.S.A. § 4454.

Sec. 6. EFFECTIVE DATES; APPLICABILITY

(a) Secs. 1 and 2 of this act shall take effect on July 1, 2012 and shall apply to any mortgage foreclosure proceeding instituted after that date.

(b) This section and Secs. 3, 4, and 5 of this act shall take effect on passage.

(Committee vote: 4-0-1)

(No House amendments.)

H. 454.

An act relating to the administration and issuance of vital records.

Reported favorably with recommendation of proposal of amendment by Senator Flory for the Committee on Government Operations.

The Committee recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. chapter 102 is added to read:

CHAPTER 102. VITAL RECORDS GENERALLY

§ 5031. VITAL RECORDS; FORMS OF CERTIFICATES; APPLICABILITY

(a) Certificates of birth, death, civil marriage, civil union, divorce, dissolution, and reports of fetal death and induced termination of pregnancy shall be in a form prescribed by the commissioner of health and distributed by the department of health.

(b) Beginning March 15, 2013, all originals of civil marriage, civil union, divorce, and dissolution and all certified copies of certificates of birth, death, civil marriage, civil union, divorce, and dissolution shall be issued on unique paper with antifraud features approved by the commissioner of health. The department of health shall issue unique paper with antifraud features only to custodians of vital records designated by the commissioner under this chapter.

(c) The provisions of this part apply to all certificates of birth, death, civil marriage, civil union, divorce, and dissolution and reports of fetal death and induced termination of pregnancy previously received by the department and in the custody of the commissioner or any other custodian of vital records.

(d) The secretary of human services may adopt rules pursuant to 3 V.S.A. chapter 25 as necessary to enable the department of health to conduct vital records administration.

§ 5032. DEFINITIONS

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

(1) "Attending physician" means the physician who has completed medical training and residency and is responsible for coordinating a patient's care, including supervising the care provided by interns, residents, or medical students, and who has final responsibility legally and otherwise for that patient's care.

(2) "Certified copy" means a copy of a vital record issued and certified pursuant to section 5040 of this title by a designated custodian of vital records on unique paper with antifraud features approved by the commissioner of health.

(3) "Commissioner" means the commissioner of health.

(4) "Dead body" means a human body or parts of a human body, the condition of which reasonably indicates that death has occurred.

(5) "Department" means the department of health.

(6) "Fetal death" means death prior to the complete expulsion or extraction from the mother of a product of conception, irrespective of the duration of pregnancy, and which is not an induced termination of pregnancy.

(7) "File" means the presentation and acceptance of a vital record or report provided for in this part for registration by the office of vital statistics.

(8) "Final disposition" means the burial, interment, cremation, removal from the state, or other authorized disposition of a dead body or fetus.

(9) "Form" means the appearance, content, layout, size, software, security devices, and all other features for the reporting of vital records to the office of vital statistics. A form may be a piece of paper, a computer interface or screen, a data file, or other medium approved by the commissioner for use in collecting and transmitting vital records.

(10) "Induced termination of pregnancy" means the purposeful interruption of an intrauterine pregnancy with the intention other than to produce a live-born infant and which does not result in a live birth. The term does not include management of prolonged retention of products of conception following fetal death.

(11) "Institution" means any establishment, public or private, which provides inpatient or outpatient medical, surgical, or diagnostic care or treatment or nursing, custodial, or domiciliary care, or to which persons are committed by law.

(12) "Live birth" means the complete expulsion or extraction from the mother of a product of human conception, irrespective of the duration of pregnancy, which, after such expulsion or extraction, breathes or shows any other evidence of life, such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached.

(13) Noncertified copy" means a copy of a vital record issued pursuant to section 5041 of this title.

(14) "Office of vital statistics" means an office of the department of health responsible for vital records and the system of vital statistics.

(15) "Registration" means the process by which vital records are completed, filed, and incorporated into the official records of the office of vital statistics and made available to the registrant, family, or other requesting party.

(16) "State registrar" refers to the supervisor of the office of vital statistics.

(17) "System of vital statistics" means the registration, collection, preservation, amendment, and certification of vital records; the collection of other reports required by this part; and activities related thereto, including the tabulation, analysis, publication, and dissemination of vital statistics.

(18) "Transmit" means the collection and delivery of vital records by required reporting sources to the office of vital statistics. Methods may include paper, secure fax, and secure electronic data exchange.

(19) "Vital records" means certificates or reports of birth, death, civil marriage, civil union, divorce, dissolution, fetal death, induced termination of pregnancy, and data related thereto.

(20) "Vital statistics" means the analyses of data derived from certificates and reports of birth, death, civil marriage, civil union, divorce, dissolution, fetal death, and induced termination of pregnancy and from related documents.

§ 5033. ISSUANCE OF VITAL RECORDS

(a) Certified copies of vital records shall not be available for inspection and shall be issued only as provided in section 5040 of this title.

(b) Noncertified copies of vital records shall be issued and inspected only as provided in section 5041 of this title.

(c) Vital records issued and managed according to the requirements of this chapter may contain confidential information, including information designated as exempt from inspection and copying under 1 V.S.A. chapter 5, subchapter 3 and records to be used for public health or statistical purposes. Confidential information included in vital records subject to the requirements of this chapter is exempt from inspection and copying under 1 V.S.A. chapter 5, subchapter 3. The department may use the confidential information from vital records for public health purposes. The department may publish reports and share such confidential information publicly only in summary, statistical, or other form in which particular individuals are not identified. Confidential information from vital records may be shared for research purposes consistent with the Health Insurance Portability and Accountability Act of 1996 and with the agency of human services' institutional review board policies and practices. The department may share confidential information from vital records with federal agencies consistent with federal regulations and contractual obligations.

(d) The department may use and disclose confidential information from vital records as is necessary in public health emergencies and may share information from vital records with other municipal, state, and federal government agencies for fraud investigations and other law enforcement purposes.

(e) Nothing in this section shall be construed to permit disclosure of information contained in the "Information for Medical and Health Use Only" section of the birth certificate unless specifically authorized by the state registrar for statistical or research purposes, consistent with subsection (c) of this section. Such data shall not be subject to subpoena or court order and shall not be admissible before any court, tribunal, or other judicial body.

(f) Nothing in this section shall be construed to permit disclosure of information contained in the "Confidential Information" section of the certificate of civil marriage or civil union or the certificate of divorce or dissolution to any party other than the originating couple listed on the certificate unless specifically authorized by the state registrar for statistical or research purposes, consistent with subsection (c) of this section. Such data shall not be subject to subpoena or court order and shall not be admissible before any court, tribunal, or other judicial body.

(g) Records of births and deaths registered prior to 1909 shall not be incorporated into the statewide system of vital statistics established in section 5034 of this title.

§ 5034. OFFICE OF VITAL STATISTICS AND STATEWIDE SYSTEM OF VITAL STATISTICS

(a) There is hereby established in the department of health an office of vital statistics which shall install, maintain, and operate the only system of vital statistics throughout this state.

(b) The commissioner shall:

(1) designate an employee of the department to serve as the state registrar, who shall be the supervisor of the office of vital statistics;

(2) oversee the administration of the system of vital statistics;

(3) provide for the preservation and security of the official records of the office of vital statistics;

(4) develop a statewide system of vital statistics and promote uniformity of policy and procedures pertaining to vital statistics throughout the state;

(5) prescribe, furnish, and distribute such forms for vital records as are required by this part or prescribe such other means for transmission of data as will accomplish the purpose of complete and accurate reporting and registration;

(6) implement audit and quality control procedures as necessary to ensure compliance with filing and reporting of vital records.

(c) The commissioner shall establish or designate offices, subject to the requirements of section 5043 of this title, in the state to aid in the efficient administration of the system of vital statistics.

(1) Only offices designated by the commissioner shall be authorized to issue certified copies of vital records as provided in section 5040 of this title or to issue noncertified copies from the system of vital statistics under subsection 5041(a) of this title.

(2) The commissioner shall designate the state registrar, and may designate one or more offices of the department of health.

(3) The commissioner shall designate the Vermont state archives and records administration to issue certified and noncertified copies of birth, death, civil marriage, civil union, divorce, and dissolution records.

(4) An office of a county clerk, or an office of a city or town clerk after approval by the legislative body of the city or town, may apply to be designated by filing an application with the state registrar on a form prescribed by the commissioner. The county, city, or town clerk may seek designation to issue certified copies and to issue noncertified copies from the system of vital statistics of:

(A) birth and death records; or

(B) civil marriage and civil union records; or

(C) birth, death, civil marriage, and civil union records.

(5) The commissioner shall designate all city, town, and county offices that submit a completed application and demonstrate that they meet the requirements of section 5043 of this title.

(6) Designation shall not be required for a custodian of vital records registered prior to March 15, 2013, provided that the custodian shall preserve such records and make them available for inspection and copying as are required by subsection 5041(b) of this title.

(d) The department shall provide such forms and reports as needed to perform the functions and duties necessary for the administration of the system of vital statistics.

§ 5035. CONTENT OF CERTIFICATES AND REPORTS

(a) In order to promote and maintain nationwide uniformity in the system of vital statistics, the forms of certificates and reports prescribed by the commissioner may include at a minimum the items recommended by the federal agency responsible for national vital statistics.

(b) Each certificate, report, and other document required by this part shall be prepared and filed in the form prescribed by the commissioner.

(c) All vital records shall contain the date of registration.

(d) Information required in certificates, forms, records, or reports may be filed, verified, registered, and stored by photographic, electronic, or other means as determined by the commissioner.

§ 5036. DUTIES OF TOWN AND COUNTY CLERKS

(a) Town clerks annually may compile and publish only nonconfidential information from vital records in the annual town report.

(b) County clerks may compile and publish the same nonconfidential information as town clerks on behalf of an unorganized town or gore and may perform the same duties and will be subject to the same penalties as town clerks with respect to licenses, certificates, records, and returns of parties.

(c) Town clerks shall receive, number, and file for record the certificates of civil marriages and burial-transit and removal permits and shall preserve such documents in a manner approved by the department.

(d) Town clerks shall file for record and index in volumes all civil marriages and burial-transit and removal permits in a manner prescribed by the commissioner. Each volume or series shall contain an alphabetical index. Civil marriage certificates shall be filed for record in one volume or series and

burial-transit and removal permits in another. All volumes shall be maintained in the town clerk's office as permanent records.

(e) The member of a couple that moves into and becomes a permanent resident of this state may cause to be recognized in the office of the clerk of the town where he or she resides or, if he or she resides in a unified town or gore, in the office of the clerk of the county wherein he or she resides a certificate of his or her civil marriage or civil union embracing the statistics required by law. Such record shall not be returned to the office of vital statistics.

§ 5037. PRESERVATION OF VITAL RECORDS

(a) To preserve vital records, the state registrar is authorized to prepare typewritten, photographic, electronic, or other reproductions of certificates or reports in the office of vital statistics. Such reproductions, when verified and approved by the state registrar, shall be accepted as the original records, and the documents from which permanent reproductions have been made may be disposed of as authorized by the state registrar in a manner consistent with record retention schedules approved by the Vermont state archives and records administration.

(b) Vital records registered in municipal offices prior to March 15, 2013 shall be preserved by the town as required by law.

§ 5038. ADMINISTRATIVE PENALTY

No person required by this part to transmit or provide an original or copy of a document, including a report, certificate, certified copy, worksheet, preliminary report, or other information required by law, shall knowingly fail to transmit or provide the document. A person who violates this section shall be subject to an administrative penalty of not more than $500.00 for each violation.

§ 5039. VITAL RECORDS COPIES; FEES

(a) Upon payment of a $15.00 fee, the state registrar and other designated custodians of vital records shall provide a certified copy of a vital record, except that prior to providing a copy of a birth certificate, the word "illegitimate" shall be redacted from the copy.

(b) Upon payment of a $5.00 fee, the state registrar or other designated custodian shall provide a noncertified copy of a vital record from the system of vital statistics.

(c) Notwithstanding 1 V.S.A. § 316(c), the department or a designated custodian of vital records other than a town clerk may charge a fee of $5.00 to a person requesting that the department or designated custodian search the system of vital statistics or an index of vital records. The department or a designated custodian of vital records shall not charge a fee for allowing a

person to inspect vital records that are available for inspection. A town clerk may charge a fee for the search of vital records according to the requirements of 32 V.S.A. § 1671. The fee for the search of the vital record shall be credited toward the fee for the first certified copy or the first noncertified copy issued under subsection 5041(a) of this title provided as a result of the search.

§ 5040. CERTIFIED COPIES

(a) Issuance of certified copies. Except as provided in subsection (f) of this section, beginning March 15, 2013, the state registrar and other custodians of vital records designated by the state registrar to issue certified copies of birth and death records shall, upon receipt of an application, issue a certified copy of a birth or death record in his or her custody to the registrant or the registrant's spouse, children, parents, siblings, grandparents, guardian, petitioner for appointment as executor for a deceased registrant, or such person's respective legal representative. In addition to those previously listed, when the registrant is deceased, a certified copy of the death record shall be issued, upon receipt of an application, to the individual with authority for final disposition as provided in section 5227 of this title. The state registrar and other designated custodians of vital records may also issue a certified copy of a birth or death record to a specific individual pursuant to a court order finding that a noncertified copy is not sufficient for the applicant's legal purpose, and that a certified copy of the birth or death record is needed for the determination or protection of an individual's right.

(b) Application requirements.

(1) An application for a certified copy of a birth or death record shall contain from the requestor the following information:

(A) the requestor's full legal name;

(B) the requestor's full date of birth;

(C) the name of the requestor's organization, if any;

(D) the requestor's mailing address, including city or town, state, and country;

(E) the requestor's residence address, if different from the mailing address, including city or town, state, and country;

(F) the requestor's telephone number, if any;

(G) the purpose of the request;

(H) the type of record requested;

(I) the first and last names of the person listed on the requested certificate;

(J) the requestor's relationship to the person listed on the certificate;

(K) the year of the vital event; and

(L) the requestor's signature.

(2) A certified copy shall not be provided if the requesting party cannot or will not provide this completed application.

(3) An application for a certified copy of a birth or death record may be submitted by mail or electronic means by a resident or nonresident, provided that the requirements of this section are met. A valid government-issued identification document issued by an appropriate issuing authority shall be provided at the time of application. An application submitted by mail shall include a notary public statement of identification of the applicant.

(A) Specific forms of government-issued identification that are acceptable include:

(i) a valid photographic operator's license or enhanced driver's license issued by Vermont or another state of the United States;

(ii) a valid photographic nondriver identification card issued by Vermont or another state of the United States;

(iii) a valid driver's license or identification card issued by a possession or territory of the United States, the Commonwealth of Puerto Rico, or the District of Columbia;

(iv) a valid tribal identification card containing the bearer's signature;

(v) a valid United States photographic armed services identification card;

(vi) a valid passport issued by the United States or a foreign jurisdiction;

(vii) a valid visa, if it is contained within a passport and the bearer's signature is on the passport rather than the visa;

(viii) a valid Resident Alien Card or Permanent Resident Card (Form I-551);

(ix) a valid Employment Authorization Card (Form I-766 or Form I-688A);

(x) a valid Temporary Resident Card (Form I-688).

(B) The following shall not be accepted as valid government-issued identification:

(i) a Matricula Consular ID Card;

(ii) a foreign voter registration card;

(iii) an Alien Registration Receipt Card Form I-151 (replaced by the I-551);

(iv) a USA B1/B2 Visa/BCC (Form DSP-150);

(v) a Nonresident Border Crosser Card (Form I-586);

(vi) a Nonresident Alien Mexican Border Crosser Card (Form I-186);

(vii) a Nonresident Alien Canadian Border Crosser Card (Form I-185);

(viii) a U.S. Citizen Identification Card (Form I-197);

(ix) a school identification card;

(x) a tribal identification card that lacks the bearer's signature;

(xi) a U.S. military identification card that lacks the bearer's photograph;

(xii) a driver's license issued by a foreign jurisdiction;

(xiii) an international driver's license.

(C) If a requestor does not have an acceptable or valid government-issued identification document, the state registrar may request alternative evidence of the requestor's identity, as appropriate. The state registrar may also request alternative evidence of the requester's eligibility to receive the document.

(4) All application information shall be entered into a central tracking system and checked for any prohibitions on release of the record generally or release to the requesting party specifically pursuant to section 5044 of this title.

(5) All copies of valid identification documents submitted pursuant to this subsection shall be legible and contain an expiration date that has not passed, a photograph, an address, a signature, and a unique number or bar code, such as a driver's license number or passport number, assigned to the person. If the photograph is not clear on the valid government-issued identification document but all other information is legible, the identification document may be accepted, but the state registrar may request additional copies or information. All copies of identification documents shall be reviewed for evidence of tampering, expiration date, address, and a comparison of the signature with the signature on the application. Notarized statements

shall not be accepted in lieu of a valid government-issued identification document.

(c) Certified copies of civil marriage, civil union, divorce, or dissolution records. Custodians of vital records designated by the commissioner to issue certified copies of civil marriage, civil union, divorce, or dissolution records shall, upon request of any person, issue a certified copy of the record in his or her custody consistent with the designation. No application shall be required for records issued under this subsection.

(d) Forms and procedures. All forms and procedures used in the issuance of certified copies of vital records in the state shall be uniform and provided or approved by the commissioner. All certified copies issued shall have security features that deter the document from being altered, counterfeited, duplicated, or simulated without ready detection.

(e) Content of certified copy. Each certified copy issued under this subsection shall show the date of registration, if available, and, when applicable, shall be marked "Amended" and show the effective date of the amendment. Certified copies issued from records marked "Delayed" shall be similarly marked and shall include the date of registration and a description of the evidence used to establish the delayed certificate. Any certified copy issued of a "Certificate of Foreign Birth" shall comply with the provisions of section 5106 of this title, show the actual place of birth, and state that the certificate is not proof of United States citizenship for the adoptive child.

(f) Authorized release of certified copy of death record. Upon receipt of a written request on a form provided by the department, the state registrar may issue a certified copy of a death record to:

(1) the Social Security Administration;

(2) the Veterans' Administration;

(3) the deceased's insurance carrier, if such carrier provides benefits to the decedent's survivors or beneficiaries; and

(4) a funeral home or crematorium on behalf of the individual with authority for final disposition, as provided in section 5227 of this title, for the decedent for whom burial or cremation services are rendered.

(g) Evidentiary value. A certified copy of a vital record, issued in accordance with subsections (a), (b), (c), (d), and (e) of this section shall be considered for all purposes the same as the original and shall be prima facie evidence of the facts stated therein.

(h) If the state registrar receives information that a vital record may have been registered through fraud or misrepresentation, the state registrar shall withhold issuance of any copy of a vital record pending an investigation. If the

state registrar is unable to verify the accuracy of the vital record, the state registrar shall remove the vital record from the file and notify the individual requesting a copy that the record cannot be certified. The vital record and evidence shall be retained by the department but shall not be subject to inspection or copying except upon order of the civil division of the superior court or by the state registrar for purposes of administering the vital statistics program.

(i) Limitation on issuance of a certified copy. No person shall prepare or issue any certificate which purports to be a certified copy of a vital record except as authorized in this section.

§ 5041. NONCERTIFIED COPIES

(a) Noncertified informational copies from statewide system of vital statistics. The state registrar and other custodians of vital records designated by the commissioner under section 5034 of this title to issue noncertified informational copies of birth and death records from the system of vital statistics shall, upon receipt of an application, issue a noncertified informational copy of a vital record to the requesting party.

(1)(A) An application for a noncertified informational copy from the system of vital statistics of a birth or death record shall contain from the requestor the following information:

(i) the requestor's full legal name;

(ii) the requestor's full date of birth;

(iii) the name of the requestor's organization, if any;

(iv) the requestor's mailing address, including city or town, state, and country;

(v) the requestor's residence address, if different from the mailing address, including city or town, state, and country;

(vi) the requestor's telephone number, if any;

(vii) the purpose of the request, if any;

(viii) the type of record requested;

(ix) the first and last names of the person listed on the requested certificate;

(x) the requestor's relationship to the person listed on the certificate, if any;

(xi) the year of the vital event; and

(xii) the requestor's signature.

(B) A noncertified informational copy from the system of vital statistics shall not be provided if the requesting party cannot or will not provide this completed application.

(2) All application information shall be entered into a central tracking system maintained by the department and shall be checked for any prohibitions on release of the record generally or release to the requesting party specifically pursuant to section 5044 of this title.

(3) A noncertified informational copy of a birth or death record for a birth or death registered after March 15, 2013 shall be issued only from the system of vital statistics.

(b) Noncertified historical copies; not from statewide system. A noncertified historical copy of an original paper birth or death record that was registered after January 1, 1909 and before March 15, 2013, and that is not issued from the system of vital statistics shall be available for public inspection and copying as required under 1 V.S.A. chapter 5, subchapter 3. A noncertified historical copy of an original paper birth or death record registered after January 1, 1909 and before March 15, 2013, shall not be used for legal purposes and all copies of such records shall be prominently marked "Noncertified copy—Historical Record; Not for Legal Use (information may not be current or complete" in a manner prescribed by the commissioner. The word "illegitimate" shall be redacted from a copy of a birth certificate issued under this subsection.

(c) Noncertified copies; records prior to 1909. Birth or death records registered prior to 1909 shall be available for inspection and copying under 1 V.S.A. chapter 5, subchapter 3, provided that a copy shall not be issued on unique paper with antifraud purposes. A certified copy of a birth or death record registered prior to 1909 shall not be issued under section 5040 of this title, but the custodian of the birth or death record may authenticate that a copy of the birth or death record is a true and accurate copy.

(d) Noncertified copies of civil marriage, civil union, divorce, or dissolution records. Custodians of vital records designated by the commissioner to issue noncertified copies of civil marriage, civil union, divorce, or dissolution records shall, upon request of any person, issue a noncertified copy of the record in his or her custody consistent with the designation. No application shall be required for records issued under this subsection.

(e) Forms and procedures. All forms, procedures, and the format of documents used in the issuance of noncertified copies of vital records in the state shall be approved by the commissioner. A noncertified copy shall not be

be used for legal purposes, except as provided for in subsection (g) of this section.

(f) Content of noncertified copy. Each noncertified copy issued shall show the date of registration and, when applicable, shall be marked "Amended" and show the effective date of the amendment. A noncertified copy issued from records marked "Delayed" shall be similarly marked and shall include a description of the evidence used to establish the delayed certificate. A noncertified copy issued of a "Certificate of Foreign Birth" shall comply with the provisions of section 5106 of this title, show the actual place of birth, and state that the certificate is not proof of United States citizenship for the adoptive child.

(g) Evidentiary value; land records recording.

(1) A noncertified copy of a vital record issued under this section shall not be considered evidentiary value of a certificate or record or prima facie evidence of the facts stated therein.

(2) Notwithstanding subdivision (1) of this subsection:

(A) A noncertified copy of a vital record issued under subsection (a) of this section may be recorded in the land records of a municipality to establish the date of birth or death of a person with an ownership interest in property.

(B) A reproduction of a certified copy, such as a noncertified copy of a vital record or a photocopy of a certified copy of a vital record, may be recorded in the land records, provided that the reproduction is not printed on unique paper with antifraud features.

(3) A certified copy of vital record issued under section 5040 of this title shall not be recorded in the land records of a municipality

(h) Request for vital record registered through fraud or misrepresentation. If the state registrar receives information that a vital record may have been registered through fraud or misrepresentation, the state registrar shall withhold issuance of any copy of that vital record pending an investigation. If the state registrar is unable to verify the accuracy of the vital record, the state registrar shall remove the vital record from the file and shall notify the individual requesting a copy of the certificate that the record cannot be certified. The vital record and evidence shall be retained by the department but shall not be subject to inspection or copying except upon order of the civil division of the superior court or by the state registrar for purposes of administering the vital statistics program. The state registrar shall refer the matter to the appropriate state and federal authorities.

(i) Limitation on issuance of noncertified copy. No person shall prepare or issue any certificate which purports to be a noncertified copy of a vital record except as authorized in this section.

§ 5042. RECORDS OF OUT-OF-STATE EVENTS

(a) Copies of vital records for events occurring outside the state and filed with the state registrar or another custodian of vital records authorized by the state registrar to receive, store, and issue copies shall not be copied or certified.

(b) Information from vital records for events occurring outside the state and recorded with the state registrar or other designated custodian of vital records may be utilized only for public health and vital statistical purposes, fraud investigations, and birth and death matching or for ensuring right to title of real property in Vermont.

§ 5043. DESIGNATED VITAL RECORDS OFFICES; REQUIREMENTS

(a) The commissioner shall establish the physical requirements and security standards that must be met for storage of vital records documents and supplies. The requirements and standards shall be based on best practices issued by state and federal law enforcement and public health organizations.

(b)(1) The state registrar and custodians of vital records designated under subsection 5034(c) of this title shall ensure that the following shall be stored in a fireproof safe:

(A) materials in the possession of the registrar or the custodian that can be used to create a vital record, including blank copies of antifraud paper;

(B) records designated by the registrar by procedure due to the confidential nature of the record; and

(C) any other records in the discretion of the state registrar or the designated custodian.

(2) Certified copies of birth or death records recorded or indexed in the land records of a town shall not be required to be stored in a fireproof safe unless the record includes information designated as confidential by the registrar under subdivision (1)(B) of this subsection (b).

(c) The state registrar may authorize inspection of noncertified copies on the system of vital statistics at a municipal office designated by the commissioner pursuant to section 5034 of this title if the municipality provides access to the electronic database of noncertified copies of vital records or the municipality maintains an index or other method approved by the state registrar of recording noncertified copies of vital records.

(d) The state registrar may conduct an audit of any site storing and issuing vital records. Any site that does not pass the audit shall not provide storage

and issuance services until the site passes a new audit. The state registrar shall offer to conduct a new audit within 30 days of issuing the previous deficient audit result.

§ 5044. VITAL RECORDS ALERT SYSTEM

(a) The department shall maintain a vital records alert system. The department shall incorporate into the vital records alert system information that may indicate fraud, misrepresentation, modification, theft, or other illegal activities, including activities relating to registering, obtaining, issuing, transporting, furnishing, using, or attempting to register, obtain, issue, transport, furnish, or use a vital record reported by authorized representatives of other states, territories, and federal agencies and as determined by the state registrar after investigation as provided in this section. The information in the vital records alert system shall be exempt from inspection or copying under the public records act, as set forth in 1 V.S.A. chapter 5, subchapter 3, except that the department may share information in the vital records alert system with other state, federal, or international regulatory agencies or law enforcement authorities if the recipient regulatory agency or law enforcement authority agrees to maintain the confidential nature of the information.

(b) In the event that the vital records alert system identifies a match with any registrant or applicant for a certified or noncertified copy of a birth or death record or if the information or documentation submitted with the application appears to be false, misleading, modified, or stolen, the vital records alert system shall produce a notice of the match. The state registrar or designated custodian of vital records shall provide the requesting party with a copy of the notice of the match from the vital records alert system and shall delay issuance of the document and the designated custodian of public records shall notify the state registrar. The state registrar shall conduct an investigation.

(c)(1) If, upon conclusion of the investigation by the state registrar, the commissioner determines that the request is legitimate and not related to an activity set forth under subsection (a) of this section, the application process for a certified or noncertified copy or registration of a vital event shall be completed and the requested record shall be issued or the vital record registered.

(2) If, upon conclusion of the investigation, the commissioner confirms that the applicant or registrant is entered in the vital records alert system or determines that information or documents submitted with the application are related to an activity set forth under subsection (a) of this section, the commissioner shall inform the applicant in writing that his or her name shall be placed in the vital records alert system. If the applicant requested a certified

copy of a vital record or registration of a vital record, the commissioner shall deny the request.

(3) The applicant, pursuant to Rule 75 of the Vermont Rules of Civil Procedure, may appeal the commissioner's decision under subdivision (2) of this subsection to the civil division of the superior court in the county in which the applicant resides or has his or her personal place of business, or in which the vital records are situated, or in the civil division of the superior court of Washington County. If the court affirms the decision of the commissioner, based on clear and convincing evidence, the court shall deny the request for a certified copy or registration of a vital record, and the applicant's or registrant's information shall remain in the vital records alert system. If the court reverses the decision of the commissioner, the court shall order the commissioner to issue the certified copy or registration of a vital record and remove the applicant's name and information from the vital records alert system.

§ 5045. BIRTH AND DEATH MATCHING

To protect the integrity of vital records and to prevent the fraudulent use of birth certificates of deceased persons, the department shall match birth and death certificates. Certified and noncertified copies of birth certificates of people who have died shall be marked "Deceased."

§ 5046. MISSING OR KIDNAPPED

(a) The department shall maintain and update the system of vital statistics for Vermont residents listed as missing or kidnapped. The list shall be provided by the department of public safety to the department of health on an agreed-upon schedule.

(b) A custodian of vital records designated by the commissioner to issue certified or noncertified copies of birth certificates shall delay issuance of a copy of a birth certificate for a Vermont resident listed as missing or kidnapped and shall refer the case to the department of public safety for investigation. The request for a copy of the birth certificate shall be completed upon clearance by an authorized representative of the department of public safety that the requestor is not involved in the disappearance of the party listed on the birth certificate.

§ 5047. SEVERABILITY

If any provision of this part or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the part which can be given effect without the invalid provision or application, and to this end, the provisions of the part are declared to be severable.

§ 5048. APPEALS

Any person aggrieved by a decision by the state registrar or designated custodian of vital records to withhold issuance of a certified copy of a vital record under this chapter may appeal to the civil division of the superior court in the county in which the complainant resides or has his or her personal place of business, or in which the vital records are situated, or in the criminal division of the superior court of Washington County, provided that a decision of the state registrar or a designated custodian of vital records to withhold issuance of a certified copy of a vital record under this chapter shall not be subject to expedited review under 1 V.S.A § 319. A decision of the state registrar or a designated custodian of vital records to withhold issuance of a noncertified copy of a vital record shall be subject to expedited review under 1 V.S.A. § 319. The appeal shall be brought against the state registrar when the state registrar denies the request for a certified or noncertified copy of the vital record pursuant to section 5044 of this title.

Sec. 2. 18 V.S.A. chapter 104 is amended to read:

CHAPTER 104. BIRTH RECORDS

§ 5101. BIRTH REGISTRATION

(a) A certificate of birth for each live birth which occurs in this state shall be filed with the department within five days after such birth and shall be registered if it has been completed and filed in accordance with this chapter.

(b) At the time of birth of a child, each parent shall furnish the following information on a form or in a manner prescribed by the commissioner: the parent's name, address, and Social Security number and the name and date of birth of the child. The department may request additional information as needed to fulfill federal and state requirements.

(c) When a birth occurs in an institution or en route thereto, the person in charge of the institution or his or her designee shall obtain the personal data, prepare the certificate, certify that the child was born alive at the place and time and on the date stated either by signature or by an approved electronic process, and file the certificate as directed in this part. The physician or other health care provider in attendance shall provide the medical information required by the certificate within 72 hours after the birth.

(d) When a birth occurs outside an institution, the certificate shall be prepared and filed by one of the following in the indicated order of priority:

(1) the physician or midwife in attendance at or immediately after the birth;

(2) a parent of the child present at the birth;

(3) any other person in attendance at or immediately after the birth; or

(4) the person in charge of the premises where the birth occurred.

(e) When a birth occurs on a moving conveyance within the United States and the child is first removed from the conveyance in this state, the birth shall be registered in this state and the place where the child is first removed shall be considered the place of birth. When a birth occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the child is first removed from the conveyance in this state, the birth shall be registered in this state, but the certificate shall show the actual place of birth insofar as it can be determined.

(f) For the purposes of birth registration, the mother is deemed to be the woman who gives birth to the child unless otherwise provided by state law or determined by the probate division of the superior court prior to the filing of the birth certificate.

(g) The name of the father shall be included on the birth certificate of the child of unmarried parents only if the father and mother have signed a voluntary acknowledgment of parentage or a court or administrative agency of competent jurisdiction has issued an adjudication of parentage.

(h) In any case in which paternity of a child is determined by the family division of the superior court or other court or administrative agency of competent jurisdiction, the name of the father and the surname of the child shall be entered on the certificate of birth in accordance with the finding and order of the court or administrative agency.

(i) If the father is not named on the certificate of birth, no other information about the father shall be entered on the certificate.

(j) Either of the parents of the child or, in the absence of both of the parents, another informant shall verify the accuracy of the personal data to be entered on the certificate in time to permit the registration of the certificate within the five days prescribed in this section.

(k) Certificates of birth filed after five days but within one year from the date of birth shall be registered on the standard form of live birth certificate in the manner prescribed in this section. Such certificates shall not be marked "Delayed." The state registrar may require additional evidence in support of the facts of birth before issuance of a birth certificate pursuant to this subsection.

(l) The state registrar shall not register any certificate of birth which is incomplete or for which the state registrar has reason to believe the information provided is not accurate. If the state registrar refuses to register a certificate of birth under this section, the person submitting the certificate for

registration shall be referred to the probate division of the superior court for proceedings pursuant to section 5104 of this title.

§ 5102. INFANTS OF UNKNOWN PARENTAGE; FOUNDLING REGISTRATION

(a) Whoever assumes the custody of a live-born infant of unknown parentage shall report to the department on a form and in a manner prescribed by the commissioner within five days of assuming custody the following information:

(1) the date, city or town, and county of finding;

(2) the sex and approximate birth date of the child based on consultation with a physician;

(3) the name and address of the custodian or other person or institution with whom the child has been placed for care;

(4) the name given to the child by the custodian of the child; and

(5) other data as required by the state registrar.

(b) The place where the child was found shall be entered as the place of birth.

(c) A report registered under this section shall constitute the certificate of birth for the child.

(d) If the child is identified and a certificate of birth is found or obtained, the report registered under this section shall be placed in a special file and shall not be subject to inspection except upon court order or as provided by the department by rule. All copies of the report in the custody of any other custodian of vital records in this state shall be forwarded to the state registrar and sealed from inspection, as he or she shall direct. Any duplicate electronic records created as a result of the foundling registration shall be removed and destroyed.

§ 5103. DELAYED REGISTRATION OF BIRTH

(a) When a certificate of birth of a person born in this state has not been filed within one year following the birth event, the person's parent or legal guardian or the person, if over the age of 18, may file with the department an application for a delayed certificate of birth. The application shall contain all of the information required for a certificate of birth pursuant to section 5101 of this title, reasons for the delay in filing, and evidence substantiating the facts of birth.

(b) A previously unreported birth shall be registered on a delayed certificate of birth form with the word "Delayed" at the top and show the date

of registration. The delayed certificate shall contain a summary of the evidence submitted in support of the delayed registration.

(c) No delayed certificate of birth shall be registered for a deceased person.

(d) When an applicant does not submit the minimum documentation for delayed registration or when the state registrar has cause to question the validity or adequacy of the applicant's sworn statement or the documentary evidence, and if the deficiencies are not corrected, the state registrar shall not register the delayed certificate of birth and shall advise the applicant of the reasons for this action and shall further advise the applicant of his or her right to seek an order pursuant to section 5104 of this title from the probate division of the superior court for the district in which the birth occurred. The state registrar shall refer the matter to the appropriate state and federal authorities.

§ 5104. JUDICIAL PROCEDURE TO ESTABLISH FACTS OF BIRTH

(a) If the state registrar does not register a certificate of birth pursuant to section 5101 of this title or a delayed certificate of birth pursuant to section 5103 of this title, a petition signed and sworn to by the petitioner may be filed with the probate division of the superior court for the district in which the birth occurred for an order establishing a record of the date and place of the birth and the parentage of the person whose birth is to be registered.

(b) A petition filed pursuant to subsection (a) of this section shall be made on a form prescribed by the court, in consultation with the commissioner, and shall include sufficient evidence of the following:

(1) that the person for whom a certificate of birth or delayed certificate of birth is sought was born in this state;

(2) that no certificate of birth or delayed certificate of birth of such person can be found in the department or in the office of any local, regional, or state custodian of birth certificates;

(3) that diligent efforts by the petitioner have failed to obtain the evidence required in accordance with the statutes and rules required for a certificate of birth or delayed certificate of birth;

(4) that the state registrar has not registered a certificate of birth or delayed certificate of birth for the individual pursuant to section 5101 or 5103 of this title; and

(5) such other evidence as the court may require to prove the facts of the birth necessary for completion of a certificate of birth or delayed certificate of birth.

(c) The petition shall be accompanied by a statement of the state registrar made in accordance with section 5101 or 5103 of this title, as applicable, and

all of the documentary evidence submitted to the state registrar in support of such registration.

(d) The court shall fix a time and place for hearing the petition and shall give the department 30 days' notice of such hearing. The department may appear and participate as a party in the proceeding.

(e) If the court finds from the evidence presented that the person for whom a certificate of birth or delayed certificate of birth is sought was born in this state, it shall make findings as to the place and date of birth, parentage, and such other findings as may be required and shall issue an order to establish a certificate of birth or delayed certificate of birth. This order shall include the birth date to be registered, a description of the evidence presented, and the date of the court's action.

(f) If the court finds that it appears the petitioner presented false or misleading evidence or evidence that appears to include falsified, modified, or stolen identification documents, the petition shall be denied and the department shall refer the matter to the appropriate state and federal authorities.

§ 5105. REPORT OF ADOPTION

(a) For each adoption decreed by the probate division of a superior court in this state, the court shall prepare and register a report of adoption on a form prescribed and furnished by the commissioner.

(b) The report of adoption shall:

(1) include such facts as are necessary to locate and identify the certificate of birth of the person adopted or, in the case of a person who was born in a foreign country, evidence from sources determined to be reliable by the court as to the date and place of birth of such person;

(2) provide information necessary to establish a new certificate of birth of the person adopted;

(3) identify any previous orders of adoption relative to the person;

(4) include the file number of the decree of adoption and the date on which the decree became final; and

(5) be certified by the clerk of the court.

(c) Information necessary to prepare the report of adoption shall be furnished by each petitioner for adoption. An adoption agency or any person having knowledge of the facts shall supply the court with such additional information as may be necessary to complete the report of adoption, as required by the court.

(d) Whenever an adoption decree is amended or annulled, the clerk of the court shall prepare a report thereof which shall include such facts as are necessary to identify the original report of adoption and the facts amended in the adoption decree as shall be necessary to properly amend the birth record. The state registrar shall maintain the confidentiality of the adoption records and reports received from the court as required by law.

(e) Not later than the tenth day of each calendar month, the clerk of the court shall forward to the state registrar reports of adoption, reports of annulment of adoption, and amendments of decrees of adoption which were entered in the preceding month. The state registrar shall maintain the confidentiality of the adoption records and reports received from the court as required by law.

(f) Upon receipt of a report of adoption, report of annulment of adoption, or amendment of a decree of adoption for a person born outside this state, the state registrar shall forward such report to the state registrar in the state of birth.

(g) If the birth occurred in a foreign country and the child was not a citizen of the United States at the time of birth, the state registrar shall prepare a "Certificate of Foreign Birth." If the child was born in Canada, the state registrar shall also send a copy of the report of adoption, report of annulment of adoption, or amendment of a decree of adoption to the appropriate registration authority in that country. If the child was born in a foreign country but was a citizen of the United States at the time of birth, the state registrar shall not prepare a "Certificate of Foreign Birth" and shall notify the adoptive parents of the procedures for obtaining a revised birth certificate for their child through the United States Department of State.

§ 5106. CERTIFICATES OF BIRTH FOLLOWING ADOPTION, COURT DETERMINATION OF PATERNITY, AND PATERNITY ACKNOWLEDGMENT

(a) The state registrar shall establish a new certificate of birth for a person born in this state when:

(1) he or she receives a report of adoption, as provided in section 5105 of this title;

(2) he or she receives from the probate division of the superior court an order to issue a new birth certificate establishing the paternity of such person; or

(3) he or she receives a voluntary acknowledgment of paternity form and both parents request that the surname be changed from that shown on the original certificate.

(b) When a new certificate of birth is established following an adoption, it shall show the actual city or town, county, and date of birth, and the adoptive parents as the parents. The new birth certificate shall not contain a statement as to whether the adopted person was illegitimate and shall not contain any content or statement that would distinguish it from any other original certificate of birth.

(c) The new birth certificate shall be substituted for the original certificate of birth in the office of vital statistics and at local, regional, and state facilities, and the original certificate of birth and the evidence of adoption, court determination of paternity, or paternity acknowledgment shall not be subject to inspection until 99 years after the adoptee's date of birth or upon order of the probate division of the superior court for the district in which the birth occurred or as otherwise provided by Vermont law.

(d) Upon receipt of a report of an amended decree of adoption pursuant to section 5105 of this title, the certificate of birth shall be amended.

(e) Upon receipt of a report or decree of annulment of adoption pursuant to section 5105 of this title, the original certificate of birth shall be restored to its place in the files and the new certificate and evidence shall not be subject to inspection except upon order of the probate division of the superior court or as otherwise provided by Vermont law.

(f) If no certificate of birth is on file for a person for whom a new birth certificate is to be established under this section and the date and place of birth have not been determined in the adoption or paternity proceedings, a delayed certificate of birth shall be filed with the state registrar before a new certificate of birth is established. The new birth certificate shall be prepared on the delayed birth certificate form.

(g) When a new certificate of birth is established by the state registrar, all copies of the original certificate of birth in the custody of any other custodian of vital records in this state shall be sealed from inspection or forwarded to the state registrar, as he or she shall direct.

(h) Unless specified in an order of adoption issued by the probate division of the superior court, the state registrar shall not establish a new birth certificate if he or she receives, accompanying the record of adoption, a written request that a new certificate not be established from either:

(1) the adopted person, if 14 years or older; or

(2) the adoptive parent or parents, if the adopted person is under 14 years of age.

(i) The state registrar shall, upon request, prepare and register a certificate in this state for a person born in a foreign country who is not a citizen of the

United States and who was adopted through a court of competent jurisdiction or through the birth country's government office with legal authority to issue adoption decrees. The certificate shall be established upon receipt of a report of adoption from the court or government office decreeing the adoption, proof of the date and place of the child's birth, and a request from the court or government office, the adopting parents, or the adopted person if 14 years of age or over that such a certificate be prepared. Such certificate shall be labeled "Certificate of Foreign Birth" and shall show the actual country of birth. A statement shall also be included on the certificate indicating that it is not evidence of United States citizenship for the child for whom it is issued. After registration of the birth certificate in the new name of the adopted person, the state registrar shall seal and file the report of adoption and any associated records and documents, which shall not be subject to inspection except upon order of a court in this state or as otherwise provided by Vermont law.

(j) When the state registrar receives a report of adoption for a person born in another state, he or she shall forward a certified copy of the court order of adoption and a certified copy of the report of adoption to the state registrar in the state of birth, with a request that a new birth certificate be established under the laws of that state.

(k) Upon request by a person who was listed as a parent on an adoptee's original birth certificate and who furnishes appropriate proof of the person's identity, the state registrar shall give the person a noncertified copy of the original birth certificate.

§ 5107. CORRECTIONS

(a) For each birth which occurs in this state, within three months of registration of the birth, except for that of a child known to have died or to have been surrendered for adoption, the state registrar shall send a notice of birth registration to the parents of the child. Such notice shall contain the pertinent facts, including the child's full name, the date and place of birth, and the names of the parents, along with instructions and a form on which to apply for corrections or additions.

(b) Within six months after the date of registration of the birth certificate, correction of obvious errors, of transpositions of letters in words of common knowledge, or of omissions and addition of the father to the birth certificate pursuant to a voluntary acknowledgment of parentage may be made by the state registrar upon his or her own observation. The state registrar may make corrections to or complete items which are not obvious errors upon written request of the parent or guardian, the hospital, the certifying attendant, or the town clerk in the town of occurrence or the town of residence on a form provided by the state registrar. The state registrar may correct or complete the

certificate accordingly and shall certify thereon that such correction or completion was made pursuant to this section, with the date thereof.

(c) The state registrar shall destroy any current version of the corrected or completed birth certificate maintained at the department and at local, regional, and state facilities and replace it with the corrected or completed version.

(d) The state registrar may refuse an application for correction or completion, in which case the applicant may petition the probate division of the superior court for the district in which the birth occurred for such correction or completion.

§ 5108. AMENDMENTS

(a) Except as otherwise provided in subsection (b) of this section, after six months from the date of registration of the birth, the birth certificate of a person born in this state may be amended only by the decree of the probate division of the superior court for the district in which the birth occurred. A petition for such amendment may be brought by the person, the person's parent or guardian, the hospital in which the birth occurred, the certifying attendant, the town clerk in the town of occurrence or the town of residence, or the state registrar, setting forth the reason for such petition and the amendment desired. After six months from the date of birth, the birth certificate may be amended to add the father pursuant to a voluntary acknowledgment of parentage only as provided in this section.

(b) The state registrar may amend a certificate of birth after six months from the date of registration of the birth without a decree from the probate division of the superior court when the amendment is to address an administrative error as a result of data entry, electronic imaging, or other minor errors related to records management activity. The state registrar may refuse an application for amendment of an administrative error if the state registrar is unable to confirm the existence of the error, in which case the applicant may petition the probate division of the superior court for the district in which the birth occurred for such amendment.

(c) The probate division of the superior court for the district in which the birth occurred shall set a time for hearing on a petition filed under this section and may cause notice thereof, if it deems notice to be necessary, by posting a notice in the public area of the court's office. After hearing such proper and relevant evidence as may be presented, the court shall make findings with respect to the birth of the person as are supported by the evidence, issue a decree setting forth the facts as found, and transmit a certified copy thereof to the state registrar.

(d) A certificate of birth that is amended by court order pursuant to this section shall have the words "Court Amended" at the top of the amended

certificate and all copies thereof and the state registrar shall certify that the amendment was ordered by said court pursuant to this section with the date of decree. The amended information shall be notated on the amended certificate and all copies thereof to show the legal effects, including the date of the court order and specification of the information that was changed.

(e) The state registrar shall destroy any current version of the birth certificate maintained at the department and at local, regional, and state facilities and replace it with the amended version.

(f) Birth certificates that are amended pursuant to this section for corrections or additions that would have been permitted under subsection 5107(b) of this section if requested within six months of the registration of the birth of the child shall be amended without payment of a court fee.

(g) Whenever a person changes his or her name pursuant to 15 V.S.A. chapter 13, he or she shall provide the probate division of the superior court with a certified copy of his or her birth certificate and, if married or a party to a civil union, a certified copy of his or her civil marriage or civil union certificate and a certified copy of the birth certificate of each minor child, if any. The register of probate with whom the change of name is filed and recorded shall transmit the certificates and a certified copy of the instrument of change of name to the state registrar. The state registrar shall amend the original birth certificate or certificates in accordance with the provisions of this section. Such amended certificates shall have the words "Court Amended" at the top of the amended certificate and all copies thereof and shall certify that the amendment was ordered by said court pursuant to this section. The amended information shall be notated on the amended certificate and all copies thereof to show the legal effects, including the date of the court order and specification of the information that was changed.

§ 5109. FORM AND EFFECT OF NEW CERTIFICATES

All birth certificates issued pursuant to the provisions of this chapter shall have the same force and effect as though filed in accordance with the provisions of section 5101 of this title. Each certified copy of such a certificate shall have the same force and effect as though the original certificate is presented. A certified copy shall provide the necessary elements to meet the legal requirements of state and federal law but is not required to be an exact image of the original certificate.

§ 5110. PARTICIPANTS IN ADDRESS CONFIDENTIALITY PROGRAM

(a) If a participant in the program described in 15 V.S.A. chapter 21, subchapter 3 who is the parent of a child born during the period of program participation notifies the physician or midwife who delivers the child or the hospital at which the child is delivered not later than 72 hours after the birth of

the child that the participant's confidential address should not appear on the child's birth certificate, then the department shall not disclose such confidential address or the participant's town of residence on any public record. A participant who fails to provide such notice shall be deemed to have waived the provisions of this section. Notwithstanding the provisions of section 5101 of this title, if notice of a parent's participation in the address confidentiality program is received in a timely fashion, the attendant physician or midwife shall file the certificate with the state registrar within five days of the birth without the confidential address or town of residence and shall not file the certificate with the town clerk.

(b) The state registrar shall receive and file for record all certificates filed in accordance with this section and shall ensure that a parent's confidential address and town of residence do not appear on the birth certificate during the period that the parent is a program participant. The state registrar shall notify the secretary of state of the receipt of a birth certificate on behalf of a program participant.

(c) The department shall maintain a confidential record of the parent's actual mailing address and town of residence. Such record shall be exempt from public inspection and copying.

(d) Upon the renewal, expiration, withdrawal, invalidation, or cancellation of program participation of any parent for whom the secretary of state received notice from the state registrar, the secretary of state shall notify the state registrar.

(e) Notwithstanding the provisions of sections 5107 and 5108 of this title, upon notice of the expiration, withdrawal, invalidation, or cancellation of program participation, the state registrar shall enter the parent's actual mailing address and town of residence on the original birth certificate and shall transmit the completed original birth certificate to all sites with designated authority by the state registrar to hold such records and issue copies.

§ 5111. NAMES ON BIRTH CERTIFICATES

(a) A birth certificate is not complete and correct and acceptable for registration by the state registrar if such certificate contains:

(1) items completed with pictographs or ideographs or writing that is not part of the standard 26-letter English alphabet;

(2) given names or surnames written with symbols that have no phonetic standing on their own, provided, however, that numerals used for generational identifiers; common punctuation such as hyphens for hyphenated names, apostrophes used as part of a given name or surname, commas to separate

surnames from generational identifiers, and periods in generational identifiers; and initials and abbreviations used as part of a name shall be permitted; or

(3) given names and surnames that exceed a total of 50 characters in length for each of the first, middle, and last names, to include hyphens, apostrophes, and periods when used as part of the name.

(b) Only one generational identifier may be used after the surname. Generational identifiers may not take the form of commonly conferred academic honorifics, including M.D., J.D., D.O., Esq., B.A., B.S., M.A., M.S., or Ph.D. or other designations not commonly used as generational identifiers.

§ 5112. ISSUANCE OF NEW BIRTH CERTIFICATE; CHANGE OF SEX

(a) Upon receiving from the probate division of the superior court a court order that an individual's sexual reassignment has been completed, the state registrar shall issue a new birth certificate ~~to show that the sex of the individual born in this state has been changed~~, and the new birth certificate shall not contain a statement that would distinguish it from any other original certificate of birth.

(b) An affidavit by a licensed physician who has treated or evaluated the individual stating that the individual has undergone surgical, hormonal, or other treatment appropriate for that individual for the purpose of gender transition shall constitute sufficient evidence for the court to issue an order that sexual reassignment has been completed. The affidavit shall include the medical license number and signature of the physician.

(c) A new certificate issued pursuant to subsection (a) of this section shall be substituted for the original birth certificate in official records. The new certificate shall not show that a change in name or sex, or both, has been made. ~~The~~ Upon issuance of a new birth certificate under this section, the probate division shall order the sealing of the original birth certificate, the probate ~~court~~ division order of completed sexual reassignment, and any other records relating to the issuance of the new birth certificate ~~shall be confidential and shall not be subject to public inspection pursuant to 1 V.S.A. § 317(c);~~. ~~however an individual may have access to his or her own records and may authorize the state registrar to confirm that, pursuant to court order, it~~. An individual who receives a new birth certificate under this section may petition the probate division to:

(1) allow the individual to review records sealed under this section when the individual is the subject of such records; or

(2) order the state registrar to confirm that the state registrar has issued a new birth certificate to the individual that reflects a change in name or sex, or both.

(d) If an individual born in this state has an amended birth certificate showing that the sex of the individual has been changed, and the birth certificate is marked "Court Amended" or otherwise clearly shows that it has been amended, the individual may receive a new birth certificate from the state registrar upon application.

(e) A probate division hearing regarding an individual's sexual reassignment shall be confidential. The general public shall be excluded from hearings regarding an individual's sexual reassignment or the issuance of a birth certificate under this section. Only a party, the party's counsel, witnesses, persons accompanying the party, and such other persons that the court finds as having a proper interest in the proceedings may be admitted by the court.

Sec. 3. 18 V.S.A. § 5202 is amended to read:

§ 5202. ~~DEATH CERTIFICATE; DUTIES OF PHYSICIAN~~ DEATH REGISTRATION

(a) A certificate of death for each death which occurs in Vermont shall be filed with the department in the manner and form prescribed by the commissioner within 24 hours after the death or the finding of a dead body and prior to final disposition and shall be registered if the certificate has been completed and filed in accordance with this chapter.

(1) The commissioner shall prescribe, furnish, and distribute such forms as are required by this section or prescribe such other means for transmission of data as will accomplish the purpose of complete and accurate reporting and registration of deaths.

(2) If the place of death is unknown but the dead body is found in this state, the certificate of death shall be completed and filed in accordance with this chapter. The place where the body is found shall be shown as the place of death. If the exact date of death is unknown, the portions of the date known shall be entered as the date of death. If no portion of the date of death can be determined, the date of death shall be entered as unknown and the date the body was found shall be indicated as the date pronounced.

(3) When death occurs in a moving conveyance in the United States and the body is first removed from the conveyance in this state, the death shall be registered in this state and the place where it is first removed shall be considered the place of death. When a death occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the body is first removed from the conveyance in this state, the death shall be registered in this state and the place where it is first removed shall be considered the place of death.

(4) In all other cases, the place where death is pronounced shall be considered the place where death occurred.

(b) The death certificate shall contain at minimum: the name of the deceased person; the deceased person's date of birth; the deceased person's date of death; the deceased's place of death; the name of the person certifying the death; whether the deceased person was a veteran of any war and, if so, of which war; and the cause of death. The department may request additional information as needed to fulfill federal and state requirements. The deceased person's Social Security number shall be collected but shall not be part of any public record and shall be exempt from inspection and copying.

(c) The licensed health care professional who is last in attendance upon a deceased person shall immediately ~~fill out~~ complete a certificate of death on a form and in a manner prescribed by the commissioner, attest to the information by signature or an approved electronic process, and ensure that the completed certification of the death is provided to the state registrar within 24 hours after the death. For the purposes of this section, a licensed health care professional means a physician, a physician assistant, or an advance practice registered nurse. If the licensed health care professional who attended the death is unable to state the cause of death, he or she shall immediately notify the physician, if any, who was in charge of the patient's care to ~~fill out~~ complete the certificate. If the physician is unable to state the cause of death, the provisions of section 5205 of this title apply. The licensed health care professional may, with the consent of the funeral director, the deceased's next-of-kin, or the individual with authority for final disposition as provided in section 5227 of this title, delegate to the funeral director the responsibility of gathering data for ~~and filling out~~ completing all items except the medical certification ~~of cause of death~~ section. ~~All entries, except signatures, on the certificate shall be typed or printed and shall contain answers to the following questions:~~

~~(1) Was the deceased a veteran of any war?~~

~~(2) If so, of what war?~~

~~(b) When death occurs in a hospital and it is impossible to obtain a death certificate from an attending licensed health care professional before burial or transportation, any licensed health care professional who has access to the facts and can certify that death is not subject to the provisions of section 5205 of this title may complete and sign a preliminary report of death on a form supplied by the commissioner. The municipal or county clerk or a deputy shall accept this report and issue a burial transit permit. This preliminary report of death may be destroyed six months after a death certificate has been filed. This does not relieve the attending licensed health care professional from the responsibility of completing a death certificate and delivering it to the funeral director within 24 hours after death.~~

(d) Upon receipt of autopsy results or other information that would change the information in the cause-of-death section of the death certificate from that originally reported, the certifier or the pathologist who conducted the autopsy shall immediately notify the department to correct the record, consistent with section 5204 or 5205 of this title, as applicable.

Sec. 4. 18 V.S.A. § 5202a is amended to read:

§ 5202a. CORRECTION OF DEATH CERTIFICATE

(a) ~~Within six months after the date of death, the town clerk may correct or complete a death certificate upon application by the certifying physician, medical examiner, hospital, nursing home or funeral director. The town clerk may correct or complete the certificate accordingly and shall certify thereon that such correction or completion was made pursuant to this section, with the date thereof. In his or her discretion, the town clerk may refuse an application for correction or completion, in which case, the applicant may petition the probate division of the superior court for such correction or completion.~~

~~(b)(1) After six months from the date of death a death certificate may only be corrected or amended pursuant to decree of the probate division of the superior court in which district the original certificate is filed.~~

~~(2) The probate division of the superior court to which such application is made shall set a time for hearing thereon and, if such court deems necessary, cause notice of the time and place thereof to be given by posting the same in the probate division of the superior court office and, after hearing, shall make such findings, with respect to the correction of such death certificate as are supported by the evidence. The court shall thereupon issue a decree setting forth the facts as found, and transmit a certified copy of such decree to the supervisor of vital records registration. The supervisor of vital records registration shall transmit the same to the appropriate town clerk to amend the original or issue a new certificate. The words "Court Amended" shall be typed, written or stamped at the top of the new or amended certificates, with the date of the decree and the name of the issuing court.~~

Within six months after the date of registration of the death certificate, correction of obvious errors, of transpositions of letters in words of common knowledge, or of omissions may be made by the state registrar upon his or her own observation. The state registrar may make corrections to or complete items which are not obvious errors upon written request of the next of kin or other informant, the hospital, the nursing home, the certifying physician, the medical examiner, the funeral director or other person authorized to dispose of the body, or the town clerk in the town of occurrence or in the town of residence on a form provided by the state registrar. The state registrar may correct or complete the certificate accordingly and shall certify thereon that

such correction or completion was made pursuant to this section, with the date thereof.

(b) The state registrar shall destroy any current version of the death certificate maintained at the department and at local, regional, and state facilities, and replace it with the corrected or completed version.

(c) ~~Provided, however, that only~~ The state registrar may refuse an application for correction or completion, in which case the applicant may petition the probate division of the superior court for the district in which the death occurred for such correction or completion.

(d) Only the medical examiner ~~or the certifying physician~~, the certifier, or the pathologist who conducted the autopsy may apply to correct or complete the certificate as to items in the medical certification ~~of the cause of death~~ section.

Sec. 5. 18 V.S.A. § 5202b is added to read:

§ 5202b. AMENDMENT TO DEATH CERTIFICATE

(a) Except as provided in subsection (b) of this section, after six months from the date of registration of the death certificate of a person who died in this state, a death certificate may be amended only by the decree of the probate division of the superior court for the district in which the death occurred. Except as provided in subsection (h) of this section, a petition setting forth the reason for such petition and the amendment desired may be brought by the next of kin or other informant, the hospital, the nursing home, the certifying physician, the medical examiner, the funeral director, the town clerk in the town of occurrence or the town of residence, or the state registrar.

(b) The state registrar may amend a certificate of death after six months from the date of registration of the death certificate without a decree of a court when the amendment is to address an administrative error as a result of data entry, electronic imaging, or other records management activity. The state registrar may refuse an application for amendment of an administrative error, in which case the applicant may petition the probate division of the superior court for the district in which the death occurred for such amendment.

(c) The probate division of the superior court for the district in which the death occurred shall set a time for hearing on a petition filed under this section and cause notice thereof, if it deems such necessary, by posting a notice in the public area of the court office. After hearing such proper and relevant evidence as may be presented, the court shall make such findings with respect to the death of the person as are supported by the evidence.

(d) The probate division of the superior court shall thereupon issue a decree setting forth the facts as found and transmit a certified copy thereof to the state registrar.

(e) A certificate of death that is amended by court order shall have the words "Court Amended" at the top of the amended certificate and all copies thereof, and the state registrar shall certify that the amendment was ordered by the court pursuant to this section with the date of decree. The amended information shall be notated on the amended certificate and all copies thereof to show the legal effects, including the date of the court order and specification of the information that was changed.

(f) The state registrar shall destroy any current version of the death certificate maintained at the department and at local, regional, and state facilities and replace it with the amended version.

(g) Death certificates that are amended under this section for administrative errors that would have been permitted within six months of the date of registration of the death certificate under section 5202a of this title shall be amended without payment of a court fee.

(h) Only the medical examiner, the certifier, or the pathologist who conducted the autopsy may apply to complete, correct, or amend a death certificate as to the medical certification section.

Sec. 6. 18 V.S.A. § 5203 is amended to read:

§ 5203. DEATH CERTIFICATE; MEMBER OF ARMED FORCES

(a) Upon official notification of a death of a member of the armed forces of the United States while serving as such beyond the United States, not including the territories thereof, and provided the remains of the member are not returned to this country, the next of kin thereof or interested person may file with the ~~clerk of the town of the residence of such member~~ state registrar a certificate of death. Such certificate shall set forth the name~~,~~; date of birth~~, and~~; date of death, if ~~the same~~ it can be determined~~,~~; the names of the parents of the deceased; and such other information as may be deemed pertinent by the office of the adjutant general.

(b) The certificate shall be made on a form prescribed by the state registrar, and a certified copy thereof shall be forwarded to the office of the adjutant general.

Sec. 7. 18 V.S.A. § 5205 is amended to read:

§ 5205. DEATH CERTIFICATE WHEN NO ATTENDING PHYSICIAN; AUTOPSY

(a) When a person dies from violence, or suddenly when in apparent good health or when unattended by a physician or a recognized practitioner of a well-established church, or by casualty, or by suicide or as a result of injury or when in jail or prison~~,~~ or ~~any mental institution~~ a specialty hospital for mental health care, or in any unusual, unnatural, or suspicious manner, or in circumstances involving a hazard to public health, welfare, or safety, the head of the household, the jailer ~~or~~, the superintendent of a mental institution where such death occurred, ~~or~~ the next of kin, ~~or~~ the person discovering the body, or any doctor notified of the death~~,~~ shall immediately notify the medical examiner who resides nearest the town where the death occurred, and, immediately upon being notified, such medical examiner shall notify the state's attorney of the county in which the death occurred. The state's attorney shall thereafter be in charge of the body and shall issue such instructions covering the care or removal of the body as he or she shall deem appropriate until he or she releases same.

(b) The medical examiner and a designated law enforcement officer shall thereupon together immediately make a proper preliminary investigation.

(c) Unless the cause and manner of death is uncertain, such medical examiner shall complete and sign a certificate of death in the manner prescribed by the commissioner. He or she and the designated law enforcement officer shall each submit a report of investigation to the state's attorney and the chief medical examiner. If, however, the cause or circumstances of death are uncertain, he or she shall immediately so advise the state's attorney of the county where the death occurred, and notify the chief medical examiner.

(d) The state's attorney of each county, with the advice of the commissioner of public safety or ~~his~~ designee, the sheriff, and the chief of police of any established police department, shall prepare a list of law enforcement officers in his or her county qualified to make an investigation and report. This list shall be made available to the medical officers concerned and such other persons as the state's attorney deems proper.

(e) If an undertaker or embalmer ~~shall~~, in the course of his or her employment, ~~find~~ finds evidence of physical violence on the body or evidence of an unlawful act sufficient to indicate to such a person that death might have been the result of an unlawful act, he or she shall immediately notify the state's attorney of the county where the body is then located and shall proceed no

further with the preparation and embalming process of such body until permitted to do so by the state's attorney.

(f) The state's attorney or chief medical examiner, if either ~~deem~~ deems it necessary and in the interest of public health, welfare, and safety, or in furtherance of the administration of the law, may order an autopsy to be performed by the chief medical examiner or under his or her direction. Upon completion of the autopsy, the chief medical examiner shall submit a report to such state's attorney, the designated law enforcement officer investigating the case, and the attorney general and shall complete and sign a certificate of death in the manner prescribed by the commissioner.

(g) When a person who is committed to the custody of the department of corrections or who is under the supervision of the department of corrections dies, the commissioner of corrections may request to be provided with a copy of any and all reports generated pursuant to subsection (f) of this section. No such request shall be granted where the medical examiner is unable to determine a manner of death or the manner of death is classified as a homicide. In other circumstances, the request shall be granted in the discretion of the medical examiner for good cause shown. Reports disclosed pursuant to this subsection shall remain confidential as required by law and shall not be considered to be a public record pursuant to 1 V.S.A. § 317.

Sec. 8. 18 V.S.A. § 5207 is amended to read:

§ 5207. CERTIFICATE FURNISHED FAMILY; BURIAL PERMIT

The physician or person filling out the medical certification section of the certificate of death or preliminary report of death, within ~~thirty-six~~ 24 hours after death, shall deliver the same to the family of the deceased, if any, or the undertaker or person who has charge of the body. Such certificate or preliminary report of death shall be filed with the person issuing the certificate of permission for burial, entombment, or removal obtained by the person who has charge of the body before such dead body shall be buried, entombed, or removed from the town. When such certificate of death or preliminary report of death is so filed, such officer or person shall immediately issue a certificate of permission for burial, entombment, or removal of the dead body under legal restrictions and safeguards.

Sec. 9. 18 V.S.A. § 5207a is added to read:

§ 5207a. DELAYED REGISTRATION OF DEATH

(a) When a certificate of death of a person who died in this state has not been filed within one year after death, the next-of-kin of the deceased may file with the department an application for a delayed certificate of death. The application shall contain all information required for a certificate of death

pursuant to section 5202 of this title, reasons for the delay in filing the death registration, and evidence substantiating the alleged facts of death.

(b) The death shall be registered on a delayed certificate of death form, which shall feature the word "Delayed" at the top and show on its face the date of registration. The delayed certificate shall contain a summary statement of the evidence submitted in support of the delayed registration.

(c) If an applicant does not submit the minimum documentation required for delayed registration or if the state registrar has cause to question the validity or adequacy of the applicant's sworn statement or the documentary evidence and if the deficiencies are not corrected, the state registrar shall not register the delayed certificate of death and shall advise the applicant of the reasons for this action and shall further advise the applicant of his or her right to seek an order from the probate division of the superior court for the district in which the death occurred.

Sec. 10. 18 V.S.A. § 5131 is amended to read:

§ 5131. ISSUANCE OF MARRIAGE LICENSE; SOLEMNIZATION; RETURN OF MARRIAGE CERTIFICATE

(a)(1) Upon application in a form prescribed by the department, a town clerk shall issue to a person a civil marriage license in the form prescribed by the department and shall enter thereon the names of the parties to the proposed marriage, fill out the form as far as practicable and retain in the clerk's office a copy thereof.

* * *

(3) At least one party to the proposed marriage shall sign the certifying application to the accuracy of the facts so stated. The license shall be issued by the clerk of the town where either party resides or, if neither is a resident of the state, by any town clerk in the state.

* * *

(c) Such certificate shall be returned within ten days to the office of the town clerk from which the license issued by the person solemnizing such marriage. The town clerk shall retain and file the original according to sections ~~5007~~ 5036 and ~~5008~~ 5037 of this title.

(d) A copy of the certificate of each marriage performed in Vermont shall be forwarded by the town clerk to the state registrar within 30 days following the filing of the certificate.

Sec. 11. 18 V.S.A. § 5132 is amended to read:

§ 5132. CIVIL MARRIAGE LICENSE; PARTICIPANTS IN ADDRESS CONFIDENTIALITY PROGRAM

(a) If a participant in the program described in 15 V.S.A. chapter 21, subchapter 3 ~~of chapter 21 of Title 15~~ notifies the town that the participant's confidential address should not appear on the civil marriage license or certificate, then the town clerk shall not disclose such confidential address or the participant's town of residence on any public records. A participant who fails to provide such notice shall be deemed to have waived the provisions of this section. If such notice is received, then notwithstanding section 5131 of this title, the town clerk shall file the marriage certificate with the ~~supervisor of vital records registration~~ state registrar within ten days of receipt, without the confidential address or town of residence, and shall not retain a copy of the marriage certificate.

(b) The ~~supervisor of vital records registration~~ state registrar shall receive and file for record all certificates filed in accordance with this section, and shall ensure that a person's confidential address and town of residence do not appear on the marriage certificate during the period that the person is a program participant. A certificate filed in accordance with this section shall be a public document. The ~~supervisor of vital records~~ state registrar shall notify the secretary of state of the receipt of a marriage certificate on behalf of a program participant.

(c) The department shall maintain a confidential record of the person's actual mailing address and town of residence. Such record shall be exempt from public inspection.

(d) Upon the renewal, expiration, withdrawal, invalidation, or cancellation of program participation of any person of whom the secretary of state received notice from the ~~supervisor of vital records registration~~ state registrar, the secretary of state shall notify the ~~supervisor of vital records registration~~ state registrar.

(e) Upon notice of the expiration, withdrawal, invalidation, or cancellation of program participation, the ~~supervisor of vital records registration~~ state registrar shall enter the actual mailing address and town of residence on the original marriage certificate and shall transmit the completed original marriage certificate to the town clerk where the certificate was issued.

(f) The town clerk shall process certificates received in this manner in accordance with the provisions of this chapter.

Sec. 12. 18 V.S.A. § 5150 is amended to read:

§ 5150. CORRECTION OF MARRIAGE CERTIFICATE

* * *

(b) After six months from the date a marriage is solemnized, a civil marriage certificate may only be corrected or amended pursuant to decree of the probate division of the superior court in which district the original certificate is filed.

(c) The probate division of the superior court to which such application is made shall set a time for hearing thereon and, if such court deems necessary, cause notice of the time and place thereof to be given by posting the same in the probate division of the superior court office and, after hearing, shall make such findings, with respect to the correction of such civil marriage certificate as are supported by the evidence. The court shall thereupon issue a decree setting forth the facts as found, and transmit a certified copy of such decree to the ~~supervisor of vital records registration. The supervisor of vital records registration shall transmit the same to the~~ appropriate town clerk to amend the original or issue a new certificate. The words "Court Amended" shall be typed, written or stamped at the top of the new or amended certificate with the date of the decree and the name of the issuing court.

(d) A copy of each corrected or amended certificate shall be forwarded by the town clerk to the state registrar within 30 days following the filing of the corrected or amended certificate.

Sec. 13. 18 V.S.A. § 5151(c) and (d) are amended to read:

(c) The court shall issue a decree setting forth the facts as found and transmit a certified copy of said facts to the ~~supervisor of vital records registration~~ state registrar.

(d) Where a delayed certificate is to be issued, the ~~supervisor of vital records registration~~ state registrar shall prepare a delayed certificate of civil marriage and transmit it, with the decree, to the clerk of the town where the civil marriage license was issued. This delayed certificate shall have the word "Delayed" printed at the top and shall certify that the certificate was ordered by a court pursuant to this chapter, with the date of the decree. The town clerk shall file the delayed certificate and~~, in accordance with the provisions of section 5010 of this title,~~ furnish a copy to the ~~department of health~~ state registrar within 30 days following the filing.

Sec. 14. 18 V.S.A. § 5152 is added to read:

§ 5152. COURT CLERKS; DIVORCE RETURNS

(a) A record of each order of divorce of marriage, annulment, and dissolution of civil union in Vermont shall be transmitted by an employee of the judiciary designated by the clerk of the applicable unit of the superior court to the commissioner on a schedule and on a form established by the commissioner, but no less frequently than once each month.

(b) The record shall be prepared by the petitioner or his or her legal representative in a form prescribed by the commissioner and shall be presented to the clerk of the family division of the superior court with the petition. In all cases, the completed record shall be a prerequisite to the entry of the order.

(c) The record transmitted from the court to the commissioner shall contain:

(1) the names of the parties;

(2) the date of marriage or civil union;

(3) the number of children;

(4) such other statistical information available from the family division of the superior court clerk's file as may be required by the commissioner.

(d) The commissioner shall maintain a copy of the record of the divorce or dissolution and, on request, shall provide certified copies as provided in section 5040 of this title and shall provide noncertified copies from the system of vital statistics as provided in section 5041 of this title.

(e) The clerk of the family division of the superior court shall also send to the commissioner a report of the number of divorces and dissolutions which became absolute during the preceding month on a schedule and in a form established by the commissioner.

Sec. 15. 18 V.S.A. § 5168 is amended to read:

§ 5168. CORRECTION OF CIVIL UNION CERTIFICATE

* * *

(c) The probate division of the superior court shall set a time for a hearing and, if the court deems necessary, give notice of the time and place by posting such information in the probate division of the superior court office. After a hearing, the court shall make findings with respect to the correction of the civil union certificate as are supported by the evidence. The court shall issue a decree setting forth the facts as found, and transmit a certified copy of the decree to the ~~supervisor of vital records registration. The supervisor of vital records registration shall transmit the same to the~~ appropriate town clerk to amend the original or issue a new certificate. The words "Court Amended" shall be typed, written or stamped at the top of the new or amended certificate with the date of the decree and the name of the issuing court.

(d) A copy of each corrected or amended certificate shall be forwarded by the town clerk to the state registrar within 30 days following the filing of the corrected or amended certificate.

Sec. 16. 18 V.S.A. § 5169(c) and (d) are amended to read:

(c) The court shall issue a decree setting forth the facts as found, and transmit a certified copy of ~~said~~ the facts to the ~~supervisor of vital records registration~~ state registrar.

(d) Where a delayed certificate is to be issued, the ~~supervisor of vital records registration~~ state registrar shall prepare a delayed certificate of civil union, and transmit it, with the decree, to the clerk of the town where the civil union license was issued. This delayed certificate shall have the word "Delayed" printed at the top, and shall certify that the certificate was ordered by a court pursuant to this chapter, with the date of the decree. The town clerk shall file the delayed certificate and~~, in accordance with the provisions of section 5010 of this title,~~ furnish a copy to the ~~department of health~~ state registrar within 30 days following the filing.

Sec. 17. 15 V.S.A. § 816 is amended to read:

§ 816. CERTIFICATE OF CHANGE; CORRECTION OF BIRTH AND CIVIL MARRIAGE RECORDS

Whenever a person changes his or her name, as provided in this chapter, he or she shall provide the probate division of the superior court with a copy of his or her birth certificate and, if married, a copy of his or her civil marriage certificate, and a copy of the birth certificate of each minor child, if any. The register of probate with whom the change of name is filed and recorded shall transmit the certificates and a certified copy of such instrument of change of name to the ~~supervisor of vital records registration~~ state registrar. The ~~supervisor of vital records registration~~ state registrar shall amend the birth certificates in accordance with 18 V.S.A. § 5108 and shall forward the marriage certificate and a copy of such instrument of change of name to the town clerk in the town ~~where the person was born within the state, or~~ wherein the original certificate is filed, with instructions to amend the original marriage certificate and all copies thereof in accordance with the provisions of ~~Title 18,~~ 18 V.S.A. chapter ~~101~~ 104. Such amended marriage certificates shall have the words "Court Amended" ~~stamped, written, or typed~~ at the top and shall show that the change of name was made pursuant to this ~~chapter~~ section, along with the date of decree.

Sec. 18. 15A V.S.A. § 1-101 is amended to read:

§ 1-101. DEFINITIONS

In this title:

* * *

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

* * *

(22) "State registrar" and "state registrar in the office of vital statistics" means the supervisor of the office of vital statistics in the department of health.

(23) "Stepparent" means a person who is the spouse or surviving spouse of a parent of a child but who is not a parent of the child.

~~(23) "Supervisor of vital records" means the supervisor of vital records registration of the department of health.~~

Sec. 19. 15A V.S.A. § 3-705(a) is amended to read:

(a) A decree of adoption shall state or contain:

* * *

(6) information to be incorporated into a new birth certificate to be issued by the ~~supervisor of vital records~~ state registrar in the office of vital statistics, unless the petitioner or an adoptee who has attained 14 years of age requests that a new certificate not be issued;

* * *

Sec. 20. 15A V.S.A. § 3-801 is amended to read:

§ 3-801. REPORT OF ADOPTION

~~(a)~~ Within 30 days after a decree of adoption becomes final, the clerk of the court shall prepare a report of adoption ~~on a form furnished by the supervisor of vital records and certify and send the report to the supervisor. The report shall include:~~

~~(1) information in the court's record of the proceeding for adoption which is necessary to locate and identify the adoptee's birth certificate or, in the case of an adoptee born outside the United States, evidence the court finds appropriate to consider as to the adoptee's date and place of birth;~~

~~(2) information necessary to issue a new birth certificate for the adoptee and a request that a new certificate be issued, unless the court, the adoptive parent, or an adoptee who has attained 14 years of age requests that a new certificate not be issued; and~~

~~(3) the file number of the decree of adoption and the date on which the decree became final.~~

~~(b) Within 30 days after a decree of adoption is amended or set aside, the clerk of the court shall prepare a report of that action on a form furnished by the supervisor of vital records and shall certify and send the report to the supervisor of vital records. The report shall include information necessary to identify the original report of adoption, and shall also include information necessary to amend or withdraw any new birth certificate that was issued pursuant to the original report of adoption~~ as provided in 18 V.S.A. § 5105.

Sec. 21. 15A V.S.A. § 3-802 is amended to read:

§ 3-802. ISSUANCE OF NEW BIRTH CERTIFICATE

~~(a) Except as otherwise provided in subsection (d) of this section, upon~~ Upon receipt of a report of adoption ~~prepared pursuant to section 3-801 of this title, a report of adoption prepared in accordance with the law of another state or country, a certified copy of a decree of adoption together with information necessary to identify the adoptee's original birth certificate and to issue a new certificate, or a report of an amended adoption, the supervisor of vital records shall:~~

~~(1) issue a new birth certificate for an adoptee born in this state and furnish a certified copy of the new certificate to the adoptive parent and to an adoptee who has attained 14 years of age;~~

~~(2) forward a certified copy of a report of adoption for an adoptee born in another state to the supervisor of vital records of the state of birth;~~

~~(3) issue a certificate of foreign birth for an adoptee adopted in this state and who was born outside the United States and was not a citizen of the United States at the time of birth, and furnish a certified copy of the certificate to the adoptive parent and to an adoptee who has attained 14 years of age;~~

~~(4) notify an adoptive parent of the procedure for obtaining a revised birth certificate through the United States Department of State for an adoptee born outside the United States who was a citizen of the United States at the time of birth; or~~

~~(5) in the case of an amended decree of adoption, issue an amended birth certificate according to the procedure in subdivision (a)(1) or (3) of this section or follow the procedure in subdivision (2) or (4) of this section.~~

~~(b) Unless otherwise specified by the court, a new birth certificate issued pursuant to subdivision (a)(1) or (3) or an amended certificate issued pursuant to subdivision (a)(5) of this section shall:~~

~~(1) be signed by the supervisor of vital records;~~

~~(2) include the date, time and place of birth of the adoptee;~~

~~(3) substitute the name of the adoptive parent for the name of the person listed as the adoptee's parent on the original birth certificate;~~

~~(4) include the filing date of the original birth certificate and the filing date of the new birth certificate;~~

~~(5) contain any other information prescribed by the supervisor of vital records.~~

~~(c) The supervisor of vital records, and any other custodian of such records, shall substitute the new or amended birth certificate for the original birth certificate. The original certificate and all copies of the certificate in the files shall be sealed and shall not be subject to inspection until 99 years after the adoptee's date of birth, except as provided by this title.~~

~~(d) If the court, the adoptive parent, or an adoptee who has attained 14 years of age requests that a new or amended birth certificate not be issued, the supervisor of vital records may not issue a new or amended certificate for an adoptee pursuant to subsection (a) of this section, but shall forward a certified copy of the report of adoption or of an amended decree of adoption for an adoptee who was born in another state to the appropriate office in the adoptee's state of birth.~~

~~(e) Upon receipt of a report that an adoption has been vacated, the supervisor of vital records shall:~~

~~(1) restore the original birth certificate for a person born in this state to its place in the files, seal any new or amended birth certificate issued pursuant to subsection (a) of this section, and not allow inspection of a sealed certificate except upon court order or as otherwise provided in this title;~~

~~(2) forward the report with respect to a person born in another state to the appropriate office in the state of birth; or~~

~~(3) notify the person who is granted legal custody of a former adoptee after an adoption is vacated of the procedure for obtaining an original birth certificate through the United States Department of State for a former adoptee born outside the United States who was a citizen of the United States at the time of birth.~~

~~(f) Upon request by a person who was listed as a parent on an adoptee's original birth certificate and who furnishes appropriate proof of the person's identity, the supervisor of vital records shall give the person a noncertified copy of the original birth certificate~~, a report of an amended decree of adoption, or a report or decree of annulment of adoption, pursuant to 18 V.S.A. § 5105, the state registrar shall establish a new or amended certificate of birth as provided in 18 V.S.A. § 5106.

Sec. 22. 15A V.S.A. § 5-108(c) is amended to read:

(c) Within 30 days after a decree of adoption becomes final, the clerk of the court shall prepare a report of the adoption for the ~~supervisor of vital records~~ state registrar in the office of vital statistics, and, if the petitioners have requested it, the report shall instruct the ~~supervisor~~ state registrar to issue a new birth certificate to the adoptee, as provided in ~~Article 3, Part 8 of this title~~ 18 V.S.A. § 5106.

Sec. 23. 24 V.S.A. § 1164 is amended to read:

§ 1164. CERTIFIED COPIES; FORM

A town clerk shall furnish certified copies of any instrument on record in his or her office, or any instrument or paper filed in his or her office pursuant to law, on the tender of his fees therefor, and his or her attestation shall be a sufficient authentication of the copies, except that the town clerk shall ~~not copy~~ redact the word "illegitimate" from any copy of a birth certificate that he or she furnishes. A town clerk shall furnish a certified copy of a vital record if his or her office has been designated by the health commissioner pursuant to 18 V.S.A. § 5034(c), the application required by 18 V.S.A. § 5040 has been submitted, and the fee required under 32 V.S.A. § 1671(a)(9) has been paid, unless the person requesting the certified copy is not authorized to receive it under 18 V.S.A. § 5040(a) or the town clerk refers the request to the state registrar under 18 V.S.A. § 5044. Copies of vital records for events occurring outside the state, filed with a town clerk pursuant to ~~section 5015~~ 18 V.S.A. § 5036(e), shall not be ~~copied and~~ certified.

Sec. 24. 32 V.S.A. § 1715 is amended to read:

§ 1715. VITAL RECORDS SEARCH

(a) Upon payment of ~~a $10.00~~ the fee established under 18 V.S.A. § 5039, the commissioner of health or the Vermont state archives and records administration shall provide certified copies of vital records or shall ascertain and certify what the vital records available to the commissioner and the Vermont state archivist show, except that the commissioner and the Vermont state archivist shall ~~not copy~~ redact the word "illegitimate" from any birth certificate furnished. ~~The fee for the search of the vital records is $3.00 which is credited toward the fee for the first certified copy based upon the search.~~

* * *

Sec. 25. REDESIGNATION

18 V.S.A. chapter 103 shall be redesignated as "Birth information network."

Sec. 26. REPEALS

The following are repealed:

(1) 18 V.S.A. chapter 101 (vital records generally).

(2) 18 V.S.A. §§ 5071–5083, inclusive (birth certificates).

(3) 18 V.S.A. § 5204 (certified copy of death certificate forwarded to adjutant general).

(4) 18 V.S.A. § 5206 (penalty for failure to furnish death certificate).

Sec. 27. 32 V.S.A. § 1671 is amended to read:

§ 1671. TOWN CLERK

(a) For the purposes of this section a "page" is defined as a single side of a leaf of paper on which is printed, written, or otherwise placed information to be recorded or filed. The maximum covered area on a page shall be 7 1/2 inches by 14 inches. All letters shall be at least one-sixteenth inch in height or in at least eight point type. Unless otherwise provided by law, the fees to town clerks shall be as follows:

(1) For recording a trust mortgage deed as provided in 24 V.S.A. § 1155, $10.00 per page;

(2) For filing or recording a copy of a complaint to foreclose a mortgage as provided in 12 V.S.A. § 4523(b), $10.00 per page;

(3) For examination of records by town clerk a fee of $5.00 per hour may be charged but not more than $25.00 for each examination on any one calendar day;

(4) For examination of records by others a fee of $2.00 per hour may be charged;

(5) Town clerks may require fees for all filing, recording and copying to be paid in advance;

(6) For the recording or filing, or both, of any document that is to become a matter of public record in the town clerk's office, or for any certified copy of such document, a fee of $10.00 per page shall be charged; except that for the recording or filing, or both, of a property transfer return, a fee of $10.00 shall be charged;

(7) For uncertified copies of records and documents on file, or recorded, a fee of $1.00 per page shall be charged, with a minimum fee of $2.00; however, copies of minutes of municipal meetings or meetings of local boards and commissions, copies of grand lists and checklists and copies of any public

records that any agency of that political subdivision has deposited with the clerk shall be available to the public at actual cost;

(8) For survey plats filed in accordance with 27 V.S.A. chapter 17 ~~of Title 27~~, a fee of $15.00 per 11 inch by 17 inch sheet, $15.00 per 18 inch by 24 inch sheet, and $15.00 per 24 inch by 36 inch sheet shall be charged.

(9) Notwithstanding subdivision (6) of this subsection, the fee charged by a town clerk for a copy of a vital record shall be the same as the fee charged under 18 V.S.A. § 5039.

* * *

Sec. 28. EFFECTIVE DATE

This act shall take effect on July 1, 2012, except that:

(1) In Sec. 1 of this act, 18 V.S.A. §§ 5033 (issuance of vital records), 5034 (office of vital statistics), 5040 (certified copies), 5041 (noncertified copies), 5043 (designated vital records officer), 5044 (vital records alert system), and 5046 (missing or kidnapped; vital records) shall take effect on March 15, 2013.

(2) In Sec. 1 of this act, 18 V.S.A. §§ 5105 (reports of adoption) and 5106 (certificates of birth following adoption) shall take effect on passage.

(3) In Sec. 2 of this act, 18 V.S.A. § 5112 (issuance of new birth certificate; change of sex) shall take effect on passage.

(4) Sec. 23 (town clerk; certified copies) of this act shall take effect on March 15, 2013.

(Committee vote: 4-1-0)

(No House amendments.)

H. 753.

An act relating to encouraging school districts and supervisory unions to provide services cooperatively or to consolidate governance structures.

Reported favorably with recommendation of proposal of amendment by Senator Mullin for the Committee on Education.

The Committee recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. Sec. 2 of No. 153 of the Acts of the 2009 Adj. Sess. (2010) is amended to read:

Sec. 2. SCHOOL DISTRICT MERGER INCENTIVE PROGRAM

* * *

(c) ~~Board vote. On or before October 1, 2012, each supervisory union board shall vote whether to perform a more comprehensive analysis of potential merger, and shall report the results of its vote to the commissioner of education and the voters of each member school district.~~ [Repealed.]

* * * Reimbursement; Initial Exploration of Joint Activity * * *

Sec. 2. REIMBURSEMENT OF FEES FOR CONSULTING SERVICES; INITIAL EXPLORATION OF JOINT ACTIVITY; SUPERVISORY UNIONS; SCHOOL DISTRICTS; SUNSET

(a) From the education fund, the commissioner of education shall reimburse up to $5,000.00 of fees paid by two or more supervisory unions or two or more school districts for facilitation, legal, and other consulting services necessary for initial exploration of the value of providing services or performing duties jointly, which may include community engagement and lead to the identification of possible joint action, including the provision of shared programming, the operation of a joint contract school, the merger of supervisory unions, or the creation of union school districts pursuant to 16 V.S.A. chapter 11, subchapter 4 or the variations authorized by Secs. 15, 16, and 17 of this act and by No. 153 of the Acts of the 2009 Adj. Sess. (2010).

(b) This section is repealed on July 1, 2017.

* * * Reimbursement; Joint Activity other than Merger * * *

Sec. 3. REPEAL

Sec. 9a of No. 153 of the Acts of the 2009 Adj. Sess. (2010) ($10,000.00 reimbursement of transitional costs for supervisory unions performing duties jointly) is repealed.

Sec. 4. REIMBURSEMENT OF FEES FOR CONSULTING SERVICES; JOINT ACTIVITY OTHER THAN MERGER; SUPERVISORY UNIONS; SCHOOL DISTRICTS; SUNSET

(a) From the education fund, the commissioner of education shall reimburse up to $10,000.00 of fees paid by two or more supervisory unions or two or more school districts for:

(1) legal and other consulting services necessary to analyze in detail the advisability of providing services or performing duties jointly that will result in a measurable increase in opportunities for students and a decrease in costs; or

(2) transitional costs necessary to enter into and implement agreements to provide those services or perform those duties jointly; or

(3) both subdivisions (1) and (2) of this subsection.

(b) Each group of supervisory unions or school districts shall forward invoices to the commissioner on a quarterly basis. The commissioner shall reimburse one-half of the total amount reflected in each set of invoices and the remaining one-half upon submission to the commissioner of a written statement of the entities' analysis and conclusions, provided that no payment shall cause the total amount paid to exceed the $10,000.00 limit.

(c) A group of supervisory unions or school districts that receives reimbursement under this section shall not be eligible to receive additional reimbursement under Sec. 5 or 9 of this act for the same proposal.

(d) This section is repealed on July 1, 2017.

* * * Reimbursement and Incentives; Merger of Supervisory Unions * * *

Sec. 5. REIMBURSEMENT OF FEES FOR CONSULTING SERVICES; MERGER; SUPERVISORY UNIONS; SUNSET

(a) From the education fund, the commissioner of education shall reimburse up to $20,000.00 of fees paid by two or more supervisory unions for legal and other consulting services necessary to analyze the advisability of the merger into a fewer number of supervisory unions and to prepare a petition to the state board of education requesting adjustment of supervisory union boundaries.

(b) Each group of supervisory unions shall forward invoices to the commissioner on a quarterly basis. The commissioner shall reimburse one-half of the total amount reflected in each set of invoices and the remaining one-half upon submission of either a petition to the state board requesting that the boundaries be redrawn or a written statement of the entities' analysis supporting preservation of the current boundaries, provided that no payment shall cause the total amount paid to exceed the $20,000.00 limit.

(c) Any transition facilitation grant funds paid pursuant to Sec. 6 of this act shall be reduced by the total amount of reimbursement provided under this section.

(d) This section is repealed on July 1, 2017.

Sec. 6. TRANSITION FACILITATION GRANT; MERGER; SUPERVISORY UNIONS; SUNSET

(a) After state board of education approval of the petition of two or more supervisory unions to merge into a fewer number of supervisory unions, the commissioner of education shall pay to the new supervisory union board or the new group of boards a transition facilitation grant from the education fund of $150,000.00, less reimbursement funds received under Sec. 5 of this act.

(b) This section is repealed on July 1, 2017.

Sec. 7. APPLICABILITY; RUTLAND-WINDSOR AND WINDSOR SOUTHWEST SUPERVISORY UNIONS

If on or before July 1, 2012 the state board of education approves the petition of the Rutland-Windsor and Windsor Southwest Supervisory Unions to merge into a single, new supervisory union on or before July 1, 2013, then the new supervisory union shall be eligible to receive:

(1) the transition facilitation grant available under Sec. 6 of this act; and

(2) a one-time grant of $100,000.00 from the education fund for the purposes of reducing taxes in the affected towns during fiscal year 2014.

Sec. 8. SUPERVISORY UNION SIZE AND STRUCTURE

(a) The secretary of administration or designee, in consultation with the commissioner of education or designee, shall explore the purpose, structure, duties, and authority of supervisory unions and design a revised structure based roughly on existing technical center service regions that results in no more than three supervisory unions within each region. The primary purpose of any design shall be to improve education quality. The secretary shall analyze the feasibility of the revised structure and shall develop a plan of transition. Among other things, the secretary shall:

(1) consider the optimal size of supervisory unions, in terms of geography and numbers of students, technical centers, schools, and school districts served;

(2) consider structural elements, such as:

(A) management models;

(B) staffing, including the most appropriate way to address existing contracts, staff consolidation, and salary equalization;

(C) special education services;

(D) financial and other data collection and management systems;

(E) transportation, including ownership of buses, merger of systems, and consolidation of routes;

(F) supervisory union boards, including structure, selection of members, district representation, and the purpose, authority, and membership of executive committees;

(G) supervisory union budgets, including the manner in which they are adopted and the method by which costs are assessed to the member districts;

(H) ownership of real and personal property;

(I) ability to borrow money; and

(J) alignment of curricula and calendars;

(3) consider ways in which the department and state board of education would support transition to a proposed structure; and

(4) estimate both the financial cost of transitioning to and the potential savings in the proposed structure.

(b) By January 15, 2013, the secretary shall report to the senate and house committees on education on the work required by this section. The secretary shall also provide recommendations for legislative action necessary to implement its proposed plan.

* * * Reimbursement and Incentives; Merger of School Districts * * *

Sec. 9. REIMBURSEMENT OF FEES FOR CONSULTING SERVICES; MERGER; SCHOOL DISTRICTS; SUNSET

(a) From the education fund, the commissioner of education shall reimburse up to $20,000.00 of fees paid by a study committee established under 16 V.S.A. § 706 for legal and other consulting services necessary to analyze the advisability of creating a union school district or a unified union school district and to prepare the report required by 16 V.S.A. § 706b.

(b) The study committee shall forward invoices to the commissioner on a quarterly basis. The commissioner shall reimburse one-half of the total amount reflected in each set of invoices and the remaining one-half upon submission of the final report pursuant to 16 V.S.A. § 706c, provided that no payment shall cause the total amount paid to exceed the $20,000.00 limit.

(c) Any transition facilitation grant funds paid to the union school board pursuant to Sec. 11 of this act shall be reduced by the total amount of reimbursement provided under this section.

(d) A regional education district ("RED") receiving incentives pursuant to Sec. 4 of No. 153 of the Acts of the 2009 Adj. Sess. (2010) as amended by this act is not eligible to receive reimbursement under this section.

(e) This section is repealed on July 1, 2017.

Sec. 10. REPEAL

Sec. 168a of No. 122 of the Acts of the 2003 Adj. Sess. (2004), as amended by Sec. 23 of No. 66 of the Acts of 2007 and further amended by Sec. 5 of No. 153 of the Acts of the 2009 Adj. Sess. (2010) ($150,000.00 or five-percent transition aid to merging school districts), is repealed.

Sec. 11. TRANSITION FACILITATION GRANT; MERGER; SCHOOL DISTRICTS; SUNSET

(a) After voter approval of the establishment of a union, unified union, or interstate school district, the commissioner of education shall pay to the district a transition facilitation grant from the education fund equal to the lesser of:

(1) five percent of the base education amount established in 16 V.S.A. § 4001(13) multiplied by the greater of either the combined enrollment or the average daily membership of the merging districts on October 1 of the year in which the successful vote is taken; or

(2) $150,000.00.

(b) A grant awarded under this section shall be reduced by the total amount of reimbursement paid under Sec. 9 of this act.

(c)(1) A RED receiving incentives pursuant to Sec. 4 of No. 153 of the Acts of the 2009 Adj. Sess. (2010) as amended by this act ("Act 153") is not eligible to receive a grant under this section.

(2) An interstate, union, or unified union school district, including a RED, that expands by merging with one or more additional school districts is not eligible to receive a grant under this section if the original merged district received a transition facilitation grant under this section, Act 153, or Sec. 168a of No. 122 of the Acts of the 2003 Adj. Sess. (2004), as amended by Sec. 23 of No. 66 of the Acts of 2007, as further amended by Sec. 5 of No. 153 of the Acts of the 2009 Adj. Sess. (2010), and as repealed by Sec. 10 of this act.

(d) This section is repealed on July 1, 2017.

Sec. 12. APPLICABILITY; JOINT CONTRACT SCHOOL

A transition facilitation grant pursuant to Sec. 11 of this act shall be paid proportionally based on enrollment to any group of districts if in fiscal year 2012 or 2013 the voters of each district approve the issuance of bonds upon which establishment of a joint contract school is conditioned. The combined enrollment of the grades newly being offered jointly by the contracting districts shall be used to calculate the amount awarded.

* * * Incentives; Regional Education Districts * * *

Sec. 13. Sec. 4 of No. 153 of the Acts of the 2009 Adj. Sess. (2010) is amended to read:

Sec. 4. VOLUNTARY SCHOOL DISTRICT MERGER; INCENTIVES

(a) Equalized homestead property tax rates or RED incentive grant. A RED's plan of merger shall provide whether, upon merger, the RED shall receive an equalization of its homestead property tax rates during the first four years following merger or an incentive grant during the first year following merger.

(1)(A) Equalized homestead property tax rates. Subject to the provisions of subdivision ~~(2)~~(C) of this ~~subsection~~ subdivision (1) and notwithstanding any other provision of law, the RED's equalized homestead property tax rate shall be:

(i) decreased by $0.08 in the first year after the effective date of merger;

(ii) decreased by $0.06 in the second year after the effective date of merger;

(iii) decreased by $0.04 in the third year after the effective date of merger; and

(iv) decreased by $0.02 in the fourth year after the effective date of merger.

(B) The household income percentage shall be calculated accordingly.

~~(2)~~(C) During the years in which a RED's equalized homestead property tax rate is decreased pursuant to this subsection, the rate for each town within the RED shall not increase or decrease by more than five percent in a single year. The household income percentage shall be calculated accordingly.

(2) RED incentive grant. During the first year after the effective date of merger, the commissioner of education shall pay to the RED board a RED incentive grant from the education fund equal to $400.00 per pupil based on the combined enrollment of the participating districts on October 1 of the year in which the successful vote was taken. The grant shall be in addition to funds received under 16 V.S.A. § 4028.

(3) ~~On~~ Common level of appraisal. Regardless of whether a RED chooses to receive an equalization of its homestead property tax rates or a RED incentive grant, on and after the effective date of merger, the common level of appraisal shall be calculated independently for each town within the RED for purposes of determining the homestead property tax rate for each town.

* * *

(e) Consulting services reimbursement grant. From the education fund, the commissioner of education shall pay up to $20,000.00 to the merger study committee established under 16 V.S.A. § 706 to reimburse the participating districts for legal and other consulting fees necessary for the analysis and report required by 16 V.S.A. § 706b. The study committee shall forward invoices to the commissioner on a quarterly basis. The commissioner shall reimburse one-half of the total amount reflected in each set of invoices and the remaining one-half upon completion of the final report, provided that no

payment shall cause the total amount paid to exceed the $20,000.00 limit. In addition, any transition facilitation grant funds paid to the RED pursuant to ~~Sec. 5 of this act~~ subsection (g) of this section shall be reduced by the total amount of ~~funds provided~~ reimbursement paid under this subsection (e).

* * *

(g) ~~Recent merger. If the Addison Northwest Unified Union School District becomes a body corporate and politic on or before July 1, 2010, then the merged district shall be entitled to receive any of the benefits set forth in this section that it elects and is otherwise eligible to receive if, on or before July 1, 2011:~~

~~(1) it notifies the commissioner of its election; and~~

~~(2) it provides the commissioner with a cost-benefit analysis as required by Sec. 3(h) of this act.~~ Transition facilitation grant.

(1) After voter approval of the plan of merger, the commissioner of education shall pay the RED a transition facilitation grant from the education fund equal to the lesser of:

(A) five percent of the base education amount established in 16 V.S.A. § 4001(13) multiplied by the greater of either the combined enrollment or the average daily membership of the merging districts on October 1 of the year in which the successful vote is taken; or

(B) $150,000.00.

(2) A transition facilitation grant awarded under this subsection (g) shall be reduced by the total amount of reimbursement paid under subsection (e) of this section.

(h) This section is repealed on July 1, 2017.

* * * Interstate School Districts * * *

Sec. 14. Sec. 2(a) of No. 153 of the Acts of the 2009 Adj. Sess. (2010) is amended to read:

(a) Program created. There is created a school district merger incentive program under which the incentives outlined in Sec. 4 of this act shall be available to each new unified union school district created pursuant to Sec. 3 of this act ~~and;~~ to each new district created under ~~that section~~ Sec. 3 of this act by the merger of districts that provide education by paying tuition; and to the Vermont members of any new interstate school district if the Vermont members jointly satisfy the size criterion of Sec. 3(a)(1) of this act and the new, merged district meets all other requirements of Sec. 3 of this act. Incentives shall be available, however, only if the effective date of merger is on or before July 1, 2017.

* * * Other Types of Mergers Eligible for RED Incentives * * *

Sec. 15. TWO OR MORE MERGERS; REGIONAL EDUCATION DISTRICT INCENTIVES

(a) Notwithstanding Sec. 3(a)(1) of No. 153 of the Acts of the 2009 Adj. Sess. (2010) that requires a single regional education district ("RED") to have an average daily membership of at least 1,250 or result from the merger of at least four districts, or both, two or more new districts shall be eligible jointly for the incentives provided in Sec. 4 of No. 153 if:

(1) each new district is formed by the merger of at least two existing districts;

(2) each new district meets all criteria for RED formation other than the size criterion of Sec. 3(a)(1) of No. 153;

(3) one of the new districts provides education in all elementary and secondary grades by operating one or more schools and the other new district or districts pay tuition for students in one or more grades;

(4) each new district has the same effective date of merger;

(5) the new districts, when merged, are members of one supervisory union; and

(6) the new districts jointly satisfy the size criterion of Sec. 3(a)(1) of No. 153.

(b) This section is repealed on July 1, 2017.

Sec. 16. UNION ELEMENTARY SCHOOL DISTRICTS; REGIONAL EDUCATION DISTRICT INCENTIVES

(a) If a majority of the local elementary school districts in the member towns of an existing union high school district merge to form a union elementary school district pursuant to 16 V.S.A. chapter 11 that operates all grades not offered by the union high school district, then, notwithstanding provisions of No. 153 of the Acts of the 2009 Adj. Sess. (2010) to the contrary, the new union elementary school district is eligible for the incentives provided to a regional education district ("RED") in Sec. 4 of that act, provided that the new district complies with the employment and labor relations provisions of Sec. 4(g) of that act and further provided that the effective date of the merger into the union elementary school district is within the period required for RED formation.

(b) This section is repealed on July 1, 2017.

Sec. 17. MODIFIED UNIFIED UNION SCHOOL DISTRICT

(a) Notwithstanding any provision of law to the contrary:

(1)(A) if all local elementary school districts in the member towns of an existing union high school or union middle school-high school district ("union high school district") vote whether to establish a unified union school district providing prekindergarten or kindergarten through grade 12, and

(B) if a majority but not all of the elementary school districts votes in favor of establishing the unified union school district, then

(2) a new modified union school district (the "modified union school district") shall be established that shall:

(A) provide to the students residing in the member towns of the union high school district education in those grades provided by the union high school district; and

(B) provide elementary education to the students residing in the current elementary school districts that voted in favor of the unified union school district.

(b) Establishment of the modified union school district shall:

(1) dissolve the union high school district, and any assets or liabilities held by the union high school district shall be transferred to the modified union school district; and

(2) dissolve the elementary school districts that voted in favor of establishing the unified union school district, and any assets or liabilities they hold as individual districts shall be transferred to the modified union school district.

(c) Notwithstanding provisions of No. 153 of the Acts of the 2009 Adj. Sess. (2010) as amended by this act to the contrary, the modified union school district is eligible for the incentives provided to a regional education district ("RED") in Sec. 4 of that act, provided that the new district complies with the employment and labor relations provisions of Sec. 4(g) of that act and further provided that the effective date of the merger into the modified union school district is within the period required for RED formation.

(d) This section is repealed on July 1, 2017.

* * * Union School Districts Including REDs; Process * * *

Sec. 18. 16 V.S.A. § 706c is amended to read:

§ 706c. CONSIDERATION BY LOCAL SCHOOL DISTRICT BOARDS AND APPROVAL BY STATE BOARD OF EDUCATION

(a) If a study committee prepares a report under section 706b of this chapter, the committee shall transmit the report to the school boards of each school district that participated in the study committee and any other school

districts that the report identifies as necessary or advisable to the establishment of the proposed union school district for the review and comment of each school board.

(b) The study committee shall transmit the report to the commissioner who shall submit the report with his or her recommendations to the state board of education. That board after notice to the study committee and after giving the committee an opportunity to be heard shall consider the report and the commissioner's recommendations, and decide whether the formation of such union school district will be for the best interest of the state, the students, and the school districts proposed to be members of the union. The board may request the commissioner and the study committee to make further investigation and may consider any other information deemed by it to be pertinent. If, after due consideration and any further meetings as it may deem necessary, the board finds that the formation of the proposed union school district is in the best interests of the state, the students, and the school districts, it shall approve the report submitted by the committee, together with any amendments, as a final report of the study committee, and shall give notice of its action to the committee. The chair of the study committee shall file a copy of the final report with the town clerk of each proposed member district at least 20 days prior to the vote to establish the union.

Sec. 19. 16 V.S.A. § 706n is amended to read:

§ 706n. AMENDMENTS TO AGREEMENTS REACHED BY ESTABLISHMENT VOTE, ORGANIZATION MEETING, OR FINAL REPORT

(a) ~~Any~~ A specific condition or agreement set forth as a distinct subsection under Article 1 of the warning required by section 706f of this chapter and adopted by the member districts ~~pursuant to section 706f of this chapter~~ at the vote held to establish the union school district, or any amendment subsequently adopted pursuant to the terms of this section, may be amended only at a special or annual union district meeting; provided that the prior approval of the state board of education shall be secured if the proposed amendment concerns reducing the number of grades that the union is to operate. The warning for the meeting shall contain each proposed amendment as a separate article. The vote on each proposed amendment shall be by Australian ballot. Ballots shall be counted in each member district, and the clerks of each member district shall transmit the results of the vote in that district to the union school district clerk. ~~Results~~ Although the results shall be reported to the public by member district~~; however, no~~, an amendment is effective ~~unless~~ if approved by a majority of ~~those~~ the electorate of the union district voting at that meeting.

(b) Any decision at the organization meeting may be amended by a majority of those present and voting at a union district meeting duly warned for that purpose.

(c) Any provision of the final report ~~which was not contained in a separate article~~ that was included in the warning required pursuant to section 706f of this chapter for the vote to form the union by reference to or incorporation of the entire report but that was not set forth as a distinct subsection under Article 1 of the warning may be amended by a simple majority vote of the union board of school directors, or by any other majority of the board as is specified for a particular matter in the report.

* * * Special Education; Transition to Employment by Supervisory Unions * * *

Sec. 20. Sec. 23(b) of No. 153 of the Acts of the 2009 Adj Sess. (2010), as amended by Sec. 1 of No. 30 of the Acts of 2011, is further amended to read:

(b) Secs. 9 through 12 of this act shall take effect on passage and shall be fully implemented on July 1, 2013, subject to the provisions of existing contracts; provided, however, that the special education provisions of Sec. 9, 16 V.S.A. § 261a(a)(6), and the transportation provisions of Sec. 9, 16 V.S.A. § 261a(a)(8)(E), shall be fully implemented on July 1, 2014.

Sec. 21. SUPERVISORY UNION EMPLOYEES; SPECIAL EDUCATION; WORKING GROUP

(a) On or before July 1, 2012, the commissioner of education or the commissioner's designee shall convene a working group to develop a detailed plan by which supervisory unions shall fully implement, by July 1, 2014, the transition of special education staff employed by school districts to employment by supervisory unions as required by 16 V.S.A. § 261a(a)(6).

(b) The working group shall include department staff and representatives from at least the following constituencies: superintendents; school boards; principals; special educators; a teachers' organization as defined in 16 V.S.A. chapter 57; and business managers.

(c) The working group shall report to the advisory council on special education created by 16 V.S.A. § 2945 and to the house and senate committees on education during the first week of the 2013 and 2014 legislative sessions regarding the progress of the plan required by this section, including a description of the ways in which specific impediments to implementation are being addressed. The working group also shall identify any amendments to statute necessary to achieve implementation by July 1, 2014 of the requirements of 16 V.S.A. § 261a.

* * * Appropriation * * *

Sec. 22. APPROPRIATION

The sum of $650,000.00 is appropriated from the education fund to be used for the purposes of this act in fiscal year 2013.

* * * Excess Spending Provisions * * *

Sec. 23. 16 V.S.A. § 4001(6)(B) is amended to read:

(B) For purposes of calculating excess spending pursuant to 32 V.S.A. § 5401(12), "education spending" shall not include:

* * *

(viii) Tuition paid by a district that does not operate a school and pays tuition for all resident students in kindergarten through grade 12, except in a district in which the electorate has authorized payment of an amount higher than the statutory rate pursuant to subsection 823(b) or 824(c) of this title.

* * * Vermont Municipal Employees' Retirement System; Special Education Instructional Assistants and Transportation Employees; Transfer to Supervisory Union * * *

Sec. 24. 24 V.S.A. § 5051(10) and (11) are amended to read:

(10) "Employee" means the following persons employed on a regular basis by a school district or by a supervisory union for ~~not less~~ no fewer than 1,040 hours in a year and for ~~not less~~ no fewer than 30 hours a week for the school year, as defined in ~~section 1071 of Title~~ 16 V.S.A. § 1071, or for ~~not less~~ no fewer than 1,040 hours in a year and for ~~not less~~ no fewer than 24 hours a week year-round; provided, however, that if a person who was employed on a regular basis by a school district as either a special education or transportation employee and who was transferred to and is working in a supervisory union in the same capacity pursuant to 16 V.S.A. § 261a(a)(6) or (8)(E) and if that person is also employed on a regular basis by a school district within the supervisory union, then the person is an "employee" if these criteria are met by the combined hours worked for the supervisory union and school district. The term shall also mean persons employed on a regular basis by a municipality other than a school district for ~~not less~~ no fewer than 1,040 hours in a year and for ~~not less~~ no fewer than 24 hours per week, including persons employed in a library at least ~~half~~ one-half of whose operating expenses are met by municipal funding:

* * *

(11) "Employer" means a municipality ~~or,~~ a library at least ~~half~~ one-half of whose operating expenses are paid from municipal funds, or a supervisory union.

Sec. 25. 24 V.S.A. § 5053a is added to read:

§ 5053a. EMPLOYEES OF A SUPERVISORY UNION

(a) For purposes of this section, the term "transferred employee" means an employee under this chapter who transitioned from employment solely by a school district to employment, wholly or in part, by a supervisory union pursuant to 16 V.S.A. § 261a(a)(6) or (8)(E) as amended on June 3, 2010.

(b) A transferred employee from a participating school district shall remain an employee of the school district solely for the purpose of employer participation and employee membership in the system regardless of whether the supervisory union is a participant in the system on the date of transition. The membership and benefits of the transferred employee shall not be impaired or reduced by either negotiations with the supervisory union or school district under 21 V.S.A. chapter 22 or otherwise.

(c) If a supervisory union is a participant in the system on the date of transition, then:

(1) a transferred employee from a nonparticipating district shall not become a member of the system unless, through negotiations with the supervisory union under 21 V.S.A. chapter 22, the supervisory union becomes a participant in the system on the employee's behalf;

(2) an existing employee of the supervisory union on the date of transition shall be a member to the extent the supervisory union is or becomes a participant in the system on the employee's behalf; and

(3) a new employee of the supervisory union after the date of transition shall be a member to the extent the supervisory union is or becomes a participant in the system on the employee's behalf.

(d) If a supervisory union is not a participant in the system on the date of transition, then:

(1) a transferred employee from a nonparticipating district shall not be a member of the system unless, through negotiations with the supervisory union under 21 V.S.A. chapter 22, the supervisory union becomes a participant in the system on the employee's behalf;

(2) an existing employee of the supervisory union on the date of transition shall not be a member of the system unless, through negotiations with the supervisory union under 21 V.S.A. chapter 22, the supervisory union becomes a participant in the system on the employee's behalf; and

(3) a new employee of the supervisory union after the date of transition shall not be a member of the system unless, through negotiations with the supervisory union under 21 V.S.A. chapter 22, the supervisory union becomes a participant in the system on the employee's behalf.

Sec. 26. TRANSITION; NEWLY MERGED DISTRICTS

(a) If two or more districts merge to form a union school district pursuant to 16 V.S.A. chapter 11, subchapter 4, or a regional education district pursuant to No. 153 of the Acts of the 2009 Adj. Sess. (2010) ("the new district") prior to the date on which employees covered by the municipal employees' retirement system provisions of 24 V.S.A. chapter 125 ("the system") transitioned from employment solely by a school district to employment, wholly or in part, by a supervisory union pursuant to 16 V.S.A. § 261a(a)(6) or (8)(E) as amended on June 3, 2010 ("the transition date"), then:

(1) on the first day of merger, the new district shall be a participant in the system on behalf of:

(A) an employee from a school district that merged to form the new district if the merging district was a participant in the system prior to merger; and

(B) a new employee hired by the new district after the effective date of merger into a job classification for which the new district is a participant in the system, if any;

(2) an employee from a school district that was not a participant in the system prior to merger shall not be a member of the system unless, through negotiations with the new district under 21 V.S.A. chapter 22, the new district becomes a participant in the system on the employee's behalf.

(b) If a new district is formed after the transition date, then the new district shall assume the responsibilities of any one or more of the merging districts that participate in the system.

(c) The existing membership and benefits of an employee shall not be impaired or reduced either by negotiations with the new district under 21 V.S.A. chapter 22 or otherwise.

* * * Effective Dates * * *

Sec. 27. EFFECTIVE DATES

(a) This section and Secs. 7, 8, 12, 24, 25, and 26 of this act shall take effect on passage.

(b) All other sections of this act shall take effect on July 1, 2012.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for February 21, 2012, page 290; February 22, 2012.)

H. 765.

An act relating to the mental health needs of the corrections population.

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

The Committee recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. INDIVIDUALS WITH A SERIOUS FUNCTIONAL IMPAIRMENT INCARCERATED IN A CORRECTIONAL FACILITY

(a) For the purpose of identifying and assessing the needs of individuals with a serious functional impairment as defined in 28 V.S.A. § 906(1) who are incarcerated in a correctional facility, the secretary of human services shall establish on or before July 1, 2012 a work group, including representatives appointed by the secretary of human services from the departments of corrections, of mental health, and of disabilities, aging, and independent living and including stakeholders. The work group shall:

(1) determine whether individuals with serious functional impairments are receiving appropriate programs and services while incarcerated in a correctional facility;

(2) consult with the members of the criminal justice community on ways to prevent initial incarceration and on ways to limit the length of incarceration for an individual with a serious functional impairment, as appropriate;

(3) work toward the successful reintegration into the community of an individual with serious functional impairment who has been incarcerated in a correctional facility;

(4) work toward reducing the recidivism rate among individuals with a serious functional impairment; and

(5) make long-term, systemic policy recommendations to the secretary of human services to create or improve mechanisms, programs, and services that benefit individuals with a serious functional impairment incarcerated in a correctional facility.

(b) On or before January 15, 2013, the secretary of human services shall issue a report to the general assembly recommending how to better address the needs of individuals with a serious functional impairment who are incarcerated in a correctional facility, based on the findings of the work group in the course of its duties as described in subsection (a) of this section. Prior to finalizing

the report, the secretary shall obtain public input regarding the report and shall release a draft report to the public for public comment on or before December 15, 2012. At minimum, the report shall address the following:

(1) the prevalence of serious functional impairment among those members of the corrections population incarcerated in a correctional facility at the time the report is issued;

(2) the rate of recidivism among individuals with a serious functional impairment;

(3) the prevalence of psychotropic medication utilization by individuals in the mental health caseloads, including an analysis of the number of individuals with a serious functional impairment who possess a prescription for a psychotropic medication and whether that prescription was prescribed before or after the individual was incarcerated.

(4) the number of individuals incarcerated in a correctional facility with a serious functional impairment who are in need of mental health services that are not currently available to them; and

(5) opportunities to combine the department of mental health's expertise with that of the department of corrections to improve the mental health services for individuals with a serious functional impairment who are incarcerated in a correctional facility.

Sec. 2. INCARCERATED INDIVIDUALS AND MENTAL HEALTH

As a complement to the assessment conducted pursuant to Sec. 1 of this act, the commissioner of mental health shall ensure that information regarding incarcerated individuals with a mental illness or disorder as defined in 28 V.S.A. § 906(3) is collected and recorded separately, in addition to the other requirements of this act. The information collected shall include recidivism rates among this population. On or before January 15, 2013, the commissioner shall report this information and make recommendations to the house committee on corrections and institutions, the house committee on human services, the senate committee on health and welfare, and the senate committee on judiciary.

Sec. 3. TRAINING

On or before October 15, 2012, the departments of mental health, of disabilities, aging, and independent living, and of corrections, with input and participation from peer and advocacy organizations, shall review the department of corrections' training program for correctional officers as it relates to the Americans with Disabilities Act and to working with and identifying individuals with a serious functional impairment or a mental illness or disorder. The review shall determine if the training is gender-responsive

and trauma-informed. No later than January 15, 2013, the commissioners of mental health and of corrections shall submit a report to the general assembly identifying the strengths, weaknesses, and opportunities for improvement in this training.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 4-0-1)

(No House amendments.)

CONCURRENT RESOLUTIONS FOR NOTICE

H.C.R. 328-336 (For text of Resolutions, see Addendum to House Calendar for April 5, 2012)

CONFIRMATIONS

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Service Board shall be fully and separately acted upon.

David Luce of Waterbury Center – Member of the Community High School of Vermont Board- By Sen. Kittell for the Committee on Education. (1/13/12)

Patrick Flood of East Calais – Commissioner of the Department of Mental Health – By Sen. Mullin for the Committee on Health and Welfare. (2/8/12)

John Snow of Charlotte – Member of the Vermont Economic Development Authority – By Sen. Fox for the Committee on Finance. (2/8/12)

Martin Maley of Colchester – Superior Court Judge – By Sen. Sears for the Committee on Judiciary. (2/9/12)

Alison Arms of South Burlington – Superior Court Judge – By Sen. Snelli8lng for the Committee on Judiciary. (2/16/12)

Robert Bishop of St. Johnsbury – Member of the State Infrastructure Bank Board – By Sen. MacDonald for the Committee on Finance. (2/21/12)

John Valente of Rutland – Member of the Vermont Municipal Bond Bank – By Sen. McCormack for the Committee on Finance. (2/21/12)

James Volz of Plainfield – Chair of the Public Service Board – By Sen.

Cummings for the Committee on Finance. (2/21/12)

Ed Amidon of Charlotte – Member of the Valuation Appeals Board – By Sen. Ashe for the Committee on Finance. (2/21/12)

PUBLIC HEARINGS

Wednesday, April 11, 2012 – Room 10 – 9 A.M. – 12:00 Noon (11:00 A.M. – Noon for the public) Re: Increasing the price of milk paid to Vermont dairy farmers – Senate Committee on Agriculture.

Thursday, **April 12, 2012** – Room 11 – 6:30-8:30 P.M. – Re: H. 722 - Labeling of Food Produced with Genetic Engineering – House Committee on Agriculture.