

Journal of the House

Friday, March 14, 2014

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rev. Kim Kie of Hedding United Methodist Church, Barre, Vt.

Color Guard Presents Colors

Members from Troop 888 of Danville and Troop 627 of Jericho/Underhill, Vermont, presented the Colors. Color Guard members were Ian Nally, Brett Elliott, Adam Aremburg and Robert Malinowski.

Memorial Service

The Speaker placed before the House the following name of member of past sessions of the Vermont General Assembly who had passed away recently:

Franklin S. Billings, Jr.

Member from Woodstock

Sessions of 1961, 1963, 1965

Speaker of the House 1963, 1965

Thereupon, the members of the House rose for a moment of prayer in memory of the deceased member. The Clerk was thereupon directed to send a copy of the House Journal to the bereaved family

House Bills Introduced

House bills of the following titles were severally introduced, read the first time and referred to committee or placed on the Calendar as follows:

H. 874

By the committee on Human Services,

An act relating to consent for admission to hospice care and for DNR/COLST orders;

Under the rule, placed on the Calendar for notice.

H. 875

By the committee on Judiciary,

An act relating to the elimination of a defendant's right to a trial by jury in traffic appeals and fines for driving with license suspended;

Under the rule, placed on the Calendar for notice.

Senate Bills Referred

Senate bills of the following titles were severally taken up, read the first time and referred as follows:

S. 237

Senate bill, entitled

An act relating to civil forfeiture proceedings in cases of animal cruelty;

To the committee on Judiciary.

S. 264

Senate bill, entitled

An act relating to technical corrections to civil and criminal procedure statutes;

To the committee on Judiciary.

S. 269

Senate bill, entitled

An act relating to business consumer protection and data security breaches;

To the committee on Commerce and Economic Development.

Bill Referred to Committee on Appropriations

H. 585

House bill, entitled

An act relating to prohibiting the creation and renewal of State Police contracts with municipalities to provide police services

Appearing on the Calendar, carrying an appropriation, under rule 35a, was referred to the committee on Appropriations.

Third Reading; Bill Passed

H. 661

House bill, entitled

An act relating to exhumation requirements and notice

Was taken up, read the third time and passed.

Bill Amended, Read Third Time and Passed**H. 823**

House bill, entitled

An act relating to encouraging growth in designated centers and protecting natural resources

Was taken up and pending third reading of the bill, **Rep. Ellis of Waterbury** moved to amend the bill as follows:

In Sec. 3, 10 V.S.A. § 6086b, by striking subdivision (7) and inserting a new subdivision (7) to read:

(7) The requestor may waive the time periods required under subdivisions (3), (4), and (6) of this section as to one or more agencies, departments, the Board, or other persons. Such a waiver shall extend the applicable and subsequent time periods by the amount of time waived. In the absence of a waiver under this subdivision, the failure of a State agency to file a written determination or a person to submit a comment or ask for a hearing within the time periods specified in subdivisions (3) and (4) of this section shall not delay the Board's issuance of a decision on a complete request.

Which was agreed to. Thereupon, the bill was read the third time and passed.

Bill Committed**H. 586**

House bill, entitled

An act relating to improving the quality of State waters

Appearing on the Calendar for action, was taken up and pending second reading of the bill, on motion of **Rep. Deen of Westminster**, the bill was committed to the committee on Agriculture and Forest Products.

Action on Bill Postponed**H. 645**

House bill, entitled

An act relating to workers' compensation

Was taken up and pending the reading of the report of the committee on Commerce and Economic Development, on motion of **Rep. Kitzmiller of Montpelier**, action on the bill was postponed until the next legislative day.

Bill Amended; Third Reading Ordered**H. 681**

Rep. Higley of Lowell, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to the professional regulation for veterans, military service members, and military spouses and to credit for military service in retirement

Reported in favor of its passage when amended as follows:

First: In Sec. 1 (professional regulatory entities; military service licensure requirements), in subsection (a), by striking out subdivision (4) in its entirety and inserting in lieu thereof the following:

(4)(A) “Professional regulatory entity” means any State agency, department, office, or subdivision thereof that licenses or otherwise regulates individuals to practice a profession or occupation in this State and includes:

(i) the Office of Professional Regulation;

(ii) the Department of Health, including the Emergency Medical Services Division;

(iii) the Agency of Education;

(iv) the Vermont Criminal Justice Training Council;

(v) the Vermont Fire Service Training Council;

(vi) the Department of Public Safety; and

(vii) the Department of Environmental Conservation.

(B) “Professional regulatory entity” shall not include the Board of Medical Practice, the Board of Bar Examiners, or the Department of Financial Regulation.

Second: By striking out Sec. 3 (amending 3 V.S.A. § 477a) in its entirety and inserting in lieu thereof “[Deleted]”.

Third: In Sec. 4 (effective dates), in subsection (b), at the beginning of the sentence, by striking out “Secs. 2 and 3” and inserting in lieu thereof “Sec. 2” and that after passage the title of the bill be amended to read: “An act relating to the professional regulation for veterans, military service members, and military spouses”.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Government Operations agreed to and third reading ordered.

Bill Amended; Third Reading Ordered

H. 690

Rep. Myers of Essex, for the committee on Corrections and Institutions, to which had been referred House bill, entitled

An act relating to the definition of serious functional impairment

Reported in favor of its passage when amended as follows:

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

Sec. 1. 28 V.S.A. § 905 is added to read:

§ 905. LEGISLATIVE INTENT

It is the intent of the General Assembly that the serious functional impairment designation apply solely to individuals residing in a correctional facility and not to individuals reentering the community after incarceration.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Corrections and Institutions agreed to and third reading ordered.

Bill Amended; Third Reading Ordered

H. 852

Rep. Kupersmith of South Burlington, for the committee on Commerce and Economic Development, to which had been referred House bill, entitled

An act relating to improving workforce education and training

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. chapter 22A is amended to read:

CHAPTER 22A. WORKFORCE EDUCATION AND TRAINING

§ 540. WORKFORCE EDUCATION AND TRAINING LEADER

The Commissioner of Labor shall be the leader of workforce education and training in the State, and shall have the authority and responsibility for the coordination of workforce education and training within State government, including the following duties:

(1) Perform the following duties in consultation with the State Workforce Investment Board:

(A) Advise the Governor on the establishment of an integrated system of workforce education and training for Vermont.

(B) Create and maintain an inventory of all existing workforce education and training programs and activities in the State.

(C) Use data to ensure that State workforce education and training activities are aligned with the needs of the available workforce, the current and future job opportunities in the State, and the specific credentials needed to achieve employment in those jobs.

(D) Develop a State plan, as required by federal law, to ensure that workforce education and training programs and activities in the State serve Vermont citizens and businesses to the maximum extent possible.

(E) Ensure coordination and non-duplication of workforce education and training activities.

(F) Identify best practices and gaps in the delivery of workforce education and training programs.

(G) Design and implement criteria and performance measures for workforce education and training activities.

(H) Establish goals for the integrated workforce education and training system.

(2) Require from each business, training provider, or program that receives State funding to conduct workforce education and training a report that evaluates the results of the training. Each recipient shall submit its report on a schedule determined by the Commissioner and shall include at least the following information:

(A) name of the person who receives funding;

(B) amount of funding;

(C) activities and training provided;

(D) number of trainees and their general description;

(E) employment status of trainees

(F) future needs for resources.

(3) Review reports submitted by each recipient of workforce education and training funding.

(4) Issue an annual report to the Governor and the General Assembly on or before December 1 that includes a systematic evaluation of the accomplishments of the State workforce investment system and the performance of participating agencies and institutions.

(5) Coordinate public and private workforce programs to assure that information is easily accessible to students, employees, and employers, and that all information and necessary counseling is available through one contact.

(6) Facilitate effective communication between the business community and public and private educational institutions.

§ 541. ~~WORKFORCE DEVELOPMENT COUNCIL; STATE WORKFORCE INVESTMENT BOARD; MEMBERS, TERMS~~

~~(a) The Workforce education and training Council is created as the successor to and the continuation of the Governor's Human Resources Investment Council and shall be the State Workforce Investment Board under Public Law 105 220, the Workforce Investment Act of 1998, and any reauthorization of that act. The Council shall consist of the members required under the federal act and the following: the President of the University of Vermont or designee; the Chancellor of the Vermont State Colleges or designee; the President of the Vermont Student Assistance corporation or designee; the President of the Association of Vermont Independent Colleges or designee; a representative of the Abenaki Self Help Organization; at least two representatives of labor appointed by the Governor in addition to the two required under the federal act, who shall be chosen from a list of names submitted by Vermont AFL CIO, Vermont NEA, and the Vermont State Employees Association; one representative of the low income community appointed by the Governor; two members of the Senate appointed by the Senate Committee on Committees; and two members of the house appointed by the speaker. In addition, the Governor shall appoint enough other members who are representatives of business or employers so that one half plus one of the members of the council are representatives of business or employers. At least one third of those appointed by the Governor as representatives of business or employers shall be chosen from a list of names submitted by the regional technical centers. As used in this section, "representative of business" means a business owner, a chief executive operating officer, or other business executive, and "employer" means an individual with policy making or hiring authority, including a public school superintendent or school board member and representatives from the nonprofit, social services, and health sectors of the economy. If there is a dispute as to who is to represent an interest as~~

~~required under the federal law, the Governor shall decide who shall be the member of the Council.~~

~~(b) Appointed members, except legislative appointees, shall be appointed for three year terms and serve at the pleasure of the Governor.~~

~~(c) A vacancy shall be filled for the unexpired term in the same manner as the initial appointment.~~

~~(d) The Governor shall appoint one of the business or employer members to chair the council for a term of two years. A member shall not serve more than three consecutive terms as chair.~~

~~(e) Legislative members shall be entitled to compensation and expenses as provided in 2 V.S.A. § 406, and other members shall be entitled to compensation and expenses as provided in 32 V.S.A. § 1010.~~

~~(f) The Department of Labor shall provide the Council with administrative support.~~

~~(g) The Workforce education and training Council shall be subject to 1 V.S.A. chapter 5, subchapters 2 and 3, relating to public meetings and access to public records.~~

~~(h) [Repealed.]~~

~~(i) The Workforce education and training Council shall:~~

~~(1) Advise the Governor on the establishment of an integrated network of workforce education and training for Vermont.~~

~~(2) Coordinate planning and services for an integrated network of workforce education and training and oversee its implementation at State and regional levels.~~

~~(3) Establish goals for and coordinate the State's workforce education and training policies.~~

~~(4) Speak for the workforce needs of employers.~~

~~(5) Negotiate memoranda of understanding between the Council and agencies and institutions involved in Vermont's integrated network of workforce education and training in order to ensure that each is working to achieve annual objectives developed by the Council.~~

~~(6) Carry out the duties assigned to the State Workforce Investment Board, as required for a single service delivery state, under P.L. 105-220, the Workforce Investment Act of 1998, and any amendments that may be made to it. [Repealed.]~~

§ 541a. STATE WORKFORCE INVESTMENT BOARD

(a) Board established; duties. Pursuant to the requirements of 29 U.S.C. § 2821, the Governor shall establish a State Workforce Investment Board to assist the Governor in the execution of his or her duties under the Workforce Investment Act of 1998 and to assist the Commissioner of Labor as specified in section 540 of this title.

(b) Additional duties; planning; process. In order to inform its decision-making and to provide effective assistance under subsection (a) of this section, the Board shall:

(1) Conduct an ongoing public engagement process throughout the State at which Vermonters have the opportunity to provide feedback and information concerning their workforce education and training needs.

(2) Maintain familiarity with the federal Comprehensive Economic Development Strategy (CEDS) and other economic development planning processes, and coordinate workforce and education activities in the State, including the development and implementation of the state plan required under the Workforce Investment Act of 1998, with economic development planning processes occurring in the State, as appropriate.

(c) Membership. The Board shall consist of the Governor and the following members who are appointed by the Governor and serve at his or her pleasure, unless otherwise indicated:

(1) two Members of the Vermont House of Representatives appointed by the Speaker of the House;

(2) two Members of the Vermont Senate appointed by the Senate Committee on Committees;

(3) the President of the University of Vermont or his or her designee;

(4) the Chancellor of the Vermont State Colleges or his or her designee;

(5) the President of the Vermont Student Assistance Corporation or his or her designee;

(6) a representative of an independent Vermont college or university;

(7) the Secretary of Education or his or her designee;

(8) a director of a regional technical center;

(9) a principal of a Vermont high school;

(10) two representatives of labor organizations who have been nominated by State labor federations;

(11) two representatives of individuals and organizations who have experience with respect to youth activities, as defined in 29 U.S.C. § 2801(52);

(12) two representatives of individuals and organizations who have experience in the delivery of workforce investment activities, as defined in 29 U.S.C. § 2801(51);

(13) the lead State agency officials with responsibility for the programs and activities carried out by one-stop partners, as described in 29 U.S.C. § 2841(b), or if no official has that responsibility, a representative in the State with expertise relating to these programs and activities;

(14) the Commissioner of Economic Development;

(15) the Commissioner of Labor;

(16) the Secretary of Human Services or his or her designee;

(17) two individuals who have experience in, and can speak for, the training needs of underemployed and unemployed Vermonters; and

(18) a number of appointees sufficient to constitute a majority of the Board who:

(A) are owners, chief executives, or operating officers of businesses, and other business executives or employers with optimum policymaking or hiring authority;

(B) represent businesses with employment opportunities that reflect the employment opportunities of the State; and

(C) are appointed from among individuals nominated by State business organizations and business trade associations.

(d) Operation of Board.

(1) Member representation.

(A) Members of the State Board who represent organizations, agencies, or other entities shall be individuals with optimum policymaking authority within the organizations, agencies, or entities.

(B) The members of the Board shall represent diverse regions of the State, including urban, rural, and suburban areas.

(2) Chair. The Governor shall select a chair for the Board from among the business representatives appointed pursuant to subdivision (c)(18) of this section.

(3) Meetings. The Board shall meet at least three times annually and shall hold additional meetings upon call of the Chair.

(4) Work groups; task forces. The Chair, in consultation with the Commissioner of Labor, may:

(A) assign one or more members to work groups to carry out the work of the Board; and

(B) appoint one or more members of the Board, or non-members of the Board, or both, to one or more task forces for a discrete purpose and duration.

(5) Quorum; meetings; voting.

(A) A majority of the sitting members of the Board shall constitute a quorum, and to be valid any action taken by the Board shall be authorized by a majority of the members present and voting at any regular or special meeting at which a quorum is present.

(B) The Board may permit one or more members to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication, including an electronic, telecommunications, and video- or audio-conferencing conference telephone call, by which all members participating may simultaneously or sequentially communicate with each other during the meeting. A member participating in a meeting by this means is deemed to be present in person at the meeting.

(C) The Board shall deliver electronically the minutes for each of its meetings to each member of the Board and to the Chairs of the House Committees on Education and on Commerce and Economic Development, and to the Senate Committees on Education and on Economic Development, Housing and General Affairs.

(6) Reimbursement. Unless otherwise compensated by his or her employer for performance of his or her duties on the Board, a member of the Board shall be eligible for per diem compensation of \$50.00 per day for attendance at a meeting of the Board, and for reimbursement of his or her necessary expenses, which shall be paid by the Department of Labor solely from funds available for that purpose under the Workforce Investment Act of 1998.

(7) Conflict of interest. A member of the Board shall not:

(A) vote on a matter under consideration by the Board:

(i) regarding the provision of services by the member, or by an entity that the member represents; or

(ii) that would provide direct financial benefit to the member or the immediate family of the member; or

(B) engage in any activity that the Governor determines constitutes a conflict of interest as specified in the State Plan required under 29 U.S.C. § 2822.

(8) Sunshine provision. The Board shall make available to the public, on a regular basis through open meetings, information regarding the activities of the Board, including information regarding the State Plan adopted pursuant to 29 U.S.C. § 2822 and prior to submission of the State Plan to the U.S. Secretary of Labor, information regarding membership, and, on request, minutes of formal meetings of the Board.

§ 541b. WORKFORCE EDUCATION AND TRAINING; DUTIES OF OTHER STATE AGENCIES, DEPARTMENTS, AND PRIVATE PARTNERS

(a) To ensure the Workforce Investment Board and the Commissioner of Labor are able to fully perform their duties under this chapter, each agency and department within State government, and each person who receives funding from the State, shall comply within a reasonable period of time with a request for data and information made by the Board or the Commissioner in furtherance of their duties under this chapter.

(b) The Agency of Commerce and Community Development shall coordinate its work in adopting a statewide economic development plan with the activities of the Board and the Commissioner of Labor, including the development and implementation of the state plan for workforce education and training required under the Workforce Investment Act of 1998.

§ 542. REGIONAL WORKFORCE ~~DEVELOPMENT~~ EDUCATION AND TRAINING

(a) The Commissioner of Labor, in coordination with the Secretary of Commerce and Community Development, and in consultation with the Workforce ~~education and training Council~~ Investment Board, is authorized to issue performance grants to one or more persons to perform workforce education and training activities in a region.

(b) Each grant shall specify the scope of the workforce education and training activities to be performed and the geographic region to be served, and shall include outcomes and measures to evaluate the grantee's performance.

(c) The Commissioner of Labor and the Secretary of Commerce and Community Development shall jointly develop a grant process and eligibility criteria, as well as an outreach process for notifying potential participants of the grant program. The Commissioner of Labor shall have final authority to approve each grant.

§ 543. WORKFORCE EDUCATION AND TRAINING FUND; GRANT PROGRAMS

(a) Creation. There is created a Workforce Education and Training Fund in the ~~department of labor~~ Department of Labor to be managed in accordance with 32 V.S.A. chapter 7, subchapter 5.

(b) Purposes. The Fund shall be used exclusively for the following ~~two~~ purposes:

(1) ~~training to improve the skills of~~ for Vermont workers, including those who are unemployed, underemployed, or in transition from one job or career to another; and

(2) internships to provide students with work-based learning opportunities with Vermont employers; and

(3) apprenticeship-related instruction.

(c) Administrative Support. Administrative support for the grant award process shall be provided by the ~~Departments~~ Department of Labor ~~and of Economic Development~~. Technical, ~~administrative, financial, and other~~ support shall be provided whenever appropriate and reasonable by the Workforce ~~Development Council~~ Investment Board and all other public entities involved in ~~Economic Development, workforce development and training, and education~~ economic development and workforce education and training.

(d) Eligible Activities. Awards from the Fund shall be made to employers and entities that offer programs that require collaboration between employees and businesses, including private, public, and nonprofit entities, institutions of higher education, high schools, technical centers, and workforce education and training programs. Funding shall be for training programs and student internship programs that offer education, training, apprenticeship, mentoring, or work-based learning activities, or any combination; that employ innovative intensive student-oriented competency-based or collaborative approaches to workforce education and training; and that link workforce education and economic development strategies. Training programs or projects that demonstrate actual increased income and economic opportunity for employees

and employers may be funded for more than one year. Student internships and training programs that involve the same employer may be funded multiple times, provided that new students participate.

~~(e) Award Criteria and Process.—The Workforce education and training Council, in consultation with the Commissioners of Labor and of Economic Development and the Secretary of Education, shall develop criteria consistent with subsection (d) of this section for making awards under this section. The Commissioners of Labor and of Economic Development and the Secretary of Education, shall develop a process for making awards. [Repealed].~~

(f) Awards. ~~Based on guidelines set by the council, the~~ The Commissioner of labor, and the Secretary of Education Labor, in consultation with the Workforce Investment Board, shall ~~jointly~~ develop award criteria and may make awards to the following:

(1) Training Programs.

~~(A) Public, private, and nonprofit entities for existing or new innovative training programs.—Awards may be made to programs that retrain enhance the skills of Vermont incumbent workers and:~~

(i) train workers for trades or occupations that are expected to lead to jobs paying at least 200 percent of the current minimum wage or at least 150 percent if benefits are included; this requirement may be waived when warranted based on regional or occupational wages or economic reality;

(ii) do not duplicate, supplant, or replace other available programs funded with public money;

(iii) articulate clear goals and demonstrate readily accountable, reportable, and measurable results; and

(iv) demonstrate an integrated connection between training and specific new or continuing employment opportunities.

~~(B) Awards under this subdivision shall be made to programs or projects that do all the following:~~

~~(A)(i) offer innovative programs of intensive, student-centric, competency-based education, training, apprenticeship, mentoring, or any combination of these;~~

~~(B)(ii) address the needs of workers who are unemployed, underemployed, or are at risk of becoming unemployed due to changing workplace demands by increasing productivity and developing new skills for incumbent workers; or~~

(iii) in the discretion of the Commissioner, otherwise serves the purposes of this chapter.

~~(C) train workers for trades or occupations that are expected to lead to jobs paying at least 200 percent of the current minimum wage or at least 150 percent if benefits are included; this requirement may be waived when warranted based on regional or occupational wages or economic reality;~~

~~(D) do not duplicate, supplant, or replace other available programs funded with public money;~~

~~(E) articulate clear goals and demonstrate readily accountable, reportable, and measurable results;~~

~~(F) demonstrate an integrated connection between training and specific employment opportunities, including an effort and consideration by participating employers to hire those who successfully complete a training program; and.~~

(2) Vermont Career Internship Program. Funding for eligible internship programs and activities under the Vermont Career Internship Program established in section 544 of this title.

(3) Apprenticeship Program. The Vermont Apprenticeship Program established under 21 V.S.A. chapter 13. Awards under this subdivision may be used to fund the cost of apprenticeship-related instruction provided by the Department of Labor.

(g) [Repealed.]

§ 544. VERMONT CAREER INTERNSHIP PROGRAM

(a)(1) The Department of Labor, in consultation with the Agency of Education, shall develop and implement a statewide Vermont Career Internship Program for Vermonters who are in high school or in college and for those who are recent graduates of 24 months or less.

(2) The Department of Labor shall coordinate and provide funding to public and private entities for internship programs that match Vermont employers with students from public and private secondary schools, regional technical centers, the Community High School of Vermont, colleges, and recent graduates of 24 months or less.

(3) Funding awarded through the Vermont Career Internship Program may be used to administer an internship program and to provide participants with a stipend during the internship, based on need. Funds may be made only to programs or projects that do all the following:

- (A) do not replace or supplant existing positions;
- (B) create real workplace expectations and consequences;
- (C) provide a process that measures progress toward mastery of skills, attitude, behavior, and sense of responsibility required for success in that workplace;
- (D) are designed to motivate and educate secondary and postsecondary students and recent graduates through work-based learning opportunities with Vermont employers that are likely to lead to real employment;
- (E) include mechanisms that promote employer involvement with secondary and postsecondary students and curriculum and the delivery of education at the participating schools; and
- (F) offer participants a continuum of learning, experience, and relationships with employers that will make it financially possible and attractive for graduates to continue to work and live in Vermont.

(4) ~~For the purposes of~~ As used in this section, “internship” means a learning experience working with an employer where the intern may, but does not necessarily, receive academic credit, financial remuneration, a stipend, or any combination of these.

(b) The Department of Labor, in collaboration with the Agencies of Agriculture, Food and Markets and of Education, ~~state-funded~~ State-funded postsecondary educational institutions, the Workforce ~~Development Council~~ Investment Board, and other ~~state~~ State agencies and departments that have workforce education and training and training monies, shall:

- (1) identify new and existing funding sources that may be allocated to the Vermont Career Internship Program;
- (2) collect data and establish program goals and quantifiable performance measures for internship programs funded through the Vermont Career Internship Program;
- (3) develop or enhance a website that will connect students and graduates with internship opportunities with Vermont employers;
- (4) engage appropriate agencies and departments of the State in the Internship Program to expand internship opportunities with State government and with entities awarded State contracts; and
- (5) work with other public and private entities to develop and enhance internship programs, opportunities, and activities throughout the State.

Sec. 2. 10 V.S.A. chapter 22 is amended to read:

CHAPTER 22. EMPLOYMENT THE VERMONT
TRAINING PROGRAM

§ 531. EMPLOYMENT THE VERMONT TRAINING PROGRAM

(a)(1) The Secretary of Commerce and Community Development may, in consultation with the Workforce Investment Board, shall have the authority to design and implement a Vermont Training Program, the purpose of which shall be to issue performance-based grants to any employer, consortium of employers, or providers of training, either individuals or organizations, as necessary, to conduct training under the following circumstances: to employers and to education and training providers to increase employment opportunities in Vermont consistent with this chapter.

(2) The Secretary shall structure the Vermont Training Program to serve as a flexible, nimble, and strategic resource for Vermont businesses and workers across all sectors of the economy.

(1) when issuing grants to an employer or consortium of employers, the employer promises as a condition of the grant to where eligible facility is defined as in subdivision 212(6) of this title relating to the Vermont Economic Development Authority, or the employer or consortium of employers promises to open an eligible facility within the State which will employ persons, provided that for the purposes of this section, eligible facility may be broadly interpreted to include employers in sectors other than manufacturing; and

(2) training is required for potential employees, new employees, or long-standing employees in the methods, either singularly or in combination relating to pre-employment training, on the job training, upgrade training, and crossover training, or specialized instruction, either in plant or through a training provider.

(b) Eligibility for grant. The Secretary of Commerce and Community Development may award a grant to an employer if:

(1) the employer's new or expanded initiative will enhance employment opportunities for Vermont residents; the training is for pre-employment, new employees, or incumbent employees in the methods, either singularly or in combination, relating to pre-employment training, on-the-job training, upgrade training, and crossover training, or specialized instruction, either on-site or through a training provider;

(2) the employer provides its employees with at least three of the following:

(A) health care benefits with 50 percent or more of the premium paid by the employer;

(B) dental assistance;

(C) paid vacation; ~~and~~

(D) paid holidays;

~~(D)~~(E) child care;

~~(E)~~(F) other extraordinary employee benefits;

~~(F)~~(G) retirement benefits; and

(H) other paid time off, including paid sick days;

(3) the training is directly related to the employment responsibilities of the trainee; and

(4) unless modified by the Secretary if warranted based on regional or occupational wages or economic reality, the training is expected to lead to a position for which the employee is compensated at least twice the State minimum wage, reduced by the value of any benefit package up to a limit of 30 percent of the employee's gross wage; provided that for each grant in which the Secretary modifies the compensation provisions of this subdivision, he or she shall identify in the records for that grant the basis and nature of the modification.

~~(c) The employer promises as a condition of the grant to:~~

~~(1) employ new persons at a wage which, at the completion of the training program, is two times the prevailing state or federal minimum wage, whichever is greater, reduced by the value of any existing health benefit package up to a limit of 30 percent of the gross program wage, or for existing employees, to increase the wage to two times the prevailing state and federal minimum wage, whichever is greater, reduced by the value of any existing health benefit package up to a limit of 20 percent of the gross program wage, upon completion of training; provided, however, that in areas defined by the Secretary of Commerce and Community Development in which the Secretary finds that the rate of unemployment is 50 percent greater than the average for the State, the wage rate under this subsection may be set by the Secretary at a rate no less than one and one half times the federal or state minimum wage, whichever is greater;~~

~~(2) employ persons who have completed the training provided for them and nominated as qualified for a reasonable period at the wages and~~

~~occupations described in the contract, unless the employer reasonably finds the nominee is not qualified;~~

~~(3) provide its employees with at least three of the following:~~

~~(A) health care benefits with 50 percent or more of the premium paid by the employer;~~

~~(B) dental assistance;~~

~~(C) paid vacation and holidays;~~

~~(D) child care;~~

~~(E) other extraordinary employee benefits; and~~

~~(F) retirement benefits.~~

~~(4) submit a customer satisfaction report to the Secretary of Commerce and Community Development, on a form prepared by the Secretary for that purpose, no more than 30 days from the last day of the training program.~~

In the case of a grant to a training provider, the Secretary shall require as a condition of the grant that the provider shall disclose to the Secretary the name of the employer and the number of employees trained prior to final payment for the training.

(d) In order to avoid duplication of programs or services and to provide the greatest return on investment from training provided under this section, the Secretary of Commerce and Community Development shall:

~~(1) first consult with the Commissioner of Labor regarding whether the grantee has accessed, or is eligible to access, other workforce education and training resources offered by public or private workforce education and training partners;~~

(2) disburse grant funds only for training hours that have been successfully completed by employees; provided that a grant for on-the-job training shall either provide not more than 50 percent of wages for each employee in training, or not more than 50 percent of trainer expense, but not both, and further provided that training shall be performed in accordance with a training plan that defines the subject of the training, the number of training hours, and how the effectiveness of the training will be evaluated; and

(3) use funds under this section only to supplement training efforts of employers and not to replace or supplant training efforts of employers.

~~(e) The Secretary of Commerce and Community Development shall administer all training programs under this section, may select and use~~

~~providers of training as appropriate, and shall adopt rules and may accept services, money, or property donated for the purposes of this section. The Secretary may promote awareness of, and may give priority to, training that enhances critical skills, productivity, innovation, quality, or competitiveness, such as training in Innovation Engineering, “Lean” systems, and ISO certification for expansion into new markets. [Repealed.]~~

(f) Upon completion of the training program for any individual, the secretary of Commerce and Community Development shall review the records and shall award to the trainee, if appropriate, a certificate of completion for the training.

(g) ~~None of the criteria in subdivision (a)(1) of this section shall apply to a designated job development zone under chapter 29, subchapter 2 of this title. [Repealed.]~~

(h) ~~The Secretary may designate the Commissioner of Economic Development to carry out his or her powers and duties under this chapter. [Repealed.]~~

(i) ~~Program Outcomes.~~

(1) ~~On or before September 1, 2011, the Agency of Commerce and Community Development, in coordination with the department of labor, and in consultation with the Workforce education and training Council and the legislative Joint Fiscal Office, shall develop, to the extent appropriate, a common set of benchmarks and performance measures for the training program established in this section and the Workforce Education and Training Fund established in section 543 of this title, and shall collect employee specific data on training outcomes regarding the performance measures; provided, however, that the Secretary shall redact personal identifying information from such data.~~

(2) ~~On or before January 15, 2013, the Joint Fiscal Office shall prepare a performance report using the benchmarks and performance measures created pursuant to subdivision (1) of this subsection. The Joint Fiscal Office shall submit its report to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on Commerce and Economic Development.~~

(3) ~~The Secretary shall use information gathered pursuant to this subsection and customer satisfaction reports submitted pursuant to subdivision (e)(4) of this section to evaluate the program and make necessary changes that fall within the Secretary’s authority or, if beyond the scope of the Secretary’s~~

authority, to recommend necessary changes to the appropriate committees of the General Assembly. [Repealed.]

(j) ~~Consistent with the training program's goal of providing specialized training and increased employment opportunities for Vermonters, and notwithstanding provisions of this section to the contrary, the Secretary shall canvas apprenticeship sponsors to determine demand for various levels of training and classes and shall transfer up to \$250,000.00 annually to the regional technical centers to fund or provide supplemental funding for apprenticeship training programs leading up to certification or licensing as journeyman or master electricians or plumbers. The Secretary shall seek to provide these funds equitably throughout Vermont; however, the Secretary shall give priority to regions not currently served by apprenticeship programs offered through the Vermont Department of Labor pursuant to 21 V.S.A. chapter 13.~~ [Repealed].

(k) Annually on or before January 15, the Secretary shall submit a report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs, summarizing In addition to the reporting requirements under section 540 of this title, the report shall identify:

(1) all active and completed contracts and grants;

(2) the types of training activities provided, from among the following, the category the training addressed:

(A) pre-employment training or other training for a new employee to begin a newly created position with the employer;

(B) pre-employment training or other training for a new employee to begin in an existing position with the employer;

(C) training for an incumbent employee who, upon completion of training, assumes a newly created position with the employer;

(D) training for an incumbent employee who upon completion of training assumes a different position with the employer;

(E) training for an incumbent employee to upgrade skills;

(3) for the training identified in subdivision whether the training is onsite or classroom-based;

(4) the number of employees served, and ;

(5) the average wage by employer, and addressing ;

(6) any waivers granted;

(7) the identity of the employer, or, if unknown at the time of the report, the category of employer;

(8) the identity of each training provider; and

(9) whether training results in a wage increase for a trainee, and the amount of increase.

Sec. 3. REPEAL

2007 Acts and Resolves No. 46, Sec. 6(a), as amended by 2009 Acts and Resolves No. 54, Sec. 8 (workforce education and training leader) and 2013 Acts and Resolves No. 81, Sec. 2, is repealed.

Sec. 4. DEPARTMENT OF LABOR; AGENCY OF COMMERCE AND COMMUNITY DEVELOPMENT; STATUTORY PROPOSALS

On or before November 1, 2014:

(1) The Commissioner of Labor shall submit to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs a proposal to amend the language of 10 V.S.A. § 543 to reflect best practices and improve clarity in the administration of, and for applicants to, the grant program from the Workforce Education and Training Fund under that section.

(2) The Secretary of Commerce and Community Development shall submit to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs a proposal to amend the language of 10 V.S.A. § 531 to reflect best practices and improve clarity in the administration of, and for applicants to, the Vermont Training Program under that section.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

Rep. Keenan of St. Albans City, for the committee on Appropriations, recommended that the report of the committee on Commerce and Economic Development be amended as follows

In Sec. 1, in 10 V.S.A. § 541a, in subsection (d), by striking out subdivision (6) in its entirety and inserting in lieu thereof a new subdivision (6) to read:

(6) Reimbursement.

(A) Legislative members of the Board shall be entitled to compensation and expenses as provided in 2 V.S.A. § 406.

(B) Unless otherwise compensated by his or her employer for performance of his or her duties on the Board, a nonlegislative member of the Board shall be eligible for per diem compensation of \$50.00 per day for attendance at a meeting of the Board, and for reimbursement of his or her necessary expenses, which shall be paid by the Department of Labor solely from funds available for that purpose under the Workforce Investment Act of 1998.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committees on Commerce and Economic Development and Appropriations agreed to and third reading ordered.

Bill Amended; Third Reading Ordered

H. 413

Rep. Wizowaty of Burlington, for the committee on Judiciary, to which had been referred House bill, entitled

An act relating to the Uniform Collateral Consequences of Conviction Act

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. chapter 231 is added to read:

CHAPTER 231. UNIFORM COLLATERAL CONSEQUENCES OF CONVICTION

§ 8001. SHORT TITLE

This act may be cited as the Uniform Collateral Consequences of Conviction Act.

§ 8002. DEFINITIONS

As used in this chapter:

(1) “Collateral consequence” means a mandatory sanction or a discretionary disqualification.

(2) “Conviction” includes an adjudication for delinquency for purposes of this chapter only, unless otherwise specified. “Convicted” has a corresponding meaning.

(3) “Court” means the Criminal Division of the Superior Court.

(4) “Decision-maker” means the state acting through a department, agency, officer, or instrumentality, including a political subdivision, educational institution, board, or commission, or its employees or a

government contractor, including a subcontractor, made subject to this chapter by contract, by law other than this chapter, or by ordinance.

(5) “Discretionary disqualification” means a penalty, disability, or disadvantage that an administrative agency, governmental official, or court in a civil proceeding is authorized, but not required, to impose on an individual on grounds relating to the individual’s conviction of an offense. Discretionary disqualifications do not encompass charging decisions, such as the imposition of pre-charge diversion or intervention programs.

(6) “Mandatory sanction” means a penalty, disability, or disadvantage imposed on an individual as a result of the individual’s conviction of an offense which applies by operation of law whether or not the penalty, disability, or disadvantage is included in the judgment or sentence. The term does not include imprisonment, probation, parole, supervised release, forfeiture, restitution, fine, assessment, or costs of prosecution.

(7) “Offense” means a felony, misdemeanor, or delinquent act under the laws of this State, another state, or the United States.

(8) “Incarceration” means confinement in jail or prison.

(9) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

§ 8003. LIMITATION ON SCOPE

(a) This chapter does not provide a basis for:

(1) invalidating a plea, conviction, or sentence;

(2) a cause of action for money damages;

(3) a claim for relief from or defense to the application of a collateral consequence based on a failure to comply with this chapter; or

(4) seeking relief from a collateral consequence imposed by another state or the United States or a subdivision, agency, or instrumentality thereof, unless the law of such jurisdiction provides for such relief.

(b) This chapter shall not affect:

(1) the duty an individual’s attorney owes to the individual;

(2) a claim or right of a victim of an offense; or

(3) a right or remedy under law other than this chapter available to an individual convicted of an offense.

§ 8004. IDENTIFICATION, COLLECTION, AND PUBLICATION OF
LAWS REGARDING COLLATERAL CONSEQUENCES

(a)(1) The Attorney General shall:

(A) identify or cause to be identified any provision in this State's Constitution, statutes, and administrative rules which imposes a mandatory sanction or authorizes the imposition of a discretionary disqualification and any provision of law that may afford relief from a collateral consequence;

(B) prepare or compile from available sources a collection of citations to, and the text or short descriptions of, the provisions identified under subdivision (a)(1)(A) of this section not later than November 1, 2014; and

(C) update the collection provided under subdivision (B) of this subdivision (1) annually by July 1.

(2) In complying with subdivision (a)(1) of this section, the Attorney General may rely on or incorporate the summary of this State's mandatory sanctions, discretionary disqualifications, and relief provisions prepared by the National Institute of Justice described in Section 510 of the Court Security Improvement Act of 2007, Pub. L. No. 110 -177, § 510, 121 Stat. 2534 (2008) as it exists and as it may be amended.

(b) The Attorney General shall include or cause to be included the following statements in a prominent manner at the beginning of the collection required by subsection (a) of this section:

(1) This collection has not been enacted into law and does not have the force of law.

(2) An error or omission in this collection or any reference work cited in this collection is not a reason for invalidating a plea, conviction, or sentence or for not imposing a mandatory sanction or authorizing a discretionary disqualification.

(3) The laws of other jurisdictions that impose additional mandatory sanctions and authorize additional discretionary disqualifications are not included in this collection.

(4) This collection does not include any law or other provision regarding the imposition of or relief from a mandatory sanction or a discretionary disqualification enacted or adopted after [insert date the collection was prepared or last updated].

(c) The Attorney General shall publish or cause to be published the collection prepared and updated as required by subsection (a) of this section.

(d) The Attorney General shall publish or cause to be published as part of the collection the title and Internet address, if available, of the most recent collection of:

(1) the collateral consequences imposed by federal law; and

(2) any provision of federal law that may afford relief from a collateral consequence.

(e) An agency that adopts a rule pursuant to 3 V.S.A. §§ 836–844 which implicates collateral consequences to a conviction shall forward a copy of the rule to the Attorney General.

§ 8005. NOTICE OF COLLATERAL CONSEQUENCES IN PRETRIAL PROCEEDING

(a) When an individual receives formal notice that the individual is charged with an offense, the Court shall provide either oral or written notice substantially similar to the following to be communicated to the individual:

(1) If you plead guilty or are convicted of an offense, you may suffer additional legal consequences beyond jail or prison, home confinement, probation, and fines. These consequences may include:

(A) being unable to get or keep some licenses, permits, or jobs;

(B) being unable to get or keep benefits such as public housing or education;

(C) receiving a harsher sentence if you are convicted of another offense in the future;

(D) having the government take your property;

(E) being unable to serve in the military or on a jury;

(F) being unable to possess a firearm; and

(G) being unable to exercise your right to vote if you move to another state.

(2) If you are not a United States citizen, a guilty plea or conviction may also result in your deportation, removal, exclusion from admission to the United States, or denial of citizenship.

(3) The law may provide ways to obtain some relief from these consequences.

(4) Further information about the consequences of conviction is available on the Internet at [insert Internet address of the collection of laws published under this chapter].

(b) Before the Court accepts a plea of guilty or nolo contendere from an individual, the Court shall:

(1) confirm that the individual received the notice required by subsection (a) of this section and had an opportunity to discuss the notice with counsel, if represented, and understands that there may be collateral consequences to a conviction; and

(2) provide written notice, as part of a written plea agreement or through another form, of the following:

(A) that collateral consequences may apply because of the conviction;

(B) the Internet address of the collection of laws published under this chapter;

(C) that there may be ways to obtain relief from collateral consequences;

(D) contact information for government or nonprofit agencies, groups, or organizations, if any, offering assistance to individuals seeking relief from collateral consequences; and

(E) that conviction of a crime in this State does not prohibit an individual from voting in this State.

§ 8006. NOTICE OF COLLATERAL CONSEQUENCES UPON RELEASE

(a) Prior to the completion of a sentence, an individual in the custody of the Commissioner of Corrections shall be given written notice of the following:

(1) that collateral consequences may apply because of the conviction;

(2) the Internet address of the collection of laws published under this chapter;

(3) that there may be ways to obtain relief from collateral consequences;

(4) contact information for government or nonprofit agencies, groups, or organizations, if any, offering assistance to individuals seeking relief from collateral consequences; and

(5) that conviction of a crime in this State does not prohibit an individual from voting in this State.

(b) For persons sentenced to incarceration, the notice shall be provided not more than 30 days and at least 10 days before completion of the sentence. If the sentence is for a term of less than 30 days then notice shall be provided when the sentence is completed.

(c) For persons receiving a sentence involving community supervision, such as probation, furlough, home confinement, conditional reentry, or parole, the notice shall be provided by the Department of Corrections in keeping with its mission of ensuring rehabilitation and public safety.

§ 8007. AUTHORIZATION REQUIRED FOR MANDATORY SANCTION; AMBIGUITY

(a) A mandatory sanction may be imposed only by statute or ordinance or by a rule adopted in the manner provided in 3 V.S.A. §§ 836–844. A law or rule shall impose unambiguously a collateral consequence in order for a court to impose a collateral consequence.

(b) A law creating a collateral consequence that is ambiguous as to whether it imposes an automatic mandatory sanction or whether it authorizes a decision-maker to disqualify a person based upon his or her conviction shall be construed as authorizing a discretionary disqualification.

§ 8008. DECISION TO DISQUALIFY

In deciding whether to impose a discretionary disqualification, a decision-maker shall undertake an individualized assessment to determine whether the benefit or opportunity at issue should be denied the individual. In making that decision, the decision-maker may consider, if substantially related to the benefit or opportunity at issue, the particular facts and circumstances involved in the offense and the essential elements of the offense. A conviction itself may not be considered except as having established the elements of the offense. The decision-maker shall also consider other relevant information, including the effect on third parties of granting the benefit or opportunity and whether the individual has been granted relief such as an order of limited relief or a certificate of restoration of rights.

§ 8009. EFFECT OF CONVICTION BY ANOTHER STATE OR THE UNITED STATES; RELIEVED OR PARDONED CONVICTION

(a) For purposes of authorizing or imposing a collateral consequence in this State, a conviction of an offense in a court of another state or the United States is deemed a conviction of the offense in this state with the same elements. If there is no offense in this State with the same elements, the conviction is deemed a conviction of the most serious offense in this State which is established by the elements of the offense. A misdemeanor in the jurisdiction

of conviction may not be deemed a felony in this State, and an offense lesser than a misdemeanor in the jurisdiction of conviction may not be deemed a conviction of a felony or misdemeanor in this State.

(b) For purposes of authorizing or imposing a collateral consequence in this State, a juvenile adjudication in another state or the United States may not be deemed a conviction of a felony, misdemeanor, or offense lesser than a misdemeanor in this State, but may be deemed a juvenile adjudication for the delinquent act in this State with the same elements. If there is no delinquent act in this State with the same elements, the juvenile adjudication is deemed an adjudication of the most serious delinquent act in this State which is established by the elements of the offense.

(c) A conviction that is reversed, overturned, or otherwise vacated by a court of competent jurisdiction of this State, another state, or the United States on grounds other than rehabilitation or good behavior may not serve as the basis for authorizing or imposing a collateral consequence in this State.

(d) A pardon issued by another state or the United States has the same effect for purposes of authorizing, imposing, and relieving a collateral consequence in this State as it has in the issuing jurisdiction.

(e) A conviction that has been relieved by expungement, sealing, annulment, set-aside, or vacation by a court of competent jurisdiction of another state or the United States on grounds of rehabilitation or good behavior, or for which civil rights are restored pursuant to statute, has the same effect for purposes of authorizing or imposing collateral consequences in this State as it has in the jurisdiction of conviction. However, such relief or restoration of civil rights does not relieve collateral consequences applicable under the law of this State for which relief could not be granted under section 8012 of this title or for which relief was expressly withheld by the court order or by the law of the jurisdiction that relieved the conviction. An individual convicted in another jurisdiction may seek relief under section 8010 or 8011 of this title from any collateral consequence for which relief was not granted in the issuing jurisdiction, other than those listed in section 8012 of this title, and the Court shall consider that the conviction was relieved or civil rights restored in deciding whether to issue an order of limited relief or certificate of restoration of rights.

(f) A charge or prosecution in any jurisdiction which has been finally terminated without a conviction and imposition of sentence based on successful participation in a deferred adjudication or diversion program may not serve as the basis for authorizing or imposing a collateral consequence in this State. This subsection does not affect the validity of any restriction or

condition imposed by law as part of participation in the deferred adjudication or diversion program, before or after the termination of the charge or prosecution.

§ 8010. ORDER OF LIMITED RELIEF

(a) An individual convicted of an offense may petition for an order of limited relief from one or more mandatory sanctions related to employment, education, housing, public benefits, or occupational licensing. The individual seeking an order of relief shall provide the prosecutor's office with notice of his or her petition. After notice, the petition may be presented to the sentencing court at or before sentencing or to the Superior Court at any time after sentencing. If the petition is filed prior to sentencing, it shall be treated as a motion in the criminal case. If the petition is filed after sentencing, it shall be treated as a post-judgment motion.

(b) Except as otherwise provided in section 8012 of this title, the Court may issue an order of limited relief relieving one or more of the mandatory sanctions described in this chapter if, after reviewing the petition, the individual's criminal history record, any filing by a victim under section 8014 of this title, and any other relevant evidence, it finds the individual has established by a preponderance of the evidence that:

(1) granting the petition will materially assist the individual in obtaining or maintaining employment, education, housing, public benefits, or occupational licensing;

(2) the individual has substantial need for the relief requested in order to live a law-abiding life; and

(3) granting the petition would not pose an unreasonable risk to the safety or welfare of the public or any individual.

(c) The order of limited relief shall specify:

(1) the mandatory sanction from which relief is granted; and

(2) any restriction imposed pursuant to subsection 8013(a) and (b) of this title.

(d) An order of limited relief relieves a mandatory sanction to the extent provided in the order.

(e) If a mandatory sanction has been relieved pursuant to this section, a decision-maker may consider the conduct underlying a conviction as provided in subsection 8008 of this title.

§ 8011. CERTIFICATE OF RESTORATION OF RIGHTS

(a) An individual convicted of an offense may petition the Court for a certificate of restoration of rights relieving mandatory sanctions not sooner than five years after the individual's most recent conviction of a felony or misdemeanor in any jurisdiction, or not sooner than five years after the individual's release from incarceration pursuant to a criminal sentence in any jurisdiction, whichever is later. The individual seeking restoration of rights shall provide the prosecutor's office with notice of his or her petition.

(b) Except as otherwise provided in section 8012 of this title, the Court may issue a certificate of restoration of rights if, after reviewing the petition, the individual's criminal history, any filing by a victim under section 8015 of this title or a prosecuting attorney, and any other relevant evidence, it finds the individual has established by a preponderance of the evidence that:

(1) the individual is engaged in or seeking to engage in a lawful occupation or activity, including employment, training, education, or rehabilitative programs, or the individual otherwise has a lawful source of support;

(2) the individual is not in violation of the terms of any criminal sentence or that any failure to comply is justified, excused, involuntary, or insubstantial;

(3) a criminal charge is not pending against the individual; and

(4) granting the petition would not pose an unreasonable risk to the safety or welfare of the public or to any individual.

(c) A certificate of restoration of rights must specify any restriction imposed and mandatory sanction from which relief has not been granted under section 8013 of this title.

(d) A certificate of restoration of rights relieves all mandatory sanctions, except those listed in section 8012 of this title and any others specifically excluded in the certificate.

(e) If a mandatory sanction has been relieved pursuant to this section, a decision-maker may consider the conduct underlying a conviction as provided in section 8008 of this title.

§ 8012. MANDATORY SANCTIONS NOT SUBJECT TO ORDER OF LIMITED RELIEF OR CERTIFICATE OF RESTORATION OF RIGHTS

An order of limited relief or certificate of restoration of rights may not be issued to relieve the following mandatory sanctions:

(1) requirements imposed by chapter 167, chapter 3 of this title (sex offender registration; law enforcement notification);

(2) a motor vehicle license suspension, revocation, limitation, or ineligibility pursuant to Title 23 for which restoration or relief is available;

(3) ineligibility for employment by law enforcement agencies, including the Office of the Attorney General, State's Attorney, police departments, sheriff's departments, State Police, or the Department of Corrections; or

(4) ineligibility for jury service, or loss of the right of any person to possess a firearm.

§ 8013. ISSUANCE, MODIFICATION, AND REVOCATION OF ORDER OF LIMITED RELIEF AND CERTIFICATE OF RESTORATION OF RIGHTS

(a) When a petition is filed under section 8010 or 8011 of this title, including a petition for enlargement of an existing order of limited relief or certificate of restoration of rights, the Court shall notify the office that prosecuted the offense giving rise to the collateral consequence from which relief is sought and, if the conviction was not obtained in a court of this State, the Attorney General. The Court may issue an order or certificate subject to restriction or condition.

(b) The Court may restrict an order of limited relief or certificate of restoration of rights if it finds just cause by a preponderance of the evidence. Just cause includes subsequent conviction of a related felony in this State or of an offense in another jurisdiction that is deemed a felony in this State. An order of restriction may be issued:

(1) on motion of the Court, the prosecuting attorney who obtained the conviction, or a government agency designated by that prosecutor;

(2) after notice to the individual and any prosecutor that has appeared in the matter; and

(3) after a hearing if requested by the individual or the prosecutor that made the motion or any prosecutor that has appeared in the matter.

(c) The Court shall order any test, report, investigation, or disclosure by the

individual it reasonably believes necessary to its decision to issue or modify an order of limited relief or certificate of restoration of rights. If there are material disputed issues of fact or law, the individual and any prosecutor notified under subsection (a) of this section or another prosecutorial agency designated by a prosecutor notified under subsection (a) of this section may submit evidence and be heard on those issues.

(d) The Court shall maintain a public record of the issuance and modification of orders of limited relief and certificates of restoration of rights. A criminal history record as defined in 20 V.S.A. § 2056a and a criminal conviction record as defined in 20 V.S.A. § 2056c shall include issuance and modification of orders and certificates.

(e) The Court may adopt rules for application, determination, modification, and revocation of orders of limited relief and certificates of restoration of rights.

(f) If the Court grants in part or denies a petition under section 8010 or 8011 of this title, the Court may order that the person not petition for relief for that particular offense under either section for a period not to exceed five years.

§ 8014. RELIANCE ON ORDER OR CERTIFICATE AS EVIDENCE OF DUE CARE

In a judicial or administrative proceeding alleging negligence or other fault, an order of limited relief or a certificate of restoration of rights may be introduced as evidence of a person's due care in hiring, retaining, licensing, leasing to, admitting to a school or program, or otherwise transacting business or engaging in activity with the individual to whom the order was issued, if the person knew of the order or certificate at the time of the alleged negligence or other fault.

§ 8015. VICTIM'S RIGHTS

A victim of an offense may participate in a proceeding for issuance of an order of limited relief or a certificate of restoration of rights in the same manner as at a sentencing proceeding pursuant to section 5321 of this title to the extent permitted by rules adopted by the court.

§ 8016. UNIFORMITY OF APPLICATION AND CONSTRUCTION

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

§ 8017. SAVINGS AND TRANSITIONAL PROVISIONS

(a) This chapter applies to collateral consequences whenever enacted or imposed, unless the law creating the collateral consequence expressly states that this chapter does not apply.

(b) This chapter does not invalidate the imposition of a mandatory sanction on an individual before July 1, 2014, but a mandatory sanction validly imposed before July 1, 2014 may be the subject of relief under this chapter.

Sec. 2. EFFECTIVE DATES

This act shall take effect on November 1, 2014, except that in Sec. 1:

(1) 13 V.S.A. §§ 8010 (order of limited relief), 8012 (mandatory sanctions not subject to relief), 8013 (issuance, modification, and revocation of relief), 8014 (reliance on order or certificate as evidence of due care), and 8015 (victim's rights) shall take effect on January 1, 2015; and

(2) 13 V.S.A. § 8011 (certificate of restoration of rights) shall take effect on July 1, 2015.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Judiciary agreed to and third reading ordered.

Message from the Senate No. 30

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bill of the following title:

S. 295. An act relating to pretrial services, risk assessments, and criminal justice programs.

In the passage of which the concurrence of the House is requested.

The Senate has on its part adopted concurrent resolutions originating in the House of the following titles:

H.C.R. 255. House concurrent resolution in memory of Dr. Susanne Ehrentheil Learmonth of Corinth.

H.C.R. 256. House concurrent resolution celebrating the preservation and reopening of the Vermont Marble Museum in Proctor.

H.C.R. 257. House concurrent resolution honoring those who care for, educate, and advocate for young Vermonters, and designating March 12, 2014 as Early Childhood Day.

H.C.R. 258. House concurrent resolution honoring Ferrisburgh Town Clerk and Treasurer Chester Hawkins.

H.C.R. 259. House concurrent resolution designating March as Vermont Women's History Month.

H.C.R. 260. House concurrent resolution congratulating the Carving Studio & Sculpture Center on its 25th anniversary.

H.C.R. 261. House concurrent resolution congratulating Dan Gandin on becoming Vermont's most winning high school basketball coach.

H.C.R. 262. House concurrent resolution saluting the Vermonters who served in the Vietnam War, honoring the memory of those who died in this conflict, and designating March 29, 2014 as Vietnam Veterans Welcome Home Day in Vermont.

H.C.R. 263. House concurrent resolution congratulating Chef Robert Barral on being named the Vermont Chamber of Commerce's 2013 Chef of the Year.

H.C.R. 264. House concurrent resolution congratulating Tim Johnson on the 40th anniversary of his radio broadcasting career.

Adjournment

At eleven o'clock and fifteen minutes in the forenoon, on motion of **Rep. Savage of Swanton**, the House adjourned until Tuesday, March 18, 2014, at ten o'clock in the forenoon, pursuant to the provisions of J.R.S. 48.

Concurrent Resolutions Adopted

The following concurrent resolutions, having been placed on the Consent Calendar on the preceding legislative day, and no member having requested floor consideration as provided by Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence.

H.C.R. 255

House concurrent resolution in memory of Dr. Susanne Ehrentheil Learmonth of Corinth;

H.C.R. 256

House concurrent resolution celebrating the preservation and reopening of the Vermont Marble Museum in Proctor;

H.C.R. 257

House concurrent resolution honoring those who care for, educate, and advocate for young Vermonters, and designating March 12, 2014 as Early Childhood Day;

H.C.R. 258

House concurrent resolution honoring Ferrisburgh Town Clerk and Treasurer Chester Hawkins;

H.C.R. 259

House concurrent resolution designating March as Vermont Women's History Month;

H.C.R. 260

House concurrent resolution congratulating the Carving Studio & Sculpture Center on its 25th anniversary;

H.C.R. 261

House concurrent resolution congratulating Dan Gandin on becoming Vermont's most winning high school basketball coach;

H.C.R. 262

House concurrent resolution saluting the Vermonters who served in the Vietnam War, honoring the memory of those who died in this conflict, and designating March 29, 2014 as Vietnam Veterans Welcome Home Day in Vermont;

H.C.R. 263

House concurrent resolution congratulating Chef Robert Barral on being named the Vermont Chamber of Commerce's 2013 Chef of the Year;

H.C.R. 264

House concurrent resolution congratulating Tim Johnson on the 40th anniversary of his radio broadcasting career;

[The full text of the concurrent resolutions appeared in the House Calendar Addendum on the preceding legislative day and will appear in the Public Acts and Resolves of the 2014, seventy-second Adjourned session.]