

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred Senate Bill No. 264 entitled
3 “An act relating to technical corrections to civil and criminal procedure
4 statutes” respectfully reports that it has considered the same and recommends
5 that the House propose to the Senate that the bill be amended by striking out all
6 after the enacting clause and inserting in lieu thereof the following:

7 Sec. 1. 1 V.S.A. § 317(c)(41) is amended to read:

8 (41) documents reviewed by the Victim’s Compensation Board for
9 purposes of approving an application for compensation pursuant to 13 V.S.A.
10 chapter 167, except as provided by 13 V.S.A. §§ ~~5360~~ 5358a(b) and 7043(c).

11 Sec. 2. 4 V.S.A. § 601(d) is amended to read:

12 (d) The Judicial Nominating Board shall adopt rules under 3 V.S.A. chapter
13 25 ~~which~~ that shall establish criteria and standards for the nomination of
14 qualified candidates for ~~justices~~ Justices of the ~~supreme~~ Supreme Court,
15 ~~superior~~ Superior Court judges, ~~magistrates~~ Magistrates, the Chair of the
16 Public Service Board, and members of the Public Service Board. The criteria
17 and standards shall include such factors as integrity, legal knowledge and
18 ability, judicial temperament, impartiality, health, experience, diligence,
19 administrative and communicative skills, social consciousness, and public
20 service. The application form shall not be included in the rules and may be
21 developed and periodically revised at the discretion of the Board.

1 Sec. 3. 9 V.S.A. § 2292 is amended to read:

2 § 2292. DEFENSES; LIABILITY AND PROTECTION OF TRANSFEREE

3 * * *

4 (e) A transfer is not voidable under subdivision 2288(a)(2) or section 2289
5 of this title if the transfer results from:

6 (1) termination of a lease upon default by the debtor when the
7 termination is pursuant to the lease and applicable law;

8 (2) enforcement of a security interest in compliance with Article 9 of
9 Title 9A; or

10 (3) foreclosure of a mortgage in compliance with subchapter 6 of
11 chapter 163 or subchapter 1 of chapter 172 of Title 12.

12 * * *

13 Sec. 4. 12 V.S.A. § 2794 is amended to read:

14 § 2794. EXECUTION UPON REAL ESTATE; HOMESTEAD A PART

15 When an execution is levied upon real estate of which the debtor's
16 homestead is a part or upon that part of a homestead in excess of ~~\$75,000.00~~
17 \$125,000.00 in value, the location and boundaries of the homestead shall be
18 ascertained before the sale and set out in the manner provided for the levy of
19 execution upon real estate whereof a homestead forms a part.

20 Sec. 5. 18 V.S.A. § 4474(b) is amended to read:

1 (b) Prior to acting on an application, the ~~department~~ Department shall
2 obtain from the Vermont ~~criminal information center~~ Crime Information
3 Center a Vermont criminal record, an out-of-state criminal record, and a
4 criminal record from the Federal Bureau of Investigation for the applicant. ~~For~~
5 ~~purposes of this subdivision~~ As used in this subsection, “criminal record”
6 means a record of whether the person has ever been convicted of a drug-related
7 crime. Each applicant shall consent to release of criminal records to the
8 ~~department~~ Department on forms ~~substantially similar to the release forms~~
9 developed by the ~~center pursuant to 20 V.S.A. § 2056e~~ Center. The
10 ~~department~~ Department shall comply with all laws regulating the release of
11 criminal history records and the protection of individual privacy. The Vermont
12 ~~criminal information center~~ Crime Information Center shall send to the
13 requester any record received pursuant to this section or inform the ~~department~~
14 ~~of public safety~~ Department of Public Safety that no record exists. If the
15 ~~department~~ Department disapproves an application, the ~~department~~
16 Department shall promptly provide a copy of any record of convictions and
17 pending criminal charges to the applicant and shall inform the applicant of the
18 right to appeal the accuracy and completeness of the record pursuant to rules
19 adopted by the Vermont ~~criminal information center~~ Crime Information
20 Center. No person shall confirm the existence or nonexistence of criminal

1 record information to any person who would not be eligible to receive the
2 information pursuant to this subchapter.

3 Sec. 6. 18 V.S.A. § 4474g(b) is amended to read:

4 (b) Prior to acting on an application for a registry identification card, the
5 ~~department of public safety~~ Department of Public Safety shall obtain with
6 respect to the applicant a Vermont criminal history record, an out-of-state
7 criminal history record, and a criminal history record from the Federal Bureau
8 of Investigation. Each applicant shall consent to the release of criminal history
9 records to the ~~department~~ Department on forms ~~substantially similar to the~~
10 ~~release forms developed in accordance with 20 V.S.A. § 2056e by the Vermont~~
11 Crime Information Center.

12 Sec. 7. 20 V.S.A. § 2056e(a) is amended to read:

13 (a) The ~~department of buildings and general services~~ Department of
14 Buildings and General Services shall obtain from the Vermont ~~criminal~~
15 ~~information center~~ Crime Information Center a Vermont criminal record, an
16 out-of-state criminal record, and a record from the Federal Bureau of
17 Investigation for any applicant for a ~~state~~ State security personnel position who
18 has given written authorization, on a release form prescribed ~~under section~~
19 ~~2056e of this chapter~~ by the Center, pursuant to the provisions of this
20 subchapter and the user's agreement filed by the ~~commissioner of buildings~~
21 ~~and general services~~ Commissioner of Buildings and General Services with the

1 ~~center~~ Center. The user's agreement shall require the ~~department~~ Department
2 to comply with all federal and ~~state~~ State statutes, rules, regulations, and
3 policies regulating the release of criminal history records and the protection of
4 individual privacy. The user's agreement shall be signed and kept current by
5 the ~~commissioner~~ Commissioner. Release of interstate and Federal Bureau of
6 Investigation criminal history records is subject to the rules and regulations of
7 the Federal Bureau of Investigation's National Crime Information Center.

8 Sec. 8. 20 V.S.A. § 2056h is amended to read:

9 § 2056h. DISSEMINATION OF CRIMINAL HISTORY RECORDS TO THE

10 DEPARTMENT OF FINANCIAL REGULATION

11 (a) The Department of Financial Regulation shall obtain from the Vermont
12 ~~Criminal~~ Crime Information Center a Vermont criminal record, an out-of-state
13 criminal record, and a record from the Federal Bureau of Investigation (FBI)
14 for any applicant for a banking division examiner position who has given
15 written authorization, on a release form prescribed ~~under section 2056e of this~~
16 ~~chapter~~ by the Center, pursuant to the provisions of this subchapter and the
17 user's agreement filed by the Commissioner of Financial Regulation with the
18 ~~center~~ Center. The user's agreement shall require the Department to comply
19 with all federal and State statutes, rules, regulations, and policies regulating the
20 release of criminal history records, and the protection of individual privacy.
21 The user's agreement shall be signed and kept current by the Commissioner.

1 Release of interstate and ~~F.B.I.~~ FBI criminal history records is subject to the
2 rules and regulations of the ~~F.B.I.'s~~ FBI's National Crime Information Center.

3 * * *

4 Sec. 9. 27 V.S.A. § 145 is amended to read:

5 § 145. EFFECT OF SPOUSE JOINING IN MORTGAGE

6 If the homestead or lands included therein are mortgaged by the joint deed
7 of husband and wife, the joining of the wife or husband in the mortgage shall
8 have no other effect than to bar her or his claim to the homestead as against the
9 mortgage. If the mortgage includes lands other than the homestead, and the
10 owner thereof dies, the other lands shall be first sold by the executor or
11 administrator and applied on the mortgage and the residue only shall rest on
12 the homestead. When the ~~probate division of the superior court~~ Probate
13 Division of the Superior Court orders the whole to be sold, the balance of the
14 proceeds after the payment of the mortgage, not exceeding ~~\$75,000.00~~
15 \$125,000.00 shall be under the control of the ~~court~~ Court as in case of the sale
16 of a homestead under this chapter.

17 Sec. 10. 27 V.S.A. § 182 is amended to read:

18 § 182. APPLICATION TO SUPERIOR COURT FOR RELIEF

19 When a dwelling house, outbuildings, and lands in which a homestead right
20 exists, exceed in value ~~\$75,000.00,~~ \$125,000.00 and a severance of the
21 homestead would greatly depreciate the value of the residue of the premises or

1 be of great inconvenience to the parties interested either in the residue or in the
2 homestead, either party may apply for relief to the ~~superior court~~ Superior
3 Court by a complaint setting forth the facts.

4 Sec. 11. 27 V.S.A. § 183 is amended to read:

5 § 183. TRANSFER OR SALE IN LIEU OF SEVERANCE

6 When it appears upon hearing that such homestead cannot be occupied in
7 severalty without great inconvenience to the parties interested therein or in
8 such residue, the ~~court~~ Court may order such homestead to be transferred to
9 such other parties and the payment of ~~\$75,000.00~~ \$125,000.00 to the owner
10 thereof, or, at the option of the owner, ~~such court~~ the Court may order the
11 parties to transfer such residue to him or her and order him or her thereupon to
12 pay such other parties the value thereof to be fixed by the ~~court~~ Court. If the
13 case requires, the ~~court~~ Court may order a sale of the whole premises and
14 apportion the proceeds between the parties, and the ~~court~~ Court may make such
15 orders in the premises as are equitable. If such homestead is sold, the ~~court~~
16 Court may control the investment of the proceeds of the sale in a new
17 homestead or make such disposition thereof as equity requires.

18 Sec. 12. EFFECTIVE DATE

19 This act shall take effect on passage.
20
21

1 (Committee vote: _____)

2

3

Representative _____

4

FOR THE COMMITTEE