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H.95

Introduced by Representatives Jewett of Ripton, Grad of Moretown,
Rachelson of Burlington, and Viens of Newport City

Referred to Committee on

Date:

Subject: Human services; delinquency proceedings

Statement of purpose of bill as introduced: This bill proposes to require that all charges involving criminal conduct by children under 18 years of age be filed as delinquency proceedings in the Family Division of the Superior Court rather than the Criminal Division. The bill provides the Family Division with the authority to transfer the proceedings to the Criminal Division in certain circumstances depending on the age of the child and the seriousness of the offense.

An act relating to jurisdiction over delinquency proceedings by the Family Division of the Superior Court

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

~~Sec. 1. 33 V.S.A. § 5201 is amended to read:~~

~~§ 5201. COMMENCEMENT OF DELINQUENCY PROCEEDINGS~~

~~(a) Except as otherwise provided in this chapter, all delinquency proceedings shall be in the Family Division of the Superior Court.~~

~~Proceedings under this chapter shall be commenced by:~~

1 ~~(1) transfer to the Court of a proceeding from another court as provided~~
2 ~~in section 5203 of this title; or~~

3 ~~(2) the filing of a delinquency petition in the Family Division by a~~
4 ~~State's Attorney.~~

5 ~~(b) If the proceeding is commenced by transfer from another court, no~~
6 ~~petition need be filed; however, the State's Attorney shall provide to the Court~~
7 ~~the name and address of the child's custodial parent, guardian, or custodian~~
8 ~~and the name and address of any noncustodial parent if known. [Repealed.]~~

9 ~~(c) Consistent with applicable provisions of Title 4, any proceeding~~
10 ~~concerning a child who is alleged to have committed an act specified in~~
11 ~~subsection 5204(a) of this title after attaining the age of 14, but not the age of~~
12 ~~18, shall originate in the Criminal Division of the Superior Court, provided that~~
13 ~~jurisdiction may be transferred in accordance with this chapter. [Repealed.]~~

14 * * *

15 Sec. 2. 33 V.S.A. § 5202(a)(2) is amended to read:

16 (2) Notwithstanding subdivision (1) of this subsection, an order of
17 delinquency in proceedings transferred under ~~subsection 5203(b)~~ section 5203
18 of this title, where the offense charged in the initial criminal proceedings was a
19 violation of those sections of Title 23 specified in ~~subdivision 23 V.S.A.~~
20 § 801(a)(1), shall be an event in addition to those specified therein, enabling
21 the Commissioner of Motor Vehicles to require proof of financial
22 responsibility under 23 V.S.A. chapter 11.

1 ~~Sec. 3. 33 V.S.A. § 5203 is amended to read:~~

2 ~~§ 5203. TRANSFER FROM OTHER COURTS~~

3 ~~(a) If it appears to a Criminal Division of the Superior Court that the~~
4 ~~defendant was under the age of 16 years at the time the offense charged was~~
5 ~~alleged to have been committed and the offense charged is not one of those~~
6 ~~specified in subsection 5204(a) of this title, that Court shall forthwith transfer~~
7 ~~the case to the Family Division of the Superior Court under the authority of~~
8 ~~this chapter.~~

9 ~~(b) If it appears to a Criminal Division of the Superior Court that the~~
10 ~~defendant was over the age of 16 years and under the age of 18 years at the~~
11 ~~time the offense charged was alleged to have been committed, or that the~~
12 ~~defendant had attained the age of 14 but not the age of 16 at the time an~~
13 ~~offense specified in subsection 5204(a) of this title was alleged to have been~~
14 ~~committed, that Court may forthwith transfer the proceeding to the Family~~
15 ~~Division of the Superior Court under the authority of this chapter, and the~~
16 ~~minor shall thereupon be considered to be subject to this chapter as a child~~
17 ~~charged with a delinquent act.~~

18 ~~(c) If it appears to the State's Attorney that the defendant was over the age~~
19 ~~of 16 and under the age of 18 at the time the offense charged was alleged to~~
20 ~~have been committed and the offense charged is not an offense specified in~~
21 ~~subsection 5204(a) of this title, the State's Attorney may file charges in the~~
22 ~~Family or Criminal Division of the Superior Court. If charges in such a matter~~

1 ~~are filed in the Criminal Division of the Superior Court, the Criminal Division~~
2 ~~of the Superior Court may forthwith transfer the proceeding to the Family~~
3 ~~Division of the Superior Court under the authority of this chapter, and the~~
4 ~~person shall thereupon be considered to be subject to this chapter as a child~~
5 ~~charged with a delinquent act.~~

6 ~~(d) Any such transfer shall include a transfer and delivery of a copy of the~~
7 ~~accusatory pleading and other papers, documents, and transcripts of testimony~~
8 ~~relating to the case. Upon any such transfer, that court shall order that the~~
9 ~~defendant be taken forthwith to a place of detention designated by the Family~~
10 ~~Division of the Superior Court or to that court itself, or shall release the child~~
11 ~~to the custody of his or her parent or guardian or other person legally~~
12 ~~responsible for the child, to be brought before the Family Division of the~~
13 ~~Superior Court at a time designated by that court. The Family Division of the~~
14 ~~Superior Court shall then proceed as provided in this chapter as if a petition~~
15 ~~alleging delinquency had been filed with the court under section 5223 of this~~
16 ~~title on the effective date of such transfer.~~

17 ~~(e) Motions to transfer a case to the Family Division of the Superior Court~~
18 ~~for youthful offender treatment shall be made under section 5281 of this title.~~

19 [Repealed.]

1 ~~Sec. 4. 33 V.S.A. § 5204 is amended to read:~~

2 § 5204. TRANSFER FROM FAMILY DIVISION OF THE SUPERIOR
3 COURT

4 (a) After a petition has been filed alleging delinquency, upon motion of the
5 State's Attorney and after hearing, the Family Division of the Superior Court
6 may transfer jurisdiction of the proceeding to the Criminal Division of the
7 Superior Court, if:

8 (1) ~~the child had attained the age of 16 years of age but not the age of~~
9 ~~18 years of age at the time the act was alleged to have occurred and the~~
10 ~~delinquent act set forth in the petition was not one of those specified in~~
11 ~~subdivisions (1) (12) of this subsection;~~ or

12 (2) ~~if the child had attained the age of 10 years of age but not the age of~~
13 ~~14 16 years of age at the time the act was alleged to have occurred;~~ and ~~if the~~
14 ~~delinquent act set forth in the petition was any of the following:~~

15 ~~(1)(A)~~ arson causing death as defined in 13 V.S.A. § 501;

16 ~~(2)(B)~~ assault and robbery with a dangerous weapon as defined in
17 13 V.S.A. § 608(b);

18 ~~(3)(C)~~ assault and robbery causing bodily injury as defined in
19 13 V.S.A. 608(c);

20 ~~(4)(D)~~ aggravated assault as defined in 13 V.S.A. § 1024;

21 ~~(5)(E)~~ murder as defined in 13 V.S.A. § 2301;

22 ~~(6)(F)~~ manslaughter as defined in 13 V.S.A. § 2304;

1 ~~(7)(G)~~ kidnapping as defined in 13 V.S.A. § 2405,
2 ~~(8)(H)~~ unlawful restraint as defined in 13 V.S.A. § 2406 or 2407;
3 ~~(9)(I)~~ maiming as defined in 13 V.S.A. § 2701;
4 ~~(10)(J)~~ sexual assault as defined in 13 V.S.A. § 3252(a)(1) or (a)(2);
5 ~~(11)(K)~~ aggravated sexual assault as defined in 13 V.S.A. § 3253; or
6 ~~(12)(L)~~ burglary into an occupied dwelling as defined in 13 V.S.A.
7 § 1201(c).

8 (b) The State's Attorney of the county where the juvenile petition is
9 pending may move in the Family Division of the Superior Court for an order
10 transferring jurisdiction under subsection (a) of this section at any time prior to
11 adjudication on the merits. The filing of the motion to transfer jurisdiction
12 shall automatically stay the time for the hearing provided for in section 5225 of
13 this title, which stay shall remain in effect until such time as the Family
14 Division of the Superior Court may deny the motion to transfer jurisdiction.

15 (c) Upon the filing of a motion to transfer jurisdiction under subsection (b)
16 of this section, the Family Division of the Superior Court shall conduct a
17 hearing in accordance with procedures specified in subchapter 2 of this chapter
18 to determine whether:

19 (1) there is probable cause to believe that the child committed an act
20 listed in subsection (a) of this section; and

1 ~~(2) public safety and the interests of the community would not be served~~

2 by treatment of the child under the provisions of law relating to the Family
3 Division of the Superior Court and delinquent children.

4 (d) In making its determination as required under subsection (c) of this
5 section, the Court may consider, among other matters:

6 (1) ~~The~~ the maturity of the child as determined by consideration of his
7 or her age, home, environment; emotional, psychological and physical
8 maturity; and relationship with and adjustment to school and the community;

9 (2) ~~The~~ the extent and nature of the child's prior record of delinquency;

10 (3) ~~The~~ the nature of past treatment efforts and the nature of the child's
11 response to them;

12 (4) ~~Whether~~ whether the alleged offense was committed in an
13 aggressive, violent, premeditated, or willful manner;

14 (5) ~~The~~ the nature of any personal injuries resulting from or intended to
15 be caused by the alleged act;

16 (6) ~~The~~ the prospects for rehabilitation of the child by use of procedures,
17 services, and facilities available through juvenile proceedings; and

18 (7) ~~Whether~~ whether the protection of the community would be better
19 served by transferring jurisdiction from the Family Division to the Criminal
20 Division of the Superior Court.

21 (e) A transfer under this section shall terminate the jurisdiction of the
22 Family Division of the Superior Court over the child only with respect to those

1 ~~delinquent acts alleged in the petition with respect to which transfer was~~
2 ~~sought.~~

3 (f)(1) The Family Division, following completion of the transfer hearing,
4 shall make findings and, if the Court orders transfer of jurisdiction from the
5 Family Division, shall state the reasons for that order. If the Family Division
6 orders transfer of jurisdiction, the child shall be treated as an adult. The State's
7 Attorney shall commence criminal proceedings as in cases commenced
8 against adults.

9 (2) Notwithstanding subdivision (1) of this subsection, the parties may
10 stipulate to a transfer of jurisdiction from the Family Division at any time after
11 a motion to transfer is made pursuant to subsection (b) of this section. The
12 Court shall not be required to make findings if the parties stipulate to a transfer
13 pursuant to this subdivision. Upon acceptance of the stipulation to transfer
14 jurisdiction, the Court shall transfer the proceedings to the Criminal Division
15 and the child shall be treated as an adult. The State's Attorney shall commence
16 criminal proceedings as in cases commenced against adults.

17 (g) The order granting or denying transfer of jurisdiction shall not
18 constitute a final judgment or order within the meaning of Rules 3 and 4 of the
19 Vermont Rules of Appellate Procedure.

20 (h) If a person who has not attained ~~the age of 16 years of age~~ at the time of
21 the alleged offense has been prosecuted as an adult and is not convicted of one
22 of the acts listed in subsection (a) of this section but is convicted only of one or

1 ~~more lesser offenses, jurisdiction shall be transferred to the Family Division of~~
2 the Superior Court for disposition. A conviction under this subsection shall be
3 considered an adjudication of delinquency and not a conviction of crime, and
4 the entire matter shall be treated as if it had remained in the Family Division
5 throughout. In case of an acquittal for a matter specified in this subsection and
6 in case of a transfer to the Family Division under this subsection, the Court
7 shall order the sealing of all applicable files and records of the Court, and such
8 order shall be carried out as provided in subsection 5119(e) of this title.

9 (i) The record of a hearing conducted under subsection (c) of this section
10 and any related files shall be open to inspection only by persons specified in
11 subsections 5117(b) and (c) of this title in accordance with section 5119 of this
12 title and by the attorney for the child.

13 Sec. 5. 33 V.S.A. § 5281 is amended to read:

14 § 5281. MOTION IN CRIMINAL DIVISION OF SUPERIOR COURT

15 (a) ~~A~~ After transfer of a proceeding pursuant to section 5204 of this title, a
16 motion may be filed in the Criminal Division of the Superior Court requesting
17 that a defendant under 18 years of age in a criminal proceeding who had
18 ~~attained the age of 10 years of age but not the age of 18 years of age~~ attained the age of 10 years of age at the time
19 the offense is alleged to have been committed be treated as a youthful offender.
20 The motion may be filed by the State's Attorney, the defendant, or the Court
21 on its own motion.

22 * * *

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~~Sec. 6. EFFECTIVE DATE~~

~~This act shall take effect on passage.~~

~~Sec. 1. 33 V.S.A. § 5206 is added to read:~~

~~§ 5206. CITATION OF 16- AND 17-YEAR-OLDS~~

~~(a)(1) If a child was over 16 years of age and under 18 years of age at the time the offense was alleged to have been committed and the offense is not specified in subsection (b) of this section, law enforcement shall cite the child to the Family Division of the Superior Court.~~

~~(2) If, after the child is cited to the Family Division, the State's Attorney chooses to file the charge in the Criminal Division of the Superior Court, the State's Attorney shall state in the information the reason why filing in the Criminal Division is in the interest of justice.~~

~~(b) Offenses for which a law enforcement officer is not required to cite a child to the Family Division of the Superior Court shall include:~~

~~(1) 23 V.S.A. §§ 674 (driving while license suspended or revoked); 1128 (accidents—duty to stop); and 1133 (eluding a police officer).~~

~~(2) Fish and wildlife offenses that are not minor violations as defined by 10 V.S.A. § 4572.~~

~~(3) A listed crime as defined in 13 V.S.A. § 5301.~~

~~(4) An offense listed in subsection 5204(a) of this title.~~

~~Sec. 2. REPORT~~

~~(a) On or before March 1, 2016, each State's Attorney shall adopt a written protocol regarding his or her approach to deciding whether to file a delinquency petition or criminal charges against a child that reflects the purposes of 33 V.S.A. § 5101.~~

~~(b) On or before April 1, 2016, the Executive Director of the Department of State's Attorneys and Sheriffs shall report to the House and Senate Committees on Judiciary regarding State's Attorneys' implementation of subsection (a) of this section.~~

~~Sec. 3. 33 V.S.A. § 5234 is amended to read:~~

~~§ 5234. RIGHTS OF VICTIMS IN DELINQUENCY PROCEEDINGS INVOLVING A LISTED CRIME~~

~~(a) The victim in a delinquency proceeding involving a listed crime shall have the following rights:~~

~~(1) To be notified by the prosecutor's office in a timely manner;~~

~~(A) when a delinquency petition has been filed, the name of the child, and any conditions of release ordered for the child that are materially related to the victim or intended to protect the safety of the victim;~~

~~(B) his or her rights as provided by law, information regarding how a case proceeds through a delinquency proceeding, the confidential nature of delinquency proceedings, and that it is unlawful to disclose confidential information concerning the proceedings to another person;~~

~~(C) when a predispositional or dispositional court proceeding is scheduled to take place and when a court proceeding of which he or she has been notified will not take place as scheduled; and~~

~~(2)(D) To be notified by the prosecutor's office as to whether delinquency has been found and disposition has occurred, including any conditions ~~of~~ of release that are materially related to the victim or intended to protect the safety of the victim and restitution relevant to the victim, when ordered.~~

~~(3)(2) To attend the disposition hearing and to present a victim's impact statement, including a statement why restitution may be appropriate, at the disposition hearing in accordance with subsection 5233(b) of this title and to be notified as to the disposition pursuant to subsection 5233(d) of this title. The Court shall consider the victim's statement when ordering disposition.~~

~~(4)(3) ~~Upon request, to~~ To be notified by the agency having custody of the delinquent child before he or she is discharged from a secure or staff-secured residential facility. The name of the facility shall not be disclosed. An agency's inability to give notification shall not preclude the release. However, in such an event, the agency shall take reasonable steps to give notification of the release as soon thereafter as practicable. Notification efforts shall be deemed reasonable if the agency attempts to contact the victim at the address or telephone number provided to the agency in the request for notification.~~

~~(5) To obtain the name of the child in accordance with sections 5226 and 5233 of this title. [Repealed.]~~

~~(6) To be notified by the Court of the victim's rights under this section. [Repealed.]~~

~~(b) The prosecutor's office shall keep the victim informed and consult with the victim through the delinquency proceedings.~~

~~Sec. 4. 33 V.S.A. § 5234a is added to read:~~

~~§ 5234a. RIGHTS OF VICTIMS IN DELINQUENCY PROCEEDINGS
INVOLVING A NONLISTED CRIME~~

~~The victim in a delinquency proceeding based on an act that is not a listed crime shall have the following rights:~~

~~(1) To be notified by the Court of his or her rights as provided by law and his or her responsibilities regarding the confidential nature of juvenile proceedings.~~

~~(2) To be notified promptly by the Court when conditions of release are initially ordered or modified by the Court and shall be notified promptly of the identity of the child when the conditions of release relate to the victim or a member of the victim's family or current household. Victims are entitled only to information contained in the conditions of release that pertain to the victim or a member of the victim's family or current household.~~

~~(3) To file with the Court a written or recorded statement of the impact of the delinquent act on the victim and the need for restitution.~~

~~(4) To be present at the disposition hearing for the sole purpose of presenting to the Court the impact of the delinquent act on the victim and the need for restitution if the Court finds the victim's presence at the disposition hearing is in the best interests of the child and the victim.~~

~~(5) To have the Court take a victim's views into consideration in the Court's disposition order.~~

~~(6) To be allowed not to be personally present at any portion of the disposition hearing except to present the impact statement unless authorized by the Court.~~

~~(7) To be informed by the Court after an adjudication of delinquency has been made of the disposition of the case. Upon request of the victim, the Court may release to the victim the identity of the child if the Court finds that release of the child's identity to the victim is in the best interests of both the child and the victim. Disposition in the case shall include whether the child was placed on probation and information regarding conditions of probation relevant to the victim.~~

Sec. 5. REPEAL

~~33 V.S.A. §§ 5226 (notification of conditions of release) and 5233 (victim's statement at disposition) are repealed.~~

Sec. 6. EFFECTIVE DATES

~~(a) This section and Sec. 2 of this act shall take effect on passage.~~

~~(b) The remaining sections of this act shall take effect on July 1, 2016.~~

~~*** Effective July 1, 2018 ***~~

Sec. 1. 33 V.S.A. § 5280 is added to read:

§ 5280. COMMENCEMENT OF YOUTHFUL OFFENDER

PROCEEDINGS IN THE FAMILY DIVISION

(a) A proceeding under this subchapter shall be commenced by:

(1) the filing of a youthful offender petition by a State's Attorney; or

(2) transfer to the Family Court of a proceeding from the Criminal Division of the Superior Court as provided in section 5281 of this title.

(b) A State's Attorney may commence a proceeding in the Family Division of the Superior Court concerning a child who is alleged to have committed an offense after attaining 16 years of age, but not 22 years of age that could otherwise be filed in the Criminal Division.

(c) If a State's Attorney files a petition under subdivision (a)(1) of this section, the case shall proceed as provided under subsection 5281(b) of this title.

Sec. 2. 33 V.S.A. § 5281 is amended to read:

§ 5281. MOTION IN CRIMINAL DIVISION OF SUPERIOR COURT

(a) A motion may be filed in the Criminal Division of the Superior Court requesting that a defendant under ~~18~~ 22 years of age in a criminal proceeding who had attained ~~the age of 10~~ 12 years of age but not ~~the age of 18~~ 22 years of age at the time the offense is alleged to have been committed be treated as a

youthful offender. The motion may be filed by the State's Attorney, the defendant, or the Court on its own motion.

(b) Upon the filing of a motion under this section ~~and the entering of a conditional plea of guilty by the youth, the Criminal Division shall enter an order deferring the sentence and transferring the case to~~ or the filing of a youthful offender petition pursuant to section 5280 of this title, the Family Division ~~for~~ shall hold a hearing ~~on the motion~~ pursuant to section 5283 of this title. Copies of all records relating to the case shall be forwarded to the Family Division. Conditions of release and any Department of Corrections supervision or custody shall remain in effect until the Family Division ~~approves the motion~~ accepts the case for treatment as a youthful offender and orders conditions of juvenile probation pursuant to section 5284 of this title, or the case is otherwise concluded.

(c) ~~A plea of guilty entered by the youth pursuant to subsection (b) of this section shall be conditional upon the Family Division granting the motion for youthful offender status.~~

(d)(1) If the Family Division ~~denies the motion~~ rejects the case for youthful offender treatment pursuant to subsection 5284 of this title, the case shall be ~~returned~~ transferred to the Criminal Division, ~~and the youth shall be permitted to withdraw the plea.~~ The conditions of release imposed by the Criminal Division shall remain in effect, and the case shall proceed as though the

motion for youthful offender treatment or youthful offender petition had not been ~~made~~ filed.

(2) Subject to Rule 11 of the Vermont Rules of Criminal Procedure and Rule 410 of the Vermont Rules of Evidence, the Family Division's denial of the motion for youthful offender treatment and any information related to the youthful offender proceeding shall be inadmissible against the youth for any purpose in the subsequent Criminal Division proceeding.

(d) If the Family Division accepts the case for youthful offender treatment, the case shall proceed to a confidential merits hearing or admission pursuant to sections 5227–5229 of this title. If the youth is adjudicated, the Court will create a criminal case reflecting the charge and conviction.

Sec. 3. 33 V.S.A. § 5282 is amended to read:

§ 5282. REPORT FROM THE DEPARTMENT

(a) Within 30 days after the case is transferred to the Family Division or a youthful offender petition is filed in the Family Division, unless the Court extends the period for good cause shown, the Department shall file a report with the Family Division of the Superior Court.

(b) A report filed pursuant to this section shall include the following elements:

(1) a recommendation as to whether youthful offender status is appropriate for the youth;

(2) a disposition case plan including proposed services and proposed conditions of juvenile probation in the event youthful offender status is approved and the youth is adjudicated;

(3) a description of the services that may be available for the youth when he or she reaches 18 years of age.

(c) A report filed pursuant to this section is privileged and shall not be disclosed to any person other than the Department, the Court, the State's Attorney, the youth, the youth's attorney, the youth's guardian ad litem, the Department of Corrections, or any other person when the Court determines that the best interests of the youth would make such a disclosure desirable or helpful.

Sec. 4. 33 V.S.A. § 5283 is amended to read:

§ 5283. HEARING IN FAMILY DIVISION

(a) Timeline. A hearing on the motion for youthful offender status shall be held no later than 35 days after the transfer of the case from the Criminal Division or filing of a youthful offender petition in the Family Division.

(b) Notice. Notice of the hearing shall be provided to the State's Attorney; the youth; the youth's parent, guardian, or custodian; the Department; and the Department of Corrections.

(c) Hearing procedure.

(1) If the motion is contested, all parties shall have the right to present evidence and examine witnesses. Hearsay may be admitted and may be relied

on to the extent of its probative value. If reports are admitted, the parties shall be afforded an opportunity to examine those persons making the reports, but sources of confidential information need not be disclosed.

(2) Hearings under subsection 5284(a) of this title shall be open to the public. All other youthful offender proceedings shall be confidential.

(d) The burden of proof shall be on the moving party to prove by a preponderance of the evidence that a child should be granted youthful offender status. If the Court makes the motion, the burden shall be on the youth.

(e) Further hearing. On its own motion or the motion of a party, the Court may schedule a further hearing to obtain reports or other information necessary for the appropriate disposition of the case.

Sec. 5. 33 V.S.A. § 5284 is amended to read:

§ 5284. YOUTHFUL OFFENDER DETERMINATION AND DISPOSITION

ORDER

(a) In a hearing on a motion for youthful offender status, the Court shall first consider whether public safety will be protected by treating the youth as a youthful offender. If the Court finds that public safety will not be protected by treating the youth as a youthful offender, the Court shall deny the motion and ~~return~~ transfer the case to the Criminal Division of the Superior Court pursuant to subsection 5281(d) of this title. If the Court finds that public safety will be protected by treating the youth as a youthful offender, the Court shall proceed to make a determination under subsection (b) of this section.

(b)(1) The Court shall deny the motion if the Court finds that:

(A) the youth is not amenable to treatment or rehabilitation as a youthful offender; or

(B) there are insufficient services in the juvenile court system and the Department to meet the youth's treatment and rehabilitation needs.

(2) The Court shall grant the motion if the Court finds that:

(A) the youth is amenable to treatment or rehabilitation as a youthful offender; and

(B) there are sufficient services in the juvenile court system and the Department to meet the youth's treatment and rehabilitation needs.

(c) If the Court approves the motion for youthful offender treatment after an adjudication pursuant to subsection 5281(d) of this title, the Court:

(1) shall approve a disposition case plan and impose conditions of juvenile probation on the youth; and

(2) may transfer legal custody of the youth to a parent, relative, person with a significant relationship with the youth, or Commissioner, provided that any transfer of custody shall expire on the youth's 18th birthday.

(d) The Department shall be responsible for supervision of and providing services to the youth until he or she reaches ~~the age of 18~~ years of age. A lead case manager shall be designated who shall have final decision-making authority over the case plan and the provision of services to the youth. The

youth shall be eligible for appropriate community-based programming and services provided by the Department.

(e) The youth shall not be permitted to withdraw his or her plea of guilty after youthful offender status is approved except to correct manifest injustice pursuant to Rule 32(d) of the Vermont Rules of Criminal Procedure.

** * * Effective January 1, 2018 * * **

Sec. 6. 33 V.S.A. § 5103 is amended to read:

§ 5103. JURISDICTION

(a) The Family Division of the Superior Court shall have exclusive jurisdiction over all proceedings concerning a child who is or who is alleged to be a delinquent child or a child in need of care or supervision brought under the authority of the juvenile judicial proceedings chapters, except as otherwise provided in such chapters.

(b) Orders issued under the authority of the juvenile judicial proceedings chapters shall take precedence over orders in other Family Division proceedings and any order of another court of this State, to the extent they are inconsistent. This section shall not apply to child support orders in a divorce, parentage, or relief from abuse proceedings until a child support order has been issued in the juvenile proceeding.

(c)(1) Except as otherwise provided by this title and by subdivision (2) of this subsection, jurisdiction over a child shall not be extended beyond the child's 18th birthday.

~~(2)(A) Jurisdiction over a child who has been adjudicated delinquent may be extended until six months beyond the child's ~~18th~~ 19th birthday if ~~the offense for which the child has been adjudicated delinquent is a nonviolent misdemeanor and the child was~~ 16 or 17 years old when he or she committed the offense.~~

~~(B) In no case shall custody of a child ~~aged~~ 18 years of age or older be retained by or transferred to the Commissioner for Children and Families.~~

~~(C) Jurisdiction over a child in need of care or supervision shall not be extended beyond the child's 18th birthday.~~

~~(D) As used in this subdivision, "nonviolent misdemeanor" means a misdemeanor offense which is not a listed crime as defined in 13 V.S.A. § 5301(7), an offense involving sexual exploitation of children in violation of 13 V.S.A. chapter 64, or an offense involving violation of a protection order in violation of 13 V.S.A. § 1030.~~

~~(d) The Court may terminate its jurisdiction over a child prior to the child's 18th birthday by order of the Court. If the child is not subject to another juvenile proceeding, jurisdiction shall terminate automatically in the following circumstances:~~

~~(1) upon the discharge of a child from juvenile probation, providing the child is not in the legal custody of the Commissioner;~~

~~(2) upon an order of the Court transferring legal custody to a parent, guardian, or custodian without conditions or protective supervision;~~

(3) upon the adoption of a child following a termination of parental rights proceeding.

Sec. 7. 33 V.S.A. § 5201 is amended to read:

§ 5201. COMMENCEMENT OF DELINQUENCY PROCEEDINGS

(a) Proceedings under this chapter shall be commenced by:

(1) transfer to the Court of a proceeding from another court as provided in section 5203 of this title; or

(2) the filing of a delinquency petition by a State's Attorney.

(b) If the proceeding is commenced by transfer from another court, no petition need be filed; however, the State's Attorney shall provide to the Court the name and address of the child's custodial parent, guardian, or custodian and the name and address of any noncustodial parent if known.

(c) Any proceeding concerning a child who is alleged to have committed an act specified in subsection 5204(a) of this title after attaining 14 years of age, but not 18 years of age, shall originate in the Criminal Division of the Superior Court, provided that jurisdiction may be transferred in accordance with this chapter.

(d) Any proceeding concerning a child who is alleged to have committed a misdemeanor offense before attaining ~~17~~ 18 years of age shall originate in the Family Division of the Superior Court.

(e) Any proceeding concerning a child who is alleged to have committed a felony offense other than those specified in subsection 5204(a) of this title

before attaining ~~17~~ 18 years of age shall originate in the Family Division of the Superior Court provided that jurisdiction may be transferred in accordance with this chapter.

* * *

Sec. 8. 33 V.S.A. § 5203 is amended to read:

§ 5203. TRANSFER FROM OTHER COURTS

(a) If it appears to a Criminal Division of the Superior Court that the defendant was under ~~17~~ 18 years of age at the time the offense charged was alleged to have been committed and the offense charged is a misdemeanor, that Court shall forthwith transfer the case to the Family Division of the Superior Court under the authority of this chapter.

(b) If it appears to a Criminal Division of the Superior Court that the defendant was under ~~17~~ 18 years of age at the time a felony offense not listed in subsection 5204(a) of this title was alleged to have been committed, that Court shall forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the minor shall thereupon be considered to be subject to this chapter as a child charged with a delinquent act.

(c) If it appears to the State's Attorney that the defendant was ~~16~~ under 18 years of age at the time the felony offense charged was alleged to have been committed and the felony charged is not an offense specified in subsection

5204(a) of this title, the State's Attorney shall file charges in the Family Division of the Superior Court.

* * *

* * * *Effective January 1, 2017* * * *

Sec. 9. 33 V.S.A. § 5201 is amended to read:

§ 5201. COMMENCEMENT OF DELINQUENCY PROCEEDINGS

(a) Proceedings under this chapter shall be commenced by:

(1) transfer to the Court of a proceeding from another court as provided in section 5203 of this title; or

(2) the filing of a delinquency petition by a State's Attorney.

(b) If the proceeding is commenced by transfer from another court, no petition need be filed; however, the State's Attorney shall provide to the Court the name and address of the child's custodial parent, guardian, or custodian and the name and address of any noncustodial parent if known.

(c) ~~Consistent with applicable provisions of Title 4, any~~ Any proceeding concerning a child who is alleged to have committed an act specified in subsection 5204(a) of this title after attaining ~~the age of 14 years of age~~, but not ~~the age of 18 years of age~~, shall originate in the Criminal Division of the Superior Court, provided that jurisdiction may be transferred in accordance with this chapter.

(d) Any proceeding concerning a child who is alleged to have committed a misdemeanor offense before attaining 17 years of age shall originate in the Family Division of the Superior Court.

(e) Any proceeding concerning a child who is alleged to have committed a felony offense other than those specified in subsection 5204(a) of this title before attaining 17 years of age shall originate in the Family Division of the Superior Court provided that jurisdiction may be transferred in accordance with this chapter.

(f) If the State requests that custody of the child be transferred to the Department, a temporary care hearing shall be held as provided in subchapter 3 of this chapter.

(e)(g) A petition may be withdrawn by the State's Attorney at any time prior to the hearing thereon, in which event the child shall be returned to the custodial parent, guardian, or custodian, the proceedings under this chapter terminated, and all files and documents relating thereto sealed under section 5119 of this title.

Sec. 10. 33 V.S.A. § 5203 is amended to read:

§ 5203. TRANSFER FROM OTHER COURTS

(a) If it appears to a Criminal Division of the Superior Court that the defendant was under ~~the age of 16~~ 17 years of age at the time the offense charged was alleged to have been committed and the offense charged is ~~not~~ one of those specified in subsection 5204(a) of this title a misdemeanor, that

Court shall forthwith transfer the case to the Family Division of the Superior Court under the authority of this chapter.

(b) If it appears to a Criminal Division of the Superior Court that the defendant was ~~over the age of 16 years and under the age of 18~~ 17 years of age at the time ~~the a felony offense charged not specified in subsection 5204(a) of this title~~ was alleged to have been committed, ~~or that the defendant had attained the age of 14 but not the age of 16 at the time an offense specified in subsection 5204(a) of this title was alleged to have been committed;~~ that Court ~~may~~ shall forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the minor shall thereupon be considered to be subject to this chapter as a child charged with a delinquent act.

(c) If it appears to the State's Attorney that the defendant was ~~over the age of 16~~ years of age and ~~under the age of 18~~ at the time the ~~offense~~ felony charged was alleged to have been committed and the ~~offense~~ felony charged is not an offense specified in subsection 5204(a) of this title, the State's Attorney ~~may~~ shall file charges in the Family ~~or Criminal~~ Division of the Superior Court. ~~If charges in such a matter are filed in the Criminal Division of the Superior Court, the Criminal Division of the Superior Court may forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the person shall thereupon be considered to be subject to this chapter as a child charged with a delinquent act.~~

(d) ~~Any such~~ A transfer under this section shall include a transfer and delivery of a copy of the accusatory pleading and other papers, documents, and transcripts of testimony relating to the case. Upon any such transfer, that court shall order that the defendant be taken forthwith to a place of detention designated by the Family Division of the Superior Court or to that court itself, or shall release the child to the custody of his or her parent or guardian or other person legally responsible for the child, to be brought before the Family Division of the Superior Court at a time designated by that court. The Family Division of the Superior Court shall then proceed as provided in this chapter as if a petition alleging delinquency had been filed with the Court under section 5223 of this title on the effective date of such transfer.

(e) Motions to transfer a case to the Family Division of the Superior Court for youthful offender treatment shall be made under section 5281 of this title.

Sec. 11. 33 V.S.A. § 5204 is amended to read:

*§ 5204. TRANSFER FROM FAMILY DIVISION OF THE SUPERIOR
COURT*

(a) After a petition has been filed alleging delinquency, upon motion of the State's Attorney and after hearing, the Family Division of the Superior Court may transfer jurisdiction of the proceeding to the Criminal Division of the Superior Court, if the child had attained 16 years of age but not 18 years of age at the time the act was alleged to have occurred and the delinquent act set forth in the petition ~~was not one of those specified in subdivisions (1) (12) of~~

~~this subsection~~ is a felony not specified in subdivisions (1)–(12) of this subsection or if the child had attained 12 years of age but not 14 years of age at the time the act was alleged to have occurred, and if the delinquent act set forth in the petition was any of the following:

- (1) arson causing death as defined in 13 V.S.A. § 501;
- (2) assault and robbery with a dangerous weapon as defined in 13 V.S.A. § 608(b);
- (3) assault and robbery causing bodily injury as defined in 13 V.S.A. § 608(c);
- (4) aggravated assault as defined in 13 V.S.A. § 1024;
- (5) murder as defined in 13 V.S.A. § 2301;
- (6) manslaughter as defined in 13 V.S.A. § 2304;
- (7) kidnapping as defined in 13 V.S.A. § 2405;
- (8) unlawful restraint as defined in 13 V.S.A. § 2406 or 2407;
- (9) maiming as defined in 13 V.S.A. § 2701;
- (10) sexual assault as defined in 13 V.S.A. § 3252(a)(1) or (a)(2);
- (11) aggravated sexual assault as defined in 13 V.S.A. § 3253; or
- (12) burglary into an occupied dwelling as defined in 13 V.S.A. § 1201(c).

* * *

(i) If a juvenile 16 years of age or older has been prosecuted as an adult for an offense not listed in subsection (a) of this section and is not convicted of

a felony, but is convicted of a lesser included misdemeanor, jurisdiction shall be transferred to the Family Division of the Superior Court for disposition. A conviction under this subsection shall be considered an adjudication of delinquency and not a conviction of a crime, and the entire matter shall be treated as if it had remained in the Family Division throughout. In case of an acquittal for a matter specified in this subsection and in case of a transfer to the Family Division under this subsection, the court shall order the sealing of all applicable files and records of the court, and such order shall be carried out as provided in subsection 5119(e) of this title.

(j) The record of a hearing conducted under subsection (c) of this section and any related files shall be open to inspection only by persons specified in subsections 5117(b) and (c) of this title in accordance with section 5119 of this title and by the attorney for the child.

** * * Effective July 1, 2016 * * **

Sec. 12. 33 V.S.A. § 5204 is amended to read:

*§ 5204. TRANSFER FROM FAMILY DIVISION OF THE SUPERIOR
COURT*

(a) After a petition has been filed alleging delinquency, upon motion of the State's Attorney and after hearing, the Family Division of the Superior Court may transfer jurisdiction of the proceeding to the Criminal Division of the Superior Court, if the child had attained ~~the age of 16~~ years of age but not ~~the age of 18~~ years of age at the time the act was alleged to have occurred and the

delinquent act set forth in the petition was not one of those specified in subdivisions (1)-(12) of this subsection or if the child had attained ~~the age of~~ 10 12 years of age but not ~~the age of~~ 14 years of age at the time the act was alleged to have occurred, and if the delinquent act set forth in the petition was any of the following:

- (1) arson causing death as defined in 13 V.S.A. § 501;*
- (2) assault and robbery with a dangerous weapon as defined in 13 V.S.A. § 608(b);*
- (3) assault and robbery causing bodily injury as defined in 13 V.S.A. § 608(c);*
- (4) aggravated assault as defined in 13 V.S.A. § 1024;*
- (5) murder as defined in 13 V.S.A. § 2301;*
- (6) manslaughter as defined in 13 V.S.A. § 2304;*
- (7) kidnapping as defined in 13 V.S.A. § 2405;*
- (8) unlawful restraint as defined in 13 V.S.A. § 2406 or 2407;*
- (9) maiming as defined in 13 V.S.A. § 2701;*
- (10) sexual assault as defined in 13 V.S.A. § 3252(a)(1) or (a)(2);*
- (11) aggravated sexual assault as defined in 13 V.S.A. § 3253; or*
- (12) burglary into an occupied dwelling as defined in 13 V.S.A. § 1201(c).*

(b) The State's Attorney of the county where the juvenile petition is pending may move in the Family Division of the Superior Court for an order

transferring jurisdiction under subsection (a) of this section at any time prior to adjudication on the merits. The filing of the motion to transfer jurisdiction shall automatically stay the time for the hearing provided for in section 5225 of this title, which stay shall remain in effect until such time as the Family Division of the Superior Court may deny the motion to transfer jurisdiction.

(c) Upon the filing of a motion to transfer jurisdiction under subsection (b) of this section, the Family Division of the Superior Court shall conduct a hearing in accordance with procedures specified in subchapter 2 of this chapter to determine whether:

(1) there is probable cause to believe that the child committed ~~an act~~ listed in subsection (a) of this section the charged offense; and

(2) public safety and the interests of the community would not be served by treatment of the child under the provisions of law relating to the Family Division of the Superior Court and delinquent children.

* * *

(g) The order granting or denying transfer of jurisdiction shall ~~not~~ constitute a final ~~judgment or~~ order within the meaning of Rules 3 and 4 of the Vermont Rules of Appellate Procedure.

(h) If a person who has not attained ~~the age of~~ 16 years of age at the time of the alleged offense has been prosecuted as an adult and is not convicted of one of the acts listed in subsection (a) of this section but is convicted only of one or more lesser offenses, jurisdiction shall be transferred to the Family

Division of the Superior Court for disposition. A conviction under this subsection shall be considered an adjudication of delinquency and not a conviction of crime, and the entire matter shall be treated as if it had remained in the Family Division throughout. In case of an acquittal for a matter specified in this subsection and in case of a transfer to the Family Division under this subsection, the Court shall order the sealing of all applicable files and records of the Court, and such order shall be carried out as provided in subsection 5119(e) of this title.

* * *

Sec. 13. 33 V.S.A. § 5106 is amended to read:

§ 5106. POWERS AND DUTIES OF COMMISSIONER

Subject to the limitations of the juvenile judicial proceedings chapters or those imposed by the Court, and in addition to any other powers granted to the Commissioner under the laws of this State, the Commissioner has the following authority with respect to a child who is or may be the subject of a petition brought under the juvenile judicial proceedings chapters:

(1) To undertake assessments and make reports and recommendations to the Court as authorized by the juvenile judicial proceedings chapters.

(2) To investigate complaints and allegations that a child is in need of care or supervision for the purpose of considering the commencement of proceedings under the juvenile judicial proceedings chapters.

(3) To supervise and assist a child who is placed under the Commissioner's supervision or in the Commissioner's legal custody by order of the Court, and to administer sanctions in accordance with graduated sanctions established by policy and that are consistent with the juvenile probation certificate.

* * *

Sec. 14. 33 V.S.A. § 5225 is amended to read:

§ 5225. PRELIMINARY HEARING; RISK ASSESSMENT

(a) A preliminary hearing shall be held at the time and date specified on the citation or as otherwise ordered by the Court. If a child is taken into custody prior to the preliminary hearing, the preliminary hearing shall be at the time of the temporary care hearing.

(b) Prior to the preliminary hearing, the child shall be afforded an opportunity to undergo a risk and needs screening, which shall be conducted by the Department or by a community provider that has contracted with the Department to provide risk and need screenings for children alleged to have committed delinquent acts. If the child participates in such a screening, the Department or the community provider shall report the risk level result of the screening to the State's Attorney. In lieu of filing a charge, the State's Attorney may refer a child directly to a youth-appropriate community-based provider that has been approved by the Department, which may include a community justice center or a balanced and restorative justice program.

Referral to a community-based provider pursuant to this subsection shall not require the State's Attorney to file a charge. If the community-based provider does not accept the case or if the child fails to complete the program in a manner deemed satisfactory and timely by the provider, the child's case shall return to the State's Attorney for charging consideration. If a charge is brought in the Family Division, the risk level result shall be provided to the child's attorney. Except on agreement of the parties, the results shall not be provided to the Court until after a merits finding has been made.

(c) Counsel for the child shall be assigned prior to the preliminary hearing.

(d) At the preliminary hearing, the Court shall appoint a guardian ad litem for the child. The guardian ad litem may be the child's parent, guardian, or custodian. On its own motion or motion by the child's attorney, the Court may appoint a guardian ad litem other than a parent, guardian or custodian.

(e) At the preliminary hearing, a denial shall be entered to the allegations of the petition, unless the juvenile, after adequate consultation with the guardian ad litem and counsel, enters an admission. If the juvenile enters an admission, the disposition case plan required by section 5230 of this title may be waived and the Court may proceed directly to disposition, provided that the juvenile, the custodial parent, the State's Attorney, the guardian ad litem, and the Department agree.

(f) The Court may order the child to abide by conditions of release pending a merits or disposition hearing.

Sec. 15. 33 V.S.A. § 5285 is amended to read:

§ 5285. MODIFICATION OR REVOCATION OF DISPOSITION

(a) If it appears that the youth has violated the terms of juvenile probation ordered by the Court pursuant to subdivision 5284(c)(1) of this title, a motion for modification or revocation of youthful offender status may be filed in the Family Division of the Superior Court. The Court shall set the motion for hearing as soon as practicable. The hearing may be joined with a hearing on a violation of conditions of probation under section 5265 of this title. A supervising juvenile or adult probation officer may detain in an adult facility a youthful offender who has attained ~~the age of~~ 18 years of age for violating conditions of probation.

(b) A hearing under this section shall be held in accordance with section 5268 of this title.

(c) If the Court finds after the hearing that the youth has violated the terms of his or her probation, the Court may:

(1) maintain the youth's status as a youthful offender, with modified conditions of juvenile probation if the Court deems it appropriate;

(2) revoke the youth's status as a youthful offender status and return the case to the Criminal Division for sentencing; or

(3) transfer supervision of the youth to the Department of Corrections with all of the powers and authority of the Department and the Commissioner under Title 28, including graduated sanctions and electronic monitoring.

(d) If a youth's status as a youthful offender is revoked and the case is returned to the Criminal Division under subdivision (c)(2) of this section, the Court shall hold a sentencing hearing and impose sentence. When determining an appropriate sentence, the Court may take into consideration the youth's degree of progress toward rehabilitation while on youthful offender status. The Criminal Division shall have access to all Family Division records of the proceeding.

Sec. 16. 28 V.S.A. § 1101 is amended to read:

§ 1101. POWERS AND RESPONSIBILITIES OF THE COMMISSIONER

REGARDING JUVENILE SERVICES

The Commissioner is charged with the following powers and responsibilities regarding the administration of juvenile services:

(1) to provide appropriate, separate facilities for the custody and treatment of ~~children~~ offenders under 25 years of age committed to his or her custody in accordance with the laws of the State;

** * **

Sec. 17. 33 V.S.A. § 5206 is added to read:

§ 5206. CITATION OF 16- AND 17-YEAR-OLDS

(a)(1) If a child was over 16 years of age and under 18 years of age at the time the offense was alleged to have been committed and the offense is not specified in subsection (b) of this section, law enforcement shall cite the child to the Family Division of the Superior Court.

(2) If, after the child is cited to the Family Division, the State's Attorney chooses to file the charge in the Criminal Division of the Superior Court, the State's Attorney shall state in the information the reason why filing in the Criminal Division is in the interest of justice.

(b) Offenses for which a law enforcement officer is not required to cite a child to the Family Division of the Superior Court shall include:

(1) 23 V.S.A. §§ 674 (driving while license suspended or revoked); 1128 (accidents—duty to stop); and 1133 (eluding a police officer).

(2) Fish and wildlife offenses that are not minor violations as defined by 10 V.S.A. § 4572.

(3) A listed crime as defined in 13 V.S.A. § 5301.

(4) An offense listed in subsection 5204(a) of this title.

Sec. 18. 13 V.S.A. § 7554 is amended to read:

§ 7554. *RELEASE PRIOR TO TRIAL*

* * *

(j) Any juvenile between 14 and 16 years of age who is charged with a listed crime as defined in subdivision 5301(7) of this title shall appear before a judicial officer and be ordered released pending trial in accordance with this section within 24 hours of the juvenile's arrest.

Sec. 19. 4 V.S.A. § 33 is amended to read:

§ 33. *JURISDICTION; FAMILY DIVISION*

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

* * *

(b) The Family Division has ~~nonexclusive~~ jurisdiction to hear and dispose of proceedings involving misdemeanor motor vehicle offenses filed or pending on or after July 1, 2016, pursuant to 33 V.S.A. §§ 5201, 5203, and 5280. The Family Division of the Superior Court shall forward a record of any conviction for violation of a law related to motor vehicle traffic control, other than a parking violation, to the Commissioner of Motor Vehicles pursuant to 23 V.S.A. § 1709.

Sec. 20. 33 V.S.A. § 5102 is amended to read:

§ 5102. DEFINITIONS AND PROVISIONS OF GENERAL APPLICATION

* * *

(28) “Victim” shall have the same meaning as in 13 V.S.A. § 5301(4).

(29) “Youth” shall mean a person who is the subject of a motion for youthful offender status or who has been granted youthful offender status.

Sec. 21. 33 V.S.A. § 5234 is amended to read:

§ 5234. RIGHTS OF VICTIMS IN DELINQUENCY PROCEEDINGS

INVOLVING A LISTED CRIME

(a) The victim in a delinquency proceeding involving a listed crime shall have the following rights:

(1) To be notified by the prosecutor's office in a timely manner of the following:

(A) when a delinquency petition has been filed, the name of the child and any conditions of release initially ordered for the child or modified by the Court that are related to the victim or a member of the victim's family or current household;

(B) his or her rights as provided by law, information regarding how a case proceeds through a delinquency proceeding, the confidential nature of delinquency proceedings, and that it is unlawful to disclose confidential information concerning the proceedings to another person;

(C) when a predispositional or dispositional court proceeding is scheduled to take place and when a court proceeding of which he or she has been notified will not take place as scheduled-; and

~~(2)(D) To be notified by the prosecutor's office as to whether delinquency has been found and disposition has occurred, including and any conditions of release or conditions of probation that are related to the victim or a member of the victim's family or current household and any restitution relevant to the victim, when ordered.~~

(2) To file with the Court a written or recorded statement of the impact of the delinquent act on the victim and the need for restitution.

(3) To attend the disposition hearing and to present a ~~victim's~~ victim impact statement at the disposition hearing in accordance with subsection

~~5233(b) of this title, including testimony in support of his or her claim for restitution pursuant to section 5235 of this title, and to be notified as to the disposition pursuant to subsection 5233(d) of this title, including probation. The court shall consider the victim's statement when ordering disposition. The victim shall not be personally present at any portion of the disposition hearing except to present a victim impact statement or to testify in support of his or her claim for restitution unless the court finds that the victim's presence is necessary in the interest of justice.~~

(4) Upon request, to be notified by the agency having custody of the delinquent child before he or she is discharged from a secure or staff-secured residential facility. The name of the facility shall not be disclosed. An agency's inability to give notification shall not preclude the release. However, in such an event, the agency shall take reasonable steps to give notification of the release as soon thereafter as practicable. Notification efforts shall be deemed reasonable if the agency attempts to contact the victim at the address or telephone number provided to the agency in the request for notification.

(5) ~~To obtain the name of the child in accordance with sections 5226 and 5233 of this title. To have the Court take his or her views into consideration in the Court's disposition order. If the victim is not present, the Court shall consider whether the victim has expressed, either orally or in writing, views regarding disposition and shall take those views into account when ordering disposition.~~

~~(6) To be notified by the Court of the victim's rights under this section.~~

[Repealed.]

~~(b) The prosecutor's office shall keep the victim informed and consult with the victim through the delinquency proceedings.~~

Sec. 22. 33 V.S.A. § 5234a is added to read:

§ 5234a. RIGHTS OF VICTIMS IN DELINQUENCY PROCEEDINGS

INVOLVING A NONLISTED CRIME

(a) The victim in a delinquency proceeding involving an offense that is not a listed crime shall have the following rights:

(1) To be notified by the prosecutor's office in a timely manner of the following:

(A) his or her rights as provided by law, information regarding how a delinquency proceeding is adjudicated, the confidential nature of juvenile proceedings, and that it is unlawful to disclose confidential information concerning the proceedings;

~~(B) when a delinquency petition is filed, and any conditions of release initially ordered for the child or modified by the Court that relate to the victim or a member of the victim's family or current household; and~~

(B) when a delinquency petition is filed;

(C) the child's name and the conditions of release ordered for the child or modified by the Court if the conditions relate to the victim or a member of the victim's family or current household; and

(D) when a dispositional court proceeding is scheduled to take place and when a court proceeding of which he or she has been notified will not take place as scheduled.

(2) That delinquency has been found and disposition has occurred, and any conditions of release or conditions of probation that are related to the victim or a member of the victim's family or current household and any restitution ordered.

(3) To file with the Court a written or recorded statement of the impact of the delinquent act on the victim and any need for restitution.

(4) To attend the disposition hearing for the sole purpose of presenting to the Court a victim impact statement, including testimony in support of his or her claim for restitution pursuant to section 5235 of this title. The victim shall not be personally present at any portion of the disposition hearing except to present a victim impact statement or to testify in support of his or her claim for restitution unless the Court finds that the victim's presence is necessary in the interest of justice.

(5) To have the Court take his or her views into consideration in the Court's disposition order. If the victim is not present, the Court shall consider whether the victim has expressed, either orally or in writing, views regarding disposition and shall take those views into account when ordering disposition. The Court shall order that the victim be notified as to the identity of the child upon disposition if the Court finds that release of the child's identity to the

victim is in the best interests of both the child and the victim and serves the interests of justice.

(b) The prosecutor's office shall keep the victim informed and consult with the victim through the delinquency proceedings.

Sec. 23. 14 V.S.A. § 2666 is amended to read:

§ 2666. MODIFICATION; TERMINATION

* * *

(b) Where the permanent guardianship is terminated by the ~~probate division of the superior court~~ Probate Division of the Superior Court order or the death of the permanent guardian, the custody and guardianship of the child shall not revert to the parent, but to the ~~commissioner for children and families~~ Commissioner for Children and Families as if the child had been abandoned.

(1) Upon the death of the permanent guardian or when the permanent guardianship is otherwise terminated by order of the Probate Division, the Probate Division shall issue an order placing the child in the custody of the Commissioner and shall immediately notify the Department for Children and Families, the State's Attorney, and the Family Division.

(2) The order transferring the child's legal custody to the Commissioner shall have the same legal effect as a similar order issued by the Family Division under the authority of 33 V.S.A. chapters 51–53.

(3) After the Probate Division issues the order transferring legal custody of the child, the State shall commence proceedings under the authority of 33 V.S.A. chapters 51–53 as if the child were abandoned.

* * *

Sec. 24. 14 V.S.A. § 2667 is amended to read:

§ 2667. ORDER FOR VISITATION, CONTACT, OR INFORMATION;

IMMEDIATE HARM TO THE MINOR

(a) The ~~probate division of the superior court~~ Probate Division of the Superior Court shall have exclusive jurisdiction to hear any action to enforce, modify, or terminate the initial order issued by the ~~family division of the superior court~~ Family Division of the Superior Court for visitation, contact, or information.

(b) Upon a showing by affidavit of immediate harm to the child, the ~~probate division of the superior court~~ Probate Division of the Superior Court may temporarily stay the order of visitation or contact on an ex parte basis until a hearing can be held, or stay the order of permanent guardianship and ~~assign parental rights and responsibilities~~ transfer legal custody of the child to the ~~commissioner for children and families~~ Commissioner for Children and Families.

(1) The order transferring the child's legal custody to the Commissioner shall have the same legal effect as a similar order issued by the Family Division under the authority of 33 V.S.A. chapters 51–53.

(2) The Probate Division shall then immediately notify the Department for Children and Families, the State's Attorney, and the Family Division when it has issued an order transferring the child's legal custody to the Commissioner, and nothing in this subsection shall prohibit the State from commencing proceedings under 33 V.S.A. chapters 51–53.

* * *

Sec. 25. 33 V.S.A. § 5223 is amended to read:

§ 5223. *FILING OF PETITION*

(a) *When notice to the child is provided by citation, the State's Attorney shall file the petition and supporting affidavit at least 10 business days prior to the date for the preliminary hearing specified in the citation.*

(b) *The Court shall send or deliver a copy of the petition and affidavit to the Commissioner after a finding of probable cause. A copy of the petition and affidavit shall be made available at the State's Attorney's office to all persons required to receive notice, including the noncustodial parent, as soon as possible after the petition is filed and at least five business days prior to the date set for the preliminary hearing.*

Sec. 26. 33 V.S.A. § 5229 is amended to read:

§ 5229. *MERITS ADJUDICATION*

* * *

(g) *If, based on the child's admission or the evidence presented, the Court finds beyond a reasonable doubt that the child has committed a delinquent act,*

the Court shall order the Department to prepare a disposition case plan ~~within 28 days of the merits adjudication and shall set the matter for a~~ not later than seven business days before the disposition hearing. In no event, shall a disposition hearing be held later than 35 days after a finding that a child is delinquent.

(h) The Court may proceed directly to disposition providing that the child, the custodial parent, the State's Attorney, and the Department agree.

Sec. 27. 33 V.S.A. § 5230 is amended to read:

§ 5230. DISPOSITION CASE PLAN

(a) Filing of case plan. ~~The~~ Following the finding by the Court that a child is delinquent, the Department shall file a disposition case plan ~~no~~ not later than ~~28 days from the date of the finding by the Court that a child is delinquent~~ seven business days before the scheduled disposition hearing. The disposition case plan shall not be used or referred to as evidence prior to a finding that a child is delinquent.

** * **

Sec. 28. 33 V.S.A. § 5315 is amended to read:

§ 5315. MERITS ADJUDICATION

** * **

(f) If the Court finds that the allegations made in the petition have not been established, the Court shall dismiss the petition and vacate any temporary

orders in connection with this proceeding. A dismissal pursuant to this subsection is a final order subject to appeal.

(g) If the Court finds that the allegations made in the petition have been established based on the stipulation of the parties or on the evidence if the merits are contested, the Court shall order the Department to prepare a disposition case plan ~~within 28 days of the merits hearing and shall set the matter for a~~ not later than seven business days before a scheduled disposition hearing. An adjudication pursuant to this subsection is not a final order subject to appeal separate from the resulting disposition order.

* * *

Sec. 29. 33 V.S.A. § 5315a is added to read:

§ 5315a. MERITS STIPULATION

(a) At any time after the filing of the CHINS petition and prior to an order of adjudication on the merits, the court may approve a written stipulation to the merits of the petition and any or all elements of the disposition plan, including the permanency goal, placement, visitation, or services.

(b) The court may approve a written stipulation if:

(1) the parties to the petition, as defined in subdivision 5102(22) of this title, agree to the terms of the stipulation; and

(2) the court determines that:

(A) the agreement between the parties is voluntary;

(B) the parties to the agreement understand the nature of the allegation; and

(C) the parties to the agreement understand the rights waived if the court approves of and issues an order based upon the stipulation.

Sec. 30. 33 V.S.A. § 5316 is amended to read:

§ 5316. DISPOSITION CASE PLAN

(a) The Following a finding by the court that a child is in need of care or supervision, the Department shall file a disposition case plan ordered pursuant to subsection 5315(g) of this title ~~no~~ not later than ~~28 days from the date of the finding by the Court that a child is in need of care or supervision~~ seven business days before the scheduled disposition hearing.

* * *

Sec. 31. 15 V.S.A. § 1103 is amended to read:

§ 1103. REQUESTS FOR RELIEF

(a) Any family or household member may seek relief from abuse by another family or household member on behalf of ~~him~~ him- or herself or his or her children by filing a complaint under this chapter. A minor 16 years of age or older, or a minor of any age who is in a dating relationship as defined in subdivision 1101(2) of this chapter, may file a complaint under this chapter seeking relief on his or her own behalf. The plaintiff shall submit an affidavit in support of the order.

* * *

Sec. 32. 15 V.S.A. § 1104 is amended to read:

§ 1104. EMERGENCY RELIEF

(a) In accordance with the Vermont Rules of Civil Procedure, temporary orders under this chapter may be issued ex parte, without notice to the defendant, upon motion and findings by the Court that the defendant has abused the plaintiff or his or her children, or both. The plaintiff shall submit an affidavit in support of the order. A minor 16 years of age or older, or a minor of any age who is in a dating relationship as defined in subdivision 1101(2) of this chapter, may seek relief on his or her own behalf. Relief under this section shall be limited as follows:

** * **

Sec. 33. DEPARTMENT FOR CHILDREN AND FAMILIES;

DEPARTMENT OF CORRECTIONS; YOUTHFUL OFFENDERS;

REPORT

The Commissioners for Children and Families and of Corrections shall consider the implications of adjudicating as youthful offenders all defendants who have attained 18 years of age, but not 21 years of age, who have not been charged with an offense specified in 33 V.S.A. § 5204(a). The Commissioners shall report their findings and any associated recommendations or proposed legislation to the Joint Legislative Justice Oversight Committee on or before November 1, 2016.

Sec. 34. JOINT LEGISLATIVE JUSTICE OVERSIGHT COMMITTEE;

2016 LEGISLATIVE INTERIM

During the 2016 legislative interim, the Joint Legislative Justice Oversight Committee shall:

(1) evaluate the fiscal implications of adjudicating in the Family Division of the Superior Court all offenders 18–20 years of age who are not charged with an offense specified in 33 V.S.A. § 5204(a);

(2) consider whether the creation of an Office for Youth Justice or similar with jurisdiction to coordinate supervision and services for youths adjudicated juvenile delinquents and youthful offenders 25 years of age and younger would improve outcomes for youths in the justice system;

(3) consider expanding youthful offender status eligibility to offenders 24 years of age and younger, while requiring offenders 22–24 years of age to be under Department of Corrections supervision;

(4) consider whether State’s Attorneys should have the discretion to bring charges against 14 and 15 year olds alleged to have committed an act specified in 33 V.S.A. § 5204(a) in either the Criminal or Family Division of the Superior Court;

(5) explore options for housing offenders 16 and 17 years of age serving a sentence for an offense specified in 33 V.S.A. § 5204(a);

(6) evaluate the resources necessary to expand the jurisdiction of the juvenile courts for offenders 21 years of age and younger as contemplated by other state legislatures; and

(7) evaluate the resources necessary to expand youthful offender treatment for offenders 24 years of age and younger.

Sec. 35. AGENCY OF EDUCATION; RESTORATIVE JUSTICE

PRACTICES

The Agency of Education shall explore the use of restorative and similar practices regarding school climate and culture, truancy, bullying and harassment, and school discipline. The Agency shall consider the research that demonstrates that restorative approaches lead to reductions in absenteeism, suspensions, and expulsions and to improved educational outcomes.

Sec. 36. REPEAL

33 V.S.A. §§ 5226 (notification of conditions of release) and 5233 (victim's statement at disposition) are repealed.

~~*Sec. 37. EFFECTIVE DATES*~~

~~(a) Secs. 9 (Commencement of Delinquency Proceedings), 10 (Transfer from the Courts), and 11 (transfer from Family Division of the Superior Court) shall take effect on January 1, 2017.~~

~~(b) Secs. 6 (Jurisdiction), 7 (commencement of delinquency proceedings), and 8 (Transfer from other Courts) shall take effect on January 1, 2018.~~

~~(c) Secs. 1 (Commencement of Youthful Offender Proceedings in the Family Division), 2 (Motion in Criminal Division of Superior Court), 3 (Report from the Department), 4 (Hearing in Family Division), and 5 (Youthful~~

~~Offender Determination and Disposition Order) shall take effect on July 1, 2018.~~

~~(d) The remaining sections shall take effect on July 1, 2016.~~

~~Sec. 37. 13 V.S.A. § 2651(6) is amended to read,~~

~~(6) "Human trafficking" means:~~

~~* * *~~

~~(B) "severe form of trafficking" as defined by 21 U.S.C. § 7105~~

~~22 U.S.C. § 7105~~

~~* * *~~

~~Sec. 38. 13 V.S.A. § 5238 is amended to read:~~

~~§ 5238. CO-PAYMENT AND REIMBURSEMENT ORDERS~~

~~* * *~~

~~(d) To the extent that the Court finds that the eligible person has income or assets available to enable payment of an immediate co-payment, it shall order such a co-payment to cover in whole or in part the amount of the costs of representation to be borne by the eligible person. When a co-payment is ordered, the assignment of counsel shall be contingent on prior payment of the co-payment. The co-payment shall be paid to the clerk of the Court. Any portion of the co-payment not paid to the clerk may be included in a reimbursement order.~~

~~* * *~~

~~Sec. 39. 13 V.S.A. § 7606 is amended to read:~~

~~§ 7606. EFFECT OF EXPUNGEMENT~~

~~(a) Upon entry of an expungement order, the order shall be legally effective immediately and the person whose record is expunged shall be treated in all respects as if he or she had never been arrested, convicted, or sentenced for the offense. The Court shall issue the person a certificate stating that such person's behavior after the conviction has warranted the issuance of the order and that its effect is to annul the record of arrest, conviction, and sentence. The Court shall provide notice of the expungement to the respondent, Vermont Crime Information Center (VCIC), the arresting agency, and any other entity that may have a record related to the order to expunge. The VCIC shall provide notice of the expungement to the Federal Bureau of Investigation's National Crime Information Center.~~

~~* * *~~

~~Sec. 40. 13 V.S.A. § 7607 is amended to read:~~

~~§ 7607. EFFECT OF SEALING~~

~~(a) Upon entry of an order to seal, the order shall be legally effective immediately and the person whose record is sealed shall be treated in all respects as if he or she had never been arrested, convicted, or sentenced for the offense. The Court shall issue the person a certificate stating that such person's behavior after the conviction has warranted the issuance of the order and that its effect is to annul the record of arrest, conviction, and sentence. The Court shall provide notice of the sealing to the respondent, Vermont~~

~~Crime Information Center (VCIC), the arresting agency, and any other entity that may have a record related to the order to seal. The VCIC shall provide notice of the sealing to the Federal Bureau of Investigation's National Crime Information Center.~~

~~***~~

~~Sec. 41. 13 V.S.A. § 5301 is amended to read:~~

~~§ 5301. DEFINITIONS~~

~~As used in this chapter:~~

~~***~~

~~(7) For the purpose of this chapter, "listed Listed crime" means any of the following offenses:~~

~~***~~

~~(W) operating vehicle under the influence of intoxicating liquor or other substance with either death or serious bodily injury resulting as defined in 23 V.S.A. § 1210(e)(f) and (f)(g):~~

~~***~~

~~Sec. 42. 13 V.S.A. § 5411a is amended to read:~~

~~§ 5411a. ELECTRONIC POSTING OF THE SEX OFFENDER REGISTRY~~

~~(a) Notwithstanding 20 V.S.A. §§ 2056a-2056e, the Department shall electronically post information on the Internet in accordance with subsection (b) of this section regarding the following sex offenders, upon ~~their~~ the~~

~~offender's release from confinement or, if the offender was not subject to
confinement, upon the offender's conviction:~~

~~***~~

~~Sec. 43. 13 V.S.A. § 5572(a) is amended to read:~~

~~(a) A person convicted and imprisoned for a crime of which the person was
exonerated pursuant to ~~subchapter 1~~ of this chapter shall have a cause of
action for damages against the ~~state~~ State.~~

~~Sec. 44. 13 V.S.A. § 5578 is added to read:~~

~~§ 5578. APPLICABILITY; RETROACTIVITY~~

~~Notwithstanding 1 V.S.A. § 214(b), this subchapter and any amendments
thereto shall apply to any exoneration that occurs on or after July 1, 2007.~~

~~Sec. 45. JOINT LEGISLATIVE JUSTICE OVERSIGHT COMMITTEE~~

~~During 2016 the Joint Legislative Justice Oversight Committee shall study:~~

~~(1) how a criminal defendant's credit for time served is determined with
respect to time that the defendant was in Department of Corrections custody
on nonincarcerative status or conditions of release; and~~

~~(2) when the name of an offender who has committed a qualifying
offense is posted on the Internet Sex Offender Registry if the offender was in
Department of Corrections custody on nonincarcerative status.~~

~~*** Pre-July 1, 1990 Criminal Traffic Offenses ***~~

~~Sec. 46. TERMINATION OF SUSPENSIONS ARISING FROM PRE-JULY
1, 1990 CRIMINAL TRAFFIC OFFENSES~~

(a) Background.

(1) Prior to July 1, 1990, traffic offenses that are handled as civil traffic violations under current Vermont law were charged as criminal offenses.

(2) A defendant's failure to appear on such charges resulted in suspension of the defendant's privilege to operate a motor vehicle in Vermont.

(3) As of February 2016, approximately 26,260 defendants who failed to appear in connection with pre-July 1, 1990 criminal traffic charges have pending suspensions as a result of their failure to appear. None of these charges relate to conduct that is criminal under current Vermont law.

(4) Many of the criminal complaints in these matters are fire- and water-damaged. In many of these cases, the facts underlying the complaints no longer can be proved.

(5) On February 22, 2016, the Office of the Attorney General mailed to all Criminal Divisions of the Superior Court and to the Judicial Bureau notices of dismissal of these pre-July 1, 1990 charges.

(b) Termination of suspensions.

(1) Notwithstanding 23 V.S.A. § 675 (fee prior to termination of suspension), as soon as possible after this act takes effect, the Commissioner of Motor Vehicles shall, without requiring an application or payment of a fee, terminate pending suspensions of a person's license or privilege to operate a motor vehicle that resulted from the person's failure to appear prior to July 1,

~~1990 on a criminal traffic offense charged by the State for conduct that is a civil traffic violation under current Vermont law.~~

~~(2) This subsection shall not affect pending suspensions of a person's license or privilege to operate other than those specifically described in subdivision (1) of this subsection.~~

~~*** Statewide Driver Restoration Program ***~~

~~Sec. 47. STATEWIDE DRIVER RESTORATION PROGRAM~~

~~(a) Program established; one-time event.~~

~~(1) The Judicial Bureau and the Department of Motor Vehicles shall carry out a Statewide Driver Restoration Program (Program) from September 1, 2016 through November 30, 2016 (the "Program time period"). It is the intent of the General Assembly that the Program shall be a one-time statewide event.~~

~~(2) As used in this section, "suspension" means a suspension of a person's license or privilege to operate a motor vehicle in Vermont imposed by the Commissioner of Motor Vehicles.~~

~~(b) Traffic violation judgments entered before January 1, 2015; exception.~~

~~(1) During the Program time period, a person who has not paid in full the amount due on a traffic violation judgment entered prior to January 1, 2015 may apply to the Judicial Bureau for a reduction in the amount due on a form approved by the Court Administrator. Judgments for traffic violations that involve violation of a law specifically governing the operation of~~

~~commercial motor vehicles shall not be eligible for reduction under the Program. The Program shall not apply to pre-July 1, 1990 criminal traffic offenses.~~

~~(2) A person shall be permitted to apply in person or through the mail. The Judicial Bureau may accept applications electronically or by other means.~~

~~(3) If a person submits a complete application during the Program time period and the judgment is eligible for reduction under subdivision (1) of this subsection, the Clerk of the Judicial Bureau or designee shall reduce the amount due on the judgment to \$30.00. Amounts paid toward a traffic violation judgment prior to the Judicial Bureau's granting an application under this subsection shall not be refunded or credited toward the amount due under the amended judgment.~~

~~(c) Traffic violation judgments entered on or after January 1, 2015.~~

~~(1) Notwithstanding the usual time periods for filing postjudgment motions to amend and the standards for granting such motions, a person who has not paid the full amount due on a traffic violation judgment entered on or after January 1, 2015 and before July 1, 2016 may file a motion with the Judicial Bureau pursuant to Rules 60 and 80.6 of the Vermont Rules of Civil Procedure seeking an individualized determination of his or her ability to pay the amount due on the judgment. In deciding the motion, the Judicial Bureau hearing officer shall consider the person's ability to pay the amount due and~~

~~may reduce the amount due and waive any reinstatement or suspension termination fee in his or her discretion.~~

~~(2) Consistent with Sec. 4 of this act, amending 4 V.S.A. § 1109 to direct the Judicial Bureau to provide a more flexible payment plan option, a person who has an amount due on a traffic violation judgment shall not be required to pay more than \$100.00 per month in order to be current on all of his or her traffic violation judgments, regardless of the dates when the judgments were entered. This subdivision (c)(2) shall not be limited by the Program time period.~~

~~(d) Restoration of driving privileges.~~

~~(1) If a person has paid all traffic violation judgments reduced under subsection (b) of this section, and is under a payment plan for any other outstanding traffic violation judgments, the Judicial Bureau shall notify the Department of Motor Vehicles that the person is in compliance with his or her obligations.~~

~~(2) Notwithstanding 23 V.S.A. § 675 (fee prior to termination of suspension), the Commissioner of Motor Vehicles shall:~~

~~(A) upon receipt of the notice of compliance from the Judicial Bureau and without requiring an application or payment of a reinstatement fee, terminate suspensions arising from nonpayment of a traffic violation judgment of a person described in subdivision (1) of this subsection (d);~~

~~(B) during the Program time period and without requiring an application or payment of a reinstatement fee, terminate suspensions arising from nonpayment of a traffic violation judgment of a person who has paid all outstanding traffic violation judgments in full or is in compliance with a Judicial Bureau payment plan prior to December 1, 2016.~~

~~(3) If a person described in subdivision (1) or (2)(B) of this subsection fails to make a payment under a payment plan, the Judicial Bureau shall notify the Department of Motor Vehicles if required under 4 V.S.A. § 1109, as amended by Sec. 4 of this act.~~

~~(4) This subsection shall not affect pending suspensions other than as specifically described in this subsection.~~

~~(e) Public awareness campaign. Prior to the start of the Program, the Agency of Transportation shall commence a campaign to raise public awareness of the Program, and shall conduct the campaign until the end of the Program. The Judicial Bureau, the Department of Motor Vehicles, and the Agency of Transportation shall prominently advertise the Program on their websites until the Program ends.~~

~~(f) Allocation of fines collected. Amounts collected on traffic violation judgments reduced under subsection (b) or subdivision (c)(1) of this section shall be allocated in accordance with the Process Review approved by the Court Administrator's Office entitled "Revenue Distributions - Civil Violations" and dated November 3, 2015.~~

~~(g) Collection and reporting of statistics. On or before January 15, 2017.~~

~~(1) The Court Administrator shall report to the House and Senate Committees on Judiciary and on Transportation:~~

~~(A) the number of traffic violation judgments reduced to \$30.00 under subsection (b) of this section, the total number of the judgments paid, and the total amount collected in connection with payment of the judgments;~~

~~(B) the number of postjudgment motions filed under subdivision (c)(1) of this section and in connection with such motions:~~

~~(i) the number of hearings held;~~

~~(ii) the number of judgments reduced pursuant to such hearings, the total number of the reduced judgments paid, and the total amount collected in connection with payment of the reduced judgments; and~~

~~(iii) the number of hearings scheduled but not yet held;~~

~~(C) the number of persons eligible for a reduced judgment under subsection (b) of this section who did not apply for a reduced judgment.~~

~~(2) The Commissioner of Motor Vehicles shall report to the House and Senate Committees on Judiciary and on Transportation:~~

~~(A) the number of suspensions terminated, as well as the number of unique persons whose suspensions were terminated, under subdivision (d)(2) of this section; and~~

~~(B) the number of persons whose license or privilege to operate was fully reinstated as a result of the termination of suspensions under subdivision (d)(2) of this section.~~

~~*** Termination of Suspensions Repealed in Act ***~~

~~Sec. 48. TERMINATION OF SUSPENSIONS REPEALED IN ACT~~

~~Notwithstanding 23 V.S.A. § 675 (fee prior to termination of suspension), as soon as possible after this act takes effect the Commissioner of Motor Vehicles shall, without requiring an application or payment of a fee, terminate pending suspensions of a person's license or privilege to operate a motor vehicle and refusals of a person's license or privilege to operate that were imposed pursuant to the following provisions:~~

~~(1) 7 V.S.A. § 656 (underage alcohol violation);~~

~~(2) 7 V.S.A. § 1005 (underage tobacco violation);~~

~~(3) 13 V.S.A. § 1753 (false public alarm; students and minors);~~

~~(4) 18 V.S.A. § 4230b (underage marijuana violation); and~~

~~(5) 32 V.S.A. § 8909 (driver's license suspensions for nonpayment of purchase and use tax).~~

~~*** Amendment or Repeal of License Suspension and Registration Refusal~~

~~Provisions and Underage Alcohol and Marijuana Crimes ***~~

~~Sec. 49. REPEALS~~

~~23 V.S.A. §§ 305a (registration not renewed following nonpayment of traffic violation judgment) and 2307 (remedies for failure to pay traffic violations) are repealed.~~

~~Sec. 50. 4 V.S.A. § 1109 is amended to read:~~

~~§ 1109. REMEDIES FOR FAILURE TO PAY; CONTEMPT~~

~~(a) Definitions. As used in this section:~~

~~(1) “Amount due” means all financial assessments contained in a Judicial Bureau judgment, including penalties, fines, surcharges, court costs, and any other assessment authorized by law.~~

~~(2) “Designated collection agency” means a collection agency designated by the Court Administrator.~~

~~(3) [Repealed.]~~

~~(b) Late fees; suspensions for nonpayment of certain traffic violation judgments.~~

~~(1) A Judicial Bureau judgment shall provide notice that a \$30.00 fee shall be assessed for failure to pay within 30 days. If the defendant fails to pay the amount due within 30 days, the fee shall be added to the judgment amount and deposited in the Court Technology Special Fund established pursuant to section 27 of this title.~~

~~(2)(A) In the case of a judgment on a traffic violation for which the imposition of points against the person’s driving record is authorized by law,~~

~~the judgment shall contain a notice that failure to pay or otherwise satisfy the amount due within 30 days of the notice will result in suspension of the person's operator's license or privilege to operate, and that payment plan options are available. If the defendant fails to pay the amount due within 30 days of the notice, or by a later date as determined by a Judicial Bureau clerk or hearing officer, and the case is not pending on appeal, the Judicial Bureau shall provide electronic notice thereof to the Commissioner of Motor Vehicles. After 20 days from the date of receiving the electronic notice, the Commissioner shall suspend the person's operator's license or privilege to operate for a period of 30 days or until the amount due is satisfied, whichever is earlier.~~

~~(B) At minimum, the Judicial Bureau shall offer a payment plan option that allows a person to avoid a suspension of his or her license or privilege to operate by paying no more than \$30.00 per traffic violation judgment per month, and not to exceed \$100.00 per month if the person has four or more outstanding judgments.~~

~~(c)(1) Civil contempt proceedings. If an amount due remains unpaid for 75 days after the Judicial Bureau provides the defendant with a notice of judgment, the Judicial Bureau may initiate civil contempt proceedings pursuant to this subsection.~~

~~(+)(2) Notice of hearing. The Judicial Bureau shall provide notice by first class mail sent to the defendant's last known address that a contempt~~

~~hearing will be held pursuant to this subsection, and that failure to appear at the contempt hearing may result in the sanctions listed in subdivision (2)(3) of this subsection.~~

~~(2)(3) Failure to appear. If the defendant fails to appear at the contempt hearing, the hearing officer may direct the clerk of the Judicial Bureau to do one or more of the following:~~

~~(A) Cause cause the matter to be reported to one or more designated collection agencies; or~~

~~(B) Refer refer the matter to the Criminal Division of the Superior Court for contempt proceedings.~~

~~(C) Provide electronic notice thereof to the Commissioner of Motor Vehicles who shall suspend the person's operator's license or privilege to operate. However, the person shall become eligible for reinstatement if the amount due is paid or otherwise satisfied. [Repealed.]~~

~~(3)(4)(A) Hearing. The hearing shall be conducted in a summary manner. The hearing officer shall examine the defendant and any other witnesses and may require the defendant to produce documents relevant to the defendant's ability to pay the amount due. The State or municipality shall not be a party except with the permission of the hearing officer. The defendant may be represented by counsel at the defendant's own expense.~~

~~(B) Traffic violations; reduction of amount due. When the judgment is based upon a traffic violation, the hearing officer may reduce the amount~~

~~due on the basis of the defendant's driving history; ability to pay; or service to the community; the collateral consequences of the violation; or the interests of justice. The hearing officer's decision on a motion to reduce the amount due shall not be subject to review or appeal except in the case of a violation of rights guaranteed under the Vermont or U.S. Constitution.~~

~~(4)(5) Contempt.~~

~~(A) The hearing officer may conclude that the defendant is in contempt if the hearing officer states in written findings a factual basis for concluding that:~~

~~(i) the defendant knew or reasonably should have known that he or she owed an amount due on a Judicial Bureau judgment;~~

~~(ii) the defendant had the ability to pay all or any portion of the amount due; and~~

~~(iii) the defendant failed to pay all or any portion of the amount due.~~

~~(B) In the contempt order, the hearing officer may do one or more of the following:~~

~~(i) Set a date by which the defendant shall pay the amount due.~~

~~(ii) Assess an additional penalty not to exceed ten percent of the amount due.~~

~~(iii) Order that the Commissioner of Motor Vehicles suspend the person's operator's license or privilege to operate. However, the person shall~~

~~become eligible for reinstatement if the amount due is paid or otherwise satisfied. [Repealed.]~~

~~(iv) Recommend that the Criminal Division of the Superior Court incarcerate the defendant until the amount due is paid. If incarceration is recommended pursuant to this subdivision ~~(4)~~(c)(5), the Judicial Bureau shall notify the Criminal Division of the Superior Court that contempt proceedings should be commenced against the defendant. The Criminal Division of the Superior Court proceedings shall be de novo. If the defendant cannot afford counsel for the contempt proceedings in the Criminal Division of the Superior Court, the Defender General shall assign counsel at the Defender General's expense.~~

~~(d) Collections.~~

~~(1) If an amount due remains unpaid after the issuance of a notice of judgment, the Court Administrator may authorize the clerk of the Judicial Bureau to refer the matter to a designated collection agency.~~

~~(2) The Court Administrator or the Court Administrator's designee is authorized to contract with one or more collection agencies for the purpose of collecting unpaid Judicial Bureau judgments pursuant to 13 V.S.A. § 7171.~~

~~(e) For purposes of civil contempt proceedings, venue shall be statewide. No entry or motion fee shall be charged to a defendant who applies for a reduced judgment under subdivision (c)(4)(B) of this section.~~

~~(f) Notwithstanding 32 V.S.A. § 502, the Court Administrator is authorized to contract with a third party to collect fines, penalties, and fees by credit card, debit card, charge card, prepaid card, stored value card, and direct bank account withdrawals or transfers, as authorized by 32 V.S.A. § 583, and to add on and collect, or charge against collections, a processing charge in an amount approved by the Court Administrator.~~

~~Sec. 51. 7 V.S.A. § 656 is amended to read:~~

~~§ 656. PERSON UNDER 21 YEARS OF AGE MISREPRESENTING AGE, PROCURING, POSSESSING, OR CONSUMING ALCOHOLIC BEVERAGES; FIRST OR SECOND OFFENSE; CIVIL VIOLATION~~

~~(a)(1) Prohibited conduct. A person under 21 years of age shall not:~~

~~(A) ~~falsely~~ Falsely represent his or her age for the purpose of procuring or attempting to procure malt or vinous beverages, spirits, or fortified wines from any licensee, State liquor agency, or other person or persons;~~

~~(B) ~~possess~~ Possess malt or vinous beverages, spirits, or fortified wines for the purpose of consumption by himself or herself or other minors, except in the regular performance of duties as an employee of a licensee licensed to sell alcoholic liquor;~~

~~(C) ~~consume~~ Consume malt or vinous beverages, spirits, or fortified wines. A violation of this subdivision may be prosecuted in a jurisdiction~~

~~where the minor has consumed malt or vinous beverages, spirits, or fortified wines or in a jurisdiction where the indicators of consumption are observed.~~

~~(2) Offense. Except as otherwise provided in section 657 of this title, a A person under 21 years of age who knowingly and unlawfully violates subdivision (1) of this subsection commits a civil violation and shall be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Abuse Safety Program. A person who fails to complete the program successfully shall be subject to:~~

~~(A) a civil penalty of \$300.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 90 days, \$400.00 for a first offense; and~~

~~(B) a civil penalty of not less than \$400.00 and not more than \$600.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 180 days, for a second or subsequent offense.~~

~~(b) Issuance of Notice of Violation. A law enforcement officer shall issue a person under 21 years of age who violates this section a notice of violation, in a form approved by the Court Administrator. The notice of violation shall require the person to provide his or her name and address and shall explain procedures under this section, including that:~~

~~(1) the person shall contact the Diversion Program in the county where the offense occurred within 15 days;~~

~~(2) failure to contact the Diversion Program within 15 days will result in the case being referred to the Judicial Bureau, where the person, if found liable for the violation, will be subject to a civil penalty and a suspension of the person's operator's license and may face substantially increased insurance rates;~~

~~(3) no money should be submitted to pay any penalty until after adjudication; and~~

~~(4) the person shall notify the Diversion Program if the person's address changes.~~

~~***~~

~~(e) Notice to Report to Diversion. Upon receipt from a law enforcement officer of a summons and complaint completed under this section, the Diversion Program shall send the person a notice to report to the Diversion Program. The notice to report shall provide that:~~

~~(1) The person is required to complete all conditions related to the offense imposed by the Diversion Program, including substance abuse screening and, if deemed appropriate following the screening, substance abuse education or substance abuse counseling, or both.~~

~~(2) If the person does not satisfactorily complete the substance abuse screening, any required substance abuse education or substance abuse counseling, or any other condition related to the offense imposed by the Diversion Program, the case will be referred to the Judicial Bureau, where the~~

~~person, if found liable for the violation, shall be assessed a civil penalty, the person's driver's license will be suspended, and the person's automobile insurance rates may increase substantially.~~

~~(3) If the person satisfactorily completes the substance abuse screening, any required substance abuse education or substance abuse counseling, and any other condition related to the offense imposed by the Diversion Program, no penalty shall be imposed and the person's operator's license shall not be suspended.~~

~~(f)(1) Diversion Program Requirements.~~

~~(1) Upon being contacted by a person who has been issued a notice of violation, the Diversion Program shall register the person in the Youth Substance Abuse Safety Program. Pursuant to the Youth Substance Abuse Safety Program, the Diversion Program shall impose conditions on the person. The conditions imposed shall include only conditions related to the offense and in every case shall include a condition requiring satisfactory completion of substance abuse screening using an evidence-based tool and, if deemed appropriate following the screening, substance abuse assessment and substance abuse education or substance abuse counseling, or both. If the screener recommends substance abuse counseling, the person shall choose a State-certified or State-licensed substance abuse counselor or substance abuse treatment provider to provide the services.~~

~~(2) Substance abuse screening required under this subsection shall be completed within 60 days after the Diversion Program receives a summons and complaint. The person shall complete all conditions at his or her own expense.~~

~~(3) When a person has satisfactorily completed substance abuse screening, any required substance abuse education or substance abuse counseling, and any other condition related to the offense which the Diversion Program has imposed, the Diversion Program shall:~~

~~(A) ~~void~~ Void the summons and complaint with no penalty due; ~~and~~~~

~~(B) ~~send~~ Send copies of the voided summons and complaint to the Judicial Bureau and to the law enforcement officer who completed them. Before sending copies of the voided summons and complaint to the Judicial Bureau under this subdivision, the Diversion Program shall redact all language containing the person's name, address, Social Security number, and any other information which identifies the person.~~

~~(4) If a person does not satisfactorily complete substance abuse screening, any required substance abuse education or substance abuse counseling, or any other condition related to the offense imposed by the Diversion Program or if the person fails to pay the Diversion Program any required program fees, the Diversion Program shall file the summons and complaint with the Judicial Bureau for adjudication under 4 V.S.A. chapter 29. The Diversion Program shall provide a copy of the summons and complaint to~~

~~the law enforcement officer who issued the notice of violation and shall provide two copies to the person charged with the violation.~~

~~(5) A person aggrieved by a decision of the Diversion Program or alcohol counselor may seek review of that decision pursuant to Rule 75 of the Vermont Rules of Civil Procedure.~~

~~(g) Failure to Pay Penalty. If a person fails to pay a penalty imposed under this section by the time ordered, the Judicial Bureau shall notify the Commissioner of Motor Vehicles, who shall suspend the person's operator's license and privilege to operate a motor vehicle until payment is made. [Repealed.]~~

~~(h) Record of Adjudications. Upon adjudicating a person in violation of this section, the Judicial Bureau shall notify the Commissioner of Motor Vehicles, who shall maintain a record of all such adjudications which shall be separate from the registry maintained by the Department for motor vehicle driving records. The identity of a person in the registry shall be revealed only to a law enforcement officer determining whether the person has previously violated this section. [Repealed.]~~

Sec. 52. REPEAL

7 V.S.A. § 657 (persons under 21; third or subsequent alcohol offense; crime) is repealed.

~~Sec. 53. 13 V.S.A. § 5201(5) is amended to read:~~

~~(5) "Serious crime" does not include the following misdemeanor offenses unless the judge at arraignment but before the entry of a plea determines and states on the record that a sentence of imprisonment or a fine over \$1,000.00 may be imposed on conviction:~~

~~(A) Minors misrepresenting age, procuring or possessing malt or vinous beverages or spirituous liquor (7 V.S.A. § 657(a)) [Repealed.]~~

~~***~~

~~Sec. 54. 28 V.S.A. § 205(c) is amended to read:~~

~~(c)(1) Unless the Court in its discretion finds that the interests of justice require additional standard and special conditions of probation, when the Court orders a specific term of probation for a qualifying offense, the offender shall be placed on administrative probation, which means that the only conditions of probation shall be that the probationer:~~

~~***~~

~~(2) As used in this subsection, "qualifying offense" means:~~

~~***~~

~~(M) A first offense of a minor's misrepresenting age, procuring, possessing, or consuming liquors under 7 V.S.A. § 657. [Repealed.]~~

~~***~~

~~Sec. 55. 7 V.S.A. § 1005 is amended to read.~~

~~§ 1005. PERSONS UNDER 18 YEARS OF AGE; POSSESSION OF
TOBACCO PRODUCTS; MISREPRESENTING AGE OR
PURCHASING TOBACCO PRODUCTS; PENALTY~~

~~(a) A person under 18 years of age shall not possess, purchase, or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia unless the person is an employee of a holder of a tobacco license and is in possession of tobacco products, tobacco substitutes, or tobacco paraphernalia to effect a sale in the course of employment. A person under 18 years of age shall not misrepresent his or her age to purchase or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia. A person who possesses tobacco products, tobacco substitutes, or tobacco paraphernalia in violation of this subsection shall be subject to having the tobacco products, tobacco substitutes, or tobacco paraphernalia immediately confiscated and shall be further subject to a civil penalty of \$25.00. In the case of failure to pay a penalty, the Judicial Bureau shall mail a notice to the person at the address in the complaint notifying the person that failure to pay the penalty within 60 days of the notice will result in either the suspension of the person's operator's license for a period of not more than 90 days or the delay of the initial licensing of the person for a period of not more than one year. A copy of the notice shall be sent to the Commissioner of Motor Vehicles, who, after expiration of 60 days from the date of notice and unless~~

~~notified by the Judicial Bureau that the penalty has been paid shall either suspend the person's operator's license or cause initial licensing of the person to be delayed for the periods set forth in this subsection and the rules. An action under this subsection shall be brought in the same manner as a traffic violation pursuant to 23 V.S.A. chapter 24. The Commissioner of Motor Vehicles shall adopt rules in accordance with the provisions of 3 V.S.A. chapter 25 to implement the provisions of this subsection, which may provide for incremental suspension or delays not exceeding cumulatively the maximum periods established by this subsection.~~

~~(b) A person under 18 years of age who misrepresents his or her age by presenting false identification to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia shall be fined not more than \$50.00 or provide up to 10 hours of community service, or both.~~

~~Sec. 56. 13 V.S.A. § 1753 is amended to read:~~

~~§ 1753. FALSE PUBLIC ALARMS~~

~~(a) A person who initiates or willfully circulates or transmits a report or warning of an impending bombing or other offense or catastrophe, knowing that the report or warning is false or baseless and that it is likely to cause evacuation of a building, place of assembly, or facility of public transport, or to cause public inconvenience or alarm, shall, for the first offense, be imprisoned for not more than two years or fined not more than \$5,000.00, or both. For the second or subsequent offense, the person shall be imprisoned for~~

~~not more than five years or fined not more than \$10,000.00, or both. In addition, the court may order the person to perform community service. Any community service ordered under this section shall be supervised by the department of corrections Department of Corrections.~~

~~(b) In addition, if the person is under 18 years of age, or if the person is enrolled in a public school, an approved or recognized independent school, a home study program, or tutorial program as those terms are defined in section 11 of Title 16:~~

~~(1) if the person has a motor vehicle operator's license issued under chapter 9 of Title 23, the commissioner of motor vehicles shall suspend the license for 180 days for a first offense and two years for a second offense; or~~

~~(2) if the person does not qualify for a license because the person is underage, the commissioner of motor vehicles shall delay the person's eligibility to obtain a drivers license for 180 days for the first offense and two years for the second offense. [Repealed.]~~

Sec. 57. 18 V.S.A. § 4230b is amended to read:

§ 4230b. MARIJUANA POSSESSION BY A PERSON UNDER 21 YEARS
OF AGE; FIRST OR SECOND OFFENSE; CIVIL VIOLATION

~~(a) Offense. Except as otherwise provided in section 4230c of this title, a A person under 21 years of age who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of hashish commits a civil violation and shall be referred to the Court Diversion Program for the purpose~~

~~of enrollment in the Youth Substance Abuse Safety Program. A person who fails to complete the program successfully shall be subject to:~~

~~(1) a civil penalty of \$300.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 90 days; \$400.00 for a first offense; and~~

~~(2) a civil penalty of not less than \$400.00 and not more than \$600.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 180 days; for a second or subsequent offense.~~

~~(b) Issuance of Notice of Violation. A law enforcement officer shall issue a person under 21 years of age who violates this section with a notice of violation, in a form approved by the Court Administrator. The notice of violation shall require the person to provide his or her name and address and shall explain procedures under this section, including that:~~

~~(1) the person shall contact the Diversion Program in the county where the offense occurred within 15 days;~~

~~(2) failure to contact the Diversion Program within 15 days will result in the case being referred to the Judicial Bureau, where the person, if found liable for the violation, will be subject to a civil penalty and a suspension of the person's operator's license and may face substantially increased insurance rates;~~

~~(3) no money should be submitted to pay any penalty until after adjudication; and~~

~~(4) the person shall notify the Diversion Program if the person's address changes.~~

~~* * *~~

~~(e) Notice to Report to Diversion. Upon receipt from a law enforcement officer of a summons and complaint completed under this section, the Diversion Program shall send the person a notice to report to the Diversion Program. The notice to report shall provide that:~~

~~(1) The person is required to complete all conditions related to the offense imposed by the Diversion Program, including substance abuse screening and, if deemed appropriate following the screening, substance abuse education or substance abuse counseling, or both.~~

~~(2) If the person does not satisfactorily complete the substance abuse screening, any required substance abuse education or substance abuse counseling, or any other condition related to the offense imposed by the Diversion Program, the case will be referred to the Judicial Bureau, where the person, if found liable for the violation, shall be assessed a civil penalty, the person's driver's license will be suspended, and the person's automobile insurance rates may increase substantially.~~

~~(3) If the person satisfactorily completes the substance abuse screening, any required substance abuse education or substance abuse counseling, and any other condition related to the offense imposed by the Diversion Program,~~

~~no penalty shall be imposed and the person's operator's license shall not be suspended.~~

~~* * *~~

~~(g) Failure to Pay Penalty. If a person fails to pay a penalty imposed under this section by the time ordered, the Judicial Bureau shall notify the Commissioner of Motor Vehicles, who shall suspend the person's operator's license and privilege to operate a motor vehicle until payment is made. [Repealed.]~~

~~(h) Record of Adjudications. Upon adjudicating a person in violation of this section, the Judicial Bureau shall notify the Commissioner of Motor Vehicles, who shall maintain a record of all such adjudications which shall be separate from the registry maintained by the Department for motor vehicle driving records. The identity of a person in the registry shall be revealed only to a law enforcement officer determining whether the person has previously violated this section. [Repealed.]~~

~~Sec. 58. DEPARTMENT OF MOTOR VEHICLES REGISTRY OF
UNDERAGE ALCOHOL AND MARIJUANA OFFENSES~~

~~It is the intent of the General Assembly that any copy of the registry of underage alcohol and marijuana adjudications that the Department of Motor Vehicles was required to maintain under the former 7 V.S.A. § 656(h) and 18 V.S.A. § 4230b(h) (repealed in Secs. 5 and 11 of this act, respectively) be destroyed.~~

~~Sec. 59. REPEAL~~

~~18 V.S.A. § 4230c (marijuana possession by a person under 21 years of age; third or subsequent offense; crime) is repealed.~~

~~Sec. 60. 20 V.S.A. § 2358 (b)(2)(B)(i)(XX) is amended to read:~~

~~(XX) 18 V.S.A. §§ 4230(a), ~~4230e~~, and 4230d (marijuana possession);~~

~~Sec. 61. 32 V.S.A. § 8909 is amended to read:~~

~~§ 8909. ENFORCEMENT~~

~~If the tax due under subsection ~~8903(a), (b) and (d)~~ 8903(d) of this title is not paid as hereinbefore provided the Commissioner shall suspend ~~such purchaser's or the rental company's right to operate a motor vehicle license to act as a rental company and motor vehicle registrations~~ within the State of Vermont until such tax is paid, and such tax may be recovered with costs in an action brought in the name of the State on this statute.~~

~~* * * Driving with License Suspended * * *~~

~~Sec. 62. 23 V.S.A. § 674 is amended to read:~~

~~§ 674. OPERATING AFTER SUSPENSION OR REVOCATION OF~~

~~LICENSE; PENALTY; REMOVAL OF REGISTRATION PLATES;~~

~~TOWING~~

~~(a)(1) Except as provided in section 676 of this title, a person whose license or privilege to operate a motor vehicle has been suspended or revoked for a violation of this section or subsection 1091(b), 1094(b), or 1128(b) or (c)~~

~~of this title and who operates or attempts to operate a motor vehicle upon a public highway before the suspension period imposed for the violation has expired shall be imprisoned not more than two years or fined not more than \$5,000.00, or both.~~

~~(2)(A) A person whose license or privilege to operate a motor vehicle has been suspended or revoked for a violation of section 2506 of this title (points suspensions) and who operates or attempts to operate a motor vehicle upon a public highway for a third or subsequent time on or after July 1, 2016 before the suspension period imposed for the violation has expired shall be imprisoned not more than two years or fined not more than \$5,000.00, or both.~~

~~(B) Other than as provided in subdivision (A) of this subdivision (a)(2), a person who violates section 676 of this title for the sixth or subsequent time shall, if the five prior offenses occurred on or after July 1, 2003 December 1, 2016, be imprisoned not more than two years or fined not more than \$5,000.00, or both.~~

~~(3) Violations of section 676 of this title that occurred prior to the date a person successfully completes the DLS Diversion Program or prior to the date that a person pays the amount due to the Judicial Bureau in accordance with subsection 2307(b) of this chapter shall not be counted as prior offenses under subdivision (2) of this subsection.~~

* * *

~~*** Assessment of Points Against a Person's Driving Record ***~~

~~Sec. 63. 23 V.S.A. § 1006a is amended to read:~~

~~§ 1006a. HIGHWAYS; EMERGENCY CLOSURE; TEMPORARY SPEED
LIMITS~~

~~***~~

~~(b) The Traffic Committee may establish a temporary speed limit within that portion of the State highways that is being reconstructed or maintained. The limit shall be effective when appropriate signs stating the limit are erected.~~

~~(c) Under 3 V.S.A. chapter 25, the Traffic Committee shall adopt such rules as are necessary to administer this section and may delegate this authority to the Agency of Transportation.~~

~~(d) Notwithstanding the limit established in section 2302 of this title and the waiver penalties established under 4 V.S.A. § 1102(d), the penalty and points assessed against a person's driving record for a violation of the speed limits established under subsection (b) of this section shall be twice the penalty and the points assessed for non-worksite speed violations.~~

~~Sec. 64. 23 V.S.A. § 1010 is amended to read:~~

~~§ 1010. SPECIAL OCCASIONS; TOWN HIGHWAY MAINTENANCE~~

~~(a) When it appears that traffic will be congested by reason of a public occasion, or when a town highway is being reconstructed or maintained, or where utilities are being installed, relocated, or maintained, the legislative~~

~~body of a municipality may make special regulations as to the speed of motor vehicles on town highways, may exclude motor vehicles from town highways, and may make such traffic rules and regulations as the public good requires. However, signs indicating the special regulations must be conspicuously posted in and near all affected areas, giving as much notice as possible to the public so that alternative routes of travel could be considered.~~

~~(b) Notwithstanding the limit established in section 2302 of this title and the waiver penalties established under 4 V.S.A. § 1102(d), the penalty and points assessed against a person's driving record for a violation of the speed limits established under the worksite provision of this section shall be twice the penalty and the points assessed for non-worksite speed violations.~~

~~Sec. 65. 23 V.S.A. § 1081 is amended to read:~~

~~§ 1081. BASIC RULE AND MAXIMUM LIMITS~~

~~* * *~~

~~(b) Except when there exists a special hazard that requires lower speed in accordance with subsection (a) of this section, the limits specified in this section or established as hereinafter authorized are maximum lawful speeds, and no person shall drive a vehicle on a highway at a speed in excess of 50 miles per hour.~~

~~(c) The maximum speed limits set forth in this section may be altered in accordance with sections 1003, 1004, 1006a, 1007, and 1010 of this title.~~

~~* * *~~

~~Sec. 66. 23 V.S.A. § 1095b is amended to read:~~

~~§ 1095b. HANDHELD USE OF PORTABLE ELECTRONIC DEVICE~~

~~PROHIBITED~~

~~* * *~~

~~(c) Penalties.~~

~~(1) A person who violates this section commits a traffic violation and shall be subject to a fine of not less than \$100.00 and not more than \$200.00 for a first violation, and of not less than \$250.00 and not more than \$500.00 for a second or subsequent violation within any two-year period.~~

~~(2) A person convicted of violating this section while operating within a properly designated work zone in which construction, maintenance, or utility personnel are present the following areas shall have ~~two~~ five points assessed against his or her driving record for a first conviction and five points assessed for a second or subsequent conviction:~~

~~(A) a properly designated work zone in which construction, maintenance, or utility personnel are present; or~~

~~(B) a school zone marked with warning signs conforming to the Manual on Uniform Traffic Control Devices.~~

~~(3) A person convicted of violating this section outside a work zone in which personnel are present the areas designated in subdivision (2) of this subsection shall ~~not~~ have two points assessed against his or her driving record.~~

* * *

Sec. 67. 23 V.S.A. § 1099 is amended to read:

§ 1099. TEXTING PROHIBITED

* * *

(c) A person who violates this section commits a traffic violation as defined in section 2302 of this title and shall be subject to:

(1) a penalty of not less than \$100.00 and not more than \$200.00 for a first violation, and of not less than \$250.00 and not more than \$500.00 for a second or subsequent violation within any two-year period; and

(2)(A) an assessment of five points against his or her driving record if the violation occurred outside the areas designated in subdivision (B) of this subdivision (c)(2); or

(B) an assessment of seven points against his or her driving record when the violation occurred within:

(i) a properly designated work zone in which construction, maintenance, or utility personnel are present; or

(ii) a school zone marked with warning signs conforming to the Manual on Uniform Traffic Control Devices.

Sec. 68. 23 V.S.A. § 2502 is amended to read:

§ 2502. POINT ASSESSMENT; SCHEDULE

(a) Unless the assessment of points is waived by a Superior judge or a Judicial Bureau hearing officer in the interests of justice and in accordance

~~with subsection 2501(b) of this title, a person operating a motor vehicle shall have points assessed against his or her driving record for convictions for moving violations of the indicated motor vehicle statutes in accord with the following schedule: (All references are to Title 23 of the Vermont Statutes Annotated.)~~

~~(1) Two points assessed for:~~

~~* * *~~

~~(LL)(i) § 1095. Entertainment picture visible
to operator;~~

~~(ii) § 1095b(e)(2) Use of portable electronic device
~~in~~ outside work or school
zone—~~first offense~~~~

~~* * *~~

~~(EEE) § 1258 Child restraint systems;~~

~~(FFF) § 800. Operating without financial
responsibility;~~

~~(~~FFF~~)(GGG) All other moving violations
which have no specified points;~~

~~* * *~~

~~(4) Five points assessed for:~~

~~(A) § 1050. Failure to yield to emergency
vehicles;~~

~~(B) § 1075. Illegal passing of school bus,~~

~~(C) § 1099. Texting prohibited—outside work or school zone;~~

~~(D) § 1095b(e)(2) Use of portable electronic device in work or school zone—second and subsequent offenses;~~

~~***~~

~~(6) Two points assessed for sections 1003 and 1007, and 1081. State speed zones and local speed limits, and basic speed rule, less than 10 miles per hour over and in excess of speed limit;~~

~~(7) Three points assessed for sections 1003 and 1007, and 1081. State speed zones and local speed limits, and basic speed rule, more than 10 miles per hour over and in excess of speed limit;~~

~~(8) Five points assessed for sections 1003 and 1007, and 1081. State speed zones and local speed limits, and basic speed rule, more than 20 miles per hour over and in excess of speed limit;~~

~~(9) Eight points assessed for sections 1003 and 1007, 1081, and 1097. State speed zones and local speed limits, and basic speed rule, more than 30 miles per hour over and in excess of the speed limit, and criminal excessive speed;~~

~~(10) Seven points assessed for subdivision 1099(c)(2)(B) (texting in a work or school zone).~~

* * *

** * * Judicial Bureau Hearings; Consideration of Ability to Pay * * **

Sec. 69. 4 V.S.A. § 1106 is amended to read:

§ 1106. HEARING

(a) The Bureau shall notify the person charged and the issuing officer of the time and place for the hearing.

(b) The hearing shall be held before a hearing officer and conducted in an impartial manner. The hearing officer may, by subpoena, compel the attendance and testimony of witnesses and the production of books and records. All witnesses shall be sworn. The burden of proof shall be on the State or municipality to prove the allegations by clear and convincing evidence. As used in this section, "clear and convincing evidence" means evidence which establishes that the truth of the facts asserted is highly probable. Certified copies of records supplied by the Department of Motor Vehicles or the Agency of Natural Resources and presented by the issuing officer or other person shall be admissible without testimony by a representative of the Department of Motor Vehicles or the Agency of Natural Resources.

(c)(1) Prior to entering judgment against a defendant, a hearing officer shall consider evidence of ability to pay if offered by the defendant.

(2) The hearing officer shall make findings which shall be stated on the record or, if more time is needed, made in writing at a later date. The hearing

~~officer may make a finding that the person has committed a lesser included violation.~~

~~(d) A law enforcement officer may void or amend a complaint issued by that officer by so marking the complaint and returning it to the Bureau, regardless of whether the amended complaint is a lesser included violation. At the hearing, a law enforcement officer may void or amend a complaint issued by that officer in the discretion of that officer.~~

~~(e) A State's Attorney may dismiss or amend a complaint.~~

~~(f) The Supreme Court shall establish rules for the conduct of hearings under this chapter.~~

~~*** DLS Diversion Program ***~~

~~Sec. 70. DLS DIVERSION PROGRAM, REPEAL~~

~~2012 Acts and Resolves No. 147, Sec. 2, as amended by 2013 Acts and Resolves No. 18, Sec. 1a (DLS Diversion Program) shall be repealed on July 1, 2016.~~

~~*** Awareness of Payment and Hearing Options ***~~

~~Sec. 71. RAISING AWARENESS OF TRAFFIC VIOLATION JUDGMENT~~

~~PAYMENT AND HEARING OPTIONS~~

~~(a) In conducting basic training courses and annual in-service trainings, the Criminal Justice Training Council is encouraged to train enforcement officers about the existence of payment plan options for traffic violation~~

~~judgments. Enforcement officers are encouraged to mention these options to a motorist at the time of issuing a complaint for a traffic violation.~~

~~(b) The General Assembly recommends that the Judicial Bureau update the standard materials that enforcement officers provide to persons issued a civil complaint for a traffic violation to notify such persons of payment plan options and of the person's right to request a hearing on ability to pay.~~

~~(c) The General Assembly encourages the Judicial Bureau to prominently display on its website information about the existence of payment plan options for traffic violation judgments and the right of a person issued a complaint for a traffic violation to request a hearing on ability to pay.~~

~~(d) The Agency of Transportation shall carry out a campaign to raise public awareness of traffic violation judgment payment plan options and of a person's right to request a hearing before a Judicial Bureau hearing officer on his or her ability to pay a Judicial Bureau judgment.~~

~~*** Criminal DLS Charges; Statistics ***~~

~~Sec. 72. STATISTICS REGARDING CRIMINAL DLS CHARGES~~

~~(a) On or before January 15, 2018, and separately for calendar years 2013, 2014, 2015, 2016, and 2017, the Court Administrator shall submit in writing to the House and Senate Committees on Judiciary the number, and a breakdown of the dispositions, of criminal driving with license suspended charges filed statewide:~~

~~(1) under 23 V.S.A. § 674(b) (driving while suspended for a DUI offense);~~

~~(2) under 23 V.S.A. § 674(a)(1) (driving while suspended for certain non-DUI criminal motor vehicle offenses);~~

~~(3) for a sixth or subsequent violation of 23 V.S.A. § 676 (civil DLS);~~

~~(4) under 23 V.S.A. § 674(a)(2)(A) (a third or subsequent DLS arising from a suspension for points) for 2016 and after.~~

~~(b) On or before January 15 of 2019, 2020, and 2021, respectively, the Court Administrator shall submit in writing to the House and Senate Committees on Judiciary the statistics specified in subdivisions (a)(1)–(4) of this section for the prior calendar year.~~

~~*** Traffic Violation Judgments; Receipts; Statistics ***~~

~~Sec. 73. STATISTICS RELATED TO TRAFFIC VIOLATION JUDGMENT~~

~~HEARINGS, RECEIPTS~~

~~(a) On or before January 15, 2018, and separately for calendar years 2013, 2014, 2015, 2016, and 2017, the Court Administrator shall submit in writing to the House and Senate Committees on Judiciary and on Transportation:~~

~~(1) the total number of traffic violation judgments entered; and~~

~~(2) the total payments collected on traffic violation judgments.~~

~~(b) On or before January 15 of 2019, 2020, and 2021, respectively, the Court Administrator shall submit in writing to the Committees on Judiciary~~

~~and on Transportation the statistics specified in subdivisions (a)(1) and (2) of this section for the prior calendar year.~~

~~(c) On or before January 15 of 2017–2021, respectively, the Court Administrator shall submit in writing to the House and Senate Committees on Judiciary and on Transportation:~~

~~(1) the total unpaid amount of outstanding traffic violation judgments as of January 1 of each year;~~

~~(2) the number of persons under payment plans as of January 1 of each year and the number of persons who successfully completed a payment plan in the prior calendar year;~~

~~(3) the number of judgments reduced in the prior calendar year as a result of a hearing held pursuant to 4 V.S.A. § 1106; and~~

~~(4) the number of judgments reduced in the prior calendar year as a result of postjudgment motions to amend.~~

~~*** Underage Alcohol and Marijuana Violations; Statistics ***~~

~~Sec. 74. UNDERAGE ALCOHOL AND MARIJUANA VIOLATIONS;~~

~~COMPLETION OF DIVERSION~~

~~On or before January 25, 2018, the Diversion Program shall submit to the House and Senate Committees on Judiciary, the House Committee on Human Services, and the Senate Committee on Health and Welfare statistics showing:~~

~~(1) for calendar years 2014 and 2015 separately, the number of notices to report received by the Diversion Program from law enforcement, as well as the number of persons who successfully completed Diversion, for:~~

~~(A) a violation of 7 V.S.A. § 656 (underage alcohol violation); and~~

~~(B) a violation of 18 V.S.A. § 4230b (underage marijuana violation);~~

~~(2) for calendar years 2016 and 2017 separately, the number of notices to report received by the Diversion Program from law enforcement, as well as the number of persons who successfully completed Diversion, for:~~

~~(A) a first or second violation of 7 V.S.A. § 656;~~

~~(B) a third or subsequent violation of 7 V.S.A. § 656;~~

~~(C) a first or second violation of 18 V.S.A. § 4230b; and~~

~~(D) a third or subsequent violation of 18 V.S.A. § 4230b.~~

Sec. 75. 23 V.S.A. § 4(44) is amended to read:

(44) "Moving violation" ~~shall mean~~ means any violation of any provision of this title, while the motor vehicle is being operated on a public highway, over which operation the operator has discretion as to commission of the act, ~~with exception of~~ except for offenses pertaining to a parked vehicle, equipment, size, weight, inspection, or registration of the vehicle, and ~~child restraint or safety belt systems or seat belts as required in section 1258 or~~ 1259 of this title.

Sec. 76. 20 V.S.A. § 2358 is amended to read:

§ 2358. MINIMUM TRAINING STANDARDS; DEFINITIONS

~~***~~

~~(e)(1) The criteria for all minimum training standards under this section shall include anti-bias training approved by the Vermont Criminal Justice Training Council and training on the State, county, or municipal law enforcement agency's fair and impartial policing policy, adopted pursuant to subdivision 2366(a) of this title.~~

~~(2) On or before December 31, 2018, law enforcement officers shall receive a minimum of four hours of training as required by this subsection and shall receive a refresher course every two years in a program approved by the Vermont Criminal Justice Training Council in order to remain certified.~~

~~(3) A list of officers who have completed the fair and impartial policing training and the dates of the completion shall be public and posted on the Vermont Criminal Justice Training Council's website.~~

~~Sec. 77. 20 V.S.A. § 2366 is amended to read:~~

~~§ 2366. LAW ENFORCEMENT AGENCIES, FAIR AND IMPARTIAL
POLICING POLICY; RACE DATA COLLECTION~~

~~(a)(1) Except as provided in subdivision (2) of this subsection, on or before September 1, 2014, every State, local, county, and municipal law enforcement agency, and every constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of this title, shall adopt a fair and impartial policing policy. The policy shall contain substantially the same elements of either the current Vermont State~~

~~Police fair and impartial policing policy or the most current model policy issued by the Office of the Attorney General.~~

~~(2) On or before January 1, 2016, the Criminal Justice Training Council, in consultation with stakeholders, including the Vermont League of Cities and Towns, the Vermont Human Rights Commission, and Migrant Justice, shall ~~adopt~~ create a model fair and impartial policing policy. On or before July 1, 2016, every State, ~~local~~, county, and municipal law enforcement agency, and every constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of this title, shall adopt a fair and impartial policing policy that includes, at a minimum, the elements of the Criminal Justice Training Council model policy.~~

~~(b) If a law enforcement agency or constable that is required to adopt a policy pursuant to subsection (a) of this section fails to do so on or before ~~September 1, 2014~~ July 1, 2016, that agency or constable shall be deemed to have adopted, and shall follow and enforce, the model policy issued by the ~~Office of the Attorney General~~ Criminal Justice Training Council.~~

~~(c) On or before September 15, 2014, and annually thereafter as part of their annual training report to the Council, every State, ~~local~~, county, and municipal law enforcement agency, and every constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of this title, shall report to the Council whether the agency or officer has adopted a fair and impartial policing policy in~~

~~accordance with subsections (a) and (b) of this section and which policy has been adopted. The Criminal Justice Training Council shall determine, as part of the Council's annual certification of training requirements, if current officers have received training on fair and impartial policing as required by 20 V.S.A. § 2358(e).~~

~~(d) On or before October 15, 2014, and annually thereafter on April 1, the Criminal Justice Training Council shall report to the House and Senate Committees on Judiciary which departments and officers have adopted a fair and impartial policing policy, ~~which policy has been adopted,~~ and whether officers have received training on fair and impartial policing.~~

~~(e)(1) On or before September 1, 2014, every State, ~~local,~~ county, and municipal law enforcement agency shall collect roadside stop data consisting of the following:~~

- ~~(A) the age, gender, and race of the driver;~~
- ~~(B) the reason for the stop;~~
- ~~(C) the type of search conducted, if any;~~
- ~~(D) the evidence located, if any; and~~
- ~~(E) the outcome of the stop, including whether:
 - ~~(i) a written warning was issued;~~
 - ~~(ii) a citation for a civil violation was issued;~~
 - ~~(iii) a citation or arrest for a misdemeanor or a felony occurred;~~~~

~~or~~

~~(iv) no subsequent action was taken.~~

~~(2) Law enforcement agencies shall work with the Criminal Justice Training Council and the Crime Research Group of Vermont with the goals of collecting uniform data, adopting uniform storage methods and periods, and ensuring that data can be analyzed. Roadside stop data, as well as reports and analysis of roadside stop data, shall be public.~~

~~(3) On or before September 1, 2016 and annually thereafter, law enforcement agencies shall provide the data collected under this subsection to the Crime Research Group of Vermont or, in the event the Crime Research Group of Vermont is unable to continue receiving data under this section, to the Criminal Justice Training Council. Law enforcement agencies shall provide the data collected under this subsection in an electronic format specified by the receiving agency.~~

~~(4) The data provided pursuant to subdivision (3) of this subsection shall be posted electronically in a manner that is analyzable and accessible to the public on the receiving agency's website.~~

~~(5) On or before April 1, 2017, and annually thereafter, the Criminal Justice Training Council shall report to the House and Senate Committees on Judiciary on the departments and officers that have and have not provided the data required by subdivision (3) of this subsection. The list of officers, agencies, or departments that have and have not provided the data in accordance with subdivision (3) of this subsection shall be public.~~

Sec. 78. 13 V.S.A. § 5305 is amended to read:

*§ 5305. INFORMATION CONCERNING RELEASE FROM
CONFINEMENT CUSTODY*

(a) Victims, other than victims of acts of delinquency, and affected persons shall have the right to request notification by the agency having custody of the defendant before the defendant is released, including a release on bail or conditions of release, furlough or other community program, upon termination or discharge from probation, or whenever the defendant escapes, is recaptured, dies, or receives a pardon or commutation of sentence. Notice shall be given to the victim or affected person as expeditiously as possible at the address or telephone number provided to the agency having custody of the defendant by the person requesting notice. Any address or telephone number so provided shall be kept confidential.

(b) If the defendant is released on conditions at arraignment, the prosecutor's office shall inform the victim of a listed crime of the conditions of release.

(c) If requested by a victim of a listed crime, the ~~department of corrections~~ Department of Corrections shall:

(1) at least 30 days before a parole board hearing concerning the defendant, inform the victim of the hearing and of the victim's right to testify before the parole board or to submit a written statement for the parole board to consider; and

~~(2) promptly inform the victim of the decision of the parole board, including providing to the victim any conditions attached to the defendant's release on parole.~~

Sec. 79. 13 V.S.A. § 5314 is amended to read:

§ 5314. INFORMATION FROM LAW ENFORCEMENT AGENCY

** * **

(b) Information to victims of listed crimes. As soon as practicable, the law enforcement agency shall use reasonable efforts to give to the victim of a listed crime, as relevant, all of the following:

(1) Information as to the accused's identity unless inconsistent with law enforcement purposes.

(2) Information as to whether the accused has been taken into custody.

(3) The file number of the case and the name, office street address, and telephone number of the law enforcement officer currently assigned to investigate the case.

(4) The prosecutor's name, office street address, and telephone number.

(5) An explanation that no individual is under an obligation to respond to questions which may be asked outside a courtroom or deposition.

(6) Information concerning any bail or conditions of release imposed on the defendant by a judicial officer prior to arraignment or an initial court appearance.

Sec. 80. 13 V.S.A. § 5321 is amended to read:

~~§ 5321. APPEARANCE BY VICTIM~~

~~(a) The victim of a crime has the following rights in any sentencing proceedings concerning the person convicted of that crime, or in the event a proposed plea agreement filed with the court recommends a deferred sentence, at any change of plea hearing concerning the person charged with committing that crime:~~

~~(1) to be given advance notice by the prosecutor's office of the date of the proceedings; and~~

~~(2) to appear, personally, to express reasonably his or her views concerning the crime, the person convicted, and the need for restitution.~~

~~(b) ~~Sentencing~~ The change of plea hearing or sentencing shall not be delayed or voided by reason of the failure to give the victim the required notice or the failure of the victim to appear.~~

~~(c) In accordance with Court rules, at the sentencing or change of plea hearing, the Court shall ask if the victim is present and, if so, whether the victim would like to be heard regarding sentencing or the proposed deferral of sentencing. In imposing the sentence or considering whether to defer sentencing, the Court shall consider any views offered at the hearing by the victim. If the victim is not present, the Court shall ask whether the victim has expressed, either orally or in writing, views regarding sentencing or the proposed deferral of sentencing and shall take those views into consideration in imposing the sentence or considering whether to defer sentencing.~~

~~(d) At or before the sentencing hearing, the prosecutor's office shall instruct the victim of a listed crime, in all cases where the Court imposes a sentence which includes a period of incarceration, that a sentence of incarceration is to the custody of the Commissioner of Corrections and that the Commissioner of Corrections has the authority to affect the actual time the defendant shall serve in incarceration through good time credit, furlough, work-release, and other early release programs. In addition, the prosecutor's office shall explain the significance of a minimum and maximum sentence to the victim and shall also explain the function of parole and how it may affect the actual amount of time the defendant may be incarcerated.~~

~~(e) At or before a change of plea hearing where the plea agreement filed with the court proposes a deferred sentence, the prosecutor's office shall instruct the victim of a listed crime about the significance of a deferred sentence and the potential consequences of a violation of conditions imposed by the court. In addition, the prosecutor's office shall consult with the victim concerning any proposed probation conditions prior to the hearing.~~

~~(f) The prosecutor's office shall use all reasonable efforts to keep the victim informed and consult with the victim throughout the plea agreement negotiation process in any case involving a victim of a listed crime.~~

**** DUI, Civil Suspensions ****

Sec. 81. 23 V.S.A. § 1205 is amended to read:

§ 1205. CIVIL SUSPENSION; SUMMARY PROCEDURE

(f) Review by Superior Court. Within seven days following receipt of a notice of intention to suspend and of suspension, a ~~person~~ defendant may ~~make~~ ~~a~~ request ~~for~~ a hearing before the Superior Court by mailing or delivering the form provided with the notice. The request shall be mailed or delivered to the Commissioner of Motor Vehicles, who shall then notify the Criminal Division of the Superior Court that a hearing has been requested and provide the State's Attorney with a copy of the notice.

(g) Preliminary hearing. The preliminary hearing shall be held within 21 days of the alleged offense. Unless impracticable or continued for good cause shown, the date of the preliminary hearing shall be the same as the date of the first appearance in any criminal case resulting from the same incident for which the person received a citation to appear in court. The preliminary hearing shall be held in accordance with procedures prescribed by the Supreme Court. At or before the preliminary hearing, the judicial officer shall determine whether the affidavit or affidavits filed by the State provide a sufficient factual basis under subsection (a) of this section for the civil suspension matter to proceed. At the preliminary hearing, if the defendant

~~requests a hearing on the merits, the court shall set the date of the final hearing in accordance with subsection (h) of this section.~~

~~(h) Final hearing.~~

~~(1) If the defendant requests a hearing on the merits, the Court shall schedule a final hearing on the merits to hearing shall be held within no later than 21 days of following the date of the preliminary hearing. In no event may a final hearing occur more than 42 days after the date of the alleged offense without the consent of the defendant or for good cause shown. The final hearing may only be continued by except if this period is extended with the consent of the defendant or for good cause shown. The issues at the final hearing shall be limited to the following specifically enumerated issues:~~

~~(A) Whether the law enforcement officer had reasonable grounds to believe the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title.~~

~~(B) Whether at the time of the request for the evidentiary test the officer informed the person of the person's rights and the consequences of taking and refusing the test substantially as set out in subsection 1202(d) of this title.~~

~~(C) Whether the person refused to permit the test.~~

~~(D) Whether the test was taken and the test results indicated that the person's alcohol concentration was above a legal limit specified in subsection 1201(a) or (d) of this title, at the time of operating, attempting to operate, or~~

~~being in actual physical control of a vehicle in violation of section 1201 of this title, whether the testing methods used were valid and reliable, and whether the test results were accurate and accurately evaluated. Evidence that the test was taken and evaluated in compliance with rules adopted by the Department of Public Safety shall be prima facie evidence that the testing methods used were valid and reliable and that the test results are accurate and were accurately evaluated.~~

~~(E) Whether the requirements of section 1202 of this title were complied with.~~

~~(2) No less than seven days before the final hearing, and subject to the requirements of Vermont Rule of Civil Procedure 11, the defendant shall provide to the State and file with the Court a list of the issues (limited to the issues set forth in this subsection) that the defendant intends to raise an answer to the notice of intent to suspend setting forth the issues raised by the defendant, limited to the issues set forth in this subsection, and a brief statement of the facts and law upon which the defendant intends to rely at the final hearing. Only evidence that is relevant to an issue listed by the defendant may be raised by the defendant at the final hearing. The defendant shall not be permitted to raise any other evidence at the final hearing, and all other evidence shall be inadmissible.~~

~~* * *~~

~~(n) Presumption. In a proceeding under this section,:~~

~~(1) if at any time within two hours of operating, attempting to operate, or being in actual physical control of a vehicle a person had an alcohol concentration of at or above a legal limit specified in subsection 1201(a) or (d) of this title, it shall be a rebuttable presumption that the person's alcohol concentration was above the applicable limit at the time of operating, attempting to operate, or being in actual physical control;~~

~~(2) if a person operates, attempts to operate, or is in actual physical control of a vehicle in the presence of a law enforcement officer and is taken into custody in connection with such operation, attempted operation, or actual physical control, and while in the continuous custody of the officer at any time had an alcohol concentration at or above a legal limit specified in subsection 1201(a) or (d) of this title, it shall be a rebuttable presumption that the person's alcohol concentration was above the applicable limit at the time of operating, attempting to operate, or being in actual physical control.~~

~~* * *~~

~~(u) In any proceeding under this section,:~~

~~(1) for cause shown, a party's chemist may be allowed to testify by telephone in lieu of a personal appearance;~~

~~(2) a party's chemist shall be allowed to testify by videoconference in lieu of a personal appearance, provided that videoconferencing shall be at the party's own expense and by the party's own arrangement.~~

~~Sec. 82. 23 V.S.A. § 1204 is amended to read.~~

~~§ 1204. PERMISSIVE INFERENCES~~

~~(a) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by a person while operating, attempting to operate or in actual physical control of a vehicle on a highway, the person's alcohol concentration shall give rise to the following permissive inferences:~~

~~* * *~~

~~(3)(A) If the person's alcohol concentration ~~at any time~~ within two hours of the alleged offense was 0.10 or more, it shall be a permissive inference that the person was under the influence of intoxicating liquor in violation of subdivision 1201(a)(2) or (3) of this title.~~

~~(B) If the person's alcohol concentration at any time after the alleged offense was 0.10 or more and the person was in the continuous custody of the arresting officer until the time of the evidentiary test, it shall be a permissive inference that the person was under the influence of intoxicating liquor in violation of subdivision 1201(a)(2) or (3) of this title.~~

~~(b) The foregoing provisions shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person was under the influence of intoxicating liquor, nor shall they be construed as requiring that evidence of the amount of alcohol in the person's blood, breath, urine, or saliva must be presented.~~

~~* * * DUI Penalties * * *~~

~~Sec. 83. 23 V.S.A. § 1210 is amended to read:~~

~~§ 1210. PENALTIES~~

~~* * *~~

~~(b) First offense. A person who violates section 1201 of this title may be fined not more than ~~\$750.00~~, \$1,000.00 or imprisoned for not more than two years, or both.~~

~~(c) Second offense. A person convicted of violating section 1201 of this title who has been convicted of another violation of that section shall be fined not more than ~~\$1,500.00~~ \$2,000.00 or imprisoned not more than two years, or both. At least 200 hours of community service shall be performed, or 60 consecutive hours of the sentence of imprisonment shall be served and may not be suspended or deferred or served as a supervised sentence, except that credit for a sentence of imprisonment may be received for time served in a residential alcohol facility pursuant to sentence if the program is successfully completed.~~

~~(d) Third offense. A person convicted of violating section 1201 of this title who has previously been convicted two times of a violation of that section shall be fined not more than ~~\$2,500.00~~ \$3,000.00 or imprisoned not more than five years, or both. At least 96 consecutive hours of the sentence of imprisonment shall be served and may not be suspended or deferred or served as a supervised sentence, except that credit for a sentence of imprisonment may be received for time served in a residential alcohol facility pursuant to sentence if~~

~~the program is successfully completed. The Court may impose a sentence that does not include a term of imprisonment or that does not require that the 96 hours of imprisonment be served consecutively only if the Court makes written findings on the record that such a sentence will serve the interests of justice and public safety.~~

~~(e)(1) Fourth or subsequent offense. A person convicted of violating section 1201 of this title who has previously been convicted three or more times of a violation of that section shall be fined not more than \$5,000.00 \$4,000.00 for a fourth offense or imprisoned not more than 10 years, or both. A person convicted of violating section 1201 of this title who has previously been convicted four or more times of a violation of that section shall be fined not more than the sum of \$5,000.00 plus an additional \$1,000.00 for each prior conviction that exceeds four priors or imprisoned not more than 10 years, or both. At least 192 consecutive hours of the sentence of imprisonment shall be served and may not be suspended or deferred or served as a supervised sentence, except that credit for a sentence of imprisonment may be received for time served in a residential alcohol treatment facility pursuant to sentence if the program is successfully completed. The Court shall not impose a sentence that does not include a term of imprisonment unless the Court makes written findings on the record that there are compelling reasons why such a sentence will serve the interests of justice and public safety.~~

* * *

**** Alcohol Screening Devices ****

Sec. 84. 7 V.S.A. § 501 is amended to read:

*§ 501. UNLAWFUL SALE OF INTOXICATING LIQUORS; CIVIL
ACTION FOR DAMAGES*

(e) Evidence. In an action brought under this section, evidence of responsible actions taken or not taken is admissible, if otherwise relevant. Responsible actions may include, but are not limited to, instruction of servers as to laws governing the sale of alcoholic beverages, training of servers regarding intervention techniques, admonishment to patrons or guests concerning laws regarding the consumption of intoxicating liquor, making available an alcohol screening device, and inquiry under the methods provided by law as to the age or degree of intoxication of the persons involved.

**** Alcohol Screening Devices; Study ****

Sec. 85. ALCOHOL SCREENING DEVICES; STUDY

The Commissioner of Liquor Control or designee, in consultation with the Commissioner of Health or designee, shall study whether and how the State should promote the availability and use of alcohol screening devices in the State, and whether making such devices available on the premises of liquor licensees and to individuals will promote public safety. On or before January 15, 2017, the Commissioner shall submit a written report of his or her

~~findings and any proposed recommendations for legislation to the House and Senate Committees on Judiciary, the House Committee on General, Housing and Military Affairs, and the Senate Committee on Economic Development, Housing and General Affairs.~~

~~*** Serious Bodily Injury; Definition ***~~

~~Sec. 86. 23 V.S.A. § 4 is amended to read:~~

~~§ 4. DEFINITIONS~~

~~Except as may be otherwise provided herein, and unless the context otherwise requires in statutes relating to motor vehicles and enforcement of the law regulating vehicles, as provided in this title and 20 V.S.A. part 5, the following definitions shall apply:~~

~~***~~

~~(84) “Serious bodily injury” has the meaning set forth in 13 V.S.A. § 1021.~~

~~*** Negligent Operation of a Motor Vehicle; Penalties ***~~

~~Sec. 87. 23 V.S.A. § 1091 is amended to read:~~

~~§ 1091. NEGLIGENT OPERATION; GROSSLY NEGLIGENT OPERATION~~

~~(a) Negligent operation.~~

~~(1) A person who operates a motor vehicle on a public highway in a negligent manner shall be guilty of negligent operation.~~

~~(2) The standard for a conviction for negligent operation in violation of this subsection shall be ordinary negligence, examining whether the person breached a duty to exercise ordinary care.~~

~~(3) A person who violates this subsection shall be imprisoned not more than one year or fined not more than \$1,000.00, or both. If the person has been previously convicted of a violation of this subsection, the person shall be imprisoned not more than two years or fined not more than \$3,000.00, or both. If serious bodily injury to or death of any person other than the operator results, the operator shall be subject to imprisonment for not more than two years or to a fine of not more than \$3,000.00, or both. If serious bodily injury or death results to more than one person other than the operator, the operator may be convicted of a separate violation of this subdivision for each decedent or person injured.~~

~~(b) Grossly negligent operation.~~

~~(1) A person who operates a motor vehicle on a public highway in a grossly negligent manner shall be guilty of grossly negligent operation.~~

~~(2) The standard for a conviction for grossly negligent operation in violation of this subsection shall be gross negligence, examining whether the person engaged in conduct which involved a gross deviation from the care that a reasonable person would have exercised in that situation.~~

~~(3) A person who violates this subsection shall be imprisoned not more than two years or fined not more than \$5,000.00, or both. If the person has~~

~~previously been convicted of a violation of this section, the person shall be imprisoned not more than four years or fined not more than \$10,000.00, or both. If serious bodily injury as defined in 13 V.S.A. § 1021 to or death of any person other than the operator results, the ~~person~~ operator shall be imprisoned for not more than 15 years or fined not more than \$15,000.00, or both. If serious bodily injury or death results to more than one person other than the operator, the operator may be convicted of a separate violation of this subdivision for each decedent or person injured.~~

~~(c) The provisions of this section do not limit or restrict the prosecution for manslaughter.~~

~~***~~

~~*** Passing Vulnerable Users; Violations ***~~

~~Sec. 88. 23 V.S.A. § 1033 is amended to read:~~

~~§ 1033. PASSING MOTOR VEHICLES AND VULNERABLE USERS~~

~~***~~

~~(c) If serious bodily injury to or death of any person other than the operator results from the operator's violation of subsection (b) of this section, the operator shall be subject to imprisonment for not more than two years or a fine of not more than \$3,000.00, or both. The provisions of this section do not limit prosecution under section 1091 of this chapter or for any other crime.~~

~~Sec. 89. EFFECTIVE DATES~~

~~(a) Secs. 9 (commencement of delinquency proceedings), 10 (transfer from other courts), 11 (transfer from Family Division of the Superior Court), and 16 (powers and responsibilities of the Commissioner regarding juvenile services) shall take effect on January 1, 2017.~~

~~(b) Secs. 6 (Jurisdiction), 7 (commencement of delinquency proceedings), and 8 (transfer from other courts) shall take effect on January 1, 2018.~~

~~(c) Secs. 1 (commencement of youthful offender proceedings in the Family Division), 2 (motion in Criminal Division of Superior Court), 3 (report from the Department), 4 (hearing in Family Division), and 5 (youthful offender determination and disposition order) shall take effect on July 1, 2018.~~

~~(d) This section, Secs. 37-45, (miscellaneous criminal procedure amendments), Sec. 46 (termination of suspensions arising from pre-1990 failures to appear on criminal traffic offense charges), Sec. 47(e) (public awareness campaign), Sec. 48 (termination of suspensions repealed in act), Secs. 49-61 (amendment or repeal of license suspension and registration refusal provisions and underage alcohol and marijuana crimes), and Secs. 76-77 (fair and impartial policing) shall take effect on passage.~~

~~(e) The remaining sections shall take effect on July 1, 2016.~~

Sec. 37. 23 V.S.A. § 4 is amended to read:

§ 4. DEFINITIONS

Except as may be otherwise provided herein, and unless the context otherwise requires in statutes relating to motor vehicles and enforcement of

the law regulating vehicles, as provided in this title and 20 V.S.A. part 5, the following definitions shall apply:

* * *

(84) "Serious bodily injury" has the meaning set forth in 13 V.S.A.

§ 1021.

Sec. 38. 23 V.S.A. § 1091 is amended to read:

§ 1091. NEGLIGENCE OPERATION; GROSSLY NEGLIGENCE

OPERATION

(a) Negligent operation.

(1) A person who operates a motor vehicle on a public highway in a negligent manner shall be guilty of negligent operation.

(2) The standard for a conviction for negligent operation in violation of this subsection shall be ordinary negligence, examining whether the person breached a duty to exercise ordinary care.

(3) A person who violates this subsection shall be imprisoned not more than one year or fined not more than \$1,000.00, or both. If the person has been previously convicted of a violation of this subsection, the person shall be imprisoned not more than two years or fined not more than \$3,000.00, or both. If serious bodily injury to or death of any person other than the operator results, the operator shall be subject to imprisonment for not more than two years or to a fine of not more than \$3,000.00, or both. If serious bodily injury or death results to more than one person other than the operator, the operator

may be convicted of a separate violation of this subdivision for each decedent or person injured.

(b) *Grossly negligent operation.*

(1) *A person who operates a motor vehicle on a public highway in a grossly negligent manner shall be guilty of grossly negligent operation.*

(2) *The standard for a conviction for grossly negligent operation in violation of this subsection shall be gross negligence, examining whether the person engaged in conduct which involved a gross deviation from the care that a reasonable person would have exercised in that situation.*

(3) *A person who violates this subsection shall be imprisoned not more than two years or fined not more than \$5,000.00, or both. If the person has previously been convicted of a violation of this section, the person shall be imprisoned not more than four years or fined not more than \$10,000.00, or both. If serious bodily injury ~~as defined in 13 V.S.A. § 1021~~ to or death of any person other than the operator results, the ~~person~~ operator shall be imprisoned for not more than 15 years or fined not more than \$15,000.00, or both. If serious bodily injury or death results to more than one person other than the operator, the operator may be convicted of a separate violation of this subdivision for each decedent or person injured.*

(c) *The provisions of this section do not limit or restrict the prosecution for manslaughter.*

* * *

Sec. 39. EFFECTIVE DATES

(a) Secs. 9 (commencement of delinquency proceedings), 10 (transfer from other courts), and 11 (transfer from Family Division of the Superior Court) shall take effect on January 1, 2017.

(b) Sec. 16 (powers and responsibilities of the Commissioner regarding juvenile services) shall take effect on July 1, 2017.

(b) Secs. 6 (Jurisdiction), 7 (commencement of delinquency proceedings), and 8 (transfer from other courts) shall take effect on January 1, 2018.

(c) Secs. 1 (commencement of youthful offender proceedings in the Family Division), 2 (motion in Criminal Division of Superior Court), 3 (report from the Department), 4 (hearing in Family Division), and 5 (youthful offender determination and disposition order) shall take effect on July 1, 2018.

(d) This section and the remaining sections shall take effect on July 1, 2016.