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H.221

Introduced by Representatives Burke of Brattleboro, Batchelor of Derby,
Clarkson of Woodstock, Donovan of Burlington, Gonzalez of
Winooski, Haas of Rochester, Krowinski of Burlington, Lenes
of Shelburne, and O’Sullivan of Burlington

Referred to Committee on

Date:

Subject: Crimes and criminal procedure; release prior to trial; sentencing;
probation; parole; juveniles; termination of parental rights

Statement of purpose of bill as introduced: This bill proposes to permit a court to place a defendant on administrative probation as part of a deferred sentence; prohibit sentencing a juvenile to life without parole; amend conditions of pretrial release to eliminate release to a responsible adult and permit monetary bail only in cases where a court finds the defendant is a flight risk; expand administrative probation to all nonviolent misdemeanors and permit a court to order it for nonviolent felonies; permit restrictions on an offender from engaging in any legal behavior as a condition of probation of parole only if the condition is reasonably substantially related to reducing risk to the safety of a victim or witness; expand parole eligibility for persons with a serious medical condition, persons 65 years of age, and persons sentenced for an offense committed as a juvenile; prohibit revocation of parole for violation of

1 conditions that are not new crimes; preclude DOC from keeping a nonviolent
2 offender past his or her minimum due to lack of community housing unless
3 release will pose a risk to the safety of a victim or witness; require furlough
4 conditions regulating otherwise legal behavior to be the least restrictive to
5 protect a victim, witness, or the public; extend jurisdiction over a child who
6 has been adjudicated delinquent until six months beyond the child's
7 18th birthday if the offense for which the child has been adjudicated delinquent
8 is a nonviolent misdemeanor and the child was 16 years ~~old~~ of age when he or
9 she committed the offense; require all alleged drug possession offenses
10 involving a defendant who was under 18 years of age at the time of the alleged
11 offense to be filed in the Family Division of the Superior Court; establish that a
12 parent's incarceration or substance abuse cannot not serve as the sole basis for
13 terminating that parent's parental rights; increase the monetary threshold to
14 \$3,000.00 for the distinction between misdemeanor and felony larceny crimes
15 and to \$500.00 between misdemeanor and felony embezzlement; and require
16 the Commissioner of Health to convene a working group comprising health
17 care professionals knowledgeable in the field of substance abuse for the
18 purpose of making recommendations to the General Assembly regarding the
19 quantities of drugs that constitute personal use.

20 An act relating to criminal justice reform

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

2 * * * Sentencing * * *

3 Sec. 1. 13 V.S.A. § 7041 is amended to read:

4 § 7041. DEFERRED SENTENCE

5 (a) Upon an adjudication of guilt and after the filing of a presentence
6 investigation report, the ~~court~~ Court may defer sentencing and place the
7 respondent on probation upon such terms and conditions as it may require,
8 including administrative probation, if a written agreement concerning the
9 deferring of sentence is entered into between the ~~state's attorney~~ State's
10 Attorney and the respondent and filed with the clerk of the ~~court~~ Court.

11 (b) Notwithstanding subsection (a) of this section, the ~~court~~ Court may
12 defer sentencing and place the respondent on probation without a written
13 agreement between the ~~state's attorney~~ State's Attorney and the respondent if
14 the following conditions are met:

15 (1) the respondent is 28 years ~~old~~ of age or younger;

16 (2) the crime for which the respondent is being sentenced is not a listed
17 crime as defined in subdivision 5301(7) of this title;

18 (3) the ~~court~~ Court orders a presentence investigation in accordance with
19 the procedures set forth in Rule 32 of the Vermont Rules of Criminal
20 Procedure, unless the ~~state's attorney~~ State's Attorney agrees to waive the
21 presentence investigation;

1 (4) the ~~court~~ Court permits the victim to submit a written or oral
2 statement concerning the consideration of deferment of sentence;

3 (5) the ~~court~~ Court reviews the presentence investigation and the
4 victim's impact statement with the parties; and

5 (6) the ~~court~~ Court determines that deferring sentence is in the interest
6 of justice.

7 (c) Notwithstanding subsections (a) and (b) of this section, the ~~court~~ Court
8 may not defer a sentence for a violation of section 3253a (aggravated sexual
9 assault of a child), section 2602 (lewd and lascivious conduct with a child
10 unless the victim and the defendant were within five years of age and the act
11 was consensual), 3252(c) (sexual assault of a child under 16 years of age
12 unless the victim and the defendant were within five years of age and the act
13 was consensual), 3252(d) or (e) (sexual assault of a child), 3253(a)(8)
14 (aggravated sexual assault), or 3253a (aggravated sexual assault of a child) of
15 this title.

16 (d) Entry of deferment of sentence shall constitute an appealable judgment
17 for purposes of appeal in accordance with ~~section 12 V.S.A. § 2383 of Title 12~~
18 and Rule 3 of the Vermont Rules of Appellate Procedure. Except as otherwise
19 provided, entry of deferment of sentence shall constitute imposition of
20 sentence solely for the purpose of sentence review in accordance with section
21 7042 of this title. The ~~court~~ Court may impose sentence at any time if the

1 respondent violates the conditions of the deferred sentence during the period
2 of deferment.

3 (e) Upon violation of the terms of probation or of the deferred sentence
4 agreement, the ~~court shall~~ Court may impose sentence. Upon fulfillment of the
5 terms of probation and of the deferred sentence agreement, the ~~court~~ Court
6 shall strike the adjudication of guilt and discharge the respondent. Except as
7 provided in subsection (h) of this section, the record of the criminal
8 proceedings shall be expunged upon the discharge of the respondent from
9 probation, absent a finding of good cause by the ~~court~~ Court. The ~~court~~ Court
10 shall issue an order to expunge all records and files related to the arrest,
11 citation, investigation, charge, adjudication of guilt, criminal proceedings, and
12 probation related to the deferred sentence. Copies of the order shall be sent to
13 each agency, department, or official named therein. Thereafter, the ~~court~~
14 Court, law enforcement officers, agencies, and departments shall reply to any
15 request for information that no record exists with respect to such person upon
16 inquiry in the matter. Notwithstanding this subsection, the record shall not be
17 expunged until restitution has been paid in full.

18 (f) A deferred sentence imposed under subsection (a) or (b) of this section
19 may include a restitution order issued pursuant to section 7043 of this title.
20 Nonpayment of restitution shall not constitute grounds for imposition of the
21 underlying sentence.

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

2 (h) The Vermont ~~criminal information center~~ Crime Information Center
3 shall retain a special index of deferred sentences for sex offenses that require
4 registration pursuant to subchapter 3 of chapter 167 of this title. This index
5 shall only list the name and date of birth of the subject of the expunged files
6 and records, the offense for which the subject was convicted, and the docket
7 number of the proceeding which was the subject of the expungement. The
8 special index shall be confidential and may be accessed only by the ~~director~~
9 Director of the Vermont ~~criminal information center~~ Crime Information Center
10 and a designated clerical ~~staffperson~~ staff person for the purpose of providing
11 information to the ~~department of corrections~~ Department of Corrections in the
12 preparation of a presentence investigation in accordance with 28 V.S.A. §§ 204
13 and 204a.

14 Sec. 2. 13 V.S.A. § 7045 is added to read:

15 § 7045. LIFE WITHOUT PAROLE SENTENCES PROHIBITED FOR

16 PERSONS UNDER 18 YEARS OF AGE

17 A court shall not sentence a person to life imprisonment without the
18 possibility of parole if the person was under 18 years of age at the time of the
19 commission of the offense.

1 * * * Bail and Recognizances * * *

2 Sec. 3. 13 V.S.A. § 7554 is amended to read:

3 § 7554. RELEASE PRIOR TO TRIAL

4 (a) Any person charged with an offense, other than a person held without
5 bail under section 7553 or 7553a of this title, shall at his or her appearance
6 before a judicial officer be ordered released pending trial in accordance with
7 this section.

8 (1) The ~~person~~ defendant shall be ordered released on personal
9 recognizance or upon the execution of an unsecured appearance bond in an
10 amount specified by the judicial officer unless the judicial officer determines
11 that such a release will not reasonably ~~assure~~ ensure the appearance of the
12 person as required. In determining whether the ~~person~~ defendant presents a
13 risk of nonappearance, the judicial officer shall consider, in addition to any
14 other factors, the seriousness of the offense charged and the number of
15 offenses with which the person is charged. The judicial officer may consider
16 prior failure to appear violations that occurred only in the previous two years.
17 If the officer determines that such a release will not reasonably ~~assure~~ ensure
18 the appearance of the ~~person~~ defendant as required, the officer shall, either in
19 lieu of or in addition to the above methods of release, impose the least
20 restrictive of the following conditions or the least restrictive combination of the

1 following conditions ~~which~~ that will reasonably ~~assure~~ ensure the appearance
2 of the ~~person~~ defendant as required:

3 (A) ~~place the person in the custody of a designated person or~~
4 ~~organization agreeing to supervise him or her;~~ Place the defendant on
5 conditions recommended by his or her pretrial screening report, if any.

6 (B) ~~place restrictions on the travel, association, or place of abode of~~
7 ~~the person during the period of release;~~

8 ~~(C) require~~ Require the ~~person~~ defendant to participate in an alcohol
9 or drug treatment program. The judicial officer shall take into consideration
10 the defendant's ability to comply with an order of treatment and the
11 availability of treatment resources;.

12 ~~(D)(C)~~ If the Court finds the defendant poses a risk of flight, not just
13 nonappearance, require the execution of a secured appearance bond in a
14 specified amount and the deposit with the clerk of the Court, in cash or other
15 security as directed, of a sum not to exceed 10 percent of the amount of the
16 bond, such deposit to be returned upon the appearance of the ~~person~~ defendant
17 as required;.

18 ~~(E)(D)~~ If the Court finds the defendant poses a risk of flight, not just
19 nonappearance, require the execution of a surety bond with sufficient solvent
20 sureties, or the deposit of cash in lieu thereof;

1 ~~(F) impose any other condition found reasonably necessary to assure~~
2 ~~appearance as required, including a condition requiring that the person return~~
3 ~~to custody after specified hours.~~

4 (2) If the judicial officer determines that conditions of release imposed
5 to assure ensure appearance will not reasonably protect the public, the judicial
6 officer may ~~in addition~~ impose in addition the least restrictive of the following
7 conditions or the least restrictive combination of the following conditions
8 ~~which~~ that will reasonably assure ensure protection of the public:

9 (A) ~~place the person in the custody of a designated person or~~
10 ~~organization agreeing to supervise him or her; Place the defendant on~~
11 ~~conditions recommended by his or her pretrial screening report, if any.~~

12 (B) ~~place restrictions on the travel, association, or place of abode of~~
13 ~~the person during the period of release;~~

14 ~~(C) require~~ Require the ~~person~~ defendant to participate in an alcohol
15 or drug treatment program. The judicial officer shall take into consideration
16 the defendant's ability to comply with an order of treatment and the
17 availability of treatment resources;

18 ~~(D)~~(C) ~~impose~~ Impose any other condition found reasonably
19 necessary to protect the public, except that a physically restrictive condition
20 may only be imposed in extraordinary circumstances; and a restrictive

1 condition prohibiting the defendant from engaging in legal behavior only if the
2 condition is substantially related to protecting a victim or potential witness.

3 ~~(E)~~(D) if If the person is a State, county, or municipal officer charged
4 with violating section 2537 of this title, ~~the Court may~~ suspend the officer's
5 duties in whole or in part, if the Court finds that it is necessary to protect the
6 public.

7 (3) A judicial officer may order that a defendant not harass or contact or
8 cause to be harassed or contacted a victim or potential witness. This order
9 shall take effect immediately, regardless of whether the defendant is
10 incarcerated or released.

11 (b) In determining which conditions of release to impose under subsection
12 (a) of this section, the judicial officer shall, on the basis of available
13 information, take into account the nature and circumstances of the offense
14 charged, the weight of the evidence against the accused, the accused's family
15 ties, employment, financial resources, character and mental condition, the
16 length of residence in the community, record of convictions, and record of
17 appearance at court proceedings or of flight to avoid prosecution or failure to
18 appear at court proceedings within the previous two years. Recent history of
19 actual violence or threats of violence may be considered by the judicial officer
20 as bearing on the character and mental condition of the accused.

1 (c) A judicial officer authorizing the release of a defendant under this
2 section shall issue an appropriate order containing a statement of the conditions
3 imposed, if any, shall inform such person of the penalties applicable to
4 violations of the conditions of release and shall advise him or her that a
5 warrant for his or her arrest will be issued immediately upon any such
6 violation.

7 (d)(1) A ~~person~~ defendant for whom conditions of release are imposed and
8 who is detained as a result of his or her inability to meet the conditions of
9 release or who is ordered released on a condition that he or she return to
10 custody after specified hours shall, within 48 hours of application, be entitled
11 to have the conditions reviewed by a judge in the court having original
12 jurisdiction over the offense charged. A ~~person~~ defendant applying for review
13 shall be given the opportunity for a hearing. Unless the conditions of release
14 are amended as requested, the judge shall set forth in writing or orally on the
15 record a reasonable basis for continuing the conditions imposed. In the event
16 that a judge in the court having original jurisdiction over the offense charged is
17 not available, any ~~superior~~ Superior judge may review such conditions.

18 (2) A ~~person~~ defendant for whom conditions of release are imposed
19 shall, within five working days of application, be entitled to have the
20 conditions reviewed by a judge in the court having original jurisdiction over
21 the offense charged. A ~~person~~ defendant applying for review shall be given

1 the opportunity for a hearing. Unless the conditions of release are amended as
2 requested, the judge shall set forth in writing or orally on the record a
3 reasonable basis for continuing the conditions imposed. In the event that a
4 judge in the court having original jurisdiction over the offense charged is not
5 available, any ~~superior~~ Superior judge may review such conditions.

6 (e) A judicial officer ordering the release of a ~~person~~ defendant on any
7 condition specified in this section may at any time amend the order to impose
8 additional or different conditions of release; provided that the provisions of
9 subsection (d) of this section shall apply.

10 (f) The term “judicial officer” as used in this section and section 7556 of
11 this title shall mean a clerk of a Superior Court or a Superior Court judge.

12 (g) Information stated in, or offered in connection with, any order entered
13 pursuant to this section need not conform to the rules pertaining to the
14 admissibility of evidence in a court of law.

15 (h) Nothing contained in this section shall be construed to prevent the
16 disposition of any case or class of cases by forfeiture of collateral security
17 where such disposition is authorized by the court.

18 (i) The Court Administrator shall establish forms for appearance bonds,
19 secured appearance bonds, surety bonds, and for use in the posting of bail.

20 Each form shall include the following information:

1 (1) The bond or bail may be forfeited in the event that the defendant or
2 witness fails to appear at any required court proceeding.

3 (2) The surety or person posting bond or bail has the right to be released
4 from the obligations under the bond or bail agreement upon written application
5 to the judicial officer and detention of the defendant or witness.

6 (3) The bond will continue through sentencing in the event that bail is
7 continued after final adjudication.

8 * * * General Corrections * * *

9 Sec. 4. 28 V.S.A. § 3 is amended to read:

10 § 3. GENERAL DEFINITIONS

11 As used in this title:

12 * * *

13 (4) “Correctional officer” means any person who is an employee of the
14 Department of Corrections whose official duties or job classification includes
15 the supervision or monitoring of a person on parole, probation, or serving any
16 sentence of incarceration whether inside or outside a correctional facility, and
17 who has received training, as approved by the Commissioner of Corrections, as
18 provided in section 551a of this title.

19 (5) “Department” means the Department of Corrections.

20 ~~(5)~~(6) “Inmate” means any person, not a child, committed to the custody
21 of the Commissioner pursuant to the law of the State and subsequently

1 committed to a correctional facility and any person confined at a correctional
2 facility during the pendency of a prosecution against ~~him~~ the person.

3 ~~(6)~~(7) “Law” includes the laws and ordinances of the State, its political
4 subdivisions and municipalities.

5 ~~(7)~~(8) “Law enforcement officer” means a State Police officer, a sheriff,
6 a deputy sheriff, a municipal police officer, a constable, the Commissioner or a
7 member of the Department of Corrections when appointed in writing by the
8 Commissioner and when his or her appointment is filed in the Office of the
9 Secretary of State. The Commissioner or such member shall have the same
10 powers as a sheriff.

11 (9) “Nonviolent felony” means a felony offense that is not a listed crime
12 as defined in 13 V.S.A. § 5301(7) or a felony offense involving sexual
13 exploitation of children in violation of 13 V.S.A. chapter 64.

14 (10) “Nonviolent misdemeanor” means a misdemeanor offense that is
15 not a listed crime as defined in 13 V.S.A. § 5301(7), a misdemeanor offense
16 involving sexual exploitation of children in violation of 13 V.S.A. chapter 64,
17 or a misdemeanor offense involving violation of a court order under
18 13 V.S.A. § 1030.

19 ~~(8)~~(11) “Offender” means any person convicted of a crime or offense
20 under the laws of this State, and, for purposes of work crew, a person found in
21 civil contempt under 15 V.S.A. § 603.

1 ~~(9)~~(12) “~~Supervising officer~~” means the highest administrative officer in
2 charge of any correctional facility “Restorative justice program” means a
3 program developed and implemented by the Commissioner, consistent with
4 State policy and legislative intent as provided by section 2a of this title.

5 ~~(10)~~ “~~Correctional officer~~” means any person who is an employee of the
6 Department of Corrections whose official duties or job classification includes
7 the supervision or monitoring of a person on parole, probation, or serving any
8 sentence of incarceration whether inside or outside a correctional facility, and
9 who has received training, as approved by the Commissioner of Corrections, as
10 provided in section 551a of this title.

11 ~~(11)~~(13) “Restorative justice program” means a program developed and
12 implemented by the Commissioner, consistent with State policy and legislative
13 intent as provided by section 2a of this title “Supervising officer” means the
14 highest administrative officer in charge of any correctional facility.

15 * * * Probation, Parole, and Furlough * * *

16 Sec. 5. 28 V.S.A. § 205 is amended to read:

17 § 205. PROBATION

18 (a)(1) After passing sentence, a court may suspend all or part of the
19 sentence and place the person so sentenced in the care and custody of the
20 Commissioner upon such conditions and for such time as it may prescribe in
21 accordance with law or until further order of court.

1 (2) The term of probation for misdemeanors shall be for a specific term
2 not to exceed ~~two years~~ 18 months unless the Court, in its sole discretion,
3 specifically finds that the interests of justice require a longer ~~or an indefinite~~
4 period of probation.

5 (3)(A) The term of probation for nonviolent felonies shall not exceed
6 four years or the statutory maximum term of imprisonment for the offense,
7 whichever is less, unless the Court, in its sole discretion, specifically finds that
8 the interests of justice require a longer ~~or an indefinite~~ period of probation.

9 (B) ~~As used in this subdivision, "nonviolent felonies" means an~~
10 ~~offense which is not:~~

11 (i) ~~a listed crime as defined in 13 V.S.A. § 5301(7); or~~

12 (ii) ~~an offense involving sexual exploitation of children in~~
13 ~~violation of 13 V.S.A. chapter 64.~~

14 (4) Nothing in this subsection shall prevent the Court from terminating
15 the period of probation and discharging a person pursuant to section 251 of
16 this title.

17 (5) The probation officer of a person on probation for a specific term
18 shall review the person's case file during probation and, not less than 45 days
19 prior to the expiration of the probation term, may file a petition with the Court
20 requesting the Court to extend the period of probation for a specific term not to
21 exceed one year in order to provide the person the opportunity to complete

1 programming consistent with special conditions of probation. A hearing on the
2 petition for an extension of probation under this subsection shall comply with
3 the procedures set forth in Rule 32.1 of the Vermont Rules of Criminal
4 Procedure.

5 (b) The victim of a listed crime as defined in 13 V.S.A. § 5301(7) for
6 which the offender has been placed on probation shall have the right to request,
7 and receive from the Department of Corrections information regarding the
8 offender's general compliance with the specific conditions of probation.

9 Nothing in this section shall require the Department of Corrections to disclose
10 any confidential information revealed by the offender in connection with
11 participation in a treatment program.

12 (c)(1) Unless the Court in its discretion finds that the interests of justice
13 require additional standard and special conditions of probation, when the Court
14 orders a specific term of probation for a ~~qualifying offense~~ nonviolent
15 misdemeanor or nonviolent felony, except for violations of 23 V.S.A. § 1201
16 (DUI), the offender shall be placed on administrative probation, which means
17 that the only conditions of probation shall be that the probationer:

18 (A) register with the Department of Corrections' probation and
19 parole office in his or her district;

20 (B) notify the probation officer of his or her current address
21 each month;

1 (C) within 72 hours, notify the Department of Corrections if probable
2 cause is found for a criminal offense during the term of probation; and

3 (D) not be convicted of a criminal offense during the term of
4 probation.

5 (2) ~~As used in this subsection, “qualifying offense” means:~~

6 ~~(A) Unlawful mischief under 13 V.S.A. § 3701.~~

7 ~~(B) Retail theft under 13 V.S.A. §§ 2575 and 2577.~~

8 ~~(C) Operating after suspension or revocation of license under
9 23 V.S.A. § 674(a).~~

10 ~~(D) Bad checks under 13 V.S.A. § 2022.~~

11 ~~(E) Theft of services under 13 V.S.A. § 2582.~~

12 ~~(F) Disorderly conduct under 13 V.S.A. § 1026, unless the original
13 charge was a listed offense as defined in 13 V.S.A. § 5301(7).~~

14 ~~(G) Theft of rented property under 13 V.S.A. § 2591.~~

15 ~~(H) Operation without consent of owner under 23 V.S.A. § 1094(a).~~

16 ~~(I) Petit larceny under 13 V.S.A. § 2502.~~

17 ~~(J) Negligent operation of a motor vehicle under 23 V.S.A. §
18 1091(a).~~

19 ~~(K) False reports to law enforcement under 13 V.S.A. § 1754.~~

20 ~~(L) Setting fires under 13 V.S.A. § 508.~~

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

3 ~~(N) Simple assault by mutual consent under 13 V.S.A. § 1023(b)~~
4 ~~unless the original charge was a listed offense as defined in 13 V.S.A.~~
5 ~~§ 5301(7).~~

6 ~~(O) Unlawful trespass under 13 V.S.A. § 3705(a).~~

7 ~~(P) A first offense of possession under 18 V.S.A. § 4230(a)(1).~~

8 [Repealed.]

9 (3) Nothing in this subsection shall prohibit a court from requiring
10 participation in the restorative justice program established in chapter 12 of
11 this title.

12 Sec. 6. 28 V.S.A. § 252 is amended to read:

13 § 252. CONDITIONS OF PROBATION

14 (a) The conditions of probation shall be such as the Court in its discretion
15 deems reasonably necessary to ensure that the offender will lead a law-abiding
16 life or to assist the offender to do so. The Court shall provide as an explicit
17 condition of every sentence to probation that if the offender is convicted of
18 another offense during the period for which the sentence remains subject to
19 revocation, then the Court may impose revocation of the offender's probation.

20 (b) When imposing a sentence of probation, the Court may, as a condition
21 of probation, require that the offender:

1 (1) Work faithfully at a suitable employment or faithfully pursue a
2 course of study or of vocational training that will equip the offender for
3 suitable employment.

4 (2) Work faithfully for a prescribed number of hours at community
5 service activity acceptable to the Court, or if so ordered by the Court,
6 acceptable to a probation officer.

7 (3) Undergo available medical or psychiatric treatment and remain at a
8 specified institution if required for that purpose.

9 (4) Attend or reside at a facility established for the instruction,
10 recreation or residence of persons on probation.

11 (5) Support the offender's dependents and meet other family
12 responsibilities.

13 (6) Make restitution or reparation to the victim of his or her conduct, or
14 to the victims' compensation fund to the extent it has made payment to or on
15 behalf of the victim in accordance with 13 V.S.A. chapter 167, for the damage
16 or injury which was sustained. When restitution or reparation is a condition of
17 the sentence, the Court, in accordance with 13 V.S.A. § 7043, shall fix the
18 amount thereof, which shall not exceed an amount the defendant can or will be
19 able to pay, and shall fix the manner of performance.

20 (7) Pay a fine authorized in accordance with law.

1 (8) Refrain from purchasing or possessing a firearm or ammunition
2 therefor, destructive device or other dangerous weapon unless granted written
3 permission by the Court or probation officer.

4 (9) Report to a probation officer at reasonable times as directed by the
5 Court or the probation officer.

6 (10) Permit the probation officer to visit the offender at reasonable times
7 at his or her home or ~~elsewhere~~ at a mutually convenient time with permission
8 from the offender at his or her workplace.

9 (11) Remain within the jurisdiction of the Court, unless granted
10 permission to leave by the Court or the probation officer.

11 (12) Answer all reasonable inquiries by the probation officer and
12 promptly notify the probation officer of any change in address or employment.

13 (13) Not in any way harass the victim or the family of the victim.

14 (14) Not contact the victim, unless this condition is specifically waived
15 by the victim.

16 (15) Participate in the Restorative Justice Program conducted by a
17 community reparative board, pursuant to chapter 12 of this title. The Court
18 may direct a reparative board to assist in determining restitution to the victim,
19 as provided by subdivision (6) of this subsection.

1 (16) Submit to periodic polygraph testing if the offender is being placed
2 on probation for a sex offense that requires registration pursuant to 13 V.S.A.
3 chapter 167, subchapter 3.

4 (17) If the probation officer has reasonable grounds to believe the
5 offender has violated a probation condition, permit a probation officer or
6 designee to monitor or examine the offender's activities, communications, and
7 use of any computer or other digital or electronic media, including cell phone,
8 smartphone, digital camera, digital video camera, digital music player or
9 recorder, digital video player or recorder, personal digital assistant, portable
10 electronic storage device, gaming system, or any other contemporary device
11 capable of the storage of digital electronic communication or data storage or
12 access to the Internet or other computer or digital network.

13 (18) Satisfy any other conditions reasonably related to his or her
14 rehabilitation. ~~Such conditions may include prohibiting the use of alcohol,~~
15 ~~prohibiting having contact with minors, prohibiting or limiting the use of a~~
16 ~~computer or other electronic devices, and permitting a probation officer access~~
17 ~~to all computers or other digital or electronic media, mail covers, subscription~~
18 ~~services, and credit card statements.~~ The Court shall not impose a condition
19 prohibiting the offender from engaging in any legal behavior unless the
20 condition is reasonably substantially related to the offender's rehabilitation or
21 necessary to reduce risk to public safety, or the safety of a victim or witness.

1 (c) When an offender is placed on probation, he or she shall be given a
2 certificate explicitly setting forth the conditions upon which he or she is being
3 released.

4 (d) The Commissioner shall review the record of each probationer serving
5 a specified term during the month prior to the midpoint of that probationer's
6 specified term and may file a motion requesting the sentencing court to dismiss
7 the probationer from probation or deduct a portion of the specified term from
8 the period of probation if the offender has successfully completed a program or
9 has attained a goal or goals specified by the conditions of probation. The
10 Commissioner may include in the motion a request that the Court deduct a
11 portion of the specified term for each condition completed or goal attained.
12 Any motion under this section shall be made pursuant to a rule adopted by the
13 Commissioner under 3 V.S.A. chapter 25 which shall provide that the decision
14 to make or refrain from making a motion shall be made at the sole discretion of
15 the Commissioner and shall not be subject to appeal.

16 Sec. 7. 28 V.S.A. § 301(4) is amended to read:

17 (4) Detention pending hearing for probationer. Pending arraignment for
18 any charge of violation, the probationer shall continue to be detained at a
19 correctional facility. Thereafter, the Court may release the probationer
20 pursuant to 13 V.S.A. § 7554. There shall be no right to bail or release, unless
21 the person is on probation for a nonviolent misdemeanor or nonviolent felony

1 and the probation violation did not constitute a new crime. ~~As used in this~~
2 ~~subdivision:~~

3 ~~(A) "Nonviolent felony" means a felony offense which is not a listed~~
4 ~~crime as defined in 13 V.S.A. § 5301(7) or an offense involving sexual~~
5 ~~exploitation of children in violation of 13 V.S.A. chapter 64.~~

6 ~~(B) "Nonviolent misdemeanor" means a misdemeanor offense which~~
7 ~~is not a listed crime as defined in 13 V.S.A. § 5301(7) or an offense involving~~
8 ~~sexual exploitation of children in violation of 13 V.S.A. chapter 64 or~~
9 ~~13 V.S.A. § 1030.~~

10 Sec. 8. 28 V.S.A. § 501 is amended to read:

11 § 501. ELIGIBILITY FOR PAROLE CONSIDERATION

12 An inmate who is serving a sentence of imprisonment shall be eligible for
13 parole consideration as follows:

14 (1) If the inmate's sentence has no minimum term or a zero minimum
15 term, the inmate shall be eligible for parole consideration within 12 months
16 after commitment to a correctional facility.

17 (2) If the inmate's sentence has a minimum term, the inmate shall be
18 eligible for parole consideration after the inmate has served the minimum term
19 of the sentence.

1 (3) If the inmate has a serious medical condition that requires regular
2 hospital visits and the inmate is designated low-risk, the inmate shall be
3 eligible for parole.

4 (4) If the inmate is over 65 years of age and is designated low-risk, the
5 inmate shall be eligible for parole.

6 (5) If the inmate was less than 18 years of age at the time of the offense
7 or offenses and the inmate has served 15 years, the inmate shall be eligible for
8 parole if the inmate does not otherwise qualify for parole earlier.

9 Sec. 9. 28 V.S.A. § 502b is amended to read:

10 § 502b. TERMS AND CONDITIONS OF PAROLE

11 (a) When an inmate is paroled, the Parole Board shall establish terms and
12 conditions of parole that it deems reasonably necessary to ensure that the
13 inmate will lead a law-abiding life and that will assist the inmate to do so.
14 Such terms and conditions shall be set forth in the parolee's parole agreement.
15 Terms and conditions of parole shall be designed to protect the victim,
16 potential victims, and the public, and to reduce the risk of reoffense. ~~Such~~
17 ~~conditions may include prohibiting the use of alcohol; prohibiting having~~
18 ~~contact with minors; prohibiting or limiting the use of a computer or other~~
19 ~~electronic devices; permitting a probation officer access to all computers or~~
20 ~~other digital or electronic media, mail covers, subscription services, and credit~~
21 ~~card statements; and if a probation officer has reasonable grounds to believe~~

1 ~~the offender has violated a parole condition, permitting a probation officer to~~
2 ~~monitor or examine the offender's activities, communications, and use of any~~
3 ~~computer or other digital or electronic device, including cell phone,~~
4 ~~smartphone, digital camera, digital video camera, digital music player or~~
5 ~~recorder, digital video player or recorder, personal digital assistant, portable~~
6 ~~electronic storage device, gaming system, or any other contemporary device~~
7 ~~capable of the storage of digital electronic communication or data storage or~~
8 ~~access to the Internet or other computer or digital network. The Board shall~~
9 ~~not impose a condition prohibiting the parolee from engaging in any legal~~
10 ~~behavior unless the condition is substantially related to reducing risk to the~~
11 ~~safety of a victim or witness.~~

12 (b) The Parole Board may require a parolee as a condition of parole to
13 participate, as a resident or nonresident, in programs at a treatment center for
14 all or part of the period of parole, provided that the Commissioner certifies that
15 adequate treatment facilities, personnel, and programs are available. If the
16 Commissioner determines that the person's residence in the center or
17 participation in its programs, or both, should be terminated because the person
18 can derive no further significant benefits from such residence or participation,
19 or both, or because his or her residence or participation adversely affects the
20 rehabilitation of other residents or participants, he or she shall so notify the

1 ~~Board of parole~~ Parole Board, which shall thereupon make such other
2 provision with respect to the person as it deems appropriate.

3 (c) A person residing in and participating in programs at a treatment center
4 shall abide by the rules and regulations of the center and may be required to
5 pay such costs incident to residents as the Commissioner deems appropriate.

6 Sec. 10. 28 V.S.A. § 551 is amended to read:

7 § 551. ISSUANCE OF WARRANT; ARREST WITHOUT A WARRANT;
8 CONFINEMENT PENDING HEARING; AUTHORITY OF
9 CORRECTIONAL OFFICERS AND LAW ENFORCEMENT
10 OFFICERS

11 (a) Parole ~~board~~ Board warrant. The ~~board~~ Board may issue a warrant for
12 the arrest of a parolee, or may issue an order, to be served personally upon the
13 parolee, requiring him or her to appear before the ~~board~~ Board, if the ~~board~~
14 Board has reason to believe that a violation of parole has occurred. The
15 warrant shall authorize any law enforcement officers and any correctional
16 officers to return the person to the custody of a correctional facility.

17 (b) Fugitive from justice. A parolee for whose return a warrant has been
18 issued by the ~~board~~ Board, if it is found that a warrant cannot be served, shall
19 be considered to be a fugitive from justice or to have fled from justice.

20 (c) Arrest of person on parole. Any correctional officer designated by the
21 ~~commissioner~~ Commissioner may arrest a parolee without a warrant if, in the

1 judgment of the correctional officer, the person has violated a condition of his
2 or her parole; or may deputize any other law enforcement officer to do so by
3 giving him or her a written statement setting forth that the parolee has, in the
4 judgment of the correctional officer, violated a condition or conditions of his or
5 her parole. The written statement delivered with the person by the arresting
6 officer to the supervising officer of the correctional facility to which the person
7 is brought for detention shall be sufficient warrant for detaining him or her.

8 (d) No right of action. Any parolee arrested and detained in accordance
9 with the provisions of this chapter shall have no right of action against any law
10 enforcement officer, correctional officer, employee of the ~~department of~~
11 ~~corrections~~ Department of Corrections, or any other persons because of such
12 arrest and detention.

13 (e) Detention pending hearing for parolee. Pending a hearing on the merits
14 upon any charge of violation, the parolee shall continue to be detained at a
15 correctional facility. The ~~parole board~~ Parole Board may authorize the
16 parolee's release from detention in accordance with the procedures set forth in
17 ~~section 13 V.S.A. § 7554 of Title 13.~~ As used in this
18 section, judicial officer, as defined in section 13 V.S.A. § 7554(f) of Title 13,
19 shall include the ~~chair~~ Chair of the ~~parole board~~, Parole Board or his or her
20 designee. There shall be no right to bail or release if the alleged violation is a
21 new crime.

1 Sec. 11. 28 V.S.A. § 552 is amended to read:

2 § 552. NOTIFICATION OF BOARD; HEARING

3 (a) Upon the arrest and detention of a parolee, the parole officer shall notify
4 the ~~board~~ Board immediately and shall submit in writing a report describing
5 the alleged violation of a condition or conditions of the inmate's parole.

6 (b) Upon receipt of the notification, or upon an arrest by warrant in
7 accordance with the provisions of section 551 of this title, the ~~board~~ Board
8 shall cause the inmate together with a parole officer to be brought before it
9 promptly for a hearing regarding the alleged violation. Parole officers may be
10 represented by legal counsel, which shall be provided by the appropriate ~~state's~~
11 ~~attorney~~ State's Attorney or the ~~attorney general~~ Attorney General upon
12 request, at hearings of the ~~parole board~~ Board.

13 (1) The hearing shall be conducted in accordance with such rules and
14 regulations as the ~~board~~ Board may adopt.

15 (2) If the alleged violation is a crime and is established by ~~substantial~~
16 clear and convincing evidence, the ~~board~~ Board may continue or revoke the
17 parole, or enter such other order as it determines to be necessary or desirable.
18 If the alleged violation is not a crime and is established by clear and
19 convincing evidence, the Board may amend existing conditions, establish new
20 conditions, and sanction the parolee in accordance with rules adopted by
21 the Board.

1 (c) In the event of the withdrawal of any warrant by the authority of the
2 ~~board~~ Board, or in the event that the board at the hearing on the alleged
3 violation finds that the parolee did not violate any condition of his or her
4 parole, or the law, the parolee shall be credited with any time lost by the
5 interruption of the running of his or her sentence.

6 Sec. 12. 28 V.S.A. § 808 is amended to read:

7 § 808. FURLOUGHS GRANTED TO OFFENDERS

8 (a) The Department may extend the limits of the place of confinement of an
9 offender at any correctional facility if the offender agrees to comply with such
10 conditions of supervision the Department, in its sole discretion, deems
11 appropriate for that offender's furlough. The Department may authorize
12 furlough for any of the following reasons:

13 (1) To visit a critically ill relative.

14 (2) To attend the funeral of a relative.

15 (3) To obtain medical services.

16 (4) To contact prospective employers.

17 (5) To secure a suitable residence for use upon discharge.

18 (6) To continue the process of reintegration initiated in a correctional
19 facility. The offender may be placed in a program of conditional reentry status
20 by the Department upon the offender's completion of the minimum term of
21 sentence. While on conditional reentry status, the offender shall be required to

1 participate in programs and activities that hold the offender accountable to
2 victims and the community pursuant to section 2a of this title.

3 (b) An offender granted a furlough pursuant to this section may be
4 accompanied by an employee of the Department, in the discretion of the
5 Commissioner, during the period of the offender's furlough. The Department
6 may use electronic monitoring equipment such as global position monitoring,
7 automated voice recognition telephone equipment, and transdermal alcohol
8 monitoring equipment to enable more effective or efficient supervision of
9 individuals placed on furlough.

10 (c) The extension of the limits of the place of confinement authorized by
11 this section shall in no way be interpreted as a probation or parole of the
12 offender, but shall constitute solely a permitted extension of the limits of the
13 place of confinement for offenders committed to the custody of the
14 Commissioner.

15 (d) When any enforcement officer, as defined in 23 V.S.A. § 4, employee
16 of the Department, or correctional officer responsible for supervising an
17 offender believes the offender is in violation of any verbal or written condition
18 of the furlough, the officer or employee may immediately lodge the offender at
19 a correctional facility or orally or in writing deputize any law enforcement
20 officer or agency to arrest and lodge the offender at such a facility. The officer
21 or employee shall subsequently document the reason for taking such action.

1 When imposing furlough conditions on an offender that restrict or prohibit the
2 offender from engaging in otherwise legal behavior, the Department shall
3 impose the least restrictive conditions necessary to ensure public safety.

4 (e) The Commissioner may place on medical furlough any offender who is
5 serving a sentence, including an offender who has not yet served the minimum
6 term of the sentence, who is diagnosed with a terminal or debilitating condition
7 so as to render the offender unlikely to be physically capable of presenting a
8 danger to society. The Commissioner shall develop a policy regarding the
9 application for, standards for eligibility of, and supervision of persons on
10 medical furlough. The offender may be released to a hospital, hospice, other
11 licensed inpatient facility, or other housing accommodation deemed suitable by
12 the Commissioner.

13 (f) While appropriate community housing is an important consideration in
14 release of offenders, the Department of Corrections shall not use lack of
15 housing as the sole factor in denying furlough to offenders who have served at
16 least their minimum sentence for a nonviolent misdemeanor or nonviolent
17 felony provided that ~~public safety and the best interests of the offender will be~~
18 ~~served by~~ victim or witness safety is not at risk by the offender's reentering the
19 community on furlough.

20 (g) Subsections (b)–(f) of this section shall also apply to sections 808a and
21 808c of this title.

1 Sec. 13. FURLOUGH REPORT

2 On or before November 15, 2015, the Department of Corrections shall
3 report to the Joint Legislative Corrections Committee on strategies to improve
4 successful completion of furlough and ways to reduce furlough violations
5 based on otherwise legal behavior.

6 * * * Juvenile Proceedings * * *

7 Sec. 14. 33 V.S.A. § 5103 is amended to read:

8 § 5103. JURISDICTION

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

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

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

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

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

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

13 (D) As used in this subdivision, "nonviolent misdemeanor" means a
14 misdemeanor offense which is not a listed crime as defined in 13 V.S.A.
15 § 5301(7), an offense involving sexual exploitation of children in violation of
16 13 V.S.A. chapter 64, or an offense involving violation of a protection order in
17 violation of 13 V.S.A. § 1030.

18 (d) The Court may terminate its jurisdiction over a child prior to the child's
19 18th birthday by order of the Court. If the child is not subject to another
20 juvenile proceeding, jurisdiction shall terminate automatically in the following
21 circumstances:

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

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

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

7 Sec. 15. 33 V.S.A. § 5203 is amended to read:

8 § 5203. TRANSFER FROM OTHER COURTS

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

15 (b) If it appears to a Criminal Division of the Superior Court that the
16 defendant was over ~~the age of~~ 16 years of age and under ~~the age of~~ 18 years of
17 age at the time the offense charged was alleged to have been committed, or that
18 the defendant had attained ~~the age of~~ 14 years of age but not ~~the age of~~
19 16 years of age at the time an offense specified in subsection 5204(a) of this
20 title was alleged to have been committed, that Court may forthwith transfer the
21 proceeding to the Family Division of the Superior Court under the authority of

1 this chapter, and the minor shall thereupon be considered to be subject to this
2 chapter as a child charged with a delinquent act.

3 (c)(1) ~~If~~ Except as provided in subdivision (2) of this subsection, if it
4 appears to the State's Attorney that the defendant was over ~~the age of 16 years~~
5 of age and under ~~the age of 18 years of age~~ at the time the offense charged was
6 alleged to have been committed and the offense charged is not an offense
7 specified in subsection 5204(a) of this title, the State's Attorney may file
8 charges in the Family or Criminal Division of the Superior Court. Possession
9 of a regulated drug under 18 V.S.A. chapter 84 ~~of Title 18~~ shall be filed in the
10 Family Division and shall not be transferred. If charges in such a matter are
11 filed in the Criminal Division of the Superior Court, the Criminal Division of
12 the Superior Court may forthwith transfer the proceeding to the Family
13 Division of the Superior Court under the authority of this chapter, and the
14 person shall thereupon be considered to be subject to this chapter as a child
15 charged with a delinquent act.

16 (2) If the defendant was under 18 years of age at the time the offense
17 charged was alleged to have been committed and the offense charged is
18 possession of a regulated drug in violation of 18 V.S.A. chapter 84, the State's
19 Attorney shall file charges in the Family Division of the Superior Court and the
20 proceeding shall not be transferred to the Criminal Division.

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

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

14 Sec. 16. 33 V.S.A. § 5317 is amended to read:

15 § 5317. DISPOSITION HEARING

16 (a) ~~Timeline~~ Time line. A disposition hearing shall be held no later than 35
17 days after a finding that a child is in need of care and supervision.

18 (b) Hearing procedure. If disposition is contested, all parties shall have the
19 right to present evidence and examine witnesses. Hearsay may be admitted
20 and may be relied on to the extent of its probative value. If reports are

1 admitted, the parties shall be afforded an opportunity to examine those making
2 the reports, but sources of confidential information need not be disclosed.

3 (c) Standard of proof. If the Court terminates the parental rights of one or
4 both parents, the standard of proof on the issue of termination shall be clear
5 and convincing evidence. On all other issues, the standard of proof shall be a
6 preponderance of the evidence.

7 (d) Termination of parental rights. If the Commissioner or the attorney for
8 the child seeks an order at disposition terminating the parental rights of one or
9 both parents and transfer of legal custody to the Commissioner without
10 limitation as to adoption, the Court shall consider the best interests of the child
11 in accordance with section 5114 of this title. A parent's incarceration or
12 substance abuse shall not serve as the sole basis for terminating that parent's
13 parental rights.

14 (e) Further hearing. On its own motion or on the motion of a party, the
15 Court may schedule a further hearing to obtain reports or other information
16 necessary for the appropriate disposition of the case. The Court shall make an
17 appropriate order for the temporary care of the child pending a final disposition
18 order. The Court shall give scheduling priority to cases in which the child has
19 been removed from home.

1 * * * Larceny and Embezzlement * * *

2 Sec. 17. 13 V.S.A. § 2001 is amended to read:

3 § 2001. FALSE PERSONATION

4 A person who falsely personates or represents another, and in such assumed
5 character receives money or other property intended to be delivered to the
6 party so personated, with intent to convert the same to the person's own use,
7 shall be:

8 (1) imprisoned not more than two years or fined not more than
9 \$1,000.00, or both, if the money or other property received is valued at
10 \$3,000.00 or less; or

11 (2) imprisoned not more than 10 years or fined not more than \$2,000.00,
12 or both, if the money or other property received exceeds \$3,000.00 in value.

13 Sec. 18. 13 V.S.A. § 2002 is amended to read:

14 § 2002. FALSE PRETENSES OR TOKENS

15 A person who designedly by false pretenses or by privy or false token and
16 with intent to defraud, obtains from another person money or other property, or
17 a release or discharge of a debt or obligation, or the signature of a person to a
18 written instrument, the false making whereof would be punishable as forgery,
19 shall be imprisoned not more than 10 years or fined not more than \$2,000.00,
20 or both, if the money or property so obtained exceeds ~~\$900.00~~ \$3,000.00 in
21 value. A person who violates this section shall be imprisoned for not more

1 than one year or fined not more than \$1,000.00, or both, if the money or
2 property obtained in violation of this section is valued at ~~\$900.00~~ \$3,000.00
3 or less.

4 Sec. 19. 13 V.S.A. § 2501 is amended to read:

5 § 2501. GRAND LARCENY

6 A person who steals from the actual or constructive possession of another,
7 other than from his or her person, money, goods, chattels, bank notes, bonds,
8 promissory notes, bills of exchange or other bills, orders, or certificates, or a
9 book of accounts for or concerning money, or goods due or to become due or
10 to be delivered, or a deed or writing containing a conveyance of land, or any
11 other valuable contract in force, or a receipt, release or defeasance, writ,
12 process, or public record, shall be imprisoned not more than 10 years or fined
13 not more than \$5,000.00, or both, if the money or other property stolen exceeds
14 ~~\$900.00~~ \$3,000.00 in value.

15 Sec. 20. 13 V.S.A. § 2502 is amended to read:

16 § 2502. PETIT LARCENY

17 For offenses mentioned in section 2501 of this title where the money or
18 other property stolen does not exceed ~~\$900.00~~ \$3,000.00 in value, the Court
19 may sentence the person convicted to imprisonment for not more than one year
20 or to pay a fine of not more than \$1,000.00, or both.

1 Sec. 21. 13V.S.A. § 2531 is amended to read:

2 § 2531. EMBEZZLEMENT GENERALLY

3 (a) An officer, agent, bailee for hire, clerk or servant of a banking
4 association or an incorporated company, or a clerk, agent, bailee for hire,
5 officer or servant of a private person, partnership, trades union, joint stock
6 company, unincorporated association, fraternal or benevolent association,
7 except apprentices and other persons under ~~the age of~~ 16 years of age, who
8 embezzles or fraudulently converts to his or her own use, or takes or secretes
9 with intent to embezzle or fraudulently convert to his or her own use, money or
10 other property ~~which~~ that comes into his or her possession or is under his or
11 her care by virtue of such employment, notwithstanding he or she may have an
12 interest in such money or property, shall be guilty of embezzlement.

13 (b) If the money or property embezzled does not exceed ~~\$100.00~~ \$500.00
14 in value, the person shall be imprisoned not more than one year or fined not
15 more than \$1,000.00, or both. If the money or property embezzled exceeds
16 ~~\$100.00~~ \$500.00 in value, the person shall be imprisoned not more than
17 10 years or fined not more than \$10,000.00, or both.

1 Sec. 22. 13 V.S.A. § 2577 is amended to read:

2 § 2577. PENALTY

3 (a) A person convicted of the offense of retail theft of merchandise having
4 a retail value not in excess of ~~\$900.00~~ \$3,000.00 shall be punished by a fine of
5 not more than \$500.00 or imprisonment for not more than six months, or both.

6 (b) A person convicted of the offense of retail theft of merchandise having
7 a retail value in excess of ~~\$900.00~~ \$3,000.00 shall be punished by a fine of not
8 more than \$1,000.00 or imprisonment for not more than 10 years, or both.

9 * * *

10 Sec. 23. 13 V.S.A. § 2582 is amended to read:

11 § 2582. THEFT OF SERVICES

12 (a) A person who purposely obtains services which he or she knows are
13 available only for compensation, by deception or threat, or by false token or
14 other means to avoid payment for the service shall if the services exceed
15 ~~\$900.00~~ \$3,000.00 in value be imprisoned for not more than 10 years or fined
16 not more than \$5,000.00, or both. Otherwise, a person who violates a
17 provision of this subsection shall be imprisoned for not more than one year or
18 fined not more than \$1,000.00, or both. Where compensation for service is
19 ordinarily paid immediately upon the rendering of such service, as in the case
20 of hotels, restaurants, and transportation, refusal to pay or absconding without

1 payment or offer to pay gives rise to a rebuttable presumption that the service
2 was obtained by deception as to intention to pay.

3 (b) A person who, having control over the disposition of services of others,
4 to which he or she is not entitled, knowingly diverts such services to the
5 person's own benefit or to the benefit of another not entitled thereto shall if the
6 services exceed ~~\$900.00~~ \$3,000.00 in value be imprisoned for not more than
7 10 years or fined not more than \$5,000.00, or both. Otherwise a person who
8 violates a provision of this subsection shall be imprisoned for not more than
9 one year or fined not more than \$1,000.00, or both.

10 Sec. 24. 13 V.S.A. § 2591 is amended to read:

11 § 2591. THEFT OF RENTED PROPERTY

12 (a) A person who converts to his or her own use any personal property,
13 other than a motor vehicle leased or rented pursuant to a written agreement
14 which has been entrusted to the person under an agreement in writing which
15 provides for the delivery of that personal property to a particular person or
16 place or at a particular time, abandons it, or refuses or neglects to deliver it to
17 the person or place and at the time specified in the written agreement, or who
18 destroys, secretes, appropriates, converts, sells, or attempts to sell all or any
19 part of it, or who removes or permits or causes it to be removed from this ~~state~~
20 State, without the consent of its owner, shall be:

1 (1) if the value of the property involved is ~~\$900.00~~ \$3,000.00 or less,
2 imprisoned not more than six months or fined not more than \$500.00, or both;

3 (2) if the property involved exceeds ~~\$900.00~~ \$3,000.00 in value:

4 (A) imprisoned for not more than two years or fined not more than
5 \$1,000.00, or both; or

6 (B) imprisoned for not more than five years or fined not more than
7 \$5,000.00 if the person has been previously convicted of a violation of this
8 subdivision (a)(2) of this section.

9 * * *

10 * * * Drug Use * * *

11 Sec. 25. REPORT CONCERNING PERSONAL USE AMOUNTS

12 The General Assembly supports a move toward a noncriminal public health
13 approach to low-level possession and use of illicit drugs in Vermont. To
14 further the work of the General Assembly in amending laws to reflect this
15 approach, the Commissioner of Health shall convene a working group
16 comprising health care professionals knowledgeable in the field of substance
17 abuse for the purpose of making recommendations to the General Assembly
18 regarding the quantities of drugs that constitute personal use. The
19 Commissioner shall report the working group's findings on or before
20 December 15, 2015.

1

* * * Effective Date * * *

2

Sec. 26. EFFECTIVE DATE

3

This act shall take effect on July 1, 2015.