

Senate Calendar

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ACTION CALENDAR

CONSIDERATION POSTPONED UNTIL MARCH 26, 2015

Second Reading

Favorable with Recommendation of Amendment

S. 29.

An act relating to election day registration.

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

(For text of report of the Committee on Government Operations, see Senate Calendar for March 18, 2015 page 340)

S. 62.

An act relating to surrogate decision making for do-not-resuscitate orders and clinician orders for life-sustaining treatment.

PENDING QUESTION: Shall the bill be amended as recommended by the Committee on Health and Welfare?

(For text of recommendation of amendment see Senate Journal for March 19, 2015, page 259)

UNFINISHED BUSINESS OF THURSDAY, MARCH 19, 2015

Committee Bills for Second Reading

S. 137.

An act relating to penalties for selling and dispensing marijuana.

By the Committee on Judiciary. (Senator Sears for the Committee.)

S. 141.

An act relating to possession of firearms.

By the Committee on Judiciary. (Senator Sears for the Committee.)

Amendment to S. 141 to be offered by Senators Sears, Benning, Nitka, and White

Senators Sears, Benning, Nitka, and White move to amend the bill as follows:

First: By striking out Sec. 4 in its entirety and inserting in lieu thereof a new Sec. 4 to read as follows:

Sec. 4. 13 V.S.A. § 4824 is added to read:

§ 4824. REPORTING; NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM

(a) If the Court finds that a person is a person in need of treatment pursuant to section 4822 of this title, the Court Administrator shall within 48 hours report the name of the person subject to the order to the National Instant Criminal Background Check System, established by Section 103 of the Brady Handgun Violence Prevention Act of 1993. The report shall include only information sufficient to identify the person, the reason for the report, and a statement that the report is made in accordance with 18 U.S.C. § 922(g)(4).

(b) A report required by this section shall be submitted notwithstanding 18 V.S.A. § 7103 or any other provision of law.

(c) A report required by this section is confidential and exempt from public inspection and copying under the Public Records Act except as provided in subsection (d) of this section. The report shall not be used for any purpose other than for submission to the National Instant Criminal Background Check System pursuant to this section, where it may be used for any purpose permitted by federal law, including in connection with the issuance of a firearm-related permit or license.

(d) A copy of the report required by this section shall be provided to the person who is the subject of the report. The report shall include written notice to the person who is the subject of the report that the person is not thereafter permitted to possess a firearm.

Second: By striking out Sec. 6 in its entirety and inserting in lieu thereof a new Sec. 6 to read as follows:

Sec. 6. 18 V.S.A. § 7617a is added to read:

§ 7617a. REPORTING; NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM

(a) If the Court issues a hospitalization order pursuant to subdivision 7617(b)(1) or (2) of this title or a nonhospitalization order pursuant to subdivision 7617(b)(3), the Court Administrator shall within 48 hours report

the name of the person subject to the order to the National Instant Criminal Background Check System, established by Section 103 of the Brady Handgun Violence Prevention Act of 1993. The report shall include only information sufficient to identify the person, the reason for the report, and a statement that the report is made in accordance with 18 U.S.C. § 922(g)(4).

(b) A report required by this section shall be submitted notwithstanding 7103 of this title or any other provision of law.

(c) A report required by this section is confidential and exempt from public inspection and copying under the Public Records Act except as provided in subsection (d) of this section. The report shall not be used for any purpose other than for submission to the National Instant Criminal Background Check System pursuant to this section, where it may be used for any purpose permitted by federal law, including in connection with the issuance of a firearm-related permit or license.

(d) A copy of the report required by this section shall be provided to the person who is the subject of the report. The report shall include written notice to the person who is the subject of the report that the person is not thereafter permitted to possess a firearm.

Third: By striking out Sec. 7 in its entirety and inserting in lieu thereof a new Sec. 7 to read as follows:

Sec. 7. 13 V.S.A. § 4825 is added to read:

§ 4825. PERSONS PROHIBITED BY FEDERAL LAW FROM
POSSESSING FIREARMS DUE TO MENTAL ILLNESS;
PETITION FOR RELIEF FROM DISABILITY

(a) A person who is prohibited from possessing firearms by 18 U.S.C. § 922(g)(4) may petition the Court for an order that the person be relieved from the firearms disability imposed by that section. The petitioner shall provide notice of the petition to the State's Attorney or the Attorney General, who shall be the respondent in the matter.

(b) In determining a petition filed under this section, the Court shall consider:

(1) the circumstances regarding the firearms disabilities imposed on the person by 18 U.S.C. § 922(g)(4);

(2) the petitioner's record, including his or her mental health and criminal history records; and

(3) the petitioner's reputation, as demonstrated by character witness statements, testimony, or other character evidence.

(c)(1) The Court shall grant a petition filed under this section if it finds that the petitioner has demonstrated by a preponderance of the evidence that:

(A) at least 18 months have elapsed since the date that the person was last in the custody of the Department of Mental Health; and

(B) the person is no longer a person in need of treatment as defined in 18 V.S.A. § 7101(17).

(2) As the terms are used in this subsection, a finding that the person is no longer a person in need of treatment shall also mean that granting the relief will not be contrary to the public interest.

(d) If a petition filed under this section is granted, the Court shall enter an order declaring that the basis under which the person was prohibited from possessing firearms by 18 U.S.C. § 922(g)(4) no longer applies. The Court shall inform the Federal Bureau of Investigation, the U.S. Attorney General, and the National Instant Criminal Background Check System of its decision.

(e) If the Court denies the petition, the petitioner may appeal the denial to the Vermont Supreme Court. The appeal shall be on the record, and the Supreme Court may review the record de novo.

(f) If the Court denies a petition filed under this section, no further petition shall be filed by the person until at least one year after the order of the trial court, or of the Supreme Court if an appeal is taken, becomes final.

(g) At the time a petition is filed pursuant to this chapter, the respondent shall give notice of the petition to any victim of the offense who is known to the respondent. The victim shall have the right to offer the respondent a statement prior to any stipulation or to offer the Court a statement. The disposition of the petition shall not be unnecessarily delayed pending receipt of a victim's statement. The respondent's inability to locate a victim after a reasonable effort has been made shall not be a bar to granting a petition.

(h) As used in this section, "reasonable effort" means attempting to contact the victim by first class mail at the victim's last known address and by telephone at the victim's last known telephone number.

Fourth: By striking out Sec. 8 in its entirety and inserting in lieu thereof a new Sec. 8 to read as follows:

Sec. 8. REPORTING; DEPARTMENT OF MENTAL HEALTH; COURT ADMINISTRATOR

(a) The Department of Mental Health shall report to the Court Administrator on or before October 1, 2015 the names of all persons under the custody of the Department who on that date are subject to a hospitalization

order issued pursuant to 18 V.S.A. § 7617(b)(1) or (2), a nonhospitalization order issued pursuant to 18 V.S.A. § 7617(b)(3), or an order that a person is a person in need of treatment pursuant to 13 V.S.A. § 4822. The Court Administrator shall report the names provided pursuant to this section to the National Instant Criminal Background Check System, established by Section 103 of the Brady Handgun Violence Prevention Act of 1993. The report shall include only information sufficient to identify the person, the reason for the report, and a statement that the report is made in accordance with 18 U.S.C. § 922(g)(4).

(b) Reports required by this section shall be submitted notwithstanding 18 V.S.A. § 7103 or any other provision of law.

(c) A report required by this section is confidential and exempt from public inspection and copying under the Public Records Act except as provided in subsection (d) of this section. The report shall not be used for any purpose other than for submission to the National Instant Criminal Background Check System pursuant to this section, where it may be used for any purpose permitted by federal law, including in connection with the issuance of a firearm-related permit or license.

(d) A copy of the report required by this section shall be provided to the person who is the subject of the report. The report shall include written notice to the person who is the subject of the report that the person is not thereafter permitted to possess a firearm.

NEW BUSINESS

Third Reading

S. 58.

An act relating to requiring that the Defender General receive the same early retirement benefit as a State's Attorney.

Second Reading

Favorable

J.R.H. 5.

Joint resolution urging the Federal Communications Commission to adopt the new net neutrality rules as Commission Chair Thomas Wheeler has proposed.

Reported favorably by Senator Cummings for the Committee on Economic Development, Housing & General Affairs.

(Committee vote: 3-0-2)

(For House amendments, see House Journal of February 27, 2015, page 264)

Favorable with Recommendation of Amendment

S. 18.

An act relating to privacy protection.

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

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

Sec. 1. SPECIAL COMMITTEE ON PRIVACY IN VERMONT

(a) Creation. There is created a Special Committee on Privacy in Vermont to study issues related to the privacy of Vermonters.

(b) Membership, consulting.

(1) The Committee shall be composed of the following members:

(A) the Chair of the Senate Committee on Judiciary;

(B) the Chair of the House Committee on Judiciary;

(C) four current members of the Senate, who shall be members of the Senate Committee on Judiciary, appointed by the Committee on Committees;

(D) four current members of the House of Representatives, who shall be members of the House Committee on Judiciary, appointed by the Speaker of the House.

(2) The Committee shall consult with:

(A) The Attorney General.

(B) The American Civil Liberties Union of Vermont.

(C) The Department of State's Attorneys and Sheriffs.

(D) The Vermont Bankers Association.

(E) The Department of Financial Regulation.

(F) The Defender General.

(G) The Agency of Commerce and Community Development.

(H) The Vermont Retail and Grocers Association.

(I) Any other party whom the Committee determines would be of assistance.

(c) Duties. The Committee shall evaluate privacy issues affecting Vermonters in the areas of commerce, law enforcement, and health care, and

shall examine the manner in which the laws of this State can be improved to enhance the privacy of Vermonters. The Committee shall consider:

(1) the use of drones by public agencies and private commercial entities;

(2) how commercial enterprises collect and use data about consumers;

(3) appropriate access to personal medical records;

(4) the ability of a criminal defendant to access data from any law enforcement data set that would assist his or her defense;

(5) the collection of customer and user data by companies providing electronic communication services;

(6) the appropriate retention period for data collected by automated license plate readers, and who should be able to access the data; and

(7) any other issues related to privacy identified by the Committee.

(d) Staffing. The Committee shall have the assistance of all relevant State agencies, the Office of the Legislative Council, and the Joint Fiscal Office.

(e) Meetings.

(1) The Chairs of the Senate and House Committees on Judiciary shall serve as co-chairs of the Committee.

(2)(A) A majority of members of the Committee shall be physically present at the same location to constitute a quorum.

(B) A member may vote only if physically present at the meeting location.

(C) The Committee may take action only if there is both a quorum and a majority vote of all members of the Committee.

(3) The Committee may meet up to six times, at least one of which shall be a public hearing, and shall cease to exist on January 1, 2016.

(f) Report. The Committee shall report any proposed legislation to the House and Senate Committees on Judiciary on or before December 15, 2015.

(g) Reimbursement. For attendance at meetings during adjournment of the General Assembly, members of the Committee shall be entitled to compensation and reimbursement for expenses as provided in 2 V.S.A. § 406.

Sec. 2. 2013 Acts and Resolves No. 69, Sec. 3 is amended to read:

Sec. 3. EFFECTIVE DATE AND SUNSET

(a) This act shall take effect on July 1, 2013.

(b) Secs. 1–2 of this act, 23 V.S.A. §§ 1607 and 1608, shall be repealed on July 1, ~~2015~~ 2016.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

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

The Committee recommends that the bill be amended as recommended by the Committee on Judiciary with the following amendment thereto:

By striking out Sec. 1 in its entirety.

And by renumbering the remaining sections to be numerically correct.

(Committee vote: 7-0-0)

S. 60.

An act relating to payment for medical examinations for victims of sexual assault.

Reported favorably with recommendation of amendment by Senator McCormack for the Committee on Health & Welfare.

The Committee recommends that the bill be amended as follows:

First: In Sec. 1, 8 V.S.A. § 4089, by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) A health insurer shall not impose any co-payment or coinsurance or, to the extent permitted under federal law, deductible or other cost-sharing requirement for the sexual assault examination of a victim of alleged sexual assault for health care services associated with specific procedure codes identified in a memorandum of understanding between the health insurer and the Vermont Center for Crime Victim Services.

Second: In Sec. 4, confidentiality; memorandum of understanding, by striking out the introductory paragraph in its entirety and inserting in lieu thereof the following:

On or before August 1, 2015, the Department of Vermont Health Access, the three private insurers with the greatest number of covered lives in this State, and the Vermont Center for Crime Victim Services shall enter into a memorandum of understanding to ensure that:

Third: By striking out Sec. 5, effective date, in its entirety and inserting in lieu thereof a new Sec. 5 to read as follows:

Sec. 5. EFFECTIVE DATES

(a) Secs. 1 (insurance coverage for victims of sexual assault) and 3 (costs borne by the State) shall take effect on October 1, 2015, except that the Victims' Compensation Fund shall reimburse health care facilities and health care providers at 60 percent of billed charges beginning on the date of passage of this act.

(b) Secs. 2 (health care services for uninsured crime victims) and 4 (confidentiality; memorandum of understanding) and this section shall take effect on passage.

(Committee vote: 5-0-0)

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

The Committee recommends that the bill be amended as recommended by the Committee on Health and Welfare and that the bill be further amended in Sec. 3, 32 V.S.A. § 1407, by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b) The State shall bear the costs of forensic medical and psychological examinations administered to victims of crime committed in this State, in instances where that examination is requested by a law enforcement officer or a prosecuting authority of the State or any of its subdivisions and the victim does not have health coverage or the victim's health coverage does not cover the entire cost of the examination. The State shall also bear the costs of ~~medical examinations~~ sexual assault examinations, as defined in 8 V.S.A. § 4089, administered to victims in cases of alleged sexual assault where the victim obtains such an examination prior to receiving such a request if the victim does not have health coverage or the victim's health coverage does not cover the entire cost of the examination. If, as a result of a sexual assault examination, the alleged victim has been referred for mental health counseling, the State shall bear ~~the any~~ any costs of such examination not covered by the victim's health coverage. These costs may be paid from the Victims' Compensation Fund from funds appropriated for that purpose.

(Committee vote: 7-0-0)

NOTICE CALENDAR
Committee Bills for Second Reading
Favorable with Recommendation of Amendment
S. 138.

An act relating to promoting economic development.

By the Committee on Economic Development, Housing and General Affairs.

Reported favorably with recommendation of amendment by Senator Snelling for the Committee on Natural Resources & Energy.

The Committee recommends that the bill be amended as follows:

First: By striking out Secs. 30–34 in their entirety and inserting in lieu thereof new Secs. 30–37 to read as follows:

Sec. 30. [Deleted.]

Sec. 31. [Deleted.]

Sec. 32. [Deleted.]

Sec. 33. ACT 250; IMPLEMENTATION OF SETTLEMENT PATTERNS CRITERION

(a) The General Assembly finds that:

(1) 2014 Acts and Resolves No. 147, Sec. 2 amended 10 V.S.A. § 6086(a)(9)(L) (Criterion 9L) to become a settlement patterns criterion.

(2) Effective on October 17, 2014, the Board adopted a procedure to implement Criterion 9L (the Criterion 9L Procedure).

(b) The General Assembly determines that additional opportunity for public comment on the Criterion 9L Procedure, as well as additional education and improved guidance, would be beneficial in implementing the criterion.

(1) The Board shall review the Criterion 9L Procedure in full collaboration with ACCD and ANR.

(A) Prior to proposing any revisions, the Board shall solicit input from affected parties and the public, including planners, developers, municipalities, environmental advocacy organizations, regional planning commissions, regional development corporations, and business advocacy organizations such as State and regional chambers of commerce.

(B) If the Board makes revisions, it shall adopt them in the form of a procedure under 3 V.S.A. chapter 25.

(2) ACCD shall work with the NRB and ANR to develop outreach material on Criterion 9L, including illustrative examples of appropriate development design, and implement a training plan on the criterion for local elected officials, municipal boards, State and regional organizations and associations, environmental groups, consultants, and developers.

Sec. 34. [Deleted.]

Sec. 35. 24 V.S.A. § 4471(e) is amended to read:

(e) ~~Vermont neighborhood~~ Neighborhood development area. Notwithstanding subsection (a) of this section, a determination by an appropriate municipal panel shall not be subject to appeal if the determination is that a proposed residential development within a designated downtown development district, designated growth center, ~~or~~ designated Vermont neighborhood, or designated neighborhood development area seeking conditional use approval will not result in an undue adverse effect on the character of the area affected, ~~as provided in~~ under subdivision 4414(3)(A)(ii) of this title.

Sec. 36. 10 V.S.A. § 6086(a)(9)(B) is amended to read:

(B) Primary agricultural soils. A permit will be granted for the development or subdivision of primary agricultural soils only when it is demonstrated by the applicant that, in addition to all other applicable criteria, either, the subdivision or development will not result in any reduction in the agricultural potential of the primary agricultural soils; or:

(i) the development or subdivision will not significantly interfere with or jeopardize the continuation of agriculture or forestry on adjoining lands or reduce their agricultural or forestry potential; ~~and~~

(ii) except in the case of an application for a project located in a designated ~~growth center~~ area listed in subdivision 6093(a)(1) of this title, there are no lands other than primary agricultural soils owned or controlled by the applicant which are reasonably suited to the purpose of the development or subdivision; ~~and~~

(iii) except in the case of an application for a project located in a designated ~~growth center~~ area listed in subdivision 6093(a)(1) of this title, the subdivision or development has been planned to minimize the reduction of agricultural potential of the primary agricultural soils through innovative land use design resulting in compact development patterns, so that the remaining primary agricultural soils on the project tract are capable of supporting or contributing to an economic or commercial agricultural operation; and

(iv) suitable mitigation will be provided for any reduction in the agricultural potential of the primary agricultural soils caused by the development or subdivision, in accordance with section 6093 of this title and rules adopted by the Natural Resources Board.

Sec. 37. 10 V.S.A. § 6310 is added to read:

§ 6310. CONSERVATION EASEMENT HOLDER; NONMERGER

If a holder of a conservation easement is or becomes the owner in fee simple of property subject to the easement, the easement shall continue in effect and shall not be extinguished.

Second: After Sec. 37, by striking out “Sec. 35–39. [Reserved]” and inserting in lieu thereof the following: Secs. 38–39. [Reserved]

(Committee vote: 4-0-1)

S. 139.

An act relating to pharmacy benefit managers, hospital observation status, and chemicals of high concern to children.

By the Committee on Health and Welfare.

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

The Committee recommends that the bill be amended by striking out Sec. 5 (Prospective Payment for Home Health Services), Sec. 6 (Health Care Oversight Committee), Sec. 7 (Mental Health Oversight Committee), Sec. 8 (Long-Term Care Evaluation Task Force), and Sec. 13 (Appropriation) in their entirety and renumbering the remaining sections of the bill to be numerically correct.

(Committee vote: 7-0-0)

Second Reading

S. 42.

An act relating to the substance abuse system of care.

Reported favorably with recommendation of amendment by Senator Lyons for the Committee on Health & Welfare.

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

Sec. 1. 16 V.S.A. § 909(a) is amended to read:

(a) The Secretary, in conjunction with the ~~Alcohol and Drug Substance Abuse Advisory Council~~, and where appropriate, with the Division of ~~Health Promotion~~ Alcohol and Drug Abuse Programs, shall develop a sequential alcohol and drug abuse prevention education curriculum for elementary and secondary schools. The curriculum shall include teaching about the effects and legal consequences of the possession and use of tobacco products.

Sec. 2. 18 V.S.A. chapter 94 is redesignated to read:

~~CHAPTER 94. DIVISION OF ALCOHOL AND DRUG ABUSE PROGRAMS~~ SUBSTANCE ABUSE PREVENTION AND CARE

Sec. 3. 18 V.S.A. chapter 94, subchapters 1, 2, 3, and 4 are added to read:

Subchapter 1. System of Care

§ 4811. PRINCIPLES

The General Assembly adopts the following principles pertaining to substance abuse prevention, intervention, treatment, and recovery services:

(1) Substance abuse and substance use disorders are health problems, and shall therefore be addressed using a public health approach. A public health approach emphasizes prevention and wellness for the entire population, not only those individuals with an illness or disease.

(2) The State of Vermont's substance abuse system of care shall be patient-centered and trauma-informed. It shall reflect effectiveness, ease of access, evidence-based practices, cultural competency, and the highest standards of care.

(3) A coordinated continuum of substance abuse prevention, intervention, treatment, and recovery services shall be provided throughout the State, including by the Agency of Human Services, hospitals, approved providers, preferred providers, alcohol and drug abuse counselors, regardless of whether or not the counselor is affiliated with an approved provider or preferred provider, and community and peer partners to ensure that services are available to individuals at all stages of substance misuse and substance use disorders. All providers within the continuum shall move towards the goal of providing services based on current research on addiction, medicine, clinical treatment, and evidence-based best practices.

(4) Programs addressing substance abuse prevention, intervention, treatment, or recovery shall be data driven and responsive to changes in demonstrated need, service delivery practices, and funding resources.

(5) Determinations as to the appropriate level of care shall be made in accordance with evidence-based guidelines. Consideration shall also be given to the age appropriateness of services.

(6) To the extent possible, the delivery of substance abuse services shall be integrated into Vermont's health care system and across the Agency of Human Services.

(7) Patients and providers shall share responsibility for treatment outcomes.

(8) The delivery of substance abuse services shall be consistent throughout the State in terms of both access to care and the type of services offered.

(9) Recognizing the ongoing challenges and potential for relapse among individuals with a substance use disorder, services addressing both episodic and chronic substance use disorders shall be accessible throughout the State.

(10) The Commissioners of Health and of Vermont Health Access shall ensure that oversight and accountability are built into all aspects of the system of care for substance abuse services, including for alcohol and drug abuse counselors, regardless of whether or not the counselor is affiliated with an approved provider or preferred provider.

§ 4812. DEFINITIONS

As used in this chapter:

(1) "Alcohol and drug abuse counselor" means the same as in 26 V.S.A. chapter 62.

(2) "Approved provider" means a substance abuse organization that has attained a certificate of operation from the Department of Health's Division of Alcohol and Drug Abuse Programs, but does not currently have an existing contract or grant from the Division to provide substance abuse treatment.

(3) "Client" means a person who receives treatment services from an approved provider, preferred provider, or alcohol and drug abuse counselor.

(4) "Continuum of care" means an optimal mix of interventions to address substance abuse and substance use disorders.

(5) "Cultural competence" means a set of behaviors, attitudes, and policies that are culturally and linguistically appropriate to the needs of the population served.

(6) "Designated agency" means the same as in section 7252 of this title.

(7) “Incapacitated” means that a person, as a result of his or her use of alcohol or other drugs, is in a state of intoxication or of mental confusion resulting from withdrawal such that the person:

(A) appears to need medical care or supervision by an approved provider to ensure his or her safety; or

(B) appears to present a direct active or passive threat to the safety of others.

(8) “Intervention” means processes and programs used to identify and act on early signs of substance abuse before it becomes a lifelong problem, including prevention screenings and brief, early interventions and referrals.

(9) “Intoxicated” means a condition in which the mental or physical functioning of an individual is substantially impaired as a result of the presence of alcohol or other drugs in his or her system.

(10) “Law enforcement officer” means a law enforcement officer certified by the Vermont Criminal Justice Training Council as provided in 20 V.S.A. §§ 2355–2358 or appointed by the Commissioner of Public Safety as provided in 20 V.S.A. § 1911.

(11) “Licensed hospital” means a hospital licensed under chapter 43 of this title.

(12) “Person-centered care” means a service delivery mode that gives an individual a primary decision making role in directing his or her care, including having control over his or her own plan and service delivery decisions.

(13) “Preferred provider” means any substance abuse organization that has attained a certificate of operation from the Department of Health’s Division of Alcohol and Drug Abuse Programs and has an existing contract or grant from the Division to provide substance abuse treatment.

(14) “Prevention” means the promotion of healthy lifestyles that reduce substance abuse and substance use disorder prior to the onset of a disorder.

(15) “Protective custody” means a civil status in which an incapacitated person is detained by a law enforcement officer for the purposes of:

(A) ensuring the safety of the individual or the public, or both; and

(B) assisting the individual to return to a functional condition.

(16) “Recovery” means a process of change in which an individual with a substance use disorder improves his or her health and wellness, lives in a self-directed manner, and strives to reach his or her full potential.

(17) “Secretary” means the Secretary of Human Services or the Secretary’s designee.

(18) “Substance abuse” means a range of harmful or hazardous behaviors such as underage use of alcohol, excessive drinking, use of alcohol during pregnancy, prescription drug misuse, and use of illicit drugs.

(19) “Substance use disorder” means the recurrent use of alcohol, drugs, or both that causes a clinically and functionally significant impairment consistent with the definition in the Diagnostic and Statistical Manual (DSM-5) or its successor.

(20) “System of care” means the continuum of substance abuse prevention, intervention, treatment, and recovery services offered consistently throughout geographically diverse regions of the State.

(21) “Trauma-informed care” means the provision of services that identify the impact of trauma and pathways for recovery; recognize the signs and symptoms of trauma; respond by fully-integrating knowledge about trauma into policies, procedures, and practices; and seek to actively avoid retraumatization.

(22) “Treatment” means the broad range of services including withdrawal management, outpatient, intensive outpatient, residential, and recovery services that are needed by persons with a substance use disorder and may include a variety of other medical, social, vocational, and educational supports and services, including care management, aftercare, and follow-up services relevant to the recovery of these persons.

(23) “Withdrawal management” means the planned withdrawal of an individual from a state of acute or chronic intoxication consistent with the definition in the Diagnostic and Statistical Manual (DSM-5) or its successor.

§ 4813. DIVISION OF ALCOHOL AND DRUG ABUSE PROGRAMS

(a) The Division of Alcohol and Drug Abuse Programs shall plan, operate, and evaluate a consistent, effective, and comprehensive continuum of substance abuse programs. These programs shall coordinate care with Vermont’s health, mental health, and human services systems. All duties, responsibilities, and authority of the Division shall be carried out and exercised by and within the Department of Health.

(b) Under the direction of the Commissioner of Health, the Deputy Commissioner of Alcohol and Drug Abuse Programs shall review, approve, and coordinate all alcohol and drug programs developed or administered by any State agency or department, except for alcohol and drug education

programs developed by the Agency of Education in conjunction with the Substance Abuse Advisory Council pursuant to 16 V.S.A. § 909.

(c)(1) Any federal or private funds received by the State for purposes of alcohol and drug programs shall be in the budget of and administered by the Agency of Human Services. This subdivision shall not apply to the programs of the Department of Corrections.

(2) To the extent possible, funds shall be used in a manner that creates a comprehensive and coordinated network of services throughout the State.

(d) The Division of Alcohol and Drug Abuse Programs shall be responsible for the direct oversight and delivery of the programs administered by the Secretary pursuant to subdivision (c)(1) of this section. It shall also be authorized to inspect and monitor these programs and services to ensure quality of care and compliance with State and national standards.

(e) With regard to alcohol and drug treatment, the Commissioner of Health may contract with the Secretary of State for the provision of adjudicative services of one or more administrative law officers and other investigative, legal, and administrative services related to licensure and discipline of alcohol and drug abuse counselors.

§ 4814. AUTHORITY AND ACCOUNTABILITY FOR SUBSTANCE ABUSE SERVICES; RULES FOR ACCEPTANCE INTO TREATMENT

(a) The Secretary shall have the authority and accountability for providing or arranging for the provision of a comprehensive system of substance abuse prevention, intervention, treatment, and recovery services.

(b) The Secretary shall adopt rules and standards pursuant to 3 V.S.A. chapter 25 for the implementation of the provisions of this chapter. In establishing rules regarding the administration and adherence to substance abuse treatment program standards, the Secretary shall adhere to the following guidelines:

(1) A client shall be initially assessed and assigned to the appropriate level of care using evidence-based tools.

(2) A person shall not be denied treatment solely because he or she has withdrawn from treatment against medical advice on a prior occasion or because he or she has relapsed after earlier treatment.

(3) An individualized treatment plan shall be prepared and maintained on a current basis for each client.

(4) Provision shall be made for a continuum of coordinated treatment and recovery services, so that a person who leaves a program or a form of treatment shall have other appropriate services available.

§ 4815. SYSTEM OF CARE

(a) The Commissioner of Health shall coordinate and supervise a continuum of geographically diverse substance abuse services throughout the State that shall include at least the following:

(1) prevention programming and services, including initiatives to deter substance use among youths;

(2) early intervention, including Screening, Brief Intervention, Referral to Treatment (SBIRT) in health care and human services settings;

(3) treatment, including medication-assisted treatment, outpatient services supervised by a licensed alcohol and drug abuse counselor regardless of whether the counselor is affiliated with an approved provider or preferred provider, and inpatient and residential services;

(4) recovery support services;

(5) transitional housing;

(6) coordination of complex care between health, mental health; and

(7) licensure of alcohol and drug abuse counselors pursuant to 26 V.S.A. § 3235.

(b) The Commissioners of Health, of Mental Health, and of Vermont Health Access, in consultation with the Substance Abuse Advisory Council, Green Mountain Care Board, preferred providers, and other community partners, shall develop and implement a plan aimed at creating a cohesive substance abuse system of care in Vermont. The plan shall foster a unified provider network in which providers are reimbursed for comprehensive services that are responsive to patient needs. The plan shall:

(1) balance the delivery of episodic and chronic treatment services;

(2) ensure the coordination of care and payment;

(3) enable treatment based on the American Society of Addiction Medicine's definition of medical necessity and established levels of care;

(4) make case management services available to chronically lapsing patients to ensure consistency in treatment and recovery over time; and

(5) incorporate any payment reform recommendations offered by the Green Mountain Care Board.

§ 4816. REPORTING REQUIREMENTS

The Department of Health, in consultation with the Departments of Mental Health and of Vermont Health Access, shall report annually on or before January 15 to the Senate Committee on Health and Welfare and to the House Committee on Human Services on the following:

(1) adequacy of system capacity, including the utilization and timeliness of services across the continuum of care;

(2) system performance and client outcomes, based on:

(A) national research-based measure sets;

(B) clinical best practices;

(C) measures established by the Department of Health that reflect the priorities in its strategic plan;

(D) program objectives and performance measures consistent with those established pursuant to 2014 Acts and Resolves No. 179, § E.306.2(a)(1); and

(E) any other measures reported on the Department of Health's performance dashboard;

(3) gaps in services or quality of care; and

(4) projection of future needs within the State's substance abuse system of care.

Subchapter 2. Abuse of Alcohol

§ 4821. DECLARATION OF POLICY

(a) It is the policy of the State of Vermont that persons who abuse alcohol are correctly perceived as persons with health and social problems rather than as persons committing criminal transgressions against the welfare and morals of the public.

(b) The General Assembly therefore declares that:

(1) persons who abuse alcohol shall no longer be subjected to criminal prosecution solely because of their consumption of alcoholic beverages or other behavior related to consumption which is not directly injurious to the welfare or property of the public; and

(2) persons who abuse alcohol shall be treated as persons who are sick and shall be provided adequate and appropriate medical and other humane rehabilitative services congruent with their needs.

Subchapter 3. Substance Abuse Advisory Council

§ 4831. SUBSTANCE ABUSE ADVISORY COUNCIL

(a) Creation. There is created a substance abuse advisory council to foster coordination and integration of substance abuse services across the substance abuse system of care.

(b) Membership. The Council shall be composed of the following 19 members:

(1) the Chair of the Senate Committee on Health and Welfare or designee;

(2) the Chair of the House Committee on Human Services or designee;

(3) the Secretary of Human Services or designee;

(4) the Secretary of Education or designee;

(5) the Deputy Commissioner of the Department of Health's Division of Alcohol and Drug Abuse Programs;

(6) the Commissioner of Mental Health or designee;

(7) the Commissioner of Vermont Health Access or designee;

(8) the Director of the Blueprint or designee;

(9) a representative of an approved provider or preferred provider that shall also be a designated agency;

(10) a representative of an approved provider or preferred provider that provides residential treatment services;

(11) two licensed alcohol and drug abuse counselors serving different regions of the State, appointed by the Governor;

(12) a physician in private practice with expertise treating substance use disorders, appointed by the Governor;

(13) a representative of hospitals, appointed by the Vermont Association of Hospitals and Health Systems;

(14) a representative of the criminal justice community, appointed by the Governor;

(15) an educator involved in substance abuse prevention services, appointed by the Governor;

(16) a youth substance abuse prevention specialist, appointed by the Governor;

(17) a community prevention coalition member, appointed by the Governor; and

(18) a member of the peer community involved in recovery services, appointed by the Governor.

(c) Report. Annually on or before November 15, the Council shall submit a written report to the House Committee on Human Services and to the Senate Committee on Health and Welfare with its findings and any recommendations for legislative action.

(d) Meetings.

(1) The Secretary of Human Services shall call the first meeting of the Council to occur on or before August 1, 2015.

(2) The Council shall select a chair and vice chair from among its members at the first meeting.

(3) A majority of the membership shall constitute a quorum.

(e) Reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, legislative members of the Council shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for no more than four meetings annually.

(2) Members of the Council who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for no more than four meetings annually.

§ 4832. ADMINISTRATIVE SUPPORT

The Agency of Human Services shall provide the Council with such administrative support as is necessary for it to accomplish the purposes of this chapter.

§ 4833. POWERS AND DUTIES

The Council shall:

(1) assess substance abuse services and service delivery in the State, including the following:

(A) the effectiveness of existing substance abuse services in Vermont and opportunities for improved treatment; and

(B) strategies for enhancing the coordination and integration of substance abuse services across the system of care;

(2) provide recommendations to the Department of Health as it develops a plan for the substance abuse system of care pursuant to subsection 4815(b) of this title, including regarding the integration of substance abuse services with health care reform initiatives, such as value-based payment methodologies;

(3) provide recommendations to the General Assembly and Agency of Human Services regarding the improvement of statutes and rules governing the substance abuse system of care; and

(4) provide recommendations to the General Assembly regarding State policy and programs for individuals experiencing public inebriation.

Subchapter 4. Law Enforcement and Incarceration

§ 4841. TREATMENT AND SERVICES

(a) When a law enforcement officer encounters a person who, in the judgment of the officer, is intoxicated as defined in section 4812 of this title, the officer may assist the person, if he or she consents, to his or her home, to an approved provider, a preferred provider, or to some other mutually agreeable location.

(b) When a law enforcement officer encounters a person who, in the judgment of the officer, is incapacitated as defined in section 4812 of this title, the person shall be taken into protective custody by the officer. The officer shall transport the incapacitated person directly to an approved provider or preferred provider with withdrawal management capabilities, or to the emergency room of a licensed general hospital for treatment, except that if an alcohol and drug abuse counselor exists in the vicinity and is available, the person may be released to the counselor at any location mutually agreeable between the officer and the counselor. The period of protective custody shall end when the person is released to an alcohol and drug abuse counselor, a clinical staff person of an approved provider or preferred provider with withdrawal management capabilities, or a professional medical staff person at a licensed general hospital emergency room. The person may be released to his or her own devices if, at any time, the officer judges him or her to be no longer incapacitated. Protective custody shall in no event exceed 24 hours.

(c) If an incapacitated person is taken to an approved provider or preferred provider with withdrawal management capabilities and the program is at capacity, the person shall be taken to the nearest licensed general hospital emergency room for treatment.

(d) A person judged by a law enforcement officer to be incapacitated, and who has not been charged with a crime, may be lodged in protective custody in a secure facility not operated by the Department of Corrections for up to 24 hours or until judged by the person in charge of the facility to be no longer incapacitated, if and only if:

(1) the person refuses to be transported to an appropriate facility for treatment or, if once there, refuses treatment or leaves the facility before he or she is considered by the responsible staff of that facility to be no longer incapacitated; or

(2) no approved provider or preferred provider with withdrawal management capabilities and no staff physician or other medical professional at the nearest licensed general hospital can be found who will accept the person for treatment.

(e) A person shall not be lodged in a secure facility under subsection (d) of this section without first being evaluated and found to be indeed incapacitated by an alcohol and drug abuse counselor, a clinical staff person of an approved provider or preferred provider with withdrawal management capabilities, or a professional medical staff person at a licensed general hospital emergency room.

(f) Except for a facility operated by the Department of Corrections, a lockup facility shall not refuse to admit an incapacitated person in protective custody whose admission is requested by a law enforcement officer, in compliance with the conditions of this section.

(g) Notwithstanding subsection (d) of this section, a person under 18 years of age who is judged by a law enforcement officer to be incapacitated and who has not been charged with a crime shall not be held at a lockup facility or community correctional center. If needed treatment is not readily available, the person shall be released to his or her parent or guardian. If the person has no parent or guardian in the area, arrangements shall be made to house him or her according to the provisions of 33 V.S.A. chapter 53. The official in charge of an adult jail or lockup facility shall notify the Deputy Commissioner of Alcohol and Drug Abuse Programs of any person under 18 years of age brought to an adult jail or lockup facility pursuant to this chapter.

(h) If an incapacitated person in protective custody is lodged in a secure facility, his or her family or next of kin shall be notified as promptly as possible. If the person is an adult and requests that there be no notification, his or her request shall be respected.

(i) A taking into protective custody under this section is not an arrest.

(j) Law enforcement officers, persons responsible for supervision in a secure facility, and alcohol and drug abuse counselors who act under the authority of this section are acting in the course of their official duty and are not criminally or civilly liable therefor, unless for gross negligence or willful or wanton injury.

§ 4842. INCARCERATION FOR INEBRIATION PROHIBITED

A person who has not been charged with a crime shall not be incarcerated in a facility operated by the Department of Corrections on account of the person's inebriation.

Sec. 4. RULEMAKING; SYSTEM OF CARE PLAN

(a) On or before January 15, 2016, the Commissioners of Health, of Mental Health, and of Vermont Health Access shall present the plan developed pursuant to 18 V.S.A. § 4816(b) to the Senate Committee on Health and Welfare and to the House Committee on Human Services. The Commissioners shall update the Committees on their respective Departments' strategies for implementing the plan.

(b) No sooner than July 1, 2016, the Commissioner of Health shall adopt into rule the plan developed pursuant to 18 V.S.A. § 4816(b). The rule shall address the movement of people throughout the substance abuse system of care based on medical necessity. The rule shall also develop a list of outcome measures that must be present in contracts between the Departments of Health, Mental Health, or Vermont Health Access and preferred providers for all substance abuse related services.

Sec. 5. REPORT; SUBSTANCE ABUSE PREVENTION IN SCHOOLS

On or before January 15, 2016, the Secretary of Education shall report to the Senate Committee on Health and Welfare and to the House Committee on Human Services regarding:

(1) the status of the comprehensive health education program as it pertains to substance abuse;

(2) all other Agency initiatives aimed at preventing or treating substance abuse among students; and

(3) the most effective evidence-based practices pertaining to substance abuse in schools.

Sec. 6. REPORT; SERVICES FOR MENTAL HEALTH, SUBSTANCE ABUSE, AND CO-OCCURRING DISORDERS

(a) On or before January 15, 2016, the Blueprint for Health, in consultation with the Department of Mental Health, the Department of Health's Division of

Alcohol and Drug Abuse Programs, and stakeholders, shall survey and report on those services provided to individuals with a mental health, substance abuse, or co-occurring disorder by designated agencies, approved providers, preferred providers, federally qualified health centers, and the Blueprint for Health's community health teams. The report shall:

(1) catalogue services for individuals with mental health, substance abuse, and co-occurring disorders to identify where, if any, gaps in services or overlapping services exist;

(2) identify collaboration models, including the benefits and challenges of each, and any recommendations for the development of a related framework or training program;

(3) propose any structural changes necessary to foster a collaborative relationship between the designated agencies, approved providers, preferred providers, federally qualified health centers, and community health teams;

(4) survey and consolidate information on which federally qualified health centers and designated agencies are using behavior change models, and which model is used by each; and

(5) survey the relative pay scales of providers employed by the designated agencies, approved providers, preferred providers, federally qualified health centers, and community health teams by provider type and county.

(b) The Blueprint for Health may consolidate the filing of this report with any other similar report requested by the General Assembly. Where the filing dates of the consolidated reports are inconsistent, they shall be filed in accordance with the earliest filing date.

Sec. 7. REPEAL

(a) 18 V.S.A. §§ 4801–4807 (Division of Alcohol and Drug Abuse Programs) are repealed on July 1, 2015.

(b) 18 V.S.A. § 4808 (treatment and services) and 18 V.S.A. § 4809 (incarceration for inebriation prohibited) are repealed on July 1, 2017.

(c) The annual reporting requirement on program objectives and performance measures established pursuant to 2014 Acts and Resolves No. 179, Sec. E.306.2(a)(2) is repealed on passage of this act.

Sec. 8. EFFECTIVE DATES

This act shall take effect on July 1, 2015, except 18 V.S.A. §§ 4841 (treatment and services) and 4842 (incarceration for inebriation prohibited) shall take effect on July 1, 2017.

(Committee vote: 5-0-0)

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

The Committee recommends that the bill be amended as recommended by the Committee on Health & Welfare with the following amendments thereto:

First: By striking out Sec. 1 in its entirety

Second: In Sec. 3, 18 V.S.A. § 4813, subsection (b), by striking out “Substance Abuse Advisory Council” and inserting in lieu thereof Alcohol and Drug Abuse Council

Third: In Sec. 3, 18 V.S.A. § 4815, subsection (b), in the first sentence, by striking out “Substance Abuse Advisory Council,”

Fourth: In Sec. 3, by striking out subchapter 3 in its entirety and inserting in lieu thereof the following:

Subchapter 3. Alcohol and Drug Abuse Council

§ 4831. ALCOHOL AND DRUG ABUSE COUNCIL; CREATION; TERMS; PER DIEM

(a) The Alcohol and Drug Abuse Council is established within the Agency of Human Services to promote the reduction of problems arising from alcohol and drug abuse by advising the Secretary on policy areas that can inform Agency programs.

(b) The Council shall consist of 11 members:

(1) The Secretary of Human Services, Commissioner of Public Safety, Secretary of Education, Commissioner of Liquor Control, and Commissioner of Motor Vehicles or their designees.

(2) One member shall be a member of a mental health or substance abuse agency who shall be appointed by the Governor.

(3) Five members shall be appointed by the Governor of which every consideration shall be given, if possible, to equal geographic apportionment. Consideration will be given for one of these members to be a certified practicing teacher and one of these members to be a school administrator.

(c) The term of office of members appointed pursuant to subdivisions (b)(2) and (3) of this section shall be three years.

(d) The Council membership shall annually elect a member to serve as chair.

(e) All members shall be voting members.

(f) At the expiration of the term of an appointed member or in the event of a vacancy during an unexpired term, the new member shall be appointed in the same manner as his or her predecessor. Members of the Council may be reappointed.

(g) Each member of the Council not otherwise receiving compensation from the State of Vermont or any political subdivision thereof shall be entitled to receive per diem compensation as provided in 32 V.S.A. § 1010(b). Each member shall be entitled to his or her actual and necessary expenses.

§ 4832. ADMINISTRATIVE SUPPORT

The Agency of Human Services shall provide the Council with such administrative support as is necessary for it to accomplish the purposes of this chapter.

§ 4833. DUTIES

The Council shall:

(1) advise the Governor as to the nature and extent of alcohol and drug abuse problems and the programs necessary to understand, prevent, and alleviate those problems;

(2) make recommendations to the Governor for developing a comprehensive and coordinated system for delivering effective programs, including any appropriate reassignment of responsibility for such programs;

(3) provide for coordination and communication among the regional alcohol and drug abuse councils, State agencies and departments, providers, consumers, consumer advocates, and interested citizens;

(4) jointly, with the State Board of Education, develop educational and preventive programs; and

(5) develop a five-year plan for effectively providing preventive, education, and treatment services to the Vermont public.

(Committee vote: 6-1-0)

S. 102.

An act relating to forfeiture of property associated with an animal fighting exhibition.

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

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

Sec. 1. 13 V.S.A. § 352 is amended to read:

§ 352. CRUELTY TO ANIMALS

A person commits the crime of cruelty to animals if the person:

* * *

(5)(A) owns, possesses, keeps, or trains an animal engaged in an exhibition of fighting, or possesses, keeps, or trains any animal with intent that it be engaged in an exhibition of fighting, or permits any such act to be done on premises under his or her charge or control; or

(B) owns, possesses, ships, transports, delivers, or keeps a device, equipment, or implement for the purpose of training or conditioning an animal for participation in animal fighting, or enhancing an animal's fighting capability.

* * *

Sec. 2. 13 V.S.A. § 364 is amended to read:

§ 364. ANIMAL FIGHTS

(a) A person who participates in a fighting exhibition of animals shall be in violation of subdivisions 352(5) and (6) of this title.

(b) ~~In~~ Notwithstanding any provision of law to the contrary, in addition to seizure of fighting birds or animals involved in a fighting exhibition, a law enforcement officer or humane officer may seize:

(1) any equipment associated with that activity;

(2) any other personal property which is used to engage in a violation or further a violation of subdivisions 352(5) and (6) of this title; and

(3) monies, securities, or other things of value furnished or intended to be furnished by a person to engage in or further a violation of subdivisions 352(5) and (6) of this title.

(c) In addition to the imposition of a penalty under this chapter, conviction under this section shall result in forfeiture of all seized fighting animals ~~and~~, equipment, and other property subject to seizure under this section. The animals may be destroyed humanely or otherwise disposed of as directed by the court.

(d) Property subject to forfeiture under this subsection may be seized upon process issued by the court having jurisdiction over the property. Seizure without process may be made:

(1) incident to a lawful arrest;

(2) pursuant to a search warrant; or

(3) if there is probable cause to believe that the property was used or is intended to be used in violation of this section.

(e) Forfeiture proceedings instituted pursuant to the provisions of this section for property other than animals are subject to the procedures and requirements for forfeiture as set forth in 18 V.S.A. chapter 84, subchapter 2.

Sec. 3. 18 V.S.A. § 4241 is amended to read:

§ 4241. SCOPE

(a) The following property shall be subject to this subchapter:

* * *

(7) Any property seized pursuant to 13 V.S.A. § 364.

~~(b) This subchapter shall not apply to any property used or intended for use in an offense involving two ounces or less of marijuana or in connection with hemp or hemp products as defined in 6 V.S.A. § 562. This subchapter shall apply to property for which forfeiture is sought in connection with:~~

(1) a violation under chapter 84, subchapter 1 of this title that carries by law a maximum penalty of ten years' incarceration or greater; or

(2) a violation of 13 V.S.A. § 364.

Sec. 4. 18 V.S.A. § 4242 is amended to read:

§ 4242. SEIZURE

* * *

(b) Any property subject to forfeiture under this subchapter may be seized upon process. Seizure without process may be made when:

(1) the seizure is incident to an arrest with probable cause or a search under a valid search warrant;

(2) the property subject to seizure has been the subject of a prior judgment in favor of the ~~state~~ State in a forfeiture proceeding under this subchapter; or

(3) the seizure is incident to a valid warrantless search.

(c) If property is seized without process under subdivision (b)(1) or (3) of this section, the ~~state~~ State shall forthwith petition the court for a preliminary order or process under subsection (a) of this section.

(d) ~~All~~ Notwithstanding subsection 4241(b) of this title, all regulated drugs the possession of which is prohibited under this chapter are contraband and shall be automatically forfeited to the state and destroyed.

Sec. 5. 18 V.S.A. § 4243 is amended to read:

§ 4243. ~~PETITION FOR~~ JUDICIAL FORFEITURE PROCEDURE

(a) ~~The State~~ Conviction required. An asset is subject to forfeiture by judicial determination under section 4241 of this title and 13 V.S.A. § 364 if:

(1) a person is convicted of the criminal offense related to the action for forfeiture; or

(2) a person is not charged with a criminal offense related to the action for forfeiture based in whole or in part on the person's agreement to provide information regarding the criminal activity of another person.

(b) Evidence. The State may introduce into evidence in the judicial forfeiture case the fact of a conviction in the Criminal Division or any agreement made under subdivision (a)(2) of this section.

(c) Burden of proof. The State bears the burden of proving by clear and convincing evidence that the property is an instrument of or represents the proceeds of the underlying offense.

(d) Notice. Within 60 days from when the seizure occurs, the State shall notify the any owners, possessors, and lienholders of the property of the action, if known or readily ascertainable. Upon motion by the State, a court may extend the time period for sending notice for a period not to exceed 90 days for good cause shown.

(e) Return of property. If notice is not sent in accordance with subsection (d) of this section, and no time extension is granted or the extension period has expired, the law enforcement agency shall return the property to the person from whom the property was seized. An agency's return of property due to lack of proper notice does not restrict the agency's authority to commence a forfeiture proceeding at a later time. Nothing in this subsection shall require the agency to return contraband, evidence, or other property that the person from whom the property was seized is not entitled to lawfully possess.

(f) Filing of petition. Except as provided in section 4243a of this title, the State shall file a petition for forfeiture of any property seized under section 4242 of this title promptly, but not more than 14 days from the date the preliminary order or process is issued. The petition shall be filed in the ~~superior court~~ Superior Court of the county in which the property is located or in any court with jurisdiction over a criminal proceeding related to the property.

~~(b)~~(g) Service of petition. A copy of the petition shall be ~~sent by certified mail to~~ served on all persons named in the petition as provided for in the Vermont Rules of Civil Procedure. In addition, the ~~state~~ State shall cause notice of the petition to be published in a newspaper of general circulation in the ~~state~~ State, as ordered by the court. The petition shall state:

(1) the facts upon which the forfeiture is requested, including a description of the property subject to forfeiture, and the type and quantity of regulated drug involved;

(2) the names of the apparent owner or owners, lienholders who have properly recorded their interests, and any other person appearing to have an interest; and, in the case of a conveyance, the name of the person holding title, the registered owner, and the make, model, and year of the conveyance.

Sec. 6. 18 V.S.A. § 4243a is added to read:

§ 4243a. ADMINISTRATIVE FORFEITURE PROCEDURE

(a) Scope. Forfeiture of property described in section 4241 of this title and in 13 V.S.A. § 364 that does not exceed \$25,000 in value may be administratively forfeited under this section.

(b) Notice. Within 60 days from seizure, all persons known to have an ownership, possessory, or security interest in seized property must be notified of the seizure and the intent to forfeit the property. Notice shall be served as provided for in the Vermont Rules of Civil Procedure. If there is reason to believe that notice may have an adverse result, a supervisory law enforcement official of the seizing agency may extend the period for sending notice for a period not to exceed 30 days. Upon motion to the Superior Court by the State, the Court may extend the period for sending notice for a period not to exceed 60 days.

(c) Content of notice. The notice shall contain:

(1) a description of the property;

(2) the date of the seizure; and

(3) notice of the right to obtain judicial review of the forfeiture and of the procedure for obtaining that judicial review.

(d) Return of property. If notice is not sent in accordance with subsection (b) of this section, and no time extension is granted or the extension period has expired, the law enforcement agency shall return the property to the person from whom the property was seized. An agency's return of property due to lack of proper notice does not restrict the agency's authority to commence a forfeiture proceeding at a later time. Nothing in this subsection shall require

the agency to return contraband, evidence or other property that the person from whom the property was seized is not entitled to lawfully possess.

(e) Claims.

(1) Any person claiming property seized under this section may file a claim with the Superior Court.

(2) A claim under this subsection must be filed within 60 days after notice is received.

(3) A claim shall:

(A) identify the specific property being claimed;

(B) state the claimant's interest in such property; and

(C) be made under oath.

Sec. 7. 18 V.S.A. § 4244 is amended to read:

§ 4244. FORFEITURE HEARING

(a) ~~The court~~ Within 60 days following service of notice of seizure and forfeiture under sections 4243 and 4243a of this title, a claimant may file a demand for judicial determination of the forfeiture. The demand must be in the form of a civil complaint accompanied by a sworn affidavit setting forth the facts upon which the claimant intends to rely, including, if relevant, the noncriminal source of the asset or currency at issue. The demand must be filed with the court administrator in the county in which the seizure occurred.

(b) Except as provided in section 4243a, the Court shall hold a hearing on the petition ~~no less than 14 nor more than 30 days after notice. For good cause shown, or on the court's own motion, the court may stay the forfeiture proceedings pending resolution of related criminal proceedings. If a person named in the petition is a defendant in a related criminal proceeding and the proceeding is dismissed or results in a judgment of acquittal, the petition shall be dismissed as to the defendant's interest in the property as soon as practicable after, and in any event no later than 90 days following, the conclusion of the criminal prosecution.~~

(~~b~~)(c) A lienholder who has received notice of a forfeiture proceeding may intervene as a party. If the ~~court~~ Court finds that the lienholder has a valid, good faith interest in the subject property which is not held through a straw purchase, trust or otherwise for the actual benefit of another and that the lienholder did not at any time have knowledge or reason to believe that the property was being or would be used in violation of the law, the ~~court~~ Court upon forfeiture shall order compensation to the lienholder to the extent of the lienholder's interest.

(d) The Court shall not order the forfeiture of property if an owner, co-owner, or person who regularly uses the property, other than the defendant, shows by a preponderance of the evidence that the owner, co-owner, or regular user did not consent to or have any express or implied knowledge that the property was being or was intended to be used in a manner that would subject the property to forfeiture, or that the owner, co-owner, or regular user had no reasonable opportunity or capacity to prevent the defendant from using the property.

~~(e)~~(e) The proceeding shall be against the property and shall be deemed civil in nature. The ~~state~~ State shall have the burden of proving all material facts by clear and convincing evidence.

~~(f)~~(f) The ~~court~~ Court shall make findings of fact and conclusions of law and shall issue a final order. If the petition is granted, the ~~court~~ Court shall order the property held for evidentiary purposes, delivered to the ~~state treasurer~~ State Treasurer, or, in the case of regulated drugs or property which is harmful to the public, destroyed.

Sec. 8. 18 V.S.A. § 4247 is amended to read:

§ 4247. DISPOSITION OF PROPERTY

(a) Whenever property is forfeited and delivered to the ~~state treasurer~~ State Treasurer under this subchapter, the ~~state treasurer~~ State Treasurer shall, no sooner than 90 days of the date the property is delivered, sell the property at a public sale held under 27 V.S.A. chapter 13.

(b) The proceeds from the sale of forfeited property shall first be used to offset any costs of selling the property, and then, after any liens on the property have been paid in full, applied to payment of seizure, storage, and forfeiture expenses. Remaining proceeds shall be distributed as follows:

(1)(A) Sixty percent shall be distributed among the:

(i) Judiciary;

(ii) Office of the Attorney General;

(iii) Office of the Defender General;

(iv) Department of State's Attorneys and Sheriffs; and

(v) State and local law enforcement agencies.

(B) The Governor's Criminal Justice and Substance Abuse Cabinet is authorized to determine the allocations among the groups listed in subdivision (A) of this subdivision (1), and may allocate proceeds to the prosecutor and law enforcement agency or agencies that participated in the enforcement effort

resulting in the forfeiture. The proceeds shall be held by the Treasurer until the Cabinet notifies the Treasurer of the allocation determinations, at which time the Treasurer shall forward the allocated amounts to the appropriate agency operating funds.

(1) The remaining 40 percent shall be deposited in the General Fund.

Sec. 9. ANIMAL CRUELTY RESPONSE TASK FORCE

(a) Creation. There is created a task force to evaluate the state of animal cruelty investigation and response in Vermont, including the resources devoted to animal investigation and response services and to recommend ways to consolidate, collaborate, or reorganize to use more effectively limited resources while improving the response to animal cruelty.

(b) Membership. The Task Force shall be composed of the following members:

(1) a representative from the Governor's office;

(2) a member of the Vermont State Police;

(3) a member of the VT Police Chiefs Association;

(4) a representative of the VT Animal Control Association;

(5) a Humane Officer from a VT humane society focusing on domestic animals;

(6) a Humane Officer of a VT humane society focusing on large animals (livestock);

(7) a representative of the Vermont Humane Federation;

(8) a representative of the Vermont Federation of Dog Clubs;

(9) the Executive Director of the Department of State's Attorneys and Sheriffs or designee;

(10) a representative of the Vermont Veterinary Medical Association;

(11) a representative of the Vermont Agency of Agriculture, Food and Markets;

(12) a representative of the VT Constables Association;

(13) a representative of the VT Town Clerks Association; and

(14) a representative of the Department for Children and Families.

(c) Powers and duties. The Task Force, in consultation with the Office of the Defender General, shall study and make recommendations concerning:

(1) training for humane agents, animal control officers, law enforcement officers, and prosecutors;

(2) the development of uniform response protocols for receiving, investigating, and following up on complaints of animal cruelty, including sentencing recommendations;

(3) the development of a centralized data collection system capable of sharing data collected from both the public and private sectors on animal cruelty complaints and outcomes;

(4) funding the various responsibilities that are involved with an animal cruelty investigation, including which State agencies should be responsible for any State level authority and oversight; and

(5) any other issue the Task Force determines is relevant to improve the efficiency, process, and results of animal cruelty response actions in Vermont.

(d) Report. On or before January 15, 2016, the Task Force shall report its findings and recommendations to the House and Senate Committees on Judiciary.

(e) Meetings and sunset.

(1) The representative from the Governor's office shall call the first meeting of the Task Force.

(2) The Task Force shall select a chair from among its members at the first meeting.

(3) The Task Force shall hold its first meeting no later than August 15, 2015.

(4) Meetings of the Task Force shall be public meetings.

(5) The Task Force shall cease to exist on January 16, 2016.

Sec. 10. EFFECTIVE DATE

This act shall take effect on July 1, 2015.

And that after passage the title of the bill be amended to read:

An act relating to forfeiture of property associated with animal fighting and certain regulated drug possession, sale, and trafficking violation.

(Committee vote: 5-0-0)

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

The Committee recommends that the bill be amended as recommended by the Committee on Judiciary with the following amendment thereto:

By striking out Sec. 8 in its entirety and inserting in lieu thereof the following:

Sec. 8. 18 V.S.A. § 4247 is amended to read:

§ 4247. DISPOSITION OF PROPERTY

(a) Whenever property is forfeited and delivered to the ~~state treasurer~~ State Treasurer under this subchapter, the ~~state treasurer~~ State Treasurer shall, no sooner than 90 days of the date the property is delivered, sell the property at a public sale held under 27 V.S.A. chapter 13.

(b) The proceeds from the sale of forfeited property shall first be used to offset any costs of selling the property, and then, after any liens on the property have been paid in full, applied to payment of seizure, storage, and forfeiture expenses. Remaining proceeds shall be distributed as follows:

(1)(A) Fifty percent shall be distributed among the:

(i) Office of the Attorney General;

(ii) Office of the Defender General;

(iii) Department of State's Attorneys and Sheriffs; and

(iv) State and local law enforcement agencies.

(B) The Governor's Criminal Justice and Substance Abuse Cabinet is authorized to determine the allocations among the groups listed in subdivision (A) of this subdivision (1), and may allocate proceeds to the prosecutor and law enforcement agency or agencies that participated in the enforcement effort resulting in the forfeiture. The proceeds shall be held by the Treasurer until the Cabinet notifies the Treasurer of the allocation determinations, at which time the Treasurer shall forward the allocated amounts to the appropriate agency operating funds.

(2) The remaining 50 percent shall be deposited in the General Fund.

(Committee vote: 6-0+1 abstention)

ORDERED TO LIE

S. 133.

An act relating to an employee's use of benefits.

PENDING ACTION: Second Reading

CONFIRMATIONS

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Service Board shall be fully and separately acted upon.

Robert Ide of Peacham – Commissioner, Department of Motor Vehicles – By Sen. Kitchel for the Committee on Transportation. (3/12/15)

Sue Minter of Waterbury Center – Secretary, Agency of Transportation – By Sen. Westman for the Committee on Transportation. (3/13/15)

Patricia Moulton of Montpelier – Secretary, Agency of Commerce and Community Development – By Sen. Balint for the Committee on Econ. Dev., Housing and General Affairs. (3/24/15)

Noelle MacKay of Shelburne – Commissioner, Department of Housing and Community Development – By Sen. Balint for the Committee on Econ. Dev., Housing and General Affairs. (3/24/15)

Annie Noonan of Montpelier – Commissioner, Department of Labor – Sen. Cummings for the Committee on Econ. Dev., Housing and General Affairs. (3/24/15)

Megan Smith of Mendon – Commissioner, Department of Tourism and Marketing – Sen. Mullin for the Committee on Econ. Dev., Housing and General Affairs. (3/24/15)

Andrew Pallito of Jericho – Commissioner, Department of Corrections – Sen. Mazza for the Committee on Institutions. (3/24/15)

Michael Obuchowski of Montpelier – Commissioner, Department of Buildings and General Services – Sen. Balint for the Committee on Institutions. (3/24/15)

Maribeth Spellman of Richmond – Commissioner, Department of Human Resources – Sen. Collamore for the Committee on Government Operations. (3/24/15)

Rebecca Holcombe of Norwich – Secretary of Education – Sen. Cummings for the Committee on Education. (3/24/15)

Harry Chen, M.D. of Burlington – Commissioner of Health – Sen. McCormack for the Committee on Health and Welfare. (3/25/15)

Steven Costantino of Providence, RI – Commissioner of the Department of Health Access – Sen. Pollina for the Committee on Health and Welfare. (3/25/15)

Kenneth Schatz of Burlington – Commissioner, Department for Children and Families – Sen. Pollina for the Committee on Health and Welfare. (3/25/15)

Susan Wehry of Burlington – Commissioner, Department of Disabilities, Aging and Independent Living – By Sen. Lyons for the Committee on Health and Welfare. (3/25/15)

Paul Dupre of Barre – Commissioner, Department of Mental Health – By Sen. Lyons for the Committee on Health and Welfare. (3/25/15)

William Hoser of Chester – Member of the Vermont Board of Medical Practice – By Sen. McCormack for the Committee on Health and Welfare. (3/13/15)

Sarah Flynn of Burlington – Member of the Community High School of Vermont Board – By Sen. Zuckerman for the Committee on Education. (3/13/15)

Churchill Hinds of Colchester – Member, Vermont State Colleges Board of Trustees – By Sen. Zuckerman for the Committee on Education. (3/13/15)

Michael Pieciak of Winooski – Member, Vermont State Colleges Board of Trustees – By Sen. Zuckerman for the Committee on Education. (3/13/15)

Patricia Boucher of Enosburg Falls – Member of the Parole Board – Sen. McAllister for the Committee on Institutions. (3/17/15)

Robert Greemore of Barre – Member of the State Labor Relations Board – Sen. Cummings for the Committee on Econ. Dev., Housing and General Affairs. (3/24/15)

Mary P. Miller of Waterbury – Member of the State Housing Authority – Sen. Cummings for the Committee on Econ. Dev., Housing and General Affairs. (3/24/15)

Mary Stephens of Forestdale – Alternate Member of the Parole Board – Sen. McAllister for the Committee on Institutions. (3/24/15)

Jessica Holmes of Cornwall – Member of the Green Mountain Care Board – Sen. Collamore for the Committee on Health and Welfare. (3/25/15)

PUBLIC HEARINGS

Tuesday, March 24, 2015 – Room 11 – 6:00 P.M. – 8:00 P.M. – Re: Renewable Energy Siting – Jt. Mtg. Senate and House Committees on Natural Resources and Energy.

REPORTS ON FILE

Reports 2015

Pursuant to the provisions of 2 V.S.A. §20(c), one (1) hard copy of the following report is on file in the office of the Secretary of the Senate. Effective January 2010, pursuant to Act No. 192, Adj. Sess. (2008) §5.005(g) some reports will automatically be sent by electronic copy only and can be found on the State of Vermont Legislative webpage.

1. Working Lands Enterprise Initiative Annual Report: Fiscal Year 2014. (Vermont Agency of Agriculture, Food and Markets) (March 2015)

FOR INFORMATION ONLY

CROSSOVER DEADLINES

The Senate Rules Committee established the following Crossover deadlines:

(1) All **Senate** bills must be reported out of the last committee of reference (including the Committees on Appropriations and Finance, except as provided below in (2) and the exceptions listed below) on or before **Friday, March 13, 2015**, and filed with the Secretary of the Senate so that they may be placed on the Calendar for Notice the next legislative day.

(2) All **Senate** bills referred pursuant to Senate Rule 31 to the Committees on Appropriations and Finance must be reported out by the last of those committees on or before **Friday, March 20, 2015**, and filed with the Secretary of the Senate so that they may be placed on the Calendar for Notice the next legislative day.

These deadlines may be waived for any bill or committee only with the consent of the Committee on Rules.

Note: Pursuant to Senate Rule 44A, the Senate will not act on House bills that do not meet these crossover deadlines, without the consent of the Senate Rules Committee.

Exceptions to the foregoing deadlines include the major money bills (Appropriations “Big Bill”, Transportation Spending Bill, Capital Construction Bill, and Miscellaneous Tax Bill).