

Journal of the Senate

MONDAY, MAY 2, 2016

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Pledge of Allegiance

The President then led the members of the Senate in the pledge of allegiance.

Message from the House No. 61

A message was received from the House of Representatives by Mr. Jeremy Weiss, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed a House bill of the following title:

H. 886. An act relating to approval of amendments to the charter of the Town of Brattleboro.

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

The House has considered Senate proposals of amendment to the following House bills:

H. 183. An act relating to security in the Capitol Complex.

H. 367. An act relating to miscellaneous revisions to the municipal plan adoption, amendment, and update process.

H. 610. An act relating to clarifying the Clean Water State Revolving Fund and Water Pollution Control Grant Programs.

And has severally concurred therein.

The House has considered Senate proposal of amendment to House bill of the following title:

H. 74. An act relating to safety protocols for social and mental health workers.

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

The House has considered Senate proposal of amendment to House bill of the following title:

H. 629. An act relating to a study committee to examine laws related to the administration and issuance of vital records.

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

The House has considered Senate proposal of amendment to House bill of the following title:

H. 690. An act relating to the practice of acupuncture by physicians, osteopaths, and physician assistants.

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

The House has adopted House concurrent resolutions of the following titles:

H.C.R. 363. House concurrent resolution in memory of former Representative and Senator John C. Page of Bennington and his wife, Marjorie Page.

H.C.R. 364. House concurrent resolution congratulating the Windsor High School team on winning the 2016 3D Vermont architecture competition.

H.C.R. 365. House concurrent resolution congratulating Windsor public schools' student winners of the 2016 State Science Fair.

H.C.R. 366. House concurrent resolution honoring Nancy Remsen, on the conclusion of her journalism career, as a fair, perceptive, and thoughtful reporter and editor.

H.C.R. 367. House concurrent expressing sincere appreciation for the presence of General Electric's Aviation and Healthcare units in Vermont and for their major contribution to the State's economy.

H.C.R. 368. House concurrent resolution congratulating the 2016 Mt. Anthony Union High School Patriots State championship wrestling team.

H.C.R. 369. House concurrent resolution congratulating recent Vermont recipients of the Girl Scout Gold Award.

H.C.R. 370. House concurrent resolution welcoming Shen Yun Performing Arts to Vermont.

H.C.R. 371. House concurrent resolution congratulating Dismas of Vermont on its 30th anniversary.

H.C.R. 372. House concurrent resolution congratulating the Montshire Museum in Norwich on the 40th anniversary of its opening.

H.C.R. 373. House concurrent resolution congratulating the Southwestern Vermont Medical Center for its award-winning renal care services.

H.C.R. 374. House concurrent resolution congratulating the Southwestern Vermont Medical Center on its receipt of a fourth Magnet recognition.

H.C.R. 375. House concurrent resolution honoring James Harrison of Chittenden for his exemplary leadership of the Vermont Retail & Grocers Association.

H.C.R. 376. House concurrent resolution honoring Gary Rutkowski for his 40 years of outstanding editorial leadership at the *St. Albans Messenger*.

H.C.R. 377. House concurrent resolution recognizing the economic vibrancy of the Northeast Kingdom.

H.C.R. 378. House concurrent resolution congratulating Rutland's United Neighborhoods Community Justice Center on its 15th anniversary.

In the adoption of which the concurrence of the Senate is requested.

The House has considered concurrent resolution originating in the Senate of the following title:

S.C.R. 43. Senate concurrent resolution congratulating the Green Mountain United Way on its 40th anniversary.

And has adopted the same in concurrence.

The Governor has informed the House that on April 28, 2016, he approved and signed bills originating in the House of the following titles:

H. 458. An act relating to automatic voter registration through motor vehicle driver's license applications.

H. 517. An act relating to the classification of State waters.

Message from the House No. 62

A message was received from the House of Representatives by Ms. Melissa Kucserik, its First Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered bills originating in the Senate of the following titles:

S. 10. An act relating to the State DNA database.

S. 91. An act relating to procedures of the Judicial Nominating Board and qualifications of candidates for the positions of Justice, judge, magistrate, and Chair and member of the Public Service Board.

S. 154. An act relating to enhanced penalties for assaulting an employee of the Family Services Division of the Department for Children and Families and to criminal threatening.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the Senate is requested.

The House has considered Senate proposal of amendment to House bill of the following title:

H. 95. An act relating to jurisdiction over delinquency proceedings by the Family Division of the Superior Court.

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

The House has considered Senate proposal of amendment to House bill of the following title:

H. 595. An act relating to potable water supplies from surface waters.

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

Bill Referred to Committee on Finance

H. 857.

House bill of the following title, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule was referred to the Committee on Finance:

An act relating to timber harvesting.

Bill Referred

House bill of the following title was read the first time and referred:

H. 886. An act relating to approval of amendments to the charter of the Town of Brattleboro.

To the Committee on Rules pursuant to Temporary Rule 44A.

Bills Passed in Concurrence with Proposal of Amendment

House bills of the following titles were severally read the third time and passed in concurrence with proposal of amendment:

H. 518. An act relating to the membership of the Clean Water Fund Board.

H. 620. An act relating to health insurance and Medicaid coverage for contraceptives.

H. 859. An act relating to special education.

H. 868. An act relating to miscellaneous economic development provisions.

H. 877. An act relating to transportation funding.

Bill Passed in Concurrence

H. 863.

House bill of the following title was read the third time and passed in concurrence:

An act relating to making miscellaneous amendments to Vermont's retirement laws.

Proposal of Amendment; Third Reading Ordered

H. 812.

Senator Ayer, for the Committee on Health and Welfare, to which was referred House bill entitled:

An act relating to implementing an all-payer model and oversight of accountable care organizations.

Reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * All-Payer Model * * *

Sec. 1. ALL-PAYER MODEL; MEDICARE AGREEMENT

The Green Mountain Care Board and the Agency of Administration shall only enter into an agreement with the Centers for Medicare and Medicaid Services to waive provisions under Title XVIII (Medicare) of the Social Security Act if the agreement:

(1) is consistent with the principles of health care reform expressed in 18 V.S.A. § 9371, to the extent permitted under Section 1115A of the Social Security Act and approved by the federal government;

(2) preserves the consumer protections set forth in Title XVIII of the Social Security Act, including not reducing Medicare covered services, not increasing Medicare patient cost sharing, and not altering Medicare appeals processes;

(3) allows providers to choose whether to participate in accountable care organizations, to the extent permitted under federal law;

(4) allows Medicare patients to choose among providers;

(5) includes outcome measures for population health; and

(6) continues to provide payments from Medicare directly to health care providers or accountable care organizations without conversion, appropriation, or aggregation by the State of Vermont.

Sec. 2. 18 V.S.A. chapter 227 is added to read:

CHAPTER 227. ALL-PAYER MODEL

§ 9551. ALL-PAYER MODEL

In order to implement a value-based payment model allowing participating health care providers to be paid by Medicaid, Medicare, and commercial insurance using a common methodology that may include population-based payments and increased financial predictability for providers, the Green Mountain Care Board and Agency of Administration shall ensure that the model:

(1) maintains consistency with the principles established in section 9371 of this title;

(2) continues to provide payments from Medicare directly to health care providers or accountable care organizations without conversion, appropriation, or aggregation by the State of Vermont;

(3) maximizes alignment between Medicare, Medicaid, and commercial payers to the extent permitted under federal law and waivers from federal law, including:

(A) what is included in the calculation of the total cost of care;

(B) attribution and payment mechanisms;

(C) patient protections;

(D) care management mechanisms; and

(E) provider reimbursement processes;

(4) strengthens and invests in primary care;

(5) incorporates social determinants of health;

(6) adheres to federal and State laws on parity of mental health and substance abuse treatment and integrates mental health and substance abuse treatment systems into the overall health care system;

(7) includes a process for integration of community-based providers, including home health agencies, mental health agencies, developmental disability service providers, emergency medical service providers, and area agencies on aging, and their funding streams to the extent permitted under federal law, into a transformed, fully integrated health care system that may include transportation and housing;

(8) continues to prioritize the use, where appropriate, of existing local and regional collaboratives of community health providers that develop integrated health care initiatives to address regional needs and evaluate best practices for replication and return on investment;

(9) pursues an integrated approach to data collection, analysis, exchange, and reporting to simplify communication across providers and drive quality improvement and access to care;

(10) allows providers to choose whether to participate in accountable care organizations, to the extent permitted under federal law;

(11) evaluates access to care, quality of care, patient outcomes, and social determinants of health;

(12) requires processes and protocols for shared decision making between the patient and his or her health care providers that take into account a patient's unique needs, preferences, values, and priorities, including use of decision support tools and shared decision-making methods with which the patient may assess the merits of various treatment options in the context of his or her values and convictions, and by providing patients access to their medical records and to clinical knowledge so that they may make informed choices about their care;

(13) supports coordination of patients' care and care transitions through the use of technology, with patient consent, such as sharing electronic summary records across providers and using telemedicine, home telemonitoring, and other enabling technologies; and

(14) ensures, in consultation with the Office of the Health Care Advocate, that robust patient grievance and appeal protections are available.

* * * Oversight of Accountable Care Organizations * * *

Sec. 3. 18 V.S.A. § 9373 is amended to read:

§ 9373. DEFINITIONS

As used in this chapter:

* * *

(16) “Accountable care organization” and “ACO” means an organization of health care providers that has a formal legal structure, is identified by a federal Taxpayer Identification Number, and agrees to be accountable for the quality, cost, and overall care of the patients assigned to it.

Sec. 4. 18 V.S.A. § 9375(b) is amended to read:

(b) The Board shall have the following duties:

(1) Oversee the development and implementation, and evaluate the effectiveness, of health care payment and delivery system reforms designed to control the rate of growth in health care costs; promote seamless care, administration, and service delivery; and maintain health care quality in Vermont, including ensuring that the payment reform pilot projects set forth in this chapter are consistent with such reforms.

* * *

(13) Adopt by rule pursuant to 3 V.S.A. chapter 25 such standards ~~for~~ as the Board deems necessary and appropriate to the operation and evaluation of accountable care organizations pursuant to this chapter, including reporting requirements, patient protections, and solvency and ability to assume financial risk.

Sec. 5. 18 V.S.A. § 9382 is added to read:

§ 9382. OVERSIGHT OF ACCOUNTABLE CARE ORGANIZATIONS

(a) In order to be eligible to receive payments from Medicaid or commercial insurance through any payment reform program or initiative, including an all-payer model, each accountable care organization shall obtain and maintain certification from the Green Mountain Care Board. The Board shall adopt rules pursuant to 3 V.S.A. chapter 25 to establish standards and processes for certifying accountable care organizations. To the extent permitted under federal law, the Board shall ensure these rules anticipate and accommodate a range of ACO models and sizes, balancing oversight with support for innovation. In order to certify an ACO to operate in this State, the Board shall ensure that the following criteria are met:

(1) the ACO's governance, leadership, and management structure is transparent, reasonably and equitably represents the ACO's participating providers and its patients, and includes a consumer advisory board and other processes for inviting and considering consumer input;

(2) the ACO has established appropriate mechanisms and care models to provide, manage, and coordinate high-quality health care services for its patients, including incorporating the Blueprint for Health, coordinating services for complex high-need patients, and providing access to health care providers who are not participants in the ACO;

(3) the ACO has established appropriate mechanisms to receive and distribute payments to its participating health care providers;

(4) the ACO has established appropriate mechanisms and criteria for accepting health care providers to participate in the ACO that prevent unreasonable discrimination and are related to the needs of the ACO and the patient population served;

(5) the ACO has established mechanisms and care models to promote evidence-based health care, patient engagement, coordination of care, use of electronic health records, and other enabling technologies to promote integrated, efficient, seamless, and effective health care services across the continuum of care, where feasible;

(6) the ACO's participating providers have the capacity for meaningful participation in health information exchanges;

(7) the ACO has performance standards and measures to evaluate the quality and utilization of care delivered by its participating health care providers;

(8) the ACO does not place any restrictions on the information its participating health care providers may provide to patients about their health or decisions regarding their health;

(9) the ACO's participating health care providers engage their patients in shared decision making to inform them of their treatment options and the related risks and benefits of each;

(10) the ACO offers assistance to health care consumers, including:

(A) maintaining a consumer telephone line for complaints and grievances from attributed patients;

(B) responding and making best efforts to resolve complaints and grievances from attributed patients, including providing assistance in identifying appropriate rights under a patient's health plan;

(C) providing an accessible mechanism for explaining how ACOs work;

(D) providing contact information for the Office of the Health Care Advocate; and

(E) sharing deidentified complaint and grievance information with the Office of the Health Care Advocate at least twice annually;

(11) the ACO collaborates with providers not included in its financial model, including home- and community-based providers and dental health providers;

(12) the ACO does not interfere with patients' choice of their own health care providers under their health plan, regardless of whether a provider is participating in the ACO; does not reduce covered services; and does not increase patient cost sharing;

(13) meetings of the ACO's governing body include a public session at which all business that is not confidential or proprietary is conducted and members of the public are provided an opportunity to comment;

(14) the impact of the ACO's establishment and operation does not diminish access to any health care service or increase delays in access to care for the population and area it serves;

(15) the ACO has in place appropriate mechanisms to conduct ongoing assessments of its legal and financial vulnerabilities; and

(16) the ACO has in place a financial guarantee sufficient to cover its potential losses.

(b)(1) The Green Mountain Care Board shall adopt rules pursuant to 3 V.S.A. chapter 25 to establish standards and processes for reviewing, modifying, and approving the budgets of ACOs with 10,000 or more attributed lives in Vermont. To the extent permitted under federal law, the Board shall ensure the rules anticipate and accommodate a range of ACO models and sizes, balancing oversight with support for innovation. In its review, the Board shall review and consider:

(A) information regarding utilization of the health care services delivered by health care providers participating in the ACO and the effects of care models on appropriate utilization, including the provision of innovative services;

(B) the goals and recommendations of the health resource allocation plan created in chapter 221 of this title;

(C) the expenditure analysis for the previous year and the proposed expenditure analysis for the year under review by payer;

(D) the character, competence, fiscal responsibility, and soundness of the ACO and its principals;

(E) any reports from professional review organizations;

(F) the ACO's efforts to prevent duplication of high-quality services being provided efficiently and effectively by existing community-based providers in the same geographic area, as well as its integration of efforts with the Blueprint for Health and its regional care collaboratives;

(G) the extent to which the ACO provides incentives for systemic health care investments to strengthen primary care, including strategies for recruiting additional primary care providers, providing resources to expand capacity in existing primary care practices, and reducing the administrative burden of reporting requirements for providers while balancing the need to have sufficient measures to evaluate adequately the quality of and access to care;

(H) the extent to which the ACO provides incentives for systemic integration of community-based providers in its care model or investments to expand capacity in existing community-based providers, in order to promote seamless coordination of care across the care continuum;

(I) the extent to which the ACO provides incentives for systemic health care investments in social determinants of health, such as developing support capacities that prevent hospital admissions and readmissions, reduce length of hospital stays, improve population health outcomes, reward healthy lifestyle choices, and improve the solvency of and address the financial risk to community-based providers that are participating providers of an accountable care organization;

(J) the extent to which the ACO provides incentives for preventing and addressing the impacts of adverse childhood experiences (ACEs), such as developing quality outcome measures for use by primary care providers working with children and families, developing partnerships between nurses and families, providing opportunities for home visits, and including parent-child centers and designated agencies as participating providers in the ACO;

(K) public comment on all aspects of the ACO's costs and use and on the ACO's proposed budget;

(L) information gathered from meetings with the ACO to review and discuss its proposed budget for the forthcoming fiscal year;

(M) information on the ACO's administrative costs, as defined by the Board;

(N) the effect, if any, of Medicaid reimbursement rates on the rates for other payers; and

(O) the extent to which the ACO makes its costs transparent and easy to understand so that patients are aware of the costs of the health care services they receive.

(2) The Office of the Health Care Advocate shall have the right to intervene in any ACO budget review under this subsection. As an intervenor, the Office of the Health Care Advocate shall receive copies of all materials in the record and may:

(A) ask questions of any participant in the Board's ACO budget review;

(B) submit written comments for the Board's consideration; and

(C) provide testimony in any hearing held in connection with the Board's ACO budget review.

(c) The Board's rules shall include requirements for submission of information and data by ACOs and their participating providers as needed to evaluate an ACO's success. They may also establish standards as appropriate to promote an ACO's ability to participate in applicable federal programs for ACOs.

(d) All information required to be filed by an ACO pursuant to this section or to rules adopted pursuant to this section shall be made available to the public upon request, provided that individual patients or health care providers shall not be directly or indirectly identifiable.

(e) To the extent required to avoid federal antitrust violations, the Board shall supervise the participation of health care professionals, health care facilities, and other persons operating or participating in an accountable care organization. The Board shall ensure that its certification and oversight processes constitute sufficient State supervision over these entities to comply with federal antitrust provisions and shall refer to the Attorney General for appropriate action the activities of any individual or entity that the Board determines, after notice and an opportunity to be heard, may be in violation of State or federal antitrust laws without a countervailing benefit of improving patient care, improving access to health care, increasing efficiency, or reducing costs by modifying payment methods.

* * * Rulemaking * * *

Sec. 6. GREEN MOUNTAIN CARE BOARD; RULEMAKING

On or before January 1, 2018, the Green Mountain Care Board shall adopt rules governing the oversight of accountable care organizations pursuant to 18 V.S.A. § 9382. On or before January 15, 2017, the Board shall provide an update on its rulemaking process and its vision for implementing the rules to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance.

Sec. 7. DENIAL OF SERVICE; RULEMAKING

The Department of Financial Regulation and the Department of Vermont Health Access shall ensure that their rules protect against wrongful denial of services under an insured's or Medicaid beneficiary's health benefit plan for an insured or Medicaid beneficiary attributed to an accountable care organization. The Departments may amend their rules as necessary to ensure that the grievance and appeals processes in Medicaid and commercial health benefit plans are appropriate to an accountable care organization structure.

* * * Implementation Provisions * * *

Sec. 8. TRANSITION; IMPLEMENTATION

(a) Prior to January 1, 2018, if the Green Mountain Care Board and the Agency of Administration pursue development and implementation of an all-payer model, they shall develop and implement the model in a manner that works toward meeting the criteria established in 18 V.S.A. § 9551. Through its authority over payment reform pilot projects under 18 V.S.A. § 9377, the Board shall also oversee the development and operation of accountable care organizations in order to encourage them to achieve compliance with the criteria established in 18 V.S.A. § 9382(a) and to establish budgets that reflect the criteria set forth in 18 V.S.A. § 9382(b).

(b) On or before January 1, 2018, the Board shall begin certifying accountable care organizations that meet the criteria established in 18 V.S.A. § 9382(a) and shall only approve accountable care organization budgets after review and consideration of the criteria set forth in 18 V.S.A. § 9382(b). If the Green Mountain Care Board and the Agency of Administration pursue development and implementation of an all-payer model, then on and after January 1, 2018 they shall implement the all-payer model in accordance with 18 V.S.A. § 9551.

* * * Reducing Administrative Burden on Health Care Professionals * * *

Sec. 9. 18 V.S.A. § 9374(e) is amended to read:

(e)(1) The Board shall establish a consumer, patient, business, and health care professional advisory group to provide input and recommendations to the Board. Members of such advisory group who are not State employees or whose participation is not supported through their employment or association shall receive per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010, provided that the total amount expended for such compensation shall not exceed \$5,000.00 per year.

(2) The Board may establish additional advisory groups and subcommittees as needed to carry out its duties. The Board shall appoint diverse health care professionals to the additional advisory groups and subcommittees as appropriate.

(3) To the extent funds are available, the Board may examine, on its own or through collaboration or contracts with third parties, the effectiveness of existing requirements for health care professionals, such as quality measures and prior authorization, and evaluate alternatives that improve quality, reduce costs, and reduce administrative burden.

Sec. 10. PRIMARY CARE PROFESSIONAL ADVISORY GROUP

(a) The Green Mountain Care Board shall establish a primary care professional advisory group to provide input and recommendations to the Board. The Board shall seek input from the primary care professional advisory group to address issues related to the administrative burden facing primary care professionals, including:

(1) identifying circumstances in which existing reporting requirements for primary care professionals may be replaced with more meaningful measures that require minimal data entry;

(2) creating opportunities to reduce requirements for primary care professionals to provide prior authorization for their patients to receive radiology, medication, and specialty services; and

(3) developing a uniform hospital discharge summary for use across the State.

(b) The Green Mountain Care Board shall provide an update on the advisory group's work in the annual report the Board submits to the General Assembly in accordance with 18 V.S.A. § 9375(d).

(c) The Board may seek assistance from organizations representing primary care professionals. Members of the advisory group who are not State

employees or whose participation is not supported through their employment or association shall receive per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010, provided that the total amount expended for such compensation shall not exceed \$5,000.00 per year. The advisory group shall cease to exist on July 1, 2018.

* * * Additional Reports * * *

Sec. 11. AGENCY OF HUMAN SERVICES' CONTRACTS; REPORT

(a) On or before January 1, 2017, the Agency of Human Services, in consultation with Vermont Care Partners, the Green Mountain Care Board, and representatives from preferred providers, shall submit a report to the Senate Committee on Health and Welfare and to the House Committees on Health Care and on Human Services. The report shall address the following:

(1) the amount and type of performance measures and other evaluations used in fiscal year 2016 and 2017 Agency contracts with designated agencies, specialized service agencies, and preferred providers;

(2) how the Agency's funding levels of designated agencies, specialized service agencies, and preferred providers affect access to and quality of care; and

(3) how the Agency's funding levels for designated agencies, specialized service agencies, and preferred providers affect compensation levels for staff relative to private and public sector pay for the same services.

(b) The report shall contain a plan developed in conjunction with the Vermont Health Care Innovation Project and in consultation with the Vermont Care Network and the Vermont Council of Developmental and Mental Health Services to implement a value-based payment methodology for designated agencies, specialized service agencies, and preferred providers that shall improve access to and quality of care, including long-term financial sustainability. The plan shall describe the interaction of the value-based payment methodology for Medicaid payments made to designated agencies, specialized service agencies, and preferred providers by the Agency with any Medicaid payments made to designated agencies, specialized service agencies, and preferred providers by the accountable care organizations.

(c) As used in this section:

(1) "Designated agency" means the same as in 18 V.S.A. § 7252.

(2) "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.

(3) “Specialized service agency” means any community mental health and developmental disability agency or any public or private agency providing specialized services to persons with a mental condition or psychiatric disability or with developmental disabilities or children and adolescents with a severe emotional disturbance pursuant to 18 V.S.A. § 8912.

Sec. 12. MEDICAID PATHWAY; REPORT

(a) The Secretary of Human Services, in consultation with the Director of Health Care Reform, the Green Mountain Care Board, and affected providers, shall create a process for payment and delivery system reform for Medicaid providers and services. This process shall address all Medicaid payments to affected providers, focus on services not included in the Medicaid equivalent of Medicare Part A and Part B services, and integrate the providers to the extent practicable into the all-payer model and other existing payment and delivery system reform initiatives.

(b) On or before January 15, 2017 and annually for five years thereafter, the Secretary of Human Services shall report on the results of this process to the Senate Committee on Health and Welfare and the House Committees on Health Care and on Human Services. The Secretary’s report shall address:

(1) all Medicaid payments to affected providers, including progress toward integration of services not included in the Medicaid equivalent of Medicare Part A and Part B services in the previous year;

(2) changes to reimbursement methodology and the services impacted;

(3) efforts to integrate affected providers into the all-payer model and with other payment and delivery system reform initiatives;

(4) changes to quality measure collection and identifying alignment efforts and analyses, if any; and

(5) the interrelationship of results-based accountability initiatives with the quality measures in subdivision (4) of this subsection.

Sec. 13. MEDICAID ADVISORY RATE CASE FOR ACO SERVICES

On or before December 31, 2016, the Green Mountain Care Board shall review any all-inclusive population-based payment arrangement between the Department of Vermont Health Access and an accountable care organization for calendar year 2017. The Board’s review shall include the number of attributed lives, eligibility groups, covered services, elements of the per-member, per-month payment, and any other nonclaims payments. The review shall be nonbinding on the Agency of Human Services, and nothing in this section shall be construed to abrogate the designation of the Agency of Human Services as the single State agency as required by 42 C.F.R. § 431.10.

Sec. 14. MULTI-YEAR BUDGETS; ACOS; REPORT

The Green Mountain Care Board shall consider the appropriate role, if any, of using multi-year budgets for ACOs to reduce administrative burden, improve care quality, and ensure sustainable access to care. On or before January 15, 2017, the Green Mountain Care Board and the Department of Vermont Health Access shall provide their findings and recommendations to the House Committees on Health Care and on Human Services and the Senate Committees on Health and Welfare and on Finance.

Sec. 15. MULTI-YEAR BUDGETS; MEDICAID; REPORT

The Joint Fiscal Office and the Department of Finance and Management, in collaboration with the Agency of Human Services Central Office and the Department of Vermont Health Access, shall consider the appropriate role, if any, of using multi-year budgets for Medicaid and other State-funded health care programs to reduce administrative burden, improve care quality, and ensure sustainable access to care. On or before March 1, 2017, the Joint Fiscal Office and the Department of Finance and Management shall provide their findings and any recommendations for statutory change to the House Committees on Appropriations, on Health Care, and on Human Services and the Senate Committees on Appropriations, on Health and Welfare, and on Finance.

Sec. 16. ALL-PAYER MODEL; ALIGNMENT; REPORT

On or before January 15, 2017, the Green Mountain Care Board shall present information to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance on the status of its efforts to achieve alignment between Medicare, Medicaid, and commercial payers in the all-payer model as required by 18 V.S.A. § 9551(a)(3).

* * * Nutrition Procurement Standards for State Government * * *

Sec. 17. FINDINGS

(a) Approximately 13,000 Vermont residents are employed by the State or employed by a person contracting with the State. Reducing the impact of diet-related diseases will support a more productive and healthy workforce that will pay dividends to Vermont's economy and cultivate national competitiveness for State residents and employees.

(b) Improving the nutritional quality of food sold or provided by the State on public property will support people in making healthy eating choices.

(c) State properties are visited by Vermont residents and out-of-state visitors, and also provide care to dependent adults and children.

(d) Approximately 25 percent of Vermont residents are overweight or obese.

(e) Obesity costs Vermont \$291 million each year in health care costs, contributing to debilitating yet preventable diseases, such as heart disease, cancer, stroke, and diabetes.

(f) Improving the types of foods and beverages served and sold in workplaces positively affects employees' eating behaviors and can result in weight loss.

(g) Maintaining a healthy workforce can positively affect indirect costs by reducing absenteeism and increasing worker productivity.

Sec. 18. 29 V.S.A. § 160c is added to read:

§ 160c. NUTRITION PROCUREMENT STANDARDS

(a)(1) The Commissioner of Health shall establish and post on the Department's website nutrition procurement standards that:

(A) consider relevant guidance documents, including those published by the U.S. General Services Administration, the American Heart Association, and the National Alliance for Nutrition and Activity and, upon request, the Department shall provide a rationale for any divergence from these guidance documents;

(B) consider both positive and negative contributions of nutrients, ingredients, and food groups to diets, including calories, portion size, saturated fat, trans fat, sodium, sugar, and the presence of fruits, vegetables, whole grains, and other nutrients of concern in Americans' diets; and

(C) contain exceptions for circumstances in which State-procured foods or beverages are intended for individuals with specific dietary needs.

(2) The Commissioner shall review and, if necessary, amend the nutrition procurement standards at least every five years to reflect advances in nutrition science, dietary data, new product availability, and updates to federal Dietary Guidelines for Americans.

(b)(1) All foods and beverages purchased, sold, served, or otherwise provided by the State or any entity, subdivision, or employee on behalf of the State shall meet the minimum nutrition procurement standards established by the Commissioner of Health.

(2) All bids and contracts between the State and food and beverage vendors shall comply with the nutrition procurement standards. The Commissioner, in conjunction with the Commissioner of Buildings and General Services, may periodically review or audit a contracting food or beverage vendor's financial reports to ensure compliance with this section.

(c) The Governor's Health in All Policies Task Force may disseminate information to State employees on the Commissioner's nutrition procurement standards.

(d) All State-owned or -operated vending machines, food or beverage vendors contracting with the State, or cafeterias located on property owned or operated by the State shall display nutritional labeling to the extent permitted under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. ch. 9 § 301 et seq.

(e) The Commissioner of Buildings and General Services shall incorporate the nutrition procurement standards established by the Commissioner into the appropriate procurement document.

Sec. 19. EXISTING PROCUREMENT CONTRACTS

To the extent possible, the State's existing contracts and agreements with food and beverage vendors shall be modified to comply with the nutrition procurement standards established by the Commissioner of Health.

* * * Universal Primary Care and Dr. Dynasaur 2.0 * * *

Sec. 20. UNIVERSAL PRIMARY CARE; DR. DYNASAUR 2.0

(a) Regardless of any future developments in payment and delivery system reform, Vermont is likely to continue to have uninsured or underinsured residents. Expanding access to primary care services is a proven method for improving population health. It is the intent of the General Assembly to move forward with implementation of universal primary care for all Vermonters or expansion of Dr. Dynasaur to all Vermont residents up to 26 years of age, or both.

(b)(1) In order to determine a path forward toward implementing universal primary care in Vermont, the Secretary of Administration shall:

(A) provide the results of a literature review of any savings realized by universal health care programs over time that are attributable to the availability of universal access to primary care;

(B) determine the impacts on the individual, small group, and large group health insurance markets of providing primary care through a universal, publicly funded program; and

(C) report on primary care payment models created through the development of the all-payer model in order to enable legislators to estimate appropriate reimbursement amounts for health care providers delivering primary care services.

(2) On or before November 15, 2016, the Secretary of Administration shall provide to the Joint Fiscal Office a summary of its findings on the topics

described in subdivision (1) of this subsection. The Joint Fiscal Office shall conduct an independent review of the methods and assumptions underlying the Secretary's findings and shall provide its comments and feedback to the Secretary on or before December 1, 2016. On or before December 15, 2016, the Secretary shall provide to the Health Reform Oversight Committee, the Joint Fiscal Committee, the House Committees on Health Care, on Appropriations, and on Ways and Means, and the Senate Committees on Health and Welfare, on Appropriations, and on Finance a final report on the literature review, market impacts, and primary care models required by subdivision (1) of this subsection.

(c)(1) In order to determine a path forward toward expanding Dr. Dynasaur to all Vermont residents up to 26 years of age, the Secretary of Administration shall analyze the financial implications of expanding Dr. Dynasaur, the State's children's Medicaid and Children's Health Insurance Program, to all Vermont residents up to 26 years of age.

(2)(A) Estimated program costs shall include the cost of coverage, one-time and ongoing operating costs, administrative costs, and reserves or reinsurance to the extent they are deemed advisable.

(B) The cost estimates shall be for a period of five years beginning on January 1, 2019, and shall assume a reasonable rate of health care spending growth.

(C) Estimated costs shall be offset by any cost reductions to State government spending and by any avoided State or federal tax liability that the State of Vermont would otherwise incur as an employer.

(D) The cost estimates shall include an analysis of any cost increases or reductions anticipated for municipalities and school districts, including impacts on projected education spending.

(E) The cost estimates shall project increasing provider reimbursement rates at regular intervals from 100 percent of Medicare rates up to commercial rates. Medicare and commercial rates shall be determined based on claims data from the Vermont's all-payer claims database.

(3)(A) On or before January 15, 2017, the Secretary shall submit a report to the House Committees on Health Care, on Appropriations, and on Ways and Means and the Senate Committees on Health and Welfare, on Appropriations, and on Finance comprising its analysis of the costs of expanding Dr. Dynasaur to all Vermont residents up to 26 years of age and potential plans for financing the expansion. The financing plans shall be consistent with the principles of equity expressed in 18 V.S.A. § 9371(11), which states that financing of health care in Vermont must be sufficient, fair,

predictable, transparent, sustainable, and shared equitably. In developing the financing plans, the Secretary shall consider the following:

(i) all current sources of funding for State government, including taxes, fees, and assessments;

(ii) existing health care revenue sources, including the claims tax levied pursuant to 32 V.S.A. chapter 243, the provider assessments imposed pursuant to 33 V.S.A. chapter 19, subchapter 2, and the employer assessment required pursuant to 21 V.S.A. chapter 25, to determine whether they are suitable for preservation or expansion to fund the program expansion;

(iii) new revenue sources such as a payroll tax, gross receipts tax, or business enterprise tax, or a combination of these;

(iv) expansion or reform of existing taxes;

(v) opportunities and challenges presented by federal law, including the Internal Revenue Code; Section 1332 of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and Titles XIX (Medicaid) and XXI (SCHIP) of the Social Security Act, and by State tax law; and

(vi) anticipated federal funds that may be used for health care services, including consideration of methods to maximize receipt of federal funds available for this purpose.

(B) The Secretary's report shall also include information on the impacts of the coverage and proposed tax changes on individuals, households, businesses, public sector entities, and the nonprofit community, including migration of coverage, insurance market impacts, financial impacts, federal tax implications, and other economic effects. The impact assessment shall cover the same five-year period as the cost estimates.

(4) Agencies, departments, boards, and similar units of State government, including the Agency of Human Services, Department of Financial Regulation, Department of Labor, Director of Health Care Reform, and Green Mountain Care Board, shall provide information and assistance requested by the Secretary and the Secretary's contractors to enable them to conduct the analysis required by this act.

(5) The Secretary shall provide periodic updates to the Joint Fiscal Office on the estimates and analysis required by this subsection and his or her underlying fiscal assumptions.

(d)(1) The Secretary may contract with other individuals and entities as needed to provide actuarial services, economic modeling, and any other

assistance the Secretary requires in carrying out the analyses described in subsections (b) and (c) of this section.

(2) To the extent necessary to conduct the analyses required by subsections (b) and (c) of this section and consistent with the requirements of the Health Insurance Portability and Accountability Act of 1996, a health insurer licensed to do business in Vermont shall provide information requested by the Secretary or the Secretary's contractors within 30 days of the request, to the extent feasible and upon receipt by the health insurer of a nondisclosure agreement from the State and its contractors. The Secretary may enter into a confidentiality agreement with an insurer if the data requested includes proprietary or other confidential material. No health insurer shall be required to provide protected health information.

* * * Exchange Sustainability Analysis * * *

Sec. 21. VERMONT HEALTH BENEFIT EXCHANGE TECHNOLOGY;
SUSTAINABILITY ANALYSIS; REPORT

(a)(1) The Joint Fiscal Office, in collaboration with one or more independent third parties pursuant to contracts negotiated for that purpose, shall conduct an analysis and provide a report to the General Assembly on or before December 1, 2016 on the current functionality and long-term sustainability of the technology for Vermont's Health Benefit Exchange, including a review of the deficiencies in Vermont Health Connect functionality and the integration, connectivity, and business logic of each as they pertain to both the back-end systems and the user interface of Vermont Health Connect.

(2) The analysis shall provide recommendations for improving the functionality, efficiency, reliability, operations, and customer experience of the technology going forward.

(3) The report shall include an evaluation of the investment value of existing components of the Exchange technology and the contractor's assessment of the feasibility and cost-effectiveness of leveraging existing components of the Vermont Health Benefit Exchange as part of the technology for a larger, integrated eligibility system, including reviewing changes other states have made to the Exchange components of their technology infrastructure.

(4) The analysis and report shall provide a comparison of the investments required to ensure a sustainable State-based Exchange through further investment in Vermont Health Connect's current technology, including any opportunities to build on other states' Exchange technology and opportunities to join with other states in a regional Exchange, with the estimated investments that would be required to transition to a fully or partially federally facilitated Exchange.

(b) In conducting the analysis and report pursuant to this section, and in preparing any requests for proposals from independent third parties, the Joint Fiscal Office shall consult with health insurers offering qualified health plans on Vermont Health Connect.

(c) The Health Reform Oversight Committee and the Joint Fiscal Committee shall provide ongoing oversight and review of the analysis and report.

* * * Health Research Commission * * *

Sec. 22. 2 V.S.A. chapter 27 is added to read:

CHAPTER 27. HEALTH RESEARCH COMMISSION

§ 961. CREATION OF COMMISSION

(a) There is established the Health Research Commission to coordinate and provide oversight over legislative policy research, studies, and evaluations related to health care delivery, regulation, and reform.

(b) Members of the Commission shall include two members of the House of Representatives appointed by the Speaker of the House, two members of the Senate appointed by the Senate Committee on Committees, and one member appointed by the Governor.

(c) The Commission may meet as needed. For attendance at meetings during adjournment of the General Assembly, legislative members of the Commission shall be entitled to per diem compensation and reimbursement of expenses pursuant to section 406 of this title. The member appointed by the Governor shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 if he or she is not a full-time State employee.

§ 962. EMPLOYEES; BUDGET

(a) The Commission shall meet promptly following the appointment of its members in order to organize and begin conducting its business. The Commission may adopt its own rules for the operation of its personnel.

(b)(1) The Commission shall employ professional and secretarial staff as needed to carry out its functions and shall determine their compensation subject to legislative appropriation.

(2)(A) All requests for assistance, information, and advice from the Commission and all information the Commission receives in connection with research or related studies is exempt from public inspection and copying under the Public Records Act and shall be kept confidential unless the party requesting assistance or providing information specifies otherwise. All

Commission reports, documents, and transcripts or minutes of Commission meetings, including written testimony submitted to the Commission, are not confidential under this subdivision.

(B) The staff of the Commission may sign data use agreements and confidentiality agreements on the Commission's behalf in order to collect the data, including health care claims and tax information, needed to carry out the duties of the Commission. Data collected by Commission staff may be used only for the purposes of studies and evaluation. Appropriate data standards shall be maintained to ensure confidentiality.

(c) The Commission shall prepare a budget as part of the Joint Fiscal Committee's budget.

(d) The Commission shall receive administrative, fiscal, and legal support from the Joint Fiscal Office and the Legislative Council. In addition, the Commission may retain the services of one or more consultants or experts knowledgeable in health care systems, financing, or delivery to assist in its work within the amounts appropriated in its budget.

§ 963. FUNCTIONS

The Commission shall direct, supervise, and coordinate the work of its staff, which shall include:

(1) furnishing policy research and evaluation services, including coordinating contracts with consultants, related to health care for studies required by legislation enacted by the General Assembly;

(2) engaging in a continuing review of the State's health care reform initiatives;

(3) monitoring the activities of the Green Mountain Care Board on behalf of the General Assembly; and

(4) keeping and maintaining minutes of its meetings.

Sec. 23. POSITIONS

On or before July 1, 2016, up to three positions and appropriate amounts for personal services and operating expenses shall be transferred from the Agency of Administration to the General Assembly to provide staff for the Health Research Commission established in Sec. 22 of this act.

Sec. 24. APPOINTMENTS TO THE HEALTH RESEARCH COMMISSION

The Speaker of the House of Representatives, the Senate Committee on Committees, and the Governor shall appoint the first members of the Health Research Commission established pursuant to 2 V.S.A. chapter 27 on or before August 15, 2016.

* * * Appropriations * * *

Sec. 25. APPROPRIATIONS

(a) The sum of \$240,000.00 is appropriated from the General Fund to the Secretary of Administration in fiscal year 2017 to support the universal primary care and Dr. Dynasaur expansion studies and reports pursuant to Sec. 20 of this act.

(b) The sum of \$250,000.00 is appropriated from the General Fund to the General Assembly in fiscal year 2017 for purposes of the Health Research Commission established pursuant to 2 V.S.A. chapter 27.

Sec. 26. FISCAL YEAR 2016; REVERSIONS; APPROPRIATIONS

(a) Notwithstanding any provision of law to the contrary, and in addition to any other reversions in fiscal year 2016, the following amounts appropriated in fiscal year 2016 to the following sources shall revert to the General Fund:

(1) from the Office of the State Treasurer, the amount of \$115,000.00;

(2) from the Green Mountain Care Board, the amount of \$109,320.00.

(b) The amount of \$224,320.00 is appropriated in fiscal year 2016 from the General Fund to the Joint Fiscal Office for the purpose of implementing Sec. 21 of this act.

Sec. 27. FISCAL YEAR 2017; APPROPRIATION; ALLOCATION

(a) Of the amounts appropriated in fiscal year 2017 from the General Fund to the Agency of Agriculture, Food and Markets, the amount of \$175,680.00 is appropriated from the Agency to the Joint Fiscal Office for the purpose of implementing Sec. 21 of this act.

(b) The Commissioner of Finance and Management shall exercise his or her authority pursuant to 32 V.S.A. § 511 (allocation of excess receipts) to allocate \$175,680.00 to the Agency of Agriculture, Food and Markets.

* * * Repeal * * *

Sec. 28. REPEAL

2 V.S.A. chapter 20 (Health Reform Oversight Committee) is repealed on January 1, 2017.

* * * Effective Dates * * *

Sec. 29. EFFECTIVE DATES

(a) Secs. 2 (all-payer model) and 3–5 (ACOs) shall take effect on January 1, 2018.

(b) Secs. 17–19 (nutrition procurement standards), 25 (FY17 appropriations) and 27 (FY17 appropriation and allocation) shall take effect on July 1, 2016.

(c) This section and the remaining sections shall take effect on passage.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Kitchel, for the Committee on Appropriations, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Health and Welfare with the following amendments thereto:

First: In Sec. 1, all-payer model; Medicare agreement, by striking out subdivision (4) in its entirety and inserting in lieu thereof a new subdivision (4) to read as follows:

(4) allows Medicare patients to choose any Medicare-participating provider;

Second: In Sec. 2, in 18 V.S.A. § 9551, in subdivision (7), following “emergency medical service providers,”, by inserting adult day service providers,

Third: In Sec. 5, 18 V.S.A. § 9382, in subdivision (a)(14), following “health care”, by inserting or community-based

Fourth: In Sec. 5, 18 V.S.A. § 9382, in subdivision (b)(1)(J), following “(ACEs)”, by inserting and other traumas

Fifth: In Sec. 5, 18 V.S.A. § 9382, by striking out subdivision (b)(2) in its entirety and inserting in lieu thereof a new subdivision (b)(2) to read as follows:

(2)(A) The Office of the Health Care Advocate shall have the right to receive copies of all materials related to any ACO budget review and may:

(i) ask questions of employees of the Green Mountain Care Board related to the Board’s ACO budget review;

(ii) submit written questions to the Board that the Board will ask of the ACO in advance of any hearing held in conjunction with the Board’s ACO review;

(iii) submit written comments for the Board’s consideration; and

(iv) ask questions and provide testimony in any hearing held in conjunction with the Board’s ACO budget review.

(B) The Office of the Health Care Advocate shall not disclose further any confidential or proprietary information provided to the Office pursuant to this subdivision (2).

Sixth: By striking out Secs. 20, universal primary care; Dr. Dynasaur 2.0; 21, Exchange sustainability analysis; 22–24, Health Research Commission; 25–27, appropriations; and 28, repeal, and their reader assistance headings in their entirety and by renumbering Sec. 29, effective dates, to be Sec. 20

Seventh: In the renumbered Sec. 20, effective dates, in subsection (b), by striking out “, 25 (FY17 appropriations), and 27 (FY17 appropriation and allocation)”

And that the bill ought to pass in concurrence with such proposals of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of proposal of amendment of the Committee on Health and Welfare was amended as recommended by the Committee on Appropriations.

Thereupon, the proposal of amendment recommended by the Committee on Health and Welfare, as amended, was agreed to and third reading of the bill was ordered.

Proposal of Amendment; Third Reading Ordered

H. 130.

Senator White, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to the Agency of Public Safety.

Reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Law Enforcement Officer Regulation Study Committee * * *

Sec. 1. LAW ENFORCEMENT OFFICER REGULATION; STUDY COMMITTEE; REPORT

(a) Creation. There is created a Law Enforcement Officer Regulation Study Committee to make recommendations to the General Assembly regarding law enforcement officer regulation.

(b) Membership. The Committee shall be composed of the following eight members:

(1) the Commissioner of Public Safety or designee;

(2) the Executive Director of the Vermont Criminal Justice Training Council or designee;

(3) one sheriff appointed by the Executive Committee of the Vermont Sheriffs' Association;

(4) the President of the Vermont Troopers' Association or designee;

(5) one member of the law enforcement officers represented by the Vermont State Employees' Association, appointed by the President of the Association;

(6) one chief of a municipal police department, appointed by the Chiefs of Police Association of Vermont;

(7) one law enforcement officer appointed by the Vermont Police Association; and

(8) a representative of the Vermont League of Cities and Towns, appointed by the Executive Director of the League.

(c) Issue to study. The Committee shall study the current regulation of law enforcement officers' certification and how that regulation should change, including:

(1) the number of hours that should be required for Level II basic training and the physical fitness that should be required for Level II basic training and annual in-service training;

(2) whether each law enforcement agency should be required to have an effective internal affairs program and, if so, what should be included in that program;

(3) when and under what circumstances a law enforcement agency should report alleged unprofessional conduct to the Vermont Criminal Justice Training Council;

(4) when the Council should be able to investigate and take further action on reports of alleged law enforcement officer unprofessional conduct, including the Council's ability to summarily suspend an officer; and

(5) what types of discipline the Council should be able to impose on a law enforcement officer's certification.

(d) Report. On or before December 1, 2016, the Committee shall report to the House and Senate Committees on Government Operations with its findings and recommendations for legislative action. The report may be in the form of proposed legislation.

(e) Meetings.

(1) The Commissioner of Public Safety shall call the first meeting of the Committee, to occur on or before August 1, 2016.

(2) At its first meeting, the Committee shall elect a chair from among its members.

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

(B) Notwithstanding 1 V.S.A. § 172, an action may be taken by the Committee with the assent of a majority of the members attending, assuming a quorum.

(4) The Committee shall cease to exist on December 2, 2016.

(f) Reimbursement. Members of the Committee 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 five meetings.

* * * E-911, Dispatch, and Call-taking Services * * *

Sec. 2. E-911; DISPATCH; WORKING GROUP

(a) Creation and duties of working group.

(1) A working group shall be formed to study and make recommendations regarding:

(A) the most efficient, reliable, and cost-effective means for providing statewide call-taking operations for Vermont's 911 system; and

(B) the manner in which dispatch services are currently provided and funded, including funding disparity, and whether there should be any changes to this structure.

(2) Among other things, the group shall make findings related to the financing, operations, and geographical location of 911 call-taking services. In addition, the group's findings shall include a description of the number and nature of calls received, and an evaluation of current and potential State and local partnerships with respect to the provision of such services.

(3) The group shall take into consideration the "Enhanced 9-1-1 Board Operational and Organizational Report," dated September 4, 2015.

(4) The group's recommendations shall strive to achieve the best possible outcome in terms of ensuring the health and safety of Vermonters and Vermont communities.

(b) Membership. Members of the working group shall include a representative from each of the following entities: the Enhanced 911 Board;

the Department of Public Safety; the Vermont State Employees' Association; the Vermont League of Cities and Towns; the Vermont State Firefighters' Association; the Vermont Ambulance Association; the Vermont Association of Chiefs of Police; the Vermont Police Association; and the Vermont Sheriffs' Association.

(c) Meetings. The representative from the E-911 Board shall convene the first meeting of the working group, at which the group shall elect a chair and vice chair from among its members. The group shall meet as needed, and shall receive administrative and staffing support from the Department of Public Safety, and may request relevant financial information from the Joint Fiscal Office.

(d) Report. On or before January 15, 2017, the group shall report its findings and recommendations to the House Committees on Commerce and Economic Development, on Government Operations, on Appropriations, and on Ways and Means and to the Senate Committees on Finance, on Government Operations, on Appropriations, and on Economic Development, Housing and General Affairs, and to the Governor.

(e) Reimbursement. Members of the working group 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 five meetings.

Sec. 3. DEPARTMENT OF PUBLIC SAFETY; 911 CALL-TAKING

The Department of Public Safety shall continue to provide 911 call-taking services unless otherwise directed by legislative enactment.

* * * Law Enforcement Officers; Training and Scope of Practice * * *

Sec. 4. 20 V.S.A. § 2358 is amended to read:

§ 2358. MINIMUM TRAINING STANDARDS; DEFINITIONS

* * *

(b) The Council shall offer or approve basic training and annual in-service training for each of the following three levels of law enforcement officer certification in accordance with the scope of practice for each level, and shall determine by rule the scope of practice for each level in accordance with the provisions of this section:

(1) Level I certification.

* * *

(B)(i) The scope of practice of a Level I law enforcement officer shall be limited to security, transport, vehicle escorts, and traffic control, as those terms are defined by the Council ~~by rule~~, except that a Level I officer may react in the following circumstances if the officer determines that it is necessary to do any of the following:

* * *

(2) Level II certification.

* * *

(B)(i) Except as provided in subdivisions (ii) and (iii) of this subdivision (B), the scope of practice of a Level II law enforcement officer shall be limited to investigating the following matters:

(I) 7 V.S.A. § 657 (person under 21 years of age misrepresenting age procuring, possessing, or consuming alcoholic beverages; third or subsequent offense);

(II) 7 V.S.A. § 658 (sale or furnishing to minors; enabling consumption by minors);

~~(H)~~(III) 13 V.S.A. chapter 7 (advertisements);

~~(H)~~(IV) 13 V.S.A. chapter 8 (humane and proper treatment of animals);

~~(IV)~~(V) 13 V.S.A. §§ 505 (fourth degree arson), 508 (setting fires), and 509 (attempts);

~~(V)~~(VI) 13 V.S.A. chapter 19, subchapter 1 (riots);

~~(VI)~~(VII) 13 V.S.A. §§ 1022 (noise in the nighttime), 1023 (simple assault), 1025 (recklessly endangering another person), 1026 (disorderly conduct), 1026a (aggravated disorderly conduct), 1027 (disturbing peace by use of telephone or other electronic communications), 1030 (violation of an abuse prevention order, an order against stalking or sexual assault, or a protective order concerning contact with a child), 1031 (interference with access to emergency services), 1042 (domestic assault), and 1062 (stalking);

~~(VII)~~(VIII) 13 V.S.A. chapter 35 (escape);

~~(VIII)~~(IX) 13 V.S.A. chapter 41 (false alarms and reports);

~~(IX)~~(X) 13 V.S.A. chapter 45 (flags and ensigns);

~~(X)~~(XI) 13 V.S.A. chapter 47 (frauds);

~~(XI)~~(XII) 13 V.S.A. chapter 49 (fraud in commercial transactions);

~~(XII)~~(XIII) 13 V.S.A. chapter 51 (gambling and lotteries);

~~(XIII)~~(XIV) 13 V.S.A. chapter 57 (larceny and embezzlement), except for subchapter 2 (embezzlement);

~~(XIV)~~(XV) 13 V.S.A. chapter 67 (public justice and public officers);

~~(XV)~~(XVI) 13 V.S.A. chapter 69 (railroads);

~~(XVI)~~(XVII) 13 V.S.A. chapter 77 (trees and plants);

~~(XVII)~~(XVIII) 13 V.S.A. chapter 81 (trespass and malicious injuries to property);

~~(XVIII)~~(XIX) 13 V.S.A. chapter 83 (vagrants);

~~(XIX)~~(XX) 13 V.S.A. chapter 85 (weapons);

(XXI) 13 V.S.A. § 7559(d), (e), and (f) (violating condition of release);

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

~~(XXI)~~(XXIII) 18 V.S.A. § 4231(a) (cocaine possession);

~~(XXII)~~(XXIV) 18 V.S.A. § 4232(a) (LSD possession);

~~(XXIII)~~(XXV) 18 V.S.A. § 4233(a) (heroin possession);

~~(XXIV)~~(XXVI) 18 V.S.A. § 4234(a) (depressant, stimulant, or narcotic drug possession);

~~(XXV)~~(XXVII) 18 V.S.A. § 4234a(a) (methamphetamine possession);

~~(XXVI)~~(XXVIII) 18 V.S.A. § 4235(b) (hallucinogenic drug possession);

~~(XXVII)~~(XXIX) 18 V.S.A. § 4235a(a) (ecstasy possession);

~~(XXVIII)~~(XXX) 18 V.S.A. § 4476 (drug paraphernalia offenses);

(XXXI) 20 V.S.A. § 3132 (firework prohibitions);

~~(XXIX)~~(XXXII) 21 V.S.A. § 692(c)(2) (criminal violation of stop-work order);

~~(XXX)~~(XXXIII) any misdemeanor set forth in Title 23 of the Vermont Statutes Annotated, except for 23 V.S.A. chapter 13, subchapter 13 (drunken driving), 23 V.S.A. § 3207a (snowmobiling under the influence),

23 V.S.A. § 3323 (boating under the influence), or 23 V.S.A. § 3506(b)(8) (operating an all-terrain vehicle under the influence);

~~(XXXI)~~(XXXIV) any motor vehicle accident that includes property damage and injuries, as permitted by the Council by rule;

~~(XXXII)~~(XXXV) any matter within the jurisdiction of the Judicial Bureau as set forth in 4 V.S.A. § 1102;

~~(XXXIII)~~(XXXVI) municipal ordinance violations;

~~(XXXIV)~~(XXXVII) any matter within the jurisdiction of a game warden or deputy game warden as set forth in 10 V.S.A. chapter 103, subchapter 4 (game wardens); and

~~(XXXV)~~(XXXVIII) any matter within the scope of practice of a Level I law enforcement officer.

* * *

* * * Electronic Control Devices; Policy Requirement * * *

Sec. 5. 20 V.S.A. § 2367 is amended to read:

§ 2367. STATEWIDE POLICY; ELECTRONIC CONTROL DEVICES; REPORTING

* * *

(b) On or before January 1, 2015, the Law Enforcement Advisory Board shall establish a statewide policy on the use of and training requirements for the use of electronic control devices. ~~On or before January 1, 2016~~ Prior to any use of or intent to use an electronic control device, every State, ~~local~~ county, ~~and~~ municipal, ~~or other~~ law enforcement agency and every constable who is not employed by a law enforcement agency shall adopt this policy. If a law enforcement agency or officer ~~that is~~ was required to adopt a policy pursuant to this subsection ~~fails~~ but failed to do so on or before January 1, 2016, that agency or officer shall be deemed to have adopted, and shall follow and enforce, the model policy established by the Law Enforcement Advisory Board. The policy shall include the following provisions:

* * *

(c) The Criminal Justice Training Council shall adopt rules and develop training to ensure that the policies and standards of this section are met. The Criminal Justice Training Council shall ensure that a law enforcement officer receives appropriate and sufficient training before becoming authorized to carry or use an electronic control device.

(d) On or before June 30, 2017, every State, ~~local~~, county, ~~and~~ municipal, or other law enforcement agency that employs one or more certified law enforcement officers shall ensure that all officers have completed the training established in 2004 Acts and Resolves No. 80, Sec. 13(a), and every constable who is not employed by a law enforcement agency shall have completed this training.

* * *

(f) Every State, ~~local~~, county, ~~and~~ municipal, or other law enforcement agency and every constable who is not employed by a law enforcement agency shall report all incidents involving the use of an electronic control device to the Criminal Justice Training Council in a form to be determined by the Council.

(g) The Law Enforcement Advisory Board shall:

(1) study and make recommendations as to whether officers authorized to carry electronic control devices should be required to wear body cameras; and

(2) establish a policy on the calibration and testing of electronic control devices;

~~(3) on or before January 15, 2015, report to the House and Senate Committees on Government Operations and on Judiciary concerning the recommendations and policy developed pursuant to subdivisions (1) and (2) of this subsection; and~~

~~(4) on or before April 15, 2015, ensure that all electronic control devices carried or used by law enforcement officers are in compliance with the policy established pursuant to subdivision (2) of this subsection.~~

* * * Intentionally Injuring or Killing Law Enforcement Animals * * *

Sec. 6. 13 V.S.A. § 352a is amended to read:

§ 352a. AGGRAVATED CRUELTY TO ANIMALS

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

(1) kills an animal by intentionally causing the animal undue pain or suffering; ~~or~~

(2) intentionally, maliciously, and without just cause tortures, mutilates, or cruelly beats an animal; or

(3) intentionally injures or kills an animal that is in the performance of official duties while under the supervision of a law enforcement officer.

* * * Forfeiture Proceeds to Vermont Police Academy * * *

Sec. 7. 18 V.S.A. § 4247 is amended to read:

§ 4247. DISPOSITION OF PROPERTY

(a) Whenever property is forfeited and delivered to the State Treasurer under this subchapter, the 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~~ 27 V.S.A. chapter 14.

(b) The proceeds from the sale of forfeited property shall be used first 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, including animal care expenses related to the underlying violation. Remaining proceeds shall be distributed as follows:

(1) Five percent shall be distributed to the Vermont Police Academy.

(2)(A) Forty-five percent shall be distributed among:

- (i) the Office of the Attorney General;
- (ii) the Department of State's Attorneys and Sheriffs; and
- (iii) 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)(2)~~, and may only reimburse the prosecutor and law enforcement agencies that participated in the enforcement effort resulting in the forfeiture for expenses incurred, including actual expenses for involved personnel. 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's operating funds.

~~(2)(3)~~ The remaining ~~55~~ 50 percent shall be deposited in the General Fund.

* * * Effective Dates * * *

Sec. 8. EFFECTIVE DATES

This act shall take effect on passage, except the following shall take effect on July 1, 2016:

(1) Sec. 6, 13 V.S.A. § 352a (aggravated cruelty to animals); and

(2) Sec. 7, 18 V.S.A. § 4247 (disposition of property).

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

An act relating to law enforcement, 911 call-taking, and dispatch.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Sears, for the Committee on Appropriations, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Government Operations with the following amendment thereto:

By striking out Secs. 7 (18 V.S.A. § 4247) and 8 (effective dates) in their entirety and inserting in lieu thereof the following:

* * * Animal Cruelty * * *

Sec. 7. 24 V.S.A. § 1943 is added to read:

§ 1943. ANIMAL CRUELTY INVESTIGATION ADVISORY BOARD

(a) An Animal Cruelty Investigation Advisory Board is created within the Department of Public Safety to advise the Governor, the General Assembly, and the Commissioner of Public Safety on issues involving the cooperation and coordination of all agencies that exercise animal welfare responsibilities. The Governor shall appoint the following to serve on the Board:

- (1) the Commissioner of Public Safety or designee;
- (2) the Executive Director of State's Attorneys and Sheriffs or designee;
- (3) the Secretary of Agriculture, Food and Markets or designee;
- (4) the Commissioner of Fish and Wildlife or designee;
- (5) two members to represent the interests of organizations dedicated to promoting the welfare of animals;
- (6) three members to represent the interests of law enforcement;
- (7) a member to represent the interests of humane officers working with companion animals;
- (8) a member to represent the interests of humane officers working with large animals (livestock);
- (9) a member to represent the interests of dog breeders and associated groups;
- (10) a member to represent the interests of veterinarians;
- (11) a member to represent the interests of the Criminal Justice Training Council;
- (12) a member to represent the interests of sportsmen and women; and

(13) a member to represent the interests of town health officers.

(b) The Board shall elect a chair and a vice chair which shall rotate among the various member representatives. Each member shall serve a term of two years. The Board shall meet at the call of the Chair. A quorum shall consist of eight members, and decisions of the Board shall require the approval of a majority of those members present and voting.

(c) The Board shall have the following duties:

(1) undertake an ongoing formal review process of animal cruelty investigations and practices with a goal of developing a systematic, collaborative approach to providing the best services to Vermont's animals, given monies available;

(2) work with the Department of Public Safety to study the feasibility of designating one law enforcement agency to receive, dispatch, and document the outcome of animal cruelty complaints, and with the assistance of the Vermont Sheriffs' Association, develop a uniform response protocol for assigning complaints to the appropriate local law enforcement agencies;

(3) ensure that investigations of serious animal cruelty complaints are systematic and documented, develop written standard operating procedures and checklists to support the objective investigation of cruelty complaints that include objective measures of both environmental and clinical evidence of cruelty;

(4) ensure that requests for voluntary compliance are made in writing, with clear requests and timelines, and include a timeline for the investigator to perform a follow-up visit to confirm actions taken;

(5) develop a guide for animal cruelty prosecution, including a review of current sentencing recommendations for State's Attorneys;

(6) research the feasibility of developing and implementing an animal cruelty prevention and education program for offenders to be used as a part of offenders' sentencing;

(7) explore potential private and public sources of funding for animal cruelty investigations, including animal care expenses;

(8) develop trainings, protocols, procedures, and guidance documents for agencies engaging in animal welfare responsibilities;

(9) develop an animal cruelty investigation certification program for humane officers in accordance with 13 V.S.A. § 356, and provide a means by which a person who has been actively engaged in this State as a humane officer conducting animal cruelty investigations for at least five years

preceding July 1, 2016 shall be eligible for certification without completion of the certification program requirements;

(10) develop recommendations for providing liability protection and reducing uncompensated costs to animal shelters and animal welfare groups that assist law enforcement authorities in animal cruelty investigations;

(11) explore changing the annual deadline for dog licensure under 20 V.S.A. § 3582 to align better with the time of year dogs require annual veterinary care; and

(12) determine what should appropriately constitute an enforcement action triggering the obligation of the Agency of Agriculture, Food and Markets to assist law enforcement pursuant to 13 V.S.A. § 354(a).

(d) The Board shall meet no fewer than six times a year to undertake its duties as outlined in subsection (a) of this section. The Board shall present its findings and recommendations in brief summary to the House and Senate Committees on Judiciary annually on or before January 15.

Sec. 8. 20 V.S.A. § 2365b is added to read:

§ 2365b. ANIMAL CRUELTY RESPONSE TRAINING

As part of basic training in order to become certified as a Level Two and Level Three law enforcement officer, a person shall receive a two-hour training module on animal cruelty investigations as approved by the Vermont Criminal Justice Training Council and the Animal Cruelty Investigation Advisory Board.

Sec. 9. 13 V.S.A. § 356 is added to read:

§ 356. HUMANE OFFICER REQUIRED TRAINING

All humane officers, as defined in subdivision 351(4) of this title, shall complete a certification program on animal cruelty investigation training as developed and approved by the Animal Cruelty Investigation Advisory Board.

Sec. 10. 13 V.S.A. § 354 is amended to read:

§ 354. ENFORCEMENT; POSSESSION OF ABUSED ANIMAL; SEARCHES AND SEIZURES; FORFEITURE

(a) The Secretary of Agriculture, Food and Markets shall be consulted prior to any enforcement action brought pursuant to this chapter which involves livestock and poultry. Law enforcement may consult with the Secretary in person or by electronic means, and the Secretary shall assist law enforcement in determining whether the practice or animal condition, or both represent acceptable livestock or poultry husbandry practices.

* * *

Sec. 11. DEPARTMENT OF CORRECTIONS; ANIMAL CARE PILOT PROGRAM

The Commissioner of Corrections shall implement a pilot program in at least one correctional facility that would permit qualified inmates to provide temporary care, on-site, for animals on a weekly or more frequent basis. The program shall be established on or before January 1, 2017, and the Commissioner shall report on this program, with recommendations as to whether it could be expanded to care for animals that have been seized or relinquished in cruelty or neglect investigations, to the Joint Committee on Justice Oversight on or before November 1, 2017.

* * * Training Safety Subcommittee * * *

Sec. 12. 29 V.S.A. § 842 is added to read:

§ 842. TRAINING SAFETY SUBCOMMITTEE; RECOMMENDATIONS; GOVERNANCE COMMITTEE REPORT

(a) Subcommittee creation. There is created as a subcommittee of the Training Center Governance Committee the Training Safety Subcommittee to make recommendations regarding training safety at the Robert H. Wood, Jr. Criminal Justice and Fire Service Training Center of Vermont (Training Center).

(b) Subcommittee membership. The Subcommittee shall be composed of seven members.

(1) Four of these members shall be members of the Training Center Governance Committee, appointed by the Committee as follows:

(A) two shall represent the Vermont Police Academy; and

(B) two shall represent the Vermont Fire Academy.

(2) The remaining three members shall be as follows:

(A) the Commissioner of Labor or designee;

(B) the Risk Management Manager of the Office of Risk Management within the Agency of Administration; and

(C) one employee of the Vermont League of Cities and Towns who specializes in risk management, appointed by the Executive Director of the League.

(c) Subcommittee recommendations. The Subcommittee shall annually:

(1) on or before February 1, review the safety records of the Training Center; and

(2) on or before July 1, submit to the Training Center Governance Committee its recommendations regarding how training safety at the Training Center could be improved.

(d) Governance Committee review and report.

(1) The Training Center Governance Committee shall review and consider the recommendations made by the Subcommittee under subsection (c) of this section.

(2) Annually, on or before January 15, the Governance Committee shall report to the General Assembly regarding:

(A) any training safety issues it has discovered at the Training Center and any steps it has taken to remedy those issues; and

(B) whether the Governance Committee has instituted any of the Subcommittee's recommendations for training safety and if not, the reasons therefor.

(3) The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report required to be made under this subsection.

Sec. 13. INITIAL TRAINING SAFETY SUBCOMMITTEE MEETING AND INITIAL TRAINING CENTER GOVERNANCE COMMITTEE REPORT

(a) The Chair of the Training Center Governance Committee shall call the initial meeting of the Training Safety Subcommittee set forth in 29 V.S.A. § 842 in Sec. 12 of this act to be held on or before February 1, 2017.

(b) The Training Center Governance Committee shall make its initial report to the General Assembly described in 29 V.S.A. § 842(d) in Sec. 12 of this act on or before January 15, 2018.

* * * Effective Dates * * *

Sec. 14. EFFECTIVE DATES

This act shall take effect on passage, except Secs. 6 (13 V.S.A. § 352a) through 11 (Department of Corrections; animal care pilot program) shall take effect on July 1, 2016.

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

An act relating to law enforcement, 911 call taking, dispatch, animal cruelty, and training safety.

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of proposal of amendment of the Committee on Government Operations was amended as recommended by the Committee on Appropriations.

Thereupon, the proposal of amendment recommended by the Committee on Government Operations, as amended, was agreed to and third reading of the bill was ordered.

Proposal of Amendment; Third Reading Ordered

H. 278.

Senator Benning, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to selection of the Adjutant and Inspector General.

Reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 2 V.S.A. § 12 is amended to read:

§ 12. LEGISLATIVE ELECTIONS; UNIFORM BALLOTS

(a) Whenever there is a known contested election for Speaker of the House of Representatives, or for President Pro Tempore of the Senate, and in elections by the joint assembly of the ~~Legislature~~ General Assembly, the Secretary of State shall prepare a ballot for each office, listing the names of the known candidates for the office in the alphabetical order of their surnames and leaving thereon sufficient blank spaces to take care of any nominations from the floor.

(b) A candidate for office shall, not later than one week preceding the election, notify the Secretary of State in writing of his or her candidacy, naming the particular office. If he or she fails so to notify the Secretary of State, his or her name shall not be printed on the ballot. No ballot may be used other than the official ballot provided by the Secretary of State.

(c)(1) A candidate for Adjutant and Inspector General shall:

(A) be a resident of Vermont;

(B) have attained the rank of lieutenant colonel (O-5) or above;

(C) be a current member of the U.S. Army, the U.S. Air Force, the U.S. Army Reserve, the U.S. Air Force Reserve, the Army National Guard, or

the Air National Guard, or be eligible to return to active service in the Army National Guard or the Air National Guard; and

(D) be a graduate of a Senior Service College, currently be enrolled in a Senior Service College, or be eligible to be enrolled in a Senior Service College during the biennium in which the candidate would first be appointed.

(2) A candidate for Adjutant and Inspector General shall, at the time he or she notifies the Secretary of State of his or her candidacy pursuant to subsection (b) of this section, certify under oath to the Secretary that he or she meets the qualifications set forth in subdivision (1) of this subsection.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Starr, for the Committee on Appropriations, to which the bill was referred, reported recommending the same without recommendation.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the proposal of amendment was agreed to, and third reading of the bill was ordered.

Proposal of Amendment; Third Reading Ordered

H. 355.

Senator Bray, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to licensing and regulating foresters.

Reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 3 V.S.A. § 122 is amended to read:

§ 122. OFFICE OF PROFESSIONAL REGULATION

An Office of Professional Regulation is created within the Office of the Secretary of State. The Office shall have a director who shall be appointed by the Secretary of State and shall be an exempt employee. The following boards or professions are attached to the Office of Professional Regulation:

* * *

(35) ~~[Repealed.]~~ Foresters

* * *

Sec. 2. 26 V.S.A. chapter 95 is added to read:

CHAPTER 95. FORESTERS

Subchapter 1. General Provisions

§ 4901. PURPOSE AND EFFECT

In order to implement State policy and safeguard the public welfare, a person shall not engage in the practice of forestry unless currently licensed under this chapter.

§ 4902. DEFINITIONS

As used in this chapter:

(1) “Director” means the Director of the Office of Professional Regulation.

(2) “Disciplinary action” means any action taken against a licensee for unprofessional conduct.

(3) “Forester” means a person who is licensed to practice forestry under this chapter.

(4)(A) “Forestry” means the science, art, and practice of creating, managing, using, and conserving forests and associated resources to meet desired goals, needs, and values, including timber management, wildlife management, biodiversity management, and watershed management. Forestry science consists of those biological, physical, quantitative, managerial, and social sciences that are applied to forest management. Forestry services include investigations, consultations, timber inventory, and appraisal, development of forest management plans, and responsible supervision of forest management or other forestry activities on public or private lands.

(B) “Forestry” does not include services for the physical implementation of cutting, hauling, handling, or processing of forest products or for the physical implementation of silvicultural treatments and practices.

(5) “License” means a current authorization granted by the Director permitting the practice of forestry pursuant to this chapter.

(6) “SAF” means the Society of American Foresters.

§ 4903. PROHIBITIONS; OFFENSES

(a) It shall be a violation of this chapter for any person, including any corporation, association, or individual, to:

(1) sell or fraudulently obtain or furnish any forestry degree, diploma, certificate of registration, license, or any other related document or record or to aid or abet in so doing;

(2) practice forestry under cover of any degree, diploma, registration, license, or related document or record illegally or fraudulently obtained, or signed or issued unlawfully or under fraudulent representation;

(3) practice forestry unless licensed to do so under the provisions of this chapter;

(4) represent himself or herself as being licensed in this State to practice forestry or use in connection with a name any words, letters, signs, or figures that imply that a person is a forester when not licensed under this chapter; or

(5) practice forestry during the time a license issued under this chapter is suspended or revoked.

(b) Any person violating this section shall be subject to the penalties provided in 3 V.S.A. § 127.

§ 4904. EXEMPTIONS

This chapter does not prohibit:

(1) An individual or a college or university in this State from practicing forestry on his, her, or its own lands.

(2) The practice of any other occupation or profession by a person duly licensed or otherwise authorized under the laws of this State.

(3) The carrying out of forest practices as an employee of a forester when acting under the general supervision of that forester. As used in this subdivision, "general supervision" means the forester need not be on-site when the employee provides the forest practices, but shall maintain continued involvement in and accept professional responsibility for the aspects of each forest practice the employee performs.

(4) Unlicensed professional activities within or relating to forests, if such activities do not involve the application of forestry principles or judgment and do not require forestry education, training, and experience to ensure competent performance.

Subchapter 2. Administration

§ 4911. DUTIES OF THE DIRECTOR

(a) The Director shall:

- (1) provide general information to applicants for licensure as foresters;
 - (2) receive applications for licensure and provide licenses to applicants qualified under this chapter;
 - (3) provide standards and approve education programs for applicants and for the benefit of foresters who are reentering practice following a lapse of five or more years;
 - (4) administer fees as established by law;
 - (5) refer all disciplinary matters to an administrative law officer;
 - (6) renew, revoke, and reinstate licenses as ordered by an administrative law officer; and
 - (7) explain appeal procedures to licensed foresters and to applicants, and complaint procedures to the public.
- (b) The Director may adopt rules necessary to perform his or her duties under this section.

§ 4912. ADVISOR APPOINTEES

- (a)(1) The Secretary of State shall appoint three foresters for five-year staggered terms to serve at the Secretary's pleasure as advisors in matters relating to forestry. One of the initial appointments shall be for less than a five-year term.
- (2) An appointee shall have not less than ten years' experience as a forester immediately preceding appointment; shall be licensed as a forester in Vermont; and shall be actively engaged in the practice of forestry in this State during incumbency.
- (b) The Director shall seek the advice of the forestry advisor appointees in carrying out the provisions of this chapter.

Subchapter 3. Licenses

§ 4921. QUALIFICATIONS FOR LICENSURE

Applicants for licensure shall qualify under one of the following paths to licensure:

- (1) Possession of a bachelor's degree, or higher, in forestry from a program approved by the Director, satisfactory completion of two years of the SAF Certified Forester experience requirements, and passage of the SAF Certified Forester examination, which may include a State portion if required by the Director by rule.

(2) Possession of a bachelor's degree, or higher, in a forestry-related field from a program approved by the Director, satisfactory completion of three years of the SAF Certified Forester experience requirements, and passage of the SAF Certified Forester examination, which may include a State portion if required by the Director by rule.

(3) Possession of an associate degree in forestry from a program approved by the Director, satisfactory completion of four years of the SAF Certified Forester experience requirements, and passage of the SAF Certified Forester examination, which may include a State portion if required by the Director by rule.

(4) Possession of a valid registration or license to engage in the practice of forestry issued by the appropriate regulatory authority of a state, territory, or possession of the United States, or the District of Columbia, based on requirements and qualifications shown by the application to be equal to or greater than the requirements of this chapter. Such an applicant may be examined on forestry matters peculiar to Vermont and may be granted a license at the discretion of the Director.

§ 4922. APPLICATIONS FOR LICENSURE

Applications for licensure shall be on forms provided by the Director. Each application shall contain a statement under oath showing the applicant's education, forestry experience, and other pertinent information required by the Director. Applications shall be accompanied by the required fee.

§ 4923. ISSUANCE OF LICENSES

The Director shall issue a license, upon payment of the fees prescribed in this chapter, to any applicant who has satisfactorily met all the requirements of this chapter.

§ 4924. RENEWALS

(a) Licenses shall be renewed every two years upon payment of the renewal fee.

(b) Biennially, the Director shall provide notice to each licensee of license expiration and renewal requirements. Upon receipt of the completed form and the renewal fee, the Director shall issue a new license.

(c) As a condition of renewal, the Director shall require that a licensee establish that he or she has completed continuing education, as approved by the Director, of 24 hours for each two-year renewal period.

(d) The Director may reinstate the license of an individual whose license has expired upon payment of the required fee and reinstatement penalty.

provided the individual has satisfied all the requirements for renewal, including continuing education.

§ 4925. LICENSE AND RENEWAL FEES

Applicants and persons regulated under this chapter shall pay those fees set forth in 3 V.S.A. § 125(b).

§ 4926. UNPROFESSIONAL CONDUCT

(a) The Director may deny an application for licensure or relicensure; revoke or suspend any license to practice forestry issued under this chapter; or discipline or in other ways condition the practice of a licensee upon due notice and opportunity for hearing in compliance with the provisions of 3 V.S.A. chapter 25 if the person engages in the following conduct or the conduct set forth in 3 V.S.A. § 129a:

(1) has made or caused to be made a false, fraudulent, or forged statement or representation in procuring or attempting to procure registration or renew a license to practice forestry;

(2) whether or not committed in this State, has been convicted of a crime related to the practice of forestry or a felony that evinces an unfitness to practice forestry;

(3) is unable to practice forestry competently by reason of any cause;

(4) has willfully or repeatedly violated any of the provisions of this chapter;

(5) is habitually intemperate or is addicted to the use of habit-forming drugs capable of impairing the exercise of professional judgment;

(6) has a mental, emotional, or physical disability, the nature of which interferes with the ability to practice forestry competently;

(7) engages in conduct of a character likely to deceive, defraud, or harm the public; or

(8) aiding, abetting, encouraging, or negligently causing a violation of the statutes or rules of the Vermont Department of Forests, Parks and Recreation.

(b) Any person or institution aggrieved by any action of the Director under this section may appeal as provided in 3 V.S.A. § 130a.

(c) A person shall not be liable in a civil action for damages resulting from the good faith reporting of information to the Director about incompetent, unprofessional, or unlawful conduct of a forester.

Sec. 3. TRANSITIONAL PROVISIONS; ADVISOR APPOINTEES;
LICENSING OF CURRENT FORESTERS

(a) Advisor appointees. Notwithstanding the provision of 26 V.S.A. § 4912 in Sec. 2 of this act that requires an advisor appointee to be a licensed forester in Vermont, an initial advisor appointee may be in the process of applying for licensure as a forester in this State if he or she otherwise is eligible for licensure as a forester under this act.

(b) Licensing of current foresters.

(1) The Director of the Office of Professional Regulation shall establish a procedure whereby an individual who can demonstrate a record of full-time forestry practice for at least eight of the ten years immediately preceding the effective date of Sec. 2 of this act may become licensed as a forester:

(A) without examination, if he or she possesses one of the degrees described in 26 V.S.A. § 4921(1)–(3) (qualifications for licensure) in Sec. 2 of this act;

(B) without possessing a degree described in 26 V.S.A. § 4921(1)–(3) in Sec. 2 of this act, if he or she passes the Society of American Foresters (SAF) Certified Forester Examination, which may include a State portion if required by the Director by rule; or

(C) without examination or possession of one of the degrees described in 26 V.S.A. § 4921(1)–(3) in Sec. 2 of this act, if he or she is determined by the Director, after due consultation with the advisor appointees, to have demonstrated through a peer-review process and production of such documentation as the Director may require, that he or she possesses forestry competencies commensurate to those of an individual eligible for licensure pursuant to Sec. 2 of this act.

(2) In addition to the ability of an individual to become licensed as a forester under the provisions of subdivision (1) of this subsection, an individual shall be eligible for expedited licensure if he or she is an SAF Certified Forester, active and in good standing.

(3) Any person licensed under this section shall thereafter be eligible for license renewal pursuant to 26 V.S.A. § 4924.

(4) The ability of a person to become licensed under the provisions of this section shall expire on January 1, 2018.

Sec. 4. EFFECTIVE DATES

This act shall take effect on passage, except that Secs. 1 (amending 3 V.S.A. § 122) and 2 (adding 26 V.S.A. chapter 95) shall take effect on July 1, 2016.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Lyons, for the Committee on Finance, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Government Operations.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Government Operations?, Senators Bray, Benning, Collamore, Pollina, and White moved to amend the proposal of amendment of the Committee on Government Operations as follows:

First: In Sec. 2, 26 V.S.A. § 4903 (prohibitions; offenses), by adding a subsection (c) to read:

(c) When considering a violation of this chapter, the Director shall recognize that, in appropriate circumstances, loggers and log buyers may make investigations, consultations, timber inventories, and appraisals and may responsibly conduct harvesting activities on private land.

Second: In Sec. 2, 26 V.S.A. § 4904 (exemptions), by striking out subdivision (1) in its entirety and inserting in lieu thereof the following:

(1) An individual, college or university, family, family trust, or business from practicing forestry on his, her, or its own lands, provided that a business may only practice forestry on an aggregate of not more than 40 acres of its own lands.

Third: In Sec. 2, 26 V.S.A. § 4904 (exemptions), by striking out subdivision (3) in its entirety and inserting in lieu thereof the following:

(3)(A) An individual from carrying out forest practices when acting under the general supervision of a forester or acting as an expert consultant on work related to forestry, such as forest certification audits or the study of hydrology or wildlife biology.

(B) As used in subdivision (A) of this subdivision (3), "general supervision" means the forester need not be on-site when the individual performs the work described in subdivision (A), but shall maintain continued involvement in and accept professional responsibility for that work.

Fourth: In Sec. 2, 26 V.S.A. § 4926 (unprofessional conduct), in subdivision (a)(8), preceding "violation of the statutes and rules of the Vermont Department of Forests, Parks and Recreation" by inserting substantial

Fifth: In Sec. 3, (transitional provisions), by striking out subdivision (b)(1) in its entirety and inserting in lieu thereof the following:

(1) The Director of the Office of Professional Regulation shall establish a procedure whereby:

(A) an individual who can demonstrate a record of full-time forestry practice for at least eight of the ten years immediately preceding the effective date of Sec. 2 of this act may become licensed as a forester:

(i) without examination, if he or she possesses one of the degrees described in 26 V.S.A. § 4921(1)–(3) (qualifications for licensure) in Sec. 2 of this act; or

(ii) without possessing a degree described in 26 V.S.A. § 4921(1)–(3) in Sec. 2 of this act, if he or she passes the Society of American Foresters (SAF) Certified Forester Examination, which may include a State portion if required by the Director by rule; or

(B) an individual may become licensed as a forester without examination or possession of one of the degrees described in 26 V.S.A. § 4921(1)–(3) in Sec. 2 of this act, if he or she is determined by the Director, after due consultation with the advisor appointees, to have demonstrated through a peer-review process and production of such documentation as the Director may require, that he or she possesses both significant experience and forestry competencies commensurate to those of an individual eligible for licensure pursuant to Sec. 2 of this act.

Sixth: In Sec. 3 (transitional provisions), in subdivision (b)(4), following “shall expire on” by striking out “January 1, 2018” and inserting in lieu thereof January 1, 2019

Which was agreed to.

Thereupon, pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Government Operations?, Senator Bray moved that the recommendation of the proposal of amendment of the Committee on Government Operations be amended in Sec. 2, in 26 V.S.A. § 4904 (exemptions), by striking out the introductory language “This chapter does not prohibit:” and inserting in lieu thereof The following shall not require a license under this chapter:

Which was agreed to.

Thereupon, the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Government Operations?, as amended, was agreed to.

Thereupon, third reading of the bill was ordered.

Proposal of Amendment; Bill Passed in Concurrence with Proposal of Amendment

H. 571.

House bill entitled:

An act relating to driver's license suspensions, driving with a suspended license, and DUI penalties.

Was taken up.

Thereupon, pending third reading of the bill, Senator Lyons moved that the Senate proposal of amendment be amended by adding a new section to be numbered Sec. 20a and a reader assistance thereto to read as follows:

* * * Financial Responsibility; Motorcycles * * *

Sec. 20a. 23 V.S.A. § 800 is amended to read:

§ 800. MAINTENANCE OF FINANCIAL RESPONSIBILITY

(a)(1) ~~No~~ An owner of a motor vehicle required to be registered, or an operator required to be licensed or issued a learner's permit, shall not operate or permit the operation of the vehicle upon the highways of the State without having in effect an automobile liability policy or bond in the amounts of at least \$25,000.00 for one person and \$50,000.00 for two or more persons killed or injured and \$10,000.00 for damages to property in any one crash.

(2) In addition to the requirements of subdivision (1) of this subsection, a person shall not operate a motorcycle upon the highways of the State without having in effect an automobile liability policy with coverage for first-party medical benefits payable in the event that he or she is involved in a motorcycle accident. The coverage shall be in the following amounts:

(A) If operating without a passenger, not less than \$20,000.00.

(B) If operating with a passenger, not less than \$20,000.00 per person per occurrence. However, if the passenger has coverage for first-party medical benefits of not less than \$20,000.00, then the operator is only required to have self-coverage of not less than \$20,000.00.

(3) In lieu thereof of the requirements of subdivisions (1) and (2) of this subsection, evidence of self-insurance in the amount of \$115,000.00 must be filed with the Commissioner of Motor Vehicles, and shall be maintained and evidenced in a form prescribed by the Commissioner.

(4) The Commissioner may require that evidence of financial responsibility be produced before motor vehicle inspections are performed pursuant to the requirements of section 1222 of this title.

* * *

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as moved by Senator Lyons? Senator Rodgers raised a *point of order* under Sec. 402 of Mason's Manual of Legislative Procedure on the grounds that the proposal of amendment offered by Senator Lyons was *not germane* to the bill and therefore could not be considered by the Senate.

Thereupon, the President *sustained* the point of order and ruled that the proposal of amendment offered by Senator Lyons was *not germane* to the bill.

The President thereupon declared that the proposal of amendment offered by Senator Lyons could *not* be considered by the Senate and the proposal of amendment was ordered stricken.

Thereupon, pending third reading of the bill, Senators Riehle and Sirotkin moved to amend the Senate proposal of amendment by striking out Secs. 19–20 in their entirety and inserting in lieu thereof the following:

Sec. 19. 23 V.S.A. § 1256 is amended to read:

§ 1256. MOTORCYCLES—HEADGEAR

(a) A person may not operate or ride upon a motorcycle upon a highway unless he or she properly wears protective headgear of a type that conforms to the federal Motor Vehicle Safety Standards contained in 49 C.F.R. § 571.218, as may be amended. The requirement of this section shall not apply to occupants of fully enclosed autocycles.

(b) An operator 21 years of age or older who is convicted of violating this section shall not have points assessed against his or her driving record. An operator under 21 years of age who is convicted of violating this section shall have two points assessed against his or her driving record.

Sec. 20. 23 V.S.A. § 2502 is amended to read:

§ 2502. POINT ASSESSMENT; SCHEDULE

(a) Unless the assessment of points is waived by a Superior judge or a Judicial Bureau hearing officer in the interests of justice and in accordance with subsection 2501(b) of this title, a person operating a motor vehicle shall have points assessed against his or her driving record for convictions for moving violations of the indicated motor vehicle statutes in accord with the following schedule: (All references are to Title 23 of the Vermont Statutes Annotated.)

(1) Two points assessed for:

* * *

(CCC)	§ 1256.	Motorcycle headgear; <u>under 21 years of age</u>
(DDD)	§ 1257.	Face <u>Eye</u> Protection;

* * *

Which was disagreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

Proposal of Amendment; Third Reading Ordered

H. 869.

Senator Benning, for the Committee on Judiciary, to which was referred House bill entitled:

An act relating to judicial organization and operations.

Reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Judicial Masters * * *

Sec. 1. 4 V.S.A. § 38 is added to read:

§ 38. JUDICIAL MASTERS

(a) The Administrative Judge may appoint a licensed Vermont lawyer who has been engaged in the practice of law in Vermont for at least the last five years to serve as a Judicial Master. The Judicial Master shall be an employee of the Judiciary and be subject to the Code of Judicial Conduct. A Judicial Master shall not engage in the active practice of law for remuneration while serving in this position. In making this appointment, the Administrative Judge shall apply the criteria and standards for judicial appointments contained in section 601 of this title. The Judicial Master may hear and decide matters as designated by the Administrative Judge in the Civil, Criminal, and Family Divisions as described herein:

(1) In the Civil Division of the Superior Court, pre- and post-trial matters, as approved by the presiding judge, including rent escrow orders, discovery orders, sanctions not including requests for dismissal, and financial disclosure hearings; the Master shall not hear requests for injunctive relief, motions for summary judgment, a motion to dismiss for failure to state a claim, or an involuntary dismissal.

(2) In the Criminal Division of the Superior Court, proceedings in treatment court dockets, as approved by the presiding judge, to assure

compliance with court orders, including attendance and participation with a treatment plan, imposition of sanctions and incentives, including incarceration in the course of the program and dismissal from the program due to noncompliance; the Master shall not have authority to accept pleas or to impose sentences, to hear motions to suppress, or to dismiss for lack of a prima facie case.

(3) In the Family Division of the Superior Court, in juvenile proceedings, as approved by the presiding judge, to assure compliance with existing court orders, including attendance and participation in substance abuse, mental health, and other court-ordered counseling; compliance with and modification of parent-child contact; to act as the administrative body to conduct permanency hearings pursuant to 33 V.S.A. § 5321(g) unless a contested permanency hearing becomes necessary; and to provide case management of juvenile proceedings; the Master shall not have the authority to hear temporary care hearings, requests for juvenile protective orders, or hearings on the merits, or to conduct disposition hearings.

(4) In the Family Division of the Superior Court, proceedings, with the approval of the presiding judge, to assure compliance with existing court orders relating to parent-child contact; to act as a Master pursuant to Rule 53 of the Vermont Rules of Civil Procedure where no order has been made pursuant to 32 V.S.A. § 1758(b); and to provide case management of proceedings with 15 V.S.A. chapters 5, 11, 15, and 18; the Master shall not have authority to determine divorce or parentage actions, parental rights and responsibilities, or spousal maintenance, or modifications of such orders.

(b) The Judicial Master may be appointed to serve as an acting judge pursuant to subsection 22(b) of this title in any matter in which he or she has not previously acted as a Judicial Master.

(c) The decision of a Judicial Master under this section shall have the same effect as a decision of a Superior judge, except when acting as a Master pursuant to subdivision (a)(4) of this section.

Sec. 2. REPEAL

4 V.S.A. § 38 (Judicial Masters) shall be repealed on July 1, 2019.

* * * Venue in TPR Cases * * *

Sec. 3. LEGISLATIVE INTENT

The General Assembly does not intend Sec. 4 of this act, which amends 4 V.S.A. § 37 to permit regional venue in proceedings involving the termination of parental rights (TPR), to result in the closure of any Vermont courts. Sec. 4 is intended to permit greater flexibility in the TPR process, in

response to the findings and recommendations made by the Committee on Child Protection in 2014, and it may, in fact, result in an increase rather than a decrease in court proceedings for some jurisdictions.

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

§ 37. VENUE

(a) The venue for all actions filed in the ~~superior court~~ Superior Court, whether heard in the ~~civil, criminal, family, environmental, or probate division~~ Civil, Criminal, Family, Environmental, or Probate Division, shall be as provided in law.

(b) Notwithstanding any other provision of law, the ~~supreme court~~ Supreme Court may promulgate venue rules, subject to review by the legislative committee on judicial rules under 12 V.S.A. chapter 1 ~~of Title 12~~, which are consistent with the following policies:

(1) Proceedings involving a case shall be heard in the unit in which the case was brought, subject to the following exceptions:

(A) when the parties have agreed otherwise;

(B) status conferences, minor hearings, or other nonevidentiary proceedings; or

(C) when a change in venue is necessary to ensure access to justice for the parties or required for the fair and efficient administration of justice.

(2) The electronic filing of cases on a statewide basis should be facilitated, and the ~~court~~ Court is authorized to promulgate rules establishing an electronic case-filing system.

(3) The use of technology to ease travel burdens on citizens and the courts should be promoted. For example, venue requirements should be deemed satisfied for some court proceedings when a person, including a judge, makes an appearance via video technology, even if the judge is not physically present in the same location as the person making the appearance.

(4) In proceedings involving the termination of parental rights, the Supreme Court is authorized to designate a region of no more than four counties in which the venue for specified types of cases in the region shall be the region as a whole, irrespective of the county in which the venue would lie for the case under the governing statute. A designation under this subdivision shall be made by rule and shall be reviewed by the Legislative Committee on Judicial Rules pursuant to 12 V.S.A. § 1.

* * * Licensing Board Appeals * * *

Sec. 5. 3 V.S.A. § 130a is amended to read:

 § 130a. APPEALS FROM BOARD DECISIONS

(a) A party aggrieved by a final decision of a board may, within 30 days of the decision, appeal that decision by filing a notice of appeal with the Director who shall assign the case to an appellate officer. The review shall be conducted on the basis of the record created before the board. In cases of alleged irregularities in procedure before the board, not shown in the record, proof on that issue may be taken by the appellate officer.

* * *

(c) A party aggrieved by a decision of the appellate officer may appeal to the ~~Superior Court in Washington County~~ Supreme Court, which shall review the matter on the basis of the records created before the board and the appellate officer.

* * * Transportation Board Appeals * * *

Sec. 6. 19 V.S.A. § 5 is amended to read:

§ 5. TRANSPORTATION BOARD; POWERS AND DUTIES

* * *

(c) The Board may delegate the responsibility to hear quasi-judicial matters, and other matters as it may deem appropriate, to a hearing examiner or a single Board member, to hear a case and make findings in accordance with 3 V.S.A. chapter 25, except that highway condemnation proceedings shall be conducted pursuant to the provisions of chapter 5 of this title. A hearing examiner or single Board member so appointed shall report his or her findings of fact in writing to the Board. Any order resulting therefrom shall be rendered only by a majority of the Board. Final orders of the Board issued pursuant to section 20 of this title may be reviewed on the record by a Superior Court pursuant to Rule 74 of the Vermont Rules of Civil Procedure. All other final orders of the Board may be reviewed on the record by the Supreme Court.

* * *

* * * Accessibility and Efficiency of Court System * * *

Sec. 7. ACCESS TO JUSTICE; COLLABORATIVE PROCESS

The Supreme Court shall coordinate a collaborative process with its justice partners, including the Vermont Bar Association, the Department of State's Attorneys and Sheriffs, the Office of the Defender General, the Office of the Attorney General, the Department for Children and Families, and the Vermont Association for Justice, in an effort to identify court system reforms that promote efficient use of judicial resources and allocation of costs while preserving access to justice and maintaining the quality of court services. The

Court shall report the proposals developed in the collaborative process to the House and Senate Committees on Judiciary on or before December 15, 2016.

* * * Judiciary Service Center * * *

Sec. 8. DISCONTINUATION OF JUDICIARY SERVICE CENTER

On or before June 30, 2016, the Vermont Supreme Court shall discontinue use of the Judiciary Service Center to respond to communications from Vermont attorneys.

* * * Effective Dates * * *

Sec. 9. EFFECTIVE DATES

(a) Secs. 1, 2, 3, 4, 7, 8, and this section shall take effect on passage.

(b) Secs. 5 and 6 shall take effect on July 1, 2016 and shall apply to appeals filed on or after that date.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Sears, for the Committee on Appropriations, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Judiciary with the following amendments thereto:

First: By striking out Secs. 3 and 4 in their entirety

Second: By inserting a new Sec. 3. to read as follows:

Sec. 3. JOINT COMMITTEE ON CHILD PROTECTION; 2016 STUDY
ITEM

During 2016 the Joint Legislative Committee on Child Protection shall study how best to utilize courts that are currently under-utilized in order to improve the flexibility and efficiency of judicial proceedings involving the termination of parental rights.

And by renumbering the remaining sections to be numerically correct.

And that the bill ought to pass in concurrence with such proposals of amendment.

Thereupon, Senator Sears moved to substitute the proposal of amendment of the Committee on Appropriations as follows:

In Sec. 4, 4 V.S.A. § 37(b), by striking subdivision (4) in its entirety and inserting in lieu thereof a new subdivision (4) to read as follows:

(4)(A) Subject to subdivision (B) of this subdivision (4), in proceedings involving the termination of parental rights, the Supreme Court is authorized to designate a region of no more than four counties in which the venue for specified types of cases in the region shall be the region as a whole, irrespective of the county in which the venue would lie for the case under the governing statute. A designation under this subdivision shall be made by rule and shall be reviewed by the Legislative Committee on Judicial Rules pursuant to 12 V.S.A. § 1.

(B) A region designated pursuant to subdivision (A) of this subdivision (4) shall not include Grand Isle or Essex counties for purposes of permitting termination of parental rights proceedings originating in Grand Isle or Essex counties to be heard in other counties or regions unless all parties consent. This subdivision shall not preclude termination of parental rights proceedings originating in other counties from being heard in Grand Isle or Essex counties.

Which was agreed to.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of proposal of amendment of the Committee on Judiciary was amended as recommended by the Committee on Appropriations.

Thereupon, the proposal of amendment recommended by the Committee on Judiciary, as amended, was agreed to and third reading of the bill was ordered.

Proposal of Amendment; Consideration Postponed

J.R.H. 26.

Senator Campion, for the Committee on Natural Resources and Energy, to which was referred joint House resolution entitled:

Joint resolution relating to the amendment of the federal Toxic Substances Control Act and its preemption provisions.

Reported recommending that the Senate propose to the House to amend the joint resolution by striking out the ninth whereas clause in its entirety and inserting in lieu thereof the following:

Whereas, significant health risks to Vermonters exist as a result of pollution from factories closed more than a decade ago, and

And that the joint resolution ought to be adopted in concurrence with such proposal of amendment.

Thereupon, the joint resolution was read the second time by title only pursuant to Rule 43, and pending the question, Shall the proposal of

amendment be agreed to?, on motion of Senator Campion consideration of the bill was postponed.

**Rules Suspended; House Proposal of Amendment Not Concurred In;
Committee of Conference Requested**

S. 10.

Pending entry on the Calendar for notice, on motion of Senator Sears, the rules were suspended and House proposal of amendment to Senate bill entitled:

An act relating to the State DNA database.

Was taken up for immediate consideration.

The House proposes to the Senate to amend the bill as follows:

In Sec. 1, 20 V.S.A. § 1932, in subdivision (12), by striking out subdivision (D) in its entirety and inserting in lieu thereof a new subdivision (D) to read as follows:

(D) a misdemeanor violation of 13 V.S.A. chapter 28 of this title, relating to abuse, neglect, and exploitation of vulnerable adults;

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator Sears, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.

**Rules Suspended; House Proposal of Amendment Not Concurred In;
Committee of Conference Requested**

S. 154.

Pending entry on the Calendar for notice, on motion of Senator Sears, the rules were suspended and House proposal of amendment to Senate bill entitled:

An act relating to enhanced penalties for assaulting an employee of the Family Services Division of the Department for Children and Families and to criminal threatening.

Was taken up for immediate consideration.

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds the following:

(1) Stalking is a serious problem in Vermont and nationwide.

(2) Stalking involves severe intrusions on the victim's personal privacy and autonomy.

(3) Stalking causes a long-lasting impact on the victim's quality of life and creates risks to the security and safety of the victim and others even in the absence of express threats of physical harm.

(4) Stalking conduct often becomes increasingly violent over time.

(5) There is a strong connection between stalking and domestic violence and sexual assault.

Sec. 2. 12 V.S.A. § 5131 is amended to read:

§ 5131. DEFINITIONS

As used in this chapter:

~~(1)(A) "Course of conduct" means a pattern of conduct composed of two or more acts over a period of time, however short, evidencing a continuity of purpose~~ two or more acts over a period of time, however short, in which a person follows, monitors, surveils, threatens, or makes threats about another person, or interferes with another person's property. This definition shall apply to acts conducted by the person directly or indirectly, and by any action, method, device, or means. Constitutionally protected activity is not included within the meaning of "course of conduct."

(B) As used in subdivision (A) of this subdivision (1), threaten shall not be construed to require an express or overt threat.

~~(2) "Following" means maintaining over a period of time a visual or physical proximity to another person in such manner as would cause a reasonable person to have fear of unlawful sexual conduct, unlawful restraint, bodily injury, or death. [Repealed.]~~

~~(3) "Lying in wait" means hiding or being concealed for the purpose of attacking or harming another person.~~

~~(4) "Nonphysical contact" includes telephone calls, mail, e-mail, social media commentary or comment, or other electronic communication, fax, and written notes.~~

(4) "Reasonable person" means a reasonable person in the victim's circumstances.

(5) "Sexually assaulted the plaintiff" means that the defendant engaged in conduct that meets elements of lewd and lascivious conduct as defined in 13 V.S.A. § 2601, lewd and lascivious conduct with a child as defined in 13 V.S.A. § 2602, sexual assault as defined in 13 V.S.A. § 3252, aggravated sexual assault as defined in 13 V.S.A. § 3253, use of a child in a sexual

performance as defined in 13 V.S.A. § 2822, or consenting to a sexual performance as defined in 13 V.S.A. § 2823 and that the plaintiff was the victim of the offense.

(6) “Stalk” means to engage purposefully in a course of conduct ~~which consists of following or lying in wait for a person, or threatening behavior~~ directed at a specific person ~~or a member of the person’s family, and:~~

~~(A) serves no legitimate purpose; and~~

~~(B) that the person engaging in the conduct knows or should know would cause a reasonable person to:~~

~~(A) fear for his or her safety or the safety of a family member; or~~

~~(B) would cause a reasonable person suffer~~ substantial emotional distress as evidenced by:

(i) a fear of unlawful sexual conduct, unlawful restraint, bodily injury, or death; or

(ii) significant modifications in the person’s actions or routines, including moving from an established residence, changes to established daily routes to and from work that cause a serious disruption in the person’s life, changes to the person’s employment or work schedule, or the loss of a job or time from work.

(7) “Stay away” means to refrain from knowingly:

(A) initiating or maintaining a physical presence near the plaintiff;

(B) engaging in nonphysical contact with the plaintiff directly or indirectly; or

(C) engaging in nonphysical contact with the plaintiff through third parties who may or may not know of the order.

~~(8) “Threatening behavior” means acts which would cause a reasonable person to fear unlawful sexual conduct, unlawful restraint, bodily injury, or death, including verbal threats,² written, telephonic, or other electronically communicated threats,² vandalism,² or physical contact without consent. [Repealed.]~~

Sec. 3. 12 V.S.A. § 5133 is amended to read:

§ 5133. REQUESTS FOR AN ORDER AGAINST STALKING OR SEXUAL ASSAULT

(a) A person, other than a family or household member as defined in 15 V.S.A. § 1101(2), may seek an order against stalking or sexual assault on behalf of ~~him~~ him- or herself or his or her children by filing a complaint under

this chapter. A minor 16 years of age or older may file a complaint under this chapter seeking relief on his or her own behalf. The plaintiff shall submit an affidavit in support of the order.

(b) Except as provided in section 5134 of this title, the court shall grant the order only after notice to the defendant and a hearing. The plaintiff shall have the burden of proving by a preponderance of the evidence that the defendant stalked or sexually assaulted the plaintiff.

(c) In a hearing under this chapter, neither opinion evidence of nor evidence of the reputation of the plaintiff's sexual conduct shall be admitted. Evidence of prior sexual conduct of the plaintiff shall not be admitted; provided, however, where it bears on the credibility of the plaintiff or it is material to a fact at issue and its probative value outweighs its private character, the court may admit any of the following:

(1) ~~Evidence~~ evidence of the plaintiff's past sexual conduct with the defendant;

(2) ~~Evidence~~ evidence of specific instances of the plaintiff's sexual conduct showing the source of origin of semen, pregnancy, or disease; or

(3) ~~Evidence~~ evidence of specific instances of the plaintiff's past false allegations of violations of 13 V.S.A. chapter 59 or 72.

(d)~~(1)~~ If the court finds by a preponderance of evidence that the defendant has stalked or sexually assaulted the plaintiff, or has been convicted of stalking or sexually assaulting the plaintiff, the court shall order the defendant to stay away from the plaintiff or the plaintiff's children, or both, and may make any other ~~such~~ order it deems necessary to protect the plaintiff or the plaintiff's children, or both.

~~(2) If the court finds by a preponderance of evidence that the defendant has sexually assaulted the plaintiff and there is a danger of the defendant further harming the plaintiff, the court shall order the defendant to stay away from the plaintiff or the plaintiff's children, or both, and may make any other such order it deems necessary to protect the plaintiff or the plaintiff's children, or both. The court may consider the defendant's past conduct as relevant evidence of future harm.~~

(e) Relief shall be granted for a fixed period, at the expiration of which time the court may extend any order, upon motion of the plaintiff, for such additional time as it deems necessary to protect the plaintiff or the plaintiff's children, or both. It is not necessary for the court to find that the defendant stalked or sexually assaulted the plaintiff during the pendency of the order to extend the terms of the order. The court may modify its order at any

subsequent time upon motion by either party and a showing of a substantial change in circumstance.

* * *

Sec. 4. 13 V.S.A. § 1021 is amended to read:

§ 1021. DEFINITIONS

(a) ~~For the purpose of~~ As used in this chapter:

* * *

~~(4) “Course~~ (b) As used in this subchapter, “course of conduct” means a pattern of conduct composed of two or more acts over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of “course of conduct.”

Sec. 5. 13 V.S.A. chapter 19, subchapter 7 is amended to read:

Subchapter 7. Stalking

§ 1061. DEFINITIONS

As used in this subchapter:

~~(1)(A) “Stalk” means to engage in a course of conduct which consists of following, lying in wait for, or harassing, and:~~

~~(A) serves no legitimate purpose; and~~

~~(B) would cause a reasonable person to fear for his or her physical safety or would cause a reasonable person substantial emotional distress.~~

~~(2) “Following” means maintaining over a period of time a visual or physical proximity to another person in such manner as would cause a reasonable person to have a fear of unlawful sexual conduct, unlawful restraint, bodily injury, or death.~~

~~(3) “Harassing” means actions directed at a specific person, or a member of the person’s family, which would cause a reasonable person to fear unlawful sexual conduct, unlawful restraint, bodily injury, or death, including verbal threats, written, telephonic, or other electronically communicated threats, vandalism, or physical contact without consent~~ “Course of conduct” means two or more acts over a period of time, however short, in which a person follows, monitors, surveils, threatens, or makes threats about another person, or interferes with another person’s property. This definition shall apply to acts conducted by the person directly or indirectly, and by any action, method, device, or means. Constitutionally protected activity is not included within the meaning of “course of conduct.”

(B) As used in subdivision (A) of this subdivision (1), threaten shall not be construed to require an express or overt threat.

~~(4) “Lying in wait” means hiding or being concealed for the purpose of attacking or harming another person.~~

(2) “Emotional distress” means significant mental suffering or distress that may, but does not necessarily, require medical or other professional treatment or counseling.

(3) “Reasonable person” means a reasonable person in the victim’s circumstances.

(4) “Stalk” means to engage purposefully in a course of conduct directed at a specific person that the person engaging in the conduct knows or should know would cause a reasonable person to fear for his or her safety or the safety of another or would cause a reasonable person substantial emotional distress.

§ 1062. STALKING

Any person who intentionally stalks another person shall be imprisoned not more than two years or fined not more than \$5,000.00, or both.

§ 1063. AGGRAVATED STALKING

(a) A person commits the crime of aggravated stalking if the person intentionally stalks another person, and:

(1) such conduct violates a court order that prohibits stalking and is in effect at the time of the offense; ~~or~~

(2) has been previously convicted of stalking or aggravated stalking; ~~or~~

(3) has been previously convicted of an offense an element of which involves an act of violence against the same person; ~~or~~

(4) the person being stalked is under ~~the age of~~ 16 years of age; or

(5) had a deadly weapon, as defined in section 1021 of this title, in his or her possession while engaged in the act of stalking.

(b) A person who commits the crime of aggravated stalking shall be imprisoned not more than five years or be fined not more than \$25,000.00, or both.

(c) Conduct constituting the offense of aggravated stalking shall be considered a violent act for the purposes of determining bail.

§ 1064. DEFENSES

In a prosecution under this subchapter, it shall not be a defense that the defendant was not provided actual notice that the course of conduct was unwanted.

Sec. 6. 13 V.S.A. § 1028 is amended to read:

~~§ 1028. ASSAULT OF LAW ENFORCEMENT OFFICER, FIREFIGHTER, EMERGENCY MEDICAL PERSONNEL MEMBER, OR HEALTH CARE WORKER~~ PROTECTED PROFESSIONAL; ASSAULT WITH BODILY FLUIDS

(a) A person convicted of a simple or aggravated assault against a ~~law enforcement officer, a firefighter, a health care worker, or a member of emergency medical personnel as defined in 24 V.S.A. § 2651(6)~~ protected professional as defined in subdivision (d)(1) of this section while the ~~officer, firefighter, health care worker, or emergency medical personnel member~~ protected professional is performing a lawful duty, or with the intent to prevent the protected professional from performing his or her lawful duty, in addition to any other penalties imposed under sections 1023 and 1024 of this title, shall:

(1) for the first offense, be imprisoned not more than one year;

(2) for the second offense and subsequent offenses, be imprisoned not more than 10 years.

(b)(1) No person shall intentionally cause blood, vomitus, excrement, mucus, saliva, semen, or urine to come in contact with a ~~person designated in subsection (a) of this section~~ protected professional while the person is performing a lawful duty.

(2) A person who violates this subsection shall be imprisoned not more than one year or fined not more than \$1,000.00, or both.

* * *

(d) ~~For purposes of~~ As used in this section:

(1) “Protected professional” shall mean a law enforcement officer, a firefighter, a health care worker, an employee, contractor, or grantee of the Department for Children and Families, or any emergency medical personnel as defined in 24 V.S.A. § 2651(6).

(2) “Health care facility” shall have the same meaning as defined in 18 V.S.A. § 9432(8); and.

(3) “Health care worker” means an employee of a health care facility or a licensed physician who is on the medical staff of a health care facility who provides direct care to patients or who is part of a team-response to a patient or visitor incident involving real or potential violence.

(e) This section shall not apply to an individual under 18 years of age residing in a residential rehabilitation facility.

Sec. 6a. DEPARTMENT FOR CHILDREN AND FAMILIES; VERMONT STATE EMPLOYEES ASSOCIATION; SAFETY TRAINING STUDY

The Commissioner of the Department for Children and Families (DCF), in collaboration with DCF’s contractors and grantees and the Vermont State Employees Association, shall conduct a review of the safety trainings available to the employees, contractors, and grantees of DCF and the employees of the State of Vermont, and shall report any findings and recommendations to the House and Senate Committees on Judiciary and on Government Operations, the House Committee on Human Services, and the Senate Committee on Health and Welfare on or before January 15, 2017.

Sec. 7. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

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

An act relating to stalking and enhanced penalties for assault.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator Sears, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.

House Proposals of Amendment Concurred In

S. 189.

House proposals of amendment to Senate bill entitled:

An act relating to foster parents’ rights and protections.

Were taken up.

The House proposes to the Senate to amend the bill as follows:

First: In Sec. 1, in subsection (b), by striking “eight” before “members” and inserting “nine” in lieu thereof

Second: In Sec. 1, in subsection (b), by inserting a new subdivision (6) after subdivision (5) to read as follows:

(6) a person previously in foster care in Vermont, appointed by the Governor;

And by renumbering the remaining subdivisions to be numerically correct.

Thereupon, the question, Shall the Senate concur in the House proposals of amendment?, was decided in the affirmative.

House Proposal of Amendment Not Concurred In; Committee of Conference Requested

S. 215.

House proposal of amendment to Senate bill entitled:

An act relating to the regulation of vision insurance plans.

Was taken up.

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 8 V.S.A. § 4088j is amended to read:

§ 4088j. CHOICE OF PROVIDERS FOR VISION CARE AND MEDICAL EYE CARE SERVICES

* * *

(e)(1) An agreement between a health insurer or an entity that writes vision insurance and an optometrist or ophthalmologist for the provision of vision services to plan members or subscribers in connection with coverage under a stand-alone vision care plan or other health insurance plan shall not require that an optometrist or ophthalmologist provide services or materials at a fee limited or set by the plan or insurer unless the services or materials are reimbursed as covered services under the contract.

(2) An optometrist or ophthalmologist shall not charge more for services and materials that are noncovered services under a vision care plan than his or her usual and customary rate for those services and materials.

(3) Reimbursement paid by a vision care plan for covered services and materials shall be reasonable and shall not provide nominal reimbursement in order to claim that services and materials are covered services.

(4)(A) A vision care plan shall not restrict or otherwise limit, directly or indirectly, an optometrist's or ophthalmologist's choice of or relationship with sources and suppliers of services or materials or use of optical laboratories. The plan shall not impose any penalty or fee on an optometrist or ophthalmologist for using any supplier, optical laboratory, product, service, or material.

(B) The provisions of this subdivision (4) shall not apply to Medicaid.

(f) A person who violates the provisions of subsection (c), (d), or (e) of this section commits an unfair and deceptive act in trade and commerce in violation of 9 V.S.A. § 2453. The Attorney General shall have the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions as provided under 9 V.S.A. chapter 63, subchapter 1.

(g) As used in this section:

(1) “Covered services” means services and materials for which reimbursement from a vision care plan or other health insurance plan is provided by a member’s or subscriber’s plan contract, or for which a reimbursement would be available but for application of the deductible, co-payment, or coinsurance requirements under the member’s or subscriber’s health insurance plan.

(2) “Health insurance plan” means any health insurance policy or health benefit plan offered by a health insurer or a subcontractor of a health insurer, as well as Medicaid and any other public health care assistance program offered or administered by the State or by any subdivision or instrumentality of the State. The term includes vision care plans but does not include policies or plans providing coverage for a specified disease or other limited benefit coverage.

* * *

(7) “Vision care plan” means an integrated or stand-alone plan, policy, or contract providing vision benefits to enrollees with respect to covered services or covered materials, or both.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator Mullin, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.

House Proposal of Amendment to Senate Proposal of Amendment Concurred In

H. 845.

House proposal of amendment to Senate proposal of amendment to House bill entitled:

An act relating to legislative review of certain report requirements.

Was taken up.

The House proposes to the Senate to amend the Senate proposal of amendment by striking out Sec. 10 in its entirety and by inserting in lieu thereof:

Sec. 10. [Deleted.]

Thereupon, the question, Shall the Senate concur in the House proposal of amendment to the Senate proposal of amendment?, was decided in the affirmative.

Rules Suspended; Bills Messaged

On motion of Senator Campbell, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

H. 518, H. 571, H. 620, H. 845, H. 859, H. 863, H. 868, H. 877.

Message from the House No. 63

A message was received from the House of Representatives by Mr. Jeremy Weiss, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 880. An act relating to approval of the adoption and codification of the charter of the Town of Bridport.

H. 883. An act relating to approval of amendments to the charter of the City of Winooski.

H. 887. An act relating to approval of amendments to the charter of the Village of Barton.

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

Message from the House No. 64

A message was received from the House of Representatives by Mr. Jeremy Weiss, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered a bill originating in the Senate of the following title:

S. 243. An act relating to combating opioid abuse in Vermont.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the Senate is requested.

Message from the House No. 65

A message was received from the House of Representatives by Mr. Jeremy Weiss, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered Senate proposal of amendment to House bill of the following title:

H. 876. An act relating to the transportation capital program and miscellaneous changes to transportation-related law.

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

Adjournment

On motion of Senator Campbell, the Senate adjourned until nine o'clock and thirty minutes in the morning.