

\* \* \* Presentence and Pre-parole Reports; Supervision History \* \* \*

Sec. A. 28 V.S.A. § 204 is amended to read:

§ 204. SUBMISSION OF WRITTEN REPORT; PROTECTION OF RECORDS

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(d) Any presentence report, pre-parole report, or supervision history prepared by any employee of the Department in the discharge of the employee's official duty, except as provided in subdivision 204a(b)(5) and section 205 of this title, is ~~privileged~~ confidential and shall not be disclosed to anyone outside the Department other than the judge or the Parole Board, except that the court or Board may in its discretion permit the inspection of the report or parts thereof by the State's Attorney, the defendant or inmate, or his or her attorney, or other persons having a proper interest therein, whenever the best interest or welfare of the defendant or inmate makes that action desirable or helpful. Nothing in this section shall prohibit the Department for Children and Families from accessing the supervision history of probationers or parolees for the purpose of child protection.

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\* \* \* Inmate Files \* \* \*

Sec. B. 28 V.S.A. § 601 is amended to read:

§ 601. POWERS AND RESPONSIBILITIES OF THE SUPERVISING OFFICER OF EACH CORRECTIONAL FACILITY

The supervising officer of each facility shall be responsible for the efficient and humane maintenance and operation and for the security of the facility, subject to the supervisory authority conferred by law upon the Commissioner. Each supervising officer is charged with the following powers and responsibilities:

\* \* \*

(10)(A) To establish and maintain, in accordance with ~~such rules and regulations as are established by that~~ the Commissioner shall adopt, a central file at the facility containing an individual file for each inmate. ~~Except as otherwise may be indicated by the rules and regulations of the Department, the~~ Except as otherwise provided in this subdivision (10), the content of the file of an inmate shall be confidential ~~and~~, shall not be subject to public inspection ~~or copying except by court order for good cause shown~~, and shall not be accessible to inmates at the facility; other than the inmate to whom the file pertains.

1           (B) The contents of inmate files may be disclosed:

2           (i) Pursuant to a court order for good cause shown.

3           (ii) Except as otherwise provided by law, ~~the contents of an inmate's file may be~~  
4 inspected, pursuant to a court order issued ex parte, by to a state or federal prosecutor pursuant to  
5 a court order issued ex parte as part of a criminal investigation if the court finds that the records  
6 may be relevant to the investigation. The information in the files may be used for any lawful  
7 purpose but shall not otherwise be made public.

8           (iii) In accordance with rules that the Commissioner shall adopt governing access to  
9 inmate files.

10           (C) The contents of an inmate file shall be open to inspection or copying by the inmate  
11 to whom the file pertains or by a person authorized by the inmate, except as authorized or  
12 required to be withheld from the inmate under rules that the Commissioner shall adopt or under  
13 another provision of law.

14           (D) The rules required under this subdivision (10) shall be adopted pursuant to 3  
15 V.S.A. chapter 25.

#### 16 Sec. C. RULEMAKING ON INMATE FILES; REPORTING; TIMELINE

17           (a) The Commissioner shall adopt rules governing the establishment and maintenance of  
18 inmate files, access to an inmate file by persons other than the inmate to whom the file pertains,  
19 and restrictions on access by the inmate to whom the file pertains, in accordance with the  
20 provisions of 28 V.S.A. § 601(10) as will be amended by Sec. B of this act.

21           (b) On or before November 1, 2015, the Commissioner of Corrections shall send a written  
22 report to the Joint Legislative Corrections Oversight Committee describing the efforts to draft the  
23 rules and summarizing the contents of the working draft of the rules. The Commissioner shall  
24 prefile the proposed rules with the Interagency Committee on Administrative Rules on or before  
25 January 1, 2016, and shall complete the steps of the rulemaking process under his or her control  
26 so that the rules take effect no later than August 1, 2016.

#### 27 Sec. D. EFFECTIVE DATES

28           (a) This section, Sec. A, and Sec. C shall take effect on passage.

29           (b) Sec. B shall take effect when the rules required to be adopted under Sec. C take effect.