

1 H.571

2 Introduced by Representative Grad of Moretown

3 Referred to Committee on

4 Date:

5 Subject: Motor vehicles; operator's licenses; privilege to operate; suspension;

6 reinstatement fees; driving with license suspended; DUI;

7 expungement

8 Statement of purpose of bill as introduced: This bill proposes to:

9 (1) require the establishment of indigent waiver penalties for traffic  
10 violations and the imposition of the indigent waiver penalty in lieu of the  
11 general waiver penalty for a defendant who applies and qualifies as indigent;

12 (2) prescribe the criteria to qualify as indigent;

13 (3) require judgments for traffic violations to be reduced by one-half if the  
14 defendant applies for the reduction prior to initiation of contempt proceedings  
15 and qualifies as indigent;

16 (4) reduce the duration of license suspensions for nonpayment of a  
17 judgment on a traffic violation;

18 (5) repeal a provision requiring the Commissioner of Motor Vehicles to  
19 refuse to renew a motor vehicle registration for nonpayment of an amount due  
20 on a judgment for a traffic violation;

1 (6) eliminate reinstatement fees for license suspensions and other  
2 preconditions to reinstatement, and authorize an additional surcharge on all  
3 traffic violation judgments to be deposited into the Transportation Fund;

4 (7) amend the law governing criminal penalties for driving with a  
5 suspended license or privilege to operate and authorize criminal penalties for a  
6 second or subsequent violation of driving without a license or permit;

7 (8) increase authorized penalties for DUI violations; and

8 (9) clarify who will qualify for expungement of past criminal convictions  
9 for driving with a suspended license for conduct that is no longer criminal  
10 under this act.

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

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

14 \* \* \* Indigent Waiver Penalties and Reduced Judgments; Remedies for

15 Failure to Pay Traffic Violations \* \* \*

16 Sec. 1. 4 V.S.A. chapter 29 is amended to read:

17 CHAPTER 29. JUDICIAL BUREAU

18 \* \* \*

19 § 1102. JUDICIAL BUREAU; JURISDICTION

20 \* \* \*



1 complaint shall be filed with the Judicial Bureau; a copy shall be retained by  
2 the issuing officer or State's Attorney and two copies shall be given to the  
3 defendant.

4 (2) The Judicial Bureau may, consistent with rules adopted by the  
5 Supreme Court pursuant to 12 V.S.A. § 1, accept electronic signatures on any  
6 document, including the signatures of issuing officers, State's Attorneys, and  
7 notaries public.

8 (3) The complaint shall include a statement of rights, instructions, notice  
9 that a defendant may admit, not contest, or deny a violation, notice of the fee  
10 for failure to answer within 20 days, and other notices as the Court  
11 Administrator deems appropriate. At the time a complaint for a traffic  
12 violation is issued, the defendant shall be notified in writing that a reduced  
13 indigent waiver penalty is available to qualified persons upon application to the  
14 Judicial Bureau.

15 (4) The Court Administrator, in consultation with appropriate law  
16 enforcement agencies, may approve a single form for charging all violations,  
17 or may approve two or more forms as necessary to administer the operations of  
18 the Judicial Bureau.

19 (b)(1) A person who is charged with a violation shall have 20 days from the  
20 date the complaint is issued to admit or deny the allegations or to state that he  
21 or she does not contest the allegations in the complaint.

1           (2) The Judicial Bureau shall assess against a defendant a fee of \$20.00  
2 for failure to answer a complaint within the time allowed. The fee shall be  
3 assessed in the default judgment and deposited in the Court Technology  
4 Special Fund established pursuant to section 27 of this title.

5           (3) Prior to entry of judgment, the defendant may apply to the Judicial  
6 Bureau for a reduced waiver penalty on the basis of indigence. The Judicial  
7 Bureau shall accept such applications through a website, in person, and  
8 through the mail. If the defendant qualifies as indigent as prescribed in  
9 subsection (h) of this section, the indigent waiver penalty shall be imposed in  
10 lieu of the general waiver penalty and no hearing is required. The 20-day  
11 period to respond to the complaint shall be extended pending a decision on the  
12 application and notification thereof. The applicant shall have an additional  
13 20 days from the date notification is sent to answer the complaint.

14           (c) A person who admits or does not contest the allegations may so indicate  
15 and sign the complaint. The Bureau shall accept the admission or statement  
16 that the allegations are not contested and accept payment of the waiver penalty.

17           (d) If the person sends in the amount of the waiver penalty without signing  
18 the complaint, the Bureau shall accept the payment indicating that payment  
19 was made and that the allegations were not contested.

20           (e) A person who denies the allegations may so indicate and sign the  
21 complaint. Upon receipt, the Bureau shall schedule a hearing.

1 (f) If a person fails to appear or answer a complaint, the Bureau shall enter  
2 a default judgment against the person. However, no default judgment shall be  
3 entered until the filing of a declaration by the issuing officer or State's  
4 Attorney, under penalty of perjury, setting forth facts showing that the  
5 defendant is not a person in military service as defined at 50 App. U.S.C. § 511  
6 (Servicemembers Civil Relief Act definitions), except upon order of the  
7 hearing officer in accordance with the Servicemembers Civil Relief Act,  
8 50 App. U.S.C. Titles I–II. The Bureau shall mail a notice to the person that a  
9 default judgment has been entered. A default judgment may be set aside by the  
10 hearing officer for good cause shown.

11 (g) All Judicial Bureau judgments shall contain a notice of tax setoff  
12 pursuant to 32 V.S.A. § 5941.

13 (h)(1) Except as provided in subdivision (2) of this subsection, a defendant  
14 shall qualify as indigent under this chapter if he or she submits a sworn  
15 statement indicating that either of the following applies:

16 (A) The defendant's gross income is at or below 150 percent of the  
17 federal poverty income guidelines for nonfarm families. For purposes of this  
18 subdivision (h)(1)(A), the income of the defendant's cohabiting family  
19 members shall be deemed to be income of the applicant.

20 (B) The defendant is the recipient of Reach Up, Medicaid,  
21 3SquaresVT, or fuel assistance through the Vermont Agency of Human

1 Services or Temporary Assistance for Needy Families (TANF), Medicaid,  
2 Supplemental Nutrition Assistance Program (SNAP), or fuel assistance  
3 through the relevant agency of the defendant's state of residence.

4 (2) A defendant shall not qualify for a reduced waiver penalty on the  
5 basis of indigence under this section or for a reduced judgment on the basis of  
6 indigence under section 1109 of this chapter if the underlying traffic violation  
7 involves a violation of:

8 (A) 5 V.S.A. chapter 28, relating to transportation of hazardous  
9 materials, and rules adopted pursuant to 5 V.S.A. § 2001;

10 (B) 5 V.S.A. chapter 29, relating to motor carrier safety standards,  
11 and rules adopted pursuant to 5 V.S.A. § 2101;

12 (C) 23 V.S.A. §§ 1072 and 1281–1285, as related to school bus  
13 operation, identification, equipment, inspection, maintenance, and  
14 instruction; or

15 (D) 23 V.S.A. chapter 39, relating to commercial driver licensing and  
16 operation under commercial driver licenses.

17 (3) The Judicial Bureau's decision on an application for a reduced  
18 waiver penalty on the basis of indigence shall not be subject to review or  
19 appeal except in the case of a violation of rights guaranteed under the Vermont  
20 or U.S. Constitution.

1           (4) As appropriate, the Auditor of Accounts shall audit the granting of  
2           applications for indigent waiver penalties under this section and for reduced  
3           judgments on the basis of indigence under section 1109 of this chapter,  
4           including the veracity of information submitted by applicants and the practices  
5           and internal controls of the responsible agencies. If the Auditor has cause to  
6           question the veracity of an applicant's statements, he or she shall refer the  
7           matter to the appropriate enforcement authorities.

8           § 1106. HEARING

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

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

1 representative of the Department of Motor Vehicles or the Agency of Natural  
2 Resources.

3 (c)(1) Prior to entering judgment against a defendant, a hearing officer shall  
4 consider evidence of ability to pay offered by the defendant. In matters  
5 involving traffic violations, the hearing officer shall consider the indigence  
6 criteria set forth in subsection 1105(h) of this chapter and the standard  
7 reduction in judgments for indigent persons under section 1109 of this chapter.

8 (2) The hearing officer shall make findings which shall be stated on the  
9 record or, if more time is needed, made in writing at a later date. The hearing  
10 officer may make a finding that the person has committed a lesser included  
11 violation.

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

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

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

20 \* \* \*

1 § 1109. REMEDIES FOR FAILURE TO PAY; REDUCTIONS IN  
2 JUDGMENTS FOR TRAFFIC VIOLATIONS

3 (a) As used in this section:

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

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

9 (3) [Repealed.]

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

15 (2)(A) A judgment for a traffic violation shall contain a notice that  
16 failure to pay or otherwise satisfy the amount due within 30 days of the notice  
17 will result in suspension of the person’s operator’s license or privilege to  
18 operate for a 30-day period.

19 (B) If the defendant fails to pay the amount due within 30 days of the  
20 notice, or by a later date as determined by a judicial officer, and the case is not  
21 pending on appeal, the Judicial Bureau shall provide electronic notice thereof

1 to the Commissioner of Motor Vehicles. After 20 days from the date of  
2 receiving the electronic notice, the Commissioner shall suspend the person's  
3 operator's license or privilege to operate for a period of 30 days. The  
4 Commissioner shall reinstate the person's license or operating privilege  
5 without any action required by the person upon expiration of the 30 days or  
6 upon the satisfaction of the amount due, whichever is earlier.

7 (3) At any time following entry of a judgment for a traffic violation and  
8 prior to the initiation of contempt proceedings under this section, a defendant  
9 may apply for a reduction in the amount due on the basis of indigence. The  
10 Judicial Bureau shall accept such applications through a website, in person, and  
11 through the mail. If the defendant qualifies as indigent as prescribed in  
12 subsection 1105(h) of this chapter, and if the defendant has not already  
13 received a reduced waiver penalty in accordance with subsection 1105(b) of  
14 this chapter, the Judicial Bureau shall amend the judgment to reduce the  
15 amount due by one-half, rounded upward to the nearest whole dollar, and no  
16 hearing shall be required. The Judicial Bureau shall not initiate contempt  
17 proceedings under this section until 30 days after the date it sends the  
18 defendant notice of its decision on the defendant's application. The Judicial  
19 Bureau's decision on the application shall not be subject to review or appeal  
20 except in the case of a violation of rights guaranteed under the Vermont or  
21 U.S. Constitution.

1           (c)(1) Civil contempt proceedings. If an amount due remains unpaid for  
2           75 days after the Judicial Bureau provides the defendant with a notice of  
3           judgment, the Judicial Bureau may initiate civil contempt proceedings pursuant  
4           to this subsection.

5           ~~(1)~~(2) Notice of hearing. The Judicial Bureau shall provide notice by  
6           first class mail sent to the defendant's last known address that a contempt  
7           hearing will be held pursuant to this subsection, and that failure to appear at the  
8           contempt hearing may result in the sanctions listed in subdivision ~~(2)~~(3) of this  
9           subsection.

10           ~~(2)~~(3) Failure to appear. If the defendant fails to appear at the contempt  
11           hearing, the hearing officer may direct the clerk of the Judicial Bureau to do  
12           one or more of the following:

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

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

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

1           ~~(3)~~(4)(A) Hearing. The hearing shall be conducted in a summary  
2 manner. The hearing officer shall examine the defendant and any other  
3 witnesses and may require the defendant to produce documents relevant to the  
4 defendant's ability to pay the amount due. The State or municipality shall not  
5 be a party except with the permission of the hearing officer. The defendant  
6 may be represented by counsel at the defendant's own expense.

7           (B) Traffic violations; reduction of amount due.

8           (i) When the judgment is based upon a traffic violation, the  
9 hearing officer may reduce the amount due on the basis of the defendant's  
10 driving history, ability to pay, or service to the community; the collateral  
11 consequences of the violation; or the interests of justice. The hearing officer  
12 may reduce the amount due even if the defendant has previously obtained or  
13 been denied an indigent waiver penalty or reduced judgment on the basis of  
14 indigence. The hearing officer's decision on a motion to reduce the amount  
15 due shall not be subject to review or appeal except in the case of a violation of  
16 rights guaranteed under the Vermont or U.S. Constitution.

17           (ii) When acting on a motion to approve a proposed DLS  
18 Diversion Program contract and related payment plan pursuant to 2012 Acts  
19 and Resolves No. 147, Sec. 2, the Judicial Bureau may reduce the amount due  
20 in accordance with subdivision (i) of this subdivision (c)(4)(B) with or without  
21 a hearing.

1           ~~(4)~~(5) Contempt.

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

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

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

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

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

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

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

16           (iii) ~~Order that the Commissioner of Motor Vehicles suspend the~~  
17 ~~person's operator's license or privilege to operate. However, the person shall~~  
18 ~~become eligible for reinstatement if the amount due is paid or otherwise~~  
19 ~~satisfied.~~ [Repealed.]

20           (iv) Recommend that the Criminal Division of the Superior Court  
21 incarcerate the defendant until the amount due is paid. If incarceration is

1 recommended pursuant to this subdivision ~~(4)(c)(5)~~, the Judicial Bureau shall  
2 notify the Criminal Division of the Superior Court that contempt proceedings  
3 should be commenced against the defendant. The Criminal Division of the  
4 Superior Court proceedings shall be de novo. If the defendant cannot afford  
5 counsel for the contempt proceedings in the Criminal Division of the Superior  
6 Court, the Defender General shall assign counsel at the Defender General's  
7 expense.

8 (d) Collections.

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

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

15 (e) For purposes of civil contempt proceedings or motions to approve DLS  
16 Diversion contracts, venue shall be statewide. No entry or motion fee shall be  
17 charged for a motion to approve a DLS Diversion contract or to a defendant  
18 who applies for a reduced judgment under subdivision (b)(3) or (c)(4)(B) of  
19 this section.

20 (f) Notwithstanding 32 V.S.A. § 502, the Court Administrator is authorized  
21 to contract with a third party to collect fines, penalties, and fees by credit card,

1 debit card, charge card, prepaid card, stored value card, and direct bank  
2 account withdrawals or transfers, as authorized by 32 V.S.A. § 583, and to add  
3 on and collect, or charge against collections, a processing charge in an amount  
4 approved by the Court Administrator.

5 \* \* \*

6 Sec. 2. 23 V.S.A. § 2307 is amended to read:

7 § 2307. ~~REMEDIES FOR FAILURE TO PAY TRAFFIC VIOLATIONS~~

8 ~~(a) Definition. As used in this section, "amount due" means all financial~~  
9 ~~assessments contained in a Judicial Bureau judgment, including penalties,~~  
10 ~~finer, surcharges, court costs, and any other assessment authorized by law.~~

11 ~~(b) Notice of risk of suspension. A judgment for a traffic violation shall~~  
12 ~~contain a notice that failure to pay or otherwise satisfy the amount due within~~  
13 ~~30 days of the notice will result in suspension of the person's operator's license~~  
14 ~~or privilege to operate, and the denial, if the person is the sole registrant, of the~~  
15 ~~person's application for renewal of a motor vehicle registration, until the~~  
16 ~~amount due is paid or otherwise satisfied. If the defendant fails to pay the~~  
17 ~~amount due within 30 days of the notice, or by a later date as determined by a~~  
18 ~~judicial officer, and the case is not pending on appeal, the Judicial Bureau shall~~  
19 ~~provide electronic notice thereof to the Commissioner of Motor Vehicles. After~~  
20 ~~20 days from the date of receiving the electronic notice, the Commissioner~~  
21 ~~shall:~~

1           ~~(1) Suspend the person's operator's license or privilege to operate for a~~  
2           ~~period of 120 days. However, the person shall become eligible for~~  
3           ~~reinstatement prior to expiration of the 120 days if the amount due is paid or~~  
4           ~~otherwise satisfied.~~

5           ~~(2) Deny the person's application for renewal of a motor vehicle~~  
6           ~~registration, if the person is the sole registrant, until the amount due is paid or~~  
7           ~~otherwise satisfied.~~

8           ~~(c) During proceedings conducted pursuant to 4 V.S.A. § 1109, the hearing~~  
9           ~~officer may apply the following mitigation remedies when the judgment is~~  
10          ~~based upon a traffic violation. The hearing officer also may apply the remedies~~  
11          ~~with or without a hearing when acting on a motion to approve a proposed DLS~~  
12          ~~Diversion Program contract and related payment plan pursuant to 2012 Acts~~  
13          ~~and Resolves No. 147, Sec. 2. Notwithstanding any other law, no entry fee~~  
14          ~~shall be required and venue shall be statewide for motions to approve.~~

15          ~~(1) The hearing officer may waive the reinstatement fee required by~~  
16          ~~section 675 of this title or reduce the amount due on the basis of:~~

17                 ~~(A) the defendant's driving history, ability to pay, or service to the~~  
18                 ~~community;~~

19                 ~~(B) the collateral consequences of the violation; or~~

20                 ~~(C) the interests of justice.~~

1           ~~(2) The hearing officer may specify a date by which the defendant shall~~  
2           ~~pay the amount due and may notify the Commissioner of Motor Vehicles to~~  
3           ~~reinstate the defendant's operator's license or privilege subject to payment of~~  
4           ~~the amount due by the specified date. If the defendant fails to pay the amount~~  
5           ~~due by the specified date, the Judicial Bureau may notify the Commissioner to~~  
6           ~~suspend the defendant's operator's license or privilege. A license may be~~  
7           ~~reinstated under this subdivision only if the defendant's license is suspended~~  
8           ~~solely for failure to pay a judgment of the Judicial Bureau.~~

9           ~~(3) The judicial officer shall have sole discretion to determine mitigation~~  
10          ~~remedies pursuant to this subdivision, and the judicial officer's determination~~  
11          ~~shall not be subject to review or appeal in any court, tribunal, or administrative~~  
12          ~~office. [Repealed.]~~

13          Sec. 3. 23 V.S.A. § 305a is amended to read:

14          § 305a. ~~WHEN NOT ISSUED~~

15          ~~The Commissioner shall not renew the registration of a person who is the~~  
16          ~~sole registrant after receiving notice from the Judicial Bureau that the person~~  
17          ~~has not paid a judgment for a traffic violation. [Repealed.]~~

18          Sec. 4. 13 V.S.A. § 7282 is amended to read:

19          § 7282. SURCHARGE

20          (a) In addition to any penalty or fine imposed by the Court or Judicial  
21          Bureau for a criminal offense or any civil penalty imposed for a traffic

1 violation, including any violation of a fish and wildlife statute or regulation,  
2 violation of a motor vehicle statute, or violation of any local ordinance relating  
3 to the operation of a motor vehicle, except violations relating to seat belts and  
4 child restraints and ordinances relating to parking violations, the clerk of the  
5 Court or Judicial Bureau shall levy an additional surcharge of:

6 ~~(1) \$5.00 for any offense or violation committed prior to June 1, 1990.~~

7 ~~(2) \$8.00 for any offense or violation committed after May 31, 1990, but~~  
8 ~~before July 1, 1991, of which \$3.00 shall be deposited into a special fund~~  
9 ~~account to be known as the Victims' Compensation Fund.~~

10 ~~(3) \$10.00 for any offense or violation committed after June 30, 1991,~~  
11 ~~but before July 1, 1993, of which \$5.00 shall be deposited into a special fund~~  
12 ~~account to be known as the Victims' Compensation Fund.~~

13 ~~(4) \$17.50 for any offense or violation committed after June 30, 1993,~~  
14 ~~but before July 1, 2001, of which \$12.50 shall be deposited into a special fund~~  
15 ~~account to be known as the Victims' Compensation Fund.~~

16 ~~(5) \$20.50 for any offense or violation committed after June 30, 2001,~~  
17 ~~but before July 1, 2003, of which \$13.50 shall be deposited into a special fund~~  
18 ~~account to be known as the Victims' Compensation Fund.~~

19 ~~(6) For any offense or violation committed after June 30, 2003, but~~  
20 ~~before July 1, 2005, \$21.00, of which \$13.75 shall be deposited into the~~  
21 ~~Victims' Compensation Special Fund.~~

1           ~~(7) For any offense or violation committed after June 30, 2005, but~~  
2           ~~before July 1, 2006, \$22.00, of which \$14.75 shall be deposited into the~~  
3           ~~Victims' Compensation Special Fund.~~

4           ~~(8)(A) For any offense or violation committed after June 30, 2006, but~~  
5           ~~before July 1, 2008, \$26.00, of which \$18.75 shall be deposited in the Victims'~~  
6           ~~Compensation Special Fund.~~

7           ~~(B) For any offense or violation committed after June 30, 2008, but~~  
8           ~~before July 1, 2009, \$36.00, of which \$28.75 shall be deposited in the Victims'~~  
9           ~~Compensation Special Fund.~~

10           ~~(C) For any offense or violation committed after June 30, 2009, but~~  
11           ~~before July 1, 2013, \$41.00, of which \$23.75 shall be deposited in the Victims'~~  
12           ~~Compensation Special Fund created by section 5359 of this title, and of which~~  
13           ~~\$10.00 shall be deposited in the Domestic and Sexual Violence Special Fund~~  
14           ~~created by section 5360 of this title.~~

15           ~~(D) For any offense or violation committed after June 30, 2013,~~  
16           ~~\$47.00, of which \$29.75 shall be deposited in the Victims' Compensation~~  
17           ~~Special Fund created by section 5359 of this title, and of which \$10.00 shall be~~  
18           ~~deposited in the Domestic and Sexual Violence Special Fund created by~~  
19           ~~section 5360 of this title.~~

20           ~~(9)(2) For any offense or violation committed after June 30, 2003, an~~  
21           ~~amount equal to 15 percent of the fine imposed for the offense, rounded~~

1 upward to the nearest whole dollar, which shall be deposited into the Crime  
2 Victims' Restitution Special Fund established by section 5363 of this title.

3 (3) For any traffic violation, an amount equal to \$1.00, which shall be  
4 deposited into the Transportation Fund.

5 (b) The surcharges imposed by this section shall not be waived by the  
6 Court. However, the surcharges may be reduced in accordance with 4 V.S.A.  
7 chapter 29.

8 (c) ~~SUI surcharge.~~ In addition to any penalty or fine imposed by the Court  
9 or Judicial Bureau for a criminal offense committed after July 1, 2009, the  
10 clerk of the Court or Judicial Bureau shall levy an additional surcharge of  
11 \$100.00 to be deposited in the General Fund, in support of the Specialized  
12 Investigative Unit Grants Board created in 24 V.S.A. § 1940(c), and used to  
13 pay for the costs of Specialized Investigative Units.

14 Sec. 5. EXISTING COMPLAINTS AND JUDGMENTS FOR TRAFFIC  
15 VIOLATIONS; ELIGIBILITY FOR REDUCED WAIVER  
16 PENALTIES AND JUDGMENTS

17 (a) A person against whom judgment has been entered for a traffic  
18 violation prior to the effective date of this act is eligible to apply for and, if  
19 qualified, to obtain a reduced judgment in accordance with 4 V.S.A. § 1109, as  
20 amended by this act, regardless of whether, prior to the effective date of this  
21 act, the person has entered into a DLS Diversion Program contract. If the

1 judgment against a person subject to a DLS Diversion Program contract is  
2 reduced, the person shall be relieved of the obligation under the contract to the  
3 extent of the reduction.

4 (b) A person issued a complaint for a traffic violation prior to the effective  
5 date of this act shall be eligible on or after the effective date of this act to apply  
6 for a reduced waiver penalty in accordance with 4 V.S.A. § 1105, as amended  
7 by this act. A person issued a complaint under the jurisdiction of the Judicial  
8 Bureau shall be entitled on or after the effective date of this act to  
9 consideration of his or her ability to pay in any hearing conducted under  
10 4 V.S.A. § 1106.

11 (c) Nothing in this section shall entitle a person to a refund of any amount  
12 paid in satisfaction of a judgment prior to the effective date of this act.

13 Sec. 6. TRANSITION PROVISION FOR EXISTING SUSPENSIONS;

14 DISMISSAL OF PRE-JULY 1990 TRAFFIC TICKETS

15 (a) As used in this section, “amount due” shall have the same meaning as in  
16 4 V.S.A. § 1109(a) and “Commissioner” shall mean the Commissioner of  
17 Motor Vehicles.

18 (b) The Commissioner shall reinstate the operator’s license or privilege to  
19 operate a motor vehicle of each person whose license or privilege to operate  
20 was suspended prior to the effective date of this act as a result of nonpayment  
21 of an amount due arising from a conviction for a traffic violation, upon the

1 person serving 30 or more days of the suspension. Reinstatement shall not  
2 require an application or any other action by the defendant and the  
3 Commissioner shall not impose a reinstatement fee.

4 (c)(1) All pending matters and charges relating to prosecutions of traffic  
5 violations, and of traffic offenses as formerly defined in 23 V.S.A. § 2201,  
6 commenced by the State prior to July 1, 1990 are hereby dismissed.

7 (2) The Commissioner shall terminate any pending suspension of a  
8 person's license or privilege to operate that arose from the person's failure to  
9 appear, or failure to pay a fine assessed, on a matter dismissed pursuant to  
10 subdivision (1) of this subsection. Termination of the suspension shall not  
11 require an application or any other action by the defendant and the  
12 Commissioner shall not impose a reinstatement fee.

13 (d) This section shall not affect any pending suspensions other than those  
14 arising from failure to pay an amount due for a traffic violation or as described  
15 in subsection (c) of this section.

16 \* \* \* Elimination of Driver's License Reinstatement Fees;

17 Conforming Changes \* \* \*

18 Sec. 7. 23 V.S.A. § 675 is amended to read:

19 § 675. ~~FEE PRIOR TO TERMINATION OR REINSTATEMENT OF~~

20 FOLLOWING SUSPENSION OR REVOCATION OF LICENSE

1           (a) ~~Before~~ The Commissioner shall not impose a fee as a condition of  
2 terminating a suspension or revocation issued by the Commissioner of a  
3 person's operator's license or privilege of operating a motor vehicle ~~may be~~  
4 ~~terminated or before~~ or as a condition of reinstating a person's operator's  
5 license or privilege of operating a motor vehicle ~~may be reinstated, there shall~~  
6 ~~be paid to the Commissioner a fee of \$71.00 in addition to any other fee~~  
7 ~~required by statute. This section shall not apply to suspensions issued under~~  
8 ~~the provisions of chapter 11 of this title nor suspensions issued for physical~~  
9 ~~disabilities or failing to pass reexamination. The Commissioner shall not~~  
10 ~~reinstate the license of a driver whose license was suspended pursuant to~~  
11 ~~section 1205 of this title until the Commissioner receives certification from the~~  
12 ~~court that the costs due the State have been paid.~~

13           (b) Any suspension issued as a result of improper information received  
14 from the criminal justice system shall be cancelled and removed from the  
15 record without payment of any fee upon receipt of proper information that the  
16 suspension should not have been requested.

17           Sec. 8. 23 V.S.A. § 1213(i) is amended to read:

18           (i) Upon receipt of notice that the holder of an ignition interlock RDL has  
19 been ~~adjudicated~~ convicted of an offense under this title that would result in  
20 suspension, revocation, or recall of a license or privilege to operate, the  
21 Commissioner shall suspend, revoke, or recall the person's ignition interlock

1 RDL for the same period that the license or privilege to operate would have  
2 been suspended, revoked, or recalled. The Commissioner may ~~impose a~~  
3 ~~reinstatement fee in accordance with section 675 of this title and~~ require, prior  
4 to reinstatement, satisfactory proof of installation of an approved ignition  
5 interlock device, financial responsibility as provided in section 801 of this title,  
6 and enrollment in or completion of an alcohol and driving education or  
7 rehabilitation program.

8 Sec. 9. 23 V.S.A. § 1209a(b)(6)(B) is amended to read:

9 (B) If the applicant's jurisdiction of residence is prepared to issue or  
10 has issued a license in accordance with subdivision (A) of this subdivision (6)  
11 ~~and the applicant satisfies the requirements of section 675 of this title, the~~  
12 Commissioner shall update relevant State and federal databases to reflect that  
13 the applicant's lifetime suspension or revocation in Vermont under chapter 13,  
14 subchapter 13 of this title has terminated.

15 \* \* \* Driving with License Suspended \* \* \*

16 Sec. 10. 23 V.S.A. § 674 is amended to read:

17 § 674. OPERATING AFTER SUSPENSION OR REVOCATION OF

18 LICENSE OR OPERATING PRIVILEGE; PENALTY;

19 REMOVAL OF REGISTRATION PLATES; TOWING

20 (a)(1) Except as provided in section 676 of this title, a person whose license  
21 or privilege to operate a motor vehicle has been suspended or revoked for a

1 violation ~~of this section or~~ subsection 1091(b), 1094(b), or 1128(b) or (c) of  
2 this title and who operates or attempts to operate a motor vehicle upon a public  
3 highway before the suspension or revocation period has expired shall be  
4 imprisoned not more than two years or fined not more than \$5,000.00, or both.

5 (2) A person who violates section 676 of this title for the sixth or  
6 subsequent time shall, if the five prior offenses occurred after July 1, 2003, be  
7 imprisoned not more than two years or fined not more than \$5,000.00, or both.

8 (3) Violations of section 676 of this title that occurred prior to the date a  
9 person successfully completes the DLS Diversion Program ~~or prior to the date~~  
10 ~~that a person pays the amount due to the Judicial Bureau in accordance with~~  
11 ~~subsection 2307(b) of this chapter~~ shall not be counted as prior offenses under  
12 subdivision (2) of this subsection. In addition, a violation of section 676 of  
13 this title where the underlying suspension arose solely from nonpayment of a  
14 judgment on a traffic violation shall not count as a prior offense under  
15 subdivision (2) of this subsection if the judgment has been paid in full.

16 \* \* \*

17 (g) In establishing a prima facie case against a person accused of violating  
18 this section, the Court shall accept as evidence a printout attested to by the law  
19 enforcement officer as the person's motor vehicle record showing convictions  
20 and resulting ~~license~~ suspensions or revocations of the person's license or  
21 privilege to operate. The admitted motor vehicle record shall establish a

1 permissive inference that the person was under a suspension or revocation on  
2 the dates and time periods set forth in the record. No certified copy shall be  
3 required from the Department of Motor Vehicles to establish the permissive  
4 inference.

5 \* \* \*

6 \* \* \* Operating Without Obtaining a License \* \* \*

7 Sec. 11. 23 V.S.A. § 601 is amended to read:

8 § 601. LICENSE REQUIRED

9 \* \* \*

10 (c)(1) At least 30 days before a license is scheduled to expire, the  
11 Commissioner shall mail first class to the licensee an application for renewal  
12 of the license.

13 (2) A person shall not operate a motor vehicle on a highway in Vermont  
14 unless properly licensed or privileged to operate.

15 (3) A person who violates this section commits a traffic violation,  
16 except that a person who violates this section after a previous conviction under  
17 this section within the prior four years shall be subject to imprisonment for not  
18 more than 60 days or a fine of not more than \$5,000.00, or both. An unsworn  
19 printout of the person's Vermont motor vehicle conviction history may be  
20 admitted into evidence to prove a prior conviction under this section.

21 \* \* \*



1 for a sentence of imprisonment may be received for time served in a residential  
2 alcohol facility pursuant to sentence if the program is successfully completed.

3 (d) Third offense. A person convicted of violating section 1201 of this title  
4 who has previously been convicted two times of a violation of that section  
5 shall be fined not more than ~~\$2,500.00~~ \$15,000.00 or imprisoned not more  
6 than five years, or both. At least 96 consecutive hours of the sentence of  
7 imprisonment shall be served and may not be suspended or deferred or served  
8 as a supervised sentence, except that credit for a sentence of imprisonment may  
9 be received for time served in a residential alcohol facility pursuant to sentence  
10 if the program is successfully completed. The Court may impose a sentence  
11 that does not include a term of imprisonment or that does not require that the  
12 96 hours of imprisonment be served consecutively only if the Court makes  
13 written findings on the record that such a sentence will serve the interests of  
14 justice and public safety.

15 (e)(1) Fourth or subsequent offense. A person convicted of violating  
16 section 1201 of this title who has previously been convicted three or more  
17 times of a violation of that section shall be fined not more than ~~\$5,000.00~~  
18 \$20,000.00 or imprisoned not more than 10 years, or both. At least 192  
19 consecutive hours of the sentence of imprisonment shall be served and may not  
20 be suspended or deferred or served as a supervised sentence, except that credit  
21 for a sentence of imprisonment may be received for time served in a residential

1 alcohol treatment facility pursuant to sentence if the program is successfully  
2 completed. The Court shall not impose a sentence that does not include a term  
3 of imprisonment unless the Court makes written findings on the record that  
4 there are compelling reasons why such a sentence will serve the interests of  
5 justice and public safety.

6 (2) The Department of Corrections shall provide alcohol and substance  
7 abuse treatment, when appropriate, to any person convicted of a violation of  
8 this subsection.

9 (f)(1) Death resulting. If the death of any person results from a violation of  
10 section 1201 of this title, the person convicted of the violation shall be fined  
11 not more than ~~\$10,000.00~~ \$20,000.00 or imprisoned not less than one year nor  
12 more than 15 years, or both. The provisions of this subsection do not limit or  
13 restrict prosecutions for manslaughter.

14 (2) If the death of more than one person results from a violation of  
15 section 1201 of this title, the operator may be convicted of a separate violation  
16 of this subdivision for each decedent.

17 (3)(A) Death resulting; third or subsequent offense. If the death of any  
18 person results from a violation of section 1201 of this title and the person  
19 convicted of the violation previously has been convicted two or more times of  
20 a violation of that section, a sentence ordered pursuant to this subsection shall,  
21 except as provided in subdivision (B) of this subdivision (3), include at least a

1 five-year term of imprisonment. The five-year minimum term of  
2 imprisonment required by this subdivision shall be served and may not be  
3 suspended, deferred, or served as a supervised sentence. The defendant shall  
4 not be eligible for probation, parole, furlough, or any other type of early  
5 release until the expiration of the five-year term of imprisonment.

6 (B) Notwithstanding subdivision (A) of this subdivision (3), if the  
7 death of any person results from a violation of section 1201 of this title and the  
8 person convicted of the violation previously has been convicted two or more  
9 times of a violation of that section, the Court may impose a sentence that does  
10 not include a term of imprisonment or which includes a term of imprisonment  
11 of less than five years if the Court makes written findings on the record that  
12 such a sentence will serve the interests of justice and public safety.

13 (g)(1) Injury resulting. If serious bodily injury, as defined in 13 V.S.A.  
14 § 1021(2), results to any person other than the operator from a violation of  
15 section 1201 of this title, the person convicted of the violation shall be fined  
16 not more than ~~\$5,000.00~~, \$10,000.00 or imprisoned not more than 15 years, or  
17 both.

18 (2) If serious bodily injury as defined in 13 V.S.A. § 1021(2) results to  
19 more than one person other than the operator from a violation of section 1201  
20 of this title, the operator may be convicted of a separate violation of this  
21 subdivision for each person injured.

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\* \* \*

\* \* \* Expungement of Certain DLS Convictions \* \* \*

Sec. 13. 13 V.S.A. § 7602 is amended to read:

§ 7602. EXPUNGEMENT AND SEALING OF RECORD,  
POSTCONVICTION; PROCEDURE

(a)(1) A person may file a petition with the Court requesting expungement or sealing of the criminal history record related to the conviction if:

(A) the person was convicted of a qualifying crime or qualifying crimes arising out of the same incident or occurrence; or

(B) the person was convicted of an offense for which the underlying conduct is no longer prohibited by law or designated as a criminal offense.

\* \* \*

(e) For petitions filed pursuant to subdivision (a)(1)(B) of this section, the Court shall grant the petition and order that the criminal history record be expunged in accordance with section 7606 of this title if the following conditions are met:

(1) At least one year has elapsed since the completion of any sentence or supervision for the offense, whichever is later.

(2) Any restitution ordered by the Court has been paid in full.

(3) The Court finds that expungement of the criminal history record serves the interest of justice.

1 (f) For petitions filed pursuant to subdivision (a)(1)(B) of this section for a  
2 conviction for possession of a regulated drug under 18 V.S.A. chapter 84,  
3 subchapter 1 in an amount that is no longer prohibited by law or for which  
4 criminal sanctions have been removed:

5 (1) The petitioner shall bear the burden of establishing that his or her  
6 conviction was based on possessing an amount of regulated drug that is no  
7 longer prohibited by law or for which criminal sanctions have been removed.

8 (2) There shall be a rebuttable presumption that the amount of the  
9 regulated drug specified in the affidavit of probable cause associated with the  
10 petitioner's conviction was the amount possessed by the petitioner.

11 (g)(1) For a petition filed pursuant to subdivision (a)(1)(B) of this section  
12 for a conviction for driving with a suspended license or privilege to operate in  
13 violation of 23 V.S.A. § 674(a), "conduct no longer prohibited by law"  
14 includes a conviction for a sixth or subsequent violation of 23 V.S.A. § 676,  
15 but only if:

16 (A) the underlying violation or violations of 23 V.S.A. § 676 arose  
17 from operating a motor vehicle while under suspension more than 30 days after  
18 the suspension was imposed if it was imposed as a result of nonpayment of a  
19 judgment on a traffic ticket pursuant to the former 23 V.S.A. § 2307; and

