

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred House Bill No. 95
3 entitled “An act relating to jurisdiction over delinquency proceedings by the
4 Family Division of the Superior Court” respectfully reports that it has
5 considered the Senate Proposal of Amendment and recommends that the
6 House concur in the Senate Proposal of Amendment with further amendment
7 by striking out Sec. 39 in its entirety and inserting in lieu thereof the following:

8 Sec. 39. 13 V.S.A. § 2651(6) is amended to read;

9 (6) “Human trafficking” means:

10 * * *

11 (B) “severe form of trafficking” as defined by ~~21 U.S.C. § 7105~~
12 22 U.S.C. § 7105.

13 * * *

14 Sec. 40. 13 V.S.A. § 5238 is amended to read:

15 § 5238. CO-PAYMENT AND REIMBURSEMENT ORDERS

16 * * *

17 (d) To the extent that the Court finds that the eligible person has income or
18 assets available to enable payment of an immediate co-payment, it shall order
19 such a co-payment to cover in whole or in part the amount of the costs of
20 representation to be borne by the eligible person. ~~When a co-payment is~~
21 ~~ordered, the assignment of counsel shall be contingent on prior payment of the~~

*Misc
Crim
Proceeds
Amd.*

1 ~~co-payment.~~ The co-payment shall be paid to the clerk of the Court. Any
2 portion of the co-payment not paid to the clerk may be included in a
3 reimbursement order.

4 * * *

5 Sec. 41. 13 V.S.A. § 7606 is amended to read:

6 § 7606. EFFECT OF EXPUNGEMENT

7 (a) Upon entry of an expungement order, the order shall be legally effective
8 immediately and the person whose record is expunged shall be treated in all
9 respects as if he or she had never been arrested, convicted, or sentenced for the
10 offense. The Court shall issue the person a certificate stating that such
11 person's behavior after the conviction has warranted the issuance of the order
12 and that its effect is to annul the record of arrest, conviction, and sentence.
13 The Court shall provide notice of the expungement to the respondent, Vermont
14 Crime Information Center (VCIC), the arresting agency, and any other entity
15 that may have a record related to the order to expunge. The VCIC shall
16 provide notice of the expungement to the Federal Bureau of Investigation's
17 National Crime Information Center.

18 * * *

1 Sec. 42. 13 V.S.A. § 7607 is amended to read:

2 § 7607. EFFECT OF SEALING

3 (a) Upon entry of an order to seal, the order shall be legally effective
4 immediately and the person whose record is sealed shall be treated in all
5 respects as if he or she had never been arrested, convicted, or sentenced for the
6 offense. The Court shall issue the person a certificate stating that such
7 person's behavior after the conviction has warranted the issuance of the order
8 and that its effect is to annul the record of arrest, conviction, and sentence.
9 The Court shall provide notice of the sealing to the respondent, Vermont Crime
10 Information Center (VCIC), the arresting agency, and any other entity that may
11 have a record related to the order to seal. The VCIC shall provide notice of the
12 sealing to the Federal Bureau of Investigation's National Crime Information
13 Center.

14 * * *

15 Sec. 43. 13 V.S.A. § 5301 is amended to read:

16 § 5301. DEFINITIONS

17 As used in this chapter:

18 * * *

19 (7) ~~For the purpose of this chapter, "listed~~ "Listed crime" means any of
20 the following offenses:

21 * * *

1 (W) operating vehicle under the influence of intoxicating liquor or
2 other substance with either death or serious bodily injury resulting as defined
3 in 23 V.S.A. § 1210(e)(f) and (f)(g);

4 * * *

5 Sec. 44. 13 V.S.A. § 5411a is amended to read:

6 § 5411a. ELECTRONIC POSTING OF THE SEX OFFENDER REGISTRY

7 (a) Notwithstanding 20 V.S.A. §§ 2056a-2056e, the Department shall
8 electronically post information on the Internet in accordance with subsection

9 (b) of this section regarding the following sex offenders, upon ~~their~~ the
10 offender's release from confinement or, if the offender was not subject to
11 confinement, upon the offender's sentencing:

12 * * *

13 Sec. 45. 13 V.S.A. § 5572(a) is amended to read:

14 (a) A person convicted and imprisoned for a crime of which the person was
15 exonerated pursuant to ~~subchapter 1~~ of this chapter shall have a cause of action
16 for damages against the ~~state~~ State.

17 Sec. 46. 13 V.S.A. § 5578 is added to read:

18 § 5578. APPLICABILITY; RETROACTIVITY

19 Notwithstanding 1 V.S.A. § 214(b), this subchapter and any amendments
20 thereto shall apply to any exoneration that occurs on or after July 1, 2007.

1 Sec. 47. JOINT LEGISLATIVE JUSTICE OVERSIGHT COMMITTEE

2 During 2016 the Joint Legislative Justice Oversight Committee shall study:

3 (1) how a criminal defendant’s credit for time served is determined with
4 respect to time that the defendant was in Department of Corrections custody on
5 nonincarcerative status or conditions of release; and

6 (2) when the name of an offender who has committed a qualifying
7 offense is posted on the Internet Sex Offender Registry if the offender was in
8 Department of Corrections custody on nonincarcerative status.

9 Sec. 48. 13 V.S.A. § 5305 is amended to read:

10 § 5305. INFORMATION CONCERNING RELEASE FROM
11 ~~CONFINEMENT~~ CUSTODY

12 (a) Victims, other than victims of acts of delinquency, and affected persons
13 shall have the right to request notification by the agency having custody of the
14 defendant before the defendant is released, including a release on bail or
15 conditions of release, furlough or other community program, upon termination
16 or discharge from probation, or whenever the defendant escapes, is recaptured,
17 dies, or receives a pardon or commutation of sentence. Notice shall be given
18 to the victim or affected person as expeditiously as possible at the address or
19 telephone number provided to the agency having custody of the defendant by
20 the person requesting notice. Any address or telephone number so provided
21 shall be kept confidential.

==
Maybe yes
Maybe no
↓

1 (b) If the defendant is released on conditions at arraignment, the
2 prosecutor's office shall inform the victim of a listed crime of the conditions of
3 release.

4 (c) If requested by a victim of a listed crime, the ~~department of corrections~~
5 Department of Corrections shall:

6 (1) at least 30 days before a parole board hearing concerning the
7 defendant, inform the victim of the hearing and of the victim's right to testify
8 before the parole board or to submit a written statement for the parole board to
9 consider; and

10 (2) promptly inform the victim of the decision of the parole board,
11 including providing to the victim any conditions attached to the defendant's
12 release on parole.

13 Sec. 49. 13 V.S.A. § 5314 is amended to read:

14 § 5314. INFORMATION FROM LAW ENFORCEMENT AGENCY

15 * * *

16 (b) Information to victims of listed crimes. As soon as practicable, the law
17 enforcement agency shall use reasonable efforts to give to the victim of a listed
18 crime, as relevant, all of the following:

19 (1) Information as to the accused's identity unless inconsistent with law
20 enforcement purposes.

21 (2) Information as to whether the accused has been taken into custody.

1 (3) The file number of the case and the name, office street address, and
2 telephone number of the law enforcement officer currently assigned to
3 investigate the case.

4 (4) The prosecutor's name, office street address, and telephone number.

5 (5) An explanation that no individual is under an obligation to respond
6 to questions which may be asked outside a courtroom or deposition.

7 (6) Information concerning any bail or conditions of release imposed on
8 the defendant by a judicial officer prior to arraignment or an initial court
9 appearance.

10 Sec. 50. 13 V.S.A. § 5321 is amended to read:

11 § 5321. APPEARANCE BY VICTIM

12 (a) The victim of a crime has the following rights in any sentencing
13 proceedings concerning the person convicted of that crime, or in the event a
14 proposed plea agreement filed with the court recommends a deferred sentence,
15 at any change of plea hearing concerning the person charged with committing
16 that crime:

17 (1) to be given advance notice by the prosecutor's office of the date of
18 the proceedings; and

19 (2) to appear, personally, to express reasonably his or her views
20 concerning the crime, the person convicted, and the need for restitution.

1 (b) ~~Sentencing~~ The change of plea hearing or sentencing shall not be
2 delayed or voided by reason of the failure to give the victim the required notice
3 or the failure of the victim to appear.

4 (c) In accordance with Court rules, at the sentencing or change of plea
5 hearing, the Court shall ask if the victim is present and, if so, whether the
6 victim would like to be heard regarding sentencing or the proposed deferral of
7 sentencing. In imposing the sentence or considering whether to defer
8 sentencing, the Court shall consider any views offered at the hearing by the
9 victim. If the victim is not present, the Court shall ask whether the victim has
10 expressed, either orally or in writing, views regarding sentencing or the
11 proposed deferral of sentencing and shall take those views into consideration in
12 imposing the sentence or considering whether to defer sentencing.

13 (d) At or before the sentencing hearing, the prosecutor's office shall
14 instruct the victim of a listed crime, in all cases where the Court imposes a
15 sentence which includes a period of incarceration, that a sentence of
16 incarceration is to the custody of the Commissioner of Corrections and that the
17 Commissioner of Corrections has the authority to affect the actual time the
18 defendant shall serve in incarceration through good time credit, furlough,
19 work-release, and other early release programs. In addition, the prosecutor's
20 office shall explain the significance of a minimum and maximum sentence to

1 the victim and shall also explain the function of parole and how it may affect
2 the actual amount of time the defendant may be incarcerated.

3 (e) At or before a change of plea hearing where the plea agreement filed
4 with the court proposes a deferred sentence, the prosecutor's office shall
5 instruct the victim of a listed crime about the significance of a deferred
6 sentence and the potential consequences of a violation of conditions imposed
7 by the court. In addition, the prosecutor's office shall, prior to the hearing,
8 consult with the victim concerning any proposed probation conditions.

9 (f) The prosecutor's office shall use all reasonable efforts to keep the
10 victim informed and consult with the victim throughout the plea agreement
11 negotiation process in any case involving a victim of a listed crime.

12 Sec. 51. EFFECTIVE DATES

13 (a) Secs. 9 (commencement of delinquency proceedings), 10 (transfer from
14 other courts), and 11 (transfer from Family Division of the Superior Court),
15 shall take effect on January 1, 2017.

16 (b) Sec. 16 (powers and responsibilities of the Commissioner regarding
17 juvenile services) shall take effect on July 1, 2017.

18 (c) Secs. 6 (jurisdiction), 7 (commencement of delinquency proceedings),
19 and 8 (transfer from other courts) shall take effect on January 1, 2018.

20 (d) Secs. 1 (commencement of youthful offender proceedings in the Family
21 Division), 2 (motion in Criminal Division of Superior Court), 3 (report from

1 the Department), 4 (hearing in Family Division), and 5 (youthful offender
2 determination and disposition order) shall take effect on July 1, 2018.

3 (e) This section and Secs. 39–47 (miscellaneous criminal procedure
4 amendments) shall take effect on passage.

5 (f) The remaining sections shall take effect on July 1, 2016.

6

7 (Committee vote: _____)

8

9

Representative _____

10

FOR THE COMMITTEE