

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 as follows:

8 First: In Sec. 19, 4 V.S.A. § 33, in subsection (b), in the first sentence, by  
9 striking out the word “nonexclusive”

10 Second: In Sec. 22, 33 V.S.A. § 5234a, in subsection (a), by striking out  
11 subdivision (1)(B) and inserting in lieu thereof the following:

12 (B) when a delinquency petition is filed;

13 (C) the child’s name and the conditions of release ordered for the  
14 child or modified by the Court if the conditions relate to the victim or a  
15 member of the victim’s family or current household; and

16 and by relettering the remaining subdivision to be alphabetically correct

17 Third: By striking out Sec. 37 in its entirety and inserting in lieu thereof the  
18 following:

19 Sec. 37. 13 V.S.A. § 2651(6) is amended to read;

20 (6) “Human trafficking” means:

21 \* \* \*



1 behavior after the conviction has warranted the issuance of the order and that  
2 its effect is to annul the record of arrest, conviction, and sentence. The Court  
3 shall provide notice of the expungement to the respondent, Vermont Crime  
4 Information Center (VCIC), the arresting agency, and any other entity that may  
5 have a record related to the order to expunge. The VCIC shall provide notice of  
6 the expungement to the Federal Bureau of Investigation's National Crime  
7 Information Center.

8 \* \* \*

9 Sec. 40. 13 V.S.A. § 7607 is amended to read:

10 § 7607. EFFECT OF SEALING

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

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Sec. 41. 13 V.S.A. § 5301 is amended to read:

§ 5301. DEFINITIONS

As used in this chapter:

\* \* \*

(7) ~~For the purpose of this chapter, “listed~~ “Listed crime” means any of the following offenses:

\* \* \*

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

\* \* \*

Sec. 42. 13 V.S.A. § 5411a is amended to read:

§ 5411a. ELECTRONIC POSTING OF THE SEX OFFENDER REGISTRY

(a) Notwithstanding 20 V.S.A. §§ 2056a-2056e, the Department shall electronically post information on the Internet in accordance with subsection (b) of this section regarding the following sex offenders, upon ~~their~~ the offender’s release from confinement or, if the offender was not subject to confinement, upon the offender’s conviction:

\* \* \*

Sec. 43. 13 V.S.A. § 5572(a) is amended to read:

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

4 Sec. 44. 13 V.S.A. § 5578 is added to read:

5 § 5578. APPLICABILITY; RETROACTIVITY

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

8 Sec. 45. JOINT LEGISLATIVE JUSTICE OVERSIGHT COMMITTEE

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

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

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

16 \* \* \* Pre-July 1, 1990 Criminal Traffic Offenses \* \* \*

17 Sec. 46. TERMINATION OF SUSPENSIONS ARISING FROM PRE-JULY

18 1, 1990 CRIMINAL TRAFFIC OFFENSES

19 (a) Background.

20 (1) Prior to July 1, 1990, traffic offenses that are handled as civil traffic  
21 violations under current Vermont law were charged as criminal offenses.

1           (2) A defendant’s failure to appear on such charges resulted in  
2           suspension of the defendant’s privilege to operate a motor vehicle in Vermont.

3           (3) As of February 2016, approximately 26,260 defendants who failed to  
4           appear in connection with pre-July 1, 1990 criminal traffic charges have  
5           pending suspensions as a result of their failure to appear. None of these  
6           charges relate to conduct that is criminal under current Vermont law.

7           (4) Many of the criminal complaints in these matters are fire- and  
8           water-damaged. In many of these cases, the facts underlying the complaints no  
9           longer can be proved.

10           (5) On February 22, 2016, the Office of the Attorney General mailed to  
11           all Criminal Divisions of the Superior Court and to the Judicial Bureau notices  
12           of dismissal of these pre-July 1, 1990 charges.

13           (b) Termination of suspensions.

14           (1) Notwithstanding 23 V.S.A. § 675 (fee prior to termination of  
15           suspension), as soon as possible after this act takes effect, the Commissioner of  
16           Motor Vehicles shall, without requiring an application or payment of a fee,  
17           terminate pending suspensions of a person’s license or privilege to operate a  
18           motor vehicle that resulted from the person’s failure to appear prior to July 1,  
19           1990 on a criminal traffic offense charged by the State for conduct that is a  
20           civil traffic violation under current Vermont law.

1           (2) This subsection shall not affect pending suspensions of a person’s  
2           license or privilege to operate other than those specifically described in  
3           subdivision (1) of this subsection.

4                           \* \* \* Statewide Driver Restoration Program \* \* \*

5           Sec. 47. STATEWIDE DRIVER RESTORATION PROGRAM

6           (a) Program established; one-time event.

7                   (1) The Judicial Bureau and the Department of Motor Vehicles shall  
8           carry out a Statewide Driver Restoration Program (Program) from  
9           September 1, 2016 through November 30, 2016 (the “Program time period”).  
10           It is the intent of the General Assembly that the Program shall be a one-time  
11           statewide event.

12                   (2) As used in this section, “suspension” means a suspension of a  
13           person’s license or privilege to operate a motor vehicle in Vermont imposed by  
14           the Commissioner of Motor Vehicles.

15           (b) Traffic violation judgments entered before January 1, 2015; exception.

16                   (1) During the Program time period, a person who has not paid in full  
17           the amount due on a traffic violation judgment entered prior to January 1, 2015  
18           may apply to the Judicial Bureau for a reduction in the amount due on a form  
19           approved by the Court Administrator. Judgments for traffic violations that  
20           involve violation of a law specifically governing the operation of commercial

1 motor vehicles shall not be eligible for reduction under the Program. The  
2 Program shall not apply to pre-July 1, 1990 criminal traffic offenses.

3 (2) A person shall be permitted to apply in person or through the mail.  
4 The Judicial Bureau may accept applications electronically or by other means.

5 (3) If a person submits a complete application during the Program time  
6 period and the judgment is eligible for reduction under subdivision (1) of this  
7 subsection, the Clerk of the Judicial Bureau or designee shall reduce the  
8 amount due on the judgment to \$30.00. Amounts paid toward a traffic  
9 violation judgment prior to the Judicial Bureau's granting an application under  
10 this subsection shall not be refunded or credited toward the amount due under  
11 the amended judgment.

12 (c) Traffic violation judgments entered on or after January 1, 2015.

13 (1) Notwithstanding the usual time periods for filing postjudgment  
14 motions to amend and the standards for granting such motions, a person who  
15 has not paid the full amount due on a traffic violation judgment entered on or  
16 after January 1, 2015 and before July 1, 2016 may file a motion with the  
17 Judicial Bureau pursuant to Rules 60 and 80.6 of the Vermont Rules of Civil  
18 Procedure seeking an individualized determination of his or her ability to pay  
19 the amount due on the judgment. In deciding the motion, the Judicial Bureau  
20 hearing officer shall consider the person's ability to pay the amount due and



1 may reduce the amount due and waive any reinstatement or suspension  
2 termination fee in his or her discretion.

3 (2) Consistent with Sec. 4 of this act, amending 4 V.S.A. § 1109 to  
4 direct the Judicial Bureau to provide a more flexible payment plan option, a  
5 person who has an amount due on a traffic violation judgment shall not be  
6 required to pay more than \$100.00 per month in order to be current on all of  
7 his or her traffic violation judgments, regardless of the dates when the  
8 judgments were entered. This subdivision (c)(2) shall not be limited by the  
9 Program time period.

10 (d) Restoration of driving privileges.

11 (1) If a person has paid all traffic violation judgments reduced under  
12 subsection (b) of this section, and is under a payment plan for any other  
13 outstanding traffic violation judgments, the Judicial Bureau shall notify the  
14 Department of Motor Vehicles that the person is in compliance with his or her  
15 obligations.

16 (2) Notwithstanding 23 V.S.A. § 675 (fee prior to termination of  
17 suspension), the Commissioner of Motor Vehicles shall:

18 (A) upon receipt of the notice of compliance from the Judicial  
19 Bureau and without requiring an application or payment of a reinstatement fee,  
20 terminate suspensions arising from nonpayment of a traffic violation judgment  
21 of a person described in subdivision (1) of this subsection (d);

1           (B) during the Program time period and without requiring an  
2           application or payment of a reinstatement fee, terminate suspensions arising  
3           from nonpayment of a traffic violation judgment of a person who has paid all  
4           outstanding traffic violation judgments in full or is in compliance with a  
5           Judicial Bureau payment plan prior to December 1, 2016.

6           (3) If a person described in subdivision (1) or (2)(B) of this subsection  
7           fails to make a payment under a payment plan, the Judicial Bureau shall notify  
8           the Department of Motor Vehicles if required under 4 V.S.A. § 1109, as  
9           amended by Sec. 4 of this act.

10           (4) This subsection shall not affect pending suspensions other than as  
11           specifically described in this subsection.

12           (e) Public awareness campaign. Prior to the start of the Program, the  
13           Agency of Transportation shall commence a campaign to raise public  
14           awareness of the Program, and shall conduct the campaign until the end of the  
15           Program. The Judicial Bureau, the Department of Motor Vehicles, and the  
16           Agency of Transportation shall prominently advertise the Program on their  
17           websites until the Program ends.

18           (f) Allocation of fines collected. Amounts collected on traffic violation  
19           judgments reduced under subsection (b) or subdivision (c)(1) of this section  
20           shall be allocated in accordance with the Process Review approved by the

1 Court Administrator’s Office entitled “Revenue Distributions - Civil  
2 Violations” and dated November 3, 2015.

3 (g) Collection and reporting of statistics. On or before January 15, 2017:

4 (1) The Court Administrator shall report to the House and Senate  
5 Committees on Judiciary and on Transportation:

6 (A) the number of traffic violation judgments reduced to \$30.00  
7 under subsection (b) of this section, the total number of the judgments paid,  
8 and the total amount collected in connection with payment of the judgments;

9 (B) the number of postjudgment motions filed under subdivision  
10 (c)(1) of this section and in connection with such motions:

11 (i) the number of hearings held;

12 (ii) the number of judgments reduced pursuant to such hearings,  
13 the total number of the reduced judgments paid, and the total amount collected  
14 in connection with payment of the reduced judgments; and

15 (iii) the number of hearings scheduled but not yet held;

16 (C) the number of persons eligible for a reduced judgment under  
17 subsection (b) of this section who did not apply for a reduced judgment.

18 (2) The Commissioner of Motor Vehicles shall report to the House and  
19 Senate Committees on Judiciary and on Transportation:

1           (A) the number of suspensions terminated, as well as the number of  
2           unique persons whose suspensions were terminated, under subdivision (d)(2)  
3           of this section; and

4           (B) the number of persons whose license or privilege to operate was  
5           fully reinstated as a result of the termination of suspensions under subdivision  
6           (d)(2) of this section.

7                   \* \* \* Termination of Suspensions Repealed in Act \* \* \*

8           Sec. 48. TERMINATION OF SUSPENSIONS REPEALED IN ACT

9           Notwithstanding 23 V.S.A. § 675 (fee prior to termination of suspension),  
10           as soon as possible after this act takes effect the Commissioner of Motor  
11           Vehicles shall, without requiring an application or payment of a fee, terminate  
12           pending suspensions of a person's license or privilege to operate a motor  
13           vehicle and refusals of a person's license or privilege to operate that were  
14           imposed pursuant to the following provisions:

15                   (1) 7 V.S.A. § 656 (underage alcohol violation);

16                   (2) 7 V.S.A. § 1005 (underage tobacco violation);

17                   (3) 13 V.S.A. § 1753 (false public alarm; students and minors);

18                   (4) 18 V.S.A. § 4230b (underage marijuana violation); and

19                   (5) 32 V.S.A. § 8909 (driver's license suspensions for nonpayment of  
20           purchase and use tax).

1       \* \* \* Amendment or Repeal of License Suspension and Registration Refusal  
2               Provisions and Underage Alcohol and Marijuana Crimes \* \* \*

3       Sec. 49. REPEALS

4               23 V.S.A. §§ 305a (registration not renewed following nonpayment of  
5       traffic violation judgment) and 2307 (remedies for failure to pay traffic  
6       violations) are repealed.

7       Sec. 50. 4 V.S.A. § 1109 is amended to read:

8       § 1109. REMEDIES FOR FAILURE TO PAY; CONTEMPT

9               (a) Definitions. As used in this section:

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

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

15               (3) [Repealed.]

16               (b) Late fees; suspensions for nonpayment of certain traffic violation  
17       judgments.

18               (1) A Judicial Bureau judgment shall provide notice that a \$30.00 fee  
19       shall be assessed for failure to pay within 30 days. If the defendant fails to pay  
20       the amount due within 30 days, the fee shall be added to the judgment amount

1 and deposited in the Court Technology Special Fund established pursuant to  
2 section 27 of this title.

3 (2)(A) In the case of a judgment on a traffic violation for which the  
4 imposition of points against the person’s driving record is authorized by law,  
5 the judgment shall contain a notice that failure to pay or otherwise satisfy the  
6 amount due within 30 days of the notice will result in suspension of the  
7 person’s operator’s license or privilege to operate, and that payment plan  
8 options are available. If the defendant fails to pay the amount due within  
9 30 days of the notice, or by a later date as determined by a Judicial Bureau  
10 clerk or hearing officer, and the case is not pending on appeal, the Judicial  
11 Bureau shall provide electronic notice thereof to the Commissioner of Motor  
12 Vehicles. After 20 days from the date of receiving the electronic notice, the  
13 Commissioner shall suspend the person’s operator’s license or privilege to  
14 operate for a period of 30 days or until the amount due is satisfied, whichever  
15 is earlier.

16 (B) At minimum, the Judicial Bureau shall offer a payment plan  
17 option that allows a person to avoid a suspension of his or her license or  
18 privilege to operate by paying no more than \$30.00 per traffic violation  
19 judgment per month, and not to exceed \$100.00 per month if the person has  
20 four or more outstanding judgments.

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. When the judgment  
8 is based upon a traffic violation, the hearing officer may reduce the amount  
9 due on the basis of the defendant's driving history, ability to pay, or service to  
10 the community; the collateral consequences of the violation; or the interests of  
11 justice. The hearing officer's decision on a motion to reduce the amount due  
12 shall not be subject to review or appeal except in the case of a violation of  
13 rights guaranteed under the Vermont or U.S. Constitution.

14           ~~(4)~~(5) Contempt.

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

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

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



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

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

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

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

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

12                   (iv) Recommend that the Criminal Division of the Superior Court  
13 incarcerate the defendant until the amount due is paid. If incarceration is  
14 recommended pursuant to this subdivision ~~(4)(c)(5)~~, the Judicial Bureau shall  
15 notify the Criminal Division of the Superior Court that contempt proceedings  
16 should be commenced against the defendant. The Criminal Division of the  
17 Superior Court proceedings shall be de novo. If the defendant cannot afford  
18 counsel for the contempt proceedings in the Criminal Division of the Superior  
19 Court, the Defender General shall assign counsel at the Defender General's  
20 expense.

21                   (d) Collections.

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

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

7           (e) For purposes of civil contempt proceedings, venue shall be statewide.  
8 No entry or motion fee shall be charged to a defendant who applies for a  
9 reduced judgment under subdivision (c)(4)(B) of this section.

10          (f) Notwithstanding 32 V.S.A. § 502, the Court Administrator is authorized  
11 to contract with a third party to collect fines, penalties, and fees by credit card,  
12 debit card, charge card, prepaid card, stored value card, and direct bank  
13 account withdrawals or transfers, as authorized by 32 V.S.A. § 583, and to add  
14 on and collect, or charge against collections, a processing charge in an amount  
15 approved by the Court Administrator.

16          Sec. 51. 7 V.S.A. § 656 is amended to read:

17          § 656. PERSON UNDER 21 YEARS OF AGE MISREPRESENTING AGE,  
18                 PROCURING, POSSESSING, OR CONSUMING ALCOHOLIC  
19                 BEVERAGES; FIRST OR SECOND OFFENSE; CIVIL VIOLATION

20          (a)(1) Prohibited conduct. A person under 21 years of age shall not:

1           (A) ~~falsely~~ Falsely represent his or her age for the purpose of  
2           procuring or attempting to procure malt or vinous beverages, spirits, or  
3           fortified wines from any licensee, State liquor agency, or other person or  
4           persons;

5           (B) ~~possess~~ Possess malt or vinous beverages, spirits, or fortified  
6           wines for the purpose of consumption by himself or herself or other minors,  
7           except in the regular performance of duties as an employee of a licensee  
8           licensed to sell alcoholic liquor;

9           (C) ~~consume~~ Consume malt or vinous beverages, spirits, or fortified  
10          wines. A violation of this subdivision may be prosecuted in a jurisdiction  
11          where the minor has consumed malt or vinous beverages, spirits, or fortified  
12          wines or in a jurisdiction where the indicators of consumption are observed.

13          (2) Offense. ~~Except as otherwise provided in section 657 of this title, a~~  
14          A person under 21 years of age who knowingly and unlawfully violates  
15          subdivision (1) of this subsection commits a civil violation and shall be  
16          referred to the Court Diversion Program for the purpose of enrollment in the  
17          Youth Substance Abuse Safety Program. A person who fails to complete the  
18          program successfully shall be subject to:

19               (A) ~~a civil penalty of \$300.00 and suspension of the person's~~  
20               ~~operator's license and privilege to operate a motor vehicle for a period of 90~~  
21               ~~days,~~ \$400.00 for a first offense; and



1 (e) Notice to Report to Diversion. Upon receipt from a law enforcement  
2 officer of a summons and complaint completed under this section, the  
3 Diversion Program shall send the person a notice to report to the Diversion  
4 Program. The notice to report shall provide that:

5 (1) The person is required to complete all conditions related to the  
6 offense imposed by the Diversion Program, including substance abuse  
7 screening and, if deemed appropriate following the screening, substance abuse  
8 education or substance abuse counseling, or both.

9 (2) If the person does not satisfactorily complete the substance abuse  
10 screening, any required substance abuse education or substance abuse  
11 counseling, or any other condition related to the offense imposed by the  
12 Diversion Program, the case will be referred to the Judicial Bureau, where the  
13 person, if found liable for the violation, shall be assessed a civil penalty, ~~the~~  
14 ~~person's driver's license will be suspended, and the person's automobile~~  
15 ~~insurance rates may increase substantially.~~

16 (3) If the person satisfactorily completes the substance abuse screening,  
17 any required substance abuse education or substance abuse counseling, and any  
18 other condition related to the offense imposed by the Diversion Program, no  
19 penalty shall be imposed ~~and the person's operator's license shall not be~~  
20 ~~suspended.~~

21 (f)(4) Diversion Program Requirements.

1           (1) Upon being contacted by a person who has been issued a notice of  
2 violation, the Diversion Program shall register the person in the Youth  
3 Substance Abuse Safety Program. Pursuant to the Youth Substance Abuse  
4 Safety Program, the Diversion Program shall impose conditions on the person.  
5 The conditions imposed shall include only conditions related to the offense and  
6 in every case shall include a condition requiring satisfactory completion of  
7 substance abuse screening using an evidence-based tool and, if deemed  
8 appropriate following the screening, substance abuse assessment and substance  
9 abuse education or substance abuse counseling, or both. If the screener  
10 recommends substance abuse counseling, the person shall choose a State-  
11 certified or State-licensed substance abuse counselor or substance abuse  
12 treatment provider to provide the services.

13           (2) Substance abuse screening required under this subsection shall be  
14 completed within 60 days after the Diversion Program receives a summons and  
15 complaint. The person shall complete all conditions at his or her own expense.

16           (3) When a person has satisfactorily completed substance abuse  
17 screening, any required substance abuse education or substance abuse  
18 counseling, and any other condition related to the offense which the Diversion  
19 Program has imposed, the Diversion Program shall:

20           (A) ~~void~~ Void the summons and complaint with no penalty due; ~~and~~.

1           (B) ~~send~~ Send copies of the voided summons and complaint to the  
2           Judicial Bureau and to the law enforcement officer who completed them.  
3           Before sending copies of the voided summons and complaint to the Judicial  
4           Bureau under this subdivision, the Diversion Program shall redact all language  
5           containing the person’s name, address, Social Security number, and any other  
6           information which identifies the person.

7           (4) If a person does not satisfactorily complete substance abuse  
8           screening, any required substance abuse education or substance abuse  
9           counseling, or any other condition related to the offense imposed by the  
10          Diversion Program or if the person fails to pay the Diversion Program any  
11          required program fees, the Diversion Program shall file the summons and  
12          complaint with the Judicial Bureau for adjudication under 4 V.S.A. chapter 29.  
13          The Diversion Program shall provide a copy of the summons and complaint to  
14          the law enforcement officer who issued the notice of violation and shall  
15          provide two copies to the person charged with the violation.

16          (5) A person aggrieved by a decision of the Diversion Program or  
17          alcohol counselor may seek review of that decision pursuant to Rule 75 of the  
18          Vermont Rules of Civil Procedure.

19          (g) ~~Failure to Pay Penalty. If a person fails to pay a penalty imposed under~~  
20          ~~this section by the time ordered, the Judicial Bureau shall notify the~~  
21          ~~Commissioner of Motor Vehicles, who shall suspend the person’s operator’s~~

1 ~~license and privilege to operate a motor vehicle until payment is made.~~

2 [Repealed.]

3 (h) ~~Record of Adjudications. Upon adjudicating a person in violation of~~  
4 ~~this section, the Judicial Bureau shall notify the Commissioner of Motor~~  
5 ~~Vehicles, who shall maintain a record of all such adjudications which shall be~~  
6 ~~separate from the registry maintained by the Department for motor vehicle~~  
7 ~~driving records. The identity of a person in the registry shall be revealed only~~  
8 ~~to a law enforcement officer determining whether the person has previously~~  
9 ~~violated this section.~~ [Repealed.]

10 Sec. 52. REPEAL

11 7 V.S.A. § 657 (persons under 21; third or subsequent alcohol offense;  
12 crime) is repealed.

13 Sec. 53. 13 V.S.A. § 5201(5) is amended to read:

14 (5) “Serious crime” does not include the following misdemeanor  
15 offenses unless the judge at arraignment but before the entry of a plea  
16 determines and states on the record that a sentence of imprisonment or a fine  
17 over \$1,000.00 may be imposed on conviction:

18 (A) ~~Minors misrepresenting age, procuring or possessing malt or~~  
19 ~~vinous beverages or spirituous liquor (7 V.S.A. § 657(a))~~ [Repealed.]

20 \* \* \*

21 Sec. 54. 28 V.S.A. § 205(c) is amended to read:



1 (c)(1) Unless the Court in its discretion finds that the interests of justice  
2 require additional standard and special conditions of probation, when the Court  
3 orders a specific term of probation for a qualifying offense, the offender shall  
4 be placed on administrative probation, which means that the only conditions of  
5 probation shall be that the probationer:

6 \* \* \*

7 (2) As used in this subsection, “qualifying offense” means:

8 \* \* \*

9 (M) ~~A first offense of a minor’s misrepresenting age, procuring,~~  
10 ~~possessing, or consuming liquors under 7 V.S.A. § 657. [Repealed.]~~

11 \* \* \*

12 Sec. 55. 7 V.S.A. § 1005 is amended to read:

13 § 1005. PERSONS UNDER 18 YEARS OF AGE; POSSESSION OF  
14 TOBACCO PRODUCTS; MISREPRESENTING AGE OR  
15 PURCHASING TOBACCO PRODUCTS; PENALTY

16 (a) A person under 18 years of age shall not possess, purchase, or attempt  
17 to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia  
18 unless the person is an employee of a holder of a tobacco license and is in  
19 possession of tobacco products, tobacco substitutes, or tobacco paraphernalia  
20 to effect a sale in the course of employment. A person under 18 years of age  
21 shall not misrepresent his or her age to purchase or attempt to purchase tobacco

1 products, tobacco substitutes, or tobacco paraphernalia. A person who  
2 possesses tobacco products, tobacco substitutes, or tobacco paraphernalia in  
3 violation of this subsection shall be subject to having the tobacco products,  
4 tobacco substitutes, or tobacco paraphernalia immediately confiscated and  
5 shall be further subject to a civil penalty of \$25.00. ~~In the case of failure to~~  
6 ~~pay a penalty, the Judicial Bureau shall mail a notice to the person at the~~  
7 ~~address in the complaint notifying the person that failure to pay the penalty~~  
8 ~~within 60 days of the notice will result in either the suspension of the person's~~  
9 ~~operator's license for a period of not more than 90 days or the delay of the~~  
10 ~~initial licensing of the person for a period of not more than one year. A copy~~  
11 ~~of the notice shall be sent to the Commissioner of Motor Vehicles, who, after~~  
12 ~~expiration of 60 days from the date of notice and unless notified by the Judicial~~  
13 ~~Bureau that the penalty has been paid shall either suspend the person's~~  
14 ~~operator's license or cause initial licensing of the person to be delayed for the~~  
15 ~~periods set forth in this subsection and the rules. An action under this~~  
16 ~~subsection shall be brought in the same manner as a traffic violation pursuant~~  
17 ~~to 23 V.S.A. chapter 24. The Commissioner of Motor Vehicles shall adopt~~  
18 ~~rules in accordance with the provisions of 3 V.S.A. chapter 25 to implement~~  
19 ~~the provisions of this subsection, which may provide for incremental~~  
20 ~~suspension or delays not exceeding cumulatively the maximum periods~~  
21 ~~established by this subsection.~~

1 (b) A person under 18 years of age who misrepresents his or her age by  
2 presenting false identification to purchase tobacco products, tobacco  
3 substitutes, or tobacco paraphernalia shall be fined not more than \$50.00 or  
4 provide up to 10 hours of community service, or both.

5 Sec. 56. 13 V.S.A. § 1753 is amended to read:

6 § 1753. FALSE PUBLIC ALARMS

7 (a) A person who initiates or willfully circulates or transmits a report or  
8 warning of an impending bombing or other offense or catastrophe, knowing  
9 that the report or warning is false or baseless and that it is likely to cause  
10 evacuation of a building, place of assembly, or facility of public transport, or to  
11 cause public inconvenience or alarm, shall, for the first offense, be imprisoned  
12 for not more than two years or fined not more than \$5,000.00, or both. For the  
13 second or subsequent offense, the person shall be imprisoned for not more than  
14 five years or fined not more than \$10,000.00, or both. In addition, the court  
15 may order the person to perform community service. Any community service  
16 ordered under this section shall be supervised by the ~~department of corrections~~  
17 Department of Corrections.

18 (b) ~~In addition, if the person is under 18 years of age, or if the person is~~  
19 ~~enrolled in a public school, an approved or recognized independent school, a~~  
20 ~~home study program, or tutorial program as those terms are defined in section~~  
21 ~~11 of Title 16:~~

1           ~~(1) if the person has a motor vehicle operator's license issued under~~  
2           ~~chapter 9 of Title 23, the commissioner of motor vehicles shall suspend the~~  
3           ~~license for 180 days for a first offense and two years for a second offense; or~~

4           ~~(2) if the person does not qualify for a license because the person is~~  
5           ~~underage, the commissioner of motor vehicles shall delay the person's~~  
6           ~~eligibility to obtain a drivers license for 180 days for the first offense and two~~  
7           ~~years for the second offense. [Repealed.]~~

8           Sec. 57. 18 V.S.A. § 4230b is amended to read:

9           § 4230b. MARIJUANA POSSESSION BY A PERSON UNDER 21 YEARS

10                   OF AGE; FIRST OR SECOND OFFENSE; CIVIL VIOLATION

11           (a) Offense. ~~Except as otherwise provided in section 4230c of this title, a~~  
12           A person under 21 years of age who knowingly and unlawfully possesses one  
13           ounce or less of marijuana or five grams or less of hashish commits a civil  
14           violation and shall be referred to the Court Diversion Program for the purpose  
15           of enrollment in the Youth Substance Abuse Safety Program. A person who  
16           fails to complete the program successfully shall be subject to:

17                   (1) a civil penalty of ~~\$300.00 and suspension of the person's operator's~~  
18           ~~license and privilege to operate a motor vehicle for a period of 90 days,~~  
19           \$400.00 for a first offense; and



1 (e) Notice to Report to Diversion. Upon receipt from a law enforcement  
2 officer of a summons and complaint completed under this section, the  
3 Diversion Program shall send the person a notice to report to the Diversion  
4 Program. The notice to report shall provide that:

5 (1) The person is required to complete all conditions related to the  
6 offense imposed by the Diversion Program, including substance abuse  
7 screening and, if deemed appropriate following the screening, substance abuse  
8 education or substance abuse counseling, or both.

9 (2) If the person does not satisfactorily complete the substance abuse  
10 screening, any required substance abuse education or substance abuse  
11 counseling, or any other condition related to the offense imposed by the  
12 Diversion Program, the case will be referred to the Judicial Bureau, where the  
13 person, if found liable for the violation, shall be assessed a civil penalty, ~~the~~  
14 ~~person's driver's license will be suspended, and the person's automobile~~  
15 ~~insurance rates may increase substantially.~~

16 (3) If the person satisfactorily completes the substance abuse screening,  
17 any required substance abuse education or substance abuse counseling, and any  
18 other condition related to the offense imposed by the Diversion Program, no  
19 penalty shall be imposed ~~and the person's operator's license shall not be~~  
20 ~~suspended.~~

21 \* \* \*

1       ~~(g) Failure to Pay Penalty. If a person fails to pay a penalty imposed under~~  
2       ~~this section by the time ordered, the Judicial Bureau shall notify the~~  
3       ~~Commissioner of Motor Vehicles, who shall suspend the person's operator's~~  
4       ~~license and privilege to operate a motor vehicle until payment is made.~~

5       [Repealed.]

6       ~~(h) Record of Adjudications. Upon adjudicating a person in violation of~~  
7       ~~this section, the Judicial Bureau shall notify the Commissioner of Motor~~  
8       ~~Vehicles, who shall maintain a record of all such adjudications which shall be~~  
9       ~~separate from the registry maintained by the Department for motor vehicle~~  
10       ~~driving records. The identity of a person in the registry shall be revealed only~~  
11       ~~to a law enforcement officer determining whether the person has previously~~  
12       ~~violated this section. [Repealed.]~~

13       Sec. 58. DEPARTMENT OF MOTOR VEHICLES REGISTRY OF  
14                UNDERAGE ALCOHOL AND MARIJUANA OFFENSES

15       It is the intent of the General Assembly that any copy of the registry of  
16       underage alcohol and marijuana adjudications that the Department of Motor  
17       Vehicles was required to maintain under the former 7 V.S.A. § 656(h) and  
18       18 V.S.A. § 4230b(h) (repealed in Secs. 5 and 11 of this act, respectively) be  
19       destroyed.

20       Sec. 59. REPEAL

1        18 V.S.A. § 4230c (marijuana possession by a person under 21 years of age;  
2        third or subsequent offense; crime) is repealed.

3        Sec. 60. 20 V.S.A. § 2358 (b)(2)(B)(i)(XX) is amended to read:

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

6        Sec. 61. 32 V.S.A. § 8909 is amended to read:

7        § 8909. ENFORCEMENT

8            If the tax due under subsection ~~8903(a), (b) and (d)~~ 8903(d) of this title is  
9        not paid as hereinbefore provided the Commissioner shall suspend ~~such~~  
10       ~~purchase~~'s or the rental company's right to operate a motor vehicle license to  
11       act as a rental company and motor vehicle registrations within the State of  
12       Vermont until such tax is paid, and such tax may be recovered with costs in an  
13       action brought in the name of the State on this statute.

14                    \* \* \* Driving with License Suspended\* \* \*

15        Sec. 62. 23 V.S.A. § 674 is amended to read:

16        § 674. OPERATING AFTER SUSPENSION OR REVOCATION OF

17                    LICENSE; PENALTY; REMOVAL OF REGISTRATION PLATES;

18                    TOWING

19            (a)(1) Except as provided in section 676 of this title, a person whose license  
20        or privilege to operate a motor vehicle has been suspended or revoked for a  
21        violation of this section or subsection 1091(b), 1094(b), or 1128(b) or (c) of



1 this title and who operates or attempts to operate a motor vehicle upon a public  
2 highway before the suspension period imposed for the violation has expired  
3 shall be imprisoned not more than two years or fined not more than \$5,000.00,  
4 or both.

5 (2)(A) A person whose license or privilege to operate a motor vehicle  
6 has been suspended or revoked for a violation of section 2506 of this title  
7 (points suspensions) and who operates or attempts to operate a motor vehicle  
8 upon a public highway for a third or subsequent time on or after July 1, 2016  
9 before the suspension period imposed for the violation has expired shall be  
10 imprisoned not more than two years or fined not more than \$5,000.00, or both.

11 (B) A Other than as provided in subdivision (A) of this subdivision  
12 (a)(2), a person who violates section 676 of this title for the sixth or subsequent  
13 time shall, if the five prior offenses occurred on or after July 1, 2003  
14 December 1, 2016, be imprisoned not more than two years or fined not more  
15 than \$5,000.00, or both.

16 (3) Violations of section 676 of this title that occurred prior to the date a  
17 person successfully completes the DLS Diversion Program ~~or prior to the date~~  
18 ~~that a person pays the amount due to the Judicial Bureau in accordance with~~  
19 ~~subsection 2307(b) of this chapter~~ shall not be counted as prior offenses under  
20 subdivision (2) of this subsection.

21 \* \* \*



1 of a municipality may make special regulations as to the speed of motor  
2 vehicles on town highways, may exclude motor vehicles from town highways,  
3 and may make such traffic rules and regulations as the public good requires.  
4 However, signs indicating the special regulations must be conspicuously  
5 posted in and near all affected areas, giving as much notice as possible to the  
6 public so that alternative routes of travel could be considered.

7 (b) Notwithstanding the limit established in section 2302 of this title and  
8 the waiver penalties established under 4 V.S.A. § 1102(d), the penalty and  
9 points assessed against a person's driving record for a violation of the speed  
10 limits established under the worksite provision of this section shall be twice the  
11 penalty and the points assessed for non-worksite speed violations.

12 Sec. 65. 23 V.S.A. § 1081 is amended to read:

13 § 1081. BASIC RULE AND MAXIMUM LIMITS

14 \* \* \*

15 (b) Except when there exists a special hazard that requires lower speed in  
16 accordance with subsection (a) of this section, the limits specified in this  
17 section or established as hereinafter authorized are maximum lawful speeds,  
18 and no person shall drive a vehicle on a highway at a speed in excess of  
19 50 miles per hour.

20 (c) The maximum speed limits set forth in this section may be altered in  
21 accordance with sections 1003, 1004, 1006a, 1007, and 1010 of this title.

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\* \* \*

Sec. 66. 23 V.S.A. § 1095b is amended to read:

§ 1095b. HANDHELD USE OF PORTABLE ELECTRONIC DEVICE  
PROHIBITED

\* \* \*

(c) Penalties.

(1) A person who violates this section commits a traffic violation and shall be subject to a fine of not less than \$100.00 and not more than \$200.00 for a first violation, and of not less than \$250.00 and not more than \$500.00 for a second or subsequent violation within any two-year period.

(2) A person convicted of violating this section while operating within a ~~properly designated work zone in which construction, maintenance, or utility personnel are present~~ the following areas shall have ~~two~~ five points assessed against his or her driving record ~~for a first conviction and five points assessed for a second or subsequent conviction:~~

(A) a properly designated work zone in which construction, maintenance, or utility personnel are present; or

(B) a school zone marked with warning signs conforming to the Manual on Uniform Traffic Control Devices.

1 (3) A person convicted of violating this section outside a ~~work zone in~~  
2 ~~which personnel are present~~ the areas designated in subdivision (2) of this  
3 subsection shall ~~not~~ have two points assessed against his or her driving record.

4 \* \* \*

5 Sec. 67. 23 V.S.A. § 1099 is amended to read:

6 § 1099. TEXTING PROHIBITED

7 \* \* \*

8 (c) A person who violates this section commits a traffic violation as defined  
9 in section 2302 of this title and shall be subject to:

10 (1) a penalty of not less than \$100.00 and not more than \$200.00 for a  
11 first violation, and of not less than \$250.00 and not more than \$500.00 for a  
12 second or subsequent violation within any two-year period; and

13 (2)(A) an assessment of five points against his or her driving record if  
14 the violation occurred outside the areas designated in subdivision (B) of this  
15 subdivision (c)(2); or

16 (B) an assessment of seven points against his or her driving record  
17 when the violation occurred within:

18 (i) a properly designated work zone in which construction,  
19 maintenance, or utility personnel are present; or

20 (ii) a school zone marked with warning signs conforming to the  
21 Manual on Uniform Traffic Control Devices.

1 Sec. 68. 23 V.S.A. § 2502 is amended to read:

2 § 2502. POINT ASSESSMENT; SCHEDULE

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

10 (1) Two points assessed for:

11 \* \* \*

12 (LL)(i) § 1095. Entertainment picture visible  
13 to operator;

14 (ii) § 1095b(e)(2) Use of portable electronic device  
15 ~~in~~ outside work or school  
16 ~~zone~~ —first offense

17 \* \* \*

18 (EEE) § 1258 Child restraint systems;

19 (FFF) § 800. Operating without financial  
20 responsibility;







1 evidence which establishes that the truth of the facts asserted is highly  
2 probable. Certified copies of records supplied by the Department of Motor  
3 Vehicles or the Agency of Natural Resources and presented by the issuing  
4 officer or other person shall be admissible without testimony by a  
5 representative of the Department of Motor Vehicles or the Agency of Natural  
6 Resources.

7 (c)(1) Prior to entering judgment against a defendant, a hearing officer shall  
8 consider evidence of ability to pay if offered by the defendant.

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

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

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

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





1 Committees on Judiciary the statistics specified in subdivisions (a)(1)–(4) of  
2 this section for the prior calendar year.

3 \* \* \* Traffic Violation Judgments; Receipts; Statistics \* \* \*

4 Sec. 73. STATISTICS RELATED TO TRAFFIC VIOLATION JUDGMENT  
5 HEARINGS, RECEIPTS

6 (a) On or before January 15, 2018, and separately for calendar years 2013,  
7 2014, 2015, 2016, and 2017, the Court Administrator shall submit in writing to  
8 the House and Senate Committees on Judiciary and on Transportation:

9 (1) the total number of traffic violation judgments entered; and

10 (2) the total payments collected on traffic violation judgments.

11 (b) On or before January 15 of 2019, 2020, and 2021, respectively, the  
12 Court Administrator shall submit in writing to the Committees on Judiciary  
13 and on Transportation the statistics specified in subdivisions (a)(1) and (2) of  
14 this section for the prior calendar year.

15 (c) On or before January 15 of 2017–2021, respectively, the Court  
16 Administrator shall submit in writing to the House and Senate Committees on  
17 Judiciary and on Transportation:

18 (1) the total unpaid amount of outstanding traffic violation judgments as  
19 of January 1 of each year;

1           (2) the number of persons under payment plans as of January 1 of each  
2           year and the number of persons who successfully completed a payment plan in  
3           the prior calendar year;

4           (3) the number of judgments reduced in the prior calendar year as a  
5           result of a hearing held pursuant to 4 V.S.A. § 1106; and

6           (4) the number of judgments reduced in the prior calendar year as a  
7           result of postjudgment motions to amend.

8           \* \* \* Underage Alcohol and Marijuana Violations; Statistics \* \* \*

9           Sec. 74. UNDERAGE ALCOHOL AND MARIJUANA VIOLATIONS;

10           COMPLETION OF DIVERSION

11           On or before January 25, 2018, the Diversion Program shall submit to the  
12           House and Senate Committees on Judiciary, the House Committee on Human  
13           Services, and the Senate Committee on Health and Welfare statistics showing:

14           (1) for calendar years 2014 and 2015 separately, the number of notices  
15           to report received by the Diversion Program from law enforcement, as well as  
16           the number of persons who successfully completed Diversion, for:

17           (A) a violation of 7 V.S.A. § 656 (underage alcohol violation); and

18           (B) a violation of 18 V.S.A. § 4230b (underage marijuana violation);

19           (2) for calendar years 2016 and 2017 separately, the number of notices  
20           to report received by the Diversion Program from law enforcement, as well as  
21           the number of persons who successfully completed Diversion, for:



1           (2) On or before December 31, 2018, law enforcement officers shall  
2           receive a minimum of four hours of training as required by this subsection and  
3           shall receive a refresher course every two years in a program approved by the  
4           Vermont Criminal Justice Training Council in order to remain certified.

5           (3) A list of officers who have completed the fair and impartial policing  
6           training and the dates of the completion shall be public and posted on the  
7           Vermont Criminal Justice Training Council’s website.

8           Sec. 77. 20 V.S.A. § 2366 is amended to read:

9           § 2366. LAW ENFORCEMENT AGENCIES; FAIR AND IMPARTIAL

10                           POLICING POLICY; RACE DATA COLLECTION

11           ~~(a)(1) Except as provided in subdivision (2) of this subsection, on or before~~  
12           ~~September 1, 2014, every State, local, county, and municipal law enforcement~~  
13           ~~agency, and every constable who exercises law enforcement authority pursuant~~  
14           ~~to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of~~  
15           ~~this title, shall adopt a fair and impartial policing policy. The policy shall~~  
16           ~~contain substantially the same elements of either the current Vermont State~~  
17           ~~Police fair and impartial policing policy or the most current model policy~~  
18           ~~issued by the Office of the Attorney General.~~

19           ~~(2)~~ On or before January 1, 2016, the Criminal Justice Training Council,  
20           in consultation with stakeholders, including the Vermont League of Cities and  
21           Towns, the Vermont Human Rights Commission, and Migrant Justice, shall

1 ~~adopt~~ create a model fair and impartial policing policy. On or before July 1,  
2 2016, every State, ~~local~~, county, and municipal law enforcement agency,  
3 and every constable who exercises law enforcement authority pursuant to  
4 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of this  
5 title, shall adopt a fair and impartial policing policy that includes, at a  
6 minimum, the elements of the Criminal Justice Training Council model policy.

7 (b) If a law enforcement agency or constable that is required to adopt a  
8 policy pursuant to subsection (a) of this section fails to do so on or before  
9 ~~September 1, 2014~~ July 1, 2016, that agency or constable shall be deemed to  
10 have adopted, and shall follow and enforce, the model policy issued by the  
11 ~~Office of the Attorney General~~ Criminal Justice Training Council.

12 (c) On or before September 15, 2014, and annually thereafter as part of  
13 their annual training report to the Council, every State, ~~local~~, county, and  
14 municipal law enforcement agency, and every constable who exercises law  
15 enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in  
16 compliance with section 2358 of this title, shall report to the Council whether  
17 the agency or officer has adopted a fair and impartial policing policy in  
18 accordance with subsections (a) and (b) of this section ~~and which policy has~~  
19 ~~been adopted~~. The Criminal Justice Training Council shall determine, as part  
20 of the Council's annual certification of training requirements, if current



1 officers have received training on fair and impartial policing as required by  
2 20 V.S.A. § 2358(e).

3 (d) On or before October 15, 2014, and annually thereafter on April 1, the  
4 Criminal Justice Training Council shall report to the House and Senate  
5 Committees on Judiciary which departments and officers have adopted a fair  
6 and impartial policing policy, ~~which policy has been adopted~~, and whether  
7 officers have received training on fair and impartial policing.

8 (e)(1) On or before September 1, 2014, every State, ~~local~~, county, and  
9 municipal law enforcement agency shall collect roadside stop data consisting  
10 of the following:

- 11 (A) the age, gender, and race of the driver;
- 12 (B) the reason for the stop;
- 13 (C) the type of search conducted, if any;
- 14 (D) the evidence located, if any; and
- 15 (E) the outcome of the stop, including whether:
- 16 (i) a written warning was issued;
- 17 (ii) a citation for a civil violation was issued;
- 18 (iii) a citation or arrest for a misdemeanor or a felony occurred; or
- 19 (iv) no subsequent action was taken.

20 (2) Law enforcement agencies shall work with the Criminal Justice  
21 Training Council and the Crime Research Group of Vermont with the goals of

1 collecting uniform data, adopting uniform storage methods and periods, and  
2 ensuring that data can be analyzed. Roadside stop data, as well as reports and  
3 analysis of roadside stop data, shall be public.

4 (3) On or before September 1, 2016 and annually thereafter, law  
5 enforcement agencies shall provide the data collected under this subsection to  
6 the Crime Research Group of Vermont or, in the event the Crime Research  
7 Group of Vermont is unable to continue receiving data under this section, to  
8 the Criminal Justice Training Council. Law enforcement agencies shall  
9 provide the data collected under this subsection in an electronic format  
10 specified by the receiving agency.

11 (4) The data provided pursuant to subdivision (3) of this subsection shall  
12 be posted electronically in a manner that is analyzable and accessible to the  
13 public on the receiving agency's website.

14 (5) On or before April 1, 2017, and annually thereafter, the Criminal  
15 Justice Training Council shall report to the House and Senate Committees on  
16 Judiciary on the departments and officers that have and have not provided the  
17 data required by subdivision (3) of this subsection. The list of officers,  
18 agencies, or departments that have and have not provided the data in  
19 accordance with subdivision (3) of this subsection shall be public.

1 Sec. 78. 13 V.S.A. § 5305 is amended to read:

2 § 5305. INFORMATION CONCERNING RELEASE FROM  
3 CONFINEMENT CUSTODY

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

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

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

19 (1) at least 30 days before a parole board hearing concerning the  
20 defendant, inform the victim of the hearing and of the victim's right to testify

1 before the parole board or to submit a written statement for the parole board to  
2 consider; and

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

6 Sec. 79. 13 V.S.A. § 5314 is amended to read:

7 § 5314. INFORMATION FROM LAW ENFORCEMENT AGENCY

8 \* \* \*

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

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

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

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

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

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

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

4           Sec. 80. 13 V.S.A. § 5321 is amended to read:

5           § 5321. APPEARANCE BY VICTIM

6           (a) The victim of a crime has the following rights in any sentencing  
7           proceedings concerning the person convicted of that crime, or in the event a  
8           proposed plea agreement filed with the court recommends a deferred sentence,  
9           at any change of plea hearing concerning the person charged with committing  
10           that crime:

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

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

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

18           (c) In accordance with Court rules, at the sentencing or change of plea  
19           hearing, the Court shall ask if the victim is present and, if so, whether the  
20           victim would like to be heard regarding sentencing or the proposed deferral of  
21           sentencing. In imposing the sentence or considering whether to defer

1 sentencing, the Court shall consider any views offered at the hearing by the  
2 victim. If the victim is not present, the Court shall ask whether the victim has  
3 expressed, either orally or in writing, views regarding sentencing or the  
4 proposed deferral of sentencing and shall take those views into consideration in  
5 imposing the sentence or considering whether to defer sentencing.

6 (d) At or before the sentencing hearing, the prosecutor's office shall  
7 instruct the victim of a listed crime, in all cases where the Court imposes a  
8 sentence which includes a period of incarceration, that a sentence of  
9 incarceration is to the custody of the Commissioner of Corrections and that the  
10 Commissioner of Corrections has the authority to affect the actual time the  
11 defendant shall serve in incarceration through good time credit, furlough,  
12 work-release, and other early release programs. In addition, the prosecutor's  
13 office shall explain the significance of a minimum and maximum sentence to  
14 the victim and shall also explain the function of parole and how it may affect  
15 the actual amount of time the defendant may be incarcerated.

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



1 determine whether the affidavit or affidavits filed by the State provide a  
2 sufficient factual basis under subsection (a) of this section for the civil  
3 suspension matter to proceed. At the preliminary hearing, if the defendant  
4 requests a hearing on the merits, the court shall set the date of the final hearing  
5 in accordance with subsection (h) of this section.

6 (h) Final hearing.

7 (1) If the defendant requests a hearing on the merits, the ~~Court shall~~  
8 ~~schedule a final hearing on the merits to~~ hearing shall be held ~~within no later~~  
9 ~~than 21 days of following~~ the date of the preliminary hearing. ~~In no event may~~  
10 ~~a final hearing occur more than 42 days after the date of the alleged offense~~  
11 ~~without the consent of the defendant or for good cause shown. The final~~  
12 ~~hearing may only be continued by~~ except if this period is extended with the  
13 consent of the defendant or for good cause shown. The issues at the final  
14 hearing shall be limited to the following specifically enumerated issues:

15 (A) Whether the law enforcement officer had reasonable grounds to  
16 believe the person was operating, attempting to operate, or in actual physical  
17 control of a vehicle in violation of section 1201 of this title.

18 (B) Whether at the time of the request for the evidentiary test the  
19 officer informed the person of the person's rights and the consequences of  
20 taking and refusing the test substantially as set out in subsection 1202(d) of  
21 this title.



1 (C) Whether the person refused to permit the test.

2 (D) Whether the test was taken and the test results indicated that the  
3 person's alcohol concentration was above a legal limit specified in subsection  
4 1201(a) or (d) of this title, at the time of operating, attempting to operate, or  
5 being in actual physical control of a vehicle in violation of section 1201 of this  
6 title, whether the testing methods used were valid and reliable, and whether the  
7 test results were accurate and accurately evaluated. Evidence that the test was  
8 taken and evaluated in compliance with rules adopted by the Department of  
9 Public Safety shall be prima facie evidence that the testing methods used were  
10 valid and reliable and that the test results are accurate and were accurately  
11 evaluated.

12 (E) Whether the requirements of section 1202 of this title were  
13 complied with.

14 (2) No less than seven days before the final hearing, and subject to the  
15 requirements of Vermont Rule of Civil Procedure 11, the defendant shall  
16 provide to the State and file with the Court ~~a list of the issues (limited to the~~  
17 ~~issues set forth in this subsection) that the defendant intends to raise~~ an answer  
18 to the notice of intent to suspend setting forth the issues raised by the  
19 defendant, limited to the issues set forth in this subsection, and a brief  
20 statement of the facts and law upon which the defendant intends to rely at the  
21 final hearing. Only evidence that is relevant to an issue listed by the defendant

1 may be raised by the defendant at the final hearing. The defendant shall not be  
2 permitted to raise any other evidence at the final hearing, and all other  
3 evidence shall be inadmissible.

4 \* \* \*

5 (n) Presumption. In a proceeding under this section;

6 (1) if at any time within two hours of operating, attempting to operate,  
7 or being in actual physical control of a vehicle a person had an alcohol  
8 concentration ~~of~~ at or above a legal limit specified in subsection 1201(a) or (d)  
9 of this title, it shall be a rebuttable presumption that the person's alcohol  
10 concentration was above the applicable limit at the time of operating,  
11 attempting to operate, or being in actual physical control;

12 (2) if a person operates, attempts to operate, or is in actual physical  
13 control of a vehicle in the presence of a law enforcement officer and is taken  
14 into custody in connection with such operation, attempted operation, or actual  
15 physical control, and while in the continuous custody of the officer at any time  
16 had an alcohol concentration at or above a legal limit specified in subsection  
17 1201(a) or (d) of this title, it shall be a rebuttable presumption that the person's  
18 alcohol concentration was above the applicable limit at the time of operating,  
19 attempting to operate, or being in actual physical control.

20 \* \* \*

21 (u) In any proceeding under this section;



1 (b) The foregoing provisions shall not be construed as limiting the  
2 introduction of any other competent evidence bearing upon the question  
3 whether the person was under the influence of intoxicating liquor, nor shall  
4 they be construed as requiring that evidence of the amount of alcohol in the  
5 person's blood, breath, urine, or saliva must be presented.

6 \* \* \* DUI Penalties \* \* \*

7 Sec. 83. 23 V.S.A. § 1210 is amended to read:

8 § 1210. PENALTIES

9 \* \* \*

10 (b) First offense. A person who violates section 1201 of this title may be  
11 fined not more than ~~\$750.00~~, \$1,000.00 or imprisoned for not more than two  
12 years, or both.

13 (c) Second offense. A person convicted of violating section 1201 of this  
14 title who has been convicted of another violation of that section shall be fined  
15 not more than ~~\$1,500.00~~ \$2,000.00 or imprisoned not more than two years, or  
16 both. At least 200 hours of community service shall be performed, or  
17 60 consecutive hours of the sentence of imprisonment shall be served and may  
18 not be suspended or deferred or served as a supervised sentence, except that  
19 credit for a sentence of imprisonment may be received for time served in a  
20 residential alcohol facility pursuant to sentence if the program is successfully  
21 completed.

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

13 (e)(1) Fourth or subsequent offense. A person convicted of violating  
14 section 1201 of this title who has previously been convicted three ~~or more~~  
15 times of a violation of that section shall be fined not more than ~~\$5,000.00~~  
16 \$4,000.00 for a fourth offense or imprisoned not more than 10 years, or both.  
17 A person convicted of violating section 1201 of this title who has previously  
18 been convicted four or more times of a violation of that section shall be fined  
19 not more than the sum of \$5,000.00 plus an additional \$1,000.00 for each prior  
20 conviction that exceeds four priors or imprisoned not more than 10 years, or  
21 both. At least 192 consecutive hours of the sentence of imprisonment shall be

1 served and may not be suspended or deferred or served as a supervised  
2 sentence, except that credit for a sentence of imprisonment may be received for  
3 time served in a residential alcohol treatment facility pursuant to sentence if  
4 the program is successfully completed. The Court shall not impose a sentence  
5 that does not include a term of imprisonment unless the Court makes written  
6 findings on the record that there are compelling reasons why such a sentence  
7 will serve the interests of justice and public safety.

8 \* \* \*

9 \* \* \* Alcohol Screening Devices \* \* \*

10 Sec. 84. 7 V.S.A. § 501 is amended to read:

11 § 501. UNLAWFUL SALE OF INTOXICATING LIQUORS; CIVIL  
12 ACTION FOR DAMAGES

13 \* \* \*

14 (e) Evidence. In an action brought under this section, evidence of  
15 responsible actions taken or not taken is admissible, if otherwise relevant.  
16 Responsible actions may include, but are not limited to, instruction of servers  
17 as to laws governing the sale of alcoholic beverages, training of servers  
18 regarding intervention techniques, admonishment to patrons or guests  
19 concerning laws regarding the consumption of intoxicating liquor, making  
20 available an alcohol screening device, and inquiry under the methods provided  
21 by law as to the age or degree of intoxication of the persons involved.

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\* \* \* Alcohol Screening Devices; Study \* \* \*

Sec. 85. ALCOHOL SCREENING DEVICES; STUDY

The Commissioner of Liquor Control or designee, in consultation with the Commissioner of Health or designee, shall study whether and how the State should promote the availability and use of alcohol screening devices in the State, and whether making such devices available on the premises of liquor licensees and to individuals will promote public safety. On or before January 15, 2017, the Commissioner shall submit a written report of his or her findings and any proposed recommendations for legislation to the House and Senate Committees on Judiciary, the House Committee on General, Housing and Military Affairs, and the Senate Committee on Economic Development, Housing and General Affairs.

\* \* \* Serious Bodily Injury; Definition \* \* \*

Sec. 86. 23 V.S.A. § 4 is amended to read:

§ 4. DEFINITIONS

Except as may be otherwise provided herein, and unless the context otherwise requires in statutes relating to motor vehicles and enforcement of the law regulating vehicles, as provided in this title and 20 V.S.A. part 5, the following definitions shall apply:

\* \* \*

1           (84) “Serious bodily injury” has the meaning set forth in 13 V.S.A.  
2           § 1021.

3           \* \* \* Negligent Operation of a Motor Vehicle; Penalties \* \* \*

4           Sec. 87. 23 V.S.A. § 1091 is amended to read:

5           § 1091. NEGLIGENCE OPERATION; GROSSLY NEGLIGENCE  
6           OPERATION

7           (a) Negligent operation.

8           (1) A person who operates a motor vehicle on a public highway in a  
9           negligent manner shall be guilty of negligent operation.

10          (2) The standard for a conviction for negligent operation in violation of  
11          this subsection shall be ordinary negligence, examining whether the person  
12          breached a duty to exercise ordinary care.

13          (3) A person who violates this subsection shall be imprisoned not more  
14          than one year or fined not more than \$1,000.00, or both. If the person has been  
15          previously convicted of a violation of this subsection, the person shall be  
16          imprisoned not more than two years or fined not more than \$3,000.00, or both.

17          If serious bodily injury to or death of any person other than the operator  
18          results, the operator shall be subject to imprisonment for not more than two  
19          years or to a fine of not more than \$3,000.00, or both. If serious bodily injury  
20          or death results to more than one person other than the operator, the operator



1 may be convicted of a separate violation of this subdivision for each decedent  
2 or person injured.

3 (b) Grossly negligent operation.

4 (1) A person who operates a motor vehicle on a public highway in a  
5 grossly negligent manner shall be guilty of grossly negligent operation.

6 (2) The standard for a conviction for grossly negligent operation in  
7 violation of this subsection shall be gross negligence, examining whether the  
8 person engaged in conduct which involved a gross deviation from the care that  
9 a reasonable person would have exercised in that situation.

10 (3) A person who violates this subsection shall be imprisoned not more  
11 than two years or fined not more than \$5,000.00, or both. If the person has  
12 previously been convicted of a violation of this section, the person shall be  
13 imprisoned not more than four years or fined not more than \$10,000.00, or  
14 both. If serious bodily injury as defined in ~~13 V.S.A. § 1021~~ to or death of any  
15 person other than the operator results, the ~~person~~ operator shall be imprisoned  
16 for not more than 15 years or fined not more than \$15,000.00, or both. If  
17 serious bodily injury or death results to more than one person other than the  
18 operator, the operator may be convicted of a separate violation of this  
19 subdivision for each decedent or person injured.

1 (c) The provisions of this section do not limit or restrict the prosecution for  
2 manslaughter.

3 \* \* \*

4 \* \* \* Passing Vulnerable Users; Violations \* \* \*

5 Sec. 88. 23 V.S.A. § 1033 is amended to read:

6 § 1033. PASSING MOTOR VEHICLES AND VULNERABLE USERS

7 \* \* \*

8 (c) If serious bodily injury to or death of any person other than the operator  
9 results from the operator's violation of subsection (b) of this section, the  
10 operator shall be subject to imprisonment for not more than two years or a fine  
11 of not more than \$3,000.00, or both. The provisions of this section do not limit  
12 prosecution under section 1091 of this chapter or for any other crime.

13 Sec. 89. EFFECTIVE DATES

14 (a) Secs. 9 (commencement of delinquency proceedings), 10 (transfer from  
15 other courts), 11 (transfer from Family Division of the Superior Court), and 16  
16 (powers and responsibilities of the Commissioner regarding juvenile services)  
17 shall take effect on January 1, 2017.

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

20 (c) 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 (d) This section, Secs. 37-45, (miscellaneous criminal procedure  
4 amendments), Sec. 46 (termination of suspensions arising from pre-1990  
5 failures to appear on criminal traffic offense charges), Sec. 47(e) (public  
6 awareness campaign), Sec. 48 (termination of suspensions repealed in act),  
7 Secs. 49-61 (amendment or repeal of license suspension and registration  
8 refusal provisions and underage alcohol and marijuana crimes), and Secs. 76-  
9 77 (fair and impartial policing) shall take effect on passage.

10 (e) The remaining sections shall take effect on July 1, 2016.

11

12 (Committee vote: \_\_\_\_\_)

13

\_\_\_\_\_

14

Representative \_\_\_\_\_

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FOR THE COMMITTEE