

DRIVER'S LICENSE SUSPENSIONS AND DRIVING WITH A LICENSE SUSPENDED IN VERMONT: BACKGROUND

I. Statistics

As of January 14, 2016, **121,724** persons had pending suspensions, refusals, or revocations of their licenses or “privilege to operate”¹ a motor vehicle in Vermont.

- This number includes accumulated suspensions dating back decades to the present. DMV has stated that it periodically refreshes its records to eliminate records related to deceased individuals.
- Of the 121,724 suspended persons, 56,459 (46%) are persons who have Vermont as the last address of record filed with DMV.
- Of the 121,724 suspended persons, 35,314 were imposed prior to July 1, 1990.
- As of 1/6/16, 59,286 of the total persons under suspension were suspended for failure to pay a traffic violation judgment, and of these 59,286 suspensions, 27,858 relate to persons who have Vermont as the last address of record filed with DMV.
- Excluding the pre-1990 suspensions, approximately 2/3 of pending suspensions resulted from nonpayment of traffic violation judgments.
- After nonpayment of traffic violation judgments, the highest frequency grounds for suspensions are DUI (civil and criminal) suspensions and points-related suspensions.
- See Appendix A for statistics on suspensions imposed in 2013, 2014, 2015, and grounds for those suspensions, as well as additional statistics on total pending suspensions attributable to various grounds.
- For a complete list of statutes that give rise to license suspensions, revocations, or refusals in Vermont, see Appendix B.

II. Driving with Suspended Licenses: Statutory Background

A. Civil and criminal penalties for driving with a license suspended (DLS)

- 23 V.S.A. § 674 establishes criminal penalties for driving with a suspended or revoked license or privilege to operate:
 - i. If the underlying suspension arises from a conviction under 23 V.S.A. §§ 1091(b) (grossly negligent operation); 1094(b) (aggravated operation without owner's consent); or 1128(b) or (c) (failure to stop when involved in an accident that involves serious bodily injury or death).
 - ii. Following a violation of 23 V.S.A. § 676 for a 6th or subsequent time (with exceptions).
 - iii. If the underlying suspension or revocation arises from a DUI conviction under 23 V.S.A. § 1201 or a civil DUI suspension under 23 V.S.A. § 1205.
- 23 V.S.A. § 676 establishes civil penalties for driving with a license or privilege to operate that has been suspended, revoked, or refused other than as provided in § 674.

¹ Hereafter, the term “suspension” will be used to refer to suspensions, revocations, and refusals of a Vermont license or privilege to operate in Vermont.

B. Reinstatement following a suspension

- Under 23 V.S.A. § 675, a person whose license or privilege to operate is suspended or revoked must apply for termination of the revocation, or reinstatement of his or her license or privilege to operate, and must pay a \$71.00 fee. Under the current fee bill proposal, this fee will rise to \$80.00.
- As a result, even if a suspension is for a specific time period—*e.g.* 120 days—a person under a suspension may be subject to a DLS civil ticket or criminal charge after that time period has expired if the person has failed to apply for reinstatement and pay the fee.

III. Recent History of Actions to Address DLS

- In Act 167 of 2006,² the General Assembly amended the criminal DLS statute to add subdiv. (a)(2), which criminalizes a sixth or subsequent violation of 23 V.S.A. § 676, if the five prior offenses occurred on or after 7/1/2003.
- In 2012, after the Nonviolent Misdemeanor Review Committee identified civil and criminal DLS as a significant driver of costs to the justice system, the General Assembly passed Act 147,³ which created the DLS Diversion Program. Under the Program, a qualifying person under suspension who enters into a diversion contract may have his or her license reinstated prior to complete payment of the amount due on traffic violation judgments and may have the amount due reduced, subject to Judicial Bureau approval.
 - Act 147 also eliminated the imposition of points for civil and criminal DLS violations and eliminated the imposition of new suspensions for a criminal DLS violation, and amended the criminal DLS statute to provide that violations of 23 V.S.A. § 676 occurring prior to successful completion of DLS Diversion shall not count as prior offenses.
- The Judicial Bureau has offered persons subject to traffic violation judgments the ability to avoid license suspensions for nonpayment by paying \$30 per month per ticket. This is called the “30 by 30 Program.” For those with more than 10 tickets, there is also a “30 by 300 Program.”
- In 2014, the General Assembly passed Act 128,⁴ which:
 - i. Capped at 120 days the suspension period for failure to pay a traffic violation judgment. Previously, the period of suspension extended until payment of the amount due on the judgment.
 - However, Act 128 did not address indefinite suspensions pending on its effective date.
 - ii. Added language authorizing the Judicial Bureau to extend time periods for paying judgments on traffic violations.

² See <http://www.leg.state.vt.us/docs/legdoc.cfm?URL=/docs/2006/acts/ACT167.htm>

³ See <http://www.leg.state.vt.us/docs/2012/Acts/ACT147.pdf>, amended by <http://legislature.vermont.gov/assets/Documents/2014/Docs/ACTS/ACT018/ACT018%20As%20Enacted.pdf>

⁴ See <http://www.leg.state.vt.us/DOCS/2014/ACTS/ACT128.PDF>

- iii. Eliminated credit bureau reporting for failure to pay traffic tickets.
 - iv. Attempted to provide that a civil DLS offense would not count as a prior toward a criminal DLS violation, if the underlying suspension resulted from failure to pay a judgment on a traffic violation and the amount due was paid.
→ However, according to DMV and the Judicial Bureau, this provision is administratively unworkable. As a result, on October 22, 2015, Colonel Elovirta, Director of DMV's Enforcement and Safety Division, issued Law Enforcement Bulletin 15-08,⁵ which provided that the DMV database used by law enforcement officers "will no longer reflect a 'flag' for potential criminal DLS activity based on five OSC violations."
- On March 20, 2015, a Driver Restoration Day was held in Burlington. Residents of Chittenden, Franklin, Grand Isle, Lamoille, and Washington counties were eligible to participate, and had traffic violation judgments reduced to \$20 per ticket.
 - On December 11, 2015, a second Driver Restoration Day was held in Windsor County, with judgments reduced to \$25 per ticket.
 - On February 25, 2015, Rep. Grad and Sen. Sears sent a letter to then Secretary of Transportation Sue Minter requesting that she convene a working group to study various approaches for reducing the number and duration of driver's license suspensions in Vermont. The Working Group submitted a report on Jan. 4, 2016.

IV. Traffic Violation Enforcement, Judicial Bureau Jurisdiction and Procedure, and Judicial Bureau Judgments

- Prior to 7/1/90, violations of motor vehicle laws were charged as "traffic offenses" and were criminal misdemeanors handled by district courts. *Act 109 of 1989* ("An act to decriminalize traffic offenses") decriminalized them and added a new chapter governing civil "traffic violations."
- Act 109 moved jurisdiction over "traffic violations" to a "traffic bureau" eff. 7/1/90, which was renamed to be the "traffic and municipal ordinance bureau" in Act 237 of 1994. Jurisdiction over "traffic violations" then moved to the Judicial Bureau, which was created in Act 121 of 1998.
- The Judicial Bureau has jurisdiction over many matters other than traffic violations. See 4 V.S.A. § 1102, shown in Appendix D.⁶
- Three hearing officers appointed by the Court Administrator determine "waiver penalties" for violations within the Judicial Bureau's jurisdiction (except for municipal civil ordinance violations). The waiver penalty is the amount a person is assessed if he or she admits, does not contest, or fails to answer the ticket.⁷

⁵ See Appendix C.

⁶ See, available at <http://legislature.vermont.gov/statutes/section/04/029/01102>

⁷ A schedule of waiver penalties is available at:

https://www.vermontjudiciary.org/eforms/Waiver_Penalty_Schedule.pdf

→ With certain exceptions, penalties and fines imposed by courts for criminal offenses and the Judicial Bureau for certain civil offenses under its jurisdiction are subject to a \$47.00 surcharge and a 15% surcharge.⁸

Example: \$100 traffic violation fine + \$15.00 surcharge + \$47.00 surcharge = **\$162.00**

→ Of the \$100, \$12.50 goes to the Court Technology Special Fund, and \$87.50 to the Transportation Fund.

→ The \$15.00 surcharge goes to the Crime Victims' Restitution Special Fund

→ The \$47.00 surcharge is split 3 ways:

- i. \$29.75 goes to the Victims' Compensation Special Fund
- ii. \$10.00 goes to the Domestic and Sexual Violence Special Fund
- iii. \$7.25 goes to the General Fund.

- Traffic violations under the Judicial Bureau's jurisdiction are charged on a Civil Violation Complaint form.
 - A defendant has 20 days to answer (by admitting, not contesting, or denying the violation). Failure to answer results in a \$20 fee. 4 V.S.A. § 1105.
 - Defendants who fail to answer are subject to a default judgment. 4 V.S.A. § 1105.
 - Defendants who admit or do not contest the ticket, or who deny the allegation and are found guilty at the hearing, are subject to a judgment.
 - A defendant has 30 days to pay a Judicial Bureau judgment; failure to pay within 30 days results in a \$30 fee. 4 V.S.A. § 1109.
 - *If the judgment is for a traffic violation*, the Judicial Bureau sends notice of the failure to pay to DMV. After 20 days from the date of receiving the notice, DMV "shall" suspend the defendant's license for a 120-day period (this period may be shortened if the defendant pays the amount due). 23 V.S.A. § 2307.⁹
- If a Judicial Bureau judgment is not paid 75 days after the defendant is provided notice of judgment, the Judicial Bureau "may" initiate contempt proceedings. 4 V.S.A. § 1109.
 - If the underlying judgment is for a traffic violation, during contempt proceedings, a Judicial Bureau hearing officer may waive the license reinstatement fee or reduce the amount due on certain grounds. *See* 23 V.S.A. § 2307.
- As a practical matter, the Judicial Bureau enforces judgments through collection agencies and tax set-offs rather than through contempt proceedings.

V. Points Against a Person's driving record

- In Vermont, convictions for "moving violations" result in the assessment of points against a person's driving record in most cases.
- 23 V.S.A. § 4 defines "moving violation" as follows:

"Moving violation" shall mean any violation of any provision of this title, while the motor vehicle is being operated on a public highway, over which operation the

⁸ See 13 V.S.A. § 7282, available at <http://legislature.vermont.gov/statutes/section/13/223/07282>

⁹ 23 V.S.A. § 2307 is available at: <http://legislature.vermont.gov/statutes/section/23/024/02307>

operator has discretion as to commission of the act, with exception of offenses pertaining to a parked vehicle, equipment, size, weight, inspection, or registration of the vehicle and child restraint or safety belt systems or seat belts as required in section 1258 or 1259 of this title.

- Points roll off a person's driving record after 2 years from the date of conviction. *See* 23 V.S.A. § 2503.
- Points are assessed in accordance with a "schedule"; most traffic violations are 2-point violations, but under existing law, there are also 3, 4, 5, 8, and 10-point violations.
- Under 23 V.S.A. § 2506, accumulation of points leads to suspensions as follows:

"When a sufficient number of points has been acquired, the Commissioner shall suspend the license of an operator or the privilege of an unlicensed person or nonresident to operate a motor vehicle, upon not less than 10 days' notice, and upon hearing, if requested for verification of the conviction records. The suspension shall be for 10 days for an accumulation of 10 points, 30 days for 15 points, 90 days for 20 points and for a period increasing by 30 days for each additional 5 points; except the suspension period for a conviction for first offense of sections 1091, 1094, 1128, and 1133 of this title shall be 30 days; for a second conviction 90 days and for a third or subsequent six months, or the suspension period under the point values, whichever is greater. If a fatality occurs, the suspension shall be for a period of one year in addition to the suspension under the point values. For purposes of this section, a month shall be considered as 30 days and one year shall equal 365 days."

Appendix A

Source: Department of Motor Vehicles, emails to House Judiciary committee assistant, Jan. 14, 2016 and Feb. 27, 2016

(1) How many license/privilege to operate suspensions were imposed in 2013, 2014, and 2015?

2013 – 33,098 – 28,897 Vermonters – 4,201 non-Vermonters

2014 – 33,373 – 29,428 Vermonters – 3,945 non-Vermonters

2015 – 32,378 – 28,867 Vermonters – 3,511 non-Vermonters

→ Of this number, separately for 2013, 2014, and 2015, how many suspensions are attributable to each of the following:

(i) Nonpayment of a traffic ticket

2013 – 21,963 – 19,050 – Vermonters – 2,913 non-Vermonters

2014 – 22,328 – 19,568 – Vermonters – 2,760 non-Vermonters

2015 – 22,083 – 19,613 – Vermonters – 2,470 non-Vermonters

- Of this number, how many arise from nonpayment of a municipal traffic ordinance?

DMV is unable to track this statistic

(ii) Accumulation of points (including the major MV misdemeanors--23 V.S.A. §§ 1091, 1094, 1128, and 1133)

2013 – 2,371 – 2,150 – Vermonters – 221 non-Vermonters

2014 – 2,047 – 1,809 – Vermonters – 238 non-Vermonters

2015 – 1,988 – 1,771 – Vermonters – 217 non-Vermonters

(iii) DUI civil under 21 (23 V.S.A. § 1216)

2013 – 145 – 129 – Vermonters – 16 non-Vermonters

2014 – 134 – 114 – Vermonters – 20 non-Vermonters

2015 – 113 – 96 – Vermonters – 17 non-Vermonters

(iv) Other DUI civil (23 V.S.A. §§ 1205)

2013 – 2,071 – 1,809 Vermonters – 262 non-Vermonters

2014 – 1,882 – 1,613 Vermonters – 269 non-Vermonters

2015 – 1,877 – 1,638 Vermonters – 239 non-Vermonters

(iv) Other DUI Criminal (23 V.S.A. §§ 1206 & 1208)

2013 – 1,944 – 1,745 Vermonters – 199 non-Vermonters

2014 – 2,047 – 1,828 Vermonters – 219 non-Vermonters

2015 – 1,667 – 1,516 Vermonters – 151 non-Vermonters

(v) Failure to pay child support

2013 – 70 – 68 Vermonters – 2 non-Vermonters
2014 – 34 – 34 Vermonters
2015 – 51 – 51 Vermonters

(vi) Minor; alcohol (for failure to enroll in or complete Diversion, and not for failure to pay the ticket)

2013 – 710 – 571 Vermonters – 139 non-Vermonters
2014 – 531 – 443 Vermonters – 88 non-Vermonters
2015 – 412 – 331 Vermonters – 81 non-Vermonters

(vii) Minor; tobacco (for failure to enroll in or complete Diversion, and not for failure to pay the ticket)

2013 – 71 – 68 Vermonters – 3 non-Vermonters
2014 – 44 – 115 Vermonters – 18 non-Vermonters
2015 – 36 – 35 Vermonters – 1 non-Vermonters

(viii) Minor; marijuana (for failure to enroll in or complete Diversion, and not for failure to pay the ticket)

2013 – 22 – 16 Vermonters – 6 non-Vermonters
2014 – 133 – 115 Vermonters – 18 non-Vermonters
2015 – 152 – 130 Vermonters – 22 non-Vermonters

(ix) Juvenile bomb threat

2013 – None
2014 – None
2015 – None
Previous – 4

Excerpt from 2/27/16 Email from Chauncey Liese to Rep. Grad

Minors in possession of alcohol — currently suspended — 3,805
Tobacco — currently suspended — 2,097
Bomb threats— currently suspended — 4
Minor possessing marijuana — currently suspended — 221
Vehicle rental companies — unknown at this time

Appendix B

I. Suspensions, Revocations, Recalls, and Refusals Arising from Motor Vehicle Operation

1. 23 V.S.A. § 603(a): Comm'r *may* refuse to issue license to a person “mentally or physically unfit, or because of his or her habits, or record as to accidents or convictions, is unsafe to be trusted with the operation of motor vehicles.”
2. 23 V.S.A. §§ 603(c): Comm'r must refuse to issue license/permit to person whose “license or learner permit is suspended, revoked, or canceled” in any jurisdiction. ***The suspension in another state may or may not arise from motor vehicle operation.***
→ Under § 3906 (Driver License Compact), Comm'r must refuse to issue license to person whose “license to drive”¹⁰ from another state is suspended or revoked in that state.
3. 23 V.S.A. § 606: Comm'r must refuse to license a person who previously held a junior operator license if he or she had any suspensions, revocations, or recalls for the six-month period preceding licensure under this section.
4. 23 V.S.A. § 607(a)(3)(B): Comm'r must refuse issuance of junior operator license to person with learner’s permit suspension, revocation, or recall within prior six months.
5. 23 V.S.A. §§ 607a, 614(c), 615(b): Recall of learner’s permit or junior operator’s license
 - § 607a(a): mentally or physically unfit or unsafe to be trusted with the operation of motor vehicles; recommendation of diversion or reparative board; single texting violation; speeding violation that triggers 3 points; accumulation of 6 points.
 - § 607a(d): request of parent
 - § 614(c) and § 615(b): violates restrictions of permit or jr operator license.
6. 23 V.S.A. § 617(a): Refusal to issue permit to person under age 18 who has convictions for certain traffic violations in prior 2 years.
7. 23 V.S.A. § 636(b): Physical or mental condition rendering person incompetent to drive.
8. 23 V.S.A. § 671(a): Suspension with prior right of hearing of a person incompetent to operate a motor vehicle, or who is operating improperly so as to endanger the public.
9. 23 V.S.A. § 671(b): Suspension for 15 days without prior right of hearing if the safety of the public has been or will be imperiled as a result of the operation of a motor vehicle by the operator.
10. 23 V.S.A. § 672: Suspending or revoking privilege to operate of nonresident operator for the same causes and under the same conditions and in the same manner as with a resident operator.
11. 23 V.S.A. § 673a: Revoke the license of a habitual offender (eight 6 or more point moving violation convictions within a 5-year period).
12. 23 V.S.A. § 802(a)&(c): Failure to furnish proof of financial responsibility when proof required by Vermont under 23 V.S.A. § 801 or by another state (SR-22).
13. 23 V.S.A. § 803: Termination or expiration of insurance when a person has been required to prove financial responsibility.
14. 23 V.S.A. § 1205: Civil DUI suspension.
15. 23 V.S.A. §§ 1206, 1208: Suspension (or for 3d or more, revocation) upon criminal DUI conviction.
16. 23 V.S.A. § 1213: Suspension, revocation, recall of ignition interlock RDL for same reasons as regular license can be suspended, revoked, or recalled.

¹⁰ “License to drive” and “license to operate” are used interchangeably throughout the Driver License Compact, but are not defined terms.

17. 23 V.S.A. § 1216: Civil DUI suspension for persons under age 21.
18. 23 V.S.A. § 2506: Suspensions arising from accumulation of points; convictions for specific offenses and longer suspensions in case of a fatality.
19. 23 V.S.A. § 3555: Nonresident Violator Compact
20. 23 V.S.A. § 3905(a) (Driver License Compact): For purposes of suspension, revocations, or limitations of operating privileges of holders of Vermont licenses, Vermont shall give same effect to out-of-state convictions for specific serious traffic offenses.
21. 23 V.S.A. § 4108(g): Comm'r shall not issue commercial driver license (CDL) or commercial learner's permit (CLP) to a person subject to a disqualification from driving a commercial motor vehicle, or while the person's driver license is suspended, revoked, or cancelled in any state.
22. 23 V.S.A. § 4115(b): Under the CDL law, the Commissioner must give all out-of-state convictions full faith and credit and treat them for sanctioning purposes as if they occurred in Vermont.
23. 23 V.S.A. § 4116a: Grounds for suspension of privilege to operate a CMV.

II. Offenses That Trigger Suspensions, Revocations, or Refusals, But Do Not Arise from Motor Vehicle Operation

A. Motor vehicle or traffic violation-related, or derivative of a motor vehicle offense

1. False or fraudulent license/registration/ID card applications; impersonation in an application. 23 V.S.A. §§ 202, 671(e).
2. Counterfeit, fraud, misuse with regard to licenses/registrations/inspection stickers/ID card/insurance card. 23 V.S.A. § 203.
3. Failure to fully pay for a license/registration, or giving of a bad check. 23 V.S.A. §§ 110, 204(a).
4. 23 V.S.A. §§ 603(c): Comm'r must refuse to issue license/permit to person whose "license or learner permit is suspended, revoked, or canceled" in any jurisdiction. *The suspension in another state may or may not arise from motor vehicle operation.*
→ Under § 3906 (Driver License Compact), Comm'r must refuse to issue license to person whose "license to drive"¹¹ from another state is suspended or revoked in that state.
5. Unsatisfied judgment for damages arising out of a motor vehicle accident, and based on violation of Title 23. 23 V.S.A. § 605.
6. Failures to appear in court causing the Comm'r to have reason to believe that the person is operating improperly so as to endanger the public; DMV has used when a person fails to appear for criminal traffic offenses. 23 V.S.A. § 671(a).
7. Failure to pay fines arising from a traffic violation judgment; Judicial Bureau contempt. 23 V.S.A. § 2307(b); 4 V.S.A. § 1109.
8. Failure to appear for or schedule a special examination or to submit a special medical report. 23 V.S.A. § 636, 671.
9. Resumption of use of alcohol or drugs following reinstatement under total abstinence program. 23 V.S.A. § 1209a(b)(2).
10. Nonpayment of purchase and use tax. 32 V.S.A. § 8909.

¹¹ "License to drive" and "license to operate" are used interchangeably throughout the Driver License Compact, but are not defined terms.

B. Unrelated to a motor vehicle offense

1. Nonpayment of child support order. 15 V.S.A. § 798.
2. Minor misrepresenting age, possessing, consuming alcohol (failure to report to or complete diversion; failure to complete screening or treatment; failure to failure to pay ticket). 7 V.S.A. § 656
3. Failure to pay fine; minor's unlawful possession of tobacco or furnishing tobacco to minor. 7 V.S.A. §§ 1005, 1007.
4. False alarm of an impending bombing or other offense or catastrophe, knowing that the report or warning is false or baseless, by a person under age 18. 13 V.S.A. § 1753.
5. Possession of marijuana by a person under 21 years of age (failure to report to or complete Youth Substance Abuse Safety Program; failure to complete screening or treatment; failure to pay penalty). 18 V.S.A. § 4230b.

Appendix C

October 22, 2015 # 15-08

LAW ENFORCEMENT BULLETIN

Notice to all law enforcement regarding criminal DLS charges pursuant to 23 VSA 674(a)


The Department of Motor Vehicles has recently become aware of a possible motor vehicle record issue that may be relevant to criminal charges for driving with a license suspended pursuant to 23 V.S.A. sec. 674(a)(2). Section 674(a)(2) provides that a person who drives with a suspended license following five prior civil "OSC" (Operating under Suspension Civil) violations may be subject to criminal penalties. Section 674(a)(3) provides that prior OSC violations for which the driver has (a) completed diversion, or (b) paid the associated fine shall not count as prior offenses for purposes of criminal DLS.

At this time, state motor vehicles records may not reflect the payment of all OSC tickets and therefore may not reflect information that is necessary to determine whether a motorist is in violation 23 V.S.A. sec. 674(a)(2). The Department is working with the Judicial Bureau to correct this issue and will advise law enforcement when OSC payment information in the DMV database is updated.

In the meantime and effective immediately, the DMV database will no longer reflect a "flag" for potential criminal DLS activity based on five OSC violations. Flags for potential criminal DLS activity will only be displayed when a driver is suspended for the major DMV violations set forth in 23 V.S.A. § 674(a)(1). Law enforcement may wish to continue to pursue seizure of license plates for criminal violations other than OSC-based criminal violations as allowed in § 674(c).

Please contact me if you have questions – by phone at 828-2078, or by email at William.Elovirta@vermont.gov.

Thank you.

 10/22/15
William J. Elovirta Date
Interim Director
Enforcement & Safety Division

8.50 x 11.00 in

Appendix D

Excerpt of 4 V.S.A. chapter 29

§ 1102. Judicial Bureau; jurisdiction

- (a) A Judicial Bureau is created within the Judicial Branch under the supervision of the Supreme Court.
- (b) The Judicial Bureau shall have jurisdiction of the following matters:
- (1) Traffic violations alleged to have been committed on or after July 1, 1990.
 - (2) Civil ordinance violations alleged to have been committed on or after July 1, 1994.
 - (3) Minor fish and wildlife violations alleged to have been committed on or after September 1, 1996.
 - (4) Violations of 7 V.S.A. § 1005(a), relating to possession of tobacco products by a person less than 18 years of age.
 - (5) Violations of 7 V.S.A. § 1007, relating to furnishing tobacco products to a person under the age of 18 years.
 - (6) Violations of 24 V.S.A. § 2201, relating to littering, burning of solid waste, and illegal dumping.
 - (7) Violations of 16 V.S.A. chapter 1, subchapter 9, relating to hazing.
 - (8) Violations of 20 V.S.A. § § 2056a, 2056b, and 2056c, relating to unauthorized disclosure of criminal record information.
 - (9) Violations of 7 V.S.A. § 656, relating to illegal possession of alcoholic beverages.
 - (10) Violations under 7 V.S.A. § 658(c)(1), relating to an employee of a second class licensee selling alcohol to a minor during a compliance check.
 - (11) Violations of 18 V.S.A. § 4234b(b), relating to selling ephedrine base, pseudoephedrine base, or phenylpropanolamine base.
 - (12) Violations of 13 V.S.A. § 352(3), (4), and (9), relating to cruelty to animals, and 13 V.S.A. § 355(d), relating to interference with a guide dog.
 - (13) Violations of 18 V.S.A. § 4249, relating to the introduction of tobacco or tobacco products into a correctional facility.
 - (14) Violations of 21 V.S.A. chapter 5, subchapter 1, relating to conditions for employment.
 - (15) Violations of 9 V.S.A. § 3023(a), relating to the purchase and sale of scrap metal.
 - (16) Violations of 18 V.S.A. chapter 38 that are subject to civil penalties pursuant to subsection 1760a(a), relating to reducing lead hazards in housing.
 - (17) [Repealed.]

(18) Violations of 23 V.S.A. § 3327(d), relating to obeying a law enforcement officer while operating a vessel.

(19) Violations of 6 V.S.A. § 2965 relating to the misuse of identification labels for agricultural products produced in Vermont and meeting standards of quality established by the Secretary of Agriculture, Food and Markets.

(20) Violations of 21 V.S.A. § 692(c)(1).

(21) Violations of 13 V.S.A. §§ 3602 and 3603, relating to the unlawful cutting of trees and the marking of harvest units.

(22) Violations of 10 V.S.A. § 1266b, relating to the application of fertilizer to nonagricultural turf.

(23) Violations of 18 V.S.A. § 1513, relating to minors using tanning facilities.

(24) Violations of 18 V.S.A. §§ 4230a and 4230b, relating to possession of marijuana.

(25) Violations of 9 V.S.A. chapter 97A that are subject to civil penalties pursuant to 9 V.S.A. § 3890(a), relating to the purchase and sale of precious metal by a precious metal dealer, as defined in 9 V.S.A. § 3881.

(26) Violations of 9 V.S.A. § 4191, relating to the solicitation or acceptance of a fee to remove a booking photograph from the Internet.

(c) The Judicial Bureau shall not have jurisdiction over municipal parking violations.

(d) Three hearing officers appointed by the Court Administrator shall determine waiver penalties to be imposed for violations within the Judicial Bureau's jurisdiction, except:

(1) Municipalities shall adopt full and waiver penalties for civil ordinance violations pursuant to 24 V.S.A. § 1979. For purposes of municipal violations, the issuing law enforcement officer shall indicate the appropriate full and waiver penalty on the complaint.

(2) [Repealed.]

§ 1103. Venue

Venue for violation hearings in the judicial bureau shall be in the unit of the superior court where the violation is alleged to have occurred.

§ 1104. Appointment of hearing officers

The administrative judge shall appoint members of the Vermont bar to serve as hearing officers to hear cases. Hearing officers shall be subject to the Code of Judicial Conduct.

§ 1105. Answer to complaint; default

(a) A violation shall be charged upon a summons and complaint form approved and distributed by the Court Administrator. The complaint shall be signed by the issuing officer or by the State's Attorney. The original shall be filed with the Judicial Bureau; a copy shall be retained by the issuing officer or State's Attorney and two copies shall be given to the defendant. The Judicial Bureau may, consistent with rules adopted by the Supreme Court pursuant to 12 V.S.A. § 1, accept electronic signatures on any document, including the signatures of issuing officers, State's Attorneys, and notaries public. The complaint shall include a statement of rights, instructions, notice that a defendant may admit, not contest, or deny a violation, notice of the fee for failure to answer within 20 days, and other notices as the Court

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

(b) A person who is charged with a violation shall have 20 days from the date the complaint is issued to admit or deny the allegations or to state that he or she does not contest the allegations in the complaint. The Judicial Bureau shall assess against a defendant a fee of \$20.00 for failure to answer a complaint within the time allowed. The fee shall be assessed in the default judgment and deposited in the Court Technology Special Fund established pursuant to section 27 of this title.

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

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

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

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

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

§ 1106. Hearing

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

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

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

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

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

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

§ 1107. Appeals

(a) A decision of the hearing officer may be appealed to the Criminal Division of the Superior Court. The proceeding before the Criminal Division of the Superior Court shall be on the record, or at the option of the defendant, de novo. The defendant shall have the right to trial by jury. An appeal shall stay payment of a penalty and the imposition of points.

(b) [Repealed.]

(c) If a decision is appealed, the State's Attorney of the county in which the violation occurred shall represent the State, and the State's Attorney, grand juror, or municipal attorney shall represent the municipality.

(d) No appeal as of right exists to the Supreme Court. On motion made to the Supreme Court by a party, the Supreme Court may allow an appeal to be taken to it from the Criminal Division of the Superior Court.

§ 1108. Judicial bureau violations; jurisdiction of assistant judges

(a) Subject to the limits of this section and notwithstanding any provision of law to the contrary, an assistant judge sitting alone shall have the same jurisdiction, powers, and duties to hear and decide matters within the jurisdiction of the judicial bureau under section 1102 of this title as a hearing officer has under the provisions of this chapter.

(b)(1) An assistant judge who elects to hear and decide matters in the judicial bureau shall:

(A) [Repealed.]

(B) have successfully completed at least 40 hours of training, which shall be provided by the court administrator; and

(C) annually complete eight hours of continuing education supervised by the court administrator.

(2) The training and education required by this subsection shall be developed by the court administrator in consultation with the association of assistant judges. Law clerk assistance shall be available to the assistant judges.

(c) The administrative judge may assign or direct assignment of an assistant judge with his or her consent to hear matters in the judicial bureau within the county in which the assistant judge presides or in a county other than the county in which the assistant judge presides if the assistant judge has elected to hear and decide such matters. (Added 1997, No. 121 (Adj. Sess.), § 4; amended 2005, No. 167 (Adj. Sess.), § 6, eff. May 20, 2006; 2009, No. 154 (Adj. Sess.), § 55a.)

§ 1109. Remedies for failure to pay

(a) As used in this section:

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

(2) "Designated collection agency" means a collection agency designated by the Court Administrator.

(3) [Repealed.]

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

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

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

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

(A) Cause the matter to be reported to one or more designated collection agencies.

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

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

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

(4) Contempt.

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

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

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

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

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

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

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

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

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

(d) Collections.

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

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

(e) For purposes of civil contempt proceedings, venue shall be statewide.

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