

1 TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred House Bill No. 858
3 entitled “An act relating to miscellaneous criminal procedure amendments”
4 respectfully reports that it has considered the same and recommends that the
5 Senate propose to the House that the bill be amended by striking out all after
6 the enacting clause and inserting in lieu thereof the following:

7 Sec. 1. 13 V.S.A. § 2651(6) is amended to read;

8 (6) “Human trafficking” means:

9 * * *

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

12 * * *

13 Sec. 2. 13 V.S.A. § 5238 is amended to read:

14 § 5238. CO-PAYMENT AND REIMBURSEMENT ORDERS

15 * * *

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

1 portion of the co-payment not paid to the clerk may be included in a
2 reimbursement order.

3 * * *

4 Sec. 3. 13 V.S.A. § 5301 is amended to read:

5 § 5301. DEFINITIONS

6 As used in this chapter:

7 * * *

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

10 * * *

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

14 * * *

15 Sec. 4. 13 V.S.A. § 5411a is amended to read:

16 § 5411a. ELECTRONIC POSTING OF THE SEX OFFENDER REGISTRY

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

19 (b) of this section regarding the following sex offenders, upon ~~their~~ the
20 offender’s release from confinement or, if the offender was not subject to
21 confinement, upon the offender’s conviction:

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Sec. 5. 13 V.S.A. § 5572(a) is amended to read:

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

Sec. 6. 13 V.S.A. § 5578 is added to read:

§ 5578. APPLICABILITY; RETROACTIVITY

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

Sec. 7. 18 V.S.A. § 4230 is amended to read:

§ 4230. MARIJUANA

(a) Possession and cultivation.

* * *

~~(5) Prior to accepting a plea of guilty or a plea of nolo contendere from a defendant charged with a violation of this subsection, the court shall address the defendant personally in open court, informing the defendant and determining that the defendant understands that admitting to facts sufficient to warrant a finding of guilt or pleading guilty or nolo contendere to the charge may have collateral consequences such as loss of education financial aid, suspension or revocation of professional licenses, and restricted access to public benefits such as housing. If the a court fails to provide the defendant~~

1 with notice of collateral consequences in accordance with ~~this subdivision~~
2 13 V.S.A. § 8005(b) and the defendant later at any time shows that the plea
3 and conviction for a violation of this subsection may have or has had a
4 negative consequence, the court, upon the defendant's motion, shall vacate the
5 judgment and permit the defendant to withdraw the plea or admission and enter
6 a plea of not guilty. Failure of the court to advise the defendant of a particular
7 collateral consequence shall not support a motion to vacate.

8 * * *

9 Sec. 8. JOINT LEGISLATIVE JUSTICE OVERSIGHT COMMITTEE

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

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

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

17 Sec. 9. EFFECTIVE DATE

18 This act shall take effect on passage.

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1 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE