

Special Session 18-0036: An Act Relating to Miscellaneous Judiciary Procedures

Section by Section Summary

This bill makes a number of minor and technical amendments to civil and criminal procedure statutes.

Sec. 1. Last year, Act 11 (the “Day is a Day” bill) amended statutes setting out periods of time in court proceedings by changing references from “10 days” to “14 days.” However, Act 11 neglected to make that change to 10 V.S.A. § 8007, so it is done here in Section 1 of the bill.

Sec. 2. 12 V.S.A. § 1 uses the incorrect name for the Judicial Rules Committee; the correct statutory name is the Legislative Committee on Judicial Rules, not the Joint Committee on Judicial Rules, so this section corrects the language.

Sec. 3. The Supreme Court has retitled the Administrative Judge so that the position is now called the Chief Superior Judge. This section makes that change in 12 V.S.A. § 2.

Sec. 4. This section repeals 12 V.S.A. § 701(d), which created a crime for failure to appear in response to a summons for a traffic offense. However, criminal traffic offenses were repealed in 1989 and no longer exist. They are now civil matters referred to as “traffic violations,” commonly known as traffic tickets, and the failure to answer a complaint results in default, not a crime. Since criminal traffic offenses no longer exist, the statute is unnecessary and is repealed here.

Secs. 5 and 6. These sections replace outdated legalese language (“hereinbefore” and “hereinafter”) that is no longer used.

Sec. 7. 18 V.S.A. § 4245 refers to a body called “the claims commission” that no longer exists. It was originally created to hear claims for money against the State, but it was repealed in 1998. Such claims would now be handled by the court system, and this section makes that clear.

Sec. 8. This section restores language that had been inadvertently omitted from the medical marijuana statute. The underlined language is not new to the statute, it is just being re-enacted after being mistakenly struck last year.

Sec. 9. Last year Act 11 (the Day is a Day bill) and Act 73 (the Miscellaneous Tax Bill) simultaneously amended the same section of law, 32 V.S.A. § 5412. The “Day is a Day” change in Act 11 is no longer necessary because the change made

by Act 73 removed any reference to court days. So, in order to resolve the conflict, Sec. 8 repeals the section from Act 11 that amended the statute.

Secs. 10 and 11. These sections make a number of changes to the Juvenile and Adult Court Diversion Program statutes, including clarifying that the programs can accept cases from the Youth Substance Abuse Safety Program, providing that the records of successful program participants are expunged rather than sealed, and establishing a special index of records that have been expunged from the programs.

Sec. 12. This section amends Vermont's felony murder statute, a version of which is in place in all 50 states. "Felony murder" means that if a murder is committed during the commission another listed felony, the crime is first degree murder. This section adds "kidnapping" to that list of felonies, so that a murder committed during a kidnapping is first degree murder. The vast majority of states also include kidnapping in their felony degree murder statutes.

Sec. 13. This section proposes to change the period of time in which the decree nisi in a divorce action becomes a final order from three months to 90 days. A decree nisi is a preliminary order from the court confirming that the grounds for divorce have been established. Once the 90-day period has run, the court may issue the final divorce order. These provisions also previously passed the Senate in S.267.

Sec. 14. This section corrects an oversight in Act 86, which earlier this session legalized possession of small amounts of marijuana. Act 86 created a new crime for providing marijuana to a minor, and included an exception for situations where a dispensary lawfully provided marijuana to a registered patient or caregiver. However, the exception was incomplete because registered caregivers sometimes provide marijuana to registered patients under the age of 18. This section corrects that oversight, and makes clear that the crime does not apply in these circumstances.

Sec. 15. This section provides immunity from liability for animal shelter and rescue organizations that are assisting law enforcement in animal cruelty cases. These provisions also previously passed the Senate in S.123.

Sec. 16. This section requires the Commissioner of Corrections to report to on the advisability and feasibility of reinstating a system of earned good time for persons under the supervision of the Department of Corrections. Although good time was abolished when the "truth in sentencing" approach to criminal sentencing

was being followed, since then it has become clear that good time served a useful purpose creating an incentive for inmates to be successful. The study created in this section will help the legislature determine if good time should be reinstated.

Secs. 17-19. These sections, which also passed the Senate in S.216, make several changes to the administration of Vermont's Medical Marijuana Registry.

Sec. 20. This section requires the Commissioner of Financial Regulation to report to the General Assembly on minimum automobile insurance requirements in each of the northeastern states. This section was originally part of H.143, the Transportation Network Company bill (aka the "Uber" bill).

Sec. 21. The act takes effect on passage, except Sec. 14 takes effect on July 2, 2018, because it amends Act 86, which takes effect on July 1, 2018.