

1 Division and upon a finding that the order is insufficient to carry out the
2 purposes of this chapter, the Division shall vacate the order.

3 Sec. 2. 12 V.S.A. § 1 is amended to read:

4 § 1. RULES OF PLEADING, PRACTICE, AND PROCEDURE; FORMS

5 The Supreme Court is empowered to prescribe and amend from time to time
6 general rules with respect to pleadings, practice, evidence, procedure, and
7 forms for all actions and proceedings in all courts of this State. The rules thus
8 prescribed or amended shall not abridge, enlarge, or modify any substantive
9 rights of any person provided by law. The rules when initially prescribed or
10 any amendments thereto, including any repeal, modification, or addition, shall
11 take effect on the date provided by the Supreme Court in its order of
12 promulgation, unless objected to by the ~~Joint~~ Legislative Committee on
13 Judicial Rules as provided by this chapter. If objection is made by the ~~Joint~~
14 Legislative Committee on Judicial Rules, the initially prescribed rules in
15 question shall not take effect until they have been reported to the General
16 Assembly by the Chief Justice of the Supreme Court at any regular, adjourned,
17 or special session thereof, and until after the expiration of 45 legislative days
18 of that session, including the date of the filing of the report. The General
19 Assembly may repeal, revise, or modify any rule or amendment thereto, and its
20 action shall not be abridged, enlarged, or modified by subsequent rule.

1 (d) ~~A person who does not so appear in response to a summons for a traffic~~
2 ~~offense as defined in 23 V.S.A. § 2201 shall be fined not more than \$100.00.~~

3 [Repealed.]

4 Sec. 5. 12 V.S.A. § 3125 is amended to read:

5 § 3125. PAYMENT OF TRUSTEE'S CLAIM BY CREDITOR

6 When it appears that personal property in the hands of a person summoned
7 as a trustee is mortgaged, pledged, or liable for the payment of a debt due to
8 him or her, the court may allow the attaching creditor to pay or tender the
9 amount due to the trustee, and he or she shall thereupon deliver such property,
10 as ~~hereinbefore~~ provided in this subchapter, to the officer holding the
11 execution.

12 Sec. 6. 12 V.S.A. § 3351 is amended to read:

13 § 3351. ATTACHMENT, TAKING IN EXECUTION, AND SALE

14 Personal property not exempt from attachment, subject to a mortgage,
15 pledge, or lien, may be attached, taken in execution, and sold as the property of
16 the mortgagor, pledgor, or general owner, in the same manner as other personal
17 property, except as ~~hereinafter~~ otherwise provided in this subchapter.

18 Sec. 7. 18 V.S.A. § 4245 is amended to read:

19 § 4245. REMISSION OR MITIGATION OF FORFEITURE

20 (a) On petition filed within 90 days ~~of~~ after completion of a forfeiture
21 proceeding, ~~the claims commission established in 32 V.S.A. § 931~~ a court that

1 issued a forfeiture order pursuant to section 4244 of this title may order that the
2 forfeiture be remitted or mitigated. The petition shall be sworn, and shall
3 include all information necessary for its resolution or shall describe where such
4 information can be obtained. Upon receiving a petition, the ~~claims~~
5 ~~commission~~ court shall investigate and may conduct a hearing if in its
6 judgment it would be helpful to the resolution of the petition. The ~~claims~~
7 ~~commission~~ court shall either grant or deny the petition within 90 days.

8 (b) The ~~claims commission~~ court may remit or mitigate a forfeiture upon
9 finding that relief should be granted to avoid extreme hardship or upon finding
10 that the petitioner has a valid, good faith interest in the property which is not
11 held through a straw purchase, trust, or otherwise for the benefit of another and
12 that the petitioner did not at any time have knowledge or reason to believe that
13 the property was being or would be used in violation of the law.

14 Sec. 8. 18 V.S.A. § 4474g(b) is amended to read:

15 (b) Prior to acting on an application for a Registry identification card, the
16 Department shall obtain with respect to the applicant a Vermont criminal
17 history record, an out-of-state criminal history record, and a criminal history
18 record from the Federal Bureau of Investigation. Each applicant shall consent
19 to the release of criminal history records to the Department on forms
20 developed by the Vermont Crime Information Center. A fingerprint-
21 supported, out-of-state criminal history record and a criminal history record

1 from the Federal Bureau of Investigation shall be required only every three
2 years for renewal of a card for a dispensary owner, principal, and financier.

3 Sec. 9. REPEAL

4 2017 Acts and Resolves No. 11, Sec. 60 (amending 32 V.S.A. § 5412) is
5 repealed.

6 Sec. 10. 3 V.S.A. § 163 is amended to read:

7 § 163. JUVENILE COURT DIVERSION PROJECT

8 (a) The Attorney General shall develop and administer a juvenile court
9 diversion project for the purpose of assisting juveniles charged with delinquent
10 acts. ~~Rules which were adopted by the Vermont Commission on the~~
11 ~~Administration of Justice to implement the juvenile court diversion project~~
12 ~~shall be adapted by the Attorney General to the programs and projects~~
13 ~~established under this section.~~ In consultation with the diversion programs, the
14 Attorney General shall adopt a policies and procedures manual in compliance
15 with this section.

16 (b) The diversion ~~project~~ program administered by the Attorney General
17 shall ~~encourage the development~~ support the operation of diversion ~~projects~~
18 programs in local communities through grants of financial assistance to, or by
19 contracting for services with, municipalities, private groups, or other local
20 organizations. The Attorney General may require local financial contributions
21 as a condition of receipt of project ~~grants~~ funding.

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(i) Notwithstanding subdivision (c)(1) of this section, the diversion program may accept cases from the Youth Substance Abuse Safety Program pursuant to 7 V.S.A. § 656 or 18 V.S.A. § 4230b. The confidentiality provisions of this section shall become effective when a notice of violation is issued under 7 V.S.A. § 656(b) or 18 V.S.A. § 4230b(b), and shall remain in effect unless the person fails to register with or complete the Youth Substance Abuse Safety Program.

Sec. 11. 3 V.S.A. § 164 is amended to read:

§ 164. ADULT COURT DIVERSION PROGRAM

(a) The Attorney General shall develop and administer an adult court diversion program in all counties. ~~The program shall be operated through the juvenile diversion project. The~~ In consultation with diversion programs, the Attorney General shall adopt ~~only such rules as are necessary to establish an adult court diversion program for adults~~ a policies and procedures manual, in compliance with this section.

* * *

(c) The program shall ~~encourage the development~~ support the operation of diversion programs in local communities through grants of financial assistance ~~to, or contracts for services with,~~ municipalities, private groups, or other local

1 organizations. The Attorney General may require local financial contributions
2 as a condition of receipt of program ~~grants~~ funding.

3 * * *

4 (e) All adult court diversion programs receiving financial assistance from
5 the Attorney General shall adhere to the following provisions:

6 (1) The diversion program shall accept only persons against whom
7 charges have been filed and the court has found probable cause, but are not yet
8 adjudicated. The prosecuting attorney may refer a person to diversion either
9 before or after arraignment and shall notify in writing the diversion program
10 and the court of his or her intention to refer the person to diversion. The matter
11 shall become confidential when notice is provided to the court. If a person is
12 charged with a qualifying crime as defined in 13 V.S.A. § 7601(4)(A) and the
13 crime is a misdemeanor, the prosecutor shall provide the person with the
14 opportunity to participate in the court diversion program unless the prosecutor
15 states on the record at arraignment or a subsequent hearing why a referral to
16 the program would not serve the ends of justice. If the prosecuting attorney
17 refers a case to diversion, the prosecuting attorney may release information to
18 the victim upon a showing of legitimate need and subject to an appropriate
19 protective agreement defining the purpose for which the information is being
20 released and in all other respects maintaining the confidentiality of the
21 information; otherwise files held by the court, the prosecuting attorney, and the

1 law enforcement agency related to the charges shall be confidential and shall
2 remain confidential unless:

3 (A) the ~~Board~~ diversion program declines to accept the case;

4 (B) the person declines to participate in diversion;

5 (C) the ~~Board~~ diversion program accepts the case, but the person
6 does not successfully complete diversion; or

7 (D) the prosecuting attorney recalls the referral to diversion.

8 * * *

9 (5) All information gathered in the course of the adult diversion process
10 shall be held strictly confidential and shall not be released without the
11 participant's prior consent (except that research and reports that do not ~~require~~
12 ~~or~~ establish the identity of individual participants are allowed).

13 * * *

14 (7)(A) ~~The~~ Irrespective of whether a record was expunged, the adult
15 court diversion program shall maintain sufficient records so that the reasons for
16 success or failure of the program in particular cases and overall can be
17 investigated by program staff. These records shall include a centralized
18 statewide filing system that will include the following information about
19 individuals who have successfully completed an adult court diversion program:

20 (i) name and date of birth;

21 (ii) offense charged and date of offense;

- 1 (iii) place of residence;
- 2 (iv) county where diversion process took place; and
- 3 (v) date of completion of diversion process.

4 (B) These records shall not be available to anyone other than the
5 participant and his or her attorney, State’s Attorneys, the Attorney General,
6 and directors of adult court diversion programs.

7 (C) Notwithstanding subdivision (B) of this subdivision (e)(7), the
8 Attorney General shall, upon request, provide to a participant or his or her
9 attorney sufficient documentation to show that the participant successfully
10 completed diversion.

11 * * *

12 (g)(1) Within 30 days ~~of~~ after the two-year anniversary of a successful
13 completion of adult diversion, the court shall provide notice to all parties of
14 record of the court’s intention to order the ~~sealing~~ expungement of all court
15 files and records, law enforcement records other than entries in the adult court
16 diversion program’s centralized filing system, fingerprints, and photographs
17 applicable to the proceeding. The court shall give the State’s Attorney an
18 opportunity for a hearing to contest the ~~sealing~~ expungement of the records.
19 The court shall ~~seal~~ expunge the records if it finds:

1 ~~(1)~~(A) two years have elapsed since the successful completion of the
2 adult diversion program by the participant and the dismissal of the case by the
3 State’s Attorney;

4 ~~(2)~~(B) the participant has not been convicted of a subsequent felony
5 or misdemeanor during the two-year period, and no proceedings are pending
6 seeking such conviction; ~~and~~

7 ~~(3)~~(C) rehabilitation of the participant has been attained to the
8 satisfaction of the court; and

9 (D) the participant does not owe restitution related to the case under a
10 contract executed with the Restitution Unit.

11 (2) The court may expunge any records that were sealed pursuant to this
12 subsection prior to July 1, 2018 unless the State’s Attorney’s office that
13 prosecuted the case objects. Thirty days prior to expunging a record pursuant
14 to this subdivision, the court shall provide written notice of its intent to
15 expunge the record to the State’s Attorney’s office that prosecuted the case.

16 (3)(A) The court shall keep a special index of cases that have been
17 expunged pursuant to this section together with the expungement order. The
18 index shall list only the name of the person convicted of the offense, his or her
19 date of birth, the docket number, and the criminal offense that was the subject
20 of the expungement.

1 (B) The special index and related documents specified in subdivision
2 (A) of this subdivision (3) shall be confidential and shall be physically and
3 electronically segregated in a manner that ensures confidentiality and that
4 limits access to authorized persons.

5 (C) Inspection of the expungement order and the certificate may be
6 permitted only upon petition by the person who is the subject of the case. The
7 Chief Superior Judge may permit special access to the index and the
8 documents for research purposes pursuant to the rules for public access to
9 court records.

10 (D) The Court Administrator shall establish policies for
11 implementing this subsection (g).

12 (h) ~~Upon~~ Except as otherwise provided in this section, upon the entry of an
13 order ~~sealing such~~ expunging files and records under this section, the
14 proceedings in the matter ~~under this section~~ shall be considered never to have
15 occurred, all index references thereto shall be deleted, and the participant, the
16 court, and law enforcement officers and departments shall reply to any request
17 for information that no record exists with respect to such participant inquiry in
18 any matter. Copies of the order shall be sent to each agency or official named
19 therein.

1 (i) ~~Inspection of the files and records included in the order may thereafter~~
2 ~~be permitted by the court only upon petition by the participant who is the~~
3 ~~subject of such records, and only to those persons named therein. [Repealed.]~~

4 (j) The process of automatically ~~sealing~~ expunging records as provided in
5 this section shall only apply to those persons who completed diversion on or
6 after July 1, 2002. Any person who completed diversion prior to July 1, 2002
7 must apply to the court to have his or her records ~~sealed~~ expunged. ~~Sealing~~
8 Expungement shall occur if the requirements of subsection (g) of this section
9 are met.

10 * * *

11 (k) ~~Subject to the approval of the~~ The Attorney General, in consultation
12 with the Vermont Association of Court Diversion Programs, may develop and
13 administer programs to assist persons under this section charged with
14 delinquent, criminal, and civil offenses.

15 (l) Notwithstanding subdivision (e)(1) of this section, the diversion
16 program may accept cases from the Youth Substance Abuse Safety Program
17 pursuant to 7 V.S.A. § 656 or 18 V.S.A. § 4230b. The confidentiality
18 provisions of this section shall become effective when a notice of violation is
19 issued under 7 V.S.A. § 656(b) or 18 V.S.A. § 4230b(b), and shall remain in
20 effect unless the person fails to register with or complete the Youth Substance
21 Abuse Safety Program.

1 Sec. 12. 13 V.S.A. § 2301 is amended to read:

2 § 2301. MURDER-DEGREES DEFINED

3 Murder committed by means of poison, or by lying in wait, or by ~~wilful~~
4 willful, deliberate, and premeditated killing, or committed in perpetrating or
5 attempting to perpetrate arson, sexual assault, aggravated sexual assault,
6 kidnapping, robbery, or burglary, shall be murder in the first degree. All other
7 kinds of murder shall be murder in the second degree.

8 Sec. 13. 15 V.S.A. § 554 is amended to read:

9 § 554. DECREES NISI

10 (a) A decree of divorce from the bonds of matrimony in the first instance,
11 shall be a decree nisi and shall become absolute at the expiration of ~~three~~
12 ~~months~~ 90 days from the entry thereof but, in its discretion, the court ~~which~~
13 that grants the divorce may fix an earlier date upon which the decree shall
14 become absolute. If one of the parties dies prior to the expiration of the nisi
15 period, the decree shall be deemed absolute immediately prior to death.

16 (b) Either party may file any post-trial motions under the Vermont Rules of
17 Civil Procedure. The time within which any such motion shall be filed shall
18 run from the date of entry of the decree of divorce and not from the date the
19 nisi period expires. The court shall retain jurisdiction to hear and decide the
20 motion after expiration of the nisi period. A decree of divorce shall constitute
21 a civil judgment under the Vermont Rules of Civil Procedure.

1 (c) If the stated term at which the decree nisi was entered has adjourned
2 when a motion is filed, the presiding judge of the stated term shall have power
3 to hear and determine the matter and make new decree therein as fully as the
4 court might have done in term time; but, in the judge's discretion, the judge
5 may strike off the decree and continue the cause to the next stated term.

6 Sec. 14. 18 V.S.A. § 4230f(f) is amended to read:

7 (f) This section shall not apply to a dispensary that lawfully provides
8 marijuana to a registered patient or caregiver or to a registered caregiver who
9 provides marijuana to a registered patient pursuant to chapter 86 of this title.

10 Sec. 15. 20 V.S.A. § 3903 is amended to read:

11 § 3903. ANIMAL SHELTERS AND RESCUE ORGANIZATIONS

12 (a) [Repealed.]

13 (b) Animal intake. An animal shelter or rescue organization ~~under this~~
14 ~~chapter shall not accept an animal unless the person transferring the animal to~~
15 ~~the shelter provides~~ as defined by section 3901 of this title shall make every
16 effort to collect the following information about an animal it accepts: the name
17 and address of the person transferring the animal and, if known, the name of
18 the animal, its vaccination history, and other information concerning the
19 background, temperament, and health of the animal.

1 (c) Nonprofit status. A rescue organization under this chapter shall be
2 recognized and approved as a nonprofit organization under 26 U.S.C.
3 § 501(c)(3).

4 (d) Immunity from liability. Notwithstanding section 3901a of this title,
5 any animal shelter or rescue organization assisting law enforcement in an
6 animal cruelty investigation or seizure that, in good faith, provides care and
7 treatment to an animal involved in the investigation or seizure shall not be held
8 liable for civil damages by the owner of the animal unless the actions of the
9 shelter or organization constitute gross negligence.

10 Sec. 16. EARNED GOOD TIME; REPORT

11 On or before November 15, 2018, the Commissioner of Corrections, in
12 consultation with the Chief Superior Judge, the Attorney General, the
13 Executive Director of the Department of Sheriffs and State’s Attorneys, and
14 the Defender General, shall report to the Senate and House Committees on
15 Judiciary, the Senate Committee on Institutions, and the House Committee on
16 Corrections and Institutions on the advisability and feasibility of reinstating a
17 system of earned good time for persons under the supervision of the
18 Department of Corrections.

1 limitation for the purpose of determining compliance with this subchapter and
2 any rules adopted pursuant to this subchapter and may enter a dispensary at
3 any time for such purpose. During an inspection, the Department may review
4 the dispensary's confidential records, including its dispensing records, which
5 shall track transactions according to registered patients' Registry identification
6 numbers to protect their confidentiality.

7 * * *

8 (4) A dispensary shall submit the results of a financial audit to the
9 Department of Public Safety ~~no~~ not later than ~~60~~ 90 days after the end of the
10 dispensary's first fiscal year, and every other year thereafter. The audit shall
11 be conducted by an independent certified public accountant, and the costs of
12 any such audit shall be borne by the dispensary. The Department may also
13 periodically require, within its discretion, the audit of a dispensary's financial
14 records by the Department.

15 * * *

16 Sec. 19. 18 V.S.A. § 4474g is amended to read:

17 § 4474g. DISPENSARY REGISTRY IDENTIFICATION CARD;

18 CRIMINAL BACKGROUND CHECK

19 (a) ~~Except as provided in subsection (b) of this section, the~~ The Department
20 shall issue each owner, principal, financier, and employee of a dispensary a
21 Registry identification card or renewal card within 30 days ~~of~~ after receipt of

1 the person's name, address, and date of birth and a fee of \$50.00. The fee shall
2 be paid by the dispensary and the cost shall not be passed on to an owner,
3 principal, financier, or employee. A Except as provided in subdivision (b)(2)
4 of this section, a person shall not serve as an owner, principal, financier, or
5 employee of a dispensary until that person has received a Registry
6 identification card issued under this section. Each card shall specify whether
7 the cardholder is an owner, principal, financier, or employee of a dispensary
8 and shall contain the following:

9 (1) the name, address, and date of birth of the person;

10 (2) the legal name of the dispensary with which the person is affiliated;

11 (3) a random identification number that is unique to the person;

12 (4) the date of issuance and the expiration date of the Registry

13 identification card; and

14 (5) a photograph of the person.

15 (b)(1) Prior to acting on an application for a Registry identification card,
16 the Department shall obtain with respect to the applicant a Vermont criminal
17 history record, an out-of-state criminal history record, and a criminal history
18 record from the Federal Bureau of Investigation. Each applicant shall consent
19 to the release of criminal history records to the Department on forms
20 developed by the Vermont Crime Information Center.

