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H.297

Introduced by Representative Grad of Moretown

Referred to Committee on

Date:

Subject: Judiciary; court procedure; reorganization

Statement of purpose of bill as introduced: This bill proposes to make a number of updates and clarifications related to court organization and the judiciary.

An act relating to ~~judicial organization and restructuring~~ *miscellaneous court operations procedures*

It is hereby enacted by the General Assembly of the State of Vermont:

~~Sec. 1. 4 V.S.A. § 357 is amended to read:~~

~~§ 357. REGISTERS OF PROBATE; APPOINTMENT AND REMOVAL;  
COMPENSATION; CLERKS~~

~~The court administrator Superior Court clerk or court operations manager, in consultation with the probate Probate judge, and following the approval of the Court Administrator, shall ~~appoint~~ hire a register of probate for each district unit. The probate Probate judge may request that the ~~court administrator~~ Court Administrator designate one or more staff persons as additional registers.~~

1 ~~Sec. 2. 14 V.S.A. § 2 is amended to read:~~

2 § 2. DEPOSIT OF WILL FOR SAFEKEEPING; DELIVERY; FINAL  
3 DISPOSITION

4 (a) A testator may deposit a will for safekeeping in the Probate Division of  
5 the Superior Court for the district in which the testator resides on the payment  
6 to the ~~Court~~ court of the fee required by 32 V.S.A. § 1434(a)(17). The ~~register~~  
7 Probate Division shall give to the testator a certificate of deposit, shall safely  
8 keep each will so deposited, and shall keep an index of the wills so deposited.

9 \* \* \*

10 (c) During the life of the testator, that will shall be delivered only to the  
11 testator, or in accordance with the testator's order in writing duly proved by  
12 oath of a subscribing witness, but the testator's duly authorized legal guardian  
13 may at any time inspect and copy the will in the presence of the judge, court  
14 operations manager, or register. After the death of the testator it shall be  
15 delivered on demand to the person named in the indorsement.

16 \* \* \*

17 Sec. 3. 15 V.S.A. § 816 is amended to read:

18 § 816. CERTIFICATE OF CHANGE; CORRECTION OF BIRTH AND  
19 CIVIL MARRIAGE RECORDS

20 Whenever a person changes his or her name, as provided in this chapter, he  
21 or she shall provide the ~~probate division of the superior court~~ Probate Division  
22 of the Superior Court with a copy of his or her birth certificate and, if married,

1 ~~a copy of his or her civil marriage certificate, and a copy of the birth certificate~~  
2 of each minor child, if any. The ~~register of with whom~~ Probate Division  
3 ~~where~~ the change of name is filed and recorded shall transmit the certificates  
4 and a certified copy of such instrument of change of name to the supervisor of  
5 vital records registration. The supervisor of vital records registration shall  
6 forward such instrument of change of name to the town clerk in the town  
7 where the person was born within the state, or wherein the original certificate  
8 is filed, with instructions to amend the original certificate and all copies  
9 thereof in accordance with the provisions of 18 V.S.A. chapter 101 ~~of Title 18.~~  
10 Such amended certificates shall have the words "Court Amended" stamped,  
11 written, or typed at the top and shall show that the change of name was made  
12 pursuant to this chapter.

13 Sec. 4. 15A V.S.A. § 6-102 is amended to read:

14 § 6-102. RECORDS CONFIDENTIAL, COURT RECORDS SEALED  
15 \* \* \*

16 (d) All records on file with the court or agency shall be retained  
17 permanently and sealed kept confidential for 99 years after the date of the  
18 adoptee's birth. ~~Sealed~~ Confidential records and indices are not open to  
19 inspection and copying by any person except as provided in this title.

20 (e) The records of an agency ~~which~~ that ceases operation in this state State  
21 shall be transferred to the department for retention under the provisions of this  
22 title.

1 ~~Sec. 5. 27 V.S.A. § 341 is amended to read:~~

2 § 341. REQUIREMENTS GENERALLY; RECORDING

3 (a) Deeds and other conveyances of lands, or of an estate or interest  
4 therein, shall be signed by the party granting the same and acknowledged by  
5 the grantor before a town clerk, notary public, master, or county clerk, ~~or~~  
6 ~~judge or register of probate~~ and recorded at length in the clerk's office of the  
7 town in which such lands lie. Such acknowledgement before a notary public  
8 shall be valid without an official seal being affixed to his or her signature.

9 \* \* \*

10 Sec. 6. 27 V.S.A. § 463 is amended to read:

11 § 463. BY SEPARATE INSTRUMENT

12 (a) Mortgages may be discharged by an acknowledgment of satisfaction,  
13 executed by the mortgagee or his or her attorney, executor, administrator, or  
14 assigns, which shall be substantially in the following form:

15 I hereby certify that the following described mortgage is paid in full  
16 and satisfied, viz: \_\_\_\_\_ mortgagor to \_\_\_\_\_ mort-  
17 gagee, dated \_\_\_\_\_ 20 \_\_\_\_\_, and recorded in book \_\_\_\_\_, page  
18 \_\_\_\_\_, of the land records of the town of \_\_\_\_\_.

(b) When such satisfaction is acknowledged before a town clerk, notary  
public, master, or county clerk, ~~or judge or register of probate and recorded~~  
*and recorded*, it shall discharge such mortgage and bar actions brought  
~~thereon.~~

1 ~~Sec. 7. 22 V.S.A. § 7449 is amended to read:~~

2 ~~§ 7449. REGISTER OF PROBATE DIVISION TO SEND COMMISSIONER~~  
3 ~~NOTICE OF ESTATE~~

4 ~~The register of the Probate Court Division shall send to the Commissioner~~  
5 ~~by mail at the time of granting letters of administration in any estate and upon~~  
6 ~~forms to be furnished by the Commissioner, the name of the decedent, the date~~  
7 ~~of his or her death, and the name and address of the administrator or executor.~~

8 Sec. 8. REPEAL

9 ~~12 V.S.A. chapter 216 (Windsor County Youth Court) is repealed.~~

10 Sec. 9. EFFECTIVE DATE

11 ~~This act shall take effect on passage.~~

*Sec. 1. 4 V.S.A. § 357 is amended to read:*

*§ 357. ~~REGISTERS OF PROBATE; APPOINTMENT AND REMOVAL;~~*  
*~~COMPENSATION; CLERKS~~*

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*in consultation with the ~~probate~~ Probate judge, and following the approval of*  
*the Court Administrator, shall ~~appoint~~ hire a register of probate for each*  
*district unit. The ~~probate~~ Probate judge may request that the ~~court~~*  
*administrator Court Administrator designate one or more staff persons as*  
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\* \* \*

*(c) During the life of the testator that will shall be delivered only to the testator, or in accordance with the testator's order in writing duly proved by oath of a subscribing witness, but the testator's duly authorized legal guardian may at any time inspect and copy the will in the presence of the judge, court operations manager, or register. ~~After the death of the testator it shall be delivered on demand to the person named in the indorsement.~~*

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*certificates and a certified copy of such instrument of change of name to the supervisor of vital records registration. The supervisor of vital records registration shall forward such instrument of change of name to the town clerk in the town where the person was born within the state State, or wherein the original certificate is filed, with instructions to amend the original certificate and all copies thereof in accordance with the provisions of 18 V.S.A. chapter 101 of Title 18. Such amended certificates shall have the words “Court Amended” stamped, written, or typed at the top and shall show that the change of name was made pursuant to this chapter.*

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*\* \* \**

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*(e) The records of an agency ~~which~~ that ceases operation in this state State shall be transferred to the ~~department~~ Department for retention under the provisions of this title.*

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*(b) When such satisfaction is acknowledged before a town clerk, notary public, master, or county clerk, ~~or~~ judge ~~or~~ register of probate and recorded, it shall discharge such mortgage and bar actions brought thereon.*

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*The ~~register of the Probate Court~~ Division shall send to the Commissioner*

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