

House Calendar

Thursday, April 13, 2017

100th DAY OF THE BIENNIAL SESSION

House Convenes at 1:00 P.M.

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ORDERS OF THE DAY

ACTION CALENDAR

Third Reading

H. 327

An act relating to the charter of the Northeast Kingdom Solid Waste Management District

H. 356

An act relating to approval of amendments to the charter of the Town of Berlin

H. 492

An act relating to the Racial Justice Oversight Board

H. 523

An act relating to fair and impartial policing

Favorable with Amendment

H. 197

An act relating to mental health parity for workers' compensation

Reps. Copeland-Hanzas of Bradford, for the Committee on Health Care, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 21 V.S.A. § 601 is amended to read:

§ 601. DEFINITIONS

Unless the context otherwise requires, words and phrases used in this chapter shall be construed as follows:

* * *

(11) "Personal injury by accident arising out of and in the course of employment" includes an injury caused by the willful act of a third person directed against an employee because of that employment.

* * *

(D)(i) In the case of police officers, rescue or ambulance workers, or firefighters, post-traumatic stress disorder that is diagnosed by a mental health professional shall be presumed to have been incurred during service in the line of duty and shall be compensable, unless it is shown by a preponderance of the

evidence that the post-traumatic stress disorder was caused by nonservice-connected risk factors or nonservice-connected exposure.

(ii) A police officer, rescue or ambulance worker, or firefighter who is diagnosed with post-traumatic stress disorder within three years of the last active date of employment as a police officer, rescue or ambulance worker, or firefighter shall be eligible for benefits under this subdivision (11).

(iii) As used in this subdivision (11)(I):

(I) “Firefighter” means a firefighter as defined in 20 V.S.A. § 3151(3) and (4).

(II) “Mental health professional” means a person with professional training, experience, and demonstrated competence in the treatment and diagnosis of mental conditions, who is certified or licensed by this State to provide mental health care services and for whom diagnoses of mental conditions are within his or her scope of practice, including a physician, nurse with recognized psychiatric specialties, psychologist, clinical social worker, mental health counselor, or alcohol or drug abuse counselor.

(III) “Police officer” means a law enforcement officer who has been certified by the Vermont Criminal Justice Training Council pursuant to 20 V.S.A. chapter 151.

(IV) “Rescue or ambulance worker” means ambulance service, emergency medical personnel, first responder service, and volunteer personnel as defined in 24 V.S.A. § 2651.

* * *

(23) “Occupational disease” means a disease that results from causes and conditions characteristic of and peculiar to a particular trade, occupation, process, or employment, and to which an employee is not ordinarily subjected or exposed outside or away from the employment, and that arises out of and in the course of the employment. The term “occupational disease” shall include a mental condition as defined in 8 V.S.A. § 4089b, whether sudden or gradual in onset, that requires medical or psychiatric services or that results in physical or psychiatric disability or death.

* * *

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

(Committee Vote: 10-0-1)

Rep. Poirier of Barre City, for the Committee on Commerce and Economic Development, recommends the bill ought to pass when amended as recommended by the Committee on Health Care and when further amended as follows:

In Sec. 1, 21 V.S.A. § 601, by striking out Sec. 1 in its entirety and inserting a new Sec. 1 to read as follows:

Sec. 1. 21 V.S.A. § 601 is amended to read:

§ 601. DEFINITIONS

Unless the context otherwise requires, words and phrases used in this chapter shall be construed as follows:

* * *

(11) “Personal injury by accident arising out of and in the course of employment” includes an injury caused by the willful act of a third person directed against an employee because of that employment.

* * *

(I)(i) In the case of police officers, rescue or ambulance workers, or firefighters, post-traumatic stress disorder that is diagnosed by a mental health professional shall be presumed to have been incurred during service in the line of duty and shall be compensable, unless it is shown by a preponderance of the evidence that the post-traumatic stress disorder was caused by nonservice-connected risk factors or nonservice-connected exposure.

(ii) A police officer, rescue or ambulance worker, or firefighter who is diagnosed with post-traumatic stress disorder within three years of the last active date of employment as a police officer, rescue or ambulance worker, or firefighter shall be eligible for benefits under this subdivision (11).

(iii) As used in this subdivision (11)(I):

(I) “Firefighter” means a firefighter as defined in 20 V.S.A. § 3151(3) and (4).

(II) “Mental health professional” means a person with professional training, experience, and demonstrated competence in the treatment and diagnosis of mental conditions, who is certified or licensed by this State to provide mental health care services and for whom diagnoses of mental conditions are within his or her scope of practice, including a physician, nurse with recognized psychiatric specialties, psychologist, clinical social worker, mental health counselor, or alcohol or drug abuse counselor.

(III) “Police officer” means a law enforcement officer who has been certified by the Vermont Criminal Justice Training Council pursuant to 20

V.S.A. chapter 151.

(IV) “Rescue or ambulance worker” means ambulance service, emergency medical personnel, first responder service, and volunteer personnel as defined in 24 V.S.A. § 2651.

(J)(i) A mental condition resulting from a work-related event or work-related stress shall be considered a personal injury by accident arising out of and in the course of employment and be compensable if it is demonstrated by the preponderance of the evidence that:

(I) the work-related event or work-related stress was extraordinary and unusual in comparison to pressures and tensions experienced by the average employee across all occupations; and

(II) the work-related event or work-related stress, and not some other event or source of stress, was the predominant cause of the mental condition.

(ii) A mental condition shall not be considered a personal injury by accident arising out of and in the course of employment if it results from any disciplinary action, work evaluation, job transfer, layoff, demotion, termination, or similar action taken in good faith by the employer.

* * *

(Committee Vote: 9-1-1)

Rep. Keenan of St. Albans City, for the Committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committees on Health Care and Commerce and Economic Development.

(Committee Vote: 11-0-0)

Amendment to be offered by Rep. Marcotte of Coventry to the recommendation of amendment of the Committee on Health Care to H. 197

Rep. Marcotte of Coventry moves that the recommendation of amendment of the Committee on Health Care be amended by inserting a Sec. 1a to read:

Sec. 1a. EMERGENCY PERSONNEL POST-TRAUMATIC STRESS

DISORDER; STUDY OF EXPERIENCE AND COSTS; REPORT

(a) The Commissioner of Labor, in consultation with the Secretary of Administration, the Commissioner of Financial Regulation; the Vermont League of Cities and Towns, and the National Council on Compensation Insurance, shall examine claims for workers compensation made pursuant to 21 V.S.A. § 601(11)(I) and (J) between July 1, 2017 and January 1, 2020,

including:

(1) the number of claims made;

(2) the cost of the workers compensation benefits provided for those claims; and

(3) any changes in administrative and premium costs associated with those claims.

(b) On or before January 15 of each year from 2018 through 2020, the Commissioner shall report to the House Committees on Appropriations, on Commerce and Economic Development, and on Health Care, and the Senate Committees on Appropriations, on Finance, and on Health and Welfare regarding its findings and any recommendations for legislative changes to reduce the cost of providing workers' compensation coverage pursuant to 21 V.S.A. § 601(11)(I) and (J).

Amendment to be offered by Rep. Greshin of Warren to the recommendation of amendment of the Committee on Health Care to H. 197

Rep. Greshin of Warren moves that the recommendation of the Committee on Health Care be amended as follows:

In Sec. 1, 21 V.S.A. § 601, subdivision (11)(I)(iii)(IV), after the first sentence by inserting a second sentence to read ““Rescue or ambulance worker” does not include any ambulance service, emergency medical personnel, first responder service, or volunteer personnel in the employment of a ski patrol.”

S. 22

An act relating to increased penalties for possession, sale, and dispensation of fentanyl

Rep. Colburn of Burlington, for the Committee on Judiciary, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE FINDINGS

The General Assembly finds:

(1) According to Michael Botticelli, former Director of the Office of National Drug Control Policy, the National Drug Control Strategy recommends treating “addiction as a public health issue, not a crime.” Further, the strategy “rejects the notion that we can arrest and incarcerate our way out

of the nation’s drug problem.”

(2) Vermont Chief Justice Paul Reiber has declared that “the classic approach of ‘tough on crime’ is not working in [the] area of drug policy” and that treatment-based models are proving to be a more effective approach for dealing with crime associated with substance abuse.

(3) A felony conviction record is a significant impediment to gaining and maintaining employment and housing, yet we know that stable employment and housing are an essential element to recovery from substance abuse and desistance of criminal activity that often accompanies addiction.

(4) In a 2014 study by the PEW Research Center, 67 percent of people polled said government should focus more on providing treatment to people who use illicit drugs and less on punishment. The Center later reported that states are leading the way in reforming drug laws to reflect this opinion. State-level actions have included lowering penalties for possession and use of illegal drugs, shortening mandatory minimums or curbing their applicability, removing automatic sentence enhancements, and establishing or extending the jurisdiction of drug courts and other alternatives to the regular criminal justice system.

(5) Vermont must look at alternative approaches to the traditional criminal justice model for addressing low-level illicit drug use if it is going to reduce the effects of addiction and addiction-related crime in this State.

Sec. 2. STUDY

(a) The Office of Legislative Council shall examine the issue of a public health approach to low-level possession and use of illicit and regulated drugs, including fentanyl, in Vermont as an alternative to the traditional criminal justice model, looking to trends both nationally and internationally, with a goal of providing policymakers a range of approaches to consider during the 2018 legislative session.

(b) The Office of Legislative Council shall report its findings to the General Assembly on or before November 15, 2017.

Sec. 3. 18 V.S.A. § 4234b is amended to read:

§ 4234b. EPHEDRINE AND PSEUDOEPHEDRINE

* * *

(c) Electronic registry system.

(1)(A) Retail establishments shall use an electronic registry system to record the sale of products made pursuant to subsection (b) of this section. The electronic registry system shall have the capacity to block a sale of

nonprescription drug products containing ephedrine base, pseudoephedrine base, or phenylpropanolamine base that would result in a purchaser exceeding the lawful daily or monthly amount. The system shall contain an override function that may be used by an agent of a retail establishment who is dispensing the drug product and who has a reasonable fear of imminent bodily harm to his or her person or to another person if the transaction is not completed. The system shall create a record of each use of the override mechanism.

(B) The electronic registry system shall be available free of charge to the State of Vermont, retail establishments, and local law enforcement agencies.

(C) The electronic registry system shall operate in real time to enable communication among in-state users and users of similar systems in neighboring states.

(D) The State shall use the National Precursor Log Exchange (NPLEx) online portal or its equivalent to host Vermont's electronic registry system.

(2)(A) Prior to completing a sale under subsection (b) of this section, a retail establishment shall require the person purchasing the drug product to present a current, valid government-issued identification document. The retail establishment shall record in the electronic registry system:

(i) the name and address of the purchaser;

(ii) the name of the drug product and quantity of ephedrine, pseudoephedrine, and phenylpropanolamine base sold in grams;

(iii) the date and time of purchase;

(iv) the form of identification presented, the issuing government entity, and the corresponding identification number; and

(v) the name of the person selling or furnishing the drug product.

(B)(i) If the retail establishment experiences an electronic or mechanical failure of the electronic registry system and is unable to comply with the electronic recording requirement, the retail establishment shall maintain a written log or an alternative electronic record-keeping mechanism until the retail establishment is able to comply fully with this subsection (c).

(ii) If the region of the State where the retail establishment is located does not have broadband Internet access, the retail establishment shall maintain a written log or an alternative electronic record-keeping mechanism until broadband Internet access becomes accessible in that region. At that time, the retail establishment shall come into compliance with this

subsection (c).

(C) A retail establishment shall maintain all records of drug product purchases made pursuant to this subsection (c) for a minimum of two years.

(3) A retail establishment shall display a sign at the register provided by NPLEx or its equivalent to notify purchasers of drug products containing ephedrine, pseudoephedrine, or phenylpropanolamine base that:

(A) the purchase of the drug product or products shall result in the purchaser's identity being listed on a national database; and

(B) the purchaser has the right to request the transaction number for any purchase that was denied pursuant to this subsection (c).

(4) Except as provided in subdivision (5) of this subsection (c), a person or retail establishment that violates this subsection shall:

(A) for a first violation be assessed a civil penalty of not more than \$100.00; and

(B) for a second or subsequent violation be assessed a civil penalty of not more than \$500.00.

(d) This section shall not apply to a manufacturer ~~which~~ that has obtained an exemption from the Attorney General of the United States under Section 711(d) of the federal Combat Methamphetamine Epidemic Act of 2005.

(e) As used in this section:

(1) "Distributor" means a person, other than a manufacturer or wholesaler, who sells, delivers, transfers, or in any manner furnishes a drug product to any person who is not the ultimate user or consumer of the product.

(2) "Knowingly" means having actual knowledge of the relevant facts.

(3) "Manufacturer" means a person who produces, compounds, packages, or in any manner initially prepares a drug product for sale or use.

(4) "Wholesaler" means a person, other than a manufacturer, who sells, transfers, or in any manner furnishes a drug product to any other person for the purpose of being resold.

Sec. 5. EFFECTIVE DATES

This section and Sec. 3 (ephedrine and pseudoephedrine) shall take effect on passage. The remaining sections shall take effect on July 1, 2017.

(Committee vote: 10-0-1)

(For text see Senate Journal March 21, 2017)

S. 23

An act relating to juvenile jurisdiction

Rep. Willhoit of St. Johnsbury, for the Committee on Judiciary, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 5401 is amended to read:

§ 5401. DEFINITIONS

As used in this subchapter:

* * *

(15)(A) “Conviction” means a judgment of guilt following a verdict or finding of guilt, a plea of guilty, a plea of nolo contendere, an Alford Plea, or a judgment of guilt pursuant to a deferred sentence. A sex offender whose sentence is deferred shall have no duty to register after successful completion of the terms of the deferred sentence agreement for the duration specified in the agreement.

(B) A sex offender treated as a youthful offender pursuant to 33 V.S.A. chapter 52A shall have no duty to register unless the offender’s youthful offender status is revoked and he or she is sentenced for the offense in the Criminal Division of Superior Court.

* * *

Sec. 2. 28 V.S.A. chapter 16 is added to read:

CHAPTER 16. YOUTHFUL OFFENDERS

§ 1161. POWERS AND RESPONSIBILITIES OF THE COMMISSIONER REGARDING SUPERVISION OF YOUTHFUL OFFENDERS

In accordance with 33 V.S.A. chapter 52A, the Commissioner shall be charged with the following powers and responsibilities regarding supervision of youthful offenders:

(1) consistent with 33 V.S.A. § 5284(d), to designate a case manager who, together with a case manager appointed by the Commissioner for Children and Families, will determine the lead Department to preside over the case plan and the provision of services to youths who are adjudicated as youthful offenders;

(2) together with the Commissioner for Children and Families, to maintain the general supervision of youths adjudicated as youthful offenders and placed on conditions of juvenile probation; and

(3) to supervise the administration of probation services and establish

policies and standards regarding youthful offender probation investigation, supervision, case work, record keeping, and the qualification of probation officers working with youthful offenders.

§ 1162. METHODS OF SUPERVISION

(a) Electronic monitoring. The Commissioner may utilize an electronic monitoring system to supervise a youthful offender placed on juvenile probation.

(b) Graduated sanctions.

(1) If ordered by the court pursuant to a modification of a youthful offender disposition under 33 V.S.A. § 5285(c)(1), the Commissioner may sanction the youthful offender in accordance with rules adopted pursuant to subdivision (2) of this subsection.

(2) The Department of Corrections shall adopt rules pursuant to 3 V.S.A. chapter 25 that establish graduated sanction guidelines for a youthful offender who violates the terms of his or her probation.

Sec. 3. 33 V.S.A. § 5102 is amended to read:

§ 5102. DEFINITIONS AND PROVISIONS OF GENERAL APPLICATION

As used in the juvenile judicial proceedings chapters, unless the context otherwise requires:

* * *

(2) “Child” means any of the following:

* * *

(C) An individual who has been alleged to have committed or has committed an act of delinquency after becoming 10 years of age and prior to becoming ~~18~~ 22 years of age; provided, however:

(i) that an individual who is alleged to have committed an act specified in subsection 5204(a) of this title after attaining ~~the age of 10~~ 12 years of age but not ~~the age of 14 years of age~~ may be treated as an adult as provided therein;

* * *

(9) “Delinquent act” means an act designated a crime under the laws of this State, or of another state if the act occurred in another state, or under federal law. A delinquent act shall include 7 V.S.A. §§ ~~656 and 657~~ § 656; however, it shall not include:

(A) snowmobile offenses in 23 V.S.A. chapter 29, subchapter 1 and motorboat offenses in 23 V.S.A. chapter 29, subchapter 2, except for violations

of sections 3207a, 3207b, 3207c, 3207d, and 3323;

(B) pursuant to 4 V.S.A. § 33(b), felony motor vehicle offenses committed by an individual who is at least 16 years of age or older, except for violations of 23 V.S.A. chapter 13, subchapter 13 and of 23 V.S.A. § 1091.

* * *

(22) “Party” includes the following persons:

(A) the child with respect to whom the proceedings are brought;

(B) the custodial parent, the guardian, or the custodian of the child in all instances except a hearing on the merits of a delinquency petition;

(C) the noncustodial parent for the purposes of custody, visitation, and such other issues ~~which~~ that the ~~Court~~ court may determine are proper and necessary to the proceedings, provided that the noncustodial parent has entered an appearance;

(D) the State’s Attorney;

(E) the Commissioner for Children and Families;

(F) such other persons as appear to the ~~Court~~ court to be proper and necessary to the proceedings; and

(G) in youthful offender cases brought under 33 V.S.A. chapter 52A, the Commissioner of Corrections.

* * *

Sec. 4. 33 V.S.A. § 5112 is amended to read:

§ 5112. ATTORNEY AND GUARDIAN AD LITEM FOR CHILD

(a) The Court shall appoint an attorney for a child who is a party to a proceeding brought under the juvenile judicial proceedings chapters.

(b) The Court shall appoint a guardian ad litem for a child under 18 years of age who is a party to a proceeding brought under the juvenile judicial proceedings chapters. In a delinquency proceeding, a parent, guardian, or custodian of the child may serve as a guardian ad litem for the child, providing his or her interests do not conflict with the interests of the child. The guardian ad litem appointed under this section shall not be a party to that proceeding or an employee or representative of such party.

Sec. 5. 33 V.S.A. chapter 52A is added to read:

CHAPTER 52A. YOUTHFUL OFFENDERS

§ 5280. COMMENCEMENT OF YOUTHFUL OFFENDER

PROCEEDINGS IN THE FAMILY DIVISION

(a) A proceeding under this chapter shall be commenced by:

(1) the filing of a youthful offender petition by a State's Attorney; or

(2) transfer to the Family Court of a proceeding from the Criminal Division of the Superior Court as provided in section 5281 of this title.

(b) A State's Attorney may commence a proceeding in the Family Division of the Superior Court concerning a child who is alleged to have committed an offense after attaining 16 years of age but not 22 years of age that could otherwise be filed in the Criminal Division.

(c) If a State's Attorney files a petition under subdivision (a)(1) of this section, the case shall proceed as provided under subsection 5281(b) of this title.

§ 5281. MOTION IN CRIMINAL DIVISION OF SUPERIOR COURT

(a) A motion may be filed in the Criminal Division of the Superior Court requesting that a defendant under 22 years of age in a criminal proceeding who had attained 12 years of age but not 22 years of age at the time the offense is alleged to have been committed be treated as a youthful offender. The motion may be filed by the State's Attorney, the defendant, or the court on its own motion.

(b) Upon the filing of a motion under this section or the filing of a youthful offender petition pursuant to section 5280 of this title, the Family Division shall hold a hearing pursuant to section 5283 of this title. Pursuant to section 5110 of this title, the hearing shall be confidential. Copies of all records relating to the case shall be forwarded to the Family Division. Conditions of release and any Department of Corrections supervision or custody shall remain in effect until the Family Division accepts the case for treatment as a youthful offender and orders conditions of juvenile probation pursuant to section 5284 of this title, or the case is otherwise concluded.

(c)(1) If the Family Division rejects the case for youthful offender treatment pursuant to subsection 5284 of this title, the case shall be transferred to the Criminal Division. The conditions of release imposed by the Criminal Division shall remain in effect, and the case shall proceed as though the motion for youthful offender treatment or youthful offender petition had not been filed.

(2) Subject to Rule 11 of the Vermont Rules of Criminal Procedure and Rule 410 of the Vermont Rules of Evidence, the Family Division's denial of the motion for youthful offender treatment and any information related to the youthful offender proceeding shall be inadmissible against the youth for any

purpose in the subsequent Criminal Division proceeding.

(d) If the Family Division accepts the case for youthful offender treatment, the case shall proceed to a confidential merits hearing or admission pursuant to sections 5227–5229 of this title.

§ 5282. REPORT FROM THE DEPARTMENT

(a) Within 30 days after the case is transferred to the Family Division or a youthful offender petition is filed in the Family Division, unless the court extends the period for good cause shown, the Department for Children and Families shall file a report with the Family Division of the Superior Court.

(b) A report filed pursuant to this section shall include the following elements:

(1) a recommendation as to whether diversion is appropriate for the youth because the youth is a low to moderate risk to reoffend;

(2) a recommendation as to whether youthful offender status is appropriate for the youth; and

(3) a description of the services that may be available for the youth.

(c) A report filed pursuant to this section is privileged and shall not be disclosed to any person other than:

(1) the Department;

(2) the court;

(3) the State’s Attorney;

(4) the youth, the youth’s attorney, and the youth’s guardian ad litem;

(5) the youth’s parent, guardian, or custodian if the youth is under 18 years of age, unless the court finds that disclosure would be contrary to the best interest of the child;

(6) the Department of Corrections; or

(7) any other person when the court determines that the best interests of the youth would make such a disclosure desirable or helpful.

§ 5283. HEARING IN FAMILY DIVISION

(a) Timeline. A youthful offender status hearing shall be held no later than 35 days after the transfer of the case from the Criminal Division or filing of a youthful offender petition in the Family Division.

(b) Notice. Notice of the hearing shall be provided to the State’s Attorney; the youth; the youth’s parent, guardian, or custodian; the Department; and the Department of Corrections.

(c) Hearing procedure.

(1) If the motion is contested, all parties shall have the right to present evidence and examine witnesses. Hearsay may be admitted and may be relied on to the extent of its probative value. If reports are admitted, the parties shall be afforded an opportunity to examine those persons making the reports, but sources of confidential information need not be disclosed.

(2) All youthful offender proceedings shall be confidential.

(d) Burden of proof. The burden of proof shall be on the moving party to prove by a preponderance of the evidence that a child should be granted youthful offender status. If the court makes the motion, the burden shall be on the youth.

(e) Further hearing. On its own motion or the motion of a party, the court may schedule a further hearing to obtain reports or other information necessary for the appropriate disposition of the case.

§ 5284. YOUTHFUL OFFENDER DETERMINATION AND DISPOSITION
ORDER

(a) In a hearing on a motion for youthful offender status, the court shall first consider whether public safety will be protected by treating the youth as a youthful offender. If the court finds that public safety will not be protected by treating the youth as a youthful offender, the court shall deny the motion and transfer the case to the Criminal Division of the Superior Court pursuant to subsection 5281(d) of this title. If the court finds that public safety will be protected by treating the youth as a youthful offender, the court shall proceed to make a determination under subsection (b) of this section.

(b)(1) The court shall deny the motion if the court finds that:

(A) the youth is not amenable to treatment or rehabilitation as a youthful offender; or

(B) there are insufficient services in the juvenile court system and the Department for Children and Families and the Department of Corrections to meet the youth's treatment and rehabilitation needs.

(2) The court shall grant the motion if the court finds that:

(A) the youth is amenable to treatment or rehabilitation as a youthful offender; and

(B) there are sufficient services in the juvenile court system and the Department for Children and Families and the Department of Corrections to meet the youth's treatment and rehabilitation needs.

(c) If the court approves the motion for youthful offender treatment after an adjudication pursuant to subsection 5281(d) of this title, the court:

(1) shall approve a disposition case plan and impose conditions of juvenile probation on the youth; and

(2) may transfer legal custody of the youth to a parent, relative, person with a significant relationship with the youth, or Commissioner, provided that any transfer of custody shall expire on the youth's 18th birthday.

(d) The Department for Children and Families and the Department of Corrections shall be responsible for supervision of and providing services to the youth until he or she reaches 22 years of age. Both Departments shall designate a case manager who together shall appoint a lead Department to have final decision-making authority over the case plan and the provision of services to the youth. The youth shall be eligible for appropriate community-based programming and services provided by both Departments.

§ 5285. MODIFICATION OR REVOCATION OF DISPOSITION

(a) If it appears that the youth has violated the terms of juvenile probation ordered by the court pursuant to subdivision 5284(c)(1) of this title, a motion for modification or revocation of youthful offender status may be filed in the Family Division of the Superior Court. The court shall set the motion for hearing as soon as practicable. The hearing may be joined with a hearing on a violation of conditions of probation under section 5265 of this title. A supervising juvenile or adult probation officer may detain in an adult facility a youthful offender who has attained 18 years of age for violating conditions of probation.

(b) A hearing under this section shall be held in accordance with section 5268 of this title.

(c) If the court finds after the hearing that the youth has violated the terms of his or her probation, the court may:

(1) maintain the youth's status as a youthful offender, with modified conditions of juvenile probation if the court deems it appropriate;

(2) revoke the youth's status as a youthful offender and transfer the case with a record of the petition, affidavit, adjudication, disposition, and revocation to the Criminal Division for sentencing; or

(3) transfer supervision of the youth to the Department of Corrections with all of the powers and authority of the Department and the Commissioner under Title 28, including graduated sanctions and electronic monitoring.

(d) If a youth's status as a youthful offender is revoked and the case is transferred to the Criminal Division pursuant to subdivision (c)(2) of this

section, the court shall hold a sentencing hearing and impose sentence. When determining an appropriate sentence, the court may take into consideration the youth's degree of progress toward rehabilitation while on youthful offender status. The Criminal Division shall have access to all Family Division records of the proceeding.

§ 5286. REVIEW PRIOR TO 18 YEARS OF AGE

(a) If a youth is adjudicated as a youthful offender prior to reaching 18 years of age, the Family Division shall review the youth's case before he or she reaches 18 years of age and set a hearing to determine whether the court's jurisdiction over the youth should be continued past 18 years of age. The hearing may be joined with a motion to terminate youthful offender status under section 5285 of this title. The court shall provide notice and an opportunity to be heard at the hearing to the State's Attorney, the youth, the Department for Children and Families, and the Department of Corrections.

(b) After receiving a notice of review under this section, the State may file a motion to modify or revoke pursuant to section 5285 of this title. If such a motion is filed, it shall be consolidated with the review under this section and all options provided for under section 5285 of this title shall be available to the court.

(c) The following reports shall be filed with the court prior to the hearing:

(1) The Department for Children and Families and the Department of Corrections shall jointly report their recommendations, with supporting justifications, as to whether the Family Division should continue jurisdiction over the youth past 18 years of age and, if continued jurisdiction is recommended, propose a case plan for the youth to ensure compliance with and completion of the juvenile disposition.

(2) If the Departments recommend continued supervision of the youthful offender past 18 years of age, the Departments shall report on the services which would be available for the youth.

(d) If the court finds that it is in the best interest of the youth and consistent with community safety to continue the case past 18 years of age, it shall make an order continuing the court's jurisdiction up to 22 years of age. The Department for Children and Families and the Department of Corrections shall jointly develop a case plan for the youth and coordinate services and share information to ensure compliance with and completion of the juvenile disposition.

(e) If the court finds that it is not in the best interest of the youth to continue the case past 18 years of age, it shall terminate the disposition order, discharge the youth, and dismiss the case in accordance with subsection

5287(c) of this title.

§ 5287. TERMINATION OR CONTINUANCE OF PROBATION

(a) A motion may be filed at any time in the Family Division requesting that the court terminate the youth's status as a youthful offender and discharge him or her from probation. The motion may be filed by the State's Attorney, the youth, the Department, or the court on its own motion. The court shall set the motion for hearing and provide notice and an opportunity to be heard at the hearing to the State's Attorney, the youth, the Department for Children and Families and the Department of Corrections.

(b) In determining whether a youth has successfully completed the terms of probation, the Court shall consider:

(1) the degree to which the youth fulfilled the terms of the case plan and the probation order;

(2) the youth's performance during treatment;

(3) reports of treatment personnel; and

(4) any other relevant facts associated with the youth's behavior.

(c) If the court finds that the youth has successfully completed the terms of the probation order, it shall terminate youthful offender status, discharge the youth from probation, and file a written order dismissing the Family Division case. The Family Division shall provide notice of the dismissal to the Criminal Division, which shall dismiss the criminal case.

(d) Upon discharge and dismissal under subsection (c) of this section, all records relating to the case in the Criminal Division shall be expunged, and all records relating to the case in the Family Court shall be sealed pursuant to section 5119 of this title.

(e) If the court denies the motion to discharge the youth from probation, the court may extend or amend the probation order as it deems necessary.

§ 5288. RIGHTS OF VICTIMS IN YOUTHFUL OFFENDER

PROCEEDINGS

(a) The victim in a proceeding involving a youthful offender shall have the following rights:

(1) to be notified by the prosecutor in a timely manner when a court proceeding is scheduled to take place and when a court proceeding to which he or she has been notified will not take place as scheduled;

(2) to be present during all court proceedings subject to the provisions of Rule 615 of the Vermont Rules of Evidence and to express reasonably his or

her views concerning the offense and the youth;

(3) to request notification by the agency having custody of the youth before the youth is released from a residential facility;

(4) to be notified by the prosecutor as to the final disposition of the case;

(5) to be notified by the prosecutor of the victim's rights under this section.

(b) In accordance with court rules, at a hearing on a motion for youthful offender treatment, the court shall ask if the victim is present and, if so, whether the victim would like to be heard regarding disposition. In ordering disposition, the court shall consider any views offered at the hearing by the victim. If the victim is not present, the court shall ask whether the victim has expressed, either orally or in writing, views regarding disposition and shall take those views into consideration in ordering disposition.

(c) No youthful offender proceeding shall be delayed or voided by reason of the failure to give the victim the required notice or the failure of the victim to appear.

(d) As used in this section, "victim" shall have the same meaning as in 13 V.S.A. § 5301(4).

Sec. 6. 33 V.S.A. § 5291 is amended to read:

§ 5291. DETENTION OR TREATMENT OF MINORS CHARGED AS
DELINQUENTS IN SECURE FACILITIES FOR THE
DETENTION OR TREATMENT OF DELINQUENT CHILDREN

~~(a) Unless ordered otherwise at or after a temporary care hearing, the Commissioner shall have sole authority to place the child who is in the custody of the Department in a secure facility for the detention or treatment of minors.~~

~~(b) Upon a finding at the temporary care hearing that no other suitable placement is available and the child presents a risk of injury to him or herself, to others, or to property, the Court may order that the child be placed in Prior to disposition, the court shall have the sole authority to place a child who is in the custody of the Department in a secure facility used for the detention or treatment of delinquent children until the Commissioner determines that a suitable placement is available for the child. The court shall not order placement in a secure facility without a recommendation from the Department that placement in a secure facility is necessary. Alternatively, the Court may order that the child be placed in a secure facility used for the detention or treatment of delinquent children for up to seven days. Any order for~~

placement at a secure facility shall expire at the end of the seventh day following its issuance unless, after hearing, the Court extends the order for a time period not to exceed seven days. The court order shall include a finding that no other suitable placement is available and the child presents a risk of injury to others or to property.

(b) Absent good cause shown and notwithstanding section 5227 of this title, when a child is placed in a secure facility pursuant to subsection (a) of this section and remains in a secure facility for 45 days following the preliminary hearing, the merits hearing shall be held and merits adjudicated within 45 days of the date of the preliminary hearing or the court shall dismiss the petition with prejudice. If merits have been found, the court shall review the secure facility placement order at the merits hearing.

(c) If a child is placed in a secure facility pursuant to subsection (a) of this section and secure facility placement continues following the merits hearing review pursuant to subsection (b) of this section, the court shall, within 35 days of the merits adjudication:

(1) hold the disposition hearing, or, if disposition is not held within 35 days;

(2) hold a hearing to review the continued secure facility placement.

(d) A child placed in a secure facility on an order pursuant to subsections (a), (b), or (c) of this section with a finding that no other suitable placement is available and the child presents a risk of harm to others or to property shall be entitled to an independent, second evidentiary hearing, which shall be a hearing de novo by a single justice of the Vermont Supreme Court. The Chief Justice may make an appointment or special assignment in accordance with 4 V.S.A. § 22 to conduct the de novo hearing required by this subsection. Unless the parties stipulate to the admission of portions of the trial court record, the de novo review shall be a new evidentiary hearing without regard to the record compiled before the trial court.

(e) Following disposition, the Commissioner shall have the sole authority to place a child who is in the custody of the Department in a secure facility for the detention or treatment of delinquent children pursuant to the Department's administrative policies on admission.

Sec. 7. VERMONT SUPREME COURT; RULEMAKING

The Vermont Supreme Court shall review the youthful offender proceedings statutes and consider a proposed new or amended rule for adoption on or before July 1, 2018 to make clear that a youth is waiving the right to trial by jury in cases where a youth is adjudicated in the Family Division pursuant to 33 V.S.A. §§ 5281 and 5227–5229, youthful offender status is revoked, and a

criminal record of the petition, adjudication, disposition and revocation is sent to the Criminal Division pursuant to 33 V.S.A. §5285 for sentencing.

Sec. 8. REPEALS

(a) 33 V.S.A. § 5104 (retention of jurisdiction over youthful offenders) is repealed on July 1, 2018.

(b) 33 V.S.A. § 5280 (commencement of youthful offender proceedings in the Family Division) is repealed on July 1, 2018.

(c) 33 V.S.A. § 5281 (motion in Criminal Division of Superior Court) is repealed on July 1, 2018.

(d) 33 V.S.A. § 5282 (report from the Department) is repealed on July 1, 2018.

(e) 33 V.S.A. § 5283 (hearing in Family Division) is repealed on July 1, 2018.

(f) 33 V.S.A. § 5284 (determination and order) is repealed on July 1, 2018.

(g) 33 V.S.A. § 5285 (modification or revocation of disposition) is repealed on July 1, 2018.

(h) 33 V.S.A. § 5286 (review prior to the age of 18) is repealed on July 1, 2018.

(i) 33 V.S.A. § 5287 (termination or continuance of probation) is repealed on July 1, 2018.

(j) 33 V.S.A. § 5288 (rights of victims in youthful offender proceedings) is repealed on July 1, 2018.

Sec. 8. EFFECTIVE DATES

This act shall take effect on July 1, 2017, except for Secs. 2 (Chapter 16), 5 (Chapter 52A), and 6 (detention or treatment of minors charged as delinquents in secure facilities for the detention or treatment of delinquent children) which shall take effect on July 1, 2018.

(Committee vote: 10-0-1)

(For text see Senate Journal February 17, 2017)

S. 56

An act relating to life insurance policies and the Vermont Uniform Securities Act

Rep. Sullivan of Dorset, for the Committee on Commerce and Economic Development, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu

thereof the following:

* * * Secondary Addressee for Life Insurance * * *

Sec. 1. 8 V.S.A. § 3762(d) is added to read:

(d) No individual policy of life insurance covering an individual 64 years of age or older that has been in force for at least one year shall be canceled for nonpayment of premium unless, after expiration of the grace period and not less than 21 days before the effective date of any such cancellation, the insurer has mailed a notice of impending cancellation in coverage to the policyholder and to a specified secondary addressee if such addressee has been designated by name and address in writing by the policyholder. An insurer shall notify the applicant of the right to designate a secondary addressee at the time of application for the policy on a form provided by the insurer, and annually thereafter, and the policyholder shall have the right to designate a secondary addressee, in writing, by name and address, at any time the policy is in force, by submitting such written notice to the insurer. If a life insurance policy provides a grace period longer than 51 days for nonpayment of premium, the notice of cancellation in coverage required by this subsection shall be mailed to the policyholder and to the secondary addressee not less than 21 days prior to the expiration of the grace period provided in such policies.

* * * Penalty Enhancements for Violations Involving a
Vulnerable Adult * * *

Sec. 2. 8 V.S.A. § 24 is amended to read:

§ 24. SENIOR INVESTOR PROTECTION

* * *

(e) The Commissioner, in addition to other powers conferred on the Commissioner by law, may increase the amount of an administrative penalty by not more than \$5,000.00 per violation for violations involving a person who is a vulnerable adult as defined in 33 V.S.A. § 6902(14).

* * * Securities Act Penalties, Generally; Vulnerable Adults * * *

Sec. 3. 9 V.S.A. § 5412(c) is amended to read:

(c) If the Commissioner finds that the order is in the public interest and subdivisions (d)(1) through (6), (8), (9), (10), (12), or (13) of this section authorize the action, an order under this chapter may censure, impose a bar on, or impose a civil penalty on a registrant in an amount not more than \$15,000.00 for each violation ~~and not more than \$1,000,000.00 for more than one violation~~, and recover the costs of the investigation from the registrant, and, if the registrant is a broker-dealer or investment adviser, a partner, officer,

director, or person having a similar status or performing similar functions, or a person directly or indirectly in control of the broker-dealer or investment adviser. The limitations on civil penalties contained in this subsection shall not apply to settlement agreements.

Sec. 4. 9 V.S.A. § 5603(b)(2)(C) is amended to read:

(C) imposing a civil penalty up to \$15,000.00 for each violation ~~and not more than \$1,000,000.00 for more than one violation~~; an order of rescission, restitution, or disgorgement directed to a person that has engaged in an act, practice, or course of business constituting a violation of this chapter or the predecessor act or a rule adopted or an order issued under this chapter or the predecessor act. The court may increase a civil penalty amount by not more than \$5,000.00 per violation for violations involving a person who is a vulnerable adult as defined in 33 V.S.A. § 6902(14). The limitations on civil penalties contained in this subdivision shall not apply to settlement agreements; and

Sec. 5. 9 V.S.A. § 5604(d) is amended to read:

(d) In a final order under subsection (b) or (c) of this section, the Commissioner may impose a civil penalty of not more than \$15,000.00 for each violation ~~and not more than \$1,000,000.00 for more than one violation~~. The Commissioner may also require a person to make restitution or provide disgorgement of any sums shown to have been obtained in violation of this chapter, plus interest at the legal rate. The limitations on civil penalties contained in this subsection shall not apply to settlement agreements.

* * * Securities Act Housekeeping * * *

Sec. 6. 9 V.S.A. § 5302 is amended to read:

§ 5302. NOTICE FILING

* * *

(c) With respect to a security that is a federal covered security under 15 U.S.C. ~~§ 77r(b)(4)(E)~~ § 77r(b)(4)(F), a rule under this chapter may require a notice filing by or on behalf of an issuer to include a copy of Form D, including the Appendix, as promulgated by the Securities and Exchange Commission, and a consent to service of process complying with section 5611 of this chapter signed by the issuer not later than 15 days after the first sale of the federal covered security in this State and the payment of a fee as set forth in subsection (e) of this section. The notice filing shall be effective for one year from the date the notice filing is accepted as complete by the Office of the Commissioner. On or before expiration, the issuer may annually renew a notice filing by filing a copy of those records filed by the issuer with the Securities and Exchange Commission that are required by rule or order under

this chapter to be filed and by paying an annual renewal fee as set forth in subsection (e) of this section.

(d) Subject to the provisions of 15 U.S.C. § 77r(c)(2) and any rules adopted thereunder, with respect to any security that is a federal covered security under 15 U.S.C. § 77r(b)(3) or ~~(4)(A)-(C)~~ (4)(A)-(E) and (G) and that is not otherwise exempt under sections 5201 through 5203 of this title, a rule adopted or order issued under this chapter may require any or all of the following with respect to such federal covered securities, at such time as the Commissioner may deem appropriate:

* * *

* * * Philanthropy Protection Act; Exemption Repeal * * *

Sec. 7. REPEAL

9 V.S.A. § 5615 (exempting Vermont from the Philanthropy Protection Act of 1995) is repealed.

* * * Cooperative Insurance; Bylaws * * *

Sec. 8. 8 V.S.A. § 3925 is amended to read:

§ 3925. BYLAWS; COMPULSORY PROVISIONS

The bylaws of a cooperative insurance corporation to which a certificate of authority is issued shall include substantially the following provisions:

(1) The corporate powers of such corporation shall be exercised by a board of directors, who shall be not less than five in number. Such directors shall be divided into classes and a portion only elected each year. They shall be elected for a term of not more than four years each and shall choose ~~from their number~~ a president, a secretary, and such other officers as may be deemed necessary. After the first year, the directors shall be chosen at an annual meeting to be held on the second Tuesday of January, unless some other day is designated in such bylaws, at which meeting each person insured shall have one vote and may be entitled to vote by proxy under such rules and regulations as may be prescribed by the bylaws.

(2) Such corporation shall keep proper books, including a policy register, in which the secretary shall enter the complete record of all its transactions and those of the board of directors and executive committee. Such books shall at all times show fully and truly the condition, affairs, and business of such corporation and shall be open for inspection by every person insured, each day from nine o'clock in the forenoon to four o'clock in the afternoon, Saturdays, Sundays, and legal holidays excepted.

(3) If authorized as an assessment cooperative insurance corporation as

outlined in subsection 3920(a) of this title, such corporation may assess for the purposes specified in section 3927 of this title, and the bylaws shall specify the manner of giving notice of such assessments, which may be either personal or by mail, and, if by mail, shall be deemed complete if such notice is deposited, postage prepaid, in the post office at the place where the principal office of the corporation is located, directed to the person insured at his or her last known place of residence or business. A person insured who neglects or refuses to pay his or her assessments, for that reason or for any other reason satisfactory to the board of directors or its executive committee, may be excluded from such corporation and, when thus excluded, the secretary shall cancel or withdraw his or her policy or policies, subject to the cancellation provisions in sections 3879 through 3882 and chapter 113, subchapter 2 of this title, provided that such person shall remain liable for his or her pro rata share of losses and expenses incurred on or before the date of his or her exclusion and for the penalty herein provided, in case an action is brought against him or her. If a member of such corporation is so excluded and his or her policy so canceled, the secretary shall forthwith enter such cancellation and the date thereof on the records kept in the office of the corporation and serve notice of such cancellation on the person so excluded, as provided herein for the service of notice of assessment. However, in such event, the person so excluded or whose policy is so canceled shall be entitled to the repayment of an equitable portion of the unearned paid premium on such policy. The officers of such corporation shall proceed to collect all assessments within 30 days after the expiration of the notice to pay the same. Neglect or refusal on their part so to proceed or to perform any of the duties imposed on them by law shall render them individually liable for the amount lost to any person, due to such neglect or refusal, and an action may be maintained by such person against such officers to collect such amount. An action may be brought by the corporation against a person insured therein to recover all assessments which he or she may neglect or refuse to pay, and there may be recovered from him or her in such action both the amount so assessed, with lawful interest thereon, and, as a penalty for such neglect or refusal, 50 percent of such assessment in addition thereto.

(4) Any person insured by an assessment cooperative insurance corporation may withdraw therefrom at any time by giving written notice to the corporation, stating the date of withdrawal, paying his or her share of all claims then existing against such corporation, and surrendering his or her policy or policies.

(5) Any person insured by a nonassessment cooperative insurance corporation may withdraw from it at any time by giving written notice to the corporation stating the date of withdrawal and surrendering his or her policy or policies.

(6) ~~Persons residing or owning property within the state of Vermont any state where the corporation is authorized to do business~~ may be insured upon the same terms and conditions as original members and such other terms as may be prescribed in the bylaws of the corporation.

(7) ~~Nonresidents owning property within the state of Vermont may be insured therein and shall have all the rights and privileges of the corporation and be accountable as are other persons insured therein, but shall not be eligible to hold office in the corporation;~~

(8) The bylaws of such corporation may be amended at any time.

* * * Group Life Insurance; Employee Pay All * * *

Sec. 9. [DELETED.]

Sec. 10. [DELETED.]

Sec. 11. [DELETED.]

Sec. 12. [DELETED.]

Sec. 13. [DELETED.]

Sec. 14. [DELETED.]

Sec. 15. [DELETED.]

* * * Assistant Medical Examiners; Liability Protections * * *

Sec. 16. 18 V.S.A. § 511 is added to read:

§ 511. ACTIONS AGAINST MEDICAL EXAMINERS

Actions taken by any person given authority under this chapter, including an assistant medical examiner, shall be considered to be actions taken by a State employee for the purposes of 3 V.S.A. chapter 29 and 12 V.S.A. chapter 189 if such actions occurred within the scope of such person's duties.

* * * Portable Electronics Insurance; Notice Requirements * * *

Sec. 17. 8 V.S.A. § 4260 is amended to read:

§ 4260. NOTICE REQUIREMENTS

(a) Whenever notice or correspondence with respect to a policy of portable electronics insurance is required pursuant to the policy or is otherwise required by law, it shall be in writing. Notwithstanding any other provision of law, notices and correspondence may be sent either by mail or by electronic means as set forth in this section. If the notice or correspondence is mailed, it shall be sent to the portable electronics vendor at the vendor's mailing address specified for such purpose and to its affected customers' last known mailing address on file with the insurer. The insurer or vendor of portable electronics

shall maintain proof of mailing in a form authorized or accepted by the U.S. Postal Service or other commercial mail delivery service. If the notice or correspondence is sent by electronic means, it shall be sent to the portable electronics vendor at the vendor's electronic mail address specified for such purpose and to its affected customers' last known electronic mail address as provided by each customer to the insurer or vendor of portable electronics. ~~A customer is deemed to consent to receive notice and correspondence by electronic means if the insurer or vendor first discloses to the customer that by providing an electronic mail address the customer consents to receive electronic notice and correspondence at the address, and the customer provides an electronic mail address~~ customer's provision of an electronic mail address to the insurer or vendor of portable electronics is deemed consent to receive notices and correspondence by electronic means at such address if notice of that consent is provided to the customer within 30 calendar days. The insurer or vendor of portable electronics shall maintain proof that the notice or correspondence was sent.

* * *

* * * Workers' Compensation; High-Risk Occupations and Industries * * *

Sec. 18. WORKERS' COMPENSATION; INDUSTRIES AND OCCUPATIONS WITH HIGH RISK, HIGH PREMIUMS, AND FEW POLICY HOLDERS; STUDY; REPORT

(a) The Commissioner of Financial Regulation, in consultation with the Commissioner of Labor, the National Council on Compensation Insurance, and other interested stakeholders, shall identify and study industries and occupations in Vermont that experience a high risk of workplace and on-the-job injuries and whose workers' compensation insurance is characterized by high premiums and few policy holders in the insurance pool. The industries and occupations addressed in the study shall include, among others, logging and log hauling, as well as arborists, roofers, and occupations in saw mills and wood manufacturing operations. In particular, the Commissioner shall:

(1) examine difference in the potential for loss, premium rates, and experience and participation in the workers' compensation marketplace between the industries and occupations identified, and the average for all industries and occupations in Vermont;

(2) study potential methods for reducing workers' compensation premium rates and costs for high-risk industries and occupations, including risk pooling between multiple high-risk industries or occupations, creating self-insured trusts; creating voluntary safety certification programs, and programs or best practices employed by other states; and

(3) model the potential impact on workers' compensation premiums and costs from each of the methods identified pursuant to subdivision (2) of this subsection.

(b) On or before January 15, 2018, the Commissioner of Financial Regulation shall submit a written report to the House Committee on Commerce and Economic Development and the Senate Committee on Finance regarding his or her findings and any recommendations for legislative action to reduce the workers' compensation premium rates and costs for the industries identified in the study.

* * * Workers' Compensation; Short-term and Seasonal Policies; Studies * * *

Sec. 19. [DELETED.]

Sec. 20. SHORT-TERM WORKERS' COMPENSATION POLICIES;
STUDY; REPORT

The Commissioner of Financial Regulation, in consultation with the Commissioner of Labor, shall examine potential measures to encourage the creation of affordable seasonal and short-term workers' compensation policies and measures to reduce the cost of workers' compensation insurance coverage for small employers in seasonal occupations. On or before January 15, 2018, the Commissioner shall report to the House Committee on Commerce and Economic Development and the Senate Committee on Finance regarding his or her finding and any recommendations for legislative action.

Sec. 21. REGIONAL ASSIGNED RISK POOL; STUDY; REPORT

The Commissioner of Financial Regulation shall examine potential mechanisms for joining with neighboring states to create a regional assigned risk pool for workers' compensation insurance and whether the creation of a regional assigned risk pool could reduce the cost of administering Vermont's assigned risk pool. On or before January 15, 2018, the Commissioner shall submit a written report to the House Committee on Commerce and Economic Development and the Senate Committee on Finance with his or her findings and any recommendations for legislative action related to the implementation of a regional assigned risk pool for workers' compensation insurance.

Sec. 22. ADMINISTRATION OF ASSIGNED RISK POOL; STUDY;
REPORT

The Commissioner of Financial Regulation shall examine whether any premium savings or reductions in costs could be realized if the assigned risk pool for workers' compensation was administered directly by the Department of Financial Regulation rather than through a third-party. On or before January 15, 2018, the Commissioner shall submit a written report to the House Committee on Commerce and Economic Development and the Senate

Committee on Finance with his or her findings and any recommendations for legislative action.

* * * Unemployment Compensation; Referee Final Decisions * * *

Sec. 23. [DELETED.]

Sec. 24. [DELETED.]

* * * Effective Date; Application * * *

Sec. 25. EFFECTIVE DATE; APPLICATION

(a) This act shall take effect on July 1, 2017.

(b) Sec. 17 shall apply to portable electronics insurance policies issued or renewed on or after July 1, 2017.

and that after passage the title of the bill be amended to read: “An act relating to insurance and securities”

(Committee vote: 10-0-1)

(For text see Senate Journal February 28, 2017)

Favorable

H. 520

An act relating to approval of amendments to the charter of the Town of Stowe

Rep. Lewis of Berlin, for the Committee on Government Operations, recommends the bill ought to pass.

(Committee Vote: 10-0-1)

Senate Proposal of Amendment

H. 171

An act relating to expungement

The Senate proposes to the House to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 7601 is amended to read:

§ 7601. DEFINITIONS

As used in this chapter:

(1) “Court” means the Criminal Division of the Superior Court.

(2) “Criminal history record” means all information documenting an individual’s contact with the criminal justice system, including data regarding

identification, arrest or citation, arraignment, judicial disposition, custody, and supervision.

(3) “Predicate offense” means a criminal offense that can be used to enhance a sentence levied for a later conviction, and includes operating a vehicle under the influence of intoxicating liquor or other substance in violation of 23 V.S.A. § 1201, domestic assault in violation of section 1042 of this title, and stalking in violation of section 1062 of this title. “Predicate offense” shall not include misdemeanor possession of marijuana or a disorderly conduct offense under section 1026 of this title.

(4) “Qualifying crime” means:

(A) a misdemeanor offense ~~which~~ that is not:

(i) a listed crime as defined in subdivision 5301(7) of this title;

(ii) an offense involving sexual exploitation of children in violation of chapter 64 of this title;

(iii) an offense involving violation of a protection order in violation of section 1030 of this title;

(iv) a prohibited act as defined in section 2632 of this title; or

(v) a predicate offense;

(B) a violation of subsection 3701(a) of this title related to criminal mischief;

(C) a violation of section 2501 of this title related to grand larceny;
or

(D) a violation of section 1201 of this title related to burglary, excluding any burglary into an occupied dwelling, as defined in subdivision 1201(b)(2) of this title.

Sec. 2. 13 V.S.A. § 7602 is amended to read:

§ 7602. EXPUNGEMENT AND SEALING OF RECORD,
POSTCONVICTION; PROCEDURE

* * *

(b)(1) The ~~Court~~ court shall grant the petition and order that the criminal history record be expunged pursuant to section 7606 of this title if the following conditions are met:

(A) At least ~~10~~ five years have elapsed since the date on which the person successfully completed the terms and conditions of the sentence for the conviction, or if the person has successfully completed the terms and conditions of an indeterminate term of probation that commenced at least ~~10~~

five years previously.

(B) The person has not been convicted of a crime arising out of a new incident or occurrence since the person was convicted for the qualifying crime.

(C) Any restitution ordered by the ~~Court~~ court has been paid in full.

(D) The ~~Court~~ court finds that expungement of the criminal history record serves the interest of justice.

(2) The ~~Court~~ court shall grant the petition and order that all or part of the criminal history record be sealed pursuant to section 7607 of this title if the conditions of subdivisions (1)(A), (B), and (C) of this subsection are met and the ~~Court~~ court finds that:

(A) sealing the criminal history record better serves the interest of justice than expungement; and

(B) the person committed the qualifying crime after reaching 19 years of age.

(c)(1) The ~~Court~~ court shall grant the petition and order that the criminal history record be expunged pursuant to section 7606 of this title if the following conditions are met:

(A) At least ~~20~~ 10 years have elapsed since the date on which the person successfully completed the terms and conditions of the sentence for the conviction.

(B) The person has not been convicted of a felony arising out of a new incident or occurrence since the person was convicted of the qualifying crime.

(C) The person has not been convicted of a misdemeanor during the past ~~15~~ five years.

(D) Any restitution ordered by the ~~Court~~ court for any crime of which the person has been convicted has been paid in full.

(E) After considering the particular nature of any subsequent offense, the ~~Court~~ court finds that expungement of the criminal history record for the qualifying crime serves the interest of justice.

(2) The ~~Court~~ court shall grant the petition and order that all or part of the criminal history record be sealed pursuant to section 7607 of this title if the conditions of subdivisions (1)(A), (B), (C), and (D) of this subsection are met and the ~~Court~~ court finds that:

(A) sealing the criminal history record better serves the interest of

justice than expungement; and

(B) the person committed the qualifying crime after reaching 19 years of age.

~~(d) The Court shall grant the petition and order that the criminal history record be expunged in accordance with section 7606 of this title if the following conditions are met:~~

~~(1) The petitioner committed the qualifying crime or crimes prior to reaching 25 years of age.~~

~~(2) At least five years have elapsed since the date on which the person successfully completed the terms and conditions of the sentence for the conviction, or if the person has successfully completed the terms and conditions of an indeterminate term of probation that commenced at least five years previously.~~

~~(3) The person has not been convicted of a crime arising out of a new incident or occurrence since the person was convicted of the qualifying crime.~~

~~(4) The person successfully completed a term of regular employment or public service, independent of any service ordered as a part of the petitioner's sentence for the conviction, and as approved by the Community Justice Network of Vermont, which may include:~~

~~(A) community service hours completed without compensation, reparation of harm to the victim, or education regarding ways not to reoffend, or a combination of the three;~~

~~(B) at least one year of service in the U.S. Armed Forces, followed by an honorable discharge or continued service in good standing;~~

~~(C) at least one year of service in AmeriCorps or another local, state, national, or international service program, followed by successful completion of the program or continued service in good standing; or~~

~~(D) at least one year of regular employment.~~

~~(5) Any restitution ordered by the Court for any crime of which the person has been convicted has been paid in full.~~

~~(6) The Court finds that expungement of the criminal history record serves the interest of justice. [Repealed.]~~

(e) For petitions filed pursuant to subdivision (a)(1)(B) of this section, the ~~Court~~ court shall grant the petition and order that the criminal history record be expunged in accordance with section 7606 of this title if the following conditions are met:

(1) At least one year has elapsed since the completion of any sentence or supervision for the offense, whichever is later.

(2) Any restitution ordered by the ~~Court~~ court has been paid in full.

(3) The ~~Court~~ court finds that expungement of the criminal history record serves the interest of justice.

(f) For petitions filed pursuant to subdivision (a)(1)(B) of this section for a conviction for possession of a regulated drug under 18 V.S.A. chapter 84, subchapter 1 in an amount that is no longer prohibited by law or for which criminal sanctions have been removed:

(1) The petitioner shall bear the burden of establishing that his or her conviction was based on possessing an amount of regulated drug that is no longer prohibited by law or for which criminal sanctions have been removed.

(2) There shall be a rebuttable presumption that the amount of the regulated drug specified in the affidavit of probable cause associated with the petitioner's conviction was the amount possessed by the petitioner.

(g) Prior to granting an expungement or sealing under this section for petitions filed pursuant to subdivision 7601(4)(D) of this title, the ~~Court~~ court shall make a finding that the conduct underlying the conviction under section 1201 of this title did not constitute a burglary into an occupied dwelling, as defined in subdivision 1201(b)(2) of this title. The petitioner shall bear the burden of establishing this fact.

Sec. 3. 13 V.S.A. § 7605 is amended to read:

§ 7605. DENIAL OF PETITION

If a petition for expungement is denied by the ~~Court~~ court pursuant to this chapter, no further petition shall be brought for at least five years, unless a shorter duration is authorized by the court.

Sec. 4. 13 V.S.A. § 7606 is amended to read:

§ 7606. EFFECT OF EXPUNGEMENT

(a) Upon entry of an expungement order, the order shall be legally effective immediately and the person whose record is expunged shall be treated in all respects as if he or she had never been arrested, convicted, or sentenced for the offense. The court shall issue an order to expunge all records and files related to the arrest, citation, investigation, charge, adjudication of guilt, criminal proceedings, and probation related to the sentence. The ~~Court~~ court shall issue the person a certificate stating that such person's behavior after the conviction has warranted the issuance of the order and that its effect is to annul the record of arrest, conviction, and sentence. The ~~Court~~ court shall

provide notice of the expungement to the respondent, Vermont Crime Information Center (VCIC), the arresting agency, and any other entity that may have a record related to the order to expunge. The VCIC shall provide notice of the expungement to the Federal Bureau of Investigation's National Crime Information Center.

* * *

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

(For text see House Journal March 2, 2017)

H. 297

An act relating to miscellaneous court operations procedures

The Senate proposes to the House to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

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.

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

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

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

* * *

(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.~~

* * *

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

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

Whenever a person changes his or her name, as provided in this chapter, he or she shall provide the ~~probate division of the superior court~~ Probate Division of the Superior Court with a copy of his or her birth certificate and, if married, a copy of his or her civil marriage certificate, and a copy of the birth certificate of each minor child, if any. The ~~register of with whom~~ Probate Division where the change of name is filed and recorded shall transmit the 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.

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

§ 6-102. RECORDS CONFIDENTIAL, ~~COURT RECORDS SEALED~~

* * *

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

(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.

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

§ 341. REQUIREMENTS GENERALLY; RECORDING

(a) Deeds and other conveyances of lands, or of an estate or interest therein, shall be signed by the party granting the same and acknowledged by the grantor before a town clerk, notary public, master, or county clerk, ~~or judge or register of probate~~ and recorded at length in the clerk's office of the town in which such lands lie. Such ~~acknowledgement~~ acknowledgment before

a notary public shall be valid without an official seal being affixed to his or her signature.

* * *

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

§ 463. BY SEPARATE INSTRUMENT

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

I hereby certify that the following described mortgage is paid in full and satisfied, viz: _____ mortgagor to _____ mortgagee, dated _____ 20____, and recorded in book _____, page _____, 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, it shall discharge such mortgage and bar actions brought thereon.

Sec. 7. 32 V.S.A. § 7449 is amended to read:

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

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

Sec. 8. REPEAL

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

Sec. 9. EFFECTIVE DATE

This act shall take effect on passage.

(For text see House Journal March 1, 2017)

Consent Calendar

Concurrent Resolutions

The following concurrent resolutions have been introduced for approval by the Senate and House and will be adopted automatically unless a Senator or Representative requests floor consideration before the end of the session of the next legislative day. Requests for floor consideration in either chamber should be communicated to the Secretary's office and/or the House Clerk's office,

respectively. For text of resolutions, see Addendum to House Calendar and Senate Calendar.

H.C.R. 107

House concurrent resolution designating April 2017 as Financial Capability Month in Vermont

H.C.R. 108

House concurrent resolution designating Thursday, April 6, 2017 as Alzheimer's Awareness Day at the State House

H.C.R. 109

House concurrent resolution congratulating Alison Bechdel of Bolton on being named the third Vermont Cartoonist Laureate

H.C.R. 110

House concurrent resolution congratulating the 2017 Essex High School State championship Vermont-NEA Scholars' Bowl team

H.C.R. 111

House concurrent resolution congratulating the 2017 Junior Iron Chef championship teams

H.C.R. 112

House concurrent resolution honoring Alexander L. Aldrich for his two decades of exemplary leadership in the furtherance of the arts in Vermont

H.C.R. 113

House concurrent resolution congratulating Lise Gates of Enosburg Falls on being named a 2017 Mother of Achievement

H.C.R. 114

House concurrent resolution honoring Vermont Air National Guard Chief Master Sergeant John W. Felix III for his distinguished military service

H.C.R. 115

House concurrent resolution honoring Christine Brock of St. Albans for her professional and personal dedication to helping others improve their lives

H.C.R. 116

House concurrent resolution congratulating the 2017 University of Vermont Catamounts America East championship men's basketball team

H.C.R. 117

House concurrent resolution congratulating the 2017 Enosburg Falls High School Hornets Division II championship boys' basketball team

H.C.R. 118

House concurrent resolution recognizing the 3–4–50 chronic disease resource as a valuable preventative health care guide

H.C.R. 119

House concurrent resolution commemorating the 240th anniversary of the Battle of Bennington

H.C.R. 120

House concurrent resolution congratulating the Ludlow Rotary Club on its 90th birthday

H.C.R. 121

House concurrent resolution congratulating the 2017 Proctor High School Phantoms Division IV championship boys' basketball team

H.C.R. 122

House concurrent resolution designating April 13, 2017 as Drug Overdose Awareness Day at the State House

S.C.R. 13

Senate concurrent resolution congratulating Vermont Technical College on its 150th anniversary and designating April 13, 2017 as Vermont Tech Day

Public Hearings

April 20, 2017 - Room 10, 10:00 AM-12:00 PM - Federal 2018 Farm bill - House Agriculture and Forestry; Senate Agriculture