

# House Calendar

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Friday, March 02, 2018

59th DAY OF THE ADJOURNED SESSION

House Convenes at 10:30 A.M.

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**ORDERS OF THE DAY**

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**ACTION CALENDAR**

**Unfinished Business of March 1, 2018**

**Favorable with Amendment**

**H. 684**

An act relating to professions and occupations regulated by the Office of Professional Regulation

**Rep. LaClair of Barre Town**, for the Committee on Government Operations, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Office of Professional Regulation \* \* \*

Sec. 1. 3 V.S.A. § 123 is amended to read:

§ 123. DUTIES OF OFFICE

(a) The Office shall provide administrative, secretarial, financial, investigatory, inspection, and legal services to the boards. The services provided by the Office shall include:

\* \* \*

(9) Standardizing, to the extent feasible and with the advice of the boards, all applications, licenses, and other related forms and procedures, and adopting uniform procedural rules governing the investigatory and disciplinary process for all boards set forth in section 122 of this chapter.

\* \* \*

(11) Assisting the boards in adopting, amending, and repealing developing rules consistent with the principles set forth in 26 V.S.A. chapter 57. Notwithstanding any provision of law to the contrary, the Secretary of State shall serve as the adopting authority for those rules.

\* \* \*

(g) The Office of Professional Regulation shall ~~create a process~~ establish uniform procedures applicable to all of the professions and boards set forth in section 122 of this chapter, providing for:

(1) ~~accepting~~ appropriate recognition of education, training, or service completed by a member of the U.S. Armed Forces toward the requirements of professional licensure or certification; and

(2) ~~creating a process for educational institutions under the supervision~~

~~of a licensing board to award educational credits to a member of the U.S. Armed Forces for courses taken as part of the member's military training or service that meet the standards of the American Council on Education; and~~

~~(3) expediting the expedited issuance of a professional license to a person who is licensed in good standing in another regulatory jurisdiction and:~~

~~(A) who is certified or licensed in another state;~~

~~(B) whose spouse is a member of the U.S. Armed Forces and who has been subject to a military transfer to Vermont; and~~

~~(C)(B) who left employment to accompany his or her spouse to Vermont.~~

\* \* \*

Sec. 2. 3 V.S.A. § 125 is amended to read:  
§ 125. FEES

\* \* \*

(b) Unless otherwise provided by law, the following fees shall apply to all professions regulated by the Director in consultation with advisor appointees under Title 26:

(1) Application for registration, \$75.00.

(2) Application for licensure or certification, \$100.00, except application for cosmetology schools and shops, \$300.00.

(3) Optician trainee registration, \$50.00.

(4) Biennial renewal, \$200.00, except:

(A) Biennial renewal for independent clinical social workers and master's social workers, \$150.00.

(B) Biennial renewal for occupational therapists and assistants, \$150.00.

(C) Biennial renewal for physical therapists and assistants, \$100.00.

(D) Biennial renewal for optician trainees, \$100.00.

(E) Biennial renewal for barbers, cosmetologists, nail technicians, and estheticians, \$130.00.

(F) Biennial renewal for cosmetology shops, \$300.00.

(5) Limited temporary license or work permit, \$50.00.

\* \* \*

Sec. 3. 3 V.S.A. § 127 is amended to read:

§ 127. UNAUTHORIZED PRACTICE

(a) When the Office receives a complaint of unauthorized practice, the Director shall refer the complaint to ~~the appropriate board for investigation~~ Office investigators and prosecutors.

(b)(1) A person practicing a regulated profession without authority or an employer permitting such practice may, upon the complaint of the Attorney General or a State's Attorney or an attorney assigned by the Office of Professional Regulation, be enjoined ~~there from~~ therefrom by the Superior Court where the violation occurred or the Washington County Superior Court and may be assessed a civil penalty of not more than \$1,000.00.

(2)(A) The Attorney General or an attorney assigned by the Office of Professional Regulation may elect to bring an action seeking only a civil penalty of not more than \$1,000.00 for practicing or permitting the practice of a regulated profession without authority before the board having regulatory authority over the profession or before an administrative law officer.

(B) Hearings shall be conducted in the same manner as disciplinary hearings.

(3)(A) A civil penalty imposed by a board or administrative law officer under this subsection (b) shall be deposited in the Professional Regulatory Fee Fund established in section 124 of this ~~title~~ chapter for the purpose of providing education and training for board members and advisor appointees.

(B) The Director shall detail in the annual report receipts and expenses from these civil penalties.

\* \* \*

(d)(1) A person whose license has expired for not more than one biennial period may reinstate the license by meeting renewal requirements for the profession, paying the profession's renewal fee, and paying the following nondisciplinary reinstatement penalty:

(A) if reinstatement occurs within 30 days after the expiration date, \$100.00; or

(B) if reinstatement occurs more than 30 days after the expiration date, an amount equal to the renewal fee increased by \$40.00 for every additional month or fraction of a month, provided the total penalty shall not exceed \$1,500.00.

(2) Fees assessed under this subsection shall be deposited into the Regulatory Fee Fund and credited to the appropriate fund for the profession of

the reinstating licensee.

(3) A licensee seeking reinstatement may submit a petition for relief from the reinstatement penalty, which a board may grant only upon a finding of exceptional circumstances or extreme hardship to the licensee; provided, however, that fees under this subsection shall not be assessed for any period during which a licensee was a member of the U.S. Armed Forces on active duty.

\* \* \*

Sec. 4. 3 V.S.A. § 128 is amended to read:

§ 128. DISCIPLINARY ACTION TO BE REPORTED TO THE OFFICE

\* \* \*

(c) Information provided to the Office under this section shall be confidential unless the ~~board~~ Office decides to treat the report as a complaint, in which case the provisions of section 131 of this title shall apply.

\* \* \*

Sec. 5. 3 V.S.A. § 129 is amended to read:

§ 129. POWERS OF BOARDS; DISCIPLINE PROCESS

(a) In addition to any other provisions of law, a board may exercise the following powers:

(1) ~~Adopt procedural~~ Consistent with other law and State policy, develop administrative rules governing the investigatory and disciplinary process establishing evidence-based standards of practice appropriate to secure and promote the public health, safety, and welfare; open and fair competition within the marketplace for professional services; interstate mobility of professionals; and public confidence in the integrity of professional services.

\* \* \*

Sec. 6. 3 V.S.A. § 129a is amended to read:

§ 129a. UNPROFESSIONAL CONDUCT

(a) In addition to any other provision of law, the following conduct by a licensee constitutes unprofessional conduct. When that conduct is by an applicant or person who later becomes an applicant, it may constitute grounds for denial of a license or other disciplinary action. Any one of the following items, or any combination of items, whether ~~or not~~ the conduct at issue was committed within or outside the State, shall constitute unprofessional conduct:

\* \* \*

(25) For providers of clinical care to patients, failing to have in place a plan for responsible disposition of patient health records in the event the licensee should become incapacitated or unexpectedly discontinue practice.

\* \* \*

Sec. 7. 3 V.S.A. § 134 is added to read:

§ 134. LICENSE RENEWAL

(a) A license expires if not renewed biennially on a schedule assigned by the Office, or in the case of a provisional or temporary license, on the date assigned by the Office.

(b) Practice with an expired license is unlawful and exposes a practitioner to the penalties set forth in section 127 of this chapter.

Sec. 8. 3 V.S.A. § 135 is added to read:

§ 135. UNIFORM STANDARD FOR RENEWAL FOLLOWING  
EXTENDED ABSENCE

(a) Notwithstanding any provision of law to the contrary, when an applicant seeks to renew an expired or lapsed license after fewer than five years of absence from practice, readiness to practice shall be inferred from completion of any continuing education that would have been required if the applicant had maintained continuous licensure or by any less burdensome showing set forth in administrative rules specific to the profession.

(b) When an applicant seeks to renew an expired or lapsed license after five or more years of absence from practice, the Director may, notwithstanding any provision of law to the contrary and as appropriate to ensure the continued competence of the applicant, determine that the applicant has either:

(1) demonstrated retention of required professional competencies and may obtain an unencumbered license; or

(2) not demonstrated retention of all required professional competencies and should be reexamined or required to reapply in like manner to a new applicant.

(c) The Director may consult with a relevant board or advisor appointees for guidance in assessing continued competence under this section.

Sec. 9. 3 V.S.A. § 136 is added to read:

§ 136. UNIFORM CONTINUING EDUCATION EVALUATION

If continuing education is required by law or rule, the Office shall apply uniform standards and processes that apply to all professions regulated by the Office for the assessment and approval or rejection of continuing education

offerings, informed by profession-specific policies developed in consultation with relevant boards and advisor appointees.

Sec. 10. LICENSING FOR IMMIGRANTS SETTLING IN VERMONT;  
REPORT

The Director of the Office of Professional Regulation, in consultation with the State Refugee Coordinator, shall examine means of reducing unnecessary barriers to professional licensure for qualified immigrants to Vermont from foreign countries. On or before January 15, 2019, the Director shall submit to the House and Senate Committees on Government Operations a report of his or her findings and any recommendations for legislative action.

\* \* \* Pollution Abatement Facility Operators \* \* \*

Sec. 11. 10 V.S.A. § 1263 is amended to read:

§ 1263. DISCHARGE PERMITS

\* \* \*

(d) A discharge permit shall:

\* \* \*

(2) Require proper operation and maintenance of any pollution abatement facility necessary in the treatment or processing of the waste by qualified personnel in accordance with standards established by the Secretary and the Director of the Office of Professional Regulation. The Secretary may require that a pollution abatement facility be operated by persons licensed under 26 V.S.A. chapter ~~97~~ 99 and may prescribe the class of license required. The Secretary may require a laboratory quality assurance sample program to ensure qualifications of laboratory analysts.

\* \* \*

\* \* \* Barbers and Cosmetologists \* \* \*

Sec. 12. 26 V.S.A. chapter 6 is amended to read:

CHAPTER 6. BARBERS AND COSMETOLOGISTS

Subchapter 1. General Provisions

§ 271. DEFINITIONS

~~For the purposes of~~ As used in this chapter:

(1) “Barbering” means engaging in the continuing performance, for compensation, of any of the following activities: cutting, shampooing, or styling hair; shaving the face, shaving around the vicinity of the ears and neckline, or trimming facial hair; facials, skin care, or scalp massages, and

bleaching, coloring, straightening, ~~permanent waving~~ or permanent-waving hair, or similar work by any means, with hands or mechanical or electrical apparatus or appliances. Barbering also includes esthetics.

(2) ~~“Board” means the board of barbers and cosmetologists.~~

(3) “Cosmetology” means engaging in the continuing performance, for compensation, of any of the following activities:

(A) Work on the hair of any person, including dressing, curling, waving, cleansing, cutting, bleaching, coloring, or similar work by any means, with hands or mechanical or electrical apparatus or appliances.

(B) Esthetics.

(C) Manicuring.

(3) “Director” means the Director of the Office of Professional Regulation.

(4) ~~“Disciplinary action” or “disciplinary cases” includes any action taken by the board against a licensee, registrant, or applicant premised upon a finding of wrongdoing or unprofessional conduct by the licensee or applicant. It includes all sanctions of any kind, excluding obtaining injunctions, but including issuing warnings, other similar sanctions and ordering restitution.~~

(5) “Esthetics” means massaging, cleansing, stimulating, manipulating, beautifying, or otherwise working on the scalp, face, or neck, by using cosmetic preparations, antiseptics, tonics, lotions, or creams. “Esthetics” does not include the sale or application of cosmetics to customers in retail stores or customers’ homes.

(6) ~~“Financial interest” means being:~~

(A) ~~a licensed barber;~~

(B) ~~a licensed cosmetologist; or~~

(C) ~~a person who has invested anything of value in a business that provides barbering or cosmetology services.~~

(7)(5) “Manicuring” or “nail technician practice” means the nonmedical treatment of a person’s fingernails or toenails or the skin in the vicinity of the nails, and includes the use of cosmetic preparations or appliances.

(8)(6) “School of barbering or cosmetology” means a facility or facilities regularly used to train or instruct persons in the practice of barbering or cosmetology.

(9)(7) “Shop” means a facility or facilities regularly used to offer or provide barbering or cosmetology.

§ 272. PROHIBITIONS; OFFENSES

(a) ~~No~~ A person shall not practice or attempt to practice barbering or cosmetology or use in connection with the person's name any letters, words, title, or insignia indicating or implying that the person is a barber or cosmetologist unless the person is licensed in accordance with this chapter.

(b) ~~No~~ A person who owns or controls a shop or school of barbering or cosmetology shall not permit the practice of barbering or cosmetology unless the shop or school is registered in accordance with this chapter.

(c) A person who violates a provision of this section shall be subject to the penalties provided in 3 V.S.A. § 127.

§ 273. EXEMPTIONS

The provisions of this chapter regulating barbers and cosmetologists shall not:

(1) affect or prevent the practice of barbering or cosmetology by a student at a school recognized by the ~~board~~ Director;

\* \* \*

(3) prohibit a licensee from providing barbering or cosmetology services outside a licensed shop so long as those services are limited to only:

(A) patients or residents within a hospital, nursing home, community care home, or any similar facility;

(B) persons who are homebound, disabled, or in a hospice or similar program, or to deceased persons in a funeral home;

(C) persons as part of a special ~~occasion~~ event ~~so long as those services are limited to hair styling and makeup and,~~ provided the sanitation standards expected of licensees in licensed shops are followed;

\* \* \*

(5) affect or prevent the practice of barbering or cosmetology outside a registered shop or school by licensees in accordance with rules adopted by the ~~board~~ Director;

(6) affect or prevent the practice of barbering or cosmetology within the confines of a State correctional facility by a person incarcerated therein, who has completed training acceptable to the Commissioner of Corrections; or

(7) affect or prevent the practice of natural hair braiding or styling, provided such practice does not involve cutting; the application of chemicals, dyes, or heat; or other changes to the structure of hair.

§ 274. PENALTY

~~A person who violates any provision of section 272 of this title shall be subject to the penalties provided in 3 V.S.A. § 127(c). [Repealed.]~~

## Subchapter 2. Administration

### § 275. CREATION OF BOARD

~~(a) A board of barbers and cosmetologists is created, consisting of five members. Members shall be appointed by the governor pursuant to 3 V.S.A. §§ 129b and 2004. Members shall be residents of this state.~~

~~(b) One member of the board shall be a member of the public who has no financial interest in barbering or cosmetology other than as a consumer or possible consumer of its services. He or she shall have no financial interest personally or through a spouse, parent, child, brother or sister.~~

~~(c) Two members of the board shall be licensed cosmetologists.~~

~~(d) One member of the board shall be a licensed barber.~~

~~(e) The remaining member shall be a person licensed under this chapter or a public member.~~

~~(f) A majority of the members of the board shall constitute a quorum for transacting business, and all action shall be taken upon a majority vote of the members present and voting. [Repealed.]~~

### § 276. GENERAL POWERS AND DUTIES OF THE BOARD DIRECTOR

(a) The board Director shall:

(1) ~~Adopt~~ adopt rules that:

(A) ~~Prescribe~~ prescribe sanitary and safety standards for shops, schools, and other facilities used for the practice of barbering and cosmetology;

(B) ~~Prescribe~~ prescribe safe and sanitary practices for the performance of activities related to the practice of barbering and cosmetology;

(C) ~~Establish~~ establish standards for apprenticeships, courses, and examinations to be completed by an applicant for licensure under this chapter;

(D) establish qualifications for licensure under this chapter as:

(i) a barber, provided mandated formal training shall not exceed 750 hours;

(ii) a cosmetologist, provided mandated formal training shall not exceed 1,000 hours;

(iii) an esthetician, provided mandated formal training shall not exceed 500 hours; and

(iv) a nail technician, provided mandated formal training shall not exceed 200 hours; and

(E)(i) establish criteria for apprenticeships that would enable a person seeking licensure under this chapter to train under an appropriately qualified Vermont licensee in order to attain licensure without mandated formal training; and

(ii) limit the duration of a required apprenticeship to not more than 150 percent of the duration of the corresponding formal training.

(b)(1) The ~~board~~ Director may inspect shops and schools and other places used for the practice of barbering and cosmetology.

(2) ~~No~~ A fee shall not be charged for initial inspections under this subsection; however, if the ~~board~~ Director determines that it is necessary to inspect the same premises in the same ownership more than once in any two-year period, the ~~board~~ Director shall charge a reinspection fee.

(3) The ~~board~~ Director may waive all or a part of the reinspection fee in accordance with criteria established by rule.

#### § 276a. ADVISOR APPOINTEES

(a)(1) The Secretary of State shall appoint one barber and one cosmetologist for five-year staggered terms to serve at the Secretary's pleasure as advisors in matters relating to barbering and cosmetology. One of the initial appointments shall be for less than a five-year term.

(2) An appointee shall have not less than three years' experience as a barber or cosmetologist immediately preceding appointment; shall be licensed as a barber or cosmetologist in Vermont; and shall be actively engaged in the practice of barbering or cosmetology in this State during incumbency.

(b) The Director shall seek the advice of the advisor appointees in carrying out the provisions of this chapter.

#### Subchapter 3. Licenses

#### § 277. QUALIFICATIONS; BARBER

(a) ~~A person shall be eligible for licensure as a barber if the person is at least 18 years of age, has a high school or general educational development diploma, and has satisfactorily completed an accredited barber school program; or has satisfactorily completed an apprenticeship of not less than 12 months and not more than 36 months consisting of a minimum of 2,000 hours and a maximum of 3,000 hours in a manner prescribed by the board in addition to areas of study, prescribed by the board, by rule, has a high school or general educational development diploma, and has passed the examination~~

~~described in section 283 of this title.~~

~~(b) The board shall issue a limited barbering license, with an endorsement for cutting, shampooing, and styling hair and for mustache and beard trimming, to any person incarcerated in a state correctional facility who completes, while under the direct personal supervision of a barber licensed by the board, a course of training of not less than 10 hours in cutting, shampooing, and styling hair and trimming of mustache and beard. Such limited license shall be valid only within a state correctional facility. No fees shall be charged for a limited license issued under this subsection. [Repealed.]~~

#### ~~§ 278. QUALIFICATIONS; COSMETOLOGIST~~

~~A person shall be eligible for licensure as a cosmetologist if the person is at least 18 years of age, has a high school or general educational development diploma, and has satisfactorily completed the following:~~

~~(1) a course of study of at least 1,500 hours at a school of cosmetology approved by an accrediting body recognized by the United States Department of Education or approved by the board under standards that the board has adopted by rule and passage of the examination described in section 283 of this title; or~~

~~(2) an apprenticeship of not less than 12 months and not more than 36 months consisting of not less than 2,000 hours and a maximum of 3,000 hours in a manner prescribed by the board in addition to courses, as prescribed by the board by rule, and passage of the examination described in section 283 of this title. [Repealed.]~~

#### ~~§ 279. QUALIFICATIONS; ESTHETICIAN~~

~~A person shall be eligible for licensure as an esthetician if the person is at least 18 years of age, has a high school or general educational development diploma, and has satisfactorily completed the following:~~

~~(1) a course of study in esthetics of at least 600 hours at a school of cosmetology approved by an accrediting body recognized by the United States Department of Education or approved by the board under standards that the board has adopted by rule; or~~

~~(2) an apprenticeship of not less than 12 months and not more than 18 months, consisting of a minimum of 800 hours and a maximum of 1,200 hours, as prescribed by the board by rule; and has passed the examination described in section 283 of this title. [Repealed.]~~

#### ~~§ 280. QUALIFICATIONS; NAIL TECHNICIAN~~

~~A person shall be eligible for licensure as a nail technician if the person is at least 18 years of age, has a high school or general educational development~~

diploma, and has satisfactorily completed:

~~(1) a course of study in manicuring of at least 400 hours at a school of cosmetology approved by an accrediting body recognized by the United States Department of Education or approved by the board under standards that the board has adopted by rule; or~~

~~(2) an apprenticeship of not less than six months and not more than 12 months consisting of a minimum of 600 hours and a maximum of 900 hours, as prescribed by the board by rule, and has passed the examination described in section 283 of this title. [Repealed.]~~

#### § 280a. ELIGIBILITY FOR LICENSURE

An applicant for licensure as a barber, cosmetologist, esthetician, or nail technician shall meet the qualifications for licensure established by the Director under the provisions of subchapter 2 of this chapter.

#### § 281. POSTSECONDARY SCHOOL OF BARBERING AND COSMETOLOGY; CERTIFICATE OF APPROVAL

(a) ~~No~~ A school of barbering or cosmetology shall not be granted a certificate of approval unless the school:

\* \* \*

(4) Requires a school term of training:

~~(A) in the case of a school of barbering, of not less than 1,000 hours for a complete course that includes all or the majority of the practices of barbering, and includes practical demonstrations and theoretical studies in sanitation, sterilization, the use of antiseptics, and electrical appliances, consistent with the practical and theoretical requirements applicable to barbering or any practice of barbering; and~~

~~(B) in the case of a school of cosmetology, requires a school term of training of not less than 1,500 hours for a complete course that includes all or the majority of the practices of cosmetology, and includes practical demonstrations and theoretical studies in sanitation, sterilization, the use of antiseptics, cosmetics, and electrical appliances, consistent with the practical and theoretical requirements applicable to cosmetology or any practice of cosmetology consistent with formal training requirements established by rule, which shall include practical demonstrations and theoretical studies in sanitation, sterilization, the use of antiseptics, and the use of appliances, devices, treatments, and preparations relevant to the field of licensure.~~

(b) Regional vocational centers may offer courses of instruction in barbering or cosmetology without a certificate of approval from the Board

Director, and State correctional facilities may offer courses of instruction in barbering without a certificate of approval from the ~~Board~~ Director; however, credits for licensing will shall only be given for courses that meet the ~~Board's~~ Director's standards for courses offered in postsecondary schools of barbering or cosmetology certified by the ~~Board~~ Director.

\* \* \*

#### § 282. SHOP; LICENSE

(a) ~~No~~ A shop shall not be granted a license unless the shop complies with the rules of the ~~board~~ Director and has a designated licensee responsible for overall cleanliness, sanitation, and safety of the shop.

(b) The practices of barbering and cosmetology shall be permitted only in shops licensed by the ~~board~~ Director, except as provided in sections 273 and 281 of this title chapter and the rules of the ~~board~~ Director.

#### § 283. EXAMINATION

(a) An applicant who is otherwise eligible for licensure and has paid the required fees shall be examined.

(b)(1) The examination for a license shall include both practical demonstrations and written or oral tests in the area of practices for which a license is applied and other related studies or subjects as the ~~board~~ Director may determine necessary.

(2) The examination shall not be confined to any specific system or method and shall be consistent with a prescribed curriculum as provided by this chapter.

(c) The ~~board~~ Director may limit, by rule, the number of times a person may take an examination.

#### § 284. ISSUANCE OF LICENSE

(a) The ~~board~~ Director shall issue a license to an applicant who has passed the examination as determined by the ~~board~~ Director, has paid the required fee, and has completed all the requirements for the particular license.

(b) The ~~board~~ Director shall issue a license to the person who owns or controls a shop or school of barbering or cosmetology who has paid the required fee and is in compliance with the rules of the ~~board~~ Director and the provisions of this chapter.

(c) The license shall be conspicuously displayed for the customer in the licensee's principal office, place of business, or place of employment.

#### § 285. LICENSES FROM OTHER JURISDICTIONS

Without requiring an examination, the ~~board~~ Director shall issue an appropriate license to a person who is licensed or certified in good standing under the laws of another jurisdiction with requirements ~~that the board considers to be:~~

(1) substantially equal to those of this state State; or

(2) materially less rigorous than those of this State, if the person has had 1,500 documented hours of practice in not less than one year.

#### § 286. RENEWAL AND REINSTATEMENT

~~The holder of a license issued by the board pursuant to this chapter may biennially renew the license upon payment of the renewal fee. A license that has not been renewed by the renewal date shall expire. Within three years of the date of expiration, the holder of the expired license may apply for reinstatement upon the payment of the renewal fee and a renewal penalty. If a license is not reinstated within three years of expiration, the applicant shall meet the requirements of section 284 or 285 of this title before the license may be reinstated.~~ [Repealed.]

#### § 287. FEES

~~Applicants and persons regulated under this chapter shall pay the following fees:~~

(1) ~~Application:~~

<del>(A) Barber</del>	<del>\$110.00</del>
<del>(B) Cosmetologist</del>	<del>\$110.00</del>
<del>(C) Nail technician</del>	<del>\$110.00</del>
<del>(D) Shop</del>	<del>\$330.00</del>
<del>(F) School</del>	<del>\$330.00</del>

(2) ~~Biennial renewal:~~

<del>(A) Barber</del>	<del>\$130.00</del>
<del>(B) Cosmetologist</del>	<del>\$130.00</del>
<del>(C) Nail technician</del>	<del>\$130.00</del>
<del>(D) Esthetician</del>	<del>\$130.00</del>
<del>(E) Shop</del>	<del>\$225.00</del>
<del>(F) School</del>	<del>\$330.00</del>

(3) ~~Reinspection~~ ~~\$100.00~~

[Repealed.]

§ 288. UNPROFESSIONAL CONDUCT

~~The conduct listed in this section and in 3 V.S.A. § 129a constitutes unprofessional conduct when committed by a licensee. When that conduct is by an applicant or person who later becomes an applicant, it may constitute grounds for denial of a license or other disciplinary action:~~

~~(1) Practicing or offering to practice beyond the scope permitted by law.~~

~~(2) Willfully materially misrepresenting the qualifications or experience of an applicant in the practice of the occupation, whether by commission or omission.~~

~~(3) Failing to adequately supervise employees who are engaged in any of the practices of barbering or cosmetology and nail technician practice.~~

~~(4) Harassing, intimidating, or abusing a client or customer.~~

~~(5) Performing treatments or providing services which a licensee is not qualified to perform or which are beyond the licensee's education, training, capabilities, experience, or scope of practice. [Repealed.]~~

§ 289. LICENSURE BY ENDORSEMENT

~~The board may issue a license to an individual who is currently licensed or certified in another jurisdiction in good standing, provided the individual has been in active practice for at least three years immediately preceding application or has 2,000 documented hours of practice in not less than one year. [Repealed.]~~

Sec. 13. DIRECTOR OF PROFESSIONAL REGULATION; BARBERS  
AND COSMETOLOGISTS; RULEMAKING

Prior to the effective date of Sec. 12 of this act, the Director of the Office of Professional Regulation shall adopt rules in accordance with the amendments to 26 V.S.A. chapter 6 (barbers and cosmetologists) contained in that section.

\* \* \* Dentistry \* \* \*

Sec. 14. 26 V.S.A. chapter 12 is amended to read:

CHAPTER 12. DENTISTS, DENTAL THERAPISTS, DENTAL  
HYGIENISTS, AND DENTAL ASSISTANTS

\* \* \*

Subchapter 3. Dentists

§ 601. LICENSE BY EXAMINATION

To be eligible for licensure as a dentist, an applicant shall:

(1) have attained the age of majority;

(2) be a graduate of:

(A) a dental college accredited by the Commission on Dental Accreditation of the American Dental Association; or

(B) a program of foreign dental training and a postgraduate program accredited by the Commission on Dental Accreditation of the American Dental Association that is acceptable to the Board; and

(3) meet the certificate, examination, and training requirements established by the ~~board~~ Board by rule.

\* \* \*

Subchapter 6. Renewals, Continuing Education, and Fees

\* \* \*

§ 663. ~~LAPSED LICENSES OR REGISTRATIONS~~

~~(a) Failure to renew a license by the renewal date shall result in a lapsed license subject to late renewal penalties pursuant to 3 V.S.A. § 125(a)(1).~~

~~(b) A person whose license or registration has lapsed may not practice and may be subject to disciplinary action.~~

~~(c) Notwithstanding the provisions of subsection (a) of this section, a person shall not be required to pay renewal fees or late renewal penalties for years spent on active duty in the armed forces of the United States. A person who returns from active duty shall be required to pay only the most current biennial renewal fee. [Repealed.]~~

\* \* \* Nursing \* \* \*

Sec. 15. 26 V.S.A. chapter 28 is amended to read:

CHAPTER 28. NURSING

Subchapter 1. General Provisions

\* \* \*

§ 1573. VERMONT STATE BOARD OF NURSING

(a) There is hereby created a the Vermont State Board of Nursing consisting of six registered nurses, including at least two licensed as advanced practice registered nurses;<sub>2</sub> two practical nurses;<sub>2</sub> one nursing assistant;<sub>2</sub> and two public members. Board members shall be appointed by the Governor pursuant to 3 V.S.A. §§ 129b and 2004.

\* \* \*

~~(d) Six members of the Board shall constitute a quorum.~~

§ 1579. ISSUANCE AND DURATION OF LICENSES

~~Licenses and endorsements shall be renewed every two years on a schedule determined by the Office of Professional Regulation. [Repealed.]~~

\* \* \*

§ 1584. PROHIBITIONS; OFFENSES

(a) It shall be a violation of this chapter for any person, including any corporation, association, or individual, to:

\* \* \*

~~(8) [Deleted.]~~

(b) Any person violating this section shall be subject to the penalties provided in 3 V.S.A. § 127(e).

~~(c) [Deleted.]~~

\* \* \*

Subchapter 2. Advanced Practice Registered Nurses

\* \* \*

§ 1612. PRACTICE GUIDELINES

~~(a) APRN licensees who intend to or are engaged in clinical practice as an APRN shall submit for review individual practice guidelines and receive Board approval of the practice guidelines. Practice guidelines shall reflect current standards of advanced nursing practice specific to the APRN's role, population focus, and specialty.~~

~~(b) Licensees shall submit for review individual practice guidelines and receive Board approval of the practice guidelines:~~

~~(1) prior to initial employment;~~

~~(2) if employed or practicing as an APRN, upon application for renewal of an APRN's registered nurse license; and~~

~~(3) prior to a change in the APRN's employment or clinical role, population focus, or specialty. [Repealed.]~~

§ 1613. TRANSITION TO PRACTICE

(a) ~~Graduates~~ An APRN with fewer than 24 months and 2,400 hours of licensed active advanced nursing practice in an initial role and population focus or fewer than 12 months and ~~1,600~~ 1,200 hours for any additional role and population focus shall ~~have~~ be required in accordance with Board rule to:

~~(1) establish a formal agreement with a collaborating provider as required by board rule. APRNs shall have and maintain signed and dated copies of all required collaborative provider agreements as part of the practice guidelines. An APRN required to practice with a collaborative provider agreement may not engage in solo practice, except with regard to a role and population focus in which the APRN has met the requirements of this subsection; or~~

~~(2) document that the APRN's place of employment is a clinic, hospital, or practice group that employs two or more additional individuals who have been licensed for four or more years to practice medicine under chapter 23 or 33 of this title or advanced practice registered nursing under this chapter. One of those more experienced licensees shall be primarily located on site when the APRN is providing clinical health care services and accessible by phone or otherwise by alternative means, as defined by Board rule.~~

~~(b) An APRN who satisfies the requirements to engage in solo practice pursuant to subsection (a) of this section shall notify the board Board that these requirements have been met.~~

#### § 1614. APRN RENEWAL

An APRN license renewal application shall include:

- ~~(1) documentation of completion of the APRN practice requirement;~~
- ~~(2) and possession of a current certification by a national APRN specialty certifying organization;~~
- ~~(3) current practice guidelines; and~~
- ~~(4) a current collaborative provider agreement if required for transition to practice.~~

#### § 1615. ADVANCED PRACTICE REGISTERED NURSES;

##### REGULATORY AUTHORITY; UNPROFESSIONAL CONDUCT

(a) In addition to the provisions of 3 V.S.A. § 129a and section 1582 of this chapter, the Board may deny an application for licensure, renewal, or reinstatement, or may revoke, suspend, or otherwise discipline an advanced practice registered nurse upon due notice and opportunity for hearing if the person engages in the following conduct:

\* \* \*

~~(4) Practice beyond those acts and situations that are within the practice guidelines approved by the Board for an APRN and within the limits of the knowledge and experience of the APRN, and, for an APRN who is practicing under a collaborative agreement, practice beyond those acts and situations that~~

are within both the usual scope of the collaborating provider's practice and the terms of the collaborative agreement.

~~(5) For an APRN who acts as the collaborating provider for an APRN who is practicing under a collaboration agreement, allowing the mentored APRN to perform a medical act that is outside the usual scope of the mentor's own practice or that the mentored APRN is not qualified to perform by training or experience or that is not consistent with the requirements of this chapter and the rules of the Board. [Repealed.]~~

\* \* \*

### Subchapter 3. Registered Nurses and Practical Nurses

\* \* \*

#### § 1622. REGISTERED NURSE LICENSURE BY ENDORSEMENT

To be eligible for licensure as a registered nurse by endorsement, an applicant shall:

- (1) hold a current license to practice registered nursing in another U.S. jurisdiction based on education in a ~~U.S.~~ nursing program acceptable to the Board; and
- (2) meet practice requirements set by the Board by rule.

\* \* \*

#### § 1626. PRACTICAL NURSE LICENSURE BY ENDORSEMENT

To be eligible for licensure as a practical nurse by endorsement, an applicant shall:

- (1) hold a current license to practice practical nursing in another U.S. jurisdiction based on education in a ~~U.S.~~ nursing program acceptable to the Board; and
- (2) meet practice requirements set by the Board by rule.

\* \* \*

### Subchapter 4. Nursing Assistants

\* \* \*

#### § 1645. RENEWAL

(a) To renew a license, a nursing assistant shall meet active practice requirements set by the Board by rule.

(b) The Board shall credit as active practice those activities, regardless of title or obligation to hold a license, that reasonably tend to reinforce the

training and skills of a licensee.

\* \* \*

Sec. 16. NURSING COMPACT ASSESSMENT

(a) The Board of Nursing and the Office of Professional Regulation shall assess the costs and benefits of participation in licensure compacts for nurses at various levels of licensure.

(b) On or before March 15, 2019, the Office shall report its assessment to the House and Senate Committees on Government Operations. The report may be in verbal form.

\* \* \* Pharmacy \* \* \*

Sec. 17. 26 V.S.A. chapter 36 is amended to read:

CHAPTER 36. PHARMACY

Subchapter 1. General Provisions

\* \* \*

§ 2022. DEFINITIONS

As used in this chapter:

\* \* \*

(4) “Disciplinary action” or “disciplinary cases” includes any action taken by the Board against a licensee or others premised upon a finding of ~~wrongdoing or~~ unprofessional conduct by the licensee. It includes all sanctions of any kind, including obtaining injunctions, issuing warnings, and other similar sanctions.

\* \* \*

(7) “Drug outlet” means all pharmacies, ~~nursing homes, convalescent homes, extended care facilities, drug abuse treatment centers, family planning clinics, retail stores, hospitals,~~ wholesalers, manufacturers, ~~any authorized treatment centers, and mail order vendors~~ other entities that are engaged in the dispensing, delivery, or distribution of prescription drugs.

\* \* \*

(10) “Manufacturer” means ~~anyone who is engaged in manufacturing, preparing, propagating, compounding, processing, packaging, repackaging, or labeling of a prescription drug~~ a person, regardless of form, engaged in the manufacturing of drugs or devices.

(11)(A) “Manufacturing” means the production, preparation, propagation, conversion, or processing of a drug or device, either directly or

indirectly, by extraction from substances of natural origin or independently by means of chemical or biological synthesis.

(B) “Manufacturing” includes the packaging or repackaging of a drug or device or the labeling or relabeling of the container of a drug or device for resale by a pharmacy, practitioner, or other person.

(12) “Nonprescription drugs” means nonnarcotic medicines or drugs that may be sold without a prescription and that are prepackaged for use by the consumer and labeled in accordance with the requirements of the statutes and regulations of this State and the federal government.

~~(12)~~(13) “Pharmacist” means an individual licensed under this chapter.

~~(13)~~(14) “Pharmacy technician” means an individual who performs tasks relative to dispensing only while assisting, and under the supervision and control of, a licensed pharmacist.

~~(14)~~(15)(A) “Practice of pharmacy” means:

(i) ~~the interpretation~~ interpreting and ~~evaluation of~~ evaluating prescription orders;

(ii) ~~the compounding, dispensing, and labeling of~~ drugs and legend devices (except labeling by a manufacturer, packer, or distributor of nonprescription drugs and commercially packaged legend drugs and legend devices);

(iii) ~~the participation~~ participating in drug selection and drug utilization reviews;

(iv) ~~the proper and safe storage of~~ properly and safely storing drugs and legend devices, and ~~the maintenance of~~ maintaining proper records therefor;

(v) ~~the responsibility for~~ advising, where necessary or where regulated, of therapeutic values, content, hazards, and use of drugs and legend devices;

(vi) ~~the providing of~~ patient care services within the pharmacist’s authorized scope of practice;

(vii) ~~the optimizing of~~ drug therapy through the practice of clinical pharmacy; and

(viii) ~~the offering or performing of~~ or offering to perform those acts, services, operations, or transactions necessary in the conduct, operation, management, and control of pharmacy.

(B) “Practice of clinical pharmacy” or “clinical pharmacy” means:

\* \* \*

(ii) ~~the provision of~~ providing patient care services within the pharmacist's authorized scope of practice, including medication therapy management, comprehensive medication review, and postdiagnostic disease state management services; or

(iii) ~~the practice of pharmacy by a pharmacist practicing~~ pharmacy pursuant to a collaborative practice agreement.

(C) ~~A rule shall not be adopted by the The Board under this chapter that shall require not adopt any rule requiring that pharmacists or pharmacies be involved in the sale and distribution of nonprescription drugs by a licensed pharmacist or under the supervision of a licensed pharmacist or otherwise interfere with the sale and distribution of such medicines; provided, however, that nothing in this subdivision (C) shall limit the authority of the Board to adopt rules applicable to the elective sale or distribution of nonprescription drugs by pharmacists or pharmacies.~~

~~(15)~~(16) "Practitioner" means an individual authorized by the laws of the United States or its jurisdictions or Canada to prescribe and administer prescription drugs in the course of his or her professional practice and permitted by that authorization to dispense, conduct research with respect to, or administer drugs in the course of his or her professional practice or research in his or her respective state or province.

~~(16)~~(17) "Prescription drug" means any human drug required by federal law or regulation to be dispensed only by a prescription, including finished dosage forms and active ingredients subject to Section 503(b) of the Federal Food, Drug and Cosmetic Act.

~~(17)~~(18) "Wholesale distribution" means distribution of prescription drugs to persons other than a consumer or patient, but does not include:

\* \* \*

~~(18)~~(19) "Wholesale ~~drug~~ distributor" means any person who is engaged in wholesale distribution of prescription drugs, but does not include any ~~for hire~~ for-hire carrier or person hired solely to transport prescription drugs.

~~(19)~~(20) "Collaborative practice agreement" means a written agreement between a pharmacist and a health care facility or prescribing practitioner that permits the pharmacist to engage in the practice of clinical pharmacy for the benefit of the facility's or practitioner's patients.

\* \* \*

## Subchapter 2. Board of Pharmacy

§ 2031. CREATION; APPOINTMENT; TERMS; ORGANIZATION

(a)(1) There is hereby created the ~~board of pharmacy~~ Board of Pharmacy to enforce the provisions of this chapter.

(2) The ~~board~~ Board shall consist of seven members, five of whom shall be pharmacists licensed under this chapter with five years of experience in the practice of pharmacy in this ~~state~~ State. Two members shall be members of the public having no financial interest in the practice of pharmacy.

(b) Members of the ~~board~~ Board shall be appointed by the ~~governor~~ Governor pursuant to 3 V.S.A. §§ 129b and 2004. ~~A majority of members shall constitute a quorum, and all action shall be taken upon a majority vote of the members present and voting.~~

\* \* \*

Subchapter 3. Licensing

§ 2041. UNLAWFUL PRACTICE

(a) It shall be unlawful for any person to engage in the practice of pharmacy unless licensed to so practice under the provisions of this chapter; provided, however, physicians, dentists, veterinarians, osteopaths, or other practitioners of the healing arts who are licensed under the laws of this State may dispense and administer prescription drugs to their patients in the practice of their respective professions where specifically authorized to do so by statute of this State.

(b)(1) ~~Any person who shall be found by the Board after hearing to have unlawfully engaged in the practice of pharmacy shall be subject to disciplinary action.~~

(2) ~~For the purpose of enforcing this section, the Attorney General or a State's Attorney or an attorney assigned by the Office of Professional Regulation may commence a criminal action against any person unlawfully engaging in the practice of pharmacy, and upon conviction, the person, including a business entity, violating this section shall be subject to the penalties provided in 3 V.S.A. § 127.~~

\* \* \*

§ 2042b. PHARMACY TECHNICIANS; NONDISCRETIONARY TASKS;  
SUPERVISION

\* \* \*

(f)(1) A pharmacist on duty shall be directly responsible for the conduct of a pharmacy technician.

(2) A pharmacist responsible for a pharmacy technician shall be on the premises at all times, or in the case of a remote pharmacy approved by the Board, immediately available by a functioning videoconference link.

(3) A pharmacist shall verify a prescription before medication is provided to the patient.

\* \* \*

#### § 2044. RENEWAL OF LICENSES

~~Each person or entity licensed or regulated under the provisions of this chapter shall apply for renewal biennially by a date established by the director of the office of professional regulation. [Repealed.]~~

#### § 2045. REINSTATEMENT

~~(a) The board may renew a license which has lapsed upon payment of the required fee and the late renewal penalty, provided all the requirements for renewal set by the board by rule, have been satisfied. The board shall not require payment of renewal fees for years during which the license was lapsed.~~

~~(b) As a condition of renewal, the board may by rule set reinstatement requirements for those whose licenses have lapsed for more than five years. [Repealed.]~~

\* \* \*

### Subchapter 4. Discipline

#### § 2051. UNPROFESSIONAL CONDUCT

~~The board of pharmacy may refuse to issue or renew, or may suspend, revoke, or restrict the licenses of any person, pursuant to the procedures set forth in section 2052 of this title, upon one or more of the following grounds and upon the grounds set forth in 3 V.S.A. § 129a:~~

~~(1) Unprofessional conduct as that term is defined by the rules and regulations of the board;~~

~~(2) Incapacity of a nature that prevents a pharmacist from engaging in the practice of pharmacy with reasonable skill, competence, and safety to the public;~~

~~(3) Fraud or intentional misrepresentation by a licensee in securing the issuance or renewal of a license;~~

~~(4) Engaging or aiding and abetting an individual to engage in the practice of pharmacy without a license or to falsely use the title of pharmacist;~~

~~(5) Being found by the board to be in violation of any of the provisions of this chapter or rules and regulations adopted pursuant to this chapter.~~

~~§ 2052. PENALTIES AND REINSTATEMENT~~

~~(a)(1) Upon the finding, after notice and opportunity for hearing, of the existence of grounds for discipline of any person or any drug outlet holding a license, under the provisions of this chapter, the board of pharmacy may impose one or more of the following penalties:~~

~~(A) Suspension of the offender's license for a term to be determined by the board;~~

~~(B) Revocation of the offender's license;~~

~~(C) Restriction of the offender's license to prohibit the offender from performing certain acts or from engaging in the practice of pharmacy in a particular manner for a term to be determined by the board;~~

~~(D) Placement of the offender under the supervision of the board for a period to be determined and under conditions set by the board;~~

~~(E) A requirement to perform up to 100 hours of public service, in a manner and at a time and place to be determined by the board;~~

~~(F) A requirement of a course of education or training;~~

~~(G) An administrative penalty as provided in 3 V.S.A. § 129a(d).~~

~~(2) [Deleted.]~~

~~(b) Any person or drug outlet whose license to practice pharmacy in this state has been suspended, revoked, or restricted pursuant to this chapter, whether voluntarily or by action of the board, shall have the right, at reasonable intervals, to petition the board for reinstatement of such license. Such petition shall be made in writing and in the form prescribed by the board. Upon hearing, the board may in its discretion grant or deny such petition or it may modify its original finding to reflect any circumstances which have changed sufficiently to warrant such modifications.~~

~~(c) Nothing herein shall be construed as barring criminal prosecutions for violations of this chapter where such violations are deemed as criminal offenses in other statutes of this state or of the United States.~~

~~(d) All final decisions by the board shall be subject to review pursuant to 3 V.S.A. § 130a. [Repealed.]~~

Subchapter 5. Registration of Facilities

§ 2061. REGISTRATION AND LICENSURE

(a) All drug outlets shall biennially register with the Board of Pharmacy.

(b) Each drug outlet shall apply for a license in one or more of the following classifications:

- (1) ~~Retail drug outlet.~~
- (2) ~~Institutional drug outlet.~~
- (3) ~~Manufacturing drug outlet~~ Manufacturer.
- (4) ~~Wholesale drug outlet or wholesale drug distributor.~~
- (5) Investigative and research projects.
- (6) Compounding.
- (7) Outsourcing.
- (8) Home infusion.
- (9) Nuclear.

§ 2064. VIOLATIONS AND PENALTIES

(a) ~~No~~ A drug outlet designated in section 2061 of this title ~~subchapter~~ shall not be operated until a license has been issued to ~~said that~~ that outlet by the board Board. ~~Upon the finding of a violation of this section, the board may impose one or more of the penalties enumerated in section 2052 of this title.~~

(b) ~~Reinstatement of a license that has been suspended, revoked, or restricted by the board may be granted in accordance with the procedures specified by subsection 2052(b) of this title~~ Unauthorized operation of a drug outlet may be penalized as provided in 3 V.S.A. § 127 and shall constitute unprofessional conduct by the licensees involved.

Subchapter 6. Wholesale ~~Drug~~ Distributors

§ 2067. WHOLESALE ~~DRUG~~ DISTRIBUTOR; LICENSURE REQUIRED

(a) A person who is not licensed under this subchapter shall not engage in wholesale ~~drug~~ distribution in this State.

(b) [Repealed.]

\* \* \*

(d) An agent or employee of any licensed wholesale ~~drug~~ distributor shall not be required to obtain a license under this subchapter and may lawfully possess pharmaceutical drugs when that agent or employee is acting in the usual course of business or employment.

\* \* \*

§ 2071. APPLICATION OF FEDERAL GUIDELINES

(a) The requirements set forth in sections 2068 and 2069 of this ~~title~~ chapter shall conform to wholesale ~~drug~~ distributor licensing guidelines formally adopted by the ~~United States~~ U.S. Food and Drug Administration

(FDA).

(b) In case of conflict between any wholesale ~~drug~~ distributor licensing requirement imposed by the ~~board~~ Board under this chapter and any FDA wholesale ~~drug~~ distributor licensing guideline, the latter shall control.

§ 2072. ~~LICENSE RENEWAL~~

~~Licenses and registrations shall be renewed biennially on a schedule as determined by the office of professional regulation. [Repealed.]~~

§ 2073. RULES

(a) The ~~board~~ Board may adopt rules necessary to carry out the purposes of the provisions of this subchapter.

(b) All rules adopted under this subchapter shall conform to wholesale ~~drug~~ distributor licensing guidelines formally adopted by the ~~Federal Drug Administration~~ FDA at 21 C.F.R. Part 205.

§ 2074. ~~COMPLAINTS~~

~~Complaints arising under this subchapter shall be handled according to the policies and procedures for handling complaints adopted by the director of the office of professional regulation. [Repealed.]~~

§ 2075. ~~PENALTIES~~

~~After notice and opportunity for hearing, the board may suspend, revoke, limit, or condition a license granted under this subchapter if the board finds that the licensee:~~

~~(1) violated a provision of this subchapter or a rule adopted by the board under this subchapter; or~~

~~(2) has been convicted of a violation of a federal or state drug law. [Repealed.]~~

§ 2076. INSPECTION POWERS; ACCESS TO WHOLESALE ~~DRUG~~

DISTRIBUTOR RECORDS

(a) A person authorized by the ~~board~~ Board may enter, during normal business hours, all open premises purporting or appearing to be used by a wholesale ~~drug~~ distributor for purposes of inspection.

(b)(1) Wholesale ~~drug~~ distributors may keep records regarding purchase and sales transactions at a central location apart from the principal office of the wholesale ~~drug~~ distributor or the location at which the drugs were stored and from which they were shipped, provided that such records shall be made available for inspection within two working days of a request by the ~~board~~ Board.

(2) Records may be kept in any form permissible under federal law applicable to prescription drugs ~~record-keeping~~ record keeping.

\* \* \*

Sec. 18. CREATION OF POSITION WITHIN THE OFFICE OF  
PROFESSIONAL REGULATION; PHARMACY

(a) There is created within the Secretary of State's Office of Professional Regulation one new position: Executive Officer of Pharmacy.

(b) Any funding necessary to support the position created in subsection (a) of this section shall be derived from the Office's Professional Regulatory Fee Fund, with no General Fund dollars.

\* \* \* Real Estate Brokers and Salespersons \* \* \*

Sec. 19. 26 V.S.A. § 2211 is amended to read:

§ 2211. DEFINITIONS

(a) ~~When~~ As used in this chapter, the following definitions shall have the following meanings except where the context clearly indicates that another meaning is intended:

\* \* \*

(4) "Real estate broker" or "broker" means any person who, for another, for a fee, commission, salary, or other consideration, or with the intention or expectation of receiving or collecting such compensation from another, engages in or offers or attempts to engage in, either directly or indirectly, by a continuing course of conduct, any of the following acts:

\* \* \*

(5) "Real estate salesperson" or "salesperson" means any person who for a fee, compensation, salary, or other consideration, or in the expectation or upon the promise thereof, is employed by or associated with a licensed real estate broker to do any act or deal in any transaction as provided in subdivision (4) of this subsection ~~(a)~~ for or on behalf of ~~such~~ a licensed real estate broker.

(b) The terms "real estate broker," "real estate salesperson," or "broker" shall not ~~be held to~~ include:

(1) Any person, partnership, association, or corporation who as a bona fide owner performs any of the ~~aforsaid~~ acts set forth in subdivision (a)(4) of this section with reference to property owned by them, nor shall it apply to regular employees thereof, ~~where~~ when such acts are performed in the regular course of or as an incident to the management of such property and the investment therein. This subdivision (1) shall not apply to licensees.

\* \* \*

\* \* \* Radiologic Technicians \* \* \*

Sec. 20. 26 V.S.A. § 2803 is amended to read:

§ 2803. EXEMPTIONS

The prohibitions in section 2802 of this chapter shall not apply to dentists licensed under chapter 12 of this title and actions within their scope of practice nor to:

\* \* \*

(5) Any of the following when operating dental radiographic equipment to conduct intraoral radiographic examinations under the general supervision of a licensed practitioner; and, any of the following when operating dental radiographic equipment to conduct specialized radiographic examinations, including tomographic, cephalometric, or temporomandibular joint examinations, if the person has completed a course in radiography approved by the Board of Dental Examiners and practices under the general supervision of a licensed practitioner:

(A) a licensed dental therapist;

(B) a licensed dental hygienist;

~~(B)~~(C) a registered dental assistant who has completed a course in radiography approved by the Board of Dental Examiners; or

~~(C)~~(D) a student of dental therapy, dental hygiene, or dental assisting as part of the training program when directly supervised by a licensed dentist, ~~certified~~ licensed dental therapist, licensed dental hygienist, or a registered dental assistant.

\* \* \*

\* \* \* Private Investigators and Security Guards \* \* \*

Sec. 21. 26 V.S.A. chapter 59 is amended to read:

CHAPTER 59. PRIVATE INVESTIGATIVE AND SECURITY SERVICES

Subchapter 1. General Provisions

§ 3151. DEFINITIONS

As used in this chapter:

\* \* \*

~~(5) “Qualifying agent” means a licensed private investigator who is responsible for a private investigative services agency or combination agency;~~

~~or a licensed security guard who is responsible for a private security services agency or combination agency. A sole proprietor shall be the qualifying agent of his or her agency and shall meet all qualifying agent licensure requirements.~~

~~(6) “Combination agency” means an agency that provides both private investigative and private security services to the public.~~

§ 3151a. EXEMPTIONS

(a) The term “private investigator” shall not include:

\* \* \*

(3) Persons regularly employed as investigators, exclusively by one employer in connection with the affairs of that employer only, provided that the employer is not a private investigative agency and the employee is engaged directly as part of the ordinary payroll for tax, accounting, and insurance purposes.

\* \* \*

(b) The term “security guard” shall not include:

\* \* \*

(3) Persons regularly employed as security guards exclusively by one employer in connection with the affairs of that employer only, provided that the employer is not a security agency and the employee is engaged directly as part of the ordinary payroll for tax, accounting, and insurance purposes.

Subchapter 2. State Board of Private Investigative and Security Services

\* \* \*

§ 3162. ~~POWERS AND DUTIES~~ BOARD RULEMAKING AUTHORITY

The Board may:

~~(1) Adopt~~ adopt rules necessary for the performance of its duties, including rules prescribing minimum standards and qualifications for:

(1) security guards who may:

(A) practice independently or head agencies; or

(B) practice within the hierarchy of an agency;

(2) private investigators who may:

(A) practice independently or head agencies; or

(B) practice within the hierarchy of an agency;

(3) agencies; and

~~(4) recognized trainers and training programs.~~

~~(2) Conduct any necessary hearings in connection with the issuance, renewal, denial, suspension, or revocation of a license or registration or otherwise related to the disciplining of a licensee, registrant, or applicant.~~

~~(3) Receive and investigate complaints and charges of unprofessional conduct against any holder of a license or registration, or any applicant. The Board shall investigate all complaints in which there are reasonable grounds to believe that unprofessional conduct has occurred.~~

~~(4) Conduct examinations and pass upon the qualifications of applicants for a license or registration.~~

~~(5) Issue subpoenas and administer oaths in connection with any authorized investigation, hearing, or disciplinary proceeding.~~

~~(6) Take or cause depositions to be taken as needed in any investigation, hearing, or proceeding.~~

~~(7)(A) Adopt rules establishing a security guard or private investigator training program, consisting of not fewer than 40 hours of training, as a prerequisite to registration.~~

~~(B) Full-time employees shall complete the training program prior to being issued a permanent registration.~~

~~(C)(i) Part-time employees shall complete not fewer than eight hours of training prior to being issued a part-time employee temporary registration, which shall be valid for not more than 180 days from the date of issuance. The remaining training hours for part-time employees shall be completed within the temporary registration period of 180 days or before the employee has worked 500 hours, whichever occurs first. The part-time employee temporary registration may be issued only once and shall expire after 180 days or 500 hours.~~

~~(ii) As used in this subdivision (C), "part-time employee" means an employee who works no more than 80 hours per month.~~

~~(iii) The Board may prioritize training subjects to require that certain subject areas are covered in the initial eight hours of training required for part-time employees.~~

~~(8) Adopt rules establishing continuing education requirements and establish or approve continuing education programs to assist a licensee or registrant in meeting these requirements.~~

#### § 3163. FUNCTIONING OF LICENSING BOARD

~~(a) Annually, the board shall elect a chairperson, a vice chairperson, and a~~

secretary.

~~(b) Meetings may be called by the chairperson and shall be called upon the request of two other members.~~

~~(c) Meetings shall be warned and conducted in accordance with 1 V.S.A. chapter 5.~~

~~(d) A majority of the members of a board shall constitute a quorum, and all action shall be taken upon a majority vote of the members present and voting.~~

~~(e), (f) [Deleted.] [Repealed.]~~

\* \* \*

### Subchapter 3. Licensing

\* \* \*

#### § 3173. PRIVATE INVESTIGATOR LICENSES

(a) A person shall not engage in the business of private investigation or provide private investigator services in this State without first obtaining a license. The Board shall issue a license to a private investigator after obtaining and approving all of the following:

\* \* \*

(4) evidence that the applicant has successfully passed ~~the~~ any examination required by ~~section 3175 of this title~~ rule.

\* \* \*

(c) The Board shall require that ~~the~~ a person licensed to practice independently has had appropriate experience in investigative work, for a period of not less than two years, as determined by the Board. Such experience may include having been regularly employed as a private detective licensed in another state or as an investigator for a private detective licensed in this or another state, or ~~has~~ having been a sworn member of a federal, state, or municipal law enforcement agency.

(d) An application for a license may be denied upon failure of the applicant to provide information required, ~~;~~ upon a finding that the applicant does not meet a high standard as to character, integrity, and reputation, ~~;~~ or for unprofessional conduct defined in section 3181 of this ~~title~~ chapter.

\* \* \*

#### § 3174. SECURITY GUARD LICENSES

(a) ~~No~~ A person shall not engage in the business of a security guard or provide guard services in this State without first obtaining a license. The

Board shall issue a license after obtaining and approving all of the following:

\* \* \*

(4) Evidence that the applicant has successfully passed the any examination required by section 3175 of this title rule.

\* \* \*

(c) The Board shall require that ~~the~~ a person licensed to practice independently has had experience satisfactory to the Board in security work, for a period of not less than two years. Such experience may include having been licensed as a security guard in another state or regularly employed as a security guard for a security agency licensed in this or another state, or having been a sworn member of a federal, state, or municipal law enforcement agency.

(d) An application for a license may be denied upon failure of the applicant to provide information required,; upon a finding that the applicant does not meet a high standard as to character, integrity, and reputation,; or for unprofessional conduct defined in section 3181 of this title chapter.

\* \* \*

~~§ 3176b. TEMPORARY REGISTRATION FOR EMPLOYEES OF AGENCIES~~

~~(a) A 60-day temporary registration may be issued to a person who applies for registration as an employee of a licensed private investigator or a licensed security guard under section 3176 of this title. A temporary registration shall authorize a person to work as an unarmed private investigator or unarmed security guard while employed by a private investigator agency or security guard agency licensed by the board.~~

~~(b) Temporary registrations shall expire at the end of the 60-day period or by final action on the application, whichever occurs first. For good cause shown, the board may extend a temporary registration one time for an additional period of 60 days. [Repealed.]~~

~~§ 3176c. TEMPORARY EMERGENCY REGISTRATION~~

~~(a) If the board determines that the public health, safety, or welfare so requires, it may grant to an applicant a temporary registration to practice as a security guard. To qualify under this section, an applicant shall have a license in good standing to practice as a security guard in another jurisdiction within the United States that regulates the practice. The person seeking the temporary registration shall document to the board's satisfaction that the applicant will otherwise meet all state and federal requirements necessary to perform the~~

~~specific security duties arising out of the emergency circumstances warranting temporary licensure.~~

~~(b) The board may restrict or condition a temporary registration issued under this section, as it deems appropriate in light of the specific emergency, to a particular facility, industry, geographic area, or scope of duty.~~

~~(c) Duration of practice under a temporary registration shall be determined by the board but shall not exceed 60 days unless the person granted a temporary registration has submitted an application for full registration under this chapter, prior to the expiration of the term of the temporary registration, and the board finds the emergency to be ongoing. [Repealed.]~~

\* \* \*

#### ~~§ 3178. RENEWALS AND REINSTATEMENT~~

~~A license or registration issued under this chapter shall be renewed biennially upon payment of the required fee. [Repealed.]~~

\* \* \*

#### ~~§ 3179. PENALTIES~~

~~(a) A person who engages in the practice or business of a private investigator or security guard without being licensed under to this chapter shall be subject to the penalties provided in 3 V.S.A § 127(e).~~

\* \* \*

### Subchapter 4. Unprofessional Conduct and Discipline

#### ~~§ 3181. UNPROFESSIONAL CONDUCT~~

\* \* \*

~~(c) After conducting a hearing and upon a finding that a licensee, registrant, or applicant engaged in unprofessional conduct, the board may take disciplinary action. Discipline for unprofessional conduct may include denial of an application, revocation or suspension of a license or registration, supervision, reprimand, warning, or the required completion of a course of action.~~

\* \* \* Clinical Mental Health Counselors \* \* \*

Sec. 22. 26 V.S.A. chapter 65 is amended to read:

### CHAPTER 65. CLINICAL MENTAL HEALTH COUNSELORS

\* \* \*

#### ~~§ 3262a. BOARD OF ALLIED MENTAL HEALTH PRACTITIONERS~~

(a) ~~A~~ The Board of Allied Mental Health Practitioners is established.

\* \* \*

~~(c) A majority of the members of the Board shall constitute a quorum for transacting business, and all action shall be taken upon a majority vote of the members present and voting.~~

\* \* \*

#### § 3265. ELIGIBILITY

To be eligible for licensure as a clinical mental health counselor an applicant shall ~~satisfy all of the following~~ have:

(1) ~~Shall have completed a minimum of 60 graduate hours and received~~ Received a master's degree or higher degree in counseling or a related field, from an accredited educational institution, after having successfully completed a course of study as defined by the board, by rule, ~~which included requiring a minimum number of graduate credit hours established by the Board by rule and a supervised practicum, internship, or field experience, as defined by the board,~~ Board by rule, in a mental health counseling setting.

(2) ~~Shall have documented~~ Documented a minimum of 3,000 hours of supervised work in clinical mental health counseling ~~over~~ during a minimum of two years of post-master's experience. ~~Persons engaged in supervised work shall be entered on the roster of nonlicensed, noncertified psychotherapists and shall comply with the laws of that profession, and shall have documented a minimum of, including at least 100 hours of face-to-face supervision over during a minimum of two years of post-master's experience. Clinical work shall be performed under the supervision of a licensed physician certified in psychiatry by the American Board of Medical Specialties, a licensed psychiatric nurse practitioner, a licensed psychologist, a licensed clinical social worker, a licensed marriage and family therapist, a licensed clinical mental health counselor, or a person certified or licensed in another jurisdiction in one of these professions or in a profession which is the substantial equivalent, or a supervisor trained by a regional or national organization which has been approved by the board~~ Persons engaged in supervised work shall be registered on the roster of nonlicensed, noncertified psychotherapists and shall comply with the laws applicable to registrants.

(3) ~~Shall pass~~ Passed the examinations required by board Board rules as provided in section 3267 of this title.

#### § 3266. APPLICATION

~~To apply for licensure as a clinical mental health counselor, a person shall apply to the board on a form furnished by the board. The application shall be~~

~~accompanied by payment of the specified fee and evidence of eligibility as requested by the board. [Repealed.]~~

§ 3267. EXAMINATION

~~(a) The board or its designee shall conduct written examinations under this chapter at least twice a year, except that examinations need not be conducted when no one has applied to be examined.~~

~~(b) Examinations administered by the board and the procedures of administration shall be fair and reasonable and shall be designed and implemented to ensure that all applicants are granted licensure if they demonstrate that they possess the minimal occupational qualifications which are consistent with the public health, safety, and welfare. They shall not be designed or implemented for the purpose of limiting the number of license holders. The board with the advice of the clinical mental health counselors who are members of the special panel, shall establish, by rule, fixed criteria for passing the examination that shall apply to all persons taking the examination.~~

~~(c) The board may contract with independent testing services, licensed clinical mental health counselors, or others to assist in the administration of written examinations. [Repealed.]~~

\* \* \*

§ 3269. RENEWALS

~~(a) Licenses shall be renewed every two years upon payment of the required fee, provided the person applying for renewal completes at least 40 hours fees and proof of such continuing education, approved by the board, during the preceding two-year period. The board shall establish, as the Board may require by rule, guidelines and criteria for continuing education credit.~~

~~(b) Biennially, the director shall forward a renewal form to each license holder. Upon receipt of the completed form and the renewal fee, the director shall issue a new license.~~

~~(c) Any application for renewal of a license which has expired shall be accompanied by the renewal fee and a reinstatement fee. A person shall not be required to pay renewal fees for years during which the license was lapsed.~~

~~(d) [Deleted.]~~

\* \* \* Acupuncturists \* \* \*

Sec. 23. 26 V.S.A. chapter 75 is amended to read:

CHAPTER 75. ACUPUNCTURISTS

§ 3401. DEFINITIONS

As used in this chapter:

~~(1)(A) “Acupuncture” or the “practice of acupuncture” means the insertion of fine needles through the skin at certain points on the body, with or without the application of electric current or the application of heat to the needles or skin, or both, for the purpose of promoting health and balance as defined by traditional and modern Oriental theories. Acupuncture involves the use of traditional and modern Oriental diagnostic techniques, acupuncture therapy, and adjunctive therapies, including but not limited to: nonprescription remedies, exercise, nutritional and herbal therapies, therapeutic massage, and lifestyle counselling treatment by means of mechanical, thermal, or electrical stimulation effected by the insertion and manipulation of solid or filiform needles to the human body; evaluation and management to determine a plan of acupuncture care for the purpose of promoting health and well-being; and development of a corresponding plan of acupuncture care, which may include adjunctive therapies such as manual therapy, nonprescription remedies, nutritional and herbal therapies, thermal therapies, therapeutic massage, exercises, activities, and lifestyle counseling.~~

~~(B) “Acupuncture” or the “practice of acupuncture” does not include medical diagnosis or medical management of illness.~~

\* \* \*

#### § 3408. RENEWALS

~~(a) Licenses shall be renewed every two years upon payment of the required fee and furnishing satisfactory evidence of having completed 30 hours of approved continuing education credit during the preceding two years. The director may adopt rules for the approval of continuing education programs and the awarding of credit.~~

~~(b) Biennially, the director shall forward a renewal form to each licensed acupuncturist. Upon receipt of the completed form and the renewal fee, the director shall issue a new license.~~

~~(c) A license that has expired for three years or less shall be renewed upon meeting the renewal requirements and paying a late renewal penalty. A license that has expired for more than three years shall not be renewed; the applicant shall be required to apply for reinstatement. The director may adopt rules relating to reinstatement to assure that the applicant is professionally qualified.~~

\* \* \*

#### § 3410. UNPROFESSIONAL CONDUCT

~~(a) A licensed acupuncturist or applicant shall not engage in unprofessional conduct.~~

(b) Unprofessional conduct means any of the conduct listed in this section and 3 V.S.A. § 129a, whether committed by a licensed acupuncturist or an applicant, and inappropriate sexual conduct toward a patient or former patient

~~(1) Using dishonest or misleading advertising.~~

~~(2) Addiction to narcotics, habitual drunkenness, or rendering professional services to a patient if the acupuncturist is intoxicated or under the influence of drugs.~~

~~(3) Sexual harassment of a patient.~~

~~(4) Engaging in sexual intercourse or other sexual conduct with a patient with whom the licensed acupuncturist has had a professional relationship within the previous two years.~~

~~(c) After hearing and upon a finding of unprofessional conduct, an administrative law officer appointed under 3 V.S.A. § 129(j) may take disciplinary action against a licensed acupuncturist or applicant.~~

\* \* \*

#### § 3412. ACUPUNCTURE DETOXIFICATION; SPECIALIZED CERTIFICATION

~~(a) A person not licensed under this chapter may obtain a specialized certification as an acupuncture detoxification technician to practice auricular acupuncture according to the National Acupuncture Detoxification Association protocol from the board for the purpose of the treatment of alcoholism, substance abuse, or chemical dependency if he or she provides documentation of successful completion of a board-approved training program in acupuncture for the treatment of alcoholism, substance abuse, or chemical dependency which meets or exceeds standards of training established by the National Acupuncture Detoxification Association.~~

~~(b) Treatment permitted under this section may only take place in a state, federal, or board-approved site under the supervision of an individual licensed under this chapter and certified by the National Acupuncture Detoxification Association.~~

~~(c) A person practicing under this section shall be subject to the requirements of section 3410 of this title.~~

~~(d) Nothing in this section shall be construed to modify any of the requirements for licensure of acupuncturists contained in this chapter, nor shall it grant any rights to practice acupuncture which exceed the scope of this section.~~

~~(e) The fee for obtaining a specialized certification or renewal of a~~

~~specialized certification under this section shall be that established in 3 V.S.A. § 125(b).~~

~~(f) Anyone certified under this section, while practicing the National Acupuncture Detoxification Association protocol, shall be referred to as an acupuncture detoxification technician. [Repealed.]~~

Sec. 24. TRANSITIONAL PROVISION; ACTIVE CERTIFIED

ACUPUNCTURE DETOXIFICATION TECHNICIANS; ABILITY  
TO RENEW CERTIFICATION

Notwithstanding the repeal of 26 V.S.A. § 3412 (acupuncture detoxification; specialized certification) in Sec. 21 of this act, a person actively certified by the Office of Professional Regulation as an acupuncture detoxification technician may renew that certification biennially upon payment of the required fee and for as long as he or she maintains continuous certification, may provide auricular acupuncture consistent with National Acupuncture Detoxification Association protocol under the supervision of a licensed acupuncturist within an Office-approved setting as a complement to comprehensive addiction-treatment services.

\* \* \* Effective Dates \* \* \*

Sec. 25. EFFECTIVE DATES

This act shall take effect on July 1, 2018, except:

(1) this section and Sec. 13 (Director of Professional Regulation; barbers and cosmetologists; rulemaking) shall take effect on passage; and

(2) Secs. 2, amending 3 V.S.A. § 125 (fees), and 12, amending 26 V.S.A. chapter 6 (barbers and cosmetologists), shall take effect on January 1, 2019, except that in Sec. 2, 3 V.S.A. § 125, subdivision (b)(4)(A) (social workers) shall take effect on passage.

**( Committee Vote: 9-0-2)**

**Rep. Canfield of Fair Haven**, for the Committee on Ways and Means, recommends the bill ought to pass when amended as recommended by the Committee on Government Operations and when further amended as follows:

First: In Sec. 2, 3 V.S.A. § 125 (fees), in subdivision (b)(2), following “except application for” by inserting “barbering or”

Second: In Sec. 2, 3 V.S.A. § 125 (fees), in subdivision (b)(4), by striking out subdivision (F) and inserting in lieu thereof a new (F) to read:

(F) Biennial renewal for schools of barbering or cosmetology, \$300.00.

**( Committee Vote: 10-0-1)**

## H. 728

An act relating to bail reform

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

Sec. 1. 13 V.S.A. § 7551 is amended to read:

§ 7551. IMPOSITION OF BAIL, SECURED APPEARANCE BONDS, AND APPEARANCE BONDS; GENERALLY

(a) Bonds; generally. A bond given by a person charged with a criminal offense or by a witness in a criminal prosecution under section 6605 of this title, conditioned for the appearance of the person or witness before the court in cases where the offense is punishable by fine or imprisonment, and in appealed cases, shall be taken to the Criminal Division of the Superior Court where the prosecution is pending, and shall remain binding upon parties until discharged by the court or until sentencing. The person or witness shall appear at all required court proceedings.

(b) Limitation on imposition of bail, secured appearance bonds, and appearance bonds. No bail, secured appearance bond, or appearance bond may be imposed:

(1) No bond may be imposed at the initial appearance of a person charged with a misdemeanor if the person was cited for the offense in accordance with Rule 3 of the Vermont Rules of Criminal Procedure; or

(2) upon the temporary release of a person pursuant to Rule 5(b) of the Vermont Rules of Criminal Procedure, or at the initial appearance of a person charged with a violation of a misdemeanor offense that is eligible for expungement pursuant to subdivision 7601(4)(A) of this title.

(3) This subsection shall not be construed to restrict the court's ability to impose conditions on such persons to reasonably ensure his or her appearance at future proceedings mitigate the risk of flight from prosecution or to reasonably protect the public in accordance with section 7554 of this title.

Sec. 2. Rule 3(k) of the Vermont Rules of Criminal Procedure is amended to read:

(k) Temporary Release. A law enforcement officer arresting a person shall consult with the prosecuting attorney, and the prosecuting attorney shall contact a judicial officer for determination of temporary release pursuant to Rule 5(b) of these rules without unnecessary delay. The law enforcement officer or prosecuting attorney shall provide the judicial officer with the information and affidavit or sworn statement required by Rule 4(a) of these

rules.

Sec. 3. 13 V.S.A. § 7554 is amended to read:

§ 7554. RELEASE PRIOR TO TRIAL

(a) Release; conditions of release. Any person charged with an offense, other than a person held without bail under section 7553 or 7553a of this title, shall at his or her appearance before a judicial officer be ordered released pending trial in accordance with this section.

(1) The defendant shall be ordered released on personal recognizance or upon the execution of an unsecured appearance bond in an amount specified by the judicial officer unless the judicial officer determines that such a release will not reasonably ~~ensure the appearance of the person~~ mitigate the risk of flight from prosecution as required. In determining whether the defendant presents a risk of ~~nonappearance~~ flight from prosecution, the judicial officer shall consider, in addition to any other factors, the seriousness of the offense charged and the number of offenses with which the person is charged. If the officer determines that ~~such a release will not reasonably ensure the appearance of the defendant as required~~ the defendant presents a risk of flight from prosecution, the officer shall, either in lieu of or in addition to the methods of release in this section, impose the least restrictive of the following conditions or the least restrictive combination of the following conditions that will reasonably ~~ensure the appearance~~ mitigate the risk of flight of the defendant as required:

(A) Place the defendant in the custody of a designated person or organization agreeing to supervise him or her if the defendant is charged with an offense that is not a nonviolent misdemeanor or nonviolent felony as defined in 28 V.S.A. § 301.

(B) Place restrictions on the travel, or ~~or~~ association, ~~or~~ or place of abode of the defendant during the period of release.

(C) Require the defendant to participate in an alcohol or drug treatment program. The judicial officer shall take into consideration the defendant's ability to comply with an order of treatment and the availability of treatment resources.

(D) ~~Require~~ Upon consideration of the defendant's financial means, ~~require~~ the execution of a secured appearance bond in a specified amount and the deposit with the clerk of the ~~Court~~ court, in cash or other security as directed, of a sum not to exceed 10 percent of the amount of the bond, such deposit to be returned upon the appearance of the defendant as required.

(E) ~~Require~~ Upon consideration of the defendant's financial means, ~~require~~ the execution of a surety bond with sufficient solvent sureties, or the

deposit of cash in lieu thereof.

(F) Impose any other condition found reasonably necessary to ~~ensure appearance~~ mitigate the risk of flight as required, including a condition requiring that the defendant return to custody after specified hours.

(G) Place the defendant in a program of community-based electronic monitoring in accordance with section 7554d of this title.

(2) If the judicial officer determines that conditions of release imposed to ~~ensure appearance~~ mitigate the risk of flight will not reasonably protect the public, the judicial officer may impose in addition the least restrictive of the following conditions or the least restrictive combination of the following conditions that will reasonably ensure protection of the public:

(A) Place the defendant in the custody of a designated person or organization agreeing to supervise him or her if the defendant is charged with an offense that is not a nonviolent misdemeanor or nonviolent felony as defined in 28 V.S.A. § 301.

(B) Place restrictions on the travel, ~~or association, or place of abode~~ of the defendant during the period of release.

(C) Require the defendant to participate in an alcohol or drug treatment program. The judicial officer shall take into consideration the defendant's ability to comply with an order of treatment and the availability of treatment resources.

(D) Impose any other condition found reasonably necessary to protect the public, except that a physically restrictive condition may only be imposed in extraordinary circumstances.

(E) ~~If the defendant is a State, county, or municipal officer charged with violating section 2537 of this title, the court may suspend~~ Suspend the officer's duties in whole or in part, if the defendant is a State, county, or municipal officer charged with violating section 2537 of this title and the court finds that it is necessary to protect the public.

(F) Place the defendant in a program of community-based electronic monitoring in accordance with section 7554d of this title.

(G) Place restrictions on the defendant's place of abode during the period of release if the defendant is charged with a listed crime as defined in subdivision 5301(7) of this title or an offense involving sexual exploitation of children in violation of chapter 64 of this title.

(3) A judicial officer may order that a defendant not harass or contact or cause to be harassed or contacted a victim or potential witness. This order shall take effect immediately, regardless of whether the defendant is

incarcerated or released.

(b) Judicial considerations in imposing conditions of release. In determining which conditions of release to impose ~~under~~:

(1) In subdivision (a)(1) of this section, the judicial officer, on the basis of available information, shall take into account the nature and circumstances of the offense charged; the weight of the evidence against the accused; the accused's employment; financial resources, including his or her ability to post bail; character and mental condition; length of residence in the community; and record of appearance at court proceedings or of flight to avoid prosecution or failure to appear at court proceedings.

~~(2) subsection~~ In subdivision (a)(2) of this section, the judicial officer shall, on the basis of available information, shall take into account the nature and circumstances of the offense charged, the weight of the evidence against the accused, the accused's family ties, employment, financial resources, character and mental condition, the length of residence in the community, record of convictions, and record of appearance at court proceedings or of flight to avoid prosecution or failure to appear at court proceedings. Recent history of actual violence or threats of violence may be considered by the judicial officer as bearing on the character and mental condition of the accused.

(c) Order. A judicial officer authorizing the release of a person under this section shall issue an appropriate order containing a statement of the conditions imposed, if any; shall inform such person of the penalties applicable to violations of the conditions of release; and shall advise him or her that a warrant for his or her arrest will be issued immediately upon any such violation.

(d) Review of conditions.

(1) A person for whom conditions of release are imposed and who is detained as a result of his or her inability to meet the conditions of release or who is ordered released on a condition that he or she return to custody after specified hours shall, within 48 hours of following application, be entitled to have the conditions reviewed by a judge in the court having original jurisdiction over the offense charged. A person applying for review shall be given the opportunity for a hearing. Unless the conditions of release are amended as requested, the judge shall set forth in writing or orally on the record a reasonable basis for continuing the conditions imposed. In the event that a judge in the court having original jurisdiction over the offense charged is not available, any Superior judge may review such conditions.

(2) A person for whom conditions of release are imposed shall, within

five working days of following application, be entitled to have the conditions reviewed by a judge in the court having original jurisdiction over the offense charged. A person applying for review shall be given the opportunity for a hearing. Unless the conditions of release are amended as requested, the judge shall set forth in writing or orally on the record a reasonable basis for continuing the conditions imposed. In the event that a judge in the court having original jurisdiction over the offense charged is not available, any Superior judge may review such conditions.

(e) Amendment of order. A judicial officer ordering the release of a person on any condition specified in this section may at any time amend the order to impose additional or different conditions of release, provided that the provisions of subsection (d) of this section shall apply.

(f) Definition. The term “judicial officer” as used in this section and section 7556 of this title shall mean a clerk of a Superior Court or a Superior Court judge.

(g) Admissibility of evidence. Information stated in, or offered in connection with, any order entered pursuant to this section need not conform to the rules pertaining to the admissibility of evidence in a court of law.

(h) Forfeiture. Nothing contained in this section shall be construed to prevent the disposition of any case or class of cases by forfeiture of collateral security where if such disposition is authorized by the court.

(i) Forms. The Court Administrator shall establish forms for appearance bonds, secured appearance bonds, surety bonds, and for use in the posting of bail. Each form shall include the following information:

(1) The bond or bail may be forfeited in the event that the defendant or witness fails to appear at any required court proceeding.

(2) The surety or person posting bond or bail has the right to be released from the obligations under the bond or bail agreement upon written application to the judicial officer and detention of the defendant or witness.

(3) The bond will continue through sentencing in the event that bail is continued after final adjudication.

(j) Juveniles. Any juvenile between 14 and 16 years of age who is charged with a listed crime as defined in subdivision 5301(7) of this title shall appear before a judicial officer and be ordered released pending trial in accordance with this section within 24 hours of following the juvenile’s arrest.

Sec. 4. 13 V.S.A. § 7575 is amended to read:

§ 7575. REVOCATION OF THE RIGHT TO BAIL

The right to bail may be revoked entirely if the judicial officer finds that the accused has:

- (1) intimidated or harassed a victim, potential witness, juror, or judicial officer in violation of a condition of release; or
- (2) ~~repeatedly violated conditions of release; or~~ [Repealed.]
- (3) violated a condition or conditions of release ~~which~~ that constitute a threat to the integrity of the judicial system; or
- (4) without just cause, failed to appear at a specified time and place ordered by a judicial officer; or
- (5) in violation of a condition of release, been charged with a felony or a crime against a person or an offense like similar to the underlying charge, for which, after hearing, probable cause is found.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

**( Committee Vote: 8-2-1)**

**Favorable**

**H. 711**

An act relating to employment protections for crime victims

Rep. Stevens of Waterbury, for the Committee on General; Housing; and Military Affairs, recommends the bill ought to pass.

**( Committee Vote: 10-0-1)**

**H. 901**

An act relating to health information technology and health information exchange.

**(Rep. Jickling of Randolph** will speak for the Committee on Health Care.)

**Rep. Till of Jericho**, for the Committee on Ways and Means, recommends the bill ought to pass.

**(Committee Vote: 10-0-1)**

**Third Reading**

**H. 237**

An act relating to saliva testing

**Amendment to be offered by Rep. Rachelson of Burlington to H. 237**

In Sec. 2. 23 V.S.A. § 1200 is amended to read:

§ 1200. DEFINITIONS

As used in this subchapter:

\* \* \*

(3) “Evidentiary test” means a breath, saliva, or blood test which indicates the person’s alcohol concentration or the presence of other drug and which is intended to be introduced as evidence. A saliva test shall only be admissible to demonstrate the presence of a drug for which possession is prohibited under 18 V.S.A. chapter 84.

\* \* \*

(11) “Preliminary screening” means a breath or saliva test administered by a law enforcement officer for the purpose of deciding whether an arrest should be made and whether to request an evidentiary test. The results of a preliminary screening shall not be introduced as evidence of impairment in any court proceeding. A preliminary saliva screening result detecting the presence of a drug shall not, by itself, constitute grounds for probable cause for an arrest. A preliminary saliva test shall only be admissible to demonstrate the presence of a drug for which possession is prohibited under 18 V.S.A. chapter 84.

**Amendment to be offered by Rep. Rachelson of Burlington to H. 237**

In Sec. 5, in 23 V.S.A. § 1203(i)(1), in the last sentence, following “Any preliminary alcohol” by inserting “or drug”

**H. 675**

An act relating to conditions of release prior to trial

**Committee Bill for Second Reading**

**H. 903**

An act relating to regenerative farming.

**(Rep. Smith of New Haven** will speak for the Committee on Agriculture and Forestry.)

**H. 904**

An act relating to miscellaneous agricultural subjects.

**(Rep. Norris of Shoreham** will speak for the Committee on Agriculture and Forestry.)

## Favorable with Amendment

### H. 378

An act relating to the creation of the Artificial Intelligence Commission

**Rep. Sibia of Dover**, for the Committee on Energy and Technology, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

#### Sec. 1. ARTIFICIAL INTELLIGENCE TASK FORCE; REPORT

(a) Creation. There is created the Artificial Intelligence Task Force to:

(1) investigate the field of artificial intelligence; and

(2) make recommendations on the responsible growth of Vermont's emerging technology markets, use of artificial intelligence in State government, and State regulation of the artificial intelligence field.

(b) Definition. As used in this section, "artificial intelligence" means models and systems performing functions generally associated with human intelligence, such as reasoning and learning.

(c) Membership. The Task Force shall be composed of the following six members:

(1) a chair of the Task Force, with expertise in ethics of technology, who shall be appointed by the Chief Justice of the Supreme Court;

(2) the Secretary of Digital Services or designee;

(3) the Secretary of Commerce and Community Development or designee;

(4) one computer scientist who specializes in artificial intelligence, who shall be appointed by the President of the University of Vermont and State Agricultural College;

(5) one social worker with experience in the field of ethics and human rights, who shall be appointed by the Vermont chapter of the National Association of Social Workers; and

(6) one member, who shall be appointed by the Vermont Society of Engineers.

(d) Powers and duties. The Task Force shall study the field of artificial intelligence, including the following:

(1) an assessment of the development and use of artificial intelligence technology, including benefits and risks;

(2) whether and how to use artificial intelligence in State government,

including an analysis of the fiscal impact, if any, on the State; and

(3) whether State regulation of the artificial intelligence field is needed.

(e) Meetings.

(1) The Chair shall call the first meeting of the Task Force to occur on or before August 1, 2018.

(2) The Task Force shall meet not more than 10 times and shall cease to exist on June 30, 2019.

(f) Quorum. Four members shall constitute a quorum of the Task Force.

(g) Staff services. The Task Force shall be entitled to staff services of the Agency of Commerce and Community Development.

(h) Report. On or before February 15, 2019, the Task Force shall issue a report to the Senate Committee on Finance and the House Committee on Energy and Technology that shall include:

(1) a summary of the development and current use of artificial intelligence in Vermont;

(2) a proposal for a definition of artificial intelligence, if needed;

(3) a proposal for State regulation of artificial intelligence, if needed;

(4) a proposal for the responsible and ethical development of artificial intelligence in the State, including an identification of the potential risks and benefits of such development; and

(5) a recommendation on whether the General Assembly should establish a permanent commission to study the artificial intelligence field.

(i) The report described in subsection (h) of this section shall be submitted electronically to the Senate Committee on Finance and the House Committee on Energy and Technology, unless otherwise requested.

### Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

and that after passage the title of the bill be amended to read: “An act relating to creation of the Artificial Intelligence Task Force”

**( Committee Vote: 8-0-0)**

### **H. 615**

An act relating to prohibiting the use of drones near correctional facilities

**Rep. Belaski of Windsor**, for the Committee on Corrections and Institutions, recommends the bill be amended by striking all after the enacting

clause and inserting in lieu thereof the following:

Sec. 1. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

\* \* \*

(b) The Judicial Bureau shall have jurisdiction of the following matters:

\* \* \*

(28) Violations of 20 V.S.A. § 4625, relating to the use of drones near correctional facilities.

\* \* \*

Sec. 2. 20 V.S.A. § 4621 is amended to read:

§ 4621. DEFINITIONS

As used in this chapter:

(1) “Correctional facility” shall have the same meaning as in 28 V.S.A. § 3.

(2) “Drone” means a powered aerial vehicle that does not carry a human operator and is able to fly autonomously or to be piloted remotely.

~~(2)~~(3) “Law enforcement agency” means:

- (A) the Vermont State Police;
- (B) a municipal police department;
- (C) a sheriff’s department;
- (D) the Office of the Attorney General;
- (E) a State’s Attorney’s office;
- (F) the Capitol Police Department;
- (G) the Department of Liquor Control;
- (H) the Department of Fish and Wildlife;
- (I) the Department of Motor Vehicles;
- (J) a State investigator; or

(K) a person or entity acting on behalf of an agency listed in this subdivision ~~(2)~~(3).

(4) “Public safety agency” shall have the same meaning as in section 1841 of this title.

Sec. 3. 20 V.S.A. § 4625 is added to read:

§ 4625. CORRECTIONAL FACILITIES; USE OF DRONES PROHIBITED;

CIVIL PENALTY

(a) A person shall not knowingly operate a drone over a correctional facility or surrounding property that is readily recognizable to a reasonable person as being correctional facility property or is reasonably identified as such by fencing or appropriate signs.

(b) A person who violates subsection (a) of this section shall be assessed a civil penalty of not more than \$500.00.

(c)(1) Subsection (a) of this section shall not apply to the use of a drone by:

(A) the Department of Corrections;

(B) a person operating a drone with the written consent of the correctional facility's supervising officer; or

(C) a person operating a drone that is being used for a commercial purpose, if the person is operating in compliance with any authorization, rule, or exemption granted by the Federal Aviation Administration.

(2) With prior notice to the correctional facility, subsection (a) of this section shall not apply to the use of a drone by:

(A) the Department of Buildings and General Services or its contractors working on behalf of the Department;

(B) a law enforcement agency; or

(C) a public safety agency responding to an emergency or a person engaged in emergency functions or emergency management pursuant to chapter 1 of this title (emergency management).

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

**( Committee Vote: 10-0-1)**

**H. 726**

An act relating to creating a voluntary pollinator-friendly standard for solar arrays

**Rep. Chesnut-Tangerman of Middletown Springs**, for the Committee on Energy and Technology, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 6 V.S.A. chapter 217 is added to read:

CHAPTER 217. POLLINATOR-FRIENDLY SOLAR GENERATION  
STANDARD

§ 5101. DEFINITIONS

As used in this chapter:

(1) “Agency” means the Agency of Agriculture, Food and Markets.

(2) “Native perennial vegetation” means Vermont native wildflowers, forbs, and grasses that serve as habitat, forage, and migratory way stations for pollinators and shall not include any invasive species on the Agency’s Noxious Weed Rule under chapter 84 of this title, on the Vermont Invasive Exotic Plant Committee Quarantine and Watch List, or as determined by the Agency of Natural Resources.

(3) “Owner” means a public or private entity that has a controlling interest in the solar site.

(4) “Pollinator” means bees, birds, bats, and other insects or wildlife that pollinate flowering plants, and includes wild and managed insects.

(5) “Solar site” means a ground-mounted solar system for generating electricity and the area surrounding that system under the control of the owner.

(6) “Vegetation management plan” means a written document that includes short- and long-term site management practices that will provide and maintain native perennial vegetation.

§ 5102. BENEFICIAL HABITAT STANDARD

(a) This section establishes a standard for owners that intend to claim that, through the voluntary planting and management of vegetation, a solar site provides greater benefits to pollinators and shrub-dependent birds than are provided by solar sites not so managed.

(b) In order for the solar site to meet the beneficial habitat standard and for the owner of a solar site to claim that the solar site is beneficial to those species or is pollinator-friendly, all the following shall apply:

(1) The owner adheres to guidance set forth by the Pollinator-Friendly Scorecard published by the University of Vermont (UVM) Extension.

(2) The owner shall make the solar site’s completed Pollinator-Friendly Scorecard available to the public and provide a copy of the completed Scorecard to the UVM Extension.

(3) If the site has a vegetation management plan:

(A) The plan shall maximize the use of native perennial vegetation and native foraging habitat beneficial to pollinators consistent with the solar

site's scorecard.

(B) The owner shall make the vegetation management plan available to the public and provide a copy of the plan to the UVM Extension.

(4) When establishing perennial vegetation and beneficial foraging habitat, the solar site shall use native plant species and seed mixes whenever practicable.

(c) Nothing in this chapter affects any findings that must be made in order to issue a State permit or other approval for a solar site or the duty to comply with any conditions in such a permit or approval.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

**( Committee Vote: 8-0-0)**

**H. 806**

An act relating to the Southeast State Correctional Facility Study Committee

**Rep. Connor of Fairfield**, for the Committee on Corrections and Institutions, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. SOUTHEAST STATE CORRECTIONAL FACILITY; REQUEST  
FOR INFORMATION

(a) On or before August 1, 2018, the Commissioner of Buildings and General Services shall issue a request for information for recommendations on the future use and development of the Southeast State Correctional Facility and the surrounding 118.57 acres of land owned by the Department of Buildings and General Services. The General Assembly intends that the responses to the request for information would include recommendations for both public and private uses, including a State-owned facility, and would allow for consultation with the Town of Windsor.

(b) On or before January 15, 2019, the Commissioner of Buildings and General Services shall submit a report to the House Committee on Corrections and Institutions, the Senate Committee on Institutions, and the Selectboard for the Town of Windsor with the results of the request for information described in subsection (a) of this section and recommendations for the use of the Southeast State Correctional Facility based on these results.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

and that after passage the title of the bill be amended to read: “An act relating to the Southeast State Correctional Facility”

( **Committee Vote: 10-0-1** )

### H. 859

An act relating to requiring municipal corporations to affirmatively vote to retain ownership of lease lands

**Rep. Gannon of Wilmington**, for the Committee on Government Operations, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 24 V.S.A. § 2409 is added to read:

#### § 2409. RETENTION OF MUNICIPAL OWNERSHIP OF LEASE LANDS

(a) As used in this section:

(1) “Legislative body” means the officer or officers of a municipal corporation who are charged with the care of the municipal corporation’s lease lands.

(2) “Lessee” means the person entitled to possess, enjoy, and use land subject to a perpetual lease and shall include the person’s heirs, executors, administrators, and assigns.

(3) “Municipal corporation” shall have the same meaning as “municipality” in 1 V.S.A. § 126 and shall also include every municipal corporation identified in subdivision 1751(1) of this title, county grammar schools, any unorganized towns and gores in the State, and any of the unified towns and gores of Essex County. “Municipal corporation” shall not include the University of Vermont and State Agricultural College.

(4) “Perpetual lease” means any leasehold interest in Vermont land, and every estate in Vermont land other than fee simple absolute, the title to which is held by a municipal corporation according to section 2401 of this title, arising out of or created by an instrument of lease that conveys to a person designated as lessee the right to possess, enjoy, and use the land in perpetuity or substantially in perpetuity. “Perpetual lease” shall include leasehold interests that are subject to restrictions on the lessee’s use of the land and shall include lands that the municipal corporation may repossess for nonpayment of rent or other default under the terms of the lease.

(5) “Perpetual lease land” means all land described in a perpetual lease that is owned in fee simple by a municipal corporation. “Perpetual lease land” does not include land described in a perpetual lease that is held in title by any person other than a municipal corporation, or any land described in a perpetual

lease over which the municipal corporation acts exclusively as trustee.

(b)(1) On January 1, 2020, title to perpetual lease lands shall vest in the current lessee of record, free and clear of any interest of a municipal corporation but subject to any other encumbrances of record, unless the legislative body of the municipal corporation votes in the affirmative to retain ownership of the perpetual lease land.

(2) Notwithstanding subdivision (b)(1) of this section, lease lands that do not have a current lessee of record, or that are abandoned, unused, or unoccupied, shall be deemed to vest in the municipal corporation as public lands.

(c) Nothing in this section shall prevent a municipal corporation that has retained ownership of perpetual lease land from later conveying the land according to section 2406 of this title.

Sec. 2. 24 V.S.A. § 1061 is amended to read:

§ 1061. CONVEYANCE OF REAL ESTATE

\* \* \*

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, the legislative body of a town or village may authorize the conveyance of municipal real estate if the conveyance:

\* \* \*

(3) Involves real estate used for housing or urban renewal projects under chapter 113 of this title.

(4) Involves lease land pursuant to chapter 65, subchapter 1 of this title.

\* \* \*

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

**( Committee Vote: 10-0-1)**

### **H. 881**

An act relating to corrective action plans under Act 250

**Rep. McCullough of Williston**, for the Committee on Natural Resources; Fish and Wildlife, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 6081 is amended to read:

§ 6081. PERMITS REQUIRED; EXEMPTIONS

\* \* \*

(x)(1) No permit or permit amendment is required for the construction of improvements for any one of the actions or abatements authorized in this subdivision:

(A) a remedial or removal action for which the Secretary of Natural Resources has authorized disbursement under section 1283 of this title;

(B) abating a release or threatened release, as directed by the Secretary of Natural Resources under section 6615 of this title;

(C) a remedial or removal action directed by the Secretary of Natural Resources under section 6615 of this title;

(D) a corrective action authorized in a corrective action plan approved by the Secretary of Natural Resources under section 6615b of this title;

(E) a corrective action authorized in a corrective action plan approved by the Secretary of Natural Resources under chapter 159, subchapter 3 of this title; or

(F) the management of "development soils," as that term is defined in subdivision 6602(39) of this title, under a plan approved by the Secretary of Natural Resources under section 6604c of this title.

(2) Any development subsequent to the construction of improvements for any one of the actions or abatements authorized in subdivision (1) of this subsection shall not be exempt from the provisions of this chapter.

## Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

**( Committee Vote: 8-0-1)**

### S. 267

An act relating to timing of a decree nisi in a divorce proceeding

**Rep. Lalonde of South 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. 13 V.S.A. chapter 85 is amended to read:

#### CHAPTER 85. WEAPONS

##### Subchapter 1. Generally

\* \* \*

## Subchapter 2. Extreme Risk Protection Orders

### § 4051. DEFINITIONS

As used in this subchapter:

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

(2) “Dangerous weapon” means an explosive or a firearm.

(3) “Explosive” means dynamite, or any explosive compound of which nitroglycerin forms a part, or fulminate in bulk or dry condition, or blasting caps, or detonating fuses, or blasting powder or any other similar explosive. The term does not include a firearm or ammunition therefor or any components of ammunition for a firearm, including primers, smokeless powder, or black gunpowder.

(4) “Federally licensed firearms dealer” means a licensed importer, licensed manufacturer, or licensed dealer required to conduct national instant criminal background checks under 18 U.S.C. § 922(t).

(5) “Firearm” shall have the same meaning as in subsection 4017(d) of this title.

(6) “Law enforcement agency” means the Vermont State Police, a municipal police department, or a sheriff’s department.

### § 4052. JURISDICTION AND VENUE

(a) The Family Division of the Superior Court shall have jurisdiction over proceedings under this subchapter.

(b) Emergency orders under section 4054 of this title may be issued by a judge of the Criminal, Civil, or Family Division of the Superior Court.

(c) Proceedings under this chapter shall be commenced in the county where the law enforcement agency is located, the county where the respondent resides, or the county where the events giving rise to the petition occur.

### § 4053. PETITION FOR EXTREME RISK PROTECTION ORDER

(a) A State’s Attorney or the Office of the Attorney General may file a petition requesting that the court issue an extreme risk protection order prohibiting a person from purchasing, possessing, or receiving a dangerous weapon or having a dangerous weapon within the person’s custody or control. The petitioner shall submit an affidavit in support of the petition.

(b) Except as provided in section 4054 of this title, the court shall grant relief only after notice to the respondent and a hearing. The petitioner shall have the burden of proof by a preponderance of the evidence.

(c)(1) A petition filed pursuant to this section shall allege that the

respondent poses an extreme risk of causing harm to himself or herself or another person by purchasing, possessing, or receiving a dangerous weapon or by having a dangerous weapon within the respondent's custody or control.

(2)(A) An extreme risk of harm to others may be shown by establishing that:

(i) the respondent has inflicted or attempted to inflict bodily harm on another; or

(ii) by his or her threats or actions the respondent has placed others in reasonable fear of physical harm to themselves; or

(iii) by his or her actions or inactions the respondent has presented a danger to persons in his or her care.

(B) An extreme risk of harm to himself or herself may be shown by establishing that the respondent has threatened or attempted suicide or serious bodily harm.

(3) The affidavit in support of the petition shall state:

(A) the specific facts supporting the allegations in the petition;

(B) any dangerous weapons the petitioner believes to be in the respondent's possession, custody, or control; and

(C) whether the petitioner knows of an existing order with respect to the respondent under 15 V.S.A. chapter 21 (abuse prevention orders) or 12 V.S.A. chapter 178 (orders against stalking or sexual assault).

(d) The court shall hold a hearing within 14 days after a petition is filed under this section. Notice of the hearing shall be served pursuant to section 4056 of this title concurrently with the petition and any ex parte order issued under section 4054 of this title.

(e)(1) The court shall grant the petition and issue an extreme risk protection order if it finds by a preponderance of the evidence that the respondent poses an extreme risk of causing harm to himself or herself or another person by purchasing, possessing, or receiving a dangerous weapon or by having a dangerous weapon within the respondent's custody or control.

(2) An order issued under this subsection shall prohibit a person from purchasing, possessing, or receiving a dangerous weapon or having a dangerous weapon within the person's custody or control for a period of up to one year. The order shall be signed by the judge and include the following provisions:

(A) A statement of the grounds for issuance of the order.

(B) The name and address of the court where any filings should be made, the names of the parties, the date of the petition, the date and time of the order, and the date and time the order expires.

(C) A description of how to appeal the order.

(D) A description of the requirements for relinquishment of dangerous weapons under section 4059 of this title.

(E) A description of how to request termination of the order under section 4055 of this title. The court shall include with the order a form for a motion to terminate the order.

(F) A statement directing the law enforcement agency, approved federally licensed firearms dealer, or other person in possession of the firearm to release it to the owner upon expiration of the order.

(G) A statement in substantially the following form:

“To the subject of this protection order: This order shall be in effect until the date and time stated above. If you have not done so already, you are required to surrender all dangerous weapons in your custody, control, or possession to [insert name of law enforcement agency], a federally licensed firearms dealer, or a person approved by the court. While this order is in effect, you are not allowed to purchase, possess, or receive a dangerous weapon; attempt to purchase, possess, or receive a dangerous weapon; or have a dangerous weapon in your custody or control. You have the right to request one hearing to terminate this order during the period that this order is in effect, starting from the date of this order. You may seek the advice of an attorney regarding any matter connected with this order.”

(f) If the court denies a petition filed under this section, the court shall state the particular reasons for the denial in its decision.

(g) No filing fee shall be required for a petition filed under this section.

(h) Form petitions and form orders shall be provided by the Court Administrator and shall be maintained by the clerks of the courts.

(i) When findings are required under this section, the court shall make either written findings of fact or oral findings of fact on the record.

(j) Every final order issued under this section shall bear the following language: “VIOLATION OF THIS ORDER IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AS PROVIDED BY 13 V.S.A. § 4058, AND MAY ALSO BE PROSECUTED AS CRIMINAL CONTEMPT PUNISHABLE BY FINE OR IMPRISONMENT, OR BOTH.”

(k) Affidavit forms required pursuant to this section shall bear the

following language: “MAKING A FALSE STATEMENT IN THIS AFFIDAVIT IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AS PROVIDED BY 13 V.S.A. § 4058.”

§ 4054. EMERGENCY RELIEF; TEMPORARY EX PARTE ORDER

(a)(1) A State’s Attorney or the Office of the Attorney General may file a motion requesting that the court issue an extreme risk protection order ex parte, without notice to the respondent. A law enforcement officer may notify the court that an ex parte extreme risk protection order is being requested pursuant to this section, but the court shall not issue the order until after the motion is submitted.

(2) The petitioner shall submit an affidavit in support of the motion alleging that the respondent poses an imminent and extreme risk of causing harm to himself or herself or another person by purchasing, possessing, or receiving a dangerous weapon or by having a dangerous weapon within the respondent’s custody or control. The affidavit shall state:

(A) the specific facts supporting the allegations in the motion, including the imminent danger posed by the respondent; and

(B) any dangerous weapons the petitioner believes to be in the respondent’s possession, custody, or control.

(b)(1) The court shall grant the motion and issue a temporary ex parte extreme risk protection order if it finds by a preponderance of the evidence that at the time the order is requested the respondent poses an imminent and extreme risk of causing harm to himself or herself or another person by purchasing, possessing, or receiving a dangerous weapon or by having a dangerous weapon within the respondent’s custody or control. The petitioner shall cause a copy of the order to be served on the respondent pursuant to section 4056 of this title, and the court shall deliver a copy to the holding station.

(2)(A) An extreme risk of harm to others may be shown by establishing that:

(i) the respondent has inflicted or attempted to inflict bodily harm on another; or

(ii) by his or her threats or actions the respondent has placed others in reasonable fear of physical harm to themselves; or

(iii) by his or her actions or inactions the respondent has presented a danger to persons in his or her care.

(B) An extreme risk of harm to himself or herself may be shown by establishing that the respondent has threatened or attempted suicide or serious

bodily harm.

(c)(1) Unless the petition is voluntarily dismissed pursuant to subdivision (2) of this subsection, the court shall hold a hearing within 14 days after the issuance of a temporary ex parte extreme risk protection order to determine if a final extreme risk protection order should be issued. If not voluntarily dismissed, the temporary ex parte extreme risk protection order shall expire when the court grants or denies a motion for an extreme risk protection order under section 4053 of this title.

(2) The prosecutor may voluntarily dismiss a motion filed under this section at any time prior to the hearing if the prosecutor determines that the respondent no longer poses an extreme risk of causing harm to himself or herself or another person by purchasing, possessing, or receiving a dangerous weapon or by having a dangerous weapon within the respondent's custody or control. If the prosecutor voluntarily dismisses the motion pursuant to this subdivision, the court shall vacate the temporary ex parte extreme risk protection order and direct the person in possession of the dangerous weapon to return it to the respondent consistent with section 4059 of this title.

(d)(1) An order issued under this section shall prohibit a person from purchasing, possessing, or receiving a dangerous weapon or having a dangerous weapon within the person's custody or control for a period of up to 14 days. The order shall be in writing and signed by the judge and shall include the following provisions:

(A) A statement of the grounds for issuance of the order.

(B) The name and address of the court where any filings should be made, the names of the parties, the date of the petition, the date and time of the order, and the date and time the order expires.

(C) The date and time of the hearing when the respondent may appear to contest the order before the court. This opportunity to contest shall be scheduled as soon as reasonably possible, which in no event shall be more than 14 days after the date of issuance of the order.

(D) A description of the requirements for relinquishment of dangerous weapons under section 4059 of this title.

(E) A statement in substantially the following form:

"To the subject of this protection order: This order shall be in effect until the date and time stated above. If you have not done so already, you are required to surrender all dangerous weapons in your custody, control, or possession to [insert name of law enforcement agency], a federally licensed firearms dealer, or a person approved by the court. While this order is in effect, you are not allowed to purchase, possess, or receive a dangerous

weapon; attempt to purchase, possess, or receive a dangerous weapon; or have a dangerous weapon in your custody or control. A hearing will be held on the date and time noted above to determine if a final extreme risk prevention order should be issued. Failure to appear at that hearing may result in a court making an order against you that is valid for up to 60 days. You may seek the advice of an attorney regarding any matter connected with this order.”

(2)(A) The court may issue an ex parte extreme risk protection order by telephone or by reliable electronic means pursuant to this subdivision if requested by the petitioner.

(B) Upon receipt of a request for electronic issuance of an ex parte extreme risk protection order, the judicial officer shall inform the petitioner that a signed or unsigned motion and affidavit may be submitted electronically. The affidavit shall be sworn to or affirmed by administration of the oath over the telephone to the petitioner by the judicial officer. The administration of the oath need not be made part of the affidavit or recorded, but the judicial officer shall note on the affidavit that the oath was administered.

(C) The judicial officer shall decide whether to grant or deny the motion and issue the order solely on the basis of the contents of the motion and the affidavit or affidavits provided. If the motion is granted, the judicial officer shall immediately sign the original order, enter on its face the exact date and time it is issued, and transmit a copy to the petitioner by reliable electronic means. The petitioner shall cause a copy of the order to be served on the respondent pursuant to section 4056 of this title.

(D) On or before the next business day after the order is issued:

(i) the petitioner shall file the original motion and affidavit with the court; and

(ii) the judicial officer shall file the signed order, the motion, and the affidavit with the clerk. The clerk shall enter the documents on the docket immediately after filing.

(e) Form motions and form orders shall be provided by the Court Administrator and shall be maintained by the clerks of the courts.

(f) Every order issued under this section shall bear the following language: “VIOLATION OF THIS ORDER IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AS PROVIDED BY 13 V.S.A. § 4058, AND MAY ALSO BE PROSECUTED AS CRIMINAL CONTEMPT PUNISHABLE BY FINE OR IMPRISONMENT, OR BOTH.”

(g) Affidavit forms required pursuant to this section shall bear the following language: “MAKING A FALSE STATEMENT IN THIS AFFIDAVIT IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT

OR A FINE, OR BOTH, AS PROVIDED BY 13 V.S.A. § 4058.”

(h) If the court denies a petition filed under this section, the court shall state the particular reasons for the denial in its decision.

§ 4055. TERMINATION AND RENEWAL MOTIONS

(a)(1) The respondent may file a motion to terminate an extreme risk protection order issued under section 4053 of this title or an order renewed under subsection (b) of this section. A motion to terminate shall not be filed more than once during the effective period of the order. The State shall have the burden of proof by a preponderance of the evidence.

(2) The court shall grant the motion and terminate the extreme risk protection order unless it finds by a preponderance of the evidence that the respondent continues to pose an extreme risk of causing harm to himself or herself or another person by purchasing, possessing, or receiving a dangerous weapon or by having a dangerous weapon within the respondent’s custody or control.

(b)(1) A State’s Attorney or the Office of the Attorney General may file a motion requesting that the court renew an extreme risk protection order issued under this section or section 4053 of this title for an additional period of up to one year. The motion shall be accompanied by an affidavit and shall be filed not more than 30 days and not less than 14 days before the expiration date of the order. The motion and affidavit shall comply with the requirements of subsection 4053(c) of this title, and the moving party shall have the burden of proof by a preponderance of the evidence.

(2) The court shall grant the motion and renew the extreme risk protection order for an additional period of up to one year if it finds by a preponderance of the evidence that the respondent continues to pose an extreme risk of causing harm to himself or herself or another person by purchasing, possessing, or receiving a dangerous weapon or by having a dangerous weapon within the respondent’s custody or control. The order shall comply with the requirements of subdivision 4053(f)(2) and subsections 4053(j) and (k) of this title.

(c) The court shall hold a hearing within 14 days after a motion to terminate or a motion to renew is filed under this section. Notice of the hearing shall be served pursuant to section 4056 of this title concurrently with the motion.

(d) If the court denies a motion filed under this section, the court shall state the particular reasons for the denial in its decision.

(e) Form termination and form renewal motions shall be provided by the Court Administrator and shall be maintained by the clerks of the courts.

(f) When findings are required under this section, the court shall make either written findings of fact or oral findings of fact on the record.

§ 4056. SERVICE

(a) A petition, ex parte temporary order, or final order issued under this subchapter shall be served in accordance with the Vermont Rules of Civil Procedure and may be served by any law enforcement officer. A court that issues an order under this chapter during court hours shall promptly transmit the order electronically or by other means to a law enforcement agency for service, and shall deliver a copy to the holding station.

(b) A respondent who attends a hearing held under section 4053, 4054, or 4055 of this title at which a temporary or final order under this subchapter is issued and who receives notice from the court on the record that the order has been issued shall be deemed to have been served. A respondent notified by the court on the record shall be required to adhere immediately to the provisions of the order. However, even when the court has previously notified the respondent of the order, the court shall transmit the order for additional service by a law enforcement agency.

(c) Extreme risk protection orders shall be served by the law enforcement agency at the earliest possible time and shall take precedence over other summonses and orders. Orders shall be served in a manner calculated to ensure the safety of the parties. Methods of service that include advance notification to the respondent shall not be used. The person making service shall file a return of service with the court stating the date, time, and place at which the order was delivered personally to the respondent.

(d) If service of a notice of hearing issued under section 4053 or 4055 of this title cannot be made before the scheduled hearing, the court shall continue the hearing and extend the terms of the order upon request of the petitioner for such additional time as it deems necessary to achieve service on the respondent.

§ 4057. PROCEDURE

(a) Except as otherwise specified, proceedings commenced under this subchapter shall be in accordance with the Vermont Rules for Family Proceedings and shall be in addition to any other available civil or criminal remedies.

(b) The Court Administrator shall establish procedures to ensure access to relief after regular court hours or on weekends and holidays. The Court Administrator is authorized to contract with public or private agencies to assist petitioners to seek relief and to gain access to Superior Courts. Law enforcement agencies shall assist in carrying out the intent of this section.

(c) The Court Administrator shall ensure that the Superior Court has procedures in place so that the contents of orders and pendency of other proceedings can be known to all courts for cases in which an extreme risk protection order proceeding is related to a criminal proceeding.

#### § 4058. ENFORCEMENT; CRIMINAL PENALTIES

(a) Law enforcement officers are authorized to enforce orders issued under this chapter. Enforcement may include collecting and disposing of dangerous weapons pursuant to section 4059 of this title and making an arrest in accordance with the provisions of Rule 3 of the Vermont Rules of Criminal Procedure.

(b)(1) A person who intentionally commits an act prohibited by a court or fails to perform an act ordered by a court, in violation of an extreme risk protection order issued pursuant to section 4053, 4054, or 4055 of this title, after the person has been served with notice of the contents of the order as provided for in this subchapter, shall be imprisoned not more than one year or fined not more than \$1,000.00, or both.

(2) A person who files a petition for an extreme risk protection order under this subchapter knowing that information in the petition is false or with the intent to harass the respondent shall be imprisoned not more than one year or fined not more than \$1,000.00, or both.

(c) In addition to the provisions of subsections (a) and (b) of this section, violation of an order issued under this subchapter may be prosecuted as criminal contempt under Rule 42 of Vermont Rules of Criminal Procedure. The prosecution for criminal contempt may be initiated by the State's Attorney in the county in which the violation occurred. The maximum penalty that may be imposed under this subsection shall be a fine of \$1,000.00 or imprisonment for six months, or both. A sentence of imprisonment upon conviction for criminal contempt may be stayed, in the discretion of the court, pending the expiration of the time allowed for filing notice of appeal or pending appeal if any appeal is taken.

#### § 4059. RELINQUISHMENT, STORAGE, AND RETURN OF

##### DANGEROUS WEAPONS

(a) A person who is required to relinquish a dangerous weapon other than a firearm in the person's possession, custody, or control by an extreme risk protection order issued under section 4053, 4054, or 4055 of this title shall upon service of the order immediately relinquish the dangerous weapon to a cooperating law enforcement agency. The law enforcement agency shall transfer the weapon to the Bureau of Alcohol, Tobacco, Firearms and Explosives for proper disposition.

(b)(1) A person who is required to relinquish a firearm in the person's possession, custody, or control by an extreme risk protection order issued under section 4053, 4054, or 4055 of this title shall, unless the court orders an alternative relinquishment pursuant to subdivision (2) of this subsection, upon service of the order immediately relinquish the firearm to a cooperating law enforcement agency or an approved federally licensed firearms dealer.

(2)(A) The court may order that the person relinquish a firearm to a person other than a cooperating law enforcement agency or an approved federally licensed firearms dealer unless the court finds that relinquishment to the other person will not adequately protect the safety of any person.

(B) A person to whom a firearm is relinquished pursuant to subdivision (A) of this subdivision (2) shall execute an affidavit on a form approved by the Court Administrator stating that the person:

(i) acknowledges receipt of the firearm;

(ii) assumes responsibility for storage of the firearm until further order of the court and specifies the manner in which he or she will provide secure storage;

(iii) is not prohibited from owning or possessing firearms under State or federal law; and

(iv) understands the obligations and requirements of the court order, including the potential for the person to be subject to civil contempt proceedings pursuant to subdivision (C) of this subdivision (2) if the person permits the firearm to be possessed, accessed, or used by the person who relinquished the item or by any other person not authorized by law to do so.

(C) A person to whom a firearm is relinquished pursuant to subdivision (A) of this subdivision (2) shall be subject to civil contempt proceedings under 12 V.S.A. chapter 5 if the person permits the firearm to be possessed, accessed, or used by the person who relinquished the item or by any other person not authorized by law to do so. In the event that the person required to relinquish the firearm or any other person not authorized by law to possess the relinquished item obtains access to, possession of, or use of a relinquished item, all relinquished items shall be immediately transferred to the possession of a law enforcement agency or approved federally licensed firearms dealer pursuant to subdivision (b)(1) of this section.

(b) A law enforcement agency or an approved federally licensed firearms dealer that takes possession of a firearm pursuant to subdivision (b)(1) of this section shall photograph, catalogue, and store the item in accordance with standards and guidelines established by the Department of Public Safety pursuant to 20 V.S.A. § 2307(i)(3).

(c) Nothing in this section shall be construed to prohibit the lawful sale of firearms or other items.

(d) An extreme risk protection order issued pursuant to section 4053 of this title or renewed pursuant to section 4055 of this title shall direct the law enforcement agency, approved federally licensed firearms dealer, or other person in possession of a firearm under subsection (b) of this section to release it to the owner upon expiration of the order.

(e)(1) A law enforcement agency, an approved federally licensed firearms dealer, or any other person who takes possession of a firearm for storage purposes pursuant to this section shall not release it to the owner without a court order unless the firearm is to be sold pursuant to subdivision (2)(A) of this subsection. If a court orders the release of a firearm stored under this section, the law enforcement agency or firearms dealer in possession of the firearm shall make it available to the owner within three business days after receipt of the order and in a manner consistent with federal law.

(2)(A)(i) If the owner fails to retrieve the firearm within 90 days after the court order releasing it, the firearm may be sold for fair market value. Title to the firearm shall pass to the law enforcement agency or firearms dealer for the purpose of transferring ownership.

(ii) The law enforcement agency or firearms dealer shall make a reasonable effort to notify the owner of the sale before it occurs. In no event shall the sale occur until after the court issues a final extreme risk protection order pursuant to section 4053 of this title.

(iii) As used in this subdivision (2)(A), “reasonable effort” shall mean notice shall be served as provided for by Rule 4 of the Vermont Rules of Civil Procedure.

(B) Proceeds from the sale of a firearm pursuant to subdivision (A) of this subdivision (2) shall be apportioned as follows:

(i) associated costs, including the costs of sale and of locating and serving the owner, shall be paid to the law enforcement agency or firearms dealer that incurred the cost; and

(ii) any proceeds remaining after payment is made to the law enforcement agency or firearms dealer pursuant to subdivision (i) of this subdivision (2)(B) shall be paid to the original owner.

(f) A law enforcement agency shall be immune from civil or criminal liability for any damage or deterioration of a firearm stored or transported pursuant to this section. This subsection shall not apply if the damage or deterioration occurred as a result of recklessness, gross negligence, or intentional misconduct by the law enforcement agency.

(g) This section shall be implemented consistent with the standards and guidelines established by the Department of Public Safety under 20 V.S.A. § 2307(i).

(h) Notwithstanding any other provision of this chapter:

(1) A dangerous weapon shall not be returned to the respondent if the respondent's possession of the weapon would be prohibited by state or federal law.

(2) A dangerous weapon shall not be taken into possession pursuant to this section if it is being or may be used as evidence in a pending criminal matter.

#### § 4060. APPEALS

An extreme risk protection order issued by the court under section 4053 or 4055 of this title shall be treated as a final order for the purposes of appeal. Appeal may be taken by either party to the Supreme Court under the Vermont Rules of Appellate Procedure, and the appeal shall be determined forthwith.

#### § 4061. EFFECT ON OTHER LAWS

This chapter shall not be construed to prevent a court from prohibiting a person from possessing firearms under any other provision of law.

#### Sec. 2. FINDINGS

The General Assembly finds:

(1) The State of Vermont has a compelling interest in preventing domestic abuse.

(2) Domestic violence is often volatile, escalates rapidly, and is possibly fatal. The victim has a substantial interest in obtaining immediate relief because any delay may result in further injury or death. The State's compelling interest in protecting domestic violence victims from actual or threatened harm and safeguarding children from the effects of exposure to domestic violence justifies providing law enforcement officers with the authority to undertake immediate measures to stop the violence. For these reasons the State has a special need to remove firearms from a home where law enforcement has probable cause to believe domestic violence has occurred.

(3) The General Assembly recognizes that it is current practice for law enforcement to remove firearms from a domestic violence scene if the firearms are contraband or evidence of the offense. However, given the potential harm of delay during a domestic violence incident, this legislation authorizes law enforcement officers to temporarily remove other dangerous firearms from persons arrested or cited for domestic violence, while protecting rights

guaranteed by the Vermont and U.S. Constitutions, and insuring that those firearms are returned to the owner as soon as doing so would be safe and lawful.

Sec. 3. 13 V.S.A. § 1048 is added to read:

§ 1048. REMOVAL OF FIREARMS

(a)(1) When a law enforcement officer arrests, cites, or obtains an arrest warrant for a person for domestic assault in violation of this subchapter, the officer may remove any firearm obtained pursuant to a search warrant or a judicially recognized exception to the warrant requirement if the removal is necessary for the protection of the officer or any other person.

(2) As used in this section, “judicially recognized exception to the warrant requirement” includes a search incident to a lawful arrest, a search with consent, a search under exigent circumstances, a search of objects in plain view, and a search pursuant to a regulatory statute.

(b) A person cited for domestic assault shall be arraigned on the next business day after the citation is issued except for good cause shown.

(c)(1) At arraignment, the court shall issue a written order releasing any firearms removed pursuant to subsection (a) of this section unless:

(A) the firearm is being or may be used as evidence in a pending criminal or civil proceeding;

(B) a court orders relinquishment of the firearm pursuant to 15 V.S.A. chapter 21 (abuse prevention) or any other provision of law consistent with 18 U.S.C. § 922(g)(8), in which case the weapon shall be stored pursuant to 20 V.S.A. § 2307;

(C) the person requesting the return is prohibited by law from possessing a firearm; or

(D) the court imposes a condition requiring the defendant not to possess a firearm.

(2) If the court under subdivision (1) of this subsection orders the release of a firearm removed under subsection (a) of this section, the law enforcement agency in possession of the firearm shall make it available to the owner within three business days after receipt of the written order and in a manner consistent with federal law.

(d)(1) A law enforcement officer shall not be subject to civil or criminal liability for acts or omissions made in reliance on the provisions of this section. This section shall not be construed to create a legal duty to a victim or to any other person, and no action may be filed based upon a claim that a law

enforcement officer removed or did not remove a firearm as authorized by this section.

(2) A law enforcement agency shall be immune from civil or criminal liability for any damage or deterioration of firearms removed, stored, or transported pursuant to this section. This subdivision shall not apply if the damage or deterioration occurred as a result of recklessness, gross negligence, or intentional misconduct by the law enforcement agency.

(3) This section shall not be construed to limit the authority of a law enforcement agency to take any necessary and appropriate action, including disciplinary action, regarding an officer's performance in connection with this section.

Sec. 4. 15 V.S.A. § 554 is amended to read:

§ 554. DECREES NISI

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

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

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

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage, except that Sec. 4 shall take effect on July 1, 2018.

**(Committee vote: 7-0-4 )**

**(For text see Senate Journal no Senate Amendments )**

**NOTICE CALENDAR**  
**Committee Bill for Second Reading**

**H. 906**

An act relating to professional licensing for service members and veterans.

**(Rep. Christie of Hartford** will speak for the Committee on General; Housing; and Military Affairs.)

**H. 907**

An act relating to improving rental housing safety.

**(Rep. Stevens of Waterbury** will speak for the Committee on General; Housing; and Military Affairs.)

**H. 908**

An act relating to the Administrative Procedure Act.

**(Rep. Kitzmiller of Montpelier** will speak for the Committee on Government Operations.)

**H. 909**

An act relating to technical and clarifying changes in transportation-related laws.

**(Rep. Brennan of Colchester** will speak for the Committee on Transportation.)

**H. 910**

An act relating to the Open Meeting Law and the Public Records Act.

**(Rep. Harrison of Chittenden** will speak for the Committee on Government Operations.)

**H. 911**

An act relating to changes in Vermont's personal income tax and education financing system.

**(Rep. Ancel of Calais** will speak for the Committee on Ways and Means.)

**Favorable with Amendment**

**H. 599**

An act relating to games of chance organized by nonprofit organizations

**Rep. Smith of Derby**, for the Committee on General; Housing; and Military Affairs, recommends the bill be amended as follows:

First: In Sec. 1, 13 V.S.A. § 2143, by striking out subdivision (a)(1)(B) in its entirety and inserting in lieu thereof a new subdivision (a)(1)(B) to read:

(B) A nonprofit organization, as defined in 31 V.S.A. § 1201(5), may organize and execute and a member of that organization may participate in lotteries, raffles, and other games of chance in which all of the proceeds are awarded as prizes to the members that participated. An individual who is not a member of the nonprofit organization shall not be allowed to participate in a lottery, raffle, or other game of chance organized under this subdivision (B).

Second: In Sec. 1, 13 V.S.A. § 2143, after subdivision (d)(4) and prior to the ellipsis, by inserting the following:

(e) Games of chance shall be limited as follows:

(1) All Except as otherwise provided pursuant to subdivision (a)(1)(B) of this section, all proceeds raised by a game of chance shall be used exclusively for charitable, religious, educational, and civic undertakings after deducting:

**( Committee Vote: 9-0-2)**

## **H. 620**

An act relating to State-owned airports and economic development

**Rep. Kimbell of Woodstock**, for the Committee on Commerce and Economic Development, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. STATE ECONOMIC DEVELOPMENT MARKETING PLAN;

### MARKETING OF STATE-OWNED AIRPORTS

(a)(1) On or before January 15, 2019, the Secretary of Commerce and Community Development (Secretary), in consultation with the Secretary of Transportation, the legislative body of the municipality in which the airport is located, regional development corporations, regional planning commissions, the Vermont Chamber of Commerce, the Vermont Aviation Council, State airport committees, and any other interested persons, shall update the State's Economic Development Marketing Plan to incorporate the marketing of State-owned airports.

(2) In updating the Marketing Plan, the Secretary shall consider the State Aviation Systems Plan and shall address economic development opportunities with respect to each State-owned airport, including the recruitment and expansion of businesses involved in the development and commercialization of next-generation aeronautics technologies.

(b) On or before January 15, 2019, the Secretary shall submit the updated

Marketing Plan to the House Committee on Commerce and Economic Development, the Senate Committee on Economic Development, Housing and General Affairs, and the House and Senate Committees on Transportation.

Sec. 2. CHARGING STATIONS AND RENEWABLE ENERGY PLANTS  
AT STATE-OWNED AIRPORTS; FEASIBILITY EVALUATION

(a) As used in this section:

(1) “Renewable energy” shall have the same meaning as in 30 V.S.A. § 8002.

(2) “Renewable energy generating plant” means real and personal property, including any equipment, structure, or facility, used for or directly related to the generation of electricity from renewable energy.

(b) On or before January 15, 2019, for each State-owned airport, the Agency of Transportation shall evaluate the feasibility of:

(1) the installation of electric vehicle charging stations at the airport;

(2) the installation of electric aircraft charging stations at the airport;  
and

(3) the siting of one or more renewable energy generating plants at the airport.

Sec. 3. 5 V.S.A. § 807 is amended to read:

§ 807. LEASE FOR AIRCRAFT HANGARS AND OTHER STRUCTURES;  
LEASE TO BUSINESS ENTITIES

(a) A designated area or areas on the airport may be leased to a person for the purpose of constructing aircraft hangars, repair shops, or other structures compatible with the use and operation of the airport.

(b) A designated area or areas on the airport may also be leased to any business entity consistent with Federal Aviation Administration requirements.

Sec. 4. DEVELOPMENT OF AEROSPACE SECTOR IN VERMONT;  
APPROPRIATION

(a) In fiscal year 2019, the amount of \$25,000.00 is appropriated from the General Fund to the Vermont Chamber of Commerce to continue its activities to promote development of the Vermont aerospace sector and associated supply chain throughout the State.

(b) The General Assembly intends that both the appropriation in subsection (a) of this section as well as the 2017 extension of the aviation sales and use tax exemption in 32 V.S.A. § 9741(29) promote development of the Vermont

aerospace sector and associated supply chain throughout the State.

Sec. 5. EFFECTIVE DATES

(a) This section and Secs. 1–3 shall take effect on passage.

(b) Sec. 4 shall take effect on July 1, 2018.

**( Committee Vote: 10-0-1)**

**Rep. Dakin of Colchester**, for the Committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committee on Commerce and Economic Development and when further amended as follows:

By striking out Secs. 4–5 in their entirety and inserting in lieu thereof the following:

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

**( Committee Vote: 11-0-0)**

**H. 660**

An act relating to establishing the Geographic Justice Criminal Code Reclassification Commission

**Rep. Lalonde of South Burlington**, for the Committee on Judiciary, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. COMMISSION ON SENTENCING DISPARITIES AND CRIMINAL  
CODE RECLASSIFICATION

(a) Findings. The General Assembly finds:

(1) Vermont lacks a structured criminal offense system that organizes criminal penalties in a manner that appropriately and effectively reflects levels of culpability and maximizes the uniform application of criminal law throughout the State. Contrary to most states and the Model Penal Code, Vermont does not have a classification system that places every crime into a category that attempts to correlate its severity with the appropriate punishment. Rather, each offense is distinct for purposes of imprisonment and fine amount, and most offenses have a statutory maximum term of imprisonment but no minimum or recommended average. Nor has Vermont ever comprehensively reviewed its criminal statutes in order to ensure that statutory sentences reflect current knowledge and do not perpetuate archaic crimes.

(2) This structure has resulted in a lack of uniformity in Vermont's

sentencing practices. Comparable crimes in different regions of the State result in very different sentences, leading to a perception that geographic justice is a systemic problem. Because of the broad sentencing range, many sentences fall far outside statewide averages without any particular circumstances that would explain the departure. Overincarceration often results, with too many offenders sentenced for overly lengthy periods for crimes for which such punishments have not been shown to produce efficient results.

(3) The circumstances are ripe for a thorough review of Vermont's criminal sentencing law and practice in order to ensure that the justice system efficiently deploys limited resources to protect public safety, reduce recidivism, and promote geographic consistency.

(b) Creation. There is created the Commission on Sentencing Disparities and Criminal Code Reclassification to improve the consistent and uniform application of criminal justice throughout Vermont by reviewing Vermont's criminal offenses and placing each one in a standardized penalty classification system.

(c) Membership. The Commission shall be composed of the following 12 members:

(1) three current members of the House of Representatives, not all from the same political party, who shall be appointed by the Speaker of the House;

(2) three current members of the Senate, not all from the same political party, who shall be appointed by the Committee on Committees;

(3) the Attorney General or designee;

(4) the Defender General or designee;

(5) a retired judge appointed by the Chief Superior Judge;

(6) the Executive Director of the Department of State's Attorneys and Sheriffs or designee;

(7) the Executive Director of the Vermont Center for Crime Victim Services or designee; and

(8) the Executive Director of the Vermont Crime Research Group or designee.

(d) Powers and duties.

(1) The Commission shall develop a classification system that creates categories of criminal offenses on the basis of the maximum potential period of imprisonment and the maximum potential fine. The Commission shall propose legislation that places each of Vermont's criminal statutes into one of

the classification offense categories it identifies.

(2) When determining the appropriate category for each offense, the Commission shall consider whether the existing statutory penalties for the offense are appropriate or in need of adjustment better to reflect prevailing average sentencing practices and the effective uses of criminal punishment. For purposes of this analysis, the Commission shall for each offense consider the average sentence and the average amount of time actually served. If the Commission is unable to determine an appropriate classification for a particular offense, the Commission shall indicate multiple classification possibilities for that offense. Unless there is a compelling rationale, the Commission shall not propose establishing new mandatory minimum sentences or increasing existing minimum or maximum sentences.

(3) For purposes of the classification system developed pursuant to this section, the Commission shall consider the recommendations of the Criminal Code Reclassification Study Committee and may consider whether to propose:

(A) rules of statutory interpretation specifically for criminal provisions;

(B) the consistent use of mental element terminology in all criminal provisions;

(C) a comprehensive section of definitions applicable to all criminal provisions; and

(D) the decriminalization of some or all fine-only offenses and the transferal of them to the Judicial Bureau for consideration as civil offenses.

(e) Assistance. The Commission shall have the administrative, technical, and legal assistance of the Office of Legislative Council and the Joint Fiscal Office and may consult with the Vermont Crime Research Group, the Vermont Law School Center for Justice Reform, formerly incarcerated Vermonters, and any other person who would be of assistance to the Commission.

(f) Report. On or before November 30, 2019, the Commission shall submit a report consisting of proposed legislation to the House and Senate Committees on Judiciary.

(g) Meetings.

(1) The Commission shall select a chair and a vice chair from among its members at the first meeting.

(2) A majority of the membership shall constitute a quorum.

(3) The Commission shall cease to exist on July 15, 2020.

(h) Reimbursement. For attendance at meetings during adjournment of the

General Assembly, legislative members of the Commission shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406. Other members of the Commission who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to reimbursement of expenses pursuant to 32 V.S.A. § 1010.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

and that after passage the title of the bill be amended to read: “An act relating to establishing the Commission on Sentencing Disparities and Criminal Code Reclassification”

**( Committee Vote: 11-0-0)**

**Rep. Hooper of Montpelier**, for the Committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committee on Judiciary and when further amended as follows:

First: In Sec.1, subsection (c), by striking subdivisions (1) and (2) in their entirety and inserting in lieu thereof new subdivisions (1) and (2) to read as follows:

(1) two current members of the House of Representatives, one who is a member of the Committee on Judiciary and one who is a member of the Committee on Corrections and Institutions, who shall be appointed by the Speaker of the House;

(2) two current members of the Senate, one who is a member of the Committee on Judiciary and one who is a member of the Committee on Institutions, who shall be appointed by the Committee on Committees;

Second: In Sec. 1, subsection (g), by striking subdivision (3)) in its entirety and inserting in lieu thereof the following:

(3) The Commission shall cease to exist on July 15, 2020.

(4) The Commission shall meet no more than 8 times when the General Assembly is not in session.

**( Committee Vote: 11-0-0)**

**H. 707**

An act relating to the prevention of sexual harassment

**Rep. Head of South Burlington**, for the Committee on General; Housing; and Military Affairs, 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. § 495h is amended to read:

§ 495h. SEXUAL HARASSMENT

(a)(1) All employers, employment agencies, and labor organizations have an obligation to ensure a workplace free of sexual harassment.

(2) All persons who engage a person to perform work or services have an obligation to ensure a working relationship with that person that is free from sexual harassment.

\* \* \*

~~(c)(1) Employers shall provide individual copies of their written policies to current employees no later than November 1, 1993, and to new employees upon their being hired. Employers who have provided individual written notice to all employees within the 12 months prior to October 1, 1993, shall be exempt from having to provide an additional notice during the 1993 calendar year.~~

(2) If an employer makes changes to its policy against sexual harassment, it shall provide to all employees a written copy of the updated policy.

\* \* \*

~~(f)(1) Employers and labor organizations are encouraged to conduct an education and training program within one year after September 30, 1993 for all current employees and members, and for all new employees and members thereafter within one year of commencement of employment, that includes at a minimum all the information outlined in this section within one year after commencement of employment.~~

(2) Employers and labor organizations are encouraged to conduct an annual education and training program for all employees and members that includes at a minimum all the information outlined in this section.

(3) Employers are encouraged to conduct additional training for current supervisory and managerial employees and members within one year of September 30, 1993, and for new supervisory and managerial employees and members within one year of after commencement of employment or membership, which should include at a minimum the information outlined in subsection (b) of this section and, the specific responsibilities of supervisory and managerial employees, and the methods actions that these employees must take to ensure immediate and appropriate corrective action in addressing sexual harassment complaints.

(4) Employers, labor organizations, and appropriate State agencies are encouraged to cooperate in making this training available.

(g)(1) An employer shall not require any employee or prospective employee, as a condition of employment, to sign an agreement or waiver that does either of the following:

(A) prohibits, prevents, or otherwise restricts the employee or prospective employee from opposing, disclosing, reporting, or participating in an investigation of sexual harassment; or

(B) except as otherwise permitted by State or federal law, purports to waive a substantive or procedural right or remedy available to the employee with respect to a claim of sexual harassment.

(2) Any provision of an agreement that violates subdivision (1) of this subsection shall be void and unenforceable.

(h)(1) An agreement to settle a claim of sexual harassment shall not prohibit, prevent, or otherwise restrict the employee from working for the employer or any parent company, subsidiary, division, or affiliate of the employer.

(2) An agreement to settle a sexual harassment claim shall expressly state that:

(A) it does not prohibit, prevent, or otherwise restrict the employee from doing either of the following:

(i) lodging a complaint of sexual harassment committed by any person with the Attorney General, a State's Attorney, the Human Rights Commission, the Equal Employment Opportunity Commission, or any other State or federal agency; or

(ii) testifying, assisting, or participating in any manner with an investigation related to a claim of sexual harassment conducted by the Attorney General, a State's Attorney, the Human Rights Commission, the Equal Employment Opportunity Commission, or any other State or federal agency; and

(B) it does not waive any rights or claims that may arise after the date the settlement agreement is executed.

(3) Any provision of an agreement to settle a sexual harassment claim that violates subdivision (1) or (2) of this subsection shall be void and unenforceable.

(4) Nothing in subdivision (2) of this subsection shall be construed to prevent an agreement to settle a sexual harassment claim from waiving or releasing the claimant's right to seek or obtain any remedies relating to sexual harassment of the claimant by another party to the agreement that occurred before the date on which the agreement is executed.

(i)(1)(A) For the purpose of assessing compliance with the provisions of this section, the Attorney General or designee, or, if the employer is the State, the Human Rights Commission or designee, may, with 48 hours' notice, at reasonable times and without unduly disrupting business operations enter and inspect any place of business or employment, question any person who is authorized by the employer to receive or investigate complaints of sexual harassment, and examine an employer's records, policies, procedures, and training materials related to the prevention of sexual harassment and the requirements of this section. As used in this subsection, the term "records" includes de-identified data regarding the number of complaints of sexual harassment received and the resolution of each complaint.

(B) The employer shall at reasonable times and without unduly disrupting business operations make any persons who are authorized by the employer to receive or investigate complaints of sexual harassment and any records, policies, procedures, and training materials related to the prevention of sexual harassment and the requirements of this section available to the Attorney General or designee or, if the employer is the State, the Human Rights Commission or designee.

(2) Following an inspection and examination pursuant to subdivision (1) of this subsection, the Attorney General or the Human Rights Commission shall notify the employer of the results of the inspection and examination, including any issues or deficiencies identified, provide resources regarding practices and procedures for the prevention of sexual harassment that the employer may wish to adopt or utilize, and identify any technical assistance that the Attorney General or the Human Rights Commission may be able to provide to help the employer address any identified issues or deficiencies. If the Attorney General or the Human Rights Commission determines that it is necessary to ensure the employer's workplace is free from sexual harassment, the employer may be required, for a period of up to three years, to provide an annual education and training program that satisfies the provisions of subsection (f) of this section to all employees or to conduct an annual, anonymous working-climate survey, or both.

(j) The Attorney General shall adopt rules as necessary to implement the provisions of this section.

Sec. 2. 21 V.S.A. § 495b is amended to read:

§ 495b. PENALTIES AND ENFORCEMENT

(a)(1) The Attorney General or a State's Attorney may enforce the provisions of this subchapter by restraining prohibited acts, seeking civil penalties, obtaining assurances of discontinuance, and conducting civil investigations in accordance with the procedures established in 9 V.S.A.

§§ 2458-2461 as though an unlawful employment practice were an unfair act in commerce. Any employer, employment agency, or labor organization complained against shall have the same rights and remedies as specified therein. The Superior Courts are authorized to impose the same civil penalties and investigation costs and to order other relief to the State of Vermont or an aggrieved employee for violations of this subchapter as they are authorized to impose or order under the provisions of 9 V.S.A. §§ 2458 and 2461 in an unfair act in commerce. In addition, the Superior Courts may order restitution of wages or other benefits on behalf of an employee and may order reinstatement and other appropriate relief on behalf of an employee.

(2) Any charge or formal complaint filed by the Attorney General or a State's Attorney against a person for unlawful discrimination or sexual harassment in violation of the provisions of this chapter shall include a statement setting forth the prohibition against retaliation pursuant to subdivision 495(a)(8) of this title.

\* \* \*

Sec. 3. 9 V.S.A. § 4552 is amended to read:

§ 4552. DUTIES; JURISDICTION

\* \* \*

(b)(1) The Commission shall have jurisdiction to investigate and enforce complaints of unlawful discrimination in violation of chapter 139 of this title, discrimination in public accommodations and rental and sale of real estate. The Commission shall also have jurisdiction when the party complained against is a State agency in matters for which the Attorney General would otherwise have jurisdiction under subsection (c) of this section.

(2) In any case relating to unlawful discrimination or sexual harassment in violation of 21 V.S.A. § 495 et seq. that the Commission has jurisdiction over pursuant to this subsection, it shall include a statement setting forth the prohibition against retaliation pursuant to 21 V.S.A. § 495(a)(8) with any formal complaint that is sent to a respondent.

(c) All complaints of unlawful discrimination in violation of 21 V.S.A. §§ 495 et seq. and 710, the Fair Employment Practices Act and the provisions for workers' compensation discrimination, respectively, and of 21 V.S.A. § 471 et seq. shall be referred to the Attorney General's office, for investigation and enforcement.

Sec. 4. ATTORNEY GENERAL; HUMAN RIGHTS COMMISSION;

ENHANCED REPORTING OF DISCRIMINATION AND SEXUAL  
HARASSMENT

(a) On or before December 15, 2018, the Attorney General and the Human Rights Commission shall develop and implement enhanced mechanisms for employees and members of the public to submit complaints of discrimination and sexual harassment in employment or in the course of a working relationship.

(b) The methods shall include, at a minimum, an easy-to-use portal on the Attorney General's or Human Rights Commission's website and a telephone hotline. Each method shall provide a clear statement that information submitted may be referred to the Office of the Attorney General, a State's Attorney, the Vermont Human Rights Commission, the Equal Employment Opportunity Commission, or another State or federal agency that has jurisdiction over the complaint.

#### Sec. 5. OUTREACH REGARDING ENHANCED REPORTING MECHANISMS

On or before December 15, 2018, the Vermont Commission on Women, in consultation with the Attorney General and the Human Rights Commission, shall develop and implement an outreach and education program designed to make Vermont employees, employers, businesses, and members of the public aware of:

(1) the methods for reporting employment and work-related discrimination and sexual harassment; and

(2) where to find information regarding:

(A) the laws related to employment and work-related discrimination and sexual harassment; and

(B) best practices for preventing employment and work-related discrimination and sexual harassment.

#### Sec. 6. REPORT REGARDING ENHANCED REPORTING MECHANISMS

On or before January 15, 2020, the Attorney General, in consultation with the Human Rights Commission and the Vermont Commission on Women, shall submit to the House Committee on General, Housing, and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs a report regarding the implementation of the enhanced reporting mechanisms for instances of employment and work-related discrimination and sexual harassment. The report shall include:

(1) a detailed description of how any existing reporting mechanisms were enhanced and any new reporting mechanisms that were implemented;

(2) a summary of changes, if any, in the annual number of complaints of

employment and work-related discrimination and sexual harassment received and the number of complaints resulting in an investigation, settlement, or State court action during calendar years 2018 and 2019 in comparison to calendar years 2016 and 2017;

(3) the number of employees and other persons that reported employment or work-related discrimination or sexual harassment to their employer, supervisor, or the person for whom they were working prior to making a complaint in comparison to the number that did not, and the reasons that employees and other persons gave for not reporting the discrimination or sexual harassment to their employer, supervisor, or the person for whom they were working prior to making a complaint; and

(4) any suggestion for legislative action to enhance further the reporting mechanisms or to reduce the amount of employment and work-related discrimination and sexual harassment.

Sec. 7. 21 V.S.A. § 495n is added to read:

§ 495n. SEXUAL HARASSMENT COMPLAINTS FILED IN SUPERIOR COURT; NOTICE TO ATTORNEY GENERAL AND HUMAN RIGHTS COMMISSION

(a) A person that files a claim of sexual harassment pursuant to section 495b of this subchapter in which neither the Attorney General nor the Human Rights Commission is a party shall provide notice of the action to the Attorney General and the Human Rights Commission within 14 days after filing the complaint. The notice may be submitted electronically and shall include a copy of the filed complaint.

(b)(1) Upon receiving notice of a complaint in which the State is a party, the Human Rights Commission may elect to:

(A) intervene in the action to seek remedies pursuant to section 495b of this subchapter; or

(B) without becoming a party to the action, file a statement with the court addressing questions of law related to the provisions of this subchapter.

(2) Upon receiving notice of a complaint in which the State is not a party, the Attorney General may elect to:

(A) intervene in the action to seek remedies pursuant to section 495b of this subchapter; or

(B) without becoming a party to the action, file a statement with the court addressing questions of law related to the provisions of this subchapter.

Sec. 8. COMMISSIONER OF LABOR; POSTER

On or before September 15, 2018, the Commissioner of Labor shall update the model policy and model poster created pursuant to 21 V.S.A. § 495h(d) to reflect the provisions of this act.

Sec. 9. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

**( Committee Vote: 10-0-1)**

**H. 736**

An act relating to lead poisoning prevention

**Rep. Rosenquist of Georgia**, for the Committee on Human Services, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. chapter 38 is amended as follows:

CHAPTER 38. LEAD POISONING PREVENTION

§ 1751. DEFINITIONS

(a) Words and phrases used in this chapter shall have the same definitions meaning as provided in the Federal federal Residential Lead-Based Paint Hazard Reduction Act of 1992 unless there is an inconsistency, in which case any definition provided in this section that narrows, limits, or restricts shall control.

(b) As used in this chapter:

(1) “Abatement” means any set of measures designed to ~~permanently eliminate lead-based paint~~ lead hazards permanently in accordance with standards established by appropriate State and federal agencies. The term includes:

(A) removal of lead-based paint and lead-contaminated dust, permanent containment or encapsulation of lead-based paint, replacement of lead-painted surfaces or ~~fixtures~~ components, and removal or covering of lead-contaminated soil; and

(B) all preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures.

(2) “Accredited training program” means a training program that has been approved by the Commissioner of Health to provide training for individuals engaged in lead-based paint activities or RRPM activities. Training program accreditation is issued to a specific training provider who shall receive accreditation for each training discipline that the accredited

training program offers as a course.

(3) “Certified” means completion of an accredited training program by an individual.

(4) “Child” or “children” means an individual or individuals under the age of 18 years of age, except where specified as a child or children six years of age or younger.

(3)(5) “Child care facility” means a child care facility or family child care home as defined in 33 V.S.A. § 3511 that was constructed prior to 1978.

(6) “Child-occupied facility” means a building or portion of a building constructed prior to 1978, visited regularly by the same child, six years of age or under, on at least two different days within any week, provided that each day’s visit lasts at least three hours and the combined weekly visits last at least six hours and the combined annual visits last at least 60 hours. Child-occupied facilities include child care facilities, preschools, and kindergarten classrooms.

(7) “Commercial facility” means any building constructed for the purposes of commercial or industrial activity and not primarily intended for use by the general public, including office complexes, industrial buildings, warehouses, factories, and storage facilities.

(8) “Component” or “building component” means specific design or structural elements or fixtures of a facility or residential dwelling that are distinguished from each other by form, function, and location. These include interior components such as ceilings; crown moldings; walls; chair rails; doors; door trim; floors; fireplaces; radiators and other heating units; shelves; shelf supports; stair treads; stair risers; stair stringers; newel posts; railing caps; balustrades; windows and trim, including sashes, window heads, jambs, sills, or stools and troughs; built-in cabinets; columns; beams; bathroom vanities; countertops; air conditioners; and exterior components such as painting; roofing; chimneys; flashing; gutters and downspouts; ceilings; soffits; fascias; rake boards; cornerboards; bulkheads; doors and door trim; fences; floors; joists; lattice work; railings and railing caps; siding; handrails; stair risers and treads; stair stringers; columns; balustrades; windowsills or stools and troughs; casings; sashes and wells; and air conditioners.

(9) “Contractor” means any firm, partnership, association, corporation, sole proprietorship, or other business concern as well as any governmental, religious, or social organization or union that agrees to perform services.

(4)(10) “Deteriorated paint” means any interior or exterior lead-based paint or other coating that is peeling, chipping, chalking, or cracking or any paint or other coating located on an interior or exterior surface or fixture component that is otherwise damaged or separated from the substrate.

~~(5)~~(11) “Due date” means the date by which an owner of rental target housing or a child care facility shall file with the Department the EMP RRPM compliance statement required by section 1759 of this title. The due date shall be one of the following:

(A) not later than ~~366~~ 365 days after the most recent EMP RRPM compliance statement or ~~EMP affidavit~~ was received by the Department;

(B) within 60 days after the closing of the purchase of the property if no EMP RRPM compliance statement was filed with the Department within the past 12 months;

(C) any other date agreed to by the owner and the Department; or

(D) any other date set by the Department.

~~(6)~~(12) “Dwelling” means any residential unit, including attached structures such as porches and stoops, used as the home or residence of one or more persons.

~~(7)~~(13) “Elevated blood lead level” means having a blood lead level of at least five micrograms per deciliter of human blood, or a lower threshold as determined by the Commissioner.

~~(8)~~ “EMP” means ~~essential maintenance practices required by section 1759 of this title.~~

(14) “Facility” means any institutional, commercial, public, private, or industrial structure, installation, or building or private residence and its grounds.

(15) “Firm” means a company, partnership, corporation, sole proprietorship, or individual doing business; an association or business entity; a State or local government agency; or a nonprofit organization.

~~(9)~~(16) “Independent dust clearance” means a visual examination and collection of dust samples, by a ~~lead~~ lead-based paint inspector or ~~lead-risk assessor~~ lead-based paint inspector-risk assessor who has no financial interest in either the work being performed or the property to be inspected, and is independent of both the persons performing the work and the owner of the property. The ~~lead~~ lead-based paint inspector or ~~lead-risk assessor~~ lead-based paint inspector-risk assessor shall use methods specified by the Department and analysis by an accredited laboratory to determine that lead exposures do not exceed limits set by the Department ~~utilizing current information from the U.S. Environmental Protection Agency or the U.S. Department of Housing and Urban Development.~~

~~(10)~~(17) “Inspection” means a surface-by-surface investigation to determine the presence of lead-based paint and other lead hazards and the

provision of a report explaining the results of the investigation.

~~(11)~~(18) “Interim controls” means a set of measures designed to temporarily to reduce human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint lead hazards or potential hazards, and the establishment of management and resident education programs.

~~(12)~~(19) “Lead-based paint” means paint or other surface coatings that contain lead in excess of limits established under section 302(c) of the Federal Lead-Based Paint Poisoning Prevention Act an amount:

(A) equal to 1.0 mg/cm<sup>2</sup> or 0.5 percent by weight or greater;

(B) lower than that described in subdivision (A) of this subdivision (19) as may be established by the Secretary of the U.S. Department of Housing and Urban Development pursuant to Section 302(c) of the Lead-Based Paint Poisoning Prevention Act; or

(C) lower than that described in subdivision (A) of this subdivision (19) as may be established by the Administrator of the U.S. Environmental Protection Agency.

~~(13)~~ “Lead contractor” means ~~any person employing one or more individuals licensed by the Department under this chapter.~~

(20) “Lead-based paint abatement supervisor” means any individual who has satisfactorily completed an accredited training program approved by the Commissioner and has a current license issued by the Department to perform abatement work supervision.

~~(14)~~(21) “Lead ~~Lead-based~~ paint abatement worker” means any individual who has satisfactorily completed an accredited training program approved by the ~~Department~~ Commissioner and has a current license issued by the Department to perform ~~abatement~~ abatement work.

(22) “Lead-based paint activities” means:

(A) with regard to target housing or a child care facility: risk assessment, inspection, visual inspection for risk assessment, project design, abatement, visual inspection for clearance, dust clearance after an abatement project, and lab analysis of paint chip or dust wipe samples collected for the purpose of an inspection or risk assessment; and

(B) with regard to a public facility constructed before 1978, a commercial building, bridge, or other structure: inspection, risk assessment, project design, abatement, de-leading, removal of lead from bridges and other superstructures, visual inspection for clearance, dust clearance after an

abatement project, and lab analysis of paint chip or dust wipe samples collected for the purposes of an inspection or risk assessment. As used in this subdivision (B), “de-leading” means activities conducted by a person who offers to eliminate or plan for the elimination of lead-based paint or lead-based paint hazards.

~~(15) “Lead designer” means any individual who has satisfactorily completed an accredited training program approved by the Department and has a current license issued by the Department to prepare lead abatement project designs, occupant protection plans, and abatement reports.~~

~~(16) “Lead hazard” means any condition that causes exposure to lead inside and in the immediate vicinity of target housing from water, dust, soil, paint, or building materials that would result in adverse human health effects as defined by the Department using current information from the U.S. Environmental Protection Agency or the U.S. Department of Housing and Urban Development.~~

~~(17) “Lead inspector” means any individual who has satisfactorily completed an accredited training program approved by the Department and has a current license issued by the Department to conduct inspections.~~

(23) “Lead-based paint contractor” means an entity that employs one or more individuals licensed by the Department under this chapter and has a current license issued by the Department to conduct lead-based paint activities or RRPM activities.

(24) “Lead hazard” means a condition that causes exposure to lead from contaminated dust, lead-contaminated soil, lead-containing coatings, or lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects.

(25) “Lead-based paint inspector” means an individual who has satisfactorily completed an accredited training program approved by the Commissioner and has a current license issued by the Department to conduct lead-based paint inspections.

~~(18)(26) “Lead risk Lead-based paint inspector-risk assessor” means any an individual who has satisfactorily completed an accredited training program approved by the Department Commissioner and has a current license issued by the Department to conduct lead-based paint inspections and risk assessments.~~

~~(19) “Lead-safe renovator” means any person who has completed a lead-safe training program approved by the Department and has a current registration issued by the Department to perform renovations in target housing or child care facilities in which interior or exterior lead-based paint will be~~

disturbed.

~~(20)~~ “Lead supervisor” means any individual who has satisfactorily completed an accredited training program approved by the Department and has a current license issued by the Department to supervise and conduct abatement projects and prepare occupant protection plans and abatement reports.

(27) “Lead-based paint project designer” means an individual who has satisfactorily completed an accredited training program approved by the Commissioner and has a current license issued by the Department to prepare lead abatement project designs, occupant protection plans, and abatement reports.

(28) “Lead-safe RRPM supervisor” means an individual who has completed an accredited RRPM training program approved by the Commissioner and, if performing services for compensation, has a current license issued by the Department. This individual is authorized to perform or supervise RRPM activities in target housing or a child-occupied facility in which interior or exterior lead-based paint will be disturbed.

(29) “License” means the document issued to an individual, entity, or firm indicating that the standards for licensure for each discipline, category of entity, or firm established in this chapter have been met.

(30) “Licensee” means a person who engages in lead-based paint activities or RRPM activities and has obtained a license to perform such activities for compensation.

(31) “Maintenance” means work intended to maintain and preserve target housing, a child-occupied facility, a pre-1978 facility, a commercial facility, bridge, or other superstructure. It does not include minor RRPM activities.

(32) “Minor RRPM activities” means maintenance and repair activities that disturb less than one square foot of painted surface for interior activities or 20 square feet or less of painted surface for exterior activities if the work does not involve window replacement or demolition of painted surface areas. With regard to removing painted components or portions of painted components, the entire surface area removed is the amount of painted surface disturbed. Work, other than emergency renovations, performed in the same room within the same 30-day period shall be considered the same work for the purposes of determining whether the work is a minor RRPM activity.

~~(21)~~(33) “Occupant” means any person who resides in, or regularly uses, a dwelling, mobile dwelling, or structure.

~~(22)~~(34) “Owner” means any person who, alone or jointly or severally with others:

(A) Has legal title to any dwelling or child care facility with or without actual possession of the property.

~~(B) Has charge, care, or control of any dwelling or child care facility as agent of the guardian of the estate of the owner.~~

~~(C) Has charge, care, or control of any dwelling or child care facility as property manager for the owner if the property management contract includes responsibility for any maintenance services, unless the property management contract explicitly states that the property manager will not be responsible for compliance with section 1759 of this title.~~

~~(D) Is the Chief Executive Officer of the municipal or State agency that owns, leases, or controls the use of publicly owned target housing or a child care facility.~~

~~(E)~~(C) Is a person who has taken full legal title of a dwelling or child care facility through foreclosure, deed in lieu of foreclosure, or otherwise. “Owner” does not include a person who holds indicia of ownership given by the person in lawful possession for the primary purpose of assuring repayment of a financial obligation. Indicia of ownership includes interests in real or personal property held as security or collateral for repayment of a financial obligation such as a mortgage, lien, security interest, assignment, pledge, surety bond, or guarantee and includes participation rights of a financial institution used for legitimate commercial purposes in making or servicing the loan.

(35) “Owner’s representative” means a person who has charge, care, or control of a dwelling or child care facility as property manager, agent, or guardian of the estate.

(36) “Public facility” means a house of worship; courthouse; jail; municipal room; State or county institution; railroad station; school building; social hall; hotel, restaurant, or building used or rented to boarders or roomers; place of amusement; factory; mill; workshop or building in which persons are employed; building used as a nursery, convalescent home, or home for the aged; tent or outdoor structure used for public assembly; and barn, shed, office building, store, shop, shop other than a workshop, or space where goods are offered for sale, wholesale, or retail. It does not include a family residence registered as a child care facility.

(37) “Renovation” means the modification of any existing structure or portion of an existing structure that results in the disturbance of a painted surface unless the activity is performed as part of a lead-based paint abatement activity or is a minor RRPM activity. Renovation includes the following when it results in the disturbance of a painted surface: the removal, modification, re-

coating, or repair of a painted surface or painted component of a surface; the removal of building components; a weatherization project; and interim controls that disturb painted surfaces. “Renovation” includes the performance of activities for the purpose of converting a building or part of a building into target housing or a child-occupied facility when it results in the disturbance of a painted surface.

(38) “RRPM” means the Renovation, Repair, Painting, and Maintenance Program that pertains to projects that disturb lead-based paint on target housing and child-occupied facilities.

(39) “RRPM activities” means lead-safe renovation, repair, painting, and maintenance practices as required by section 1759 of this chapter and as adopted by rule by the Commissioner by rule. It does not include minor RRPM activities.

(40) “RRPM firm” means a company, partnership, corporation, sole proprietorship, or individual doing business; association; or other business entity that regularly engages in RRPM activities for compensation and that employs or contracts with persons to perform RRPM activities as determined by the Department.

~~(23)~~(41) “Rental target housing” means target housing offered for lease or rental under a rental agreement as defined in 9 V.S.A. § 4451. “Rental target housing” does not include a rented single room located within a dwelling in which the owner of the dwelling resides unless a child six years of age or younger resides in or is expected to reside in that dwelling.

(42) “Repair” means the restoration of paint or other coatings that have been damaged, including the repair of permanent containment around lead-based paint materials in a facility. Repair of previously encapsulated lead-based paint may involve filling damaged areas with non-lead paint substitutes and reencapsulating. It shall not include minor RRPM activities.

~~(24)~~(43) “Risk assessment” means an on-site investigation by a ~~lead risk assessor~~ lead-based paint inspector-risk assessor to determine and report the existence, nature, severity, and location of lead hazards, including information gathering about the age and history of the property and occupancy by children six years of age or younger, visual inspection, limited wipe sampling, or other environmental sampling techniques, other appropriate risk assessment activities, and a report on the results of the investigation.

~~(25)~~(44) “Screen,” “screened,” or “screening” relating to blood lead levels, means the initial blood test to determine the presence of lead in a human.

(45) “Superstructure” means a large steel or other industrial structure,

such as a bridge or water tower, that may contain lead-based paint.

~~(26)~~(46) “Target housing” means any dwelling constructed prior to 1978, except any 0-bedroom dwelling or any dwelling located in multiple-unit buildings or projects reserved for the exclusive use of elders or persons with disabilities, unless a child six years of age or younger resides in or is expected to reside in that dwelling. “Target housing” does not include units in a hotel, motel, or other lodging, including condominiums that are rented for transient occupancy for 30 days or less.

§ 1752. ACCREDITATION OF TRAINING PROGRAMS;

~~CERTIFICATION AND LICENSURE OF ENVIRONMENTAL  
LEAD INSPECTORS AND LEAD CONTRACTORS,  
SUPERVISORS, AND WORKERS~~ INDIVIDUALS, ENTITIES, OR  
FIRMS INVOLVED IN LEAD-BASED PAINT OR RRPM  
ACTIVITIES

~~(a) Not later than six months after promulgation of final federal regulations under section 402 of the Federal Toxic Substances Control Act, 15 U.S.C. § 2601 et seq., the The Department shall develop a program to administer and enforce the lead-based paint activities and RRPM activities with regard to training and certification licensing standards, regulations rules, or other requirements established by the Administrator of the federal Environmental Protection Agency Commissioner, which are at least as protective of human health and the environment as the applicable federal programs, for persons engaged in lead-based paint activities and RRPM activities performed on target housing, child-occupied facilities, pre-1978 facilities, commercial facilities, and bridges or other superstructures.~~

~~(b) The Secretary shall adopt emergency rules, and not later than January 1, 1994, the Secretary shall adopt permanent rules, Commissioner shall adopt rules pursuant to 3 V.S.A. chapter 25 establishing standards and specifications for the accreditation of training programs both within and outside Vermont for lead-based paint activities and RRPM activities, including the mandatory topics of instruction, the knowledge and performance standards that must be demonstrated by graduates in order to be certified or licensed, and required accreditation qualifications for training programs and instructors. Such The standards shall be designed to protect children, their families, and workers from improperly conducted lead-based paint activities and RRPM activities, and shall be at least as protective of human health and the environment as the federal program programs. Hands-on instruction and instruction for identification and proper handling of historic fabric and materials shall be components of the required training.~~

(c) ~~The Commissioner shall certify risk assessors, designers, laboratories, inspectors, lead-safe renovation contractors, lead contractors, supervisors, abatement workers, and other persons engaged in lead-based paint activities when such persons have~~ license consulting contractors, analytical contractors, lead-based paint abatement supervisors, lead-based paint abatement workers, project designers, inspector-risk assessors, RRPM firms, and RRPM supervisors, who have successfully completed an accredited training program and met such other requirements as the ~~Secretary~~ Commissioner may, by rule, impose.

(d) The Commissioner shall certify individuals engaged in RRPM activities for no compensation and who have successfully completed an accredited training program and met all other requirements as the Commissioner may impose by rule.

(e) After the adoption of rules pursuant to ~~subsection (b) of~~ this section, ~~no~~ a person shall not perform lead-based paint activities or RRPM activities for compensation without first obtaining a license from the Commissioner. The Commissioner may grant a license to a person who holds a valid license from another state.

~~(e)(f)~~ Nothing in this chapter shall be construed to limit the authority of the Secretary, or the Commissioner of Health, ~~the Commissioner~~ of Labor, or ~~the Commissioner~~ of Environmental Conservation under the provisions of any other law.

§ 1753. ~~ACCREDITATION, REGISTRATION, CERTIFICATION, AND LICENSE, PERMIT, NOTIFICATION, REGISTRATION, AND ADMINISTRATIVE FEES~~

(a) The Commissioner shall assess fees for accrediting training programs ~~and for certifications, registrations, licenses, and license renewals, and permits~~ issued in accordance with this chapter. Fees shall not be imposed on any ~~state~~ State or local government, agent of the State, or nonprofit training program and may be waived for the purpose of training State employees.

(b) Each accredited training program, ~~registrant~~, and licensee shall be subject to the following annual fees, except where otherwise noted:

<del>Training</del> <u>Lead-based paint training courses</u>	\$480.00 per year
<del>Lead contractors</del> <u>Lead-based paint contractor entity license</u>	\$600.00 per year
<del>Lead workers</del> <u>Lead-based paint abatement worker license</u>	\$60.00 per year

<del>Lead supervisors</del> <u>Lead-based paint abatement supervisor license</u>	\$120.00 per year
<del>Lead inspectors</del> <u>Lead-based paint inspector license</u>	\$180.00 per year
<del>Lead risk assessors</del> <u>Lead-based paint inspector-risk assessor license</u>	\$180.00 per year
<del>Lead designers</del> <u>Lead-based paint project designer license</u>	\$180.00 per year
Laboratories	<del>\$600.00 per year</del>
<u>Lead-safe RRPM training course accreditation</u>	<u>\$560.00 initial,</u> <u>\$340.00 renewal</u> <u>every four years</u>
<u>Lead-safe RRPM firm license</u>	<u>\$300.00 every five</u> <u>years</u>
<del>Lead-safe renovators</del> <u>RRPM supervisor license</u>	\$50.00 per year

(c) Each ~~lead licensee seeking to complete a lead-based paint abatement project or RRPM activities project involving prohibited or unsafe work practices~~ shall be subject to the following permit fees:

- (1) ~~Lead abatement project~~ Project permit fee \$50.00-
- (2) ~~Lead abatement project~~ Project permit revision fee \$25.00-

(d) Fees imposed by this section and monies collected under section 1766 of this chapter shall be deposited into the ~~Lead~~ Lead-Based Paint Abatement Accreditation and Licensing Special Fund. Monies in the Fund may be used by the Commissioner only to support ~~departmental~~ Departmental accreditation, registration, certification, and licensing, education, and training activities related to this chapter. The Fund shall be subject to the provisions of 32 V.S.A. chapter 7, subchapter 5.

§ 1754. PUBLIC EDUCATION

(a) ~~Beginning January 1, 1994, the~~ The Commissioner of Health shall prepare and distribute clear and simple ~~printed~~ materials describing the dangers of lead poisoning, the need for parents to have their child screened, how to have a child tested, and recommended nutrition and housekeeping

practices. The Commissioner shall work with persons and organizations involved in occupations that may involve ~~lead-based paint~~ lead hazards or childhood lead poisoning to distribute the materials to their tenants, clients, patients, students, or customers, such as realtors, subcontractors, apartment owners, public housing authorities, pediatricians, family practitioners, nurse clinics, child clinics, other health care providers, child care and preschool operators, and kindergarten teachers. The Commissioner shall also identify those points in time or specific occasions when members of the public are in contact with public agencies and lead might be an issue, such as building permits, home renovations, the WIC program, and programs established under 33 V.S.A. chapters 10, 11, and 12, and make the materials available on these occasions.

(b) The Commissioner shall prepare an appropriate media campaign to educate the public on lead poisoning prevention. ~~The Commissioner shall encourage professional property managers, rehab and weatherization contractors, minimum housing inspectors, social workers, and visiting nurses to attend education and awareness workshops.~~

(c) ~~The Commissioner shall develop a program or approve a program, or both, to train owners and managers of rental target housing and child care facilities and their employees to perform essential maintenance practices. The names and addresses of all persons who attend the approved training program shall be maintained as a public record that the Commissioner shall provide to the Department of Housing and Community Development.~~

#### § 1755. UNIVERSAL SCREENING-TESTING

(a) ~~The Commissioner shall publish guidelines that establish the methods by which and the intervals at which children should be screened and given a confirmation test for elevated blood lead levels, according to the age of the children and their probability of exposure to lead. The guidelines shall take into account the recommendations of the U.S. Centers for Disease Control and Prevention and the American Academy of Pediatrics and shall be updated as those recommendations are changed. The Commissioner shall recommend screening for lead in other high risk groups. The Commissioner shall ensure that all health care providers who provide primary medical care to children six years of age or younger are informed of the guidelines. Once the Department has implemented lead screening reports within the immunization registry, the Department shall use the information in the registry to inform health care providers of their screening rates and to take, within available resources, other measures necessary to optimize screening rates, such as mailings to parents and guardians of children ages one and two, outreach to day care facilities and other community locations, screening at district offices, and educating parents and guardians of children being served.~~

~~(b) Annually, the Commissioner shall determine the percentage of children six years of age or younger who are being screened in accordance with the guidelines. If fewer than 85 percent of one-year-olds and fewer than 75 percent of two-year-olds as specified in the guidelines are receiving screening, the Secretary shall adopt rules to require that all health care providers who provide primary medical care to young children shall ensure that their patients are screened and tested according to the guidelines, beginning January 1, 2011. All health care providers who provide primary health care to children shall test children one and two years of age for elevated blood lead levels in accordance with rules adopted by the Commissioner.~~

\* \* \*

#### § 1757. CHILDREN WITH ELEVATED BLOOD LEAD LEVELS

~~(a) Upon receiving a report that a child has a screening test result of 10 or more micrograms of lead per deciliter of blood, or a lower level as determined by the Commissioner, the Commissioner shall take prompt action to ensure that the child obtains a confirmation test. The Commissioner shall adopt rules pursuant to 3 V.S.A. chapter 25 regarding:~~

~~(1) the method and frequency with which children shall be tested for elevated blood lead levels;~~

~~(2) the reporting requirements for the lead test result; and~~

~~(3) the action required for children found to have elevated blood lead levels.~~

(b) If the child has an elevated blood lead level, the Commissioner shall provide information on lead hazards to the parents or guardians of the child.

(c) If a child six years of age or younger has a confirmed blood lead level at or above ~~10 micrograms of lead per deciliter of blood~~ the level determined by the Commissioner, and if resources permit, the Commissioner:

(1) Shall, with the consent of the parent or guardian, provide an inspection of the dwelling occupied by the child or the ~~child care~~ child-occupied facility the child attends by a ~~state~~ State or private ~~lead risk assessor~~ lead-based paint inspector-risk assessor, and develop a plan in consultation with the parents, owner, physician, and others involved with the child to minimize the exposure of the child to lead. The plan developed under this subdivision shall require that any lead hazards identified through the inspection be addressed. The owner of rental target housing or a child care facility shall address those lead hazards within the owner's control, and shall not be required to abate lead hazards if interim controls are effective.

(2) May inspect and evaluate other dwelling units in the building in

which the child is living if it is reasonable to believe that a child six years of age or younger occupies, receives care in, or otherwise regularly frequents the other dwellings in that building.

(d) Nothing in this section shall be construed to limit the Commissioner's authority under any other provision of Vermont law.

#### § 1758. HOUSING REGISTRY

~~(a) The Department shall issue certificates to all persons who satisfactorily complete a training program on performing essential maintenance practices for lead-based hazard control and shall compile a list of those persons' names.~~

~~(b) If additional funds are appropriated to the Department in fiscal year 1998, on or before October 1, 1997, the Department of Housing and Community Development shall establish and maintain a list of housing units that (1) are lead free, or (2) have undergone lead hazard control measures and passed independent dust clearance tests. The registry shall be maintained as a public record.~~

~~(c) The Department for Children and Families shall identify all child care facilities in which the owners have completed essential maintenance practices or lead hazard control measures and provide the findings to the Department annually. [Repealed.]~~

#### § 1759. ESSENTIAL MAINTENANCE PRACTICES RRPM

##### ACTIVITIES

(a)(1) RRPM activities include activities that disturb lead-based paint on target housing and child-occupied facilities, unless the property has been certified as lead-free pursuant to subsection (e) of this section. RRPM practices for target rental housing and child care facilities shall minimally include regular inspection of painted surfaces for deterioration, prompt and safe repairs to deteriorated paint, and specialized cleaning after any work that disturbs painted surfaces and at tenant turnover.

(2) Essential maintenance practices (EMP) RRPM activities, including worksite preparation and cleanup of work areas, in rental target housing and child care child-occupied facilities shall be performed only by a person who has successfully completed an EMP accredited RRPM training program approved by the Commissioner or a person who works under the direct, on-site supervision of a person who has successfully completed such the training, unless the property is exempt pursuant to subsection (b) or (e) of this section. That person shall comply with section 1760 of this title and shall take all reasonable precautions to avoid creating lead hazards during any renovations, remodeling, maintenance, or repair project that disturbs more than one square foot of lead-based paint, pursuant to guidelines issued by the Department. The

~~following essential maintenance practices shall be performed in all rental target housing and child care facilities, unless a lead inspector or a lead risk assessor has certified that the property is lead-free:~~

~~(1)(2) Install window well inserts in all windows or protect window wells by another method approved by the Department. A person engaging in RRPM activities shall comply with section 1760 of this chapter and related rules adopted by the Commissioner.~~

~~(2)(3) At least once a year, with the consent of the tenant, and at each change of tenant, perform visual on-site inspection of all interior and exterior painted surfaces and components at the property to identify deteriorated paint. A person engaging in RRPM activities shall take all reasonable precautions to avoid creating lead hazards during any RRPM project that is not a minor RRPM activity.~~

~~(3)(4) Promptly and safely remove or stabilize lead-based paint if more than one square foot of deteriorated lead-based paint is found on any interior or exterior surface located within any area of the dwelling to which access by tenants is not restricted. An owner shall assure that all surfaces are free of deteriorated lead-based paint within 30 days after deteriorated lead-based paint has been visually identified or within 30 days after receipt of a written or oral report of deteriorated lead-based paint from any person including the Department, a tenant, or an owner of a child care facility. Because exterior paint repairs cannot be completed in cold weather, any exterior repair work identified after November 1 shall be completed no later than the following May 31, provided that access to surfaces and components with lead hazards and areas directly below the deteriorated surfaces is clearly restricted. RRPM activities performed for compensation shall be conducted only by a licensed RRPM supervisor or under the direct, on-site supervision of a licensed RRPM supervisor.~~

~~(4) If more than one square foot of deteriorated paint is found on any exterior wall surface or fixture not covered by subdivision (3) of this subsection, the owner shall:~~

~~(A) promptly and safely repair and stabilize the paint and restore the surface; or~~

~~(B) prohibit access to the area, surface, or fixture to assure that children will not come into contact with the deteriorated lead-based paint.~~

~~(5) For any outdoor area, annually remove all visible paint chips from the ground on the property.~~

~~(6) At least once a year, using methods recommended by the Department, thoroughly clean all interior horizontal surfaces, except ceilings,~~

~~in common areas accessible to tenants.~~

~~(7) At each change of tenant, thoroughly clean all interior horizontal surfaces of the dwelling, except ceilings, using methods recommended by the Department.~~

~~(8) Post, in a prominent place in buildings containing rental target housing units or a child care facility, a notice to occupants emphasizing the importance of promptly reporting deteriorated paint to the owner or to the owner's agent. The notice shall include the name, address, and telephone number of the owner or the owner's agent.~~

~~(b) The owner of rental target housing shall perform all the following:~~

~~(1) File with the Department by the due date an EMP compliance statement certifying that the essential maintenance practices have been performed, including all the following:~~

~~(A) The addresses of the dwellings in which EMP were performed.~~

~~(B) The dates of completion.~~

~~(C) The name of the person who performed the EMP.~~

~~(D) A certification of compliance with subdivision (4) of this subsection.~~

~~(E) A certification that subdivisions (2) and (3) of this subsection have been or will be complied with within 10 days.~~

~~(2) File the statement required in subdivision (1) of this subsection with the owners' liability insurance carrier and the Department.~~

~~(3) Provide a copy of the statement to all tenants with written materials regarding lead hazards approved by the Department.~~

~~(4) Prior to entering into a lease agreement, provide approved tenants with written materials regarding lead hazards approved by the Department, along with a copy of the owner's most recent EMP compliance statement. The written materials approved by the Department pursuant to this subdivision shall include information indicating that lead is highly toxic to humans, particularly young children, and may even cause permanent neurological damage A homeowner residing in and intending to perform RRPM activities in his or her own private residence:~~

~~(1) is exempt from this section;~~

~~(2) shall comply with section 1760 of this chapter; and~~

~~(3) shall dispose of all lead-based paint in accordance with the rules adopted by the Department of Environmental Conservation.~~

~~(c) The owner of the premises of a child care facility shall perform all of the following:~~

~~(1) File with the Department by the due date an EMP compliance statement certifying that the essential maintenance practices have been performed, including all the following:~~

~~(A) The address of the child care facility.~~

~~(B) The date of completion of the EMP.~~

~~(C) The name of the person who performed the EMP.~~

~~(D) A certification that subdivision (2) of this subsection has been or will be complied with within 10 days.~~

~~(2) File the statement required in subdivision (1) of this subsection with the owner's liability insurance carrier; the Department for Children and Families; and with the tenant of the facility, if any An owner of rental target housing or a child care facility or the owner's representative shall:~~

~~(1) file with the Department an RRPM compliance statement pursuant to rules adopted by the Commissioner, unless the property is exempt pursuant to subsection (e) of this section; and~~

~~(2) abide by any rules pertaining to the maintenance of lead-based paint and provision of notice to tenants as may be prescribed by the Commissioner.~~

~~(d)(1) An owner who desires an extension of time for filing the EMP compliance statement shall file a written request for an extension from the Department no later than 10 days before the due date. The Department may grant or deny an extension Prior to entering into a lease agreement, an owner or owner's representative shall provide approved tenants with written materials approved by the Department regarding lead hazards and a copy of the owner's most recent RRPM compliance statement. The written materials approved by the Department pursuant to this subsection shall include information indicating that lead is highly toxic to humans, particularly young children, and may cause permanent neurological damage, even at low exposure levels.~~

~~(2) An owner of a facility, or owner's representative, shall fully inform a tenant who intends to operate a child care facility on the premises of the requirements of this section.~~

~~(e)(1) A property is exempt from this section if a written inspection report from a licensed lead-based paint inspector-risk assessor states that all accessible surfaces are free of lead-based paint and the owner and person performing RRPM activities have been provided with a copy of the report.~~

~~(2) An owner of rental target housing or a child care facility or owner's~~

representative shall provide a copy of the written inspection report to the Department for review and determination of exempt status.

(3) A new written inspection report shall be required to maintain exempt status if lead hazards are created as a result of RRP activities performed or if previously inaccessible components are exposed after the date of the original written inspection report.

(4) If a property has been remodeled, it is not exempt from this section unless the full requirements of this section have been met.

(f) The Commissioner may adopt rules pursuant to 3 V.S.A. chapter 25 as necessary for the implantation, administration, and enforcement of this section.

§ 1760. PRESUMPTION OF LEAD-BASED PAINT; PROHIBITED AND UNSAFE WORK PRACTICES

(a) All paint in target housing and child care, child-occupied facilities, and pre-1978 public facilities, commercial facilities, and bridges or other superstructures is presumed to be lead-based unless a lead inspector or lead risk assessor has determined that it is not lead-based the component affected by the RRP activity is exempt pursuant to subsection (c) of this section. Unsafe work practices are prohibited and include the following, unless specifically authorized by permit by the Department:

(1) Removing lead-based paint by:

(A) open flame burning or torching;

(B) use of heat guns operated above 1,100 degrees Fahrenheit;

(C) dry scraping or dry sanding;

(D) machine sanding or grinding powered tools;

(E) ~~uncontained hydro-blasting~~ hydro-blasting or high-pressure washing;

(F) abrasive blasting or sandblasting without containment and high-efficiency particulate exhaust controls; and

(G) chemical stripping using methylene chloride products.

(2) Failing to employ one or more of the following lead-safe work practices: practice standards that the Commissioner shall adopt by rule.

(A) limiting access to interior and exterior work areas;

(B) enclosing interior work areas with plastic sheathing or other effective lead dust barrier;

(C) using protective clothing;

- ~~(D) misting painted surfaces before disturbing paint;~~
- ~~(E) wetting paint debris before sweeping to limit dust creation;~~
- ~~(F) any other measure required by the department.~~

~~(b) No A person shall not disturb more than one square foot or more of interior or exterior lead-based paint using unsafe work practices in target housing or in child care, child-occupied facilities, pre-1978 public facilities, commercial facilities, and bridges or other superstructures.~~

~~(c) A component is exempt from this section if a written inspection report by a licensed lead-based paint inspector or lead-based paint inspector-risk assessor states that the component affected by an RRPM activity is free of lead-based paint, and the owner or firm, or both, conducting the activity has been provided with a copy of the report. Removal of all paint from a component does not exempt the component from the requirements of this section.~~

#### § 1760a. ENFORCEMENT; ADMINISTRATIVE ORDER; PENALTIES

~~(a) A person who violates section 1759 of this title commits a civil violation and shall be subject to a civil penalty as set forth in this subsection which shall be enforceable by the Commissioner in the Judicial Bureau pursuant to the provisions of 4 V.S.A. chapter 29.~~

~~(1) An owner of rental target housing who fails to comply with subdivisions 1759(b)(1), (2), and (3) of this title by the due date or an owner of a child care facility who fails to comply with subsection 1759(c) of this title by the due date shall pay a civil penalty of not more than \$50.00 if the owner comes into compliance within 30 days after the due date; otherwise the owner shall pay a civil penalty of not more than \$150.00.~~

~~(2) An owner who cannot demonstrate by a preponderance of the evidence that essential maintenance practices were performed by the due date shall pay an additional penalty of not more than \$250.00.~~

~~(b) Nothing in this section shall limit the Commissioner's authority under any other provisions of law. [Repealed.]~~

#### § 1761. DUTY OF REASONABLE CARE; NEGLIGENCE; LIABILITY

~~(a) Owners An owner of rental target housing and owners of or a child care facilities facility or an owner's representative shall take reasonable care to prevent exposure to, and the creation of, lead hazards. In an action brought under this section, evidence of actions taken or not taken to satisfy the requirements of this chapter, including performing EMP RRPM activities, may be admissible evidence of reasonable care or negligence.~~

(b) Any person who suffers an injury proximately caused by an owner's breach of this duty of reasonable care shall have a cause of action to recover damages and for all other appropriate relief.

(c) The owner of rental target housing or a child care facility or the owner's representative shall not be liable to a tenant of the housing or facility in an individual action for habitability under common law or pursuant to 9 V.S.A. chapter 63 or chapter 137, 10 V.S.A. chapter 153, or 12 V.S.A. chapter 169 for injury or other relief claimed to be caused by exposure to lead if, during the relevant time period, the owner is in compliance with section 1759 of this ~~title~~ chapter and any of the following, should they exist:

(1) ~~the conditions of a lead risk assessor's certification, pursuant to Vermont regulations for lead control, that all identified lead hazards have been controlled and the housing or facility has passed an independent dust clearance test~~ specific recommendations of a lead-based paint risk assessment report provided by a lead-based paint inspector-risk assessor;

(2) any plan issued pursuant to section 1757 of this ~~title~~ chapter; or

(3) any assurance of discontinuance, order of the Commissioner, or court order regarding lead hazards.

(d) The immunity under subsection (c) of this section shall not be available if:

(1) there was fraud in the ~~certification process~~ RRPM compliance statement under section 1759 of this chapter; or

(2) the owner ~~violated conditions of the certification or~~ owner's representative did not follow the recommendations of a lead-based paint risk assessment report provided by a licensed lead-based paint inspector-risk assessor; or

(3) the owner or owner's representative created or allowed for the creation of lead hazards during renovation, remodeling, maintenance, or repair after the certification; or

(4) the owner or the owner's representative failed to respond in a timely fashion to notification that lead hazards may have recurred on the premises.

(e) A defendant in an action brought under this section or at common law has a right to seek contribution from any other person who may be responsible, in whole or in part, for the child's blood lead level.

(f) Nothing in this section shall be construed to limit the right of the Commissioner or any agency or instrumentality of the State of Vermont to seek remedies available under any other provision of Vermont statutory law.

§ 1762. SECURED LENDERS AND FIDUCIARIES; LIABILITY

(a) A person who holds indicia of ownership in rental target housing or a child care facility furnished by the owner or person in lawful possession, for the primary purpose of assuring repayment of a financial obligation, and who takes full legal title through foreclosure or deed in lieu of foreclosure or otherwise shall not be liable as an owner of the property for injury or loss claimed to be caused by exposure to lead of a child on the premises, provided that, on or before the 120th day after the date of possession, the person:

(1) performs ~~essential maintenance practices~~ RRPM activities as required by section 1759 of this ~~title~~ chapter; and

(2) fully discloses to all potential purchasers, operators, or tenants of the property any information in the possession of such person or the person's agents, regarding the presence of ~~lead-based paint~~ lead hazards or a lead-poisoned child on the property and, upon request, provides copies of all written reports on ~~lead-based paint~~ lead hazards to potential purchasers, operators, or tenants.

(b) The immunity provided in subsection (a) of this section shall expire 365 days after the secured lender or fiduciary takes full legal title.

(c) A person who holds legal title to rental target housing or a child care facility as an executor, administrator, trustee, or the guardian of the estate of the owner and demonstrates that in that fiduciary capacity the person does not have either the legal authority or the financial resources to fund capital or major property rehabilitation necessary to conduct ~~essential maintenance practices~~ RRPM activities shall not be personally liable as an owner for injury or loss caused by exposure to ~~lead by~~ of a child on the premises to lead. However, nothing in this section shall limit the liability of the trust estate for such claims and those claims may be asserted against the trustee as a fiduciary of the trust estate.

§ 1763. PUBLIC FINANCIAL ASSISTANCE; RENTAL TARGET

HOUSING AND CHILD CARE FACILITIES

Every State agency or instrumentality that makes a commitment to provide public financial assistance for the purchase or rehabilitation of rental target housing or child care facilities shall give priority to projects in which the property is ~~lead free~~, exempt pursuant to subsection 1759(e) of this chapter or lead-based paint hazards have been or will be identified and controlled and have passed or will pass an independent dust clearance test that determines that the property contains no lead-contaminated dust prior to occupancy or use. Priority rental target housing projects may include units occupied by severely lead-poisoned children and units in a building that are likely to contain lead-

~~based paint lead~~ hazards. ~~For purposes of~~ As used in this section, “public financial assistance” means any grant, loan, or allocation of tax credits funded by the State or the federal government, or any of their agencies or instrumentalities.

§ 1764. LEAD INSPECTORS; FINANCIAL RESPONSIBILITY

The Commissioner ~~may~~ shall require that a licensee or an applicant for a license under subsection 1752(d) of this ~~title~~ chapter provide evidence of ability to ~~properly~~ indemnify properly a person who suffers damage from lead-based paint activities or RRPM activities such as proof of effective liability insurance coverage or a surety bond in an amount to be determined by the Commissioner, which shall not be less than \$300,000.00. This section shall not restrict or enlarge the liability of any person under any applicable law.

§ 1765. LIABILITY INSURANCE

(a) If the Commissioner of Financial Regulation determines that lead-based paint hazards have substantially diminished the availability of liability insurance for owners of rental target property or child care facilities and that a voluntary market assistance plan will not adequately restore availability, the Commissioner shall order liability insurers to provide or continue to provide liability coverage or to participate in any other appropriate remedial program as determined by the Commissioner, provided the prospective insured is otherwise in compliance with the provisions of this chapter.

\* \* \*

§ 1766. ENFORCEMENT; ADMINISTRATIVE PENALTIES

(a) A person who violates this chapter may be subject to an administrative penalty not to exceed \$5,000.00 for each determination of a separate violation. If the Commissioner determines that a violation is continuing, each day’s continuance may be deemed a separate offense beginning from the date the violator is served with notice of the violation.

(b) The Commissioner may use the enforcement powers as set forth in chapter 3 of this title to enforce any violations of this chapter or of any related rules, permits, or orders issued.

§ 1767. TRANSFER OF OWNERSHIP OF TARGET HOUSING; ~~RISK~~  
ASSESSMENT; ~~EMP~~ RRPM COMPLIANCE

(a) Prior to the time a purchase and sale agreement for target housing is executed, the seller shall provide the buyer with materials approved by the Commissioner, including a lead ~~paint~~ hazard brochure and materials on other lead hazards in housing. The seller shall also provide a disclosure form that shall include any lead-based paint inspection or risk assessment report or letter

of exemption, assurance of discontinuance, administrative order, or court order the terms of which are not completed and, if the property is rental target housing, verification that the EMP have been completed, RRPM was utilized pursuant to this chapter and that a current EMP RRPM compliance statement has been filed with the Department.

(b) At the time of sale purchase of target housing, sellers and other transferors shall provide the buyer or transferee with any materials delineated in subsection (a) of this section not previously disclosed and a lead-safe renovation practices packet approved by the Commissioner and shall disclose any lead-based paint inspection or risk assessment report or letter of exemption, assurance of discontinuance, administrative order, or court order not disclosed pursuant to subsection (a) of this section the terms of which are not completed.

\* \* \*

(d) Prior to the time of sale purchase of rental target housing, the real estate agents, sellers, and other transferors of title shall provide the buyer or transferee with information approved by the Commissioner explaining EMP RRPM obligations.

(e) A buyer or other transferee of title of rental target housing shall at the time of sale or transfer of ownership, or both, disclose this transfer to the Department.

(f) A buyer or other transferee of title to rental target housing who has purchased or received a building or unit that is not in full compliance with section 1759 of this ~~title~~ chapter shall bring the rental target housing into compliance with section 1759 of this title chapter within 60 days after the closing. Within the 60-day period, the buyer or transferee may submit a written request for an extension of time for compliance, which the Commissioner may grant in writing for a stated period of time for good cause only. Failure to comply with this subsection shall result in ~~a mandatory civil an administrative penalty in accordance with section 1766 of this chapter.~~

~~(f) This section shall not apply to target housing that has been certified lead-free.~~

(g) Noncompliance with this section shall not affect marketability of title.

## Sec. 2. EFFECTIVE DATE

This act shall take effect upon the Commissioner of Health's written confirmation to the Speaker of the House and the Senate President Pro Tempore, which shall be posted on the General Assembly's website, that the U.S. Environmental Protection Agency has issued a state certification to Vermont.

**( Committee Vote: 11-0-0)**

## H. 766

An act relating to creating a homeowner's rehabilitation tax credit

**Rep. Kimbell of Woodstock**, for the Committee on Commerce and Economic Development, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Homeowner Rehabilitation Tax Credit \* \* \*

### Sec. 1. HOMEOWNER'S REHABILITATION TAX CREDIT

(a) Definitions. As used in this section:

(1) "Qualified applicant" means an owner of a qualified building, or a holder of a legally enforceable contract or option to purchase a qualified building, who is in good standing on any State and local taxes.

(2) "Qualified building" means a one- to four-unit building, including the primary residence and accessory buildings such as a barn or garage, that:

(A) is occupied by a qualified applicant at the time of application or that the qualified applicant intends to occupy upon completion of the qualified project;

(B) is located within a neighborhood planning area, as defined in 24 V.S.A. § 2793e; and

(C) is assessed at or below the State median home value.

(3) "Qualified project" means a construction project for which a qualified applicant makes qualified rehabilitation expenditures for the rehabilitation of a qualified building.

(4) "Qualified rehabilitation expenditure" means a construction-related expense for the rehabilitation of a qualified building, including design fees, labor, materials, capital improvements, and the rehabilitation or construction of an accessory dwelling unit as defined in 24 V.S.A. § 4412(1)(E).

(5) "State Board" means the Vermont Downtown Development Board established pursuant to 24 V.S.A. chapter 76A.

(b) Application and eligibility.

(1) In fiscal year 2019, Vermont municipalities may apply to the State Board to compete for a portion of a \$625,000.00 allocation of homeowner's rehabilitation tax credits, which the Board may award to not more than three municipalities.

(2) The State Board shall adopt approval criteria and minimum application requirements, including:

(A) information specifying the applicable neighborhood planning area and the addresses and grand list values for potential qualified projects;

(B) information concerning municipal staff capacity to support review and implementation of projects; banks and insurance companies interested in purchasing tax certificates; and local partner organizations committed to supporting projects; and

(C) requirements concerning energy audits and participation in energy rebates and incentive programs.

(c) Homeowner's rehabilitation tax credit. The qualified applicant of a completed qualified project who occupies the qualified building shall be entitled, upon inspection and certification of compliance by the municipality:

(1) to claim against the income tax imposed under 32 V.S.A. § 5822 for the taxable year a credit of 30 percent of qualified rehabilitation expenditures for a qualified project completed during the taxable year, not to exceed \$20,000.00 per qualified project or \$25,000.00 per qualified project that creates one or more accessory dwelling units; or

(2) to claim a tax credit certificate in the amount of 30 percent of qualified rehabilitation expenditures for a qualified project completed during the taxable year, not to exceed \$20,000.00 per qualified project or \$25,000.00 per qualified project that creates one or more accessory dwelling units, which certificate the applicant may transfer to a bank, an insurance company, or a captive insurance company to apply against the bank franchise tax imposed under 32 V.S.A. § 5836 for the taxable year, insurance premium tax imposed under 32 V.S.A. § 8551 for the taxable year, or captive insurance premium tax imposed under 8 V.S.A. § 6014 for the taxable year.

(d) Claims; availability.

(1) On or before the date prescribed for filing the relevant return, a taxpayer claiming a credit under this section shall submit to the Department of Taxes a copy of the certification of compliance issued by the municipality, and for a credit approved under subdivision (c)(2) of this section, a copy of the tax credit certificate.

(2) A credit available under this section is nonrefundable.

(3) If no claim for a credit has been filed within five years after the date of the certification of compliance by the municipality, the tax credit shall expire.

(4) The State Board may award one or more new credits pursuant to this section that are of equal or lesser value to the amount of any credits that are expired pursuant to subdivision (3) of this subsection, or that are

recaptured pursuant to subsection (e) of this section.

(5) A taxpayer may carry forward an unused credit for not more than nine tax years following the first taxable year for which a portion of the credit is first claimed.

(e) Recapture.

(1) A credit claimed under this section is subject to recapture if within five years after completion of a qualified project the State Board finds:

(A) rehabilitation work performed on the qualified project is inconsistent with a local permit or the approved application;

(B) a qualified applicant knowingly failed to supply information, or supplied incorrect or untrue information required by the State Board, or failed to comply with an award condition required by the State Board; or

(C) the qualified applicant has not continuously owned or occupied the qualified building as his or her primary residence since completion of the qualified project.

(2) If the State Board finds any of the conditions specified in subdivision (1) of this subsection, the Board shall submit its findings to the Department of Taxes, which shall recapture from the qualified applicant a proportional share of the credit for each year he or she was noncompliant.

\* \* \* Downtown and Village Center Tax Credit \* \* \*

Sec. 2. 32 V.S.A. § 5930ee is amended to read:

§ 5930ee. LIMITATIONS

Beginning in fiscal year 2010 and thereafter, the State Board may award tax credits to all qualified applicants under this subchapter, provided that:

(1) the total amount of tax credits awarded annually, together with sales tax reallocated under section 9819 of this title, does not exceed ~~\$2,400,000.00~~ \$2,650,000.00;

(2) a total annual allocation of ~~no~~ not more than 30 percent of these tax credits in combination with sales tax reallocation may be awarded in connection with all of the projects in a single municipality;

(3) façade tax credits shall not be available for projects that qualify for the federal rehabilitation tax credit;

(4) no credit shall be allowed under this subchapter for the cost of acquiring any building or interest in a building;

(5) credit under any one subsection of 5930cc of this subchapter may not be allocated more often than once every two years with respect to the same

building; and

(6) credit awarded under section 5930cc of this subchapter that is rescinded or recaptured by the State Board shall be available for the State Board to award to applicants in any subsequent year, in addition to the total amount of tax credits authorized under this section.

\* \* \* Tax Credit for Affordable Housing;  
First Time Homebuyer Program \* \* \*

Sec. 3. 32 V.S.A. § 5930u is amended to read:

§ 5930u. TAX CREDIT FOR AFFORDABLE HOUSING

(a) As used in this section:

(1) “Affordable housing project” or “project” means:

(A) a rental housing project identified in 26 U.S.C. § 42(g); or

(B) owner-occupied housing identified in 26 U.S.C. § 143(c)(1) or that qualifies under Vermont Housing Finance Agency criteria governing owner-occupied housing.

(2) “Affordable housing tax credits” means the tax credit provided by this subchapter.

(3) “Allocating agency” or “Agency” means the Vermont Housing Finance Agency.

(4) “Committee” means the Joint Committee on Tax Credits consisting of five members: a representative from the Department of Housing and Community Affairs Development, the Vermont Housing and Conservation Board, the Vermont Housing Finance Agency, the Vermont State Housing Authority, and the Office of the Governor.

(5) “Credit certificate” means a certificate issued by the allocating agency to a taxpayer that specifies the amount of affordable housing tax credits that can be applied against the taxpayer’s individual or corporate income tax, or franchise, captive insurance premium, or insurance premium tax liability as provided in this subchapter.

(6) “Eligible applicant” means any municipality, ~~private-sector developer~~, State agency as defined in 10 V.S.A. § 6301a, the Vermont Housing Finance Agency, ~~or a for-profit organization, a nonprofit organization~~ qualifying under 26 U.S.C. § 501(c)(3), ~~or a cooperative housing organization, the purpose of which is to create and retain affordable housing for Vermonters with lower income and which has in its bylaws a requirement that the housing the organization creates be maintained as affordable housing for Vermonters~~

with lower income on a perpetual basis that meets the application requirements of the allocation plan.

(7) “Eligible cash contribution” means an amount of cash:

(A) contributed to the owner, developer, or sponsor of an affordable housing project and determined by the allocating agency as eligible for affordable housing tax credits; or

(B) paid to the Agency in connection with the purchase of affordable housing tax credits pursuant to subdivision (b)(2) or (3) of this section.

(8) “Section 42 credits” means tax credit provided by 26 U.S.C. §§ 38 and 42.

(9) “Allocation plan” means the plan recommended by the Committee and approved by the Vermont Housing Finance Agency, which sets forth the eligibility requirements and process for selection of eligible multifamily rental housing projects to receive affordable housing tax credits, and eligible owner-occupied housing projects to receive loans, under this section. The allocation plan shall include:

(A) requirements for creation and retention of affordable housing for persons with low income; and

(B) requirements to ensure that eligible multifamily rental housing is maintained as affordable by subsidy covenant, as defined in 27 V.S.A. § 610 on a perpetual basis, and that eligible owner-occupied housing or program funds for owner-occupied housing remain as an affordable housing source for future owners or buyers, and meets all other requirements of the Vermont Housing Finance Agency related to affordable housing.

(10) “Taxpayer” means a taxpayer who makes an eligible cash contribution or the assignee or transferee of, or successor to, the taxpayer as determined by the Department of Taxes.

(b) Eligible tax credit allocations.

(1) Affordable housing credit allocation for multifamily rental housing.

(A) An eligible applicant may apply to the allocating agency for an allocation of affordable housing tax credits under this section related to an affordable multifamily rental housing project authorized by the allocating agency under the allocation plan. In the case of a specific affordable multifamily rental housing project, the eligible applicant shall also be the owner or a person having the right to acquire ownership of the building and shall apply prior to placement of the affordable housing project in service. In the case of owner-occupied housing units, the applicant shall ensure that the allocated housing or program funds remain as an affordable housing resource

~~for future owners.~~ The allocating agency shall issue a letter of approval if it finds that the applicant meets the priorities, criteria, and other provisions of subdivision (B) of this subdivision (b)(1). The burden of proof shall be on the applicant.

(B) Upon receipt of a completed application, the allocating agency shall award an allocation of affordable housing tax credits with respect to a project to an applicant, provided the applicant demonstrates to the satisfaction of the allocating agency all of the following:

(i) The owner of the project has received from the allocating agency a binding commitment for, a reservation or allocation of, or an out-of-cap determination letter for, Section 42 credits, or meets the requirements of the allocation plan for development or financing of units to be owner-occupied.

(ii) The project has received community support.

(2) Affordable housing credit allocation for loans or grants for owner-occupied housing.

(A) The Vermont Housing Finance Agency shall have the authority to allocate affordable housing tax credits to provide funds to make loans or grants to eligible applicants for affordable owner-occupied housing. An eligible applicant may apply to the allocating agency for a loan or grant under this section related to an affordable owner-occupied housing project authorized by the allocating agency under the allocation plan. In the case of a specific affordable owner-occupied housing project, the eligible applicant shall also be the owner or a person having the right to acquire ownership of the unit and shall apply prior to the sale of the unit to the homeowner.

(B) The Agency shall require that the loan or grant recipient use such funds to maintain the unit as an affordable owner-occupied unit or as an affordable housing source for future owners or buyers.

(C) The Agency shall use the proceeds of loans or grants made under subdivision (A) of this subdivision (b)(2) for future loans or grants to eligible applicants for affordable owner-occupied housing projects.

(D) The Agency may assign its rights under any loan or grant made under subdivision (A) of this subdivision (b)(2) to the Vermont Housing and Conservation Board or any nonprofit organization qualifying under 26 U.S.C. § 501(c)(3) as long as such assignee acknowledges and agrees to comply with the provisions of this subdivision (b)(2).

(3) Down Payment Assistance Program.

(A) The Vermont Housing Finance Agency shall have the authority

to allocate affordable housing tax credits to finance down payment assistance loans that meet the following requirements:

(i) the loan is made in connection with a mortgage through an Agency program;

(ii) the borrower is a first-time homebuyer of an owner-occupied primary residence; and

(iii) the borrower uses the loan for the borrower's down payment or closing costs, or both.

(B) The Agency shall require the borrower to repay the loan upon the transfer or refinance of the residence.

(C) The Agency shall use the proceeds of loans made under the Program for future down payment assistance.

(c) Amount of credit. A taxpayer ~~who makes an eligible cash contribution~~ shall be entitled to claim against the taxpayer's individual income, corporate, franchise, captive insurance premium, or insurance premium tax liability a credit in an amount specified on the taxpayer's credit certificate. The first-year allocation of a credit amount to a taxpayer shall also be deemed an allocation of the same amount in each of the following four years.

(d) Availability of credit. The amount of affordable housing tax credit ~~allocated with respect to a project provided on the taxpayer's credit certificate~~ shall be available to the taxpayer every year for five consecutive tax years, beginning with the tax year in which the eligible cash contribution is made. Total tax credits available to the taxpayer shall be the amount of the first-year allocation plus the succeeding four years' deemed allocations.

(e) Claim for credit. A taxpayer claiming affordable housing tax credits shall submit with each return on which such credit is claimed ~~a copy of the allocating agency's credit allocation to the affordable housing project and the taxpayer's credit certificate, and for credits issued under subdivision (b)(1) of this section, a copy of the allocating agency's credit allocation to the affordable housing project.~~ Any unused affordable housing tax credit may be carried forward to reduce the taxpayer's tax liability for ~~no~~ not more than 14 succeeding tax years, following the first year the affordable housing tax credit is allowed.

(f) [Repealed.]

(g)(1) In any fiscal year, the allocating agency may award up to:

(A) \$400,000.00 in total first-year credit allocations to all applicants for rental housing projects, for an aggregate limit of \$2,000,000.00 over any given five-year period that credits are available under this subdivision (A);

(B) \$300,000.00 in total first-year credit allocations for loans or grants for owner-occupied unit financing or down payment loans as provided in subdivision (b)(2) of this section, consistent with the allocation plan, including for new construction and manufactured housing, for an aggregate limit of \$1,500,000.00 over any given five-year period that credits are available under this subdivision (B).

(2) In any fiscal year, total first-year credit allocations under subdivision (1) of this subsection plus succeeding-year deemed allocations shall not exceed \$3,500,000.00.

(h)(1)(A) In fiscal year 2016 through fiscal year 2022 2018, the allocating agency may award up to \$125,000.00 in total first-year credit allocations for loans through the Down Payment Assistance Program created in subdivision (b)(2)(3) of this section.

(B) In fiscal year 2019 through fiscal year 2022, the allocating agency may award up to \$250,000.00 in total first-year credit allocations for loans through the Down Payment Assistance Program created in subdivision (b)(3) of this section.

(C) In fiscal year 2023 through fiscal year 2025, the allocating agency may award up to \$125,000.00 in total first-year credit allocations for loans through the Down Payment Assistance Program created in subdivision (b)(3) of this section.

(2)(A) In any fiscal year 2016 through fiscal year 2018, total first-year credit allocations under subdivision (1) of this subsection (h) plus succeeding-year deemed allocations shall not exceed \$625,000.00.

(B) In fiscal year 2019 through fiscal year 2022, total first-year credit allocations under subdivision (1) of this subsection (h) plus succeeding-year deemed allocations shall not exceed \$1,250,000.00.

(C) In fiscal year 2023 through fiscal year 2025, total first-year credit allocations under subdivision (1) of this subsection (h) plus succeeding-year deemed allocations shall not exceed \$625,000.00.

#### Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

**( Committee Vote: 11-0-0)**

### **H. 780**

An act relating to the inspection of amusement rides

**Rep. Lawrence of Lyndon**, for the Committee on Agriculture and Forestry, recommends the bill be amended by striking all after the enacting

clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds that:

(1) Fairs are essential to the character, community life, and economy of Vermont, and amusement rides help to increase fair attendance.

(2) Attendance at Vermont fairs exceeds 375,000 people a year, and the total budget for all Vermont fairs exceeds \$7 million a year. Vermont fairs generate over \$85,000.00 of sales tax revenue per year.

(3) An inspection regime for amusement rides based upon standards that are nationally recognized and used in other states will increase the safety of fair rides and help ensure the continued popularity of Vermont fairs.

Sec. 2. 31 V.S.A. § 721 is amended to read:

§ 721. DEFINITIONS

As used in this chapter:

(1) “Amusement ride” means a portable mechanical device that carries or conveys passengers along, around, or over a fixed or restricted route or course for the purpose of giving the passengers amusement, pleasure, thrills, or excitement. ~~In addition, for the purposes of this chapter, amusement ride shall also include bungee jumping.~~

(2) “Operator” or “owner” means a person who owns or controls or has the duty to control the operation of amusement rides.

~~(3) “Certificate” or “certificate of operation” means a document issued by the Secretary of State authorizing the operation of one or more amusement rides, indicating thereon the following information for each amusement ride: the proper ride model, serial number, passenger capacity of the ride, the recommended maximum speed of the ride, and recommended direction of travel of the ride. The Secretary of State may amend a certificate to add other amusement rides to be operated in the State during a calendar year.~~

Sec. 3. 31 V.S.A. § 722 is amended to read:

§ 722. CERTIFICATE OF OPERATION

(a) An amusement ride may not be operated in this State unless the ~~Secretary of State~~ Agency of Agriculture, Food and Markets has issued a certificate of operation to the owner or operator within the preceding 12 months.

(b) An application for a certificate of operation shall be submitted to the Agency not fewer than 30 business days before an amusement ride is operated

in this State.

(c) The Secretary of State Agency shall issue a “certificate of operation” no later than 15 business days before the amusement ride is first operated in the State, if the owner or operator submits all the following:

\* \* \*

(e)(d) The certificate of operation shall be valid for one year from the date of issue and shall be in a manner and format to be prescribed by the Agency. A certificate of operation shall identify the ride’s:

- (1) name and model;
- (2) serial number;
- (3) passenger capacity; and
- (4) recommended maximum speed.

(d)(e) A copy of the certificate of operation shall be posted on or near each amusement ride covered by the certificate and shall be in full public view at all times during the operation of the ride kept at the office of the amusement ride operator.

(f) The Agency shall:

- (1) determine the manner and format of the certificate of operation and any forms to be used to apply for the certificate of operation;
- (2) make any forms available on the Agency website;
- (3) allow an owner or operator to apply for certificates of operation for multiple rides at one time, using one form;
- (4) charge one fee for the filing of each application form, regardless of the number of rides listed on the application.

Sec. 4. 31 V.S.A. § 723a is added to read:

§ 723a. SAFETY INSPECTIONS

(a) A portable amusement ride shall not be operated in this State unless:

(1) The ride has been inspected in the State within the preceding 12 months by a person who is:

(A) certified:

(i) by the National Association of Amusement Ride Safety Officials as a Level II Inspector;

(ii) by the Amusement Industry Manufacturers and Suppliers International at a level that is equivalent to the certification pursuant to

subdivision (i) of this subsection (a); or

(iii) in a manner that the Agency of Agriculture, Food and Markets determines is equivalent to the certifications pursuant to subdivision (i) or (ii) of this subsection (a); and

(B) not the owner or operator of the ride or an employee or agent of the owner or operator.

(2) The inspection complied with the applicable standards determined by:

(A) the National Association of Amusement Ride Safety Officials;

(B) the Amusement Industry Manufacturers and Suppliers International; or

(C) another organization that the Agency determines is equivalent to the National Association of Amusement Ride Safety Officials or the Amusement Industry Manufacturers and Suppliers International.

(3) A valid certificate of operation has been issued for the ride pursuant to section 722 of this title.

(b) After a ride has been inspected pursuant to subsection (a) of this section:

(1) The owner or operator shall submit the certificate or other record of inspection to the Agency within 15 business days following the date of inspection.

(2) An adhesive sticker shall be affixed to the ride or the ride shall be stamped or otherwise marked in a manner that indicates:

(A) the date and location the inspection was completed; and

(B) the name of the inspector.

(c) A ride shall be inspected by the owner or operator:

(1) after the ride has been set up but before being used to carry or convey passengers; and

(2) every day thereafter that the ride is used to carry or convey passengers.

(d) The owner or operator of an amusement ride shall:

(1) keep records of all safety inspections;

(2) make those records available to the Agency promptly upon request; and

(3) keep a paper or electronic copy of all safety inspections conducted by the owner or operator during the preceding 12 months for each ride:

(A) on or near that ride; or

(B) at the office of the amusement ride operator.

Sec. 5. 31 V.S.A. § 723 is amended to read:

§ 723. OPERATIONS OPERATOR AND PATRON RESPONSIBILITIES

(a) An operator of an amusement ride shall:

(1) be at least 18 years of age;

(2) operate only one amusement ride at a time; ~~and~~

(3) be in attendance at all times that the ride is operating; ~~and~~

(4) exercise good judgement and act in a responsible and safe manner while operating an amusement ride.

(b) An operator of an amusement ride may deny any person entrance to an amusement ride if the operator believes that entrance by that person may jeopardize the safety of the person or other persons.

(c) A patron shall:

(1) understand that there are risks in riding an amusement ride;

(2) exercise good judgement and act in a responsible and safe manner while riding an amusement ride; and

(3) obey all written and verbal warnings and directions from ride operators or owners.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

**( Committee Vote: 11-0-0)**

## **H. 802**

An act relating to rural economic development infrastructure districts

**Rep. Sheldon of Middlebury**, for the Committee on Commerce and Economic Development, recommends the bill be amended as follows:

Sec. 1. 24 V.S.A. § 5704 is amended to read:

§ 5704. GOVERNING BOARD; COMPOSITION; MEETINGS; REPORT

(a) Governing board. The legislative power and authority of a district and the administration and the general supervision of all fiscal, prudential, and governmental affairs of a district shall be vested in a governing board, except

as otherwise specifically provided in this chapter.

(b) Composition. The ~~first~~ governing board of the district shall consist of ~~four to eight~~ members appointed in equal numbers by the legislative bodies of the underlying municipalities. ~~It~~ The board shall draft the district's bylaws specifying the size, composition, quorum requirements, and manner of appointing and removing members to the permanent governing board, including nonvoting, at-large board members. The bylaws shall require that a majority of the board shall be appointed annually by the legislative bodies of the underlying municipalities appoint board members and fill board member vacancies. Board members appointed by the underlying municipalities may appoint additional, nonvoting, at-large board members and fill at-large board member vacancies. Board members, including at-large members, are not required to be residents of an underlying municipality. However, a majority of the board shall be residents of an underlying municipality. Board members shall serve staggered, three-year terms, and shall be eligible to serve successive terms. ~~The legislative bodies of the municipalities in which the district is located shall fill board vacancies, and may remove board members at will.~~ At-large board members shall serve one-year terms, and shall be eligible to serve successive terms. Any bylaws developed by the governing board under this subsection shall be submitted for approval to the legislative bodies of the municipalities within the district and shall be considered duly adopted 45 days ~~from~~ after the date of submission, provided none of the legislative bodies disapprove ~~of~~ the bylaws.

(c) First meeting. The first meeting of the district shall be called upon 30 days' posted and published notice by a presiding officer of a legislative body in which the district is located. ~~Voters within a municipality in which the district is located are eligible to vote at annual and special district meetings. At the first meeting of the district, and at each subsequent annual meeting, there shall be elected from among board members a chair, vice chair, clerk, and treasurer who shall assume their respective offices upon election. At the first meeting, the fiscal year of the district shall be established and rules of parliamentary procedure shall be adopted.~~ The board shall elect from among its members a chair, vice chair, clerk, and treasurer. The board shall establish the fiscal year of the district and shall adopt rules of parliamentary procedure. Prior to assuming their offices, officers may be required to post bond in such amounts as determined by resolution of the board. The cost of such bond shall be borne by the district.

(d) Annual and special meetings. Unless otherwise established by the voters, the annual district meeting shall be held on the second Monday in January and shall be warned by the clerk or, in the clerk's absence or neglect, by a member of the board. Special meetings shall be warned in the same

manner on application in writing by five percent of the voters of the district. A warning for a district meeting shall state the business to be transacted. The time and place of holding the meeting shall be posted in two or more public places in the district not more than 40 days nor less than 30 days before the meeting and recorded in the office of the clerk before the same is posted.

(e) Annual report. The district shall report annually to the legislative bodies and the citizens of the municipalities in which the district is located on the results of its activities in support of economic growth, job creation, improved community efficiency, and any other benefits incident to its activities.

(f) Definition. For purposes of this section and section 5709 of this chapter, after a district has been established pursuant to section 5702 of this chapter, “voter” means a board member or subscriber or customer of a service provided by the district. “Voter” does not mean an at-large board member unless the vote is taken at an annual or special meeting and the at-large board member is a subscriber or customer of a service provided by the district.

Sec. 2. 24 V.S.A. § 5705 is amended to read:

#### § 5705. OFFICERS

(a) Generally. The ~~district~~ board shall elect at its first meeting and at each annual meeting thereafter a chair, vice chair, clerk, and treasurer, who shall hold office until the next annual meeting and until others are elected. The board may fill a vacancy in any office.

(b) Chair. The chair shall preside at all meetings of the board and make and sign all contracts on behalf of the district upon approval by the board. The chair shall perform all duties incident to the position and office as required by the general laws of the State.

(c) Vice chair. During the absence of or inability of the chair to render or perform his or her duties or exercise his or her powers, the same shall be performed and exercised by the vice chair, and when so acting, the vice chair shall have all the powers and be subject to all the responsibilities given to or imposed upon the chair. During the absence or inability of the vice chair to render or perform his or her duties or exercise his or her powers, the board shall elect from among its members an acting vice chair who shall have the powers and be subject to all the responsibilities given to or imposed upon the vice chair.

(d) Clerk. The clerk shall keep a record of the meetings, votes, and proceedings of the district for the inspection of its inhabitants.

(e) Treasurer. The treasurer of the district shall be ~~appointed~~ elected by the board, and shall serve at its pleasure. The treasurer shall have the exclusive

charge and custody of the funds of the district and shall be the disbursing officer of the district. When warrants are authorized by the board, the treasurer may sign, make, or endorse in the name of the district all checks and orders for the payment of money and pay out and disburse the same and receipt therefor. The treasurer shall keep a record of every obligation issued and contract entered into by the district and of every payment made. The treasurer shall keep correct books of account of all the business and transactions of the district and such other books and accounts as the board may require. The treasurer shall render a statement of the condition of the finances of the district at each regular meeting of the board and at such other times as required of the treasurer. The treasurer shall prepare the annual financial statement and the budget of the district for distribution, upon approval of the board, to the legislative bodies of district members. Upon the treasurer's termination from office by virtue of removal or resignation, the treasurer shall immediately pay over to his or her successor all of the funds belonging to the district and at the same time deliver to the successor all official books and papers.

### Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

**( Committee Vote: 11-0-0)**

## H. 831

An act relating to funding for an accelerated weatherization program

**Rep. Howard of Rutland City**, for the Committee on General; Housing; and Military Affairs, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

### Sec. 1. ACCELERATED WEATHERIZATION PROGRAM; STATE TREASURER; FUNDING

(a) The General Assembly finds that, in addition to the weatherization efforts provided under the Home Weatherization Assistance Program established in 33 V.S.A. chapter 25, an increased pace of weatherization would result in both environmental and economic benefits to the State. Accelerated weatherization efforts will:

- (1) decrease the emission of greenhouse gases; and
- (2) increase job opportunities in the field of weatherization.

(b) In fiscal years 2019 and 2020, the State Treasurer is authorized to invest up to \$5,000,000.00 of funds from the credit facility established in 10 V.S.A. § 10 for an accelerated weatherization program, provided that the funds shall be used to support weatherization efforts for households with a median

family income that is not more than 120 percent of the statewide median family income as reported by the Vermont Department of Taxes for the most recent year for which data are available.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

( **Committee Vote: 9-0-2** )

**H. 854**

An act relating to promoting television and film production

**Rep. Sullivan of Dorset**, for the Committee on Commerce and Economic Development, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. WORKFORCE DEVELOPMENT OPPORTUNITIES;

TELEVISION AND FILM PRODUCTION

The Department of Labor, in partnership with the Agency of Commerce and Community Development and the Career Pathways Coordinator within the Agency of Education, shall have the authority to explore means to expand and encourage apprenticeship, CTE, Career Pathways, and continuing education opportunities in television and film production. The Department and its partners shall have the further authority to conduct outreach to middle school, high school, and postsecondary students to gauge interest and need for opportunities in this field.

Sec. 2. TELEVISION AND FILM PRODUCTION; RECRUITMENT

STRATEGY; IMPACT STATEMENT

On or before January 15, 2019, the Agency of Commerce and Community Development shall consider and report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs on a recommended strategy for attracting television and film production activities to Vermont and include an economic impact statement specifying potential revenues from increased activities.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

( **Committee Vote: 11-0-1** )

## H. 856

An act relating to miscellaneous amendments to municipal law

**Rep. LaClair of Barre Town**, for the Committee on Government Operations, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Municipal Elections and Appointments \* \* \*

Sec. 1. 17 V.S.A. § 2651a is amended to read:

§ 2651a. CONSTABLES; APPOINTMENT; REMOVAL

(a)(1) A town may vote by Australian ballot at an annual meeting to authorize the ~~selectmen~~ selectboard to appoint a first constable, and if needed a second constable, in which case at least a first constable shall be appointed.

(2) A constable so appointed may be removed by the ~~selectmen~~ selectboard for just cause after notice and hearing.

(3) When a town votes to authorize the ~~selectmen~~ selectboard to appoint constables, the ~~selectmen's~~ selectboard's authority to make such appointments shall remain in effect until the town rescinds that authority by the majority vote of the legal registered voters present and voting at an annual meeting, duly warned for that purpose.

(b) Notwithstanding the provisions of subsection (a) to the contrary, a vote to authorize the ~~selectmen~~ selectboard to appoint constables shall become effective only upon a two-thirds vote of those present and voting, if a written protest against the authorization is filed with the ~~legislative body~~ selectboard at least 15 days before the vote by at least five percent of the voters of the municipality town.

(c) The authority to authorize the selectboard to appoint the constable as provided in this section shall extend to all towns except those that have a charter that specifically provides for the election or appointment of the office of constable.

Sec. 2. 17 V.S.A. § 2651b is amended to read:

§ 2651b. ELIMINATION OF OFFICE OF AUDITOR; APPOINTMENT OF PUBLIC ACCOUNTANT

(a)(1) A town may vote by ballot at an annual meeting to eliminate the office of town auditor.

(2)(A) If a town votes to eliminate the office of town auditor, the selectboard shall contract with a public accountant, licensed in this State, to perform an annual financial audit of all funds of the town except the funds

audited pursuant to 16 V.S.A. § 323.

(B) Unless otherwise provided by law, the selectboard shall provide for all other ~~auditor~~ auditor's duties to be performed.

(3) A vote to eliminate the office of town auditor shall remain in effect until rescinded by majority vote of the ~~legal~~ registered voters present and voting, by ballot, at an annual meeting duly warned for that purpose.

(b) The term of office of any auditor in office on the date a town votes to eliminate that office shall expire on the 45th day after such vote or on the date upon which the selectboard enters into a contract with a public accountant under this section, whichever occurs first.

(c) The authority to vote to eliminate the office of town auditor as provided in this section shall extend to all towns except those towns that have a charter that specifically provides for the election or appointment of the office of town auditor.

Sec. 3. 17 V.S.A. § 2651c is amended to read:  
§ 2651c. LACK OF ELECTED LISTER; APPOINTMENT OF LISTER;  
ELIMINATION OF OFFICE

(a)(1) Notwithstanding any other provisions of law to the contrary and except as provided in subsection (b) of this section, in the event the board of listers of a ~~municipality~~ town falls below a majority and the selectboard is unable to find a person or persons to appoint as a lister or listers under the provisions of 24 V.S.A. § 963, the selectboard may appoint an assessor to perform the duties of a lister as set forth in ~~Title 32 V.S.A. chapter 121, subchapter 2~~ until the next annual meeting.

(2) The appointed person need not be a resident of the ~~municipality~~ town and shall have the same powers and be subject to the same duties and penalties as a duly elected lister for the ~~municipality~~ town.

(b)(1) A town may vote by ballot at an annual meeting to eliminate the office of lister.

(2)(A) If a town votes to eliminate the office of lister, the selectboard shall contract with or employ a professionally qualified assessor, who need not be a resident of the town.

(B) The assessor shall have the same powers, discharge the same duties, proceed in the discharge thereof in the same manner, and be subject to the same liabilities as are prescribed for listers or the board of listers under the provisions of Title 32.

(2)(3) A vote to eliminate the office of lister shall remain in effect until rescinded by majority vote of the ~~legal~~ registered voters present and voting at

an annual meeting warned for that purpose.

~~(3)~~(c) The term of office of any lister in office on the date a town votes to eliminate that office shall expire on the 45th day after the vote or on the date upon which the selectboard appoints an assessor under this subsection, whichever occurs first.

~~(4)~~(d) The authority to vote to eliminate the office of lister as provided in this ~~subsection~~ section shall extend to all towns except those towns that have a charter that specifically provides for the election or appointment of the office of lister.

Sec. 4. 17 V.S.A. § 2651d is amended to read:

§ 2651d. COLLECTOR OF DELINQUENT TAXES; APPOINTMENT;  
REMOVAL

(a)(1) A municipality may vote at an annual or special municipal meeting to authorize the legislative body to appoint a collector of delinquent taxes, who may be the municipal treasurer.

(2) A collector of delinquent taxes so appointed may be removed by the legislative body for just cause after notice and hearing.

(b) When a municipality votes to authorize the legislative body to appoint a collector of delinquent taxes, the legislative body's authority to make such appointment shall remain in effect until the municipality rescinds that authority by the majority vote of the ~~legal~~ registered voters present and voting at an annual or special meeting, duly warned for that purpose.

Sec. 5. 17 V.S.A. § 2651e is amended to read:

§ 2651e. MUNICIPAL CLERK; APPOINTMENT; REMOVAL

(a)(1) A municipality may vote at an annual meeting to authorize the legislative body to appoint the municipal clerk.

(2) A municipal clerk so appointed may be removed by the legislative body for just cause after notice and hearing.

(b) A vote to authorize the legislative body to appoint the municipal clerk shall remain in effect until rescinded by the majority vote of the ~~legal~~ registered voters present and voting at an annual or special meeting, duly warned for that purpose.

(c) The term of office of a municipal clerk in office on the date a municipality votes to allow the legislative body to appoint a municipal clerk shall expire 45 calendar days after the vote or on the date upon which the legislative body appoints a municipal clerk under this section, whichever occurs first, unless a petition for reconsideration or rescission is filed in

accordance with section 2661 of this title.

(d) The authority to authorize the legislative body to appoint the municipal clerk as provided in this section shall extend to all municipalities except those that have a charter that specifically provides for the election or appointment of the office of municipal clerk.

Sec. 6. 17 V.S.A. § 2651f is amended to read:

§ 2651f. MUNICIPAL TREASURER; APPOINTMENT; REMOVAL

(a)(1) A municipality may vote at an annual meeting to authorize the legislative body to appoint the municipal treasurer.

(2) A treasurer so appointed may be removed by the legislative body for just cause after notice and hearing.

(b) A vote to authorize the legislative body to appoint the treasurer shall remain in effect until rescinded by the majority vote of the ~~legal~~ registered voters present and voting at an annual or special meeting, duly warned for that purpose.

(c) The term of office of a treasurer in office on the date a municipality votes to allow the legislative body to appoint a treasurer shall expire 45 calendar days after the vote or on the date upon which the legislative body appoints a treasurer under this section, whichever occurs first, unless a petition for reconsideration or rescission is filed in accordance with section 2661 of this title.

(d) The authority to authorize the legislative body to appoint the treasurer as provided in this section shall extend to all municipalities except those that have a charter that specifically provides for the election or appointment of the office of municipal treasurer.

\* \* \* Local Incompatible Offices \* \* \*

Sec. 7. 17 V.S.A. § 2647 is amended to read:

§ 2647. INCOMPATIBLE OFFICES

(a)(1) An auditor shall not be town clerk, town treasurer, selectboard member, first constable, collector of current or delinquent taxes, trustee of public funds, town manager, road commissioner, water commissioner, sewage system commissioner, sewage disposal commissioner, cemetery commissioner, or town district school director; nor shall a spouse of or any person assisting any of these officers in the discharge of official duties be eligible to hold office as auditor.

(2) A selectboard member or school director shall not be first constable, collector of taxes, town treasurer, assistant town treasurer, auditor, or town

agent. A selectboard member shall not be lister or assessor.

(3) A cemetery commissioner or library trustee shall not be town treasurer, assistant town treasurer, or auditor.

(4) A town manager shall not hold any elective office in ~~the~~ that town or town school district.

(5) Election officers at local elections shall be disqualified as provided in section 2456 of this title.

\* \* \*

\* \* \* Smoking on Municipal Grounds \* \* \*

Sec. 8. 18 V.S.A. § 1742 is amended to read:

§ 1742. RESTRICTIONS ON SMOKING IN PUBLIC PLACES

(a) The possession of lighted tobacco products or use of tobacco substitutes in any form is prohibited in:

(1) the common areas of all enclosed indoor places of public access and publicly owned buildings and offices;

(2) all enclosed indoor places in lodging establishments used for transient traveling or public vacationing, such as resorts, hotels, and motels, including sleeping quarters and adjoining rooms rented to guests;

(3) designated smoke-free areas of property or grounds owned by or leased to the State or a municipality; and

(4) any other area within 25 feet of State-owned buildings and offices, except that to the extent that any portion of the 25-foot zone is not on State property, smoking is prohibited only in that portion of the zone that is on State property unless the owner of the adjoining property chooses to designate his or her property smoke-free.

\* \* \*

\* \* \* Animal Pounds \* \* \*

Sec. 9. 20 V.S.A. chapter 191, subchapter 2 is amended to read:

Subchapter 2. Pounds and Impounding

Article 1. General Provisions

§ 3381. MAINTENANCE OF POUNDS

(a)(1) Each organized town shall maintain as many good and sufficient pounds as it may need for the impounding of ~~beasts~~ animals liable to be impounded.

(2) The pound may be kept in an adjacent town if the adjacent town consents and the poundkeeper may be a resident of an adjacent town.

(b) Each town may regulate the operation of its pounds except as to matters regulated by statute law.

§ 3382. ~~PENALTY FOR FAILURE TO MAINTAIN POUND~~

~~If a town, for the term of six months at one time, is without such pound, it shall be fined \$30.00. [Repealed.]~~

\* \* \*

Sec. 10. LEGISLATIVE COUNCIL; CONFORMING REVISIONS;  
20 V.S.A. CHAPTER 191, SUBCHAPTER 2; REPLACE “BEAST”  
WITH “ANIMAL”

When preparing the Vermont Statutes Annotated for publication, the Office of Legislative Council shall replace “beast” with “animal” and “beasts” with “animals” throughout 20 V.S.A. chapter 191, subchapter 2 (pounds and impounding), provided the revisions have no other effect on the meaning of the affected statutes.

\* \* \* Assistant Town Clerks \* \* \*

Sec. 11. 24 V.S.A. § 1171 is amended to read:

§ 1171. DUTIES OF ASSISTANT CLERK

(a) ~~Such~~ The assistant clerk shall be sworn and is authorized to perform the recording and filing duties of the town clerk, to issue licenses and certified copies of records, and, in the absence, death, or disability of the town clerk, is further authorized to perform all other duties of ~~such~~ the clerk.

(b) ~~If there is a vacancy in the office of town clerk dies,~~ the authority of the assistant town clerk to perform the duties of the town clerk shall continue until a successor is appointed by the selectboard under section 963 of this title.

\* \* \* Municipal Managers \* \* \*

Sec. 12. 24 V.S.A. § 1236 is amended to read:

§ 1236. POWERS AND DUTIES IN PARTICULAR

The manager shall have authority and it shall be his or her duty:

\* \* \*

(4) To have charge and supervision of all public town buildings, and repairs thereon, and repairs of buildings of the town school district upon requisition of the school directors; and all building done undertaken by the town or town school district, unless otherwise specially voted provided for by

the selectboard, shall be done under his or her charge and supervision.

\* \* \*

(8) To supervise and expend all special appropriations of the town, as if the same were a separate department of the town, unless otherwise ~~voted~~ provided for by the ~~town~~ selectboard.

\* \* \*

\* \* \* Municipal Finances \* \* \*

Sec. 13. 24 V.S.A. chapter 51 is amended to read:

## CHAPTER 51. FINANCES; ACCOUNTS AND AUDITS

### Subchapter 1. Taxes

\* \* \*

#### § 1533. TOWN BOARD FOR THE ABATEMENT OF TAXES

(a) The board of civil authority, with the listers and the town treasurer, shall constitute a board for the abatement of town, ~~town school district~~, and ~~current use property taxes and water and sewer charges~~.

(b) The act of a majority of a quorum at a meeting shall be treated as the act of the board. This quorum requirement need not be met if the town treasurer, a majority of the listers, and a majority of the selectboard are present at the meeting.

\* \* \*

#### § 1535. ABATEMENT

(a) The board may abate in whole or part taxes, water charges, sewer charges, interest, ~~or~~ and collection fees, other than those arising out of a corrected classification of homestead or nonresidential property, accruing to the town in the following cases:

- (1) taxes or charges of persons who have died insolvent;
- (2) taxes or charges of persons who have removed from the State;
- (3) taxes or charges of persons who are unable to pay their taxes or charges, interest, and collection fees;
- (4) taxes in which there is manifest error or a mistake of the listers;
- (5) taxes or charges upon real or personal property lost or destroyed during the tax year;
- (6) the exemption amount available under 32 V.S.A. § 3802(11) to persons otherwise eligible for exemption who file a claim on or after May 1

but before October 1 due to the claimant's sickness or disability or other good cause as determined by the board of abatement; but that exemption amount shall be reduced by 20 percent of the total exemption for each month or portion of a month the claim is late filed;

(7), (8) [Repealed.]

(9) taxes or charges upon a mobile home moved from the town during the tax year as a result of a change in use of the mobile home park land or parts thereof, or closure of the mobile home park in which the mobile home was sited, pursuant to 10 V.S.A. § 6237.

(b) The board's abatement of an amount of tax or charge shall automatically abate any uncollected interest and fees relating to that amount.

(c) The board shall, in any case in which it abates taxes or charges, interest, or collection fees accruing to the town, or denies an application for abatement, state in detail in writing the reasons for its decision.

(d)(1) The board may order that any abatement as to an amount or amounts already paid be in the form of a refund or in the form of a credit against the tax or charge for the next ensuing tax year, or charge billing cycle and for succeeding tax years or billing cycles if required to use up the amount of the credit.

(2) Whenever a municipality votes to collect interest on overdue taxes pursuant to 32 V.S.A. § 5136, interest in a like amount shall be paid by the municipality to any person for whom an abatement has been ordered.

(3) Interest on taxes or charges paid and subsequently abated shall accrue from the date payment was due or made, whichever is later. However, abatements issued pursuant to subdivision (a)(5) of this section need not include the payment of interest.

(4) When a refund has been ordered, the board shall draw an order on the town treasurer for ~~such~~ payment of the refund.

\* \* \*

### Subchapter 3. Orders Drawn by ~~Selectboard~~ Municipal Bodies

\* \* \*

#### § 1622. TOWN ORDERS; RECORD

(a)(1) The chair of the selectboard shall keep or cause to be kept a single record of all orders drawn by the board showing the number, date, to whom payable, for what purpose, and the amount of each ~~such~~ order.

(2) All other officers authorized by law to draw orders upon the town

treasurer shall keep or cause to be kept a like record.

(b) Such records shall be submitted to the town auditors annually on or before February 1.

(c) If the records of orders named in this section are made by an assistant clerk, the assistant clerk shall not be the town treasurer, ~~or the wife or husband spouse of such~~ the town treasurer, or any person acting in the capacity of clerk for the town treasurer.

#### § 1623. SIGNING ORDERS

(a) The selectboard may do either of the following:

(1) Authorize one or more members of the board to examine and allow claims against the town for town expenses and draw orders for such claims to the party entitled to payment.

(A) Orders shall state definitely the purpose for which they are each is drawn and shall serve as full authority to the treasurer to make the payments.

(B) The selectboard shall be provided with a record of orders drawn under this subdivision (1) whenever orders are signed by less than a majority of the board; or.

(2) Submit to the town treasurer a certified copy of those portions of the selectboard minutes, properly signed by the clerk and chair or by a majority of the board, showing to whom and for what purpose each payment is to be made by the treasurer. The certified copy of the minutes shall serve as full authority to the treasurer to make the approved payments.

(b) This section shall apply to all municipal public bodies authorized by law to draw orders on the municipal treasurer.

\* \* \*

#### Subchapter. 5. Auditors and Audits

\* \* \*

#### § 1684. TRUST ASSETS; INDEBTEDNESS

The auditors shall make a detailed statement showing:

(1) ~~The~~ the condition of all trust funds in which the town is interested ~~with and~~ a list of the assets of such funds, including the account of receipts and disbursements for the preceding year;

(2) ~~What~~ what bonds of the town ~~or town school district~~ are outstanding ~~with and~~ the rate of interest and the amount thereof; and

(3) ~~What interest bearing~~ what interest-bearing notes or orders of the

town or town school district are outstanding with and the serial number, date, amount, payee, and rate of interest of each, and the total amount thereof.

\* \* \* Penalties for Municipal Violations \* \* \*

Sec. 14. 24 V.S.A. § 1974 is amended to read:

§ 1974. ENFORCEMENT OF CRIMINAL ORDINANCES

(a)(1) The violation of a criminal ordinance or rule adopted by a municipality under this chapter shall be a misdemeanor.

(2) The criminal ordinance or rule may provide for a fine or imprisonment, but no fine ~~may~~ shall exceed ~~\$500.00~~ \$800.00, nor may any term of imprisonment exceed one year.

(3) Each day the violation continues shall constitute a separate offense.

\* \* \*

Sec. 15. 24 V.S.A. § 2201 is amended to read:

§ 2201. THROWING, DEPOSITING, BURNING, AND DUMPING  
REFUSE; PENALTY; SUMMONS AND COMPLAINT

(a)(1) Prohibition. Every person shall be responsible for proper disposal of his or her own solid waste. A person shall not throw, dump, deposit, or cause, or permit to be thrown, dumped, or deposited any solid waste as defined in 10 V.S.A. § 6602, refuse of whatever nature, or any noxious thing in or on lands or waters of the State outside a solid waste management facility certified by the Agency of Natural Resources.

\* \* \*

(b) Prosecution of violations. A person who violates a provision of this section commits a civil violation and shall be subject to a civil penalty of not more than ~~\$500.00~~ \$800.00.

(1) This violation shall be enforceable in the Judicial Bureau pursuant to the provisions of 4 V.S.A. chapter 29 in an action that may be brought by a municipal attorney, a solid waste management district attorney, an environmental enforcement officer employed by the Agency of Natural Resources, a grand juror, ~~or a~~ a designee of the legislative body of the municipality, or by any duly authorized law enforcement officer.

(2) If the throwing, placing, or depositing was done from a snowmobile, vessel, or motor vehicle, except a motor bus, there shall be a rebuttable presumption that the throwing, placing, or depositing was done by the operator of ~~such~~ the snowmobile, vessel, or motor vehicle.

(3) Nothing in this section shall be construed as affecting the operation

of an automobile graveyard or salvage yard as defined in section 2241 of this title, nor shall anything in this section be construed as prohibiting the installation and use of appropriate receptacles for solid waste provided by the State or towns.

\* \* \*

Sec. 16. 24 V.S.A. § 2297a is amended to read:

§ 2297a. ENFORCEMENT OF SOLID WASTE ORDINANCE BY TOWN, CITY, OR INCORPORATED VILLAGE

(a) Solid waste order. A legislative body may issue and enforce a solid waste order in accordance with this section. A solid waste order may include a directive that the respondent take actions necessary to achieve compliance with the ordinance, to abate hazards created as a result of noncompliance, or to restore the environment to the condition existing before the violation and may include a civil penalty of not more than ~~\$500.00~~ \$800.00 for each violation and in the case of a continuing violation, not more than \$100.00 for each succeeding day. In determining the amount of civil penalty to be ordered, the legislative body shall consider the following:

- (1) the degree of actual or potential impact on public health, safety, welfare, and the environment resulting from the violation;
- (2) whether the respondent has cured the violation;
- (3) the presence of mitigating circumstances;
- (4) whether the respondent knew or had reason to know the violation existed;
- (5) the respondent's record of compliance;
- (6) the economic benefit gained from the violation;
- (7) the deterrent effect of the penalty;
- (8) the costs of enforcement;
- (9) the length of time the violation has existed.

\* \* \*

(e) Contents of proposed order. A proposed order shall include:

\* \* \*

(5) if applicable, a civil penalty of not more than ~~\$500.00~~ \$800.00 for each violation and in the case of a continuing violation, not more than \$100.00 for each succeeding day.

\* \* \* Road Commissioner Compensation \* \* \*

Sec. 17. 32 V.S.A. § 1225 is amended to read:

§ 1225. TOWN ROAD COMMISSIONER

The compensation of a town road commissioner shall be fixed by the selectboard, ~~shall not be less than \$2.00 per day for time actually spent, and shall be paid out of the Transportation Fund.~~

\* \* \* Property Appraisal Appeals \* \* \*

Sec. 18. 32 V.S.A. § 4404 is amended to read:

§ 4404. APPEALS FROM LISTERS AS TO GRAND LIST

(a) Within 14 days after the date of notice thereof, a person aggrieved by the final decision of the listers under the provisions of section 4221 of this title, may appeal in writing therefrom to the board of civil authority, by lodging his or her appeal with the town clerk, who shall record the same in the book containing the abstract of individual lists. The grounds upon which ~~such~~ the appeal is based shall therein be briefly set forth.

(b)(1) The town clerk forthwith shall call a meeting of the board to hear and determine such appeals, which shall be held at ~~such~~ a time, not later than 14 days after the last date allowed for notice of appeal, and at ~~such~~ a place within the town as that he or she shall designate.

(2) Notice of ~~such~~ the time and place shall be given by posting a warning therefor in three or more public places in ~~such~~ the town, and by mailing a copy of ~~such~~ the warning, postage prepaid, to each member of the board, the agent of the town to prosecute and defend suits, the chair of the board of listers, and ~~to~~ all persons so appealing.

(c)(1) The ~~Board~~ board shall meet at the time and place so designated, and on that day and from day to day thereafter shall hear and determine ~~such~~ the appeals until all questions and objections are heard and decided.

(2)(A) Each property, the appraisal of which is being appealed, shall be inspected by a committee of not less than three members of the board ~~who~~. At least one lister shall be allowed to attend the inspection. The committee shall report to the board within 30 days from the hearing on the appeal and before the final decision pertaining to the property is given.

(B) If, after notice, the appellant refuses to allow an inspection of the property or attendance of at least one lister as required under this subsection, including the interior and exterior of any structure on the property, the appeal shall be deemed withdrawn.

(3) The board shall, within 15 days from the time of the report, certify in writing its notice of decision, with reasons, in the premises, and shall file

~~such~~ the notice with the town clerk, who shall thereupon record the same in the book wherein the appeal was recorded and forthwith notify the appellant in writing of the action of ~~such~~ the board, by certified mail.

(4)(A) If the board does not substantially comply with the requirements of this subsection and if the appeal is not withdrawn by filing written notice of withdrawal with the board or deemed withdrawn as provided in this subsection, the grand list of the appellant for the year for which appeal is being made shall remain at the amount set before the appealed change was made by the listers; except, if there has been a complete reappraisal, the grand list of the appellant for the year for which appeal is being made shall be set at a value ~~which~~ that will produce a tax liability equal to the tax liability for the preceding year.

(B) The town clerk shall immediately record the same in the book wherein the appeal was recorded and forthwith notify the appellant in writing of ~~such~~ the action, by certified mail. Thereupon the appraisal so determined pursuant to this subsection shall become a part of the grand list of such person.

(d) Listers and agents to prosecute and defend suits wherein a town is interested shall not be eligible to serve as members of the board while convened to hear and determine ~~such~~ those appeals nor shall an appellant, or his or her servant, agent, or attorney be eligible to serve as a member of the ~~Board~~ board while convened to hear and determine any appeals. However, listers and agents to prosecute and defend suits wherein a town is interested shall be given the opportunity to defend the appraisals in question.

\* \* \* State Holidays \* \* \*

Sec. 19. 1 V.S.A. § 371 is amended to read:

#### § 371. LEGAL HOLIDAYS

(a) The following shall be legal holidays:

New Year's Day, January 1;

Martin Luther King, Jr.'s Birthday, the third Monday in January;

~~Lincoln's Birthday, February 12;~~

~~Washington's Birthday~~ Presidents' Day, the third Monday in February;

Town Meeting Day, the first Tuesday in March;

Memorial Day, the last Monday in May;

Independence Day, July 4;

Bennington Battle Day, August 16;

Labor Day, the first Monday in September;

Columbus Day, the second Monday in October;  
Veterans' Day, November 11;  
Thanksgiving Day, the fourth Thursday in November;  
Christmas Day, December 25.

\* \* \*

\* \* \* Effective Date \* \* \*

Sec. 20. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

( **Committee Vote: 10-0-1** )

**H. 874**

An act relating to inmate access to prescription drugs

**Rep. Taylor of Colchester**, for the Committee on Corrections and Institutions, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 28 V.S.A. § 801 is amended to read:

§ 801. MEDICAL CARE OF INMATES

\* \* \*

(e)(1) Except as otherwise provided in this subsection, an offender who is admitted to a correctional facility while under the medical care of a licensed physician, a licensed physician assistant, or a licensed advanced practice registered nurse, ~~or a licensed nurse practitioner~~ and who is taking medication at the time of admission pursuant to a valid prescription as verified by the inmate's pharmacy of record, primary care provider, other licensed care provider, or as verified by the Vermont Prescription Monitoring System or other prescription monitoring or information system shall be entitled to continue that medication and to be provided that medication by the Department pending an evaluation by a licensed physician, a licensed physician assistant, ~~a licensed nurse practitioner~~, or a licensed advanced practice registered nurse.

(2) ~~However,~~ Notwithstanding subdivision (e)(1) of this section, the Department may defer provision of a validly prescribed medication in accordance with this subsection if, in the clinical judgment of a licensed physician, a physician assistant, ~~a nurse practitioner~~, or an advanced practice registered nurse, it is not in the inmate's best ~~interest~~ interests to continue the medication at that time.

(3) The licensed practitioner who makes the clinical judgment to discontinue a medication shall enter cause the reason for the discontinuance to be entered into the inmate's permanent medical record, specifically stating the reason for the discontinuance. If the inmate provides a signed release of information, the Department shall follow up in writing with the practitioner who prescribed the medication to notify him or her of the decision. The inmate shall also be provided with a specific explanation of the decision, both orally and in writing.

(4) It is not the intent of the General Assembly that this subsection shall create a new or additional private right of action.

\* \* \*

## Sec. 2. DATA COLLECTION

(a) The Department of Corrections shall collect information on: how often a medication for which an inmate has a valid prescription is continued or discontinued upon incarceration at each correctional facility, the name of the medication, and the reason for discontinuance.

(b) The Department shall collect this information for a period of at least six months and provide a written report of its findings based on the data collected, including a breakdown by correctional facility of record, to the House Committee on Corrections and Institutions and the Senate Committee on Institutions on or before January 31, 2019. Prior to finalizing the report, the Department shall consult with the Prisoners' Rights Office and Disability Rights Vermont.

(c) Nothing in this section shall require the Department to reveal individually identifiable health information in violation of State or federal law.

## Sec. 3. EFFECTIVE DATES

(a) This section and Sec. 2 shall take effect on passage.

(b) Sec. 1 shall take effect on July 1, 2018.

**( Committee Vote: 9-0-2)**

**Favorable**

**H. 771**

An act relating to the Vermont National Guard

Rep. Fields of Bennington, for the Committee on General; Housing; and Military Affairs, recommends the bill ought to pass.

**( Committee Vote: 9-0-2)**

### **H. 894**

An act relating to pensions, retirement, and setting the contribution rates for municipal employees.

(Rep. Devereux of Mount Holly will speak for the Committee on Government Operations.)

Rep. Lucke of Hartford, for the Committee on Ways and Means, recommends the bill ought to pass.

(Committee Vote: 11-0-0)

### **Senate Proposal of Amendment**

### **H. 150**

An act relating to parole eligibility

The Senate proposes to the House to amend the bill as follows:

In Sec. 3 (EFFECTIVE DATE), by striking out the following: “2017” and inserting in lieu thereof the following: 2018

(For text see House Journal April 18, 2017 )

### **Ordered to Lie**

### **H. 167**

An act relating to alternative approaches to addressing low-level illicit drug use.

Pending Question: Shall the House concur in the Senate Proposal of Amendment?

### **H. 219**

An act relating to the Vermont spaying and neutering program.

Pending Question: Shall the House concur in the Senate Proposal of Amendment?

### **S. 103**

An act relating to the regulation of toxic substances and hazardous materials.

Pending Question: Shall the House concur in the Senate proposal of amendment to the House proposal of amendment??

### **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. 261**

House concurrent resolution in memory of Guildhall civic leader Richard William Martin

**H.C.R. 262**

House concurrent resolution honoring Ludlow Municipal Manager Francis J. Heald

**H.C.R. 263**

House concurrent resolution congratulating the Mount Holly Community Historical Museum on celebrating its 50th Anniversary

**H.C.R. 264**

House concurrent resolution designating the week of May 6–12, 2018 as Teacher Appreciation Week in Vermont

**H.C.R. 265**

House concurrent resolution designating Thursday, March 1, 2018 as Vermont Coalition of Runaway and Homeless Youth Programs and Vermont Youth Development Program Awareness Day

**H.C.R. 266**

House concurrent resolution congratulating the Robb Family Farm in West Brattleboro on its 110th anniversary

**H.C.R. 267**

House concurrent resolution honoring Donna Fitch for her outstanding municipal public service in the Town of Calais

**H.C.R. 268**

House concurrent resolution honoring H. Kent Wright III for his civic engagement in the town of Bridport

**H.C.R. 269**

House concurrent resolution in memory of former Representative and Rockingham Town Moderator Michael P. Harty

**H.C.R. 270**

House concurrent resolution honoring Alan Curler of New Haven for his outstanding civic service

**H.C.R. 271**

House concurrent resolution in memory of former Mendon Town Clerk Helen Ruth Johnson Lawrence

**Information Notice**

**CROSS OVER DATES**

The Joint Rules Committee established the following Crossover deadlines:

(1) All **House** bills must be reported out of the last committee of reference including the Committees on Appropriations and Ways and Means, except as provided below in (2) on or before **Friday, March 2, 2018**, and filed with the Clerk so they may be placed on the Calendar for Notice the next legislative day.

(2) All **House** bills referred pursuant to House Rule 35(a) to the Committees on Appropriations and Ways and Means must be reported out by the last of those committees on or before **Friday, March 16, 2018**, and filed with the Clerk so they may be placed on the Calendar for Notice the next legislative day.