

House Calendar

Tuesday, April 24, 2018

112th DAY OF THE ADJOURNED SESSION

House Convenes at 10:00 A.M.

TABLE OF CONTENTS

Page No.

ACTION CALENDAR

Action Postponed Until April 24, 2018

Called Up

S. 267 An act relating to timing of a decree nisi in a divorce proceeding.. 1655
Rep. LaLonde for Judiciary

Senate Proposal of Amendment

H. 27 Eliminating the statute of limitations on prosecutions for sexual assault
..... 1669

ACTION CALENDAR

Third Reading

S. 85 An act relating to simplifying government for small businesses..... 1672

Favorable with Amendment

S. 203 An act relating to systemic improvements of the mental health system
..... 1672
Rep. Donahue for Health Care
Rep. Hooper for Appropriations..... 1683

S. 272 An act relating to miscellaneous changes to laws related to motor
vehicles..... 1683
Rep. Brennan for Transportation
Rep. Masland for Ways and Means..... 1698

Favorable

S. 225 An act relating to pilot programs for coverage by commercial health
insurers of costs associated with medication-assisted treatment..... 1698
Rep. Pugh for Human Services
Rep. Cina for Health Care..... 1699

Senate Proposal of Amendment

H. 294 Inquiries about an applicant's salary history..... 1699

H. 333 Identification of gender-free restrooms in public buildings and places of public accommodation.....	1700
H. 603 Human trafficking.....	1702
H. 696 Establishing a State individual mandate.....	1702

Action Postponed Until April 26, 2018

Senate Proposal of Amendment

H. 874 Inmate access to prescription drugs.....	1702
--	------

NOTICE CALENDAR

Favorable with Amendment

S. 175 An act relating to the wholesale importation of prescription drugs into Vermont, bulk purchasing, and the impact of prescription drug costs on health insurance premiums.....	1704
Rep. Lippert for Health Care	
Rep. Till for Ways and Means.....	1707

S. 192 An act relating to transferring the professional regulation of law enforcement officers from the Vermont Criminal Justice Training Council to the Office of Professional Regulation.....	1707
Rep. LaClair for Government Operations	

S. 281 An act relating to the mitigation of systemic racism.....	1714
Rep. Gannon for Government Operations	

Senate Proposal of Amendment

H. 914 Reporting requirements for the second year of the Vermont Medicaid Next Generation ACO Pilot Project.....	1719
---	------

Governor's Veto

S. 103 An act relating to the regulation of toxic substances and hazardous materials.....	1720
--	------

Ordered to Lie

H. 167 Alternative approaches to addressing low-level illicit drug use.....	1724
H. 219 The Vermont spaying and neutering program.....	1724

ORDERS OF THE DAY

ACTION CALENDAR

Action Postponed Until April 24, 2018

Called Up

S. 267

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

Pending Action: Second Reading

Rep. LaLonde of South Burlington, for the Committee on Judiciary, recommends that the House propose to the Senate that the bill be amended

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)

Senate Proposal of Amendment

H. 27

An act relating to eliminating the statute of limitations on prosecutions for sexual assault

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

Sec. 1. 13 V.S.A. § 1386 is added to read:

§ 1386. EMPLOYMENT AGREEMENTS

In accordance with 21 V.S.A. § 306, it is the policy of the State of Vermont that no confidential employment separation agreement shall inhibit the disclosure to prospective employers or responsible licensing entities of factual information about a prospective employee's background that would lead a reasonable person to conclude that the prospective employee has engaged in conduct jeopardizing the safety of a vulnerable adult or minor.

Sec. 2. 16 V.S.A. § 253 is amended to read:

§ 253. CONFIDENTIALITY OF RECORDS

(a) Criminal records and criminal record information received under this subchapter are designated confidential unless, under State or federal law or regulation, the record or information may be disclosed to specifically designated persons.

(b) The Secretary, a superintendent, or a headmaster may disclose criminal

records and criminal record information received under this subchapter to a qualified entity upon request, provided that the qualified entity has signed a user agreement and received authorization from the subject of the record request. As used in this section, “qualified entity” means an individual, organization, or governmental body doing business in Vermont that has one or more individuals performing services for it within the State and that provides care or services to children, persons who are elders, or persons with disabilities as defined in 42 U.S.C. § 5119c.

(c) In accordance with 21 V.S.A. § 306, a board member, superintendent, or headmaster shall not enter into on behalf of a supervisory union, school district, or recognized or approved independent school a confidential employment separation agreement that inhibits the disclosure to prospective employers or responsible licensing entities of factual information about a prospective employee’s background that would lead a reasonable person to conclude that the prospective employee has engaged in conduct jeopardizing the safety of a minor. Notwithstanding any provision of law to the contrary under 33 V.S.A. chapter 49, a board member, superintendent, or headmaster and employees of a supervisory union, school district, or recognized or approved independent school shall provide factually correct information concerning a former employee’s employment record with the supervisory union, school district, or recognized or approved independent school to a prospective employer of that individual if requested by the prospective employer. Nothing in this subsection shall permit the disclosure of information that is prohibited from disclosure by subsection (b) of this section. Notwithstanding any provision of law to the contrary, a person shall not be subject to civil or criminal liability for disclosing information that is required by this section to be disclosed if the person was acting in good faith and reasonably believed at the time of disclosure that the information disclosed was factually correct.

Sec. 3. COMMITTEE FOR PROTECTING STUDENTS FROM SEXUAL EXPLOITATION

(a) Creation. There is created the Committee for Protecting Students from Sexual Exploitation.

(b) Membership. The Committee shall be composed of the following ten members:

(1) the Secretary of Education or designee;

(2) the Executive Director of the Vermont School Boards Association or designee;

(3) the Executive Director of the Vermont Independent Schools

Association or designee;

(4) the Executive Director of the Vermont National Educators Association or designee;

(5) the Executive Director of Child Abuse Vermont or designee;

(6) the Executive Director of the Vermont Network Against Domestic and Sexual Violence or designee;

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

(8) the Defender General or designee;

(9) the Commissioner for Children and Families or designee; and

(10) the Executive Director of the Vermont Superintendents Association or designee.

(c) Powers and duties. The Committee, in consultation with school personnel, shall:

(1) develop a model policy for adoption by public schools and recognized and approved independent schools, as defined in 16 V.S.A. § 11, on electronic communications between school employees and students, designed to prevent improper communications; and

(2) recommend whether behaviors by an employee of, or contractor for, a public school or recognized or approved independent school designed to establish a romantic or sexual relationship with a child or a student, so called "grooming behaviors," should be unlawful under Vermont law, and, if the Committee recommends that grooming behaviors should be unlawful, shall include in its recommendation:

(A) how grooming behaviors should be defined;

(B) whether all students or children in a school environment should be covered;

(C) whether the behavior should result in a misdemeanor or a felony, and the related punishment; and

(D) the statute of limitations for bringing a related action.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Agency of Education.

(e) Report. On or before October 15, 2019, the Committee shall submit a written report to the House and Senate Committees on Education and on Judiciary with its findings and any recommendations.

(f) Meetings.

(1) The Secretary of Education shall call the first meeting of the Committee to occur on or before July 15, 2018.

(2) The Committee shall select a chair from among its members at the first meeting.

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

(4) The Committee shall cease to exist on October 16, 2019.

Sec. 4. 21 V.S.A. § 306 is amended to read:

§ 306. PUBLIC POLICY OF THE STATE OF VERMONT; EMPLOYMENT SEPARATION AGREEMENTS

In support of the State's fundamental interest in protecting the safety of minors and vulnerable adults, as defined in 33 V.S.A. § 6902, it is the policy of the State of Vermont that no confidential employment separation agreement shall inhibit the disclosure to prospective employers or responsible licensing entities of factual information about a prospective employee's background that would lead a reasonable person to conclude that the prospective employee has engaged in conduct jeopardizing the safety of a minor or vulnerable adult. Any provision in an agreement entered into on or after the effective date of this section that attempts to do so is void and unenforceable.

Sec. 5. 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 sexual exploitation of students.

(For text see House Journal March 13, 2018)

NEW BUSINESS

Third Reading

S. 85

An act relating to simplifying government for small businesses

Favorable with Amendment

S. 203

An act relating to systemic improvements of the mental health system

Rep. Donahue of Northfield, for the Committee on Health Care, 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:

* * * Legislative Intent * * *

Sec. 1. LEGISLATIVE INTENT

(a) The General Assembly recognizes the need for additional inpatient psychiatric beds in Vermont. To achieve an increase in the number of inpatient psychiatric beds in a manner that ensures clinical best practice, the General Assembly supports identifying the appropriate number of beds needed and developing corresponding capacity within existing hospital and health care systems. The General Assembly further supports the intent of the University of Vermont Health Network to initiate a proposal expanding inpatient psychiatric bed capacity at the Central Vermont Medical Center campus.

(b) It is the intent of the General Assembly that the Agency of Human Services shall:

(1) replace the temporary Middlesex Secure Residential Recovery Facility with a permanent facility that has a 16-bed capacity;

(2) assist the University of Vermont Health Network in identifying the appropriate number and type of additional inpatient psychiatric beds needed in the State; and

(3) plan the increased number of inpatient psychiatric beds in a manner that maximizes the State's ability to leverage Medicaid dollars.

* * * Order of Non-Hospitalization Study Committee * * *

Sec. 2. ORDER OF NON-HOSPITALIZATION STUDY COMMITTEE

(a) Creation. There is created the Order of Non-Hospitalization Study Committee to examine the strengths and weaknesses of Vermont's orders of non-hospitalizations for the purpose of improving patient care.

(b) Membership. The Committee shall be composed of the following 12 members:

(1) the Commissioner of Mental Health or designee;

(2) the Commissioner of Public Safety or designee;

(3) the Chief Superior Judge or designee;

(4) a member appointed by the Vermont Care Partners;

(5) a member appointed by the Vermont Association of Hospitals and Health Systems;

(6) a member appointed by Vermont Legal Aid's Mental Health Project;

(7) a member appointed by the Executive Director of the Department of State's Attorneys and Sheriffs;

(8) the Vermont Defender General or designee;

(9) the Executive Director of Vermont Psychiatric Survivors or designee;

(10) the Mental Health Care Ombudsman designated pursuant to 18 V.S.A. § 7259;

(11) an individual who was previously under an order of non-hospitalization, appointed by Vermont Psychiatric Survivors; and

(12) the family member of an individual who is currently or was previously under an order of non-hospitalization, appointed by the Vermont chapter of the National Alliance on Mental Illness.

(c) Powers and duties. The Committee shall examine the strengths and weaknesses of Vermont's orders of non-hospitalization for the purpose of improving patient care and may propose a pilot project that seeks to redress any weaknesses and build upon any existing strengths. The Committee shall:

(1) review and understand existing laws pertaining to orders of non-hospitalization, including 1998 Acts and Resolves No. 114;

(2) review existing studies and reports on whether or not outpatient commitment and involuntary treatment orders improve patient outcomes;

(3) review existing data pertaining to orders of non-hospitalization, including data pertaining to individuals entering the mental health system through both civil and forensic procedures;

(4) if appropriate, propose a pilot project for the purpose of improving the efficacy of orders of non-hospitalization;

(5) if appropriate, recommend any changes necessary to approve the efficacy of orders of non-hospitalization; and

(6) identify statutory changes necessary to implement recommended changes to orders of non-hospitalization, if any.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Department of Mental Health.

(e) Report. On or before November 1, 2018, the Committee shall submit a written report to the House Committee on Health Care and the Senate Committee on Health and Welfare with its findings and any recommendations for legislative action.

(f) Meetings.

(1) The Commissioner of Mental Health or designee shall call the first meeting of the Committee to occur on or before August 1, 2018.

(2) The Commissioner of Mental Health or designee shall be the Chair.

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

(4) The Committee shall cease to exist on December 1, 2018.

(g) Compensation and reimbursement. Members of the Committee who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than four meetings. These payments shall be made from monies appropriated to the Department of Mental Health.

* * * Waiver of Certificate of Need Requirement for Renovations at the
Brattleboro Retreat * * *

Sec. 3. WAIVER OF CERTIFICATE OF NEED REQUIREMENT FOR
RENOVATIONS AT THE BRATTLEBORO RETREAT

Notwithstanding the provisions of 18 V.S.A. chapter 221, subchapter 5, the implementation of renovations at the Brattleboro Retreat as authorized in the fiscal year 2019 capital budget adjustment bill shall not be considered a “new health care project” for which a certificate of need is required.

* * * Use of Emergency Involuntary Procedures in the Secure Residential
Recovery Facility * * *

Sec. 4. EMERGENCY INVOLUNTARY PROCEDURES IN
SECURE RESIDENTIAL RECOVERY FACILITIES

In the event that the Department of Disabilities, Aging, and Independent Living amends its rules pertaining to secure residential recovery facilities to allow the use of emergency involuntary procedures in them, the rules adopted shall be identical to those rules adopted by the Department of Mental Health that govern the use of emergency involuntary procedures in psychiatric inpatient units.

* * * Reports * * *

Sec. 5. REPORT; TRANSPORTING PATIENTS

On or before January 15, 2019, the Secretary of Human Services shall submit a written report to the House Committees on Appropriations and on Health Care and to the Senate Committees on Appropriations and on Health and Welfare regarding the implementation of 2017 Acts and Resolves No. 85, Sec. E.314 (transporting patients). Specifically, the report shall:

(1) describe specifications introduced into the Agency of Human Services’ fiscal year 2019 contracts as a result of 2017 Acts and Resolves No. 85, Sec. E.314;

(2) summarize the Agency's oversight and enforcement of 2017 Acts and Resolves No. 85, Sec. E.314; and

(3) provide data from each sheriff's department in the State on the use of restraints during patient transports.

Sec. 6. DATA COLLECTION AND REPORT; PATIENTS SEEKING MENTAL HEALTH CARE IN HOSPITAL SETTINGS

(a) Pursuant to the authority granted to the Commissioner of Mental Health under 18 V.S.A. § 7401, the Commissioner shall collect the following information from hospitals in the State that have either an inpatient psychiatric unit or emergency department receiving patients with psychiatric health needs:

(1) the number of individuals seeking psychiatric care voluntarily and the number of individuals in the custody or temporary custody of the Commissioner who are admitted to inpatient psychiatric units and the corresponding lengths of stay on the unit;

(2) the lengths of stay in emergency departments for individuals seeking psychiatric care voluntarily and for individuals in the custody or temporary custody of the Commissioner; and

(3) data regarding emergency involuntary procedures performed in an emergency department on individuals seeking psychiatric care.

(b) On or before January 15 of each year between 2019 and 2021, the Commissioner of Mental Health shall submit a written report to the House Committee on Health Care and to the Senate Committee on Health and Welfare containing the data collected pursuant to subsection (a) of this section during the previous calendar year.

Sec.7. REPORT; RATES OF PAYMENTS TO DESIGNATED AND SPECIALIZED SERVICE AGENCIES

On or before January 15, 2019, the Secretary of Human Services shall submit a written report to the House Committees on Appropriations and on Health Care and to the Senate Committees on Appropriations and on Health and Welfare pertaining to the implementation of 18 V.S.A. § 8914 (rates of payments to designated and specialized services agencies). Specifically, the report shall address the cost adjustment factor used to reflect changes in reasonable costs of goods and services of designated and specialized service agencies, including those attributed to inflation and labor market dynamics. If new payment methodologies are developed, the report shall address how the payments cover reasonable costs of goods and services of designated and specialized service agencies, including labor market dynamics.

Sec. 8. 2017 Acts and Resolves No. 82, Sec. 3(c) is amended to read:

(c) On or before January 15, 2019, the Secretary shall submit a comprehensive evaluation of the overarching structure for the delivery of mental health services within a sustainable, holistic health care system in Vermont to the Senate Committee on Health and Welfare and to the House Committees on Health Care and on Human Services, including. The Secretary shall ensure that the evaluation process provides for input from persons who identify as psychiatric survivors, consumers, or peers; family members of such persons; providers of mental health services; and providers of services within the broader health care system. The evaluation process shall include direct stakeholder involvement in the development of a written statement that articulates a common, long-term, statewide vision of how integrated, recovery- and resiliency-oriented services shall emerge as part of a comprehensive and holistic health care system. The evaluation shall include:

* * *

(5) how mental health care is being fully integrated into health care payment reform; and

(6) any recommendations for structural changes to the mental health system that would assist in achieving the vision of an integrated, holistic health care system;

(7) how Vermont's mental health system currently addresses, or should be revised better to address, the goals articulated in 18 V.S.A. § 7629 of achieving "high-quality, patient-centered health care, which the Institute of Medicine defines as 'providing care that is respectful of and responsive to individual patient preferences, needs, and values and ensuring that patient values guide all clinical decisions'" and of achieving a mental health system that does not require coercion;

(8) recommendations for encouraging regulators and policymakers to account for mental health care spending growth as part of overall cost growth within the health care system rather than singled out and capped by the State's budget; and

(9) recommendations for ensuring parity between providers with similar job descriptions regardless of whether they are public employees or are employed by a State-financed agency.

Sec. 9. REPORT; INSTITUTIONS FOR MENTAL DISEASE

The Secretary of Human Services, in partnership with entities in Vermont designated by the Centers for Medicare and Medicaid Services as "institutions for mental disease" (IMDs), shall submit the following reports to the House Committees on Appropriations, on Corrections and Institutions, on Health Care, and on Human Services and to the Senate Committees on

Appropriations, on Health and Welfare, and on Institutions regarding the Agency's progress in evaluating the impact of federal IMD spending on persons with serious mental illness or substance use disorders:

(1) status updates that shall provide possible solutions considered as part of the State's response to the Centers for Medicare and Medicaid Services' requirement to begin reducing federal Medicaid spending due on or before July 15, September 15, and November 15 of 2019; and

(2) on or before January 15 of each year from 2019 to 2025, a written report evaluating:

(A) the impact to the State caused by the requirement to reduce and eventually terminate federal Medicaid IMD spending;

(B) the number of existing psychiatric and substance use disorder treatment beds at risk and the geographical location of those beds;

(C) the State's plan to address the needs of Vermont residents if psychiatric and substance use disorder treatment beds are at risk;

(D) the potential of attaining a waiver from the Centers for Medicare and Medicaid Services for existing psychiatric and substance use disorder services; and

(E) alternative solutions, including alternative sources of revenue, such as general funds, or opportunities to repurpose buildings designated as IMDs.

* * * Mental Health Parity * * *

Sec. 10. 8 V.S.A. § 4062(h) is amended to read:

(h)(1) The authority of the Board under this section shall apply only to the rate review process for policies for major medical insurance coverage and shall not apply to the policy forms for major medical insurance coverage or to the rate and policy form review process for policies for specific disease, accident, injury, hospital indemnity, dental care, vision care, disability income, long-term care, student health insurance coverage, Medicare supplemental coverage, or other limited benefit coverage, or to benefit plans that are paid directly to an individual insured or to his or her assigns and for which the amount of the benefit is not based on potential medical costs or actual costs incurred. Premium rates and rules for the classification of risk for Medicare supplemental insurance policies shall be governed by sections 4062b and 4080e of this title.

(2) The policy forms for major medical insurance coverage, as well as the policy forms, premium rates, and rules for the classification of risk for the other lines of insurance described in subdivision (1) of this subsection shall be

reviewed and approved or disapproved by the Commissioner. In making his or her determination, the Commissioner shall consider whether a policy form, premium rate, or rule is affordable and is not unjust, unfair, inequitable, misleading, or contrary to the laws of this State; and, for a policy form for major medical insurance coverage, whether it ensures equal access to appropriate mental health care in a manner equivalent to other aspects of health care as part of an integrated, holistic system of care. The Commissioner shall make his or her determination within 30 days after the date the insurer filed the policy form, premium rate, or rule with the Department. At the expiration of the 30-day period, the form, premium rate, or rule shall be deemed approved unless prior to then it has been affirmatively approved or disapproved by the Commissioner or found to be incomplete. The Commissioner shall notify an insurer in writing if the insurer files any form, premium rate, or rule containing a provision that does not meet the standards expressed in this subsection. In such notice, the Commissioner shall state that a hearing will be granted within 20 days upon the insurer's written request.

Sec. 11. 18 V.S.A. § 7201 is amended to read:

§ 7201. MENTAL HEALTH

(a) The Department of Mental Health, as the successor to the Division of Mental Health Services of the Department of Health, shall centralize and more efficiently establish the general policy and execute the programs and services of the State concerning mental health, and integrate and coordinate those programs and services with the programs and services of other departments of the State, its political subdivisions, and private agencies, so as to provide a flexible comprehensive service to all citizens of the State in mental health and related problems.

(b) The Department shall ensure equal access to appropriate mental health care in a manner equivalent to other aspects of health care as part of an integrated, holistic system of care.

Sec. 12. 18 V.S.A. § 7251 is amended to read:

§ 7251. PRINCIPLES FOR MENTAL HEALTH CARE REFORM

The General Assembly adopts the following principles as a framework for reforming the mental health care system in Vermont:

* * *

(4) The mental health system shall be integrated into the overall health care system and ensure equal access to appropriate mental health care in a manner equivalent to other aspects of health care as part of an integrated, holistic system of care.

* * *

Sec. 13. 18 V.S.A. § 9371 is amended to read:

§ 9371. PRINCIPLES FOR HEALTH CARE REFORM

The General Assembly adopts the following principles as a framework for reforming health care in Vermont:

* * *

(4) Primary care must be preserved and enhanced so that Vermonters have care available to them, preferably within their own communities. The health care system must ensure that Vermonters have access to appropriate mental health care that meets the Institute of Medicine's triple aims of quality, access, and affordability and that is equivalent to other components of health care as part of an integrated, holistic system of care. Other aspects of Vermont's health care infrastructure, including the educational and research missions of the State's academic medical center and other postsecondary educational institutions, the nonprofit missions of the community hospitals, and the critical access designation of rural hospitals, must be supported in such a way that all Vermonters, including those in rural areas, have access to necessary health services and that these health services are sustainable.

* * *

Sec. 14. 18 V.S.A. § 9382 is amended to read:

§ 9382. OVERSIGHT OF ACCOUNTABLE CARE ORGANIZATIONS

(a) In order to be eligible to receive payments from Medicaid or commercial insurance through any payment reform program or initiative, including an all-payer model, each accountable care organization shall obtain and maintain certification from the Green Mountain Care Board. The Board shall adopt rules pursuant to 3 V.S.A. chapter 25 to establish standards and processes for certifying accountable care organizations. To the extent permitted under federal law, the Board shall ensure these rules anticipate and accommodate a range of ACO models and sizes, balancing oversight with support for innovation. In order to certify an ACO to operate in this State, the Board shall ensure that the following criteria are met:

* * *

(2) The ACO has established appropriate mechanisms and care models to provide, manage, and coordinate high-quality health care services for its patients, including incorporating the Blueprint for Health, coordinating services for complex high-need patients, and providing access to health care providers who are not participants in the ACO. The ACO ensures equal access to appropriate mental health care that meets the Institute of Medicine's triple

aims of quality, access, and affordability in a manner that is equivalent to other aspects of health care as part of an integrated, holistic system of care.

* * *

Sec. 15. 18 V.S.A. § 9405(a) is amended to read:

(a) ~~No later than January 1, 2005, the~~ The Secretary of Human Services or designee, in consultation with the Chair of the Green Mountain Care Board and health care professionals and after receipt of public comment, shall adopt a State Health Improvement Plan that sets forth the health goals and values for the State. The Secretary may amend the Plan as the Secretary deems necessary and appropriate. The Plan shall include health promotion, health protection, nutrition, and disease prevention priorities for the State; identify available human resources as well as human resources needed for achieving the State's health goals and the planning required to meet those needs; identify gaps in ensuring equal access to appropriate mental health care that meets the Institute of Medicine's triple aims of quality, access, and affordability equivalent to other components of health care as part of an integrated, holistic system of care; and identify geographic parts of the State needing investments of additional resources in order to improve the health of the population. ~~The Plan shall contain sufficient detail to guide development of the State Health Resource Allocation Plan.~~ Copies of the Plan shall be submitted to members of the Senate and House ~~Committees~~ Committee on Health and Welfare ~~no later than January 15, 2005~~ and the House Committee on Health Care.

Sec. 16. 18 V.S.A. § 9405a(a) is amended to read:

(a) Each hospital shall have a protocol for meaningful public participation in its strategic planning process for identifying and addressing health care needs that the hospital provides or could provide in its service area. Needs identified through the process shall be integrated with the hospital's long-term planning. Each hospital shall post on its website a description of its identified needs, strategic initiatives developed to address the identified needs, annual progress on implementation of the proposed initiatives, ~~and opportunities for public participation,~~ and the ways in which the hospital ensures access to appropriate mental health care that meets the Institute of Medicine's triple aims of quality, access, and affordability equivalent to other components of health care as part of an integrated, holistic system of care. Hospitals may meet the community health needs assessment and implementation plan requirement through compliance with the relevant Internal Revenue Service community health needs assessment requirements for nonprofit hospitals.

Sec. 17. 18 V.S.A. § 9437 is amended to read:

§ 9437. CRITERIA

A certificate of need shall be granted if the applicant demonstrates and the Board finds that:

* * *

(7) the applicant has adequately considered the availability of affordable, accessible patient transportation services to the facility; ~~and~~

(8) if the application is for the purchase or lease of new Health Care Information Technology, it conforms with the health information technology plan established under section 9351 of this title; and

(9) The project will support equal access to appropriate mental health care that meets the Institute of Medicine's triple aims of quality, access, and affordability equivalent to other components of health care as part of an integrated, holistic system of care, as appropriate.

Sec. 18. 18 V.S.A. § 9456(c) is amended to read:

(c) Individual hospital budgets established under this section shall:

(1) be consistent with the Health Resource Allocation Plan;

(2) take into consideration national, regional, or ~~instate~~ in-state peer group norms, according to indicators, ratios, and statistics established by the Board;

(3) promote efficient and economic operation of the hospital;

(4) reflect budget performances for prior years; ~~and~~

(5) include a finding that the analysis provided in subdivision (b)(9) of this section is a reasonable methodology for reflecting a reduction in net revenues for non-Medicaid payers; and

(6) demonstrate that they support equal access to appropriate mental health care that meets the Institute of Medicine's triple aims of quality, access, and affordability equivalent to other components of health care as part of an integrated, holistic system of care.

Sec. 19. 18 V.S.A. § 9491 is amended to read:

§ 9491. HEALTH CARE WORKFORCE; STRATEGIC PLAN

* * *

(b) The Director or designee shall collaborate with the area health education centers, the Workforce Development Council established in 10 V.S.A. § 541, the Prekindergarten-16 Council established in 16 V.S.A. § 2905, the Department of Labor, the Department of Health, the Department of Vermont Health Access, and other interested parties, to develop and maintain the plan. The Director of Health Care Reform shall ensure that the strategic

plan includes recommendations on how to develop Vermont's health care workforce, including:

* * *

(2) the resources needed to ensure that:

(A) the health care workforce and the delivery system are able to provide sufficient access to services given demographic factors in the population and in the workforce, as well as other factors, and;

(B) the health care workforce and the delivery system are able to participate fully in health care reform initiatives, including how to ensure that all Vermont residents have establishing a medical home for all Vermont residents through the Blueprint for Health pursuant to chapter 13 of this title, and how to transition and transitioning to electronic medical records; and

(C) all Vermont residents have access to appropriate mental health care that meets the Institute of Medicine's triple aims of quality, access, and affordability equivalent to other components of health care as part of an integrated, holistic system of care;

* * *

* * * Effective Date * * *

Sec. 20. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(Committee vote: 10-0-1)

(For text see Senate Journal February 27, 2018)

Rep. Hooper of Montpelier, for the Committee on Appropriations, recommends the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Health Care.

(Committee Vote: 10-0-1)

S. 272

An act relating to miscellaneous changes to laws related to motor vehicles

Rep. Brennan of Colchester, for the Committee on Transportation, 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:

* * * Special Plates and Placards for Persons with Disabilities * * *

Sec. 1. 23 V.S.A. § 304a(b) is amended to read:

(b) Special registration plates or removable windshield placards, or both,

shall be issued by the Vermont Commissioner of Motor Vehicles. The placard shall be issued without a fee to a person who is blind or has an ambulatory disability. One set of plates shall be issued without additional fees for a vehicle registered or leased to a person who is blind or has an ambulatory disability or to a parent or guardian of a person with a permanent disability. The Commissioner shall issue these placards or plates under rules adopted by him or her after proper application has been made to the Commissioner by any person residing within the State of Vermont. Application forms shall be available on request at the Department of Motor Vehicles.

* * *

* * * Eliminating Requirements to Return License Plates * * *

Sec. 2. 23 V.S.A. § 326 is amended to read:

§ 326. REFUND UPON LOSS OF VEHICLE

The Commissioner may cancel the registration of a motor vehicle when the owner thereof proves to his or her satisfaction that it has been totally destroyed by fire, or, through accident or wear, has become wholly unfit for use and has been dismantled. ~~Upon the cancellation of such~~ After the Commissioner cancels the registration and the return owner returns to the Commissioner of either the registration certificate, or the number plates and the validation sticker (if issued for that year), the Commissioner shall certify to the Commissioner of Finance and Management the fact of ~~such~~ the cancellation, giving the name of the owner of ~~such~~ the motor vehicle, his or her address, the amount of the registration fee paid, and the date of ~~such~~ cancellation. The Commissioner of Finance and Management shall issue his or her warrant in favor of the owner for such percent of the registration fee paid as the unexpired term of the registration bears to the entire registration period, but in no case shall the Commissioner retain less than \$5.00 of the fee paid.

Sec. 3. 23 V.S.A. § 327 is amended to read:

§ 327. REFUND WHEN PLATES NOT USED

Subject to the conditions set forth in subdivisions (1), (2), and (3) of this section, the Commissioner may cancel the registration of a motor vehicle, snowmobile, or ~~motor boat~~ motorboat when the owner returns to the Commissioner either the number plates, if any, ~~and~~ or the registration certificate ~~to the Commissioner.~~ Upon cancellation of the registration, the Commissioner shall notify the Commissioner of Finance and Management, who shall issue a refund as follows:

(1) For registrations cancelled prior to the beginning of the registration period, the refund is the full amount of the fee paid, less a fee charge of \$5.00.

(2) For registrations cancelled within 30 days of the date of issue, the refund is the full amount of the fee paid, less a charge of \$5.00. The owner of a motor vehicle must prove to the Commissioner's satisfaction that the number plates have not been used or attached to a motor vehicle.

(3) For registrations cancelled prior to the beginning of the second year of a two-year registration period, the refund is one-half of the full amount of the two-year fee paid, less a charge of \$5.00.

* * * Veterans; Fee Exemptions * * *

Sec. 4. 23 V.S.A. § 378 is amended to read:

§ 378. VETERANS' EXEMPTIONS

No fees shall be charged an honorably discharged ~~veterans~~ veteran of the U.S. Armed Forces, ~~who are residents~~ is a resident of the State of Vermont for the registration of a motor vehicle ~~granted that the veteran by the Veterans' Administration has acquired with financial assistance from the U.S. Department of Veterans Affairs,~~ or for the registration of a motor vehicle owned by him or her during his or her lifetime obtained as a replacement thereof, when his or her application is accompanied by a certificate copy of an approved VA Form 21-4502 issued by the Veterans' Administration center U.S. Department of Veterans Affairs certifying him or her to be entitled to such exemption the financial assistance.

Sec. 5. 23 V.S.A. § 609 is amended to read:

§ 609. VETERANS' EXEMPTION

No fees shall be charged an honorably discharged ~~veterans~~ veteran of the U.S. Armed Forces, ~~who are residents~~ is a resident of the State of Vermont, for a license to operate a motor vehicle, when the veteran has ~~received~~ acquired a motor vehicle with financial assistance from the Veterans' Administration U.S. Department of Veterans Affairs and he or she is otherwise eligible to be granted ~~such~~ the license, and when his or her application is accompanied by a certificate copy of an approved VA Form 21-4502 issued by the Veterans' Administration center U.S. Department of Veterans Affairs certifying him or her to be entitled to such exemption the financial assistance.

Sec. 6. 23 V.S.A. § 2002(a) is amended to read:

(a) The Commissioner shall be paid the following fees:

(1) for any certificate of title, including a salvage certificate of title, or an exempt vehicle title, \$35.00;

* * *

(11) for a certificate of title for a motor vehicle ~~granted~~ acquired by a

veteran ~~by~~ with financial assistance from the Veterans' Administration U.S. Department of Veterans Affairs and exempt from registration fees pursuant to section 378 of this title, no fee;

* * *

Sec. 7. 32 V.S.A. § 8911 is amended to read:

§ 8911. EXCEPTIONS

The tax imposed by this chapter shall not apply to:

* * *

(14) A motor vehicle ~~granted~~ acquired by a veteran by with financial assistance from the Veterans' Administration U.S. Department of Veterans Affairs, or a vehicle obtained as a replacement to one ~~granted~~ acquired with such assistance, when accompanied by a ~~certificate~~ copy of an approved VA Form 21-4502 issued by the Veterans' Administration Center U.S. Department of Veterans Affairs certifying the veteran to be entitled to the ~~exemption~~ financial assistance.

* * *

* * * Restoration of Driving Privileges Under Total Abstinence Program * * *

Sec. 8. 23 V.S.A. § 1209a(b) is amended to read:

(b) Abstinence.

(1)(A) Notwithstanding any other provision of this subchapter, a person whose license or privilege to operate has been suspended or revoked for life under this subchapter may apply to the ~~Driver Rehabilitation School Director~~ and to the Commissioner for reinstatement of his or her driving privilege. The person shall have completed three years of total abstinence from consumption of alcohol ~~or~~ and nonprescription regulated drugs, ~~or both~~. The use of a regulated drug in accordance with a valid prescription shall not disqualify an applicant for reinstatement of his or her driving privileges unless the applicant used the regulated drug in a manner inconsistent with the prescription label.

(B) The beginning date for the period of abstinence shall be ~~no sooner~~ not earlier than the effective date of the suspension or revocation from which the person is requesting reinstatement and shall not include any period during which the person is serving a sentence of incarceration to include furlough. The application shall include the applicant's authorization for a urinalysis examination, or another examination if it is approved as a preliminary screening test under this subchapter, to be conducted prior to reinstatement under this subdivision. The application to the Commissioner shall be accompanied by a fee of \$500.00. The Commissioner shall have the

discretion to waive the application fee if the Commissioner determines that payment of the fee would present a hardship to the applicant.

(2) If the Commissioner or a medical review board convened by the Commissioner is satisfied by a preponderance of the evidence that the applicant has abstained for the required number of years immediately preceding the application ~~and hearing~~, has successfully completed a therapy program as required under this section, and has operated under a valid ignition interlock RDL or under an ignition interlock certificate for at least three years following the suspension or revocation, and the person ~~appreciates~~ provides a written acknowledgment that he or she cannot drink any amount of alcohol ~~and drive safely at all~~ and cannot consume nonprescription regulated drugs under any circumstances, the person's license or privilege to operate shall be reinstated immediately, subject to the condition that the person's suspension or revocation will be put back in effect in the event any further investigation reveals a return to the consumption of alcohol or drugs and to such additional conditions as the Commissioner may impose. The requirement to operate under an ignition interlock RDL or ignition interlock certificate shall not apply if the person is exempt under subdivision (a)(4) of this section.

* * *

(4) If the Commissioner finds that a person reinstated under this subsection ~~was is~~ suspended pursuant to section 1205 of this title, ~~or was is~~ convicted of a violation of section 1201 of this title subsequent to reinstatement under this subsection, the person shall be conclusively presumed to be in violation of the conditions of his or her reinstatement.

(5) A person shall be eligible for reinstatement under this subsection only once following a suspension or revocation for life.

* * *

* * * Means of Transmitting Fuel Tax Payments * * *

Sec. 9. 23 V.S.A. § 3015 is amended to read:

§ 3015. COMPUTATION AND PAYMENT OF TAX

Each report required under section 3014 of this title from licensed distributors, dealers, or users shall be accompanied by evidence of an electronic funds transfer payment or a remittance payable to the Department of Motor Vehicles for the amount of tax due, which shall be computed and transmitted in the following manner:

* * *

(3)(A) Distributors and dealers with a tax liability of more than \$25,000.00 filing a report required under subsection 3014(a) of this title shall

transmit payment of taxes due to the Department of Motor Vehicles by means of an electronic funds transfer.

(B) Distributors and dealers with a tax liability of \$25,000.00 or less filing a report required under subsection 3014(a) of this title, and users filing a report required under subsection 3014(b) of this title, shall transmit payment of taxes due to the Department of Motor Vehicles by means of an electronic funds transfer payment or by a remittance through the U.S. mail. If a remittance ~~to cover payment of taxes due as shown by a report required by this chapter~~ is sent through the U.S. mail properly addressed to the Department of Motor Vehicles, it shall be deemed received on the date shown by the postmark on the envelope containing the report only for purposes of avoiding penalty and interest. In the event a mailing date is affixed to the envelope by a machine owned or under the control of the person submitting the report, and the U.S. Post Office has corrected or changed the date stamped thereon by causing the official U.S. Post Office postmark to also be imprinted on the envelope, the date shown by the official Post Office postmark shall be the accepted date if different from the original postmark.

* * *

Sec. 10. 23 V.S.A. § 3015 is amended to read:

§ 3015. COMPUTATION AND PAYMENT OF TAX

Each report required under section 3014 of this title from licensed distributors, dealers, or users shall be accompanied by evidence of an electronic funds transfer payment or a remittance payable to the Department of Motor Vehicles for the amount of tax due, which shall be computed and transmitted in the following manner:

* * *

(3)(A) ~~Distributors and dealers with a tax liability of more than \$25,000.00~~ filing a report required under subsection 3014(a) of this title shall transmit payment of taxes due to the Department of Motor Vehicles by means of an electronic funds transfer.

~~(B) Distributors and dealers with a tax liability of \$25,000.00 or less filing a report required under subsection 3014(a), of this title and users~~ Users filing a report required under subsection 3014(b) of this title, shall transmit payment of taxes due to the Department of Motor Vehicles by means of an electronic funds transfer payment or by a remittance through the U.S. mail. If a remittance is sent through the U.S. mail properly addressed to the Department of Motor Vehicles, it shall be deemed received on the date shown by the postmark on the envelope containing the report only for purposes of avoiding penalty and interest. In the event a mailing date is affixed to the

envelope by a machine owned or under the control of the person submitting the report and the U.S. Post Office has corrected or changed the date stamped thereon by causing the official U.S. Post Office postmark to also be imprinted on the envelope, the date shown by the official Post Office postmark shall be the accepted date if different from the original postmark.

* * *

Sec. 11. 23 V.S.A. § 3106(b) is amended to read:

(b)(1) If a remittance to cover On or before the due date established by section 3108 of this title, payment of taxes due as shown by a report required by this chapter shall be transmitted to the Department of Motor Vehicles as follows:

(A) If the tax liability is more than \$25,000.00, it shall be sent by means of an electronic funds transfer payment.

(B) If the tax liability is \$25,000.00 or less, payment shall be sent by means of an electronic funds transfer payment or by a remittance through the U.S. mail.

(2) If payment is sent through the U.S. mail properly addressed to the Department of Motor Vehicles, it shall be deemed received on the date shown by the postmark on the envelope containing the report only for purposes of avoiding penalty and interest. In the event a mailing date is affixed to the envelope by a machine owned or under the control of the person submitting the report, and the U.S. Post Office has corrected or changed the date stamped by causing the official U.S. Post Office postmark to also be imprinted on the envelope, the date shown by the official post office postmark shall be the accepted date if different from the original postmark.

Sec. 12. 23 V.S.A. § 3106(b) is amended to read:

~~(b)(1) On or before the due date established by section 3108 of this title, payment of taxes due as shown by a report required by this chapter shall be transmitted to the Department of Motor Vehicles as follows:~~

~~(A) If the tax liability is more than \$25,000.00, it shall be sent by means of an electronic funds transfer payment.~~

~~(B) If the tax liability is \$25,000.00 or less, payment shall be sent by means of an electronic funds transfer payment or by a remittance through the U.S. mail.~~

~~(2) If payment is sent through the U.S. mail properly addressed to the Department of Motor Vehicles, it shall be deemed received on the date shown by the postmark on the envelope containing the report only for purposes of avoiding penalty and interest. In the event a mailing date is affixed to the~~

~~envelope by a machine owned or under the control of the person submitting the report, and the U.S. Post Office has corrected or changed the date stamped by causing the official U.S. Post Office postmark to also be imprinted on the envelope, the date shown by the official post office postmark shall be the accepted date if different from the original postmark.~~

* * * Motor Vehicle Purchase and Use Tax * * *

Sec. 13. 32 V.S.A. § 8911 is amended to read:

§ 8911. EXCEPTIONS

The tax imposed by this chapter shall not apply to:

* * *

(8) Motor vehicles transferred to the spouse, mother, father, child, sibling, grandparent, or grandchild of the donor during the donor's life or following his or her death, or to a trust established for the benefit of any such persons or for the benefit of the donor, or subsequently transferred among such persons, including transfers following a death, provided ~~such~~ the motor vehicle has been registered or titled in this State in the name of the original donor. Transfers exempt under this subdivision (8) include eligible transfers resulting by operation of the law governing intestate estates.

* * *

* * * New Motor Vehicle Arbitration * * *

Sec. 14. 9 V.S.A. § 4171 is amended to read:

§ 4171. DEFINITIONS

As used in this chapter:

* * *

(6) "Motor vehicle" means a passenger motor vehicle ~~which~~ that is purchased, leased, or registered in the State of Vermont, and shall not include tractors, motorized highway building equipment, road-making appliances, snowmobiles, motorcycles, motor-driven cycles, or the living portion of recreation vehicles, or trucks with a gross vehicle weight rating over 12,000 pounds.

(7) "Manufacturer" means any person, resident or nonresident, ~~who~~ that manufactures or assembles new motor vehicles or imports for distribution through distributors of motor vehicles or any partnership, firm, association, joint venture, corporation, or trust, resident or nonresident, ~~which~~ that is controlled by a manufacturer. In the case of the portion of a recreation vehicle subject to this chapter, and except as otherwise provided in subdivision

4172(e)(2) of this title, “manufacturer” means the final stage assembler of the completed recreation vehicle. Additionally, the term “manufacturer” shall include:

(A) “distributor,” meaning any person, resident or nonresident, ~~who~~ that in whole or in part offers for sale, sells, or distributes any new motor vehicle to new motor vehicle dealers or new motor vehicle lessors or maintains factory representatives or ~~who~~ that controls any person, firm, association, corporation, or trust, resident or nonresident, ~~who~~ that in whole or in part offers for sale, sells, or distributes any new motor vehicle to new motor vehicle dealers or new motor vehicle lessors; and

(B) “factory branch,” meaning any branch office maintained by a manufacturer for the purpose of selling, leasing, or offering for sale or lease, vehicles to a distributor or new motor vehicle dealer or for directing or supervising, in whole or in part, factory distributor representatives.

* * *

(9) A “new motor vehicle” means a ~~passenger~~ motor vehicle ~~which~~ that is still under the manufacturer’s express warranty or, in the case of the portion of a recreation vehicle that is subject to this chapter, that is still under an express warranty for the relevant component.

* * *

Sec. 15. 9 V.S.A. § 4172 is amended to read:

§ 4172. ENFORCEMENT OF WARRANTIES

* * *

(e)(1) If, after a reasonable number of attempts, the manufacturer, its agent, or authorized dealer or its delegate is unable to conform the motor vehicle to any express warranty by repairing or correcting any defect or condition covered by the warranty ~~which~~ that substantially impairs the use, market value, or safety of the motor vehicle to the consumer, the manufacturer shall, at the option of the consumer within 30 days of the effective date of the Board’s order, either:

(A) ~~replace~~ Replace the motor vehicle with a new motor vehicle from the same manufacturer, if available, of comparable worth to the same make and model with all options and accessories with appropriate adjustments being allowed for any model year differences ~~or shall~~.

(B) ~~accept~~ Accept return of the vehicle from the consumer and refund to the consumer the full purchase price or to the lessee in the case of leased vehicles, as provided in subsection (i) of this section. In those instances in which a refund is tendered, the manufacturer shall refund to the consumer

the full purchase price as indicated in the purchase contract and all credits and allowances for any trade-in or downpayment, finance charges, credit charges, registration fees, and any similar charges and incidental and consequential damages or, in the case of leased vehicles, as provided in subsection (i) of this section. Refunds shall be made to the consumer and lienholder, if any, as their interests may appear or to the motor vehicle lessor and lessee as provided in subsection (i) of this section. A reasonable allowance for use shall be that amount directly attributable to use by the consumer prior to his or her first repair attempt and shall be calculated by multiplying the full purchase price of the vehicle by a fraction having as its denominator 100,000 and having as its numerator the number of miles that the vehicle traveled prior to the first attempt at repairing the vehicle. If the manufacturer refunds the purchase price or a portion of the price to the consumer, any Vermont motor vehicle purchase and use tax paid shall be refunded by the State to the consumer in the proportionate amount. To receive a refund, the consumer must file a claim with the Commissioner of Motor Vehicles within 90 days of the effective date of the order.

(2) In the case of a recreation vehicle, the warrantor of the chassis shall be responsible for any refund under subdivision (1)(B) of this subsection or under subsection (i) of this section, even if the consumer's or lessee's right to the refund results from a nonconformity caused by the final stage assembler of the completed recreation vehicle or by another warranted component subject to this chapter.

* * *

Sec. 16. 9 V.S.A. § 4173 is amended to read:

§ 4173. PROCEDURE TO OBTAIN REFUND OR REPLACEMENT;

WAIVER OF RIGHTS VOID

(a)(1) After reasonable attempt at repair or correction of the nonconformity, defect, or condition, or after the vehicle is out of service by reason of repair of one or more nonconformities, defects, or conditions for a cumulative total of 30 or more calendar days as provided in this chapter, the consumer shall notify the manufacturer and lessor in writing, on forms to be provided by the manufacturer at the time the new motor vehicle is delivered, of the nonconformity, defect, or condition and the consumer's election to proceed under this chapter. The forms shall be made available by the manufacturer to any public or nonprofit agencies that shall request them. Notice of consumer rights under this chapter shall be conspicuously displayed by all authorized dealers and agents of the manufacturer.

(2) The consumer shall in the notice elect whether to use the dispute

settlement mechanism or the arbitration provisions established by the manufacturer or to proceed under the Vermont Motor Vehicle Arbitration Board as established under this chapter. Except in the case of a settlement agreement between a consumer and manufacturer, and unless federal law otherwise requires, any provision or agreement that purports to waive, limit, or disclaim the rights set forth in this chapter or that purports to require a consumer not to disclose the terms of the provision or agreement is void as contrary to public policy.

(3) The consumer's election of whether to proceed before the Board or the manufacturer's mechanism shall preclude his or her recourse to the method not selected.

* * *

* * * Three-wheeled Motorcycles * * *

Sec. 17. 23 V.S.A. § 601(f) is amended to read:

(f) Operators of autocycles shall be exempt from the requirements to obtain a motorcycle learner's permit or a motorcycle endorsement. The Commissioner shall offer operators of three-wheeled motorcycles that are not autocycles the opportunity to obtain a motorcycle endorsement that authorizes the operation of three-wheeled motorcycles only.

Sec. 18. 23 V.S.A. § 617 is amended to read:

§ 617. LEARNER'S PERMIT

* * *

(b)(1) Notwithstanding the provisions of subsection (a) of this section, any licensed person may apply to the Commissioner of Motor Vehicles for a learner's permit for the operation of a motorcycle in the form prescribed by the Commissioner. The Commissioner shall offer both a motorcycle learner's permit that authorizes the operation of three-wheeled motorcycles only and a motorcycle learner's permit that authorizes the operation of any motorcycle. The Commissioner shall require payment of a fee of \$20.00 at the time application is made.

(2) After the applicant has successfully passed all parts of the applicable motorcycle endorsement examination, other than a skill test, the Commissioner may issue to the applicant a learner's permit ~~which~~ that entitles the applicant, subject to subsection 615(a) of this title, to operate a three-wheeled motorcycle only, or to operate any motorcycle, upon the public highways for a period of 120 days from the date of issuance. The fee for the examination shall be \$9.00.

(3) A motorcycle learner's permit may be renewed only twice upon

payment of a \$20.00 fee. If, during the original permit period and two renewals, the permittee has not successfully passed the applicable skill test or the motorcycle rider training course, he or she may not obtain another motorcycle learner's permit for a period of 12 months from the expiration of the permit unless:

(A) he or she has successfully completed the applicable motorcycle rider training course; or

(B) the learner's permit and renewals thereof authorized the operation of any motorcycle and the permittee is seeking a learner's permit for the operation of three-wheeled motorcycles only.

(4) This section shall not affect section 602 of this title. ~~The fee for the examination shall be \$9.00.~~

* * *

(f)(1) The Commissioner may authorize motorcycle rider training instructors to administer ~~either the a motorcycle endorsement examination for three-wheeled motorcycles only or for any motorcycle, or the a motorcycle skills skill test for three-wheeled motorcycles only or for any motorcycle, or both any of these.~~ Upon successful completion of the applicable examination or test, the instructor shall issue to the applicant either a temporary motorcycle learner's permit or notice of motorcycle endorsement, as appropriate. The instructor shall immediately forward to the Commissioner the application and fee together with such additional information as the Commissioner may require.

(2) The Commissioner shall maintain a list of approved in-state and out-of-state motorcycle rider training courses, successful completion of which the Commissioner shall deem to satisfy the skill test requirement. This list shall include courses that provide training on three-wheeled motorcycles.

* * * Dealer Records of Sales * * *

Sec. 19. 23 V.S.A. § 466 is amended to read:

§ 466. RECORDS; CUSTODIAN

(a) On a form prescribed or approved by the Commissioner, every licensed dealer shall maintain and retain for six years a record containing the following information, which shall be open to inspection by any law enforcement officer or motor vehicle inspector or other agent of the Commissioner during reasonable business hours:

(1) Every vehicle or motorboat ~~which~~ that is bought, sold, or exchanged by the licensee or received or accepted by the licensee for sale or exchange.

(2) Every vehicle or motorboat ~~which~~ that is bought or otherwise acquired and dismantled by the licensee.

(3) The name and address of the person from whom such vehicle or motorboat was purchased or acquired, the date thereof, the name and address of the person to whom any such vehicle or motorboat was sold or otherwise disposed of and the date thereof, and a sufficient description of every such vehicle or motorboat by name and identifying numbers thereon to identify the same.

(4) ~~If the vehicle or motorboat is sold or otherwise transferred to a consumer, the cash price. As used in this section, "consumer" shall be as defined in 9 V.S.A. § 2451a(a) and "cash price" shall be as defined in 9 V.S.A. § 2351(6). [Repealed.]~~

* * *

* * * Seatbelt Law for Adults; Primary Enforcement * * *

Sec. 20. 23 V.S.A. § 1259 is amended to read:

§ 1259. SAFETY BELTS; PERSONS AGE 18 YEARS OF AGE AND
OVER

* * *

~~(e) This section may be enforced only if a law enforcement officer has detained the operator of a motor vehicle for another suspected traffic violation. An operator shall not be subject to the penalty established in this section unless the operator is required to pay a penalty for the primary violation. [Repealed.]~~

* * *

Sec. 21. PRIMARY ENFORCEMENT OF SEATBELT LAW; PUBLIC
EDUCATION CAMPAIGN

(a) To inform highway users of the requirements of Sec. 20 of this act (primary enforcement of the seatbelt law for adults) and the October 1, 2018 effective date of Sec. 20, the Secretary of Transportation shall conduct a public education campaign to commence on or before July 1, 2018.

(b) At a minimum, the Secretary shall:

(1) notify media outlets throughout the State of the change in the law to primary enforcement of the adult seatbelt law and the October 1, 2018 effective date of the change in the law;

(2) update the website of the Agency of Transportation and the website of the Department of Motor Vehicles to provide notice of the change in the law and its effective date; and

(3) consistent with the Manual on Uniform Traffic Control Devices and any other applicable federal law, post messages on changeable message signs of the Agency that inform highway users of the change in the law and its effective date.

* * * Motor Vehicle Inspections * * *

Sec. 22. 23 V.S.A. § 1222 is amended to read:

§ 1222. INSPECTION OF REGISTERED VEHICLES

(a) Except for school buses, which shall be inspected as prescribed in section 1282 of this title, and motor buses as defined in subdivision 4(17) of this title, which shall be inspected twice during the calendar year at six-month intervals, all motor vehicles registered in this State shall be inspected once each year. Any motor vehicle, trailer, or semi-trailer not currently inspected in this State shall be inspected within 15 days ~~from~~ following the date of its registration in the State of Vermont.

(b)(1) The inspections shall be made at garages or qualified service stations, designated by the Commissioner as inspection stations, for the purpose of determining whether those motor vehicles are properly equipped and maintained in good mechanical condition; provided, however, the scope of the safety inspection of a motor vehicle other than a school bus or a commercial motor vehicle shall be limited to parts or systems that are relevant to the vehicle's safe operation, and such vehicles shall not fail the safety portion of the inspection unless the condition of the part or system poses or may pose a danger to the operator or to other highway users.

(2) The charges for such inspections made by garages or qualified service stations designated to conduct periodic inspections shall be subject to the approval of the Commissioner. If a fee is charged for inspection, it shall be based upon the hourly rate charged by each official inspection station or it may be a flat rate fee and, in either instance, the fee shall be prominently posted and displayed beside the official inspection station certificate. In addition, the official inspection station may disclose the State inspection certificate charge on the repair order as a separate item and collect the charge from the consumer.

* * *

Sec. 23. RULEMAKING; TRANSITION

(a)(1) As soon as practicable after the effective date of this section, and not later than May 1, 2018, the Commissioner of Motor Vehicles (Commissioner) shall file with the Secretary of State a proposed amended rule governing motor vehicle inspections (C.V.R. 14-050-022) that:

(A) is consistent with the permissible scope of safety inspections under the amendments to 23 V.S.A. § 1222 in Sec. 22 of this act; and

(B) clarifies ambiguous language in the rule.

(2) The amended rule described in subdivision (1) of this subsection shall be adopted so as to take effect no later than July 1, 2019.

(3) As soon as practicable after the effective date of this section, the Commissioner shall update the content of inspections conducted through the Automated Vehicle Inspection Program to exclude any requirement of C.V.R. 14-050-022 that is inconsistent with the permissible scope of safety inspections under the amendments to 23 V.S.A. § 1222 in Sec. 22 of this act, with the result that no vehicle will fail inspection as a result of any such inconsistent requirement.

(b) In the proposed rule amendments, the Commissioner may direct inspection stations to identify advisory, recommended repairs that are not required for the vehicle to pass inspection.

(c) Except as provided in subdivision (a)(2) and subsection (d) of this section, nothing in this section or Sec. 22 of this act is intended to affect the emissions-related requirements of the rule governing motor vehicle inspections.

(d) Notwithstanding 10 V.S.A. § 567 and C.V.R. 14-050-022, the Commissioner may establish criteria to allow vehicles that would otherwise fail inspection as a result of the emissions component of the inspection to pass inspection and receive an inspection sticker, provided that the vehicle satisfies all inspection requirements that are relevant to the vehicle's safe operation. The authority conferred in this subsection shall expire on January 15, 2019.

(e) On November 30, 2018, the Commissioners of Motor Vehicles and of Environmental Conservation shall send a written update to the Joint Transportation Oversight Committee that includes:

(1) a copy of any criteria developed under the authority granted in subsection (d) of this section;

(2) if the authority granted in subsection (d) of this section is exercised:

(A) whether the authority is still being exercised; and

(B) the number of conditional passes issued since the effective date of this section;

(3) a summary of the status of efforts to amend the Department's rule as required under subsection (a) of this section, and an estimate of the likely effective date of the amended rule if not yet adopted; and

(4) a summary of the status of any efforts to develop a program of waivers related to the emissions component of the State's inspection program and to educate consumers and inspection stations about issues related to emissions inspections, including: the availability of any such waivers; manufacturer warranties available for emissions components for certain vehicle models and model years; and vehicle readiness for emissions testing.

* * * Effective Dates * * *

Sec. 24. EFFECTIVE DATES

(a) This section and Secs. 16 (new motor vehicle arbitration), 19 (dealer records), 21 (education campaign; primary enforcement), and 22–23 (motor vehicle inspections) shall take effect on passage, except that notwithstanding 1 V.S.A. § 214, in Sec. 23, subsection (d) shall take effect retroactively on January 1, 2017.

(b) Sec. 20 (primary enforcement of adult seatbelt law) shall take effect on October 1, 2018.

(c) Secs. 9 and 11 (means of transmitting fuel tax payments) shall take effect on July 1, 2019.

(d) Secs. 10 and 12 (means of transmitting fuel tax payments) shall take effect on July 1, 2020.

(e) All other sections shall take effect on July 1, 2018.

(Committee vote: 9-0-2)

(For text see Senate Journal March 2, 16, 2018)

Rep. Masland of Thetford, for the Committee on Ways and Means, recommends the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Transportation.

(Committee Vote: 8-1-2)

Favorable

S. 225

An act relating to pilot programs for coverage by commercial health insurers of costs associated with medication-assisted treatment

Rep. Pugh of South Burlington, for the Committee on Human Services, recommends that the bill ought to pass in concurrence.

(Committee Vote: 8-0-3)

(For text see Senate Journal March 14, 2018)

Rep. Cina of Burlington, for the Committee on Health Care, recommends that the bill ought to pass in concurrence.

(Committee Vote: 11-0-0)

(For text see Senate Journal March 14, 2018)

Senate Proposal of Amendment

H. 294

An act relating to inquiries about an applicant's salary history

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

Sec. 1. 21 V.S.A. § 495m is added to read:

§ 495m. SALARY HISTORY; EMPLOYMENT APPLICATIONS

(a) An employer shall not:

(1) inquire about or seek information regarding a prospective employee's current or past compensation from either the prospective employee or a current or former employer of the prospective employee;

(2) require that a prospective employee's current or past compensation satisfy minimum or maximum criteria; or

(3) determine whether to interview a prospective employee based on the prospective employee's current or past compensation.

(b) Notwithstanding subdivision (a)(1) of this section, if a prospective employee voluntarily discloses information about his or her current or past compensation, an employer may, after making an offer of employment with compensation to the prospective employee, seek to confirm or request that the prospective employee confirm that information.

(c) Nothing in this section shall be construed to prevent an employer from:

(1) inquiring about a prospective employee's salary expectations or requirements; or

(2) providing information about the wages, benefits, compensation, or salary offered in relation to a position.

(d) As used in this section, "compensation" includes wages, salary, bonuses, benefits, fringe benefits, and equity-based compensation.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(For text see House Journal February 15, 2018)

H. 333

An act relating to identification of gender-free restrooms in public buildings and places of public accommodation

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

* * * Gender-Free Single Occupancy Restrooms * * *

Sec. 1. 18 V.S.A. chapter 40 is added to read:

CHAPTER 40. RESTROOMS

§ 1791. DEFINITIONS

As used in this chapter:

(1) “Place of public accommodation” has the same meaning as in 9 V.S.A. § 4501.

(2) “Public building” has the same meaning as in 20 V.S.A. § 2730.

(3) “Single-user toilet facility” means a single-occupancy restroom with at least one water closet and with an outer door that can be locked by the occupant.

§ 1792. SINGLE-USER RESTROOMS

(a) Notwithstanding any other provision of law, any single-user toilet facility in a public building or place of public accommodation shall be made available for use by persons of any gender, and designated for use by not more than one occupant at a time or for family or assisted use. A single-user toilet facility may be identified by a sign, provided that the sign marks the facility as a restroom and does not indicate any specific gender.

(b) The Commissioner of Public Safety may inspect for compliance under subsection (a) of this section during any inspection conducted pursuant to 20 V.S.A. § 2731(b) or 26 V.S.A. § 2173 or 2174.

§ 1793. APPLICATION OF PLUMBING RULES

(a) Notwithstanding the requirements of any plumbing code adopted by the Plumber’s Examining Board under 26 V.S.A. § 2173(a), a toilet facility may be designated for use by persons of any gender. No separate male or female facility is required if the total number of required plumbing fixtures is provided by toilet facilities designated for use by persons of any gender.

(b) When the total number of required plumbing fixtures in a plumbing code adopted by the Plumber’s Examining Board under 26 V.S.A. § 2173(a) is fixed separately for women and men, the Plumber’s Examining Board shall make rules consistent with this chapter to govern how plumbing fixtures in

toilet facilities designated for use by persons of any gender shall contribute to the total number of plumbing fixtures required by the plumbing code.

* * * Conforming Changes * * *

Sec. 2. 26 V.S.A. § 2173 is amended to read:

§ 2173. RULES ADOPTED BY THE BOARD

(a) The ~~plumber's examining board~~ Plumber's Examining Board may, pursuant to the provisions of 3 V.S.A. chapter 25 (Administrative Procedure Act), make and revise such plumbing rules as necessary for protection of the public health, except that no rule of the ~~board~~ Board may require the installation or maintenance of a water heater at a minimum temperature. To the extent that a rule of the ~~board~~ Board conflicts with this subsection or with 18 V.S.A. chapter 40, that rule shall be invalid and unenforceable. The rules shall be in effect in every city, village, and town having a public water system or public sewerage system and apply to all premises connected to the systems and all public buildings containing plumbing or water treatment and heating specialties whether they are connected to a public water or sewerage system. The local board of health and the ~~commissioner of public safety~~ Commissioner of Public Safety shall each have authority to enforce these rules. The rules shall be limited to minimum performance standards reasonably necessary for the protection of the public against accepted health hazards. The ~~board~~ Board may, if it finds it practicable to do so, adopt the provisions of a nationally recognized plumbing code.

* * *

Sec. 3. 26 V.S.A. § 2174 is amended to read:

§ 2174. MUNICIPAL RULES AND REGULATIONS; MUNICIPAL INSPECTIONS

(a) The legislative body may establish inspection procedures and appoint trained, qualified master plumbers to conduct municipal inspections. If the ~~board~~ Board determines that the inspection procedures, training, and qualifications of the municipal plumbing inspectors are sufficient, the ~~commissioner~~ Commissioner may assign the responsibility to inspect plumbing installations within the municipality to the municipality. Municipal inspection standards shall be, at a minimum, equal to ~~state~~ State standards. Municipal standards may exceed ~~state~~ State standards with approval of the ~~board~~ Board. Municipal standards shall not prohibit implementation of 18 V.S.A. chapter 40. An assignment of responsibility under this subsection shall not affect the authority of the ~~board~~ Board or the ~~commissioner~~ Commissioner under this subchapter.

* * *

* * * Effective Date * * *

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(For text see House Journal April 21, 2018)

H. 603

An act relating to human trafficking

The Senate proposes to the House to amend the bill as follows:

In Sec. 3, 15A V.S.A. § 3-504, subdivision (a)(4), after the words “resulting in the conception of,” by striking out the word “a” and inserting in lieu thereof the word the

(For text see House Journal February 6, 2018)

H. 696

An act relating to establishing a State individual mandate

The Senate proposes to the House to amend the bill as follows:

First: By striking out Sec. 1, 32 V.S.A. chapter 244, in its entirety and inserting in lieu thereof the following:

Sec. 1. [Deleted.]

Second: By striking out Sec. 3, effective dates, in its entirety and inserting in lieu thereof the following:

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(For text see House Journal March 13, 2018)

Action Postponed Until April 26, 2018

Senate Proposal of Amendment

H. 874

An act relating to inmate access to prescription drugs

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

Sec. 1. 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 (1) of this subsection, 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~~ medically necessary 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. The inmate shall be provided, both orally and in writing, with a specific explanation of the decision to discontinue the medication and with notice of the right to have his or her community-based prescriber notified of the decision. If the inmate provides signed authorization, the Department shall notify the community-based prescriber in writing of the decision to discontinue the medication.

(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.

(For text see House Journal March 13, 2018)

NOTICE CALENDAR

Favorable with Amendment

S. 175

An act relating to the wholesale importation of prescription drugs into Vermont, bulk purchasing, and the impact of prescription drug costs on health insurance premiums

Rep. Lippert of Hinesburg, for the Committee on Health Care, 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. 18 V.S.A. chapter 91, subchapter 4 is added to read:

Subchapter 4. Wholesale Prescription Drug Importation Program

§ 4651. WHOLESAL IMPORTATION PROGRAM FOR PRESCRIPTION DRUGS; DESIGN

(a) The Agency of Human Services, in consultation with interested stakeholders and appropriate federal officials, shall design a wholesale prescription drug importation program that complies with the applicable requirements of 21 U.S.C. § 384, including the requirements regarding safety and cost savings. The program design shall:

(1) designate a State agency that shall either become a licensed drug wholesaler or contract with a licensed drug wholesaler in order to seek federal certification and approval to import safe prescription drugs and provide significant prescription drug cost savings to Vermont consumers;

(2) use Canadian prescription drug suppliers regulated under the laws of Canada or of one or more Canadian provinces, or both;

(3) ensure that only prescription drugs meeting the U.S. Food and Drug Administration's safety, effectiveness, and other standards shall be imported by or on behalf of the State;

(4) import only those prescription drugs expected to generate substantial savings for Vermont consumers;

(5) ensure that the program complies with the tracking and tracing requirements of 21 U.S.C. §§ 360eee and 360eee-1 to the extent feasible and practical prior to imported drugs coming into the possession of the State wholesaler and that it complies fully after imported drugs are in the possession of the State wholesaler;

(6) prohibit the distribution, dispensing, or sale of imported products outside Vermont's borders;

(7) establish a fee on each prescription or establish another financing mechanism to ensure that the program is funded adequately in a manner that does not jeopardize significant consumer savings; and

(8) include a robust audit function.

(b) On or before January 1, 2019, the Secretary of Human Services shall submit the proposed design for a wholesale prescription drug importation program to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance.

§ 4652. MONITORING FOR ANTICOMPETITIVE BEHAVIOR

The Agency of Human Services shall consult with the Office of the Attorney General to identify the potential, and to monitor, for anticompetitive behavior in industries that would be affected by a wholesale prescription drug importation program.

§ 4653. FEDERAL COMPLIANCE

(a) On or before July 1, 2019, the Agency of Human Services shall submit a formal request to the Secretary of the U.S. Department of Health and Human Services for certification of the State's wholesale prescription drug importation program.

(b) The Agency of Human Services shall seek the appropriate federal approvals, waivers, exemptions, or agreements, or a combination thereof, as needed to enable all covered entities enrolled in or eligible for the federal 340B Drug Pricing Program to participate in the State's wholesale prescription drug importation program to the fullest extent possible without jeopardizing their eligibility for the 340B Program.

§ 4654. IMPLEMENTATION PROVISIONS

Upon certification and approval by the Secretary of the U.S. Department of Health and Human Services, the Agency of Human Services shall begin implementation of the wholesale prescription drug importation program and shall begin operating the program within six months following the date of the Secretary's approval. As part of the implementation process, the Agency of Human Services shall, in accordance with State procurement and contract laws, rules, and procedures as appropriate:

(1) become licensed as a wholesaler or enter into a contract with a Vermont-licensed wholesaler;

(2) contract with one or more Vermont-licensed distributors;

(3) contract with one or more licensed and regulated Canadian suppliers;

(4) engage with health insurance plans, employers, pharmacies, health care providers, and consumers;

(5) develop a registration process for health insurance plans, pharmacies, and prescription drug-administering health care providers who are willing to participate in the program;

(6) create a publicly available source for listing the prices of imported prescription drug products that shall be made available to all participating entities and consumers;

(7) create an outreach and marketing plan to generate program awareness;

(8) starting in the weeks before the program becomes operational, create and staff a hotline to answer questions and address the needs of consumers, employers, health insurance plans, pharmacies, health care providers, and other affected sectors;

(9) establish the audit function and a two-year audit work-plan cycle; and

(10) conduct any other activities that the Agency determines to be important for successful implementation of the program.

§ 4655. ANNUAL REPORTING

(a) Annually on or before January 15, the Agency of Human Services shall report to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance regarding the operation of the wholesale prescription drug importation program during the previous calendar year, including:

(1) which prescription drugs were included in the wholesale importation

program;

(2) the number of participating pharmacies, health care providers, and health insurance plans;

(3) the number of prescriptions dispensed through the program;

(4) the estimated savings to consumers, health plans, employers, and the State during the previous calendar year and to date;

(5) information regarding implementation of the audit plan and audit findings; and

(6) any other information the Secretary of Human Services deems relevant.

(b) The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this section.

Sec. 2. WHOLESALE IMPORTATION PROGRAM; CONDITION FOR IMPLEMENTATION

The Agency of Human Services shall be required to design and commence implementation of the wholesale prescription drug importation program described in Sec. 1 of this act only to the extent that funds are appropriated for this purpose in the budget bill enacted by the General Assembly for fiscal year 2019 or are otherwise made available.

and that after passage the title of the bill be amended to read: “An act relating to the wholesale importation of prescription drugs into Vermont”

(Committee vote: 11-0-0)

(For text see Senate Journal February 28, 2018)

Rep. Till of Jericho, for the Committee on Ways and Means, recommends the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Health Care and when further amended as follows:

First: In Sec. 1, 18 V.S.A. chapter 91, subchapter 4, in 18 V.S.A. § 4651(a), by striking out subdivision (7) in its entirety and inserting in lieu thereof a new subdivision (7) to read as follows:

(7) recommend a charge per prescription or another method of support to ensure that the program is funded adequately in a manner that does not jeopardize significant consumer savings; and

Second: In Sec. 1, 18 V.S.A. chapter 91, subchapter 4, in 18 V.S.A. § 4651, in subsection (b), by striking out “House Committee on Health Care” and inserting in lieu thereof “House Committees on Health Care and on Ways and

Means”

Third: In Sec. 1, 18 V.S.A. chapter 91, subchapter 4, by inserting a new 18 V.S.A. § 4654 to read as follows:

§ 4654. PROGRAM FINANCING

The Agency of Human Services shall not implement the wholesale prescription drug importation program until the General Assembly enacts legislation establishing a charge per prescription or another method of financial support for the program.

and by redesignating the remaining sections of the subchapter to be numerically correct

Fourth: In Sec. 1, 18 V.S.A. chapter 91, subchapter 4, in the redesignated 18 V.S.A. § 4655 (implementation provisions), by striking out the first sentence and inserting in lieu thereof the following:

Upon the last to occur of the General Assembly enacting a method of financial support pursuant to section 4654 of this chapter and receipt of certification and approval by the Secretary of the U.S. Department of Health and Human Services, the Agency of Human Services shall begin implementation of the wholesale prescription drug importation program and shall begin operating the program within six months.

Fifth: In Sec. 1, 18 V.S.A. chapter 91, subchapter 4, in the redesignated 18 V.S.A. § 4656 (annual reporting), in subsection (a), by striking out “House Committee on Health Care” and inserting in lieu thereof “House Committees on Health Care and on Ways and Means”

Sixth: In Sec. 2, wholesale importation program; condition for implementation, by striking out “CONDITION FOR IMPLEMENTATION” following the semicolon in the section heading and inserting in lieu thereof “DESIGN CONTINGENT ON FUNDING” and, following “design”, by striking out “and commence implementation of”

(Committee Vote: 8-0-3)

S. 192

An act relating to transferring the professional regulation of law enforcement officers from the Vermont Criminal Justice Training Council to the Office of Professional Regulation

Rep. LaClair of Barre Town, for the Committee on Government Operations, 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:

that the House propose to the Senate that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 20 V.S.A. § 2405 is amended to read:

§ 2405. COUNCIL HEARING AND SANCTION PROCEDURE

(a) Generally. Except as otherwise provided in this subchapter, ~~the Council~~ all proceedings under this subchapter shall conduct its proceedings be conducted in accordance with the Vermont Administrative Procedure Act. This includes the ability to summarily suspend the certification of a law enforcement officer in accordance with 3 V.S.A. § 814(c).

(b) Prosecutor.

(1) An Assistant Attorney General assigned by the Office of the Attorney General shall be responsible for prosecuting unprofessional conduct cases under this subchapter.

(2) The burden of proof shall be on the State to show by a preponderance of the evidence that a law enforcement officer has engaged in unprofessional conduct.

(c) Hearing officer.

(1) The Council shall appoint a hearing officer, who shall be an attorney admitted to practice law in this State, to conduct any unprofessional conduct hearing under this subchapter. The Council shall choose the hearing officer from a list of hearing officers provided by the Office of Professional Regulation.

(2) The hearing officer may administer oaths and exercise powers properly incidental to the conduct of the hearing.

(3) Any hearing officer sitting in an unprofessional conduct case shall do so impartially and without any ex parte knowledge of the case in controversy.

(4)(A) The hearing officer shall issue findings of fact and conclusions of law regarding the prosecutor's charges of unprofessional conduct.

(B) For the purposes of subdivision 2406(b)(1)(B) of this subchapter, the hearing officer shall determine at the hearing and shall include in his or her findings of fact whether there is a pending labor proceeding related to any unprofessional conduct that the hearing officer concludes a law enforcement officer committed.

(5)(A) The hearing officer shall report the findings of fact and conclusions of law to the Council within 30 days after the conclusion of the hearing, unless the Council grants an extension. The provisions of 3 V.S.A.

§ 811 regarding proposals for decision shall not apply to the hearing officer's report.

(B) The hearing officer's findings and conclusions shall be binding on the Council; provided, however, that the Council may request that the hearing officer make clarifications or additional findings.

(d) Council.

(1) The Council shall hold a sanction hearing based on the hearing officer's findings of fact and conclusions of law. Unless the Council grants an extension, the Council shall hold its sanction hearing within 30 days after the date the hearing officer reports his or her findings of fact and conclusions of law to the Council or within 30 days after the date the hearing officer makes clarifications or additional findings under subdivision (c)(5)(B) of this section, whichever occurs later.

(2) Unless the Council grants an extension, the Council shall issue its sanction order within 10 days after its sanction hearing.

Sec. 2. 20 V.S.A. § 2406 is amended to read:

§ 2406. PERMITTED COUNCIL SANCTIONS

(a) Generally. The Council may impose any of the following sanctions on a law enforcement officer's certification upon its finding a hearing officer's conclusion that a law enforcement officer committed unprofessional conduct:

(1) written warning;

(2) suspension, but to run concurrently with the length and time of any suspension imposed by a law enforcement agency with an effective internal affairs program, which shall amount to suspension for time already served if an officer has already served a suspension imposed by his or her agency with such a program;

(3) revocation, with the option of recertification at the discretion of the Council; or

(4) permanent revocation.

(b) Intended revocation; temporary voluntary surrender.

(1)(A) If, after ~~an evidentiary~~ a sanction hearing, the Council intends to revoke a law enforcement officer's certification due to its finding a hearing officer's conclusion that the officer committed unprofessional conduct, the Council shall issue ~~a decision~~ an order to that effect.

(B) Within 10 business days ~~from~~ after the date of that ~~decision order~~, such an officer may voluntarily surrender his or her certification if the

hearing officer determined under subdivision 2405(c)(4)(B) of this subchapter that there is a pending labor proceeding related to the Council's unprofessional conduct findings the hearing officer concluded the law enforcement officer committed.

(C) A voluntary surrender of an officer's certification shall remain in effect until the labor proceeding and all appeals are finally adjudicated or until the officer requests a final sanction hearing, whichever occurs first, and thereafter until the Council's final sanction hearing on the matter. At that hearing, the Council may modify its ~~findings and decision~~ sanction order on the basis of additional evidence set forth in the labor proceeding decision, but shall not be bound by any outcome of the labor proceeding.

(2) If an officer fails to voluntarily surrender his or her certification in accordance with subdivision (1) of this subsection, the Council's original ~~findings and decision~~ sanction order shall take effect.

Sec. 3. 20 V.S.A. § 2410 is amended to read:

§ 2410. COUNCIL ADVISORY COMMITTEE

(a) Creation. There is created the Council Advisory Committee to provide advice to the Council regarding its duties under this subchapter.

(1) The Committee shall specifically:

(A) advise and assist the Council in developing procedures to ensure that allegations of unprofessional conduct by law enforcement officers are investigated fully and fairly, and to ensure that appropriate action is taken in regard to those allegations; and

(B) recommend to the Council any appropriate sanctions to impose on a law enforcement officer's certification upon a hearing officer's concluding that the law enforcement officer committed unprofessional conduct.

(2) The Committee shall be advisory only and shall not have any decision-making authority.

(b) Membership. The Committee shall be composed of five individuals appointed by the Governor. The Governor may solicit recommendations for appointments from the Chair of the Council.

(1) Four of these members shall be public members who during incumbency shall not serve and shall have never served as a law enforcement officer or corrections officer and shall not have an immediate family member who is serving or has ever served as either of those officers.

(2) One of these members shall be a retired law enforcement officer.

(c) Assistance. The Executive Director of the Council or designee shall attend Committee meetings as a resource for the Committee.

(d) Reimbursement. Members of the Committee ~~who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance~~ shall be entitled to per diem compensation and reimbursement of expenses ~~pursuant to~~ as permitted under 32 V.S.A. § 1010 ~~for not more than five meetings per year.~~ Such payments shall be derived from the budget of the Council.

Sec. 4. 2017 Acts and Resolves No. 56, Sec. 2 is amended to read:

Sec. 2. TRANSITIONAL PROVISIONS TO IMPLEMENT THIS ACT

(a) Effective internal affairs programs.

(1) Law enforcement agencies. On or before ~~July 1, 2018~~ January 1, 2019, each law enforcement agency shall adopt an effective internal affairs program in accordance with 20 V.S.A. § 2402(a) in Sec. 1 of this act.

(2) Vermont Criminal Justice Training Council. On or before ~~April 1, 2018~~ July 1, 2018, the Vermont Criminal Justice Training Council shall adopt an effective internal affairs program model policy in accordance with 20 V.S.A. § 2402(b) in Sec. 1 of this act.

(b) Alleged law enforcement officer unprofessional conduct. The provisions of 20 V.S.A. chapter 151, subchapter 2 (unprofessional conduct) in Sec. 1 of this act shall apply to law enforcement officer conduct alleged to have been committed on and after the effective date of that subchapter.

(c) Duty to disclose. The requirement for a former law enforcement agency to disclose the reason that a law enforcement officer is no longer employed by the agency as set forth in 20 V.S.A. § 2362a in Sec. 1 of this act shall not apply if there is a binding nondisclosure agreement prohibiting that disclosure that was executed prior to the effective date of that section.

(d) Council rules. The Vermont Criminal Justice Training Council may adopt rules in accordance with 20 V.S.A. § 2411 (Council rules) in Sec. 1 of this act, prior to the effective date of that section.

(e) Council Advisory Committee. The Governor shall make appointments to the Council Advisory Committee set forth in 20 V.S.A. § 2410 in Sec. 1 of this act prior to the effective date of that section.

(f) Annual report of Executive Director. Annually, on or before January 15, beginning in the year ~~2019~~ 2020 and ending in the year ~~2022~~ 2023, the Executive Director of the Vermont Criminal Justice Training Council shall report to the ~~General Assembly~~ House and Senate Committees on Government Operations regarding the Executive Director's analysis of the

implementation of this act and any recommendations he or she may have for further legislative action.

(g) Council, OPR; joint report. On or before October 1, 2017, the Executive Director of the Vermont Criminal Justice Training Council and the Director of the Office of Professional Regulation (Office) shall consult with law enforcement stakeholders and report to the Senate and House Committees on Government Operations on a proposal for the Office to perform duties related to the professional regulation of law enforcement officers.

Sec. 5. 2017 Acts and Resolves No. 56, Sec. 6 is amended to read:

Sec. 6. EFFECTIVE DATES

This act shall take effect on ~~July 1, 2018~~ January 1, 2019, except:

(1) this section and Sec. 2 (transitional provisions to implement this act) shall take effect on passage; and

(2) the following shall take effect on July 1, 2017:

(A) in Sec. 1, 20 V.S.A. chapter 151 (Vermont Criminal Justice Training Council):

(i) § 2351 (creation and purpose of Council);

(ii) § 2351a (definitions);

(iii) § 2352 (Council membership);

(iv) § 2354 (Council meetings);

(v) § 2355 (Council powers and duties), except that subsection (a) shall take effect on ~~July 1, 2018~~ January 1, 2019;

(vi) § 2358 (minimum training standards; definitions); and

(vii) § 2362a (potential hiring agency; duty to contact former agency);

(B) Sec. 3, 20 V.S.A. § 1812 (definitions); and

(C) Sec. 4, 20 V.S.A. § 1922 (creation of State Police Advisory Commission; members; duties).

Sec. 6. 13 V.S.A. § 3251 is amended to read:

§ 3251. DEFINITIONS

As used in this chapter:

* * *

(9) “Law enforcement officer” means a person certified as a law

enforcement officer under the provisions of 20 V.S.A. chapter 151.

Sec. 7. 13 V.S.A. § 3259 is added to read:

§ 3259. SEXUAL EXPLOITATION OF A PERSON IN THE CUSTODY OF
A LAW ENFORCEMENT OFFICER

(a) No law enforcement officer shall engage in a sexual act with a person whom the officer is detaining, arresting, or otherwise holding in custody or who the officer knows is being detained, arrested, or otherwise held in custody by another officer.

(b) A person who violates subsection (a) of this section shall be imprisoned for not more than five years or fined not more than \$10,000.00, or both.

Sec. 8. EFFECTIVE DATES

This act shall take effect on passage, except that Secs. 1, 20 V.S.A. § 2405 (Council hearing and sanction procedure); 2, 20 V.S.A. § 2406 (permitted Council sanctions); and 3, 20 V.S.A. § 2410 (Council Advisory Committee) shall take effect on January 1, 2019.

and that after passage the title of the bill be amended to read: “An act relating to the Vermont Criminal Justice Training Council’s professional regulation of law enforcement officers”

(Committee vote: 10-0-1)

(For text see Senate Journal March 20, 2018)

S. 281

An act relating to the mitigation of systemic racism

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

Sec. 1. LEGISLATIVE INTENT

It is the intent of the General Assembly to promote racial justice reform throughout the State by mitigating systemic racism in all systems of State government and creating a culture of inclusiveness.

Sec. 2. 3 V.S.A. § 2102 is amended to read:

§ 2102. POWERS AND DUTIES

(a) The Governor’s Cabinet shall adopt and implement a program of continuing coordination and improvement of the activities carried on at all levels of State and local government.

(b) The Cabinet shall work collaboratively with the Executive Director of Racial Equity and may provide the Director with access to all relevant records and information as permitted by law.

Sec. 3. 3 V.S.A. chapter 68 is added to read:

CHAPTER 68. EXECUTIVE DIRECTOR OF RACIAL EQUITY

§ 5001. POSITION

(a) There is created within the Executive Branch the position of Executive Director of Racial Equity to identify and work to eradicate systemic racism within State government.

(b) The Executive Director of Racial Equity shall have the powers and duties enumerated within section 2102 of this title and shall work collaboratively with and act as a liaison between the Governor's Workforce Equity and Diversity Council, the Vermont Human Rights Commission, and the Governor's Cabinet.

§ 5002. RACIAL EQUITY ADVISORY PANEL

(a) The Racial Equity Advisory Panel is established. The Panel shall be organized and have the duties and responsibilities as provided in this section. The Panel shall have administrative, legal, and technical support of the Agency of Administration.

(b)(1) The Panel shall consist of five members, as follows:

(A) one member appointed by the Senate Committee on Committees who shall not be a current legislator;

(B) one member appointed by the Speaker of the House who shall not be a current legislator;

(C) one member appointed by the Chief Justice of the Supreme Court who shall not be a current legislator;

(D) one member appointed by the Governor who shall not be a current legislator; and

(E) one member appointed by the Human Rights Commission who shall not be a current legislator.

(2) Members shall be drawn from diverse backgrounds to represent the interests of communities of color throughout the State, have experience working to implement racial justice reform and, to the extent possible, represent geographically diverse areas of the State.

(3) The term of each member shall be three years, except that of the members first appointed, one each shall serve a term of one year, to be

appointed by the Human Rights Commission; two years, to be appointed by the Governor; three years, to be appointed by the Speaker of the House; four years, to be appointed by the Senate Committee on Committees; and five years, to be appointed by the Chief Justice of the Supreme Court, so that the term of one regular member expires in each ensuing year. As terms of currently serving members expire, appointments of successors shall be in accord with the provisions of this subsection. Appointments of members to fill vacancies or expired terms shall be made by the authority that made the initial appointment to the vacated or expired term. Members shall serve until their successors are elected or appointed. Members shall serve not more than three consecutive terms in any capacity.

(4) Members of the Panel shall elect by majority vote the Chair of the Panel, who shall serve for a term of three years after the implementation period. Members of the Panel shall be appointed on or before September 1, 2018 in order to prepare as they deem necessary for the establishment of the Panel, including the election of the Chair of the Panel. Terms of members shall officially begin on January 1, 2019.

(c) The Panel shall have the following duties and responsibilities:

(1) work with the Executive Director of Racial Equity to implement the reforms identified as necessary in the comprehensive organizational review as required by subsection 5003(a) of this title; and

(2) advise the Director to ensure ongoing compliance with the purpose of this chapter, and advise the Governor on strategies for remediating systemic racial disparities in statewide systems of government.

(d) Each member of the Panel shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010.

§ 5003. DUTIES OF EXECUTIVE DIRECTOR OF RACIAL EQUITY

(a) The Executive Director of Racial Equity shall work with the agencies and departments to implement a program of continuing coordination and improvement of activities in State government in order to combat systemic racial disparities and measure progress toward fair and impartial governance, including:

(1) oversee a comprehensive organizational review to identify systemic racism in each of the three branches of State government and inventory systems in place that engender racial disparities;

(2) create a strategy for implementing a centralized platform for race-based data collection and manage the aggregation, correlation, and public dissemination of the data; and

(3) develop a model fairness and diversity policy and review and make recommendations regarding the fairness and diversity policies held by all State government systems.

(b) Pursuant to section 2102 of this title, work collaboratively with State agencies and departments to gather relevant existing data and records necessary to carry out the purpose of this chapter and to develop best practices for remediating systemic racial disparities throughout State government.

(c) The Director shall work with the agencies and departments and with the Chief Performance Officer to develop performance targets and performance measures for the General Assembly, the Judiciary, and the agencies and departments to evaluate respective results in improving systems. These performance measures shall be included in the agency's or department's quarterly reports to the Director, and the Director shall include each agency's or department's performance targets and performance measures in his or her annual reports to the General Assembly.

(d) The Director shall, in consultation with the Department of Human Resources and the agencies and departments, develop and conduct trainings for agencies and departments regarding the nature and scope of systemic racism and the institutionalized nature of race-based bias. Nothing in this subsection shall be construed to discharge the existing duty of the Department of Human Resources to conduct trainings.

(e) On or before January 15, 2020, and annually thereafter, report to the House and Senate Committees on Government Operations demonstrating the State's progress in identifying and remediating systemic racial bias within State government.

§ 5004. INFORMATION; DISCLOSURE AND CONFIDENTIALITY

(a) Confidentiality of records. Except as provided in subsection (b) of this section, the records of the Racial Equity Director and the Racial Equity Advisory Panel shall be exempt from public inspection and copying under the Public Records Act and shall be kept confidential.

(b) Exceptions.

(1) The Director and Panel members may make records available to each other, the Governor, and the Governor's Cabinet as necessary to fulfill their duties as set forth in this chapter. They may also make records pertaining to any alleged violations of antidiscrimination statutes available to any State or federal law enforcement agency authorized to enforce such statutes. The Director or Panel may refuse to disclose records or information the release of which may be prohibited under State or federal law absent court order.

(2) Any records or information described in subdivision (1) of this

subsection made available to a party or entity pursuant to a confidentiality agreement or court order requiring confidentiality shall be kept confidential in accordance with the agreement or order, unless disclosure is otherwise authorized by law or court order.

§ 5005. NOMINATION AND APPOINTMENT PROCESS

(a) The Racial Equity Advisory Panel shall select for consideration by the Panel, by majority vote, provided that a quorum is present, from the applications for the position of Executive Director of Racial Equity as many candidates as it deems qualified for the position.

(b) The Panel shall submit to the Governor the names of the three candidates it deems most qualified to be appointed to fill the position.

(c) The Governor shall make the appointment to the Executive Director position from the list of qualified candidates submitted pursuant to subsection (b) of this section. The names of candidates submitted and not selected shall remain confidential.

Sec. 4. AUTHORIZATION FOR EXECUTIVE DIRECTOR OF RACIAL EQUITY POSITION

One new permanent, exempt position of Executive Director of Racial Equity is created within the Agency of Administration.

Sec. 5. FISCAL YEAR 2019 APPROPRIATION

There is appropriated to the Agency of Administration from the General Fund for fiscal year 2019 the amount of \$75,000.00 for the Racial Equity Advisory Panel and the position of Executive Director of Racial Equity.

Sec. 6. SECRETARY OF ADMINISTRATION; RACIAL EQUITY

ADVISORY PANEL; EXECUTIVE DIRECTOR OF RACIAL EQUITY; REPORT

(a) On or before September 1, 2018, the Racial Equity Advisory Panel shall be appointed.

(b) On or before November 1, 2018, the Racial Equity Advisory Panel shall, in consultation with the Secretary of Administration and the Department of Human Resources, have developed and posted a job description for the Executive Director of Racial Equity.

(c) On or before January 1, 2019, the Racial Equity Advisory Panel shall submit to the Governor the names of the three candidates for the Executive Director of Racial Equity position.

(d) On or before February 1, 2019, the Governor shall appoint the

Executive Director of Racial Equity.

(e) On or before May 1, 2019, the Executive Director of Racial Equity shall update the House and Senate Committees on Government Operations regarding how best to complete a comprehensive organizational review to identify systemic racism pursuant to 3 V.S.A. § 5003, and potential private and public sources of funding to achieve the review.

Sec. 7. REPEAL

On June 30, 2023:

(1) Sec. 3 of this act (creating the Executive Director of Racial Equity and Racial Equity Advisory Panel in 3 V.S.A. chapter 68) is repealed and the Officer position and Panel shall cease to exist; and

(2) Sec. 4 of this act (authorization for the Executive Director of Racial Equity position) is repealed.

Sec. 8. 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 racial equity in State government”

(Committee vote:10-0-1

(For text see Senate Journal March 21, 2018)

Senate Proposal of Amendment

H. 914

An act relating to reporting requirements for the second year of the Vermont Medicaid Next Generation ACO Pilot Project

The Senate proposes to the House to amend the bill as follows:

First: In Sec. 1, Vermont Medicaid Next Generation ACO Pilot Project reports, in subsection (a), following “the Green Mountain Care Board,” by inserting the Medicaid and Exchange Advisory Committee,

Second: In Sec. 2, All-Payer Model and accountable care organization reports, in subsection (a), following “the Health Reform Oversight Committee,” by inserting the Medicaid and Exchange Advisory Committee,

(For text see House Journal March 13, 2018)

Governor's Veto

S. 103

An act relating to the regulation of toxic substances and hazardous materials.

Text of Veto Message

The text of the communication from His Excellency, the Governor, whereby he vetoed and returned unsigned **S. 103** to the House is as follows:

April 16, 2018

The Honorable John Bloomer, Jr.
Secretary of the Senate
115 State House
Montpelier, VT 05633-5401

Dear Mr. Bloomer:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning S.103, *An act relating to the regulation of toxic substances and hazardous materials*, without my signature because of my objections described herein:

During the second half of this Legislative Biennium, I have been consistent in my commitment to support legislation that makes Vermont more affordable, grows the economy, and protects the most vulnerable. My concerns with this bill center around these priorities, because – while it aims to protect Vermonters – it is duplicative to existing measures that already achieve its desired protections. In my view S.103 will jeopardize jobs and make Vermont less competitive for businesses. However, as I detail below, we have a path forward to work together to enact this bill if the Legislature desires.

The State has taken clear and decisive action since the discovery of PFOA in the drinking water of Bennington and North Bennington in 2016 to address this public health crisis, hold the responsible parties accountable, and provide stronger protections from this happening again. This includes the enactment of Act 55 of 2017, which I proudly signed in to law last June. Act 55 has helped strengthen the State's response to PFOA contamination by establishing a process to hold parties that contaminate groundwater responsible for connecting impacted Vermonters to municipal water. We will continue to stand with the affected communities, and act forcefully, until we reach a

complete resolution for those affected. This has resulted in one settlement agreement which provides a substantial although partial resolution. This case will be completely resolved either through an additional settlement agreement or as a result of litigation. Either way, we will ensure the polluter is held responsible for the contamination and the cleanup.

No community should have to endure what the impacted communities are going through. The patience and perseverance of these communities, as we work together to resolve this crisis, has been amazing. We will continue to ensure all Vermonters have clean drinking water, however S.103 does nothing to enhance our ability to hold violators accountable, reconnect water lines, or directly address our ongoing response to the Per- and Polyfluoroalkyl Substances (PFAS) contamination. The bill ultimately has many negative unintended consequences, threatening our manufacturers' ability to continue to do business in Vermont, and therefore, our ability to retain and recruit more and better paying jobs.

In July of 2017, I established, via Executive Order, the Interagency Committee on Chemical Management (ICCM) and the Citizens Advisory Panel (CAP). My primary intent behind establishing these bodies was to better coordinate chemical management and identify gaps in management. Through the ICCM we continue to work to prevent future contamination and minimize the risk of harmful chemicals. This is one of several reasons many of the State's manufacturing employers have expressed opposition to this legislation. The ICCM and CAP in EO 13-17 have similar membership and responsibilities to those envisioned by S.103, making these sections duplicative. Instead of creating a redundant body, I propose we work together to align Sections 1 and 2 of S.103 to the existing ICCM and CAP membership and charge. That way the ICCM, which has been meeting for the better part of a year, can continue this important work unabated.

Further, to the extent this Executive branch entity has been given the resources of the Legislature's Council for legislative drafting and Joint Fiscal Office for fiscal and economic analyses with the goal of recommending legislation to the Legislature, this bill presents a separation of powers issue by improperly allocating legislative resources to the Executive branch and charging the Executive branch with doing the work of the Legislature. Pursuant to Chapter II, Section 20 of the Vermont Constitution, the Governor has independent authority to bring such business before the Legislature as he deems necessary. Pursuant to Chapter II, Section 6, the Legislature has separate Constitutional

authority to prepare bills and enact them into laws. The Legislature does not have the authority to enlist the Executive branch to provide services necessary to the Legislature for purposes of developing its own legislative initiatives. Also, since the bill originally created an “intergovernmental” hybrid Committee, which the Legislature must have recognized was constitutionally suspect under our tripartite system of government, the bill still includes unnecessary language on meeting structure and operations, which hampers the ability of the committee to effectively carry on its work.

The existing ICCM has already conducted a thorough review of current state chemical management, evaluated what it would take to create a unified chemical reporting system and which programs make sense to participate. It has also identified proposed changes to the Toxics Use and Hazardous Waste Use Reduction Act, and has identified a proposed process to conduct ongoing review of chemical management to ensure dynamic responses to changing health and use information. That work has been proposed to the CAP, and the CAP is scheduled to provide written comments by April 25. The ICCM is due to report its first round of recommendations to me on July 1, which if we align and codify the Committee in statute, can also be presented to the Legislature.

It is possible to continue to keep Vermonters safe without harming the economy or costing the state good jobs. We cannot afford to give manufacturers another reason to look elsewhere for their location or expansion needs. In Vermont, this sector has not rebounded as well from the Great Recession as compared to other parts of the country, and other states are more aggressively recruiting good paying manufacturing jobs. We must pursue policies that enhance and encourage the possibility for more production and jobs for Vermonters, not fewer. Section 8 of this bill puts the growth of this sector at risk by creating more uncertainty and unpredictability for business operations by disturbing a process laid out in Act 188 of 2014. Act 188 creates a robust regulatory process that requires manufacturers of children’s products disclose to the Department of Health whether a product contains any of the 66 chemicals listed in the law. The Department has collected millions of lines of data since the enactment of Act 188 and asks for more information than any other state. This information is maintained in a public database for interested consumers and parents. While it took Washington State eight years to get such a program up and running, it took Vermont only two and a half years; manufacturers started reporting on January 1, 2017.

In addition, Act 188 addresses how to review other chemicals that may be

added to the list by rule. The law directs the Commissioner of Health to provide to an established Working Group no fewer than two listed chemicals every year, for review, to determine whether that chemical should be labeled and/or banned from sale in children's or consumer products in Vermont. It would be virtually unprecedented when compared to other states with similar authority for there not to be a secondary review from a technical and practicality standpoint providing a check and balance when evolving the list. This Working Group met for the first time in July of 2017; its work is underway with a collaborative approach to responsible regulation. The regulatory process is working and should proceed as originally envisioned. With a robust process in place, children will not be any safer as a result of the proposed changes contained in this bill.

Additionally, the changes contained in Section 8 to the "weight of credible scientific evidence" and exposure requirements will make Vermont an outlier. Vermont will be a less friendly place for the manufacturers to locate and sell their products here. Furthermore, there are many federal laws and safety standards which are relevant to the regulation of chemicals. Our economy is diverse but still very small. We must not put ourselves at another competitive disadvantage versus other states in the region and nation.

In 2016 the manufacturing sector alone accounted \$1.67 billion in Vermont wages. As of the last reported quarter (3rdq17), it accounted for \$418 million in wages with 29,584 Vermonters employed in the manufacturing sector. If we add the natural resources and mining, and construction sectors to the above it would represent \$658 million in wages and 50,300 persons total working in the goods producing domain.

There is an economic multiplier for these sectors since most of the manufactured product is exported out of state thereby bringing more dollars into Vermont than a limited local market for the goods. To put these producers at risk without giving the ICCM, CAP and Act 188 Working Group time to do their work and formulate recommendations puts the employees engaged in those activities, and the state's overall economy, at greater risk.

If the Legislature agrees to make the changes I am seeking – simple codification of EO 13-17 in Sections 1 and 2, and removal of Section 8 – we can together enact legislation that will continue to contribute to public health and safety. Sections 3 through 6 will enable consumers to have greater

information about potential contaminants that may affect their health while at the same time not impacting the marketability of people's homes. I believe greater knowledge and understanding of threats to people's drinking water will help protect the most vulnerable Vermonters.

As noted, based on the outstanding objections outlined above I cannot support this legislation as written and must return it without my signature pursuant to Chapter II, §11 of the Vermont Constitution.

Sincerely,
/s/ Philip B. Scott
Philip B. Scott
Governor

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?