

Journal of the House

Wednesday, May 10, 2017

At ten o'clock in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rep. Michael Yantachka of Charlotte.

Pledge of Allegiance

Page Hannah Cawley of Colchester led the House in the Pledge of Allegiance.

House Bill Introduced

H. 540

By Reps. Ode of Burlington, O'Sullivan of Burlington, Conquest of Newbury, Dakin of Colchester, Fields of Bennington, Frenier of Chelsea, Lalonde of South Burlington, Rachelson of Burlington and Squirrell of Underhill,

House bill, entitled

An act relating to exempting military pension income from taxation;

To the committee on Ways and Means.

Recess

At ten o'clock and eleven minutes in the forenoon, the Speaker declared a recess until one o'clock in the afternoon.

At one o'clock and eleven minutes in the afternoon, the Speaker called the House to order.

Message from the Senate No. 73

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that:

The Senate has considered a bill originating in the House of the following title:

H. 143. An act relating to automobile insurance requirements and 2436

transportation network companies.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the House is requested.

The Senate has considered the reports of the Committees of Conference upon the disagreeing votes of the two Houses upon House bills of the following titles:

H. 22. An act relating to the professional regulation of law enforcement officers by the Vermont Criminal Justice Training Council.

H. 503. An act relating to bail.

And has accepted and adopted the same on its part.

The Senate has considered House proposals of amendment to Senate bill of the following title:

S. 131. An act relating to State's Attorneys and sheriffs.

And has concurred therein.

The Senate has considered the reports of the Committees of Conference upon the disagreeing votes of the two Houses upon Senate bills of the following titles:

S. 9. An act relating to the preparation of poultry products.

S. 16. An act relating to expanding patient access to the Medical Marijuana Registry.

S. 50. An act relating to insurance coverage for telemedicine services delivered in or outside a health care facility.

S. 134. An act relating to court diversion and pretrial services.

And has accepted and adopted the same on its part.

**Senate Proposal of Amendment to House Proposal of Amendment to
Senate Proposal of Amendment to House Proposal of Amendment
Concurred in**

S. 22

The Senate proposed to the House to amend House bill, entitled

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

The Senate concurs in the House proposal of amendment with the following proposal of amendment thereto:

By striking Secs. 1–5 in their entirety and inserting in lieu thereof new Secs. 1–18 to read as follows:

Sec. 1. LEGISLATIVE INTENT; CIVIL AND CRIMINAL PENALTIES

It is the intent of the General Assembly to eliminate all penalties for possession of one ounce or less of marijuana and two mature and four immature marijuana plants for a person who is 21 years of age or older while retaining criminal penalties for possession, dispensing and sale of larger amounts of marijuana. This act also retains civil penalties for possession of marijuana by a person under 21 years of age, which are the same as for possession of alcohol by a person under 21 years of age.

Sec. 2. 18 V.S.A. § 4201 is amended to read:

§ 4201. DEFINITIONS

As used in this chapter, unless the context otherwise requires:

* * *

~~(15)(A) “Marijuana” means any plant material of the genus cannabis or any preparation, compound, or mixture thereof except:~~

~~(A) sterilized seeds of the plant;~~

~~(B) fiber produced from the stalks; or~~

~~(C) hemp or hemp products, as defined in 6 V.S.A. § 562 all parts of the plant Cannabis sativa L., except as provided by subdivision (B) of this subdivision (15), whether growing or harvested, and includes:~~

~~(i) the seeds of the plant;~~

~~(ii) the resin extracted from any part of the plant; and~~

~~(iii) any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin.~~

~~(B) “Marijuana” does not include:~~

~~(i) the mature stalks of the plant and fiber produced from the stalks;~~

~~(ii) oil or cake made from the seeds of the plant;~~

~~(iii) any compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil, or cake;~~

~~(iv) the sterilized seed of the plant that is incapable of germination; or~~

~~(v) hemp or hemp products, as defined in 6 V.S.A. § 562.~~

* * *

(43) “Immature marijuana plant” means a female marijuana plant that has not flowered and that does not have buds that may be observed by visual examination.

(44) “Mature marijuana plant” means a female marijuana plant that has flowered and that has buds that may be observed by visual examination.

Sec. 3. 18 V.S.A. § 4230 is amended to read:

§ 4230. MARIJUANA

(a) Possession and cultivation.

(1)(A) No person shall knowingly and unlawfully possess more than one ounce of marijuana or more than five grams of hashish or cultivate more than two mature marijuana plants or four immature marijuana plants. For a first offense under this subdivision (A), a person shall be provided the opportunity to participate in the Court Diversion Program unless the prosecutor states on the record why a referral to the Court Diversion Program would not serve the ends of justice. A person convicted of a first offense under this subdivision shall be imprisoned not more than six months or fined not more than \$500.00, or both.

(B) A person convicted of a second or subsequent offense of knowingly and unlawfully possessing more than one ounce of marijuana or more than five grams of hashish or cultivating more than two mature marijuana plants or four immature marijuana plants shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

(C) Upon an adjudication of guilt for a first or second offense under this subdivision, the court may defer sentencing as provided in 13 V.S.A. § 7041 except that the court may in its discretion defer sentence without the filing of a presentence investigation report and except that sentence may be imposed at any time within two years from and after the date of entry of deferment. The court may, prior to sentencing, order that the defendant submit to a drug assessment screening which may be considered at sentencing in the same manner as a presentence report.

(2) A person knowingly and unlawfully possessing two ounces of marijuana or 10 grams of hashish or knowingly and unlawfully cultivating more than three plants of four mature marijuana plants or eight immature marijuana plants shall be imprisoned not more than three years or fined not more than \$10,000.00, or both.

(3) A person knowingly and unlawfully possessing more than one pound or more of marijuana or more than 2.8 ounces or more of hashish or

knowingly and unlawfully cultivating more than ~~10 plants of six~~ six mature marijuana plants or 12 immature marijuana plants shall be imprisoned not more than five years or fined not more than ~~\$100,000.00~~ \$10,000.00, or both.

(4) A person knowingly and unlawfully possessing more than 10 pounds ~~or more~~ of marijuana or more than one pound ~~or more~~ of hashish or knowingly and unlawfully cultivating more than 25 plants of 12 ~~of 12~~ mature marijuana plants or 24 immature marijuana plants shall be imprisoned not more than 15 years or fined not more than \$500,000.00, or both.

(5) If a court fails to provide the defendant with notice of collateral consequences in accordance with 13 V.S.A. § 8005(b) and the defendant later at any time shows that the plea and conviction for a violation of this subsection may have or has had a negative consequence, the court, upon the defendant's motion, shall vacate the judgment and permit the defendant to withdraw the plea or admission and enter a plea of not guilty. Failure of the court to advise the defendant of a particular collateral consequence shall not support a motion to vacate.

(6) The amounts of marijuana in this subsection shall not include marijuana cultivated, harvested, and stored in accordance with section 4230e of this title.

* * *

Sec. 4. 18 V.S.A. § 4230a is amended to read:

§ 4230a. MARIJUANA POSSESSION BY A PERSON 21 YEARS OF AGE OR OLDER; ~~CIVIL VIOLATION~~

~~(a)(1) A person 21 years of age or older who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of hashish commits a civil violation and shall be assessed a civil penalty as follows:~~

- ~~(1) not more than \$200.00 for a first offense;~~
- ~~(2) not more than \$300.00 for a second offense;~~
- ~~(3) not more than \$500.00 for a third or subsequent offense.~~

~~(b)(1) Except as otherwise provided in this section, a person 21 years of age or older who possesses one ounce or less of marijuana or five grams or less of hashish and two mature marijuana plants or fewer or four immature marijuana plants or fewer or who possesses paraphernalia for marijuana use shall not be penalized or sanctioned in any manner by the State or any of its political subdivisions or denied any right or privilege under State law. The one-ounce limit of marijuana or five grams of hashish that may be possessed by a person 21 years of age or older shall not include marijuana cultivated,~~

harvested, and stored in accordance with section 4230e of this title.

(2)(A) A violation of this section shall not result in the creation of a criminal history record of any kind. A person shall not consume marijuana in a public place. "Public place" means any street, alley, park, sidewalk, public building other than individual dwellings, any place of public accommodation as defined in 9 V.S.A. § 4501, and any place where the possession of a lighted tobacco product is prohibited by law.

(B) A person who violates this subdivision (a)(2) shall be assessed a civil penalty as follows:

(i) not more than \$100.00 for a first offense;

(ii) not more than \$200.00 for a second offense; and

(iii) not more than \$500.00 for a third or subsequent offense.

(e)(1)(b) This section does not exempt any person from arrest or prosecution for being under the influence of marijuana while operating a vehicle of any kind and shall not be construed to repeal or modify existing laws or policies concerning the operation of vehicles of any kind while under the influence of marijuana.

(2) This section is not intended to affect the search and seizure laws afforded to duly authorized law enforcement officers under the laws of this State. Marijuana is contraband pursuant to section 4242 of this title and subject to seizure and forfeiture unless possessed in compliance with chapter 86 of this title (therapeutic use of cannabis).

(3) This section shall not be construed to prohibit a municipality from regulating, prohibiting, or providing additional penalties for the use of marijuana in public places.

(d) If a person suspected of violating this section contests the presence of cannabinoids within 10 days of receiving a civil citation, the person may request that the State Crime Laboratory test the substance at the person's expense. If the substance tests negative for the presence of cannabinoids, the State shall reimburse the person at state expense:

(1) exempt a person from arrest, citation, or prosecution for being under the influence of marijuana while operating a vehicle of any kind or for consuming marijuana while operating a motor vehicle;

(2) repeal or modify existing laws or policies concerning the operation of vehicles of any kind while under the influence of marijuana or for consuming marijuana while operating a motor vehicle;

(3) limit the authority of primary and secondary schools to impose

administrative penalties for the possession of marijuana on school property;

(4) prohibit a municipality from adopting a civil ordinance to provide additional penalties for consumption of marijuana in a public place;

(5) prohibit a landlord from banning possession or use of marijuana in a lease agreement; or

(6) allow an inmate of a correctional facility to possess or use marijuana or to limit the authority of law enforcement, the courts, the Department of Corrections, or the Parole Board to impose penalties on offenders who use marijuana in violation of a court order, conditions of furlough, parole, or rules of a correctional facility.

~~(e)~~(c)(1) A law enforcement officer is authorized to detain a person if:

(A) the officer has reasonable grounds to believe the person has violated subsection (b) of this section; and

(B) the person refuses to identify himself or herself satisfactorily to the officer when requested by the officer.

(2) The person may be detained only until the person identifies himself or herself satisfactorily to the officer or is properly identified. If the officer is unable to obtain the identification information, the person shall forthwith be brought before a judge in the Criminal Division of the Superior Court for that purpose. A person who refuses to identify himself or herself to the Court on request shall immediately and without service of an order on the person be subject to civil contempt proceedings pursuant to 12 V.S.A. § 122.

~~(f)~~(d) Fifty percent of the civil penalties imposed by the Judicial Bureau for violations of this section shall be deposited in the Drug Task Force Special Fund, hereby created to be managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and available to the Department of Public Safety for the funding of law enforcement officers on the Drug Task Force, except for a \$12.50 administrative charge for each violation which shall be deposited in the Court Technology Special Fund, in accordance with 13 V.S.A. § 7252. The remaining 50 percent shall be deposited in the Youth Substance Abuse Safety Program Special Fund, hereby created to be managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and available to the Court Diversion Program for funding of the Youth Substance Abuse Safety Program as required by section 4230b of this title.

(e) Nothing in this section shall be construed to do any of the following:

(1) require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growing of marijuana in the workplace;

(2) prevent an employer from adopting a policy that prohibits the use of marijuana in the workplace;

(3) create a cause of action against an employer that discharges an employee for violating a policy that restricts or prohibits the use of marijuana by employees; or

(4) prevent an employer from prohibiting or otherwise regulating the use, consumption, possession, transfer, display, transportation, sale, or growing of marijuana on the employer's premises.

Sec. 5. 18 V.S.A. § 4230b is amended to read:

§ 4230b. MARIJUANA POSSESSION BY A PERSON UNDER 21 YEARS OF AGE; CIVIL VIOLATION

(a) Offense. A person under 21 years of age who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of hashish or two mature marijuana plants or fewer or four immature marijuana plants or fewer commits a civil violation and shall be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Abuse Safety Program. A person who fails to complete the program successfully shall be subject to:

(1) a civil penalty of \$300.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 30 days, for a first offense; and

(2) a civil penalty of not more than \$600.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 90 days, for a second or subsequent offense.

* * *

Sec. 6. REPEAL

18 V.S.A. § 4230d (marijuana possession by a person under 16 years of age; delinquency) is repealed.

Sec. 7. 18 V.S.A. § 4230e is added to read:

§ 4230e. CULTIVATION OF MARIJUANA BY A PERSON 21 YEARS OF AGE OR OLDER

(a)(1) Except as otherwise provided in this section, a person 21 years of age or older who cultivates no more than two mature marijuana plants and four immature marijuana plants shall not be penalized or sanctioned in any manner by the State or any of its political subdivisions or denied any right or privilege under State law.

(2) Each dwelling unit shall be limited to two mature marijuana plants and four immature marijuana plants regardless of how many persons 21 years of age or older reside in the dwelling unit. As used in this section, "dwelling unit" means a building or the part of a building that is used as a primary home, residence, or sleeping place by one or more persons who maintain a household.

(3) Any marijuana harvested from the plants allowed pursuant to this subsection shall not count toward the one-ounce possession limit in section 4230a of this title provided it is stored in an indoor facility on the property where the marijuana was cultivated and reasonable precautions are taken to prevent unauthorized access to the marijuana.

(4) Cultivation in excess of the limits provided in this subsection shall be punished in accordance with section 4230 of this title.

(b)(1) Personal cultivation of marijuana only shall occur:

(A) on property lawfully in possession of the cultivator or with the consent of the person in lawful possession of the property; and

(B) in an enclosure that is screened from public view and is secure so that access is limited to the cultivator and persons 21 years of age or older who have permission from the cultivator.

(2) A person who violates this subsection shall be assessed a civil penalty as follows:

(A) not more than \$100.00 for a first offense;

(B) not more than \$200.00 for a second offense; and

(C) not more than \$500.00 for a third or subsequent offense.

Sec. 8. 18 V.S.A. § 4230g is added to read:

§ 4230g. FURNISHING MARIJUANA TO A PERSON UNDER
21 YEARS OF AGE; CRIMINAL OFFENSE

(a) No person shall:

(1) furnish marijuana to a person under 21 years of age; or

(2) knowingly enable the consumption of marijuana by a person under 21 years of age.

(b) As used in this section, "enable the consumption of marijuana" means creating a direct and immediate opportunity for a person to consume marijuana.

(c) Except as provided in subsection (d) of this section, a person who violates subsection (a) of this section shall be imprisoned not more than two

years or fined not more than \$2,000.00, or both.

(d) A person who violates subsection (a) of this section, where the person under 21 years of age, while operating a motor vehicle on a public highway, causes death or serious bodily injury to himself or herself or to another person as a result of the violation, shall be imprisoned not more than five years or fined not more than \$10,000.00, or both.

(e) This section shall not apply to:

(1) A person under 21 years of age who furnishes marijuana to a person under 21 years of age or who knowingly enables the consumption of marijuana by a person under 21 years of age. Possession of an ounce or less of marijuana by a person under 21 years of age shall be punished in accordance with sections 4230b–4230d of this title and dispensing or selling marijuana shall be punished in accordance with sections 4230 and 4237 of this title.

(2) A dispensary that lawfully provides marijuana to a registered patient or caregiver pursuant to chapter 86 of this title.

Sec. 9. 18 V.S.A. § 4230h is added to read:

§ 4230h. FURNISHING MARIJUANA TO A PERSON UNDER
21 YEARS OF AGE; CIVIL ACTION FOR DAMAGES

(a) A spouse, child, guardian, employer, or other person who is injured in person, property, or means of support by a person under 21 years of age who is impaired by marijuana, or in consequence of the impairment by marijuana of any person under 21 years of age, shall have a right of action in his or her own name, jointly or severally, against any person or persons who have caused in whole or in part such impairment by furnishing marijuana to a person under 21 years of age.

(b) Upon the death of either party, the action and right of action shall survive to or against the party's executor or administrator. The party injured or his or her legal representatives may bring either a joint action against the impaired person under 21 years of age and the person or persons who furnished the marijuana, or a separate action against either or any of them.

(c) An action to recover for damages under this section shall be commenced within two years after the cause of action accrues, and not after.

(d) In an action brought under this section, evidence of responsible actions taken or not taken is admissible if otherwise relevant.

(e) A defendant in an action brought under this section has a right of contribution from any other responsible person or persons, which may be enforced in a separate action brought for that purpose.

(f) A person who knowingly furnishes marijuana to a person under 21 years of age may be held liable under this section if the social host knew, or a reasonable person in the same circumstances would have known, that the person who received the marijuana was under 21 years of age.

Sec. 10. 18 V.S.A. § 4230i is added to read:

§ 4230i. CHEMICAL EXTRACTION VIA BUTANE OR HEXANE
PROHIBITED

(a) No person shall manufacture concentrated marijuana by chemical extraction or chemical synthesis using butane or hexane unless authorized as a dispensary pursuant to a registration issued by the Department of Public Safety pursuant to chapter 86 of this title.

(b) A person who violates subsection (a) of this section shall be imprisoned not more than two years or fined not more than \$2,000.00, or both. A person who violates subsection (a) of this section and causes serious bodily injury to another person shall be imprisoned not more than five years or fined not more than \$5,000.00, or both.

Sec. 11. 18 V.S.A. § 4230j is added to read:

§ 4230j. EXCEPTIONS

(a) A person who is convicted of a felony for selling marijuana in violation of section 4230 of this title or selling a regulated drug to minors or on school grounds in violation of section 4237 of this title for an offense that occurred on or after July 1, 2018 and who possesses one ounce or less of marijuana or five grams or less of hashish commits a civil violation and shall be assessed a civil penalty as follows:

- (1) not more than \$200.00 for a first offense;
- (2) not more than \$300.00 for a second offense;
- (3) not more than \$500.00 for a third or subsequent offense.

(b) A person who is convicted of a felony for selling marijuana in violation of section 4230 of this title or selling a regulated drug to minors or on school grounds in violation of section 4237 of this title for an offense that occurred on or after July 1, 2018 and who possesses any of the following commits a misdemeanor and is subject to imprisonment of not more than one year or a fine of not more than \$1,000.00, or both:

- (1) more than one ounce, but not more than two ounces of marijuana;
- (2) more than five grams, but not more than 10 grams of hashish; or
- (3) not more than six mature marijuana plants and 12 immature

marijuana plants.

Sec. 12. 18 V.S.A. § 4476 is amended to read:

§ 4476. OFFENSES AND PENALTIES

~~(a) No person shall sell, possess with intent to sell, or manufacture with intent to sell, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a regulated drug in violation of chapter 84 of this title. Whoever violates any provision of this section shall be punished by imprisonment for not more than one year, or by a fine of not more than \$1,000.00, or both.~~

~~(b) Any A person who violates subsection (a) of this section by selling sells drug paraphernalia to a person under 18 years of age shall be imprisoned for not more than two years, or fined not more than \$2,000.00, or both.~~

~~(e)(b) The distribution and possession of needles and syringes as part of an organized community-based needle exchange program shall not be a violation of this section or of chapter 84 of this title.~~

Sec. 13. 23 V.S.A. § 1134 is amended to read:

§ 1134. MOTOR VEHICLE OPERATOR; CONSUMPTION OR
POSSESSION OF ALCOHOL OR MARIJUANA

(a) A person shall not consume alcoholic beverages or marijuana while operating a motor vehicle on a public highway. As used in this subsection, the prohibition on consumption of marijuana by the operator shall extend to the operator's consumption of secondhand marijuana smoke in the vehicle as a result of another person's consumption of marijuana. As used in this section, "alcoholic beverages" shall have the same meaning as "intoxicating liquor" as defined in section 1200 of this title.

(b) A person operating a motor vehicle on a public highway shall not possess any open container which contains alcoholic beverages or marijuana in the passenger area of the motor vehicle.

(c) As used in this section, "passenger area" shall mean the area designed to seat the operator and passengers while the motor vehicle is in operation and any area that is readily accessible to the operator or passengers while in their seating positions, including the glove compartment, unless the glove compartment is locked. In a motor vehicle that is not equipped with a trunk, the term shall exclude the area behind the last upright seat or any area not normally occupied by the operator or passengers.

(d) A person who violates subsection (a) of this section shall be assessed a civil penalty of not more than \$500.00. A person who violates subsection (b) of this section shall be assessed a civil penalty of not more than ~~\$25.00~~ \$50.00. A person adjudicated and assessed a civil penalty for an offense under subsection (a) of this section shall not be subject to a civil violation for the same actions under subsection (b) of this section.

Sec. 14. 23 V.S.A. § 1134a is amended to read:

§ 1134a. MOTOR VEHICLE PASSENGER; CONSUMPTION OR POSSESSION OF ALCOHOL OR MARIJUANA

(a) Except as provided in subsection (c) of this section, a passenger in a motor vehicle shall not consume alcoholic beverages or marijuana or possess any open container which contains alcoholic beverages or marijuana in the passenger area of any motor vehicle on a public highway. As used in this section, “alcoholic beverages” shall have the same meaning as “intoxicating liquor” as defined in section 1200 of this title.

(b) As used in this section, “passenger area” shall mean the area designed to seat the operator and passengers while the motor vehicle is in operation and any area that is readily accessible to the operator or passengers while in their seating positions, including the glove compartment, unless the glove compartment is locked. In a motor vehicle that is not equipped with a trunk, the term shall exclude the area behind the last upright seat or any area not normally occupied by the operator or passengers.

(c) A person, other than the operator, may possess an open container which contains alcoholic beverages in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation or in the living quarters of a motor home or trailer coach.

(d) A person who violates this section shall be ~~fin~~ subject to a civil penalty of not more than \$25.00 \$50.00.

Sec. 15. 23 V.S.A. § 1134b is amended to read:

§ 1134b. ~~SMOKING~~ SMOKING USING MARIJUANA OR TOBACCO IN A MOTOR VEHICLE WITH CHILD PRESENT

(a) A person shall not use marijuana as defined in 18 V.S.A. § 4201 or a tobacco substitute as defined in 7 V.S.A. § 1001 or possess a lighted tobacco product ~~or use a tobacco substitute as defined in 7 V.S.A. § 1001~~ in a motor vehicle that is occupied by a child required to be properly restrained in a federally approved child passenger restraining system pursuant to subdivision 1258(a)(1) or (2) of this title.

(b) A person who violates subsection (a) of this section shall be subject to a

~~fine~~ civil penalty of not more than \$100.00. No points shall be assessed for a violation of this section.

Sec. 16. 33 V.S.A. § 3504 is amended to read:

§ 3504. MARIJUANA AND TOBACCO USE PROHIBITED AT CHILD CARE FACILITIES

(a) No person shall be permitted to use marijuana as defined in 18 V.S.A. § 4201 or to cultivate marijuana, or use tobacco products or tobacco substitutes as defined in 7 V.S.A. § 1001 on the premises, both indoor and outdoor, of any licensed child care center or afterschool program at any time.

(b) No person shall be permitted to use marijuana as defined in 18 V.S.A. § 4201, tobacco products, or tobacco substitutes as defined in 7 V.S.A. § 1001 on the premises, both ~~indoor~~ indoors and in any outdoor area designated for child care, of a licensed or registered family child care home while children are present and in care. If use of marijuana or smoking of tobacco products or tobacco substitutes occurs on the premises during other times, the family child care home shall notify prospective families prior to enrolling a child in the family child care home that their child will be exposed to an environment in which marijuana, tobacco products, or tobacco substitutes, or both, are used. Cultivation of marijuana in a licensed or registered family child care home is not permitted.

Sec. 17. DISPARITIES IN ENFORCEMENT OF DRUG LAWS;
MARIJUANA REGULATORY COMMISSION

(a) Findings. The General Assembly finds that:

(1) A 2013 report by the American Civil Liberties Union, *The War on Marijuana in Black and White*, identified Vermont as 15th in the country and first in New England when comparing discrepancies in citation and arrest rates for marijuana possession. The report stated that African-Americans in Vermont were 4.36 times more likely to be cited or arrested for marijuana possession than whites, higher than the national average of African-Americans being 3.73 more likely than whites to be cited or arrested for marijuana possession. Although Vermont later decriminalized possession of small amounts of marijuana, a 2016 report by Human Rights Watch and the ACLU, *Every 25 Seconds: The Human Toll of Criminalizing Drug Use in the United States*, found that Vermont had the third-highest racial disparity in drug possession arrest rates in the country despite nearly identical use rates.

(2) In the report, *Driving While Black or Brown in Vermont*, University of Vermont researchers, examining 2015 data from 29 police agencies covering 78 percent of Vermont's population, found significant disparities in how often African-Americans and Hispanics are stopped, searched, and

arrested, as compared to whites and Asians. According to the report, African-American drivers are four times more likely than white drivers to be searched by Vermont police, even though they are less likely to be found with illegal items.

(3) As part of efforts to eliminate implicit bias in Vermont's criminal justice system, policymakers must reexamine the State's drug laws, beginning with its policy on marijuana.

(4) According to a 2014 study conducted by the RAND Corporation, an estimated 80,000 Vermont residents regularly consume marijuana. Except for patients on the Vermont Medical Marijuana Registry, these Vermonters obtain marijuana through a thriving illegal market.

(5) In November 2016, voters in Massachusetts and Maine approved possession and cultivation of marijuana for personal use by adults 21 years of age or older. In July 2018, both states will begin to allow retail sales of marijuana and marijuana-infused products through licensed stores. Canada is expected to act favorably on legislation legalizing marijuana possession and cultivation for adults 18 years of age or older and federal administration officials have cited the summer of 2018 as the date at which licensed retail stores will begin selling marijuana and marijuana-infused products to the public.

(6) By adopting a comprehensive regulatory structure for legalizing and licensing the marijuana market, Vermont can revise drug laws that have a disparate impact on racial minorities, help prevent access to marijuana by youths, better control the safety and quality of marijuana being consumed by Vermonters, and use revenues to support substance use prevention and education and enforcement of impaired driving laws.

(b) Creation. There is created the Marijuana Regulatory Commission.

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

(1) two current members of the House of Representatives and one member of the public who all shall be appointed by the Speaker of the House;

(2) two current members of the Senate and one member of the public who all shall be appointed by the Committee on Committees;

(3) the Attorney General or designee;

(4) the Secretary of Agriculture, Food and Markets or designee; and

(5) one member appointed by the Governor.

(d) Powers and duties. The Commission shall develop legislation that

establishes a comprehensive regulatory and revenue system for an adult-use marijuana market that, when compared to the current illegal marijuana market, increases public safety and reduces harm to public health.

(e) Assistance. The Commission shall have the administrative, technical, and legal assistance of the Office of Legislative Council and the Joint Fiscal Office for the purpose of preparing legislation and shall have the technical assistance of the Agency of Agriculture, Food and Markets.

(f) Legislation. On or before November 1, 2017, the Commission shall provide the General Assembly and the Governor with its recommended legislation.

(g) Meetings.

(1) The Office of Legislative Council shall call the first meeting of the Commission to occur on or before August 1, 2017.

(2) The members shall elect a chair from the membership.

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

(4) The Commission shall cease to exist on January 30, 2018.

(h) Reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, legislative members of the Commission shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for no more than six meetings.

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

Sec. 18. EFFECTIVE DATE

This section and Sec. 17 shall take effect on passage and the remaining sections shall take effect on July 1, 2018.

Which proposal of amendment was considered.

Pending the question, Shall the House concur in the Senate proposal of amendment to the House proposal of amendment to the Senate proposal of amendment to the House proposal of amendment? **Rep. Poirier of Barre City** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House concur in the Senate proposal of amendment to the House proposal of amendment to the Senate proposal of amendment to the House

proposal of amendment? was decided in the affirmative. Yeas, 79. Nays, 66.

Those who voted in the affirmative are:

Ancel of Calais	Gardner of Richmond	Noyes of Wolcott
Bartholomew of Hartland	Giambatista of Essex	Olsen of Londonderry
Baser of Bristol	Gonzalez of Winooski	O'Sullivan of Burlington
Belaski of Windsor	Grad of Moretown	Partridge of Windham
Bock of Chester	Greshin of Warren	Rachelson of Burlington
Botzow of Pownal	Haas of Rochester	Scheu of Middlebury
Buckholz of Hartford	Head of South Burlington	Sharpe of Bristol
Burditt of West Rutland	Hill of Wolcott	Sheldon of Middlebury
Burke of Brattleboro	Hooper of Montpelier	Sibilia of Dover
Carr of Brandon	Hooper of Brookfield	Squirrell of Underhill
Chesnut-Tangerman of Middletown Springs	Houghton of Essex	Stevens of Waterbury *
Christensen of Weathersfield	Jessup of Middlesex	Stuart of Brattleboro
Cina of Burlington *	Jickling of Brookfield	Sullivan of Dorset
Colburn of Burlington	Kimbell of Woodstock	Sullivan of Burlington
Condon of Colchester	Kitzmiller of Montpelier	Toleno of Brattleboro
Conlon of Cornwall	Krowinski of Burlington	Townsend of South Burlington
Connor of Fairfield	Lalonde of South Burlington	Trieber of Rockingham
Conquest of Newbury	Lefebvre of Newark	Troiano of Stannard
Copeland-Hanzas of Bradford	Lippert of Hinesburg	Walz of Barre City
Corcoran of Bennington	Long of Newfane	Webb of Shelburne
Donovan of Burlington	Lucke of Hartford *	Weed of Enosburg
Dunn of Essex	Macaig of Williston	Wood of Waterbury *
Emmons of Springfield	Masland of Thetford	Yacovone of Morristown
Fields of Bennington	McCormack of Burlington	Yantachka of Charlotte
Forguites of Springfield	McCullough of Williston	Young of Glover
Gannon of Wilmington	Miller of Shaftsbury	
	Morris of Bennington	
	Mrowicki of Putney	

Those who voted in the negative are:

Ainsworth of Royalton	Graham of Williamstown	Parent of St. Albans Town
Bancroft of Westford	Harrison of Chittenden	Pearce of Richford
Batchelor of Derby *	Hebert of Vernon	Poirier of Barre City
Beck of St. Johnsbury	Helm of Fair Haven	Potter of Clarendon
Beyor of Highgate	Higley of Lowell	Pugh of South Burlington
Bissonnette of Winooski	Howard of Rutland City *	Quimby of Concord
Brennan of Colchester	Hubert of Milton	Rosenquist of Georgia
Briglin of Thetford	Joseph of North Hero	Savage of Swanton
Browning of Arlington	Juskiewicz of Cambridge	Scheuermann of Stowe
Brumsted of Shelburne	Keefe of Manchester	Shaw of Pittsford
Canfield of Fair Haven	Keenan of St. Albans City	Smith of Derby
Christie of Hartford	LaClair of Barre Town	Smith of New Haven
Cupoli of Rutland City	Lanpher of Vergennes	Strong of Albany
Dakin of Colchester	Lawrence of Lyndon	Taylor of Colchester
Devereux of Mount Holly	Marcotte of Coventry	Terenzini of Rutland Town
Dickinson of St. Albans Town	Martel of Waterford	Till of Jericho
	McCoy of Poultney	Toll of Danville

Donahue of Northfield	McFaun of Barre Town	Turner of Milton
Fagan of Rutland City	Morrissey of Bennington	Van Wyck of Ferrisburgh
Feltus of Lyndon	Myers of Essex	Viens of Newport City
Frenier of Chelsea	Nolan of Morristown	Wright of Burlington
Gage of Rutland City	Norris of Shoreham	
Gamache of Swanton	Ode of Burlington	

Those members absent with leave of the House and not voting are:

Deen of Westminster	Murphy of Fairfax
Lewis of Berlin	Willhoit of St. Johnsbury

Rep. Batchelor of Derby explained her vote as follows:

“Madam Speaker:

I voted NO on S.22. How can we say we value and cherish our young children and then pass a bill that could put them in harm’s way?

Shame on us!”

Rep. Cina of Burlington explained his vote as follows:

“Madam Speaker:

Substance use, in the absence of other violations of the law, ought to be treated as a health care issue, not a crime. The stigma that comes with prohibition creates barriers to treatment and intensifies the shame, guilt, and pain that drive addiction. Instead of judging and punishing people for the way that they deal with pain or even seek pleasure, let’s empower people to make healthier choices and to work towards wellness and recovery.”

Rep. Howard of Rutland City explained her vote as follows:

“Madam Speaker:

I voted no. I sincerely hope the Marijuana Regulatory Commission develops a timely plan to develop roadside testing, increased education and increase in trained officers. I support law enforcement. Thank you.”

Rep. Lucke of Hartford explained her vote as follows:

“Madam Speaker:

My vote today supports a year of intentional planning in Vermont as marijuana legalization takes root in our region of the country and Canada.”

Rep. Stevens of Waterbury explained his vote as follows:

“Madam Speaker:

Newsflash! 80,000 Vermonters smoke pot. And many of them illegally pay a dealer for it because it is less risky than growing it. The drug is here.

The money is here. I would rather deal with people with a legal addiction - just like opioids, alcohol, lottery, smoking, and gambling - than perpetuate the myths as we have today.”

Rep. Wood of Waterbury explained her vote as follows:

“Madam Speaker:

80,000 Vermonters are proof that burying our heads in the sand has not proven effective in limiting the black market. Moving toward a regulated market will improve our ability to protect and educate our youth. That’s why I voted yes.”

Rules Suspended; Report of Committee of Conference Adopted

H. 503

Pending entrance of the bill on the Calendar for notice, on motion of **Rep. Turner of Milton**, the rules were suspended and House bill, entitled

An act relating to bail

Was taken up for immediate consideration.

The Speaker placed before the House the following Committee of Conference report:

Report of Committee of Conference

H. 503

An act relating to bail.

TO THE SENATE AND HOUSE OF REPRESENTATIVES:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House Bill entitled:

H. 503. An act relating to bail.

Respectfully reports that it has met and considered the same and recommends that the Senate recede from its proposal of amendment and that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Release Prior to Trial * * *

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

§ 7551. APPEARANCE BONDS; GENERALLY

(a) A bond given by a person charged with a criminal offense or by a witness in a criminal prosecution under section 6605 of this title, conditioned

for the appearance of the person or witness before the court in cases where the offense is punishable by fine or imprisonment, and in appealed cases, shall be taken to the ~~district or superior court~~ Criminal Division of the Superior Court where the prosecution is pending, and shall remain binding upon parties until discharged by the court or until sentencing. The person or witness shall appear at all required court proceedings.

(b) No bond may be imposed at the initial appearance of a person charged with a misdemeanor if the person was cited for the offense in accordance with Rule 3 of the Vermont Rules of Criminal Procedure. This subsection shall not be construed to restrict the court's ability to impose conditions on such persons to reasonably ensure his or her appearance at future proceedings or to reasonably protect the public in accordance with section 7554 of this title.

Sec. 2. 28 V.S.A. § 301 is amended to read:

§ 301. SUMMONS OR ARREST OF PROBATIONER

* * *

(2) Arrest or citation of person on probation. Any correctional officer may arrest a probationer without a warrant if, in the judgment of the correctional officer, the probationer has violated a condition or conditions of his or her probation other than a condition that the probationer pay restitution; or may deputize any other law enforcement officer to arrest a probationer without a warrant by giving him or her a written statement setting forth that the probationer has, in the judgment of the correctional officer, violated a condition or conditions of his or her probation other than a condition that the probationer pay restitution. The written statement delivered with the person by the arresting officer to the supervising officer of the correctional facility to which the person is brought for detention shall be sufficient warrant for detaining him or her. In lieu of arrest, a correctional officer may issue a probationer a citation to appear for arraignment. In deciding whether to arrest or issue a citation, an officer shall consider whether issuance of a citation will reasonably ensure the probationer's appearance at future proceedings and reasonably protect the public.

* * *

(4) Detention pending hearing for probationer. Pending arraignment for any charge of violation, the probationer shall ~~continue~~ continue to be detained at a correctional facility unless issued a citation by a correctional officer. Thereafter, the court may release the probationer pursuant to 13 V.S.A. § 7554. There shall be no right to bail or release, unless the person is on probation for a nonviolent misdemeanor or nonviolent felony ~~and the probation violation did not constitute a new crime~~.

(5)(A) At arraignment, if the court finds that bail or conditions of release will reasonably ensure the probationer's appearance at future proceedings and conditions of release will reasonably protect the public, the court shall release a probationer who is on probation for a nonviolent misdemeanor or nonviolent felony pursuant to 13 V.S.A. § 7554.

(B) As used in this subdivision section:

(A)(i) "Nonviolent felony" means a felony offense which that is not a listed crime as defined in 13 V.S.A. § 5301(7) or an offense involving sexual exploitation of children in violation of 13 V.S.A. chapter 64.

(B)(ii) "Nonviolent misdemeanor" means a misdemeanor offense which that is not a listed crime as defined in 13 V.S.A. § 5301(7) or an offense involving sexual exploitation of children in violation of 13 V.S.A. chapter 64 or 13 V.S.A. § 1030.

Sec. 3. PRETRIAL COMMUNICATIONS RECOMMENDATIONS

The Court Administrator, the Department of State's Attorneys and Sheriffs, the Office of the Defender General, and the Vermont Chapter of the American Civil Liberties Union shall work together and with other interested parties to examine options for facilitating pretrial communication between the courts and defendants with a goal of reducing the risk of nonappearance by defendants. The parties jointly shall provide options and costs of such options to the Joint Committee on Justice Oversight on or before October 15, 2017.

* * * Regulated Drugs * * *

Sec. 4. 18 V.S.A. § 4233a is added to read:

§ 4233a. FENTANYL

(a) Selling or dispensing.

(1) A person knowingly and unlawfully dispensing fentanyl shall be imprisoned not more than three years or fined not more than \$75,000.00, or both. A person knowingly and unlawfully selling fentanyl shall be imprisoned not more than five years or fined not more than \$100,000.00, or both.

(2) A person knowingly and unlawfully selling or dispensing fentanyl in an amount consisting of four milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl shall be imprisoned not more than 10 years or fined not more than \$250,000.00, or both.

(3) A person knowingly and unlawfully selling or dispensing fentanyl in an amount consisting of 20 milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl shall be imprisoned not more than 20 years or fined not more than \$1,000,000.00, or both.

(4) In lieu of a charge under this subsection, but in addition to any other penalties provided by law, a person knowingly and unlawfully selling or dispensing any regulated drug containing a detectable amount of fentanyl shall be imprisoned not more than five years or fined not more than \$250,000.00, or both.

(b) Trafficking. A person knowingly and unlawfully possessing fentanyl in an amount consisting of 70 milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl with the intent to sell or dispense the fentanyl shall be imprisoned not more than 30 years or fined not more than \$1,000,000.00, or both. There shall be a permissive inference that a person who possesses fentanyl in an amount of 70 milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl intends to sell or dispense the fentanyl. The amount of possessed fentanyl under this subsection to sustain a charge of conspiracy under 13 V.S.A. § 1404 shall be not less than 70 milligrams in the aggregate.

(c) Transportation into the State. In addition to any other penalties provided by law, a person knowingly and unlawfully transporting more than 20 milligrams of fentanyl into Vermont with the intent to sell or dispense the fentanyl shall be imprisoned not more than 10 years or fined not more than \$100,000.00, or both.

Sec. 5. 18 V.S.A. § 4234 is amended to read:

§ 4234. DEPRESSANT, STIMULANT, AND NARCOTIC DRUGS

* * *

(b) Selling or dispensing.

(1) A person knowingly and unlawfully dispensing a depressant, stimulant, or narcotic drug, other than fentanyl, heroin₂ or cocaine, shall be imprisoned not more than three years or fined not more than \$75,000.00, or both. A person knowingly and unlawfully selling a depressant, stimulant, or narcotic drug, other than fentanyl, cocaine₂ or heroin, shall be imprisoned not more than five years or fined not more than \$25,000.00, or both.

(2) A person knowingly and unlawfully selling or dispensing a depressant, stimulant, or narcotic drug, other than fentanyl, heroin₂ or cocaine, consisting of 100 times a benchmark unlawful dosage or its equivalent as determined by the ~~board of health~~ Board of Health by rule shall be imprisoned not more than 10 years or fined not more than \$100,000.00, or both.

(3) A person knowingly and unlawfully selling or dispensing a depressant, stimulant, or narcotic drug, other than fentanyl, heroin₂ or cocaine, consisting of 1,000 times a benchmark unlawful dosage or its equivalent as

determined by the ~~board of health~~ Board of Health by rule shall be imprisoned not more than 20 years or fined not more than \$500,000.00, or both.

Sec. 6. 13 V.S.A. § 1404 is amended to read:

§ 1404. CONSPIRACY

(a) A person is guilty of conspiracy if, with the purpose that an offense listed in subsection (c) of this section be committed, that person agrees with one or more persons to commit or cause the commission of that offense, and at least two of the co-conspirators are persons who are neither law enforcement officials acting in official capacity nor persons acting in cooperation with a law enforcement official.

(b) No person shall be convicted of conspiracy unless a substantial overt act in furtherance of the conspiracy is alleged and proved to have been done by the defendant or by a co-conspirator, other than a law enforcement official acting in an official capacity or a person acting in cooperation with a law enforcement official, and subsequent to the defendant's entrance into the conspiracy. Speech alone may not constitute an overt act.

(c) This section applies only to a conspiracy to commit or cause the commission of one or more of the following offenses:

- (1) murder in the first or second degree;
- (2) arson under sections 501-504 and 506 of this title;
- (3) sexual exploitation of children under sections 2822, 2823, and 2824 of this title;
- (4) receiving stolen property under sections 2561-2564 of this title; or
- (5) an offense involving the sale, delivery, manufacture, or cultivation of a regulated drug or an offense under:
 - (A) 18 V.S.A. § 4230(c), relating to trafficking in marijuana;
 - (B) 18 V.S.A. § 4231(c), relating to trafficking in cocaine;
 - (C) 18 V.S.A. § 4233(c), relating to trafficking in heroin;
 - (D) 18 V.S.A. § 4234(b)(3), relating to unlawful selling or dispensing of a depressant, stimulant, or narcotic drug, other than fentanyl, heroin or cocaine; ~~or~~
 - (E) 18 V.S.A. § 4234a(c), relating to trafficking in methamphetamine; or
 - (F) 18 V.S.A. § 4233a(c), relating to trafficking in fentanyl.

Sec. 7. 18 V.S.A. § 4234b is amended to read:

§ 4234b. EPHEDRINE AND PSEUDOEPHEDRINE

* * *

(c) Electronic registry system.

(1)(A) Retail establishments shall use an electronic registry system to record the sale of products made pursuant to subsection (b) of this section. The electronic registry system shall have the capacity to block a sale of nonprescription drug products containing ephedrine base, pseudoephedrine base, or phenylpropanolamine base that would result in a purchaser exceeding the lawful daily or monthly amount. The system shall contain an override function that may be used by an agent of a retail establishment who is dispensing the drug product and who has a reasonable fear of imminent bodily harm to his or her person or to another person if the transaction is not completed. The system shall create a record of each use of the override mechanism.

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

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

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

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

(i) the name and address of the purchaser;

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

(iii) the date and time of purchase;

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

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

(B)(i) If the retail establishment experiences an electronic or mechanical failure of the electronic registry system and is unable to comply

with the electronic recording requirement, the retail establishment shall maintain a written log or an alternative electronic record-keeping mechanism until the retail establishment is able to comply fully with this subsection (c).

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

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

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

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

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

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

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

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

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

(e) As used in this section:

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

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

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

(4) "Wholesaler" means a person, other than a manufacturer, ~~who~~ that

sells, transfers, or in any manner furnishes a drug product to any other person for the purpose of being resold.

Sec. 8. USE OF U.S. FOOD AND DRUG ADMINISTRATION-
APPROVED DRUGS CONTAINING CANNABIDIOL

(a) Upon approval by the U.S. Food and Drug Administration (FDA) of one or more prescription drugs containing cannabidiol, the following activities shall be lawful in Vermont:

(1) the clinically appropriate prescription for a patient of an FDA-approved prescription drug containing cannabidiol by a health care provider licensed to prescribe medications in this State and acting within his or her authorized scope of practice;

(2) the dispensing, pursuant to a valid prescription, of an FDA-approved prescription drug containing cannabidiol to a patient or a patient's authorized representative by a pharmacist or by another health care provider licensed to dispense medications in this State and acting within his or her authorized scope of practice;

(3) the possession and transportation of an FDA-approved prescription drug containing cannabidiol by a patient to whom a valid prescription was issued or by the patient's authorized representative;

(4) the possession and transportation of an FDA-approved prescription drug containing cannabidiol by a licensed pharmacy or wholesaler in order to facilitate the appropriate dispensing and use of the drug; and

(5) the use of an FDA-approved prescription drug containing cannabidiol by a patient to whom a valid prescription was issued, provided the patient uses the drug only for legitimate medical purposes in conformity with instructions from the prescriber and dispenser.

(b) Upon approval by the U.S. Food and Drug Administration of one or more prescription drugs containing cannabidiol, the Department of Health shall amend its rules to conform to the provisions of subsection (a) of this section.

* * * Impaired Driving * * *

Sec. 9. 23 V.S.A. § 1202 is amended to read:

§ 1202. CONSENT TO TAKING OF TESTS TO DETERMINE BLOOD
ALCOHOL CONTENT OR PRESENCE OF OTHER DRUG

(a)(1) Implied consent. Every person who operates, attempts to operate, or is in actual physical control of any vehicle on a highway in this State is deemed to have given consent to an evidentiary test of that person's breath for

the purpose of determining the person's alcohol concentration or the presence of other drug in the blood. The test shall be administered at the direction of a law enforcement officer.

(2) Blood test. If breath testing equipment is not reasonably available or if the officer has reason to believe that the person is unable to give a sufficient sample of breath for testing or if the law enforcement officer has reasonable grounds to believe that the person is under the influence of a drug other than alcohol, the person is deemed to have given consent to the taking of an evidentiary sample of blood. If in the officer's opinion the person is incapable of decision or unconscious or dead, it is deemed that the person's consent is given and a sample of blood shall be taken. A blood test sought pursuant to this subdivision (2) shall be obtained pursuant to subsection (f) of this section.

(3) Evidentiary test. The evidentiary test shall be required of a person when a law enforcement officer has reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title.

(4) Fatal collision or incident resulting in serious bodily injury. The evidentiary test shall also be required if the person is the surviving operator of a motor vehicle involved in a fatal incident or collision or an incident or collision resulting in serious bodily injury and the law enforcement officer has reasonable grounds to believe that the person has any amount of alcohol or other drug in his or her system.

~~(b) If the person refuses to submit to an evidentiary test it shall not be given, except as provided in subsection (f) of this section, but the A refusal to take a breath test may be introduced as evidence in a criminal proceeding.~~

* * *

(f) If a blood test is sought from a person pursuant to subdivision (a)(2) of this section, or if a person who has been involved in an accident or collision resulting in serious bodily injury or death to another refuses an evidentiary test, a law enforcement officer may apply for a search warrant pursuant to Rule 41 of the Vermont Rules of Criminal Procedure to obtain a sample of blood for an evidentiary test. If a blood sample is obtained by search warrant, the fact of the refusal may still be introduced in evidence, in addition to the results of the evidentiary test. Once a law enforcement official begins the application process for a search warrant, the law enforcement official is not obligated to discontinue the process even if the person later agrees to provide an evidentiary breath sample. The limitation created by Rule 41(g) of the Vermont Rules of Criminal Procedure regarding blood specimens shall not apply to search warrants authorized by this section.

* * *

* * * Humane and Proper Treatment of Animals * * *

Sec. 10. 13 V.S.A. chapter 8 is amended to read:

CHAPTER 8. HUMANE AND PROPER TREATMENT OF ANIMALS

Subchapter 1. Cruelty to Animals

§ 351. DEFINITIONS

As used in this chapter:

(1) “Animal” means all living sentient creatures, not human beings.

* * *

(19) “Sexual conduct” means:

(A) any act between a person and animal that involves contact between the mouth, sex organ, or anus of a person and the mouth, sex organ, or anus of an animal; or

(B) without a bona fide veterinary or animal husbandry purpose, the insertion, however slight, of any part of a person’s body or of any instrument, apparatus, or other object into the vaginal or anal opening of an animal.

* * *

§ 352. CRUELTY TO ANIMALS

A person commits the crime of cruelty to animals if the person:

(1) intentionally kills or attempts to kill any animal belonging to another person without first obtaining legal authority or consent of the owner;

(2) overworks, overloads, tortures, torments, abandons, administers poison to, cruelly beats or mutilates an animal, or exposes a poison with intent that it be taken by an animal;

* * *

(10) uses a live animal as bait or lure in a race, game, or contest, or in training animals in a manner inconsistent with 10 V.S.A. Part 4 of Title 10 or the rules adopted thereunder;

(11)(A) engages in sexual conduct with an animal;

(B) possesses, sells, transfers, purchases, or otherwise obtains an animal with the intent that it be used for sexual conduct;

(C) organizes, promotes, conducts, aids, abets, or participates in as an observer an act involving any sexual conduct with an animal;

(D) causes, aids, or abets another person to engage in sexual conduct with an animal;

(E) permits sexual conduct with an animal to be conducted on premises under his or her charge or control; or

(F) advertises, offers, or accepts the offer of an animal with the intent that it be subject to sexual conduct in this State.

§ 352a. AGGRAVATED CRUELTY TO ANIMALS

A person commits the crime of aggravated cruelty to animals if the person:

(1) kills an animal by intentionally causing the animal undue pain or suffering;

(2) intentionally, maliciously, and without just cause tortures, mutilates, or cruelly beats an animal; or

(3) intentionally injures or kills an animal that is in the performance of official duties while under the supervision of a law enforcement officer.

* * *

§ 353. DEGREE OF OFFENSE; SENTENCING UPON CONVICTION

(a) Penalties.

(1) Except as provided in subdivision (3) ~~or~~, (4), or (5) of this subsection, cruelty to animals under section 352 of this title shall be punishable by a sentence of imprisonment of not more than one year, or a fine of not more than \$2,000.00, or both. Second and subsequent convictions shall be punishable by a sentence of imprisonment of not more than two years or a fine of not more than \$5,000.00, or both.

(2) Aggravated cruelty under section 352a of this title shall be punishable by a sentence of imprisonment of not more than ~~three~~ five years or a fine of not more than \$5,000.00, or both. Second and subsequent offenses shall be punishable by a sentence of imprisonment of not more than ~~five~~ ten years or a fine of not more than \$7,500.00, or both.

* * *

(5) A person who violates subdivision 352(1) of this title by intentionally killing or attempting to kill an animal belonging to another or subdivision 352(2) of this title by torturing, administering poison to, or cruelly beating or mutilating an animal shall be imprisoned not more than two years or fined not more than \$5,000.00, or both.

* * *

* * * Electronic Monitoring * * *

Sec. 11. 13 V.S.A. § 7554b is amended to read:

§ 7554b. HOME DETENTION PROGRAM

(a) Definition. As used in this section, “home detention” means a program of confinement and supervision that restricts a defendant to a preapproved residence continuously, except for authorized absences, and is enforced by appropriate means of surveillance and electronic monitoring by the Department of Corrections. The court may authorize scheduled absences such as work, school, or treatment. Any changes in the schedule shall be solely at the discretion of the Department of Corrections. A defendant who is on home detention shall remain in the custody of the Commissioner of Corrections with conditions set by the ~~Court~~ court.

(b) Procedure. ~~The~~ At the request of the court, the Department of Corrections, or the defendant, the status of a defendant who is detained pretrial ~~for more than seven days~~ in a correctional facility for lack of bail may be reviewed by the ~~Court~~ court to determine whether the defendant is appropriate for home detention. ~~The request for review may be made by either the Department of Corrections or the defendant.~~ After At arraignment or after a hearing, the court may order that the defendant be released to the Home Detention Program, providing that the ~~Court~~ court finds placing the defendant on home detention will reasonably assure his or her appearance in ~~Court~~ court when required and the proposed residence is appropriate for home detention. In making such a determination, the court shall consider:

* * *

(d) Credit for time served. A defendant shall receive credit for a sentence of imprisonment for time served in the Home Detention Program.

Sec. 12. ELECTRONIC MONITORING

(a) The Commissioner of Corrections shall establish an active electronic monitoring program with real-time enforcement. The Commissioner of Corrections, in consultation with the Department of State’s Attorneys and Sheriffs, may contract with a third party to implement the program.

(b) The Electronic Monitoring Program described in subsection (a) of this section may be used to monitor, in lieu of incarcerating in a facility, the following populations:

(1) offenders in the custody of the Commissioner who are eligible for the Home Detention Program described in 13 V.S.A. § 7554b; and

(2) offenders in the custody of the Commissioner, including the

following target populations:

(A) offenders who are eligible for home confinement furlough, as described in 28 V.S.A. § 808b;

(B) offenders who are past their minimum sentence and are deemed appropriate for the Program by the Commissioner of Corrections; or

(C) offenders who are eligible for reintegration furlough, as described in 28 V.S.A. § 808c.

(c) An offender shall only be eligible for the Electronic Monitoring Program described in subsection (a) of this section if electronic monitoring equipment is fully functional in the geographic area where the offender will be located.

Sec. 13. EFFECTIVE DATES

This section and Secs. 7 (ephedrine and pseudoephedrine), 9 (impaired driving), and 12 (electronic monitoring) shall take effect on passage. The remaining sections shall take effect on July 1, 2017.

And that after passage the title of the bill be amended to read:

An act relating to criminal justice.

*RICHARD W. SEARS
ALICE W. NITKA
JOSEPH C. BENNING*

*Committee on the part of the
Senate*

*MARTIN J. LALONDE
CHARLES W. CONQUEST
CHARLES H. SHAW*

Committee on the part of the House

Which was considered and adopted on the part of the House

Rules Suspended; Report of Committee of Conference Adopted

H. 22

Pending entrance of the bill on the Calendar for notice, on motion of **Rep. Savage of Swanton**, the rules were suspended and House bill, entitled

An act relating to the professional regulation of law enforcement officers by the Vermont Criminal Justice Training Council

Was taken up for immediate consideration.

The Speaker placed before the House the following Committee of Conference report:

Report of Committee of Conference

H. 22

An act relating to the professional regulation of law enforcement officers by the Vermont Criminal Justice Training Council.

TO THE SENATE AND HOUSE OF REPRESENTATIVES:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House Bill entitled:

H. 22. An act relating to the professional regulation of law enforcement officers by the Vermont Criminal Justice Training Council.

Respectfully reports that it has met and considered the same and recommends that the House accede to the Senate proposals of amendment and that the bill be further amended in Sec. 1, 20 V.S.A. chapter 151 (Vermont Criminal Justice Training Council), in section 2406 (permitted Council sanctions), in subsection (b) (intended revocation; temporary voluntary surrender), in subdivision (1)(C), in the last sentence, following “the Council may modify its findings and decision on the basis of additional evidence” by inserting , but shall not be bound by any outcome of the labor proceeding

*JEANETTE K. WHITE
BRIAN P. COLLAMORE
CHRISTOPHER A. PEARSON*

*Committee on the part of the
Senate*

*MAIDA F. TOWNSEND
ROBERT B. LACLAIR
MARCIA L. GARDNER*

Committee on the part of the House

Which was considered and adopted on the part of the House

Message from the Senate No. 74

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that:

The Senate has considered House proposals of amendment to Senate bill of

the following title:

S. 8. An act relating to establishing the State Ethics Commission and standards of governmental ethical conduct.

And has concurred therein with an amendment in the passage of which the concurrence of the House is requested.

Rules Suspended; Senate Proposal of Amendment to House Proposal of Amendment Considered; Consideration Interrupted

S. 8

Pending entry of the bill on the Calendar for notice, on motion of **Rep. Savage of Swanton**, the rules were suspended and House bill, entitled

An act relating to establishing the State Ethics Commission and standards of governmental ethical conduct

Was taken up for immediate consideration.

The Senate concurs in the House proposal of amendment with the following proposal of amendment thereto:

First: In Sec. 3, 17 V.S.A. § 2414 (candidates for State and legislative office; disclosure form), in subsection (a), by striking out subdivision (1) in its entirety and inserting in lieu thereof a new subdivision (1) to read as follows:

(1) Each source, but not amount, of personal income of the candidate and of his or her spouse or domestic partner, and of the candidate together with his or her spouse or domestic partner, that totals more than \$5,000.00, including any of the sources meeting that total described as follows:

Second: In Sec. 3, 17 V.S.A. § 2414 (candidates for State and legislative office; disclosure form), by adding a new subsection to be subsection (c) to read as follows:

(c) In addition, each candidate for State office shall attach to the disclosure form described in subsection (a) of this section a copy of his or her most recent U.S. Individual Income Tax Return Form 1040; provided, however, that the candidate may redact from that form the following information:

(1) the candidate's Social Security Number and that of his or her spouse, if applicable;

(2) the names of any dependent and the dependent's Social Security Number; and

(3) the signature of the candidate and that of his or her spouse, if applicable.

And by relettering the remaining subsections to be alphabetically correct.

Third: In Sec. 3, 17 V.S.A. § 2414 (candidates for State and legislative office; disclosure form), in subsection (c) (relettered subsection (d)), by striking out subdivision (2) in its entirety and inserting in lieu thereof a new subdivision (2) to read as follows:

(2)(A) The Secretary of State shall post a copy of any disclosure forms and tax returns he or she receives under this section on his or her official State website.

(B) Prior to posting, the Secretary shall redact from a tax return the information permitted to be redacted under subsection (c) of this section, if the candidate fails to do so.

Fourth: In Sec. 7, 3 V.S.A. chapter 31, by striking out section 1202 (State Code of Ethics) in its entirety and inserting in lieu thereof a new section 1202 to read as follows:

§ 1202. STATE CODE OF ETHICS

The Ethics Commission, in consultation with the Department of Human Resources, shall create and maintain a State Code of Ethics that sets forth general principles of governmental ethical conduct.

Fifth: In Sec. 7, 3 V.S.A. chapter 31, in section 1211 (Executive officers; biennial disclosure), in subsection (a), by striking out subdivision (1) in its entirety and inserting in lieu thereof a new subdivision (1) to read as follows:

(1) Each source, but not amount, of personal income of the officer and of his or her spouse or domestic partner, and of the officer together with his or her spouse or domestic partner, that totals more than \$5,000.00, including any of the sources meeting that total described as follows:

Sixth: In Sec. 7, 3 V.S.A. chapter 31, in section 1211 (Executive officers; biennial disclosure), in subdivision (d)(1) (“domestic partner” definition), following “an enduring domestic relationship” by inserting the following: of a spousal nature

Seventh: In Sec. 7, 3 V.S.A. chapter 31, in section 1221 (State Ethics Commission), in subsection (b) (membership), in subdivision (1), by striking out subparagraph (A) in its entirety and inserting in lieu thereof a new subparagraph (A) to read as follows:

(A) one member appointed by the Chief Justice of the Supreme Court;

Eighth: In Sec. 7, 3 V.S.A. chapter 31, in section 1221 (State Ethics Commission), in subsection (b) (membership), by inserting a new subdivision

(2) to read as follows:

(2) The Commission shall elect the Chair of the Commission from among its membership.

And by renumbering the remaining subdivisions to be numerically correct.

Ninth: In Sec. 7, 3 V.S.A. chapter 31, in section 1224 (Commission ethics training), in the first sentence, following “the Commission shall make available to” by striking out “State officers” and inserting in lieu thereof the following: legislators, State officers,

Tenth: By striking out Sec. 9 (State Ethics Commission; State Code of Ethics; rule-making procedure requirements) in its entirety and inserting in lieu thereof a new Sec. 9 to read:

Sec. 9. STATE ETHICS COMMISSION; STATE CODE OF ETHICS;
PROCEDURE FOR CREATION

(a) The State Ethics Commission shall create a draft of the State Code of Ethics in consultation with the Department of Human Resources as described in 3 V.S.A. § 1202 in Sec. 7 of this act and submit that draft to the House and Senate Committees on Government Operations for their review on or before March 15, 2018.

(b) After considering any recommendations by those Committees, the Commission shall create its final version of the State Code of Ethics on or before July 1, 2018.

Eleventh: In Sec. 10 (implementation of the State Ethics Commission), in subsection (b), in the first sentence, following “including the hiring of the Commission’s Executive Director” by inserting the following: and electing the Chair of the Commission

Twelfth: In Sec. 10 (implementation of the State Ethics Commission), in subsection (c), in subdivisions (1) and (2), by striking out “3 V.S.A. § 1221(b)(4)(A)” and inserting in lieu thereof the following: 3 V.S.A. § 1221(b)(5)(A)

Thirteenth: In Sec. 10 (implementation of the State Ethics Commission), in subdivision (c)(1)(A), following “the Chief Justice of the Supreme Court shall appoint” by striking out “the Chair” and inserting in lieu thereof the following: a member

Fourteenth: In Sec. 17 (transitional provision; municipal ethics complaints; Secretary of State; Ethics Commission; reports), by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) The State Ethics Commission shall include a summary of these municipal complaints along with its report of complaints described in 3 V.S.A. § 1226(1) (Commission reports; complaints) in Sec. 7 of this act.

Which proposal of amendment was considered.

Recess

At three o'clock and three minutes in the afternoon, the Speaker declared a recess until four o'clock in the afternoon.

At four o'clock and fifteen minutes in the afternoon, the Speaker called the House to order.

Consideration Resumed; Senate Proposal of Amendment Concurred in

S. 8

Consideration resumed on Senate bill, entitled

An act relating to establishing the State Ethics Commission and standards of governmental ethical conduct.

Pending the question, Will the House concur with the Senate proposal of amendment to the House proposal of amendment? **Rep. Donahue of Northfield** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Will the House concur with the Senate proposal of amendment to the House proposal of amendment? was decided in the affirmative. Yeas, 120. Nays, 24.

Those who voted in the affirmative are:

Ancel of Calais	Giambatista of Essex	Noyes of Wolcott
Bancroft of Westford	Gonzalez of Winooski	Ode of Burlington
Bartholomew of Hartland	Grad of Moretown	Olsen of Londonderry
Baser of Bristol	Graham of Williamstown	O'Sullivan of Burlington
Beck of St. Johnsbury	Greshin of Warren	Parent of St. Albans Town
Belaski of Windsor	Haas of Rochester	Partridge of Windham
Bissonnette of Winooski	Harrison of Chittenden	Pearce of Richford
Bock of Chester	Head of South Burlington	Poirier of Barre City
Botzow of Pownal	Hill of Wolcott	Potter of Clarendon
Briglin of Thetford	Hooper of Montpelier	Pugh of South Burlington
Browning of Arlington	Hooper of Brookfield	Rachelson of Burlington
Buckholz of Hartford	Houghton of Essex	Savage of Swanton
Burditt of West Rutland	Howard of Rutland City	Scheu of Middlebury
Burke of Brattleboro	Jessup of Middlesex	Scheuermann of Stowe
Carr of Brandon	Jickling of Brookfield	Sharpe of Bristol
Chesnut-Tangerman of Middletown Springs	Joseph of North Hero	Shaw of Pittsford
Christensen of Weathersfield	Juskiewicz of Cambridge	Sheldon of Middlebury
Christie of Hartford	Keefe of Manchester	Sibilia of Dover
	Keenan of St. Albans City	Smith of New Haven

Cina of Burlington	Kimbell of Woodstock	Squirrell of Underhill
Colburn of Burlington	Kitzmiller of Montpelier	Stevens of Waterbury
Condon of Colchester	Krowinski of Burlington	Sullivan of Dorset
Conlon of Cornwall	LaClair of Barre Town	Sullivan of Burlington
Connor of Fairfield	Lalonde of South Burlington	Taylor of Colchester
Conquest of Newbury	Lanpher of Vergennes	Terenzini of Rutland Town
Copeland-Hanzas of Bradford	Lefebvre of Newark	Till of Jericho
Corcoran of Bennington	Lippert of Hinesburg	Toleno of Brattleboro
Cupoli of Rutland City	Long of Newfane	Toll of Danville
Dakin of Colchester	Lucke of Hartford	Townsend of South Burlington
Devereux of Mount Holly	Macaig of Williston	Trieber of Rockingham
Donovan of Burlington	Masland of Thetford	Troiano of Stannard
Dunn of Essex	McCormack of Burlington	Walz of Barre City
Emmons of Springfield	McCoy of Poultney	Webb of Shelburne
Fagan of Rutland City	McCullough of Williston	Weed of Enosburgh
Feltus of Lyndon	McFaun of Barre Town	Willhoit of St. Johnsbury
Fields of Bennington	Miller of Shaftsbury	Wood of Waterbury
Forguites of Springfield	Morris of Bennington	Wright of Burlington
Frenier of Chelsea	Morrissey of Bennington	Yacovone of Morristown
Gannon of Wilmington *	Mrowicki of Putney *	Yantachka of Charlotte
Gardner of Richmond	Myers of Essex	Young of Glover
	Nolan of Morristown	

Those who voted in the negative are:

Ainsworth of Royalton	Gamache of Swanton	Quimby of Concord
Batchelor of Derby	Hebert of Vernon	Rosenquist of Georgia
Beyor of Highgate	Helm of Fair Haven	Smith of Derby
Brennan of Colchester	Higley of Lowell	Strong of Albany
Canfield of Fair Haven	Hubert of Milton	Turner of Milton
Dickinson of St. Albans Town	Lawrence of Lyndon	Van Wyck of Ferrisburgh
Donahue of Northfield *	Marcotte of Coventry	Viens of Newport City
Gage of Rutland City	Martel of Waterford	
	Norris of Shoreham	

Those members absent with leave of the House and not voting are:

Brumsted of Shelburne	Lewis of Berlin	Stuart of Brattleboro
Deen of Westminster	Murphy of Fairfax	

Rep. Donahue of Northfield explainer her vote as follows:

“Madam Speaker:

This bill is about creating a code of ethics, but the amendment eliminates the role of public notice, and comment on, the code. Transparency does not merely support ethics, it is at the very heart of ethics. Allowing development of a code of ethics without requiring a public process is antithetical to its very definition.”

Rep. Gannon of Wilmington explained his vote as follows:

“Madam Speaker:

At a time when there are serious ethical concerns in our nation’s capital, this bill is an important step in governmental transparency and public integrity for Vermont.”

Rep. Mrowicki of Putney explained his vote as follows:

“Madam Speaker:

My yes vote is agreement with your Government Operations committee’s work that takes us a step forward. With this bill our constituents can see there are standards to which were held accountable and we can join all the other states that have passed similar legislation. And, given what’s happening on the national scene right now, we can start re-building trust in elected public officials at the state level. Thanks to your Government Operations committee for taking on this complex and necessary work.”

Rules Suspended; Report of Committee of Conference Adopted

S. 112

Pending entrance of the bill on the Calendar for notice, on motion of **Rep. Turner of Milton**, the rules were suspended and Senate bill, entitled

An act relating to creating the Spousal Support and Maintenance Task Force
Was taken up for immediate consideration.

The Speaker placed before the House the following Committee of Conference report:

Committee of Conference Report

S. 112

TO THE SENATE AND HOUSE OF REPRESENTATIVES:

The Committee of Conference, to which were referred the disagreeing votes of the two Houses upon Senate Bill, entitled:

S.112. An act relating to creating the spousal support and maintenance task force.

Respectfully reports that it has met and considered the same and recommends that the House recede from its proposal of amendment and that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. SPOUSAL SUPPORT AND MAINTENANCE TASK FORCE

(a) Creation. There is created the Spousal Support and Maintenance Task

Force for the purpose of reviewing and making legislative recommendations to Vermont's laws concerning spousal support and maintenance.

(b) Membership. The Task Force shall be composed of the following eight members:

(1) a current member of the House of Representatives appointed by the Speaker of the House;

(2) a current member of the Senate appointed by the Committee on Committees;

(3) a Superior Court judge who has significant experience in the Family Division of Superior Court appointed by the Chief Justice;

(4) the Chief Superior Judge;

(5) two experienced family law attorneys appointed by the Family Law Section of the Vermont Bar Association;

(6) a representative of Vermont Alimony Reform who is domiciled in Vermont; and

(7) the Executive Director of the Vermont Commission on Women or a designee who is domiciled in Vermont.

(c) Powers and duties. The Task Force shall make legislative recommendations to Vermont's spousal support and maintenance laws aimed to improve clarity, fairness, predictability, and consistency across the State in recognition of changes to the family structure in recent decades. The Task Force may hold public hearings and shall consider:

(1) perspectives from stakeholders and interested parties; and

(2) spousal support and maintenance laws in other states and any relevant reports or analysis on alimony.

(d) Assistance. The Task Force shall have the administrative, technical, and legal assistance of the Office of Legislative Council.

(e) Recommendation. On or before December 1, 2017, the Task Force shall submit its recommendations for any legislative action to the Senate and House Committees on Judiciary.

(f) Meetings.

(1) The Superior Court judge appointed in accordance with subdivision (b)(3) of this section shall serve as chair.

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

(3) The Task Force shall cease to exist on March 1, 2018.

(g) Reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, legislative members of the Task Force shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for no more than six regular meetings and two public hearings. No meeting shall be held on the same day as a public hearing, and the Task Force shall endeavor to hold the public hearings in geographically diverse parts of the State.

(2) Other members of the Task Force 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 no more than six regular meetings and two public hearings.

Sec. 2. 15 V.S.A. § 752 is amended to read:

§ 752. MAINTENANCE

(a) In an action under this chapter, the court may order either spouse to make maintenance payments, either rehabilitative or permanent in nature, to the other spouse if it finds that the spouse seeking maintenance:

(1) lacks sufficient income, or property, or both, including property apportioned in accordance with section 751 of this title, to provide for his or her reasonable needs; and

(2) is unable to support himself or herself through appropriate employment at the standard of living established during the civil marriage or is the custodian of a child of the parties.

(b) The maintenance order shall be in such amounts and for such periods of time as the court deems just, after considering all relevant factors, including, ~~but not limited to:~~

(1) the financial resources of the party seeking maintenance, the property apportioned to the party, the party's ability to meet his or her needs independently, and the extent to which a provision for support of a child living with the party contains a sum for that party as custodian;

(2) the time and expense necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment;

(3) the standard of living established during the civil marriage;

(4) the duration of the civil marriage;

(5) the age and the physical and emotional condition of each spouse;

(6) the ability of the spouse from whom maintenance is sought to meet his or her reasonable needs while meeting those of the spouse seeking maintenance; ~~and~~

(7) inflation with relation to the cost of living; and

(8) the following guidelines:

<u>Length of marriage</u>	<u>% of the difference between parties' gross incomes</u>	<u>Duration of alimony award as % length of marriage</u>
<u>0 to <5 years</u>	<u>0–20%</u>	<u>No alimony or short-term alimony up to one year</u>
<u>5 to <10 years</u>	<u>15–35%</u>	<u>20–50% (1–5 yrs)</u>
<u>10 to <15 years</u>	<u>20–40%</u>	<u>40–60% (3–9 yrs)</u>
<u>15 to <20 years</u>	<u>24–45%</u>	<u>40–70% (6–14 yrs)</u>
<u>20+ years</u>	<u>30–50%</u>	<u>45% (9–20+ yrs)</u>

Sec. 3. REPEAL

On July 1, 2019, 15 V.S.A. § 752(b)(8) (spousal support and maintenance guidelines) is repealed.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

*JEANETTE K. WHITE
RICHARD W. SEARS
MARGARET K. FLORY*

*Committee on the part of the
Senate*

*MARTIN J. LALONDE
GARY G. VIENS
KIMBERLY JESSUP*

Committee on the part of the House

Which was considered and adopted on the part of the House

Rules Suspended; Bill Messaged to Senate Forthwith

On motion of **Rep. Turner of Milton**, the rules were suspended and the bill

was ordered messaged to the Senate forthwith.

S. 112

House bill, entitled

An act relating to creating the Spousal Support and Maintenance Task Force

Adjournment

At five o'clock and seven minutes in the evening, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.