

# Journal of the House

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Thursday, May 3, 2018

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

## Devotional Exercises

Devotional exercises were conducted by the Speaker.

## Message from the Senate No. 63

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. 894.** An act relating to pensions, retirement, and setting the contribution rates for municipal employees.

And has passed the same in concurrence.

The Senate has considered bills originating in the House of the following titles:

**H. 526.** An act relating to regulating notaries public.

**H. 780.** An act relating to portable rides at agricultural fairs, field days, and other similar events.

**H. 859.** An act relating to requiring municipal corporations to affirmatively vote to retain ownership of lease lands.

**H. 895.** An act relating to legislative review of certain report requirements.

**H. 923.** An act relating to capital construction and State bonding budget adjustment.

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

The Governor has informed the Senate that on the first day of May, 2018, he approved and signed bills originating in the Senate of the following titles:

**S. 164.** An act relating to establishing the Unused Prescription Drug

Repository Program.

**S. 253.** An act relating to Vermont's adoption of the Interstate Medical Licensure Compact.

**S. 282.** An act relating to health care providers participating in Vermont's Medicaid program.

### **Message from Governor**

A message was received from His Excellency, the Governor, by Ms. Brittney L. Wilson, Secretary of Civil and Military Affairs, as follows:

Madam Speaker:

I am directed by the Governor to inform the House of Representatives that on the second day of May 2018, he signed bills originating in the House of the following titles:

**H. 906** An act relating to professional licensing for service members and veterans

**H. 429** An act relating to establishment of a communication facilitator

**H. 300** An act relating to the statute of limitations for recovery and possession of property actions against the grantee of a tax collector's deed

### **Bill Referred to Committee on Ways and Means**

#### **S. 94**

Senate bill, entitled

An act relating to promoting remote work

Appearing on the Calendar, affecting the revenue of the state, under rule 35(a), was referred to the committee on Ways and Means.

### **Bill Referred to Committee on Appropriations**

#### **S. 262**

Senate bill, entitled

An act relating to miscellaneous changes to the Medicaid program and the Department of Vermont Health Access

Appearing on the Calendar, carrying an appropriation, under rule 35(a), was referred to the committee on Appropriations.

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**Bill Ordered to Lie****S. 267**

Senate bill, entitled

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

Was taken up and pending the question Shall the report of the committee on Judiciary be substituted by the amendment offered by Rep. LaLonde of South Burlington and others? on motion of **Rep. Lalonde of South Burlington** the bill was ordered to lie.

**Third Reading; Bill Passed in Concurrence  
With Proposal of Amendment****S. 175**

Senate bill, entitled

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

Was taken up, read the third time and passed in concurrence with proposal of amendment.

**Third Reading; Bill Passed in Concurrence  
With Proposal of Amendment****S. 206**

Senate bill, entitled

An act relating to business consumer protection for point-of-sale equipment leases

Was taken up, read the third time and passed in concurrence with proposal of amendment.

**Second Reading; Proposal of Amendment Considered;  
Consideration Interrupted****S. 197**

**Rep. Morris of Bennington**, for the committee on Judiciary, to which had been referred Senate bill, entitled

An act relating to liability for toxic substance exposures or releases

Reported in favor of its passage in concurrence with proposal of amendment by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 12 V.S.A. chapter 219 is added to read:

CHAPTER 219. MEDICAL MONITORING DAMAGES

§ 7201. DEFINITIONS

As used in this chapter:

(1) “Disease” means any disease, ailment, or adverse physiological or chemical change linked with exposure to a toxic substance.

(2) “Exposure” means ingestion, inhalation, contact with the skin or eyes, or any other physical contact.

(3) “Facility” means all contiguous land, structures, other appurtenances, and improvements on the land where toxic substances are manufactured, processed, used, or stored. A facility may consist of several treatment, storage, or disposal operational units. A facility shall not include land, structures, other appurtenances, and improvements on the land owned by a municipality.

(4) “Farming” shall have the same meaning as in 10 V.S.A. § 6001.

(5) “Large user of toxic substances” means, at the time of the release, the owner or operator of a facility that employs 10 or more employees, has a Standard Industrial Classification (SIC) Code, and manufactures, processes, or otherwise uses, exclusive of sales or distribution, more than 1,000 pounds of one or more, or a combination of, toxic substances per year.

(6) “Medical monitoring damages” means the cost of medical tests or procedures and related expenses incurred for the purpose of detecting latent disease resulting from exposure.

(7) “Pesticide” shall have the same meaning as in 6 V.S.A. § 1101.

(8) “Release” means any intentional or unintentional, permitted or unpermitted, act or omission that allows a toxic substance to enter the air, land, surface water, or groundwater.

(9) “Sport shooting range” shall have the same meaning as in section 5227 of this title.

(10)(A) “Toxic substance” means any substance, mixture, or compound that has the capacity to produce personal injury or illness to humans through ingestion, inhalation, or absorption through any body surface and that satisfies one or more of the following:

(i) the substance, mixture, or compound is listed on the U.S. Environmental Protection Agency Consolidated List of Chemicals Subject to the Emergency Planning and Community Right-To-Know Act, Comprehensive

Environmental Response, Compensation and Liability Act, and Section 112(r) of the Clean Air Act;

(ii) the substance, mixture, or compound is defined as a “hazardous material” under 10 V.S.A. § 6602 or under rules adopted under 10 V.S.A. chapter 159;

(iii) testing has produced evidence, recognized by the National Institute for Occupational Safety and Health or the U.S. Environmental Protection Agency, that the substance, mixture, or compound poses acute or chronic health hazards;

(iv) the Department of Health has issued a public health advisory for the substance, mixture, or compound; or

(v) the Secretary of Natural Resources has designated the substance, mixture, or compound as a hazardous waste under 10 V.S.A. chapter 159; or

(vi) the substance, when released, can be shown by expert testimony to pose a potential threat to human health or the environment.

(B) “Toxic substance” shall not mean:

(i) a pesticide when applied consistent with good practice conducted in conformity with federal, State, and local laws, rules, and regulations and according to manufacturer’s instructions;

(ii) manure or nutrients applied to land by a person engaged in farming according to the requirements of 6 V.S.A. chapter 215; or

(iii) lead ammunition or components thereof discharged, used, or stored at a sport shooting range implementing a lead management plan approved by the Agency of Natural Resources.

#### § 7202. MEDICAL MONITORING DAMAGES FOR EXPOSURE TO

##### TOXIC SUBSTANCES

(a) A person with or without a present injury or disease shall have a cause of action for medical monitoring damages against a large user of toxic substances who released a substance, mixture, or compound that meets the definition of toxic substance under section 7201 of this title and all of the following are demonstrated by a preponderance of the evidence:

(1) The person was exposed to the toxic substance at greater than normal background concentration levels;

(2) The exposure was the result of tortious conduct by the large user of toxic substances who released the toxic substance, including conduct that

constitutes negligence, battery, strict liability, trespass, or nuisance;

(3) As a proximate result of the exposure, the person has a greater risk than the general public of contracting a latent disease. A person does not need to prove that the latent disease is certain or likely to develop as a result of the exposure.

(4) Diagnostic testing is reasonably necessary. Testing is reasonably necessary if a physician would prescribe testing for the purpose of detecting or monitoring the latent disease.

(5) Medical tests or procedures exist to detect the latent disease.

(b) A court shall place the award of medical monitoring damages into a court-supervised program administered by a medical professional.

(c) If a court places an award of medical monitoring damages into a court-supervised program pursuant to subsection (b) of this section, the court shall also award to the plaintiff reasonable attorney's fees and other litigation costs reasonably incurred.

(d) Nothing in this chapter shall be deemed to preclude the pursuit of any other civil or injunctive remedy available under statute or common law, including the right of any person to recover for damages related to the manifestation of a latent disease. The remedies in this chapter are in addition to those provided by existing statutory or common law.

(e) This section does not preclude a court from certifying a class action for medical monitoring damages.

## Sec. 2. WEBSITE; LINKS TO LIST OF TOXIC SUBSTANCES

The Commissioner of Health shall maintain on the Department of Health website a link to each of the lists of substances, mixtures, or compounds referenced in the definition of "toxic substance" under 12 V.S.A. § 7201.

\* \* \* Effective Date \* \* \*

## Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

The bill, having appeared on the Calendar one day for notice, was taken up and read the second time.

### **Recess**

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

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

**Consideration Resumed; Proposal of Amendment Agreed to; Third  
Reading Ordered  
S. 197**

Consideration resumed on Senate bill, entitled

An act relating to liability for toxic substance exposures or releases

Thereupon, pending the question, Shall the House propose to the Senate to amend the bill as recommended by the committee on Judiciary? **Rep. Parent of St. Albans Town** moved that the bill be committed to the committee on Commerce and Economic Development, which was disagreed to on a division of Yeas, 55 and Nays 64.

Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the Committee on Judiciary? **Rep. Savage of Swanton** 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 propose to the Senate to amend the bill as recommended by the Committee on Judiciary? was decided in the affirmative. Yeas, 92. Nays, 45.

Those who voted in the affirmative are:

Ancel of Calais	Gardner of Richmond	Murphy of Fairfax
Bartholomew of Hartland	Giambatista of Essex	Norris of Shoreham
Baser of Bristol	Gonzalez of Winooski	Noyes of Wolcott
Belaski of Windsor	Grad of Moretown	Ode of Burlington
Bissonnette of Winooski	Graham of Williamstown	Pajala of Londonderry
Bock of Chester	Haas of Rochester	Poirier of Barre City
Botzow of Pownal	Head of South Burlington	Potter of Clarendon
Briglin of Thetford	Hill of Wolcott	Pugh of South Burlington
Browning of Arlington	Hooper of Montpelier	Rachelson of Burlington
Brumsted of Shelburne	Hooper of Randolph	Scheu of Middlebury
Burke of Brattleboro	Houghton of Essex	Sharpe of Bristol
Carr of Brandon	Howard of Rutland City	Sheldon of Middlebury
Chesnut-Tangerman of Middletown Springs	Jessup of Middlesex	Squirrell of Underhill
Christensen of Weathersfield	Jickling of Randolph	Stevens of Waterbury
Christie of Hartford	Joseph of North Hero	Stuart of Brattleboro *
Cina of Burlington	Keenan of St. Albans City	Sullivan of Burlington
Colburn of Burlington	Kitzmiller of Montpelier	Taylor of Colchester
Conlon of Cornwall	Krowinski of Burlington	Till of Jericho
Connor of Fairfield	Lalonde of South Burlington	Toleno of Brattleboro
Conquest of Newbury	Lanpher of Vergennes	Toll of Danville
Copeland-Hanzas of Bradford *	Lefebvre of Newark	Townsend of South Burlington
Corcoran of Bennington	Lippert of Hinesburg	Trieber of Rockingham
Dakin of Colchester	Long of Newfane	Troiano of Stannard *
Deen of Westminster	Lucke of Hartford	Walz of Barre City
	Macaig of Williston	Webb of Shelburne
	Masland of Thetford	

Donovan of Burlington	McCormack of Burlington	Weed of Enosburgh
Dunn of Essex *	McCullough of Williston	Wood of Waterbury
Emmons of Springfield	Miller of Shaftsbury	Yacovone of Morristown
Fields of Bennington	Morris of Bennington	Yantachka of Charlotte
Forguites of Springfield	Morrissey of Bennington	Young of Glover
Gannon of Wilmington	Mrowicki of Putney	

Those who voted in the negative are:

Bancroft of Westford	Harrison of Chittenden	Quimby of Concord
Batchelor of Derby	Hebert of Vernon	Read of Fayston
Beyor of Highgate	Helm of Fair Haven	Rosenquist of Georgia
Brennan of Colchester	Higley of Lowell	Savage of Swanton
Burditt of West Rutland	Juskiewicz of Cambridge	Scheuermann of Stowe
Canfield of Fair Haven	Keefe of Manchester	Shaw of Pittsford
Cupoli of Rutland City	Kimbell of Woodstock	Smith of Derby
Devereux of Mount Holly	LaClair of Barre Town	Smith of New Haven
Dickinson of St. Albans Town	Lawrence of Lyndon	Strong of Albany
Donahue of Northfield	Lewis of Berlin	Sullivan of Dorset
Fagan of Rutland City	Marcotte of Coventry	Terenzini of Rutland Town
Feltus of Lyndon	Martel of Waterford	Van Wyck of Ferrisburgh
Frenier of Chelsea	Mattos of Milton	Viens of Newport City
Gage of Rutland City	McFaun of Barre Town	Willhoit of St. Johnsbury
Gamache of Swanton	Myers of Essex	
	Nolan of Morristown	

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

Ainsworth of Royalton	McCoy of Poultney	Sibilia of Dover
Beck of St. Johnsbury	O'Sullivan of Burlington	Turner of Milton
Buckholz of Hartford	Partridge of Windham	Wright of Burlington
Condon of Colchester	Pearce of Richford	

Those members abstaining:

Parent of St. Albans Town

**Rep. Copeland-Hanzas of Bradford** explained her vote as follows:

“Madam Speaker:

If my neighbor has been exposed to a dangerous toxin someone will need to pay for medical monitoring to detect the possible illness early.

Will that be paid for by the taxpayers of Vermont? Will it be paid for by the person who’s been poisoned? Or will it be paid for by the polluter? There are protections in this bill so frivolous cases won’t harm businesses that are doing the right thing. Madam Speaker, the polluter should pay.”

**Rep. Dunn of Essex** explained her vote as follows:

“Madam Speaker:



I support this bill. If an employer provides the correct personnel protective equipment to their employee; if the employer stores their chemicals in the proper way; if the employer uses it in a responsible manner; and finally when the employer is alerted to its change in status to a hazardous material they stop using it and dispose of it properly, they have nothing to fear and neither do the people of Vermont.”

**Rep. Troiano of Stannard** explained his vote as follows:

“Madam Speaker:

I voted yes to honor my friend Steve Johnes who served in my unit, who died of pulmonary disease as a result of Agent Orange, and all the others who have passed as a result of chemical poisoning at the hands of Dow Chemical.”

Thereupon, third reading was ordered.

**Second Reading; Proposal of Amendment Agreed to;  
Third Reading Ordered**

**S. 222**

**Rep. Jessup of Middlesex**, for the committee on Judiciary, to which had been referred Senate bill, entitled

An act relating to miscellaneous judiciary procedures

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 8007(c) is amended to read:

(c) An assurance of discontinuance shall be in writing and signed by the respondent and shall specify the statute or regulation alleged to have been violated. The assurance of discontinuance shall be simultaneously filed with the Attorney General and the Environmental Division. The Secretary or the Natural Resources Board shall post a final draft assurance of discontinuance to its website and shall provide a final draft assurance of discontinuance to a person upon request. When signed by the Environmental Division, the assurance shall become a judicial order. Upon motion by the Attorney General made within ~~40~~ 14 days ~~of~~ after the date the assurance is signed by the Division and upon a finding that the order is insufficient to carry out the purposes of this chapter, the Division shall vacate the order.

Sec. 2. 12 V.S.A. § 1 is amended to read:

**§ 1. RULES OF PLEADING, PRACTICE, AND PROCEDURE; FORMS**

The Supreme Court is empowered to prescribe and amend from time to time general rules with respect to pleadings, practice, evidence, procedure, and

forms for all actions and proceedings in all courts of this State. The rules thus prescribed or amended shall not abridge, enlarge, or modify any substantive rights of any person provided by law. The rules when initially prescribed or any amendments thereto, including any repeal, modification, or addition, shall take effect on the date provided by the Supreme Court in its order of promulgation, unless objected to by the ~~Joint~~ Legislative Committee on Judicial Rules as provided by this chapter. If objection is made by the ~~Joint~~ Legislative Committee on Judicial Rules, the initially prescribed rules in question shall not take effect until they have been reported to the General Assembly by the Chief Justice of the Supreme Court at any regular, adjourned, or special session thereof, and until after the expiration of 45 legislative days of that session, including the date of the filing of the report. The General Assembly may repeal, revise, or modify any rule or amendment thereto, and its action shall not be abridged, enlarged, or modified by subsequent rule.

Sec. 3. 12 V.S.A. § 2 is amended to read:

§ 2. DEFINITIONS

As used in sections 3 and 4 of this chapter:

(1) “Adopting authority” means the Chief Justice of the Supreme Court or the ~~administrative judge~~ Chief Superior Judge, where appropriate;.

(2) “Court” means the Supreme Court, except in those instances where the statutes permit rules to be adopted by the ~~administrative judge~~ Chief Superior Judge, in which case, the word “court” means the ~~administrative judge;~~ Chief Superior Judge.

\* \* \*

Sec. 4. 12 V.S.A. § 701 is amended to read:

§ 701. SUMMONS

(a) Any law enforcement officer authorized to serve criminal process or a State’s Attorney may summon a person who commits an offense to appear before Superior Court by a summons in such form as prescribed by the Court Administrator, stating the time when, and the place where, the person shall appear, signed by the enforcement officer or State’s Attorney and delivered to the person.

\* \* \*

~~(d) A person who does not so appear in response to a summons for a traffic offense as defined in 23 V.S.A. § 2201 shall be fined not more than \$100.00. [Repealed.]~~

Sec. 5. 12 V.S.A. § 3125 is amended to read:

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§ 3125. PAYMENT OF TRUSTEE'S CLAIM BY CREDITOR

When it appears that personal property in the hands of a person summoned as a trustee is mortgaged, pledged, or liable for the payment of a debt due to him or her, the court may allow the attaching creditor to pay or tender the amount due to the trustee, and he or she shall thereupon deliver such property, as ~~hereinbefore~~ provided in this subchapter, to the officer holding the execution.

Sec. 6. 12 V.S.A. § 3351 is amended to read:

§ 3351. ATTACHMENT, TAKING IN EXECUTION, AND SALE

Personal property not exempt from attachment, subject to a mortgage, pledge, or lien, may be attached, taken in execution, and sold as the property of the mortgagor, pledgor, or general owner, in the same manner as other personal property, except as ~~hereinafter~~ otherwise provided in this subchapter.

Sec. 7. 18 V.S.A. § 4245 is amended to read:

§ 4245. REMISSION OR MITIGATION OF FORFEITURE

(a) On petition filed within 90 days of after completion of a forfeiture proceeding, ~~the claims commission established in 32 V.S.A. § 931~~ a court that issued a forfeiture order pursuant to section 4244 of this title may order that the forfeiture be remitted or mitigated. The petition shall be sworn, and shall include all information necessary for its resolution or shall describe where such information can be obtained. Upon receiving a petition, the ~~claims commission~~ court shall investigate and may conduct a hearing if in its judgment it would be helpful to resolution of the petition. The ~~claims commission~~ court shall either grant or deny the petition within 90 days.

(b) The ~~claims commission~~ court may remit or mitigate a forfeiture upon finding that relief should be granted to avoid extreme hardship or upon finding that the petitioner has a valid, good faith interest in the property which is not held through a straw purchase, trust, or otherwise for the benefit of another and that the petitioner did not at any time have knowledge or reason to believe that the property was being or would be used in violation of the law.

Sec. 8. 18 V.S.A. § 4474g(b) is amended to read:

(b) Prior to acting on an application for a Registry identification card, the Department shall obtain with respect to the applicant a Vermont criminal history record, an out-of-state criminal history record, and a criminal history record from the Federal Bureau of Investigation. Each applicant shall consent to the release of criminal history records to the Department on forms developed by the Vermont Crime Information Center. A fingerprint-supported, out-of-state criminal history record and a criminal history record from the

Federal Bureau of Investigation shall be required only every three years for renewal of a card for a dispensary owner, principal, and financier.

Sec. 9. REPEAL

2017 Acts and Resolves No. 11, Sec. 60 (amending 32 V.S.A. § 5412) is repealed.

Sec. 10. 3 V.S.A. § 163 is amended to read:

§ 163. JUVENILE COURT DIVERSION PROJECT

(a) ~~The Attorney General shall develop and administer a juvenile court diversion project for the purpose of assisting juveniles charged with delinquent acts. Rules which were adopted by the Vermont Commission on the Administration of Justice to implement the juvenile court diversion project shall be adapted by the Attorney General to the programs and projects established under this section.~~ In consultation with the diversion programs, the Attorney General shall adopt a policies and procedures manual in compliance with this section.

(b) ~~The diversion project program administered by the Attorney General shall encourage the development support the operation of diversion projects programs in local communities through grants of financial assistance to, or by contracting for services with, municipalities, private groups, or other local organizations. The Attorney General may require local financial contributions as a condition of receipt of project grants funding.~~

\* \* \*

(i) Notwithstanding subdivision (c)(1) of this section, the diversion program may accept cases from the Youth Substance Abuse Safety Program pursuant to 7 V.S.A. § 656 or 18 V.S.A. § 4230b. The confidentiality provisions of this section shall become effective when a notice of violation is issued under 7 V.S.A. § 656(b) or 18 V.S.A. § 4230b(b), and shall remain in effect unless the person fails to register with or complete the Youth Substance Abuse Safety Program.

Sec. 11. 3 V.S.A. § 164 is amended to read:

§ 164. ADULT COURT DIVERSION PROGRAM

(a) ~~The Attorney General shall develop and administer an adult court diversion program in all counties. The program shall be operated through the juvenile diversion project. The~~ In consultation with diversion programs, the Attorney General shall adopt only such rules as are necessary to establish an adult court diversion program for adults a policies and procedures manual, in compliance with this section.

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\* \* \*

(c) The program shall ~~encourage the development~~ support the operation of diversion programs in local communities through grants of financial assistance to, or contracts for services with, municipalities, private groups, or other local organizations. The Attorney General may require local financial contributions as a condition of receipt of program ~~grants~~ funding.

\* \* \*

(e) All adult court diversion programs receiving financial assistance from the Attorney General shall adhere to the following provisions:

(1) The diversion program shall accept only persons against whom charges have been filed and the court has found probable cause, but are not yet adjudicated. The prosecuting attorney may refer a person to diversion either before or after arraignment and shall notify in writing the diversion program and the court of his or her intention to refer the person to diversion. The matter shall become confidential when notice is provided to the court. If a person is charged with a qualifying crime as defined in 13 V.S.A. § 7601(4)(A) and the crime is a misdemeanor, the prosecutor shall provide the person with the opportunity to participate in the court diversion program unless the prosecutor states on the record at arraignment or a subsequent hearing why a referral to the program would not serve the ends of justice. If the prosecuting attorney refers a case to diversion, the prosecuting attorney may release information to the victim upon a showing of legitimate need and subject to an appropriate protective agreement defining the purpose for which the information is being released and in all other respects maintaining the confidentiality of the information; otherwise files held by the court, the prosecuting attorney, and the law enforcement agency related to the charges shall be confidential and shall remain confidential unless:

- (A) the ~~Board~~ diversion program declines to accept the case;
- (B) the person declines to participate in diversion;
- (C) the ~~Board~~ diversion program accepts the case, but the person does not successfully complete diversion; or
- (D) the prosecuting attorney recalls the referral to diversion.

\* \* \*

(5) All information gathered in the course of the adult diversion process shall be held strictly confidential and shall not be released without the participant's prior consent (except that research and reports that do not ~~require~~ or establish the identity of individual participants are allowed).

\* \* \*

(7)(A) The Irrespective of whether a record was expunged, the adult court diversion program shall maintain sufficient records so that the reasons for success or failure of the program in particular cases and overall can be investigated by program staff. These records shall include a centralized statewide filing system that will include the following information about individuals who have successfully completed an adult court diversion program:

- (i) name and date of birth;
- (ii) offense charged and date of offense;
- (iii) place of residence;
- (iv) county where diversion process took place; and
- (v) date of completion of diversion process.

(B) These records shall not be available to anyone other than the participant and his or her attorney, State's Attorneys, the Attorney General, and directors of adult court diversion programs.

(C) Notwithstanding subdivision (B) of this subdivision (e)(7), the Attorney General shall, upon request, provide to a participant or his or her attorney sufficient documentation to show that the participant successfully completed diversion.

\* \* \*

(g)(1) Within 30 days of after the two-year anniversary of a successful completion of adult diversion, the court shall provide notice to all parties of record of the court's intention to order the ~~sealing~~ expungement of all court files and records, law enforcement records other than entries in the adult court diversion program's centralized filing system, fingerprints, and photographs applicable to the proceeding. The court shall give the State's Attorney an opportunity for a hearing to contest the ~~sealing~~ expungement of the records. The court shall ~~seal~~ expunge the records if it finds:

~~(1)~~(A) two years have elapsed since the successful completion of the adult diversion program by the participant and the dismissal of the case by the State's Attorney;

~~(2)~~(B) the participant has not been convicted of a subsequent felony or misdemeanor during the two-year period, and no proceedings are pending seeking such conviction; ~~and~~

~~(3)~~(C) rehabilitation of the participant has been attained to the satisfaction of the court; and

(D) the participant does not owe restitution related to the case under a contract executed with the Restitution Unit.

(2) The court may expunge any records that were sealed pursuant to this subsection prior to July 1, 2018 unless the State's Attorney's office that prosecuted the case objects. Thirty days prior to expunging a record pursuant to this subdivision, the court shall provide written notice of its intent to expunge the record to the State's Attorney's office that prosecuted the case.

(3)(A) The court shall keep a special index of cases that have been expunged pursuant to this section together with the expungement order. The index shall list only the name of the person convicted of the offense, his or her date of birth, the docket number, and the criminal offense that was the subject of the expungement.

(B) The special index and related documents specified in subdivision (A) of this subdivision (3) shall be confidential and shall be physically and electronically segregated in a manner that ensures confidentiality and that limits access to authorized persons.

(C) Inspection of the expungement order and the certificate may be permitted only upon petition by the person who is the subject of the case. The Chief Superior Judge may permit special access to the index and the documents for research purposes pursuant to the rules for public access to court records.

(D) The Court Administrator shall establish policies for implementing this subsection (g).

~~(h) Upon~~ Except as otherwise provided in this section, upon the entry of an order ~~sealing such expunging~~ expunging files and records under this section, the proceedings in the matter ~~under this section~~ shall be considered never to have occurred, all index references thereto shall be deleted, and the participant, the court, and law enforcement officers and departments shall reply to any request for information that no record exists with respect to such participant inquiry in any matter. Copies of the order shall be sent to each agency or official named therein.

~~(i) Inspection of the files and records included in the order may thereafter be permitted by the court only upon petition by the participant who is the subject of such records, and only to those persons named therein. [Repealed.]~~

~~(j) The process of automatically sealing~~ expunging records as provided in this section shall only apply to those persons who completed diversion on or after July 1, 2002. Any person who completed diversion prior to July 1, 2002 must apply to the court to have his or her records ~~sealed~~ expunged. ~~Sealing Expungement~~ shall occur if the requirements of subsection (g) of this section

are met.

\* \* \*

(k) ~~Subject to the approval of the~~ The Attorney General, in consultation with the Vermont Association of Court Diversion Programs, may develop and administer programs to assist persons under this section charged with delinquent, criminal, and civil offenses.

(l) Notwithstanding subdivision (e)(1) of this section, the diversion program may accept cases from the Youth Substance Abuse Safety Program pursuant to 7 V.S.A. § 656 or 18 V.S.A. § 4230b. The confidentiality provisions of this section shall become effective when a notice of violation is issued under 7 V.S.A. § 656(b) or 18 V.S.A. § 4230b(b), and shall remain in effect unless the person fails to register with or complete the Youth Substance Abuse Safety Program.

Sec. 12. 13 V.S.A. § 15 is added to read:

§ 15. USE OF VIDEO

(a) Except as provided by subsection (b) of this section, proceedings governed by Rules 5 and 10 of the Vermont Rules of Criminal Procedure and chapter 229 of this title shall be in person and on the record, and shall not be performed by video conferencing or other electronic means until the Defender General and the Executive Director of the Department of Sheriffs and State's Attorneys execute a joint certification that the video conferencing program in use by the court at the site where the proceeding occurs adequately ensures attorney-client confidentiality and the client's meaningful participation in the proceeding.

(b) A proceeding at which subsection (a) of this section applies may be performed by video conferencing if counsel for the defendant or a defendant not represented by counsel consents.

Sec. 13. 13 V.S.A. § 2301 is amended to read:

§ 2301. MURDER-DEGREES DEFINED

Murder committed by means of poison, or by lying in wait, or by wilful willful, deliberate, and premeditated killing, or committed in perpetrating or attempting to perpetrate arson, sexual assault, aggravated sexual assault, kidnapping, robbery, or burglary, shall be murder in the first degree. All other kinds of murder shall be murder in the second degree.

Sec. 14. 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. 15. 18 V.S.A. § 4230f(f) is amended to read:

(f) This section shall not apply to a dispensary that lawfully provides marijuana to a registered patient or caregiver or to a registered caregiver who provides marijuana to a registered patient pursuant to chapter 86 of this title.

Sec. 16. 20 V.S.A. § 3903 is amended to read:

#### § 3903. ANIMAL SHELTERS AND RESCUE ORGANIZATIONS

(a) [Repealed.]

(b) Animal intake. An animal shelter or rescue organization ~~under this chapter shall not accept an animal unless the person transferring the animal to the shelter provides~~ as defined by section 3901 of this title shall make every effort to collect the following information about an animal it accepts: the name and address of the person transferring the animal and, if known, the name of the animal, its vaccination history, and other information concerning the background, temperament, and health of the animal.

(c) Nonprofit status. A rescue organization under this chapter shall be recognized and approved as a nonprofit organization under 26 U.S.C. § 501(c)(3).

(d) Immunity from liability. Notwithstanding section 3901a of this title, any animal shelter or rescue organization assisting law enforcement in an animal cruelty investigation or seizure that, in good faith, provides care and treatment to an animal involved in the investigation or seizure shall not be held

liable for civil damages by the owner of the animal unless the actions of the shelter or organization constitute gross negligence.

Sec. 17. EARNED GOOD TIME; REPORT

On or before November 15, 2018, the Commissioner of Corrections, in consultation with the Chief Superior Judge, the Attorney General, the Executive Director of the Department of Sheriffs and State's Attorneys, and the Defender General, shall report to the Senate and House Committees on Judiciary, the Senate Committee on Institutions, and the House Committee on Corrections and Institutions on the advisability and feasibility of reinstating a system of earned good time for persons under the supervision of the Department of Corrections.

Sec. 18. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 15 shall take effect on July 2, 2018.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Judiciary agreed to and third reading ordered.

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

**S. 92**

The Senate proposed to the House to amend House the House proposal of amendment to Senate bill, entitled

An act relating to interchangeable biological products

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

First: In Sec. 1, 18 V.S.A. § 4601, in subdivision (5)(A), before the semicolon, by inserting as may be reflected in the U.S. Food and Drug Administration's Lists of Licensed Biological Products with Reference Product Exclusivity and Biosimilarity or Interchangeability Evaluations (the Purple Book)

Second: In Sec. 8, 18 V.S.A. § 4636, in subdivision (a)(1), following "in this State", by inserting for major medical health insurance

Third: In Sec. 9, 18 V.S.A. § 4635, in subdivision (b)(1), by striking out subdivision (C) in its entirety and inserting in lieu thereof a new subdivision (C) to read as follows:

(C)(i) Each health insurer with more than 5,000 covered lives in this

State for major medical health insurance shall create annually a list of 10 prescription drugs on which its health insurance plans spend significant amounts of their premium dollars and for which the cost to the plans, net of rebates and other price concessions, has increased by 50 percent or more over the past five years or by 15 percent or more during the previous calendar year, or both, creating a substantial public interest in understanding the development of the drugs' pricing. The list shall include at least one generic and one brand-name drug and shall indicate each of the drugs on the list that the health insurer considers to be specialty drugs. The health insurer shall rank the drugs on the list from those with the greatest increase in net cost to those with the smallest increase and indicate whether each drug was included on the list based on its cost increase over the past five years or during the previous calendar year, or both.

(ii) Each health insurer creating a list pursuant to subdivision (i) of this subdivision (b)(1)(C) shall provide to the Office of the Attorney General the percentage by which the net cost to its plans increased over the applicable period or periods for each drug on the list, as well as the insurer's total expenditure, net of rebates and other price concessions, for each drug on the list during the most recent calendar year. Information provided to the Office of the Attorney General pursuant to this subdivision (b)(1)(C)(ii) is exempt from public inspection and copying under the Public Records Act and shall not be released.

Fourth: In Sec. 9, 18 V.S.A. § 4635, in subdivision (b)(2), in the first sentence, prior to "this subsection", by inserting subdivisions (1)(A), (B), and (C)(i) of

Fifth: In Sec. 9, 18 V.S.A. § 4635, in subsection (e), prior to "this section", by inserting subdivision (c)(1)(B) of

Sixth: By adding a reader assistance heading and a new section to be Sec. 11a to read as follows:

\* \* \* Working Group on Prescription Drug Cost Savings  
and Price Transparency \* \* \*

Sec. 11a. WORKING GROUP ON PRESCRIPTION DRUG COST  
SAVINGS AND PRICE TRANSPARENCY; REPORT

(a) The Secretary of Human Services or designee shall convene a working group comprising one representative each from the Department of Vermont Health Access, the Green Mountain Care Board, the Vermont Board of Pharmacy, the Vermont Association of Chain Drug Stores, the Vermont Pharmacists Association, the Vermont Retail Druggists, Bi-State Primary Care Association, and the Vermont Association of Hospitals and Health Systems to

investigate and analyze prescription drug pricing throughout the prescription drug supply chain in order to identify opportunities for savings for Vermont consumers and other payers and for increasing prescription drug price transparency at all levels of the supply chain, including manufacturers, wholesalers, pharmacy benefit managers, health insurers, pharmacies, and consumers.

(b) On or before November 15, 2018, the working group shall provide its findings and recommendations to the House Committee on Health Care and the Senate Committee on Health and Welfare.

Which proposal of amendment was considered and concurred in.

### **Action on Bill Postponed**

#### **S. 203**

Senate bill, entitled

An act relating to systemic improvements of the mental health system

Was taken up and pending the consideration of the Senate proposal of amendment to the House proposal of amendment, on motion of **Rep. Lippert of Hinesburg**, action on the bill was postponed until May 4, 2018.

### **Rules Suspended; Second Reading; Proposal of Amendment Agreed to; Third Reading Ordered**

#### **S. 150**

On motion of **Rep. Savage of Swanton**, the rules were suspended and Senate bill, entitled

An act relating to automated license plate recognition systems

Appearing on the Calendar for notice, was taken up for immediate consideration.

**Rep. Burditt of West Rutland**, for the committee on Judiciary, to which had been referred the Senate bill reported in favor of its passage in concurrence with proposal of amendment by striking all after the enacting clause and inserting in lieu thereof the following:

#### Sec. 1. EXTENSION OF SUNSET

Subsection (b) of 2013 Acts and Resolves No. 69, Sec. 3, as amended by 2015 Acts and Resolves No. 32, Sec. 1, as further amended by 2016 Acts and Resolves No. 169, Sec. 6, is further amended to read:

(b) Secs. 1–2 of this act, 23 V.S.A. §§ 1607 and 1608, shall be repealed on July 1, ~~2018~~ 2019.

Sec. 2. AUTOMATED LICENSE PLATE RECOGNITION SYSTEMS;  
AUDITOR EXAMINATION OF COMPLIANCE

(a) On or before January 15, 2019, with respect to data collected by Automated License Plate Recognition (ALPR) systems, the Auditor of Accounts (Auditor) shall:

(1) examine requests for "historical data" as defined in 23 V.S.A. § 1607 that resulted in a release of historical data to the requester from July 1, 2016 through June 30, 2018 by the Vermont Intelligence Center (VIC), and shall examine such additional records as may be required, to enable the Auditor to determine whether the request and the release complied with requirements of 23 V.S.A. § 1607(c)(2); and

(2) submit a written report to the House and Senate Committees on Judiciary and on Transportation summarizing the findings of the examination required under this subsection.

(b) Notwithstanding any exemption under the Public Records Act (PRA) or other provision of State law to the contrary, a public agency shall release to the Auditor records that the Auditor may need in order to conduct the examination required under subsection (a) of this section. After receiving any record that is exempt from public inspection and copying under the PRA, the Auditor shall have the authority and the obligation to assert the PRA exemption if the Auditor receives a request to inspect or copy the record.

Sec. 3. 23 V.S.A. § 1607(e) is amended to read:

(e) Oversight; rulemaking.

(1) The Department of Public Safety, in consultation with the Department of Motor Vehicles, shall establish a review process to ensure that information obtained through use of ALPR systems is used only for the purposes permitted by this section. The Department of Public Safety shall report the results of this review annually on or before January 15 to the Senate and House Committees on Judiciary and on Transportation. The report shall contain the following information based on prior calendar year data:

(A) the total number of ALPR units being operated by government agencies in the State, the number of such units that are stationary, and the number of units submitting data to the statewide ALPR database;

\* \* \*

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

Thereupon, the bill was read the second time, the report of the committee on Judiciary was agreed to and third reading was ordered.

**Rules Suspended; Second Reading; Proposal of Amendment Agreed to;  
Third Reading Ordered**

**S. 179**

On motion of **Rep. Savage of Swanton**, the rules were suspended and Senate bill, entitled

An act relating to community justice centers

Appearing on the Calendar for notice, was taken up for immediate consideration.

**Rep. Shaw of Pittsford**, for the committee on Corrections and Institutions, to which had been referred the Senate bill reported in favor of its passage in concurrence with proposal of amendment by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 28 V.S.A. § 107 is amended to read:

§ 107. OFFENDER AND INMATE RECORDS; CONFIDENTIALITY;

EXCEPTIONS; CORRECTIONS

(a)(1) The Commissioner shall adopt a rule pursuant to 3 V.S.A. chapter 25 defining what are “offender and inmate records;” as that phrase is produced or acquired by the Department.

(2) As used in this section, the phrase “offender and inmate records” means the records defined under the rule required under subdivision (1) of this subsection.

(b) Offender and inmate records ~~maintained by the Department~~ are exempt from public inspection and copying under the Public Records Act and shall be kept confidential, except that the Department:

(1) Shall release or permit inspection of such records if required under federal or State law, including 42 U.S.C. §§ 10805 and 10806 (Protection and Advocacy Systems).

(2) Shall release or permit inspection of such records pursuant to a court order for good cause shown or, in the case of an offender or inmate seeking records relating to him or her in litigation, in accordance with discovery rules.

(3) Shall release or permit inspection of such records to a State or federal prosecutor as part of a criminal investigation pursuant to a court order issued ex parte if the court finds that the records may be relevant to the investigation. The information in the records may be used for any lawful

purpose but shall not otherwise be made public.

(4) Shall release or permit inspection of such records to the Department for Children and Families for the purpose of child protection, unless otherwise prohibited by law.

(5) Shall release or permit inspection of ~~designated~~ specific categories or types of offender and inmate records to specific persons, or to any person, in accordance with ~~rules~~ a rule that the Commissioner shall adopt pursuant to 3 V.S.A. chapter 25, provided that the Commissioner shall redact any information that may compromise the safety of any person, or that is required by law to be redacted, prior to releasing or permitting inspection of such records under the ~~rules~~ rule. ~~The Commissioner shall authorize release or inspection of offender and inmate records under these rules~~ rule shall provide for disclosure of a category or type of record in either of the following circumstances:

(A) ~~When~~ when the public interest served by disclosure of a record outweighs the privacy, security, or other interest in keeping the record confidential; or

(B) ~~To~~ in order to provide an offender or inmate access to offender and inmate records relating to him or her ~~if access is not otherwise guaranteed under this subsection, unless providing such access would reveal information that, unless:~~

(i) the category or type of record is confidential or exempt from disclosure under a law other than this section; or

(ii) providing access would unreasonably interfere with the Department's ability to perform its functions, including unreasonable interference due to the staff time or other cost associated with providing a category or type of record; or

(iii) providing access may compromise the health, safety, security, or rehabilitation of the offender or inmate or of another person.

(c)(1) ~~The rules may specify circumstances under which the Department~~ Unless otherwise provided in this section or required by law, the rule required under subdivision (b)(5) of this section:

(A) shall specify the categories or types of records to be disclosed and to whom they are to be disclosed, and shall not provide for any exceptions to disclosure of records that fall within these categories or types except for redactions required by law;

(B) shall specify which categories or types of records relating to an offender or inmate shall be provided to the offender or inmate as a matter of

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course and which shall be provided only upon request;

(C) may limit the offender's or inmate's access to include only records produced or acquired in the year preceding the date of the request;

(D) may limit the number of requests by an offender or inmate that will be fulfilled per calendar year, as long as provided that the Department fulfills at least one request two requests by the offender or inmate per calendar year excluding any release of records ordered by a court, and at least one additional request in the same calendar year limited to records not in existence at the time of the original request or not within the scope of the original request. The rules also;

(E) may specify circumstances when the an offender's or inmate's right of access will be limited to an inspection overseen by an agent or employee of the Department;

(F) may provide that the Department has no obligation to provide an offender or inmate a record previously provided if he or she still has access to the record. The rules; and

(G) shall reflect the Department's obligation not to withhold a record in its entirety on the basis that it contains some confidential or exempt content, to redact such content, and to make the redacted record available.

(2) The Department shall provide records available to an offender or inmate under the rule free of charge, except that if the offender or inmate is responsible for the loss or destruction of a record previously provided, the Department may charge him or her for a replacement copy at \$0.01 per page.

(e)(d) Notwithstanding the provisions of 1 V.S.A. chapter 5, subchapter 3 (Public Records Act) that govern the time periods for a public agency to respond to a request for a public record and rights of appeal, the Commissioner shall adopt a rule pursuant to 3 V.S.A. chapter 25 governing response and appeal periods and appeal rights in connection with a request by an offender or inmate to access records relating to him or her maintained by the Department. The rule shall provide for a final exhaustion of administrative appeals no later than 45 days from the Department's receipt of the initial request.

(d)(e) An offender or inmate may request that the Department correct a fact in a record maintained by the Department that is material to his or her rights or status, except for a determination of fact that resulted from a hearing or other proceeding that afforded the offender or inmate notice and opportunity to be heard on the determination. The rule required under subsection (e)(d) of this section shall reference that requests for such corrections are handled in accordance with the Department's grievance process. If the Department issues a final decision denying a request under this subsection, the offender or inmate



may appeal the decision to the Civil Division of the Superior Court pursuant to Rule 74 of the Vermont Rules of Civil Procedure. The Court shall not set aside the Department's decision unless it is clearly erroneous.

## Sec. 2. REPEAL

In 2016 Acts and Resolves No. 137, Sec. 7, as amended by 2017 Acts and Resolves No. 78, Sec. 10, subsections (b)–(e) and (g) hereby are repealed.

## Sec. 3. EFFECTIVE DATE; TRANSITION PROVISION

(a) This act shall take effect on passage.

(b) Prior to the Commissioner of Corrections' (Commissioner) adopting a rule pursuant to the rulemaking mandates of 28 V.S.A. § 107(a) and (b)(5) as amended in Sec. 1 of this act, the Department of Corrections (Department) shall keep confidential "offender and inmate records" as defined in Department policies or directives in effect prior to the effective date of the rule, except that the Department:

(1) shall apply the exceptions to the confidentiality of offender and inmate records that exist under 28 V.S.A. § 107(b)(1)–(4);

(2) shall apply the exceptions to the confidentiality of offender and inmate records that exist under directives, policies, and practices adopted by the Department prior to the effective date of the rule, and in so doing shall apply the redaction requirements of 28 V.S.A. § 107(b)(5) as amended in Sec. 1 of this act; and

(3) may rely upon the limitations on offender and inmate access to records, and the provisions related to charging for copies of such records, in 28 V.S.A. § 107(c)(1)(C)–(F) and (c)(2) as amended in Sec. 1 of this act.

(c) On or before September 15, 2018, the Commissioner shall prefile rules with the Interagency Committee on Administrative Rules in accordance with the rulemaking requirements of 28 V.S.A. § 107, as amended in Sec. 1 of this act. The Commissioner shall update the Joint Legislative Justice Oversight Committee on the status of its efforts to adopt the rules at the Oversight Committee's first meeting on or after September 15, 2018.

And that after passage the title of the bill be amended to read: "An act relating to offender and inmate records"

Thereupon, the bill was read the second time, the report of the committee on Corrections and Institutions was agreed to and third reading was ordered.

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**Rules Suspended; Second Reading; Proposal of Amendment Agreed to;  
Third Reading Ordered**

**S. 262**

On motion of **Rep. Savage of Swanton**, the rules were suspended and Senate bill, entitled

An act relating to miscellaneous changes to the Medicaid program and the Department of Vermont Health Access

Appearing on the Calendar for notice, was taken up for immediate consideration.

**Rep. Donahue of Northfield**, for the committee on Health Care, to which had been referred the Senate bill reported in favor of its passage in concurrence with proposal of amendment by striking all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Medicaid for Working Persons with Disabilities \* \* \*

Sec. 1. 33 V.S.A. § 1902 is amended to read:

§ 1902. QUALIFICATION FOR MEDICAL ASSISTANCE

(a) In determining whether a person is medically indigent, the Secretary of Human Services shall prescribe and use an income standard and requirements for eligibility ~~which~~ that will permit the receipt of federal matching funds under Title XIX of the Social Security Act.

(b) Workers with disabilities whose income is less than 250 percent of the federal poverty level shall be eligible for Medicaid. The income also must not exceed the Medicaid protected income level for one or the Supplemental Security Income (SSI) payment level for two, whichever is higher, after disregarding ~~all~~ the earnings of the working individual with disabilities, ~~any~~ Social Security disability insurance benefits, ~~and~~ including Social Security retirement benefits converted automatically from Social Security Disability Insurance (SSDI), if applicable; any veteran's disability benefits; and, if the working individual with disabilities is married, all income of the spouse. Earnings of the working individual with disabilities shall be documented by evidence of Federal Insurance Contributions Act tax payments, Self-Employment Contributions Act tax payments, or a written business plan approved and supported by a third-party investor or funding source. The resource limit for this program shall be \$10,000.00 for an individual and \$15,000.00 for a couple at the time of enrollment in the program. Assets attributable to earnings made after enrollment in the program shall be disregarded.

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\* \* \* Eligibility for Health Vermonters and VPharm \* \* \*

Sec. 2. 2013 Acts and Resolves No. 79, Sec. 53(d), as amended by 2014 Acts and Resolves No. 179, Sec. E.307, 2015 Acts and Resolves No. 58, Sec. E.307, 2016 Acts and Resolves No. 172, Sec. E.307.3, and 2017 Acts and Resolves No. 85, Sec. E.307, is further amended to read:

(d) Secs. 31 (Healthy Vermonters) and 32 (VPharm) shall take effect on January 1, 2014, except that the Agency of Human Services may continue to calculate household income under the rules of the Vermont Health Access Plan after that date if the system for calculating modified adjusted gross income for the Healthy Vermonters and VPharm programs is not operational by that date, but not later than ~~December 31, 2018~~ the implementation of Vermont's Integrated Eligibility system.

\* \* \* Increasing Income Threshold for Dr. Dynasaur Premiums \* \* \*

Sec. 3. 33 V.S.A. § 1901(c) is amended to read:

(c) The Secretary may charge a monthly premium, in amounts set by the General Assembly, per family for pregnant women and children eligible for medical assistance under Sections 1902(a)(10)(A)(i)(III), (IV), (VI), and (VII) of Title XIX of the Social Security Act, whose family income exceeds ~~185~~ 195 percent of the federal poverty level, as permitted under section 1902(r)(2) of that act. Fees collected under this subsection shall be credited to the State Health Care Resources Fund established in section 1901d of this title and shall be available to the Agency to offset the costs of providing Medicaid services. Any co-payments, coinsurance, or other cost sharing to be charged shall also be authorized and set by the General Assembly.

\* \* \* Provider Taxes \* \* \*

Sec. 4. 33 V.S.A. § 1958 is amended to read:

§ 1958. APPEALS

(a) Any health care provider may submit a written request to the Department for reconsideration of the determination of the assessment within 20 days of notice of the determination. The request shall be accompanied by written materials setting forth the basis for reconsideration. If requested, the Department shall hold a hearing within ~~20~~ 90 days from the date on which the reconsideration request was received. The Department shall mail written notice of the date, time, and place of the hearing to the health care provider at least ~~10~~ 30 days before the date of the hearing. On the basis of the evidence submitted to the Department or presented at the hearing, the Department shall reconsider and may adjust the assessment. Within 20 days ~~of~~ following the hearing, the Department shall provide notice in writing to the health care

provider of the final determination of the amount it is required to pay based on any adjustments made by it. Proceedings under this section are not subject to the requirements of 3 V.S.A. chapter 25.

\* \* \*

Sec. 5. 33 V.S.A. § 1959(a)(3) is amended to read:

(3) Ambulance agencies shall remit the assessment amount to the Department annually on or before ~~March 31, beginning with March 31, 2017~~ June 1.

\* \* \* Medicaid; Asset Verification \* \* \*

Sec. 6. 33 V.S.A. § 403 is added to read:

§ 403. FINANCIAL INSTITUTIONS TO FURNISH INFORMATION

(a) As used in this section:

(1) “Bank” shall have the same meaning as in 8 V.S.A. § 11101.

(2) “Broker-dealer” shall have the same meaning as in 9 V.S.A. § 5102.

(3) “Credit union” shall have the same meaning as in 8 V.S.A. § 30101.

(4) “Financial institution” means any financial services provider, including a bank, credit union, broker-dealer, investment advisor, mutual fund, or investment company.

(5) “Investment advisor” shall have the same meaning as in 9 V.S.A. § 5102.

(6) “Mutual fund” shall have the same meaning as in 8 V.S.A. § 3461.

(b) A financial institution, when requested by the Commissioner of Vermont Health Access, shall furnish to the Commissioner or to an agent of the Department of Vermont Health Access information in the possession of the financial institution with reference to any person or his or her spouse who is applying for or is receiving assistance or benefits from the Department of Vermont Health Access. The Department of Vermont Health Access shall issue instructions to the financial institution detailing the nature of the request and the information necessary to satisfy the request.

(c) A financial institution shall not be subject to criminal or civil liability for actions taken in accordance with subsection (b) of this section.

Sec. 7. ASSET VERIFICATION; NOTICE TO APPLICANTS AND BENEFICIARIES

(a)(1) Each application for assistance under the Medicaid Long-Term Care or Medicaid for the Aged, Blind, and Disabled program shall contain a form of

authorization, executed by the applicant or beneficiary, granting authority for the Department of Vermont Health Access and its agents to obtain financial information about the applicant's or beneficiary's assets from financial institutions in order to verify the applicant's or beneficiary's eligibility for the applicable program. The Department or its agent shall obtain the applicant's or beneficiary's authorization prior to requesting his or her financial information from any financial institution.

(2) The Department of Vermont Health Access shall collaborate with the Office of the Health Care Advocate to ensure that applicants to and beneficiaries of the Medicaid Long-Term Care and Medicaid for the Aged, Blind, and Disabled programs receive notice written in plain and accessible language explaining the Department's electronic asset verification system.

(b) In the event that the financial information of an applicant's or beneficiary's spouse is required in order to determine the applicant's or beneficiary's eligibility for the Medicaid Long-Term Care or Medicaid for the Aged, Blind, and Disabled program, the Department of Vermont Health Access shall provide written notice regarding the asset verification process to the spouse and shall obtain the spouse's written authorization for the Department and its agents to obtain his or her financial information from financial institutions prior to requesting the spouse's financial information from any financial institution. The Department may determine an applicant or beneficiary to be ineligible for Medicaid if the applicant's or beneficiary's spouse refuses to provide, or revokes, his or her consent.

Sec. 8. 33 V.S.A. § 404 is added to read:

#### § 404. STATE AGENCIES TO FURNISH INFORMATION

(a) Any governmental official or agency in the State, when requested by the Department of Vermont Health Access, shall furnish to the Department information in the official's or agency's possession with reference to aid given or money paid or to be paid to any person or person's spouse who is applying for or is receiving assistance or benefits from the Department of Vermont Health Access.

(b) The Commissioner of Taxes, when requested by the Commissioner of Vermont Health Access, and unless otherwise prohibited by federal law, shall compare the information furnished by an applicant or recipient of assistance with the State income tax returns filed by such person and shall report his or her findings to the Commissioner of Vermont Health Access. Each application for assistance shall contain a form of consent, executed by the applicant, granting permission to the Commissioner of Taxes to disclose such information to the Commissioner of Vermont Health Access.

(c) On the first day of each month, each unit of the Superior Court shall provide to the Commissioner of Vermont Health Access a list of all estates, including testate, intestate, and small estates, opened during the previous calendar month within the jurisdiction of that unit's Probate Division. The list shall contain the following information for each estate:

- (1) the decedent's full name;
- (2) the decedent's date of birth;
- (3) the decedent's date of death;
- (4) the docket number;
- (5) the date on which the estate was opened; and
- (6) the full name and contact information for the executor or administrator or his or her legal representative.

#### Sec. 9. RULEMAKING

The Vermont Supreme Court may promulgate rules under 12 V.S.A. § 1 to implement the provisions of Sec. 8, 33 V.S.A. § 404, of this act.

Sec. 10. 8 V.S.A. § 10204 is amended to read:

#### § 10204. EXCEPTIONS

This subchapter does not prohibit any of the activities listed in this section. This section shall not be construed to require any financial institution to make any disclosure not otherwise required by law. This section shall not be construed to require or encourage any financial institution to alter any procedures or practices not inconsistent with this subchapter. This section shall not be construed to expand or create any authority in any person or entity other than a financial institution.

\* \* \*

(26) Disclosure of information sought by the Department of Vermont Health Access or its agents pursuant to the Department's authority and obligations under 33 V.S.A. § 403.

\* \* \* Maximum Out-of-Pocket Prescription Drug Limit for Bronze Plans \* \* \*

Sec. 11. 2016 Acts and Resolves No. 165, Sec. 6(f), as amended by 2017 Acts and Resolves No. 25, Sec. 3, is further amended to read:

(f)(4) The Director of Health Care Reform in the Agency of Administration, in consultation with the Department of Vermont Health Access and the Office of Legislative Council, shall determine whether the Secretary of the U.S. Department of Health and Human Services has the authority under the

Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the federal Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152 (ACA), to waive annual limitations on out-of-pocket expenses or actuarial value requirements for bronze-level plans, or both. On or before October 1, 2016, the Director shall present information to the Health Reform Oversight Committee regarding the authority of the Secretary of the U.S. Department of Health and Human Services to waive out-of-pocket limits and actuarial value requirements, the estimated costs of applying for a waiver, and alternatives to a waiver for preserving the out-of-pocket prescription drug limit established in 8 V.S.A. § 4089i.

~~(2) If the Director of Health Care Reform determines that the Secretary has the necessary authority, then on or before March 1, 2019, the Commissioner of Vermont Health Access, with the Director's assistance, shall apply for a waiver of the cost-sharing or actuarial value limitations, or both, in order to preserve the availability of bronze-level qualified health benefit plans that meet Vermont's out-of-pocket prescription drug limit established in 8 V.S.A. § 4089i.~~

Sec. 12. 33 V.S.A. § 1814 is added to read:

§ 1814. MAXIMUM OUT-OF-POCKET LIMIT FOR PRESCRIPTION  
DRUGS IN BRONZE PLANS

(a)(1) Notwithstanding any provision of 8 V.S.A. § 4089i to the contrary, the Green Mountain Care Board may approve modifications to the out-of-pocket prescription drug limit established in 8 V.S.A. § 4089i for one or more bronze-level plans.

(2) The Department of Vermont Health Access shall certify at least two standard bronze-level plans that include the out-of-pocket prescription drug limit established in 8 V.S.A. § 4089i, as long as the plans comply with federal requirements. Notwithstanding any provision of 8 V.S.A. § 4089i to the contrary, the Department may certify one or more bronze-level qualified health benefit plans with modifications to the out-of-pocket prescription drug limit established in 8 V.S.A. § 4089i.

(b)(1) For each individual enrolled in a bronze-level qualified health benefit plan for the previous two plan years who had out-of-pocket prescription drug expenditures that met the out-of-pocket prescription drug limit established in 8 V.S.A. § 4089i for the most recent plan year for which information is available, the health insurer shall, absent an alternative plan selection or plan cancellation by the individual, automatically reenroll the individual in a bronze-level qualified health plan for the forthcoming plan year with an out-of-pocket prescription drug limit at or below the limit established

in 8 V.S.A. § 4089i.

(2) Prior to reenrolling an individual in a plan pursuant to subdivision (1) of this subsection, the health insurer shall notify the individual of the insurer's intent to reenroll the individual automatically in a bronze-level qualified health plan for the forthcoming plan year with an out-of-pocket prescription drug limit at or below the limit established in 8 V.S.A. § 4089i unless the individual contacts the insurer to select a different plan and of the availability of bronze-level plans with higher out-of-pocket prescription drug limits. The health insurer shall collaborate with the Department of Vermont Health Access and the Office of the Health Care Advocate as to the notification's form and content.

\* \* \* Human Services Board; Fair Hearings \* \* \*

Sec. 13. 3 V.S.A. § 3091 is amended to read:

§ 3091. HEARINGS

\* \* \*

(e)(1) The Board shall give written notice of its decision to the person applying for fair hearing and to the Agency.

(2) Unless a continuance is requested or consented to by an aggrieved person, decisions and orders concerning Temporary Assistance to Needy Families (TANF) under 33 V.S.A. chapter 11, TANF-Emergency Assistance (TANF-EA) under Title IV of the Social Security Act, and medical assistance (Medicaid) under 33 V.S.A. chapter 19 shall be issued by the Board within 75 days of after the request for hearing.

(3) Notwithstanding any provision of subsection (c) or (d) or subdivision (1) of this subsection (e) to the contrary, in the case of an expedited Medicaid fair hearing, the Board shall delegate both its fact-finding and final decision-making authority to a hearing officer, and the hearing officer's written findings and order shall constitute the Board's decision and order in accordance with timelines set forth in federal law.

\* \* \*

(h)(1) Notwithstanding subsections (d) and (f) of this section, the Secretary shall review all Board decisions and orders concerning TANF, TANF-EA, Office of Child Support Cases, Medicaid, and the Vermont Health Benefit Exchange. The Secretary shall:

(A) adopt a Board decision or order, except that the Secretary may reverse or modify a Board decision or order if:

(i) the Board's findings of fact lack any support in the record; or



(ii) ~~the decision or order implicates the validity or applicability of any Agency misinterprets or misapplies State or federal policy or rule;~~ and

(B) issue a written decision setting forth the legal, factual, or policy basis for reversing or modifying a Board decision or order.

\* \* \*

(i) In the case of an appeal of a Medicaid covered service decision made by the Department of Vermont Health Access or any entity with which the Department of Vermont Health Access enters into an agreement to perform service authorizations that may result in an adverse benefit determination, the right to a fair hearing granted by subsection (a) of this section shall be available to an aggrieved beneficiary only after that individual has exhausted, or is deemed to have exhausted, the Department of Vermont Health Access's internal appeals process and has received a notice that the adverse benefit determination was upheld.

Sec. 14. APPEAL OF MEDICAID COVERED SERVICE DECISIONS;  
FAIR HEARING; RULEMAKING

The Agency of Human Services shall adopt rules pursuant to 3 V.S.A. chapter 25 establishing a process by which the Agency shall ensure that a Medicaid beneficiary who files a request for a fair hearing with the Human Services Board prior to exhausting the Department of Vermont Health Access's internal appeals process receives consideration by the Department as though the beneficiary had properly filed an internal appeal and, if the internal appeal results in an adverse determination, that the Department shall provide to the beneficiary appropriate assistance with filing a timely request for a fair hearing with the Human Services Board if the beneficiary wishes to do so.

\* \* \* Repeal \* \* \*

Sec. 15. REPEAL

33 V.S.A. § 2010 (actual price disclosure and certification of prescription drugs) is repealed.

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

Sec. 16. EFFECTIVE DATES

This act shall take effect on passage, except:

(1) Notwithstanding 1 V.S.A. § 214, Sec. 5 (ambulance agency provider tax) shall take effect on passage and apply retroactively to January 1, 2018; and

(2) In Sec. 8, 33 V.S.A. § 404(c) (monthly list of new probate estates)

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shall take effect on October 1, 2018.

**Rep. Yacovone of Morristown**, for the committee on Appropriations, to which had been referred the Senate bill reported in favor of its passage in concurrence with proposal of amendment when amended as recommended by the committee on Health Care.

Thereupon, the bill was read the second time, the report of the committee on Health Care was agreed to and third reading was ordered.

**Rules Suspended; Second Reading; Proposal of Amendment Agreed to;  
Third Reading Ordered**

**S. 180**

On motion of **Rep. Savage of Swanton**, the rules were suspended and Senate bill, entitled

An act relating to the Vermont Fair Repair Act

Appearing on the Calendar for notice, was taken up for immediate consideration.

**Rep. Myers of Essex**, for the committee on Commerce and Economic Development, to which had been referred the Senate bill reported in favor of its passage in concurrence with proposal of amendment by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds:

(1) The repair of modern electronic products, even for such minor repairs as replacing a battery or screen, often becomes difficult or impossible due to manufacturers' limitation of access to information or parts to effect those repairs.

(2) Manufacturers may limit access to only those customers who are under warranty; may refuse access for owners of older models; and may refuse to stock or sell parts at fair and reasonable prices. Consequently, consumers are often left with few options other than to buy new.

(3) Modern repairs involve electronics. Repairing those electronics requires information, parts, firmware access, and tooling specifications from the product designers.

(4) The knowledge and tools to repair and refurbish consumer electronic products should be distributed as widely and freely as the products themselves. In contrast to centralized manufacturing, reuse must be broadly distributed to achieve economies of scale.

(5) Many manufacturers have made commitments to sustainability, repair, and reuse, and the innovation economy of Vermont and the United States has had many positive economic and environmental impacts. Legislation that further promotes extending the lifespan of consumer electronic products can create jobs and benefit the environment.

(6) As demonstrated by Massachusetts's experience with a right to repair initiative concerning automobiles in 2014, which resulted in a compromise between manufacturers and independent repair providers to adopt a voluntary nationwide approach for providing diagnostic codes and repair data available in a common format by the 2018 model year, legislative action to secure a right to repair can achieve positive benefits for manufacturers, independent businesses, and consumers.

## Sec. 2. RIGHT TO REPAIR TASK FORCE; REPORT

(a) Creation. There is created the Right to Repair Task Force.

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

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

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

(3) the Attorney General or designee;

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

(5) the Secretary of Digital Services or designee.

(c) Stakeholder engagement. The Task Force shall solicit testimony and participation in its work from representatives of relevant stakeholders, including authorized and independent repair providers, and business and consumer groups with an interest in consumer electronic products.

(d) Powers and duties. The Task Force shall review and consider the following issues relating to potential legislation designed to secure the right to repair consumer electronic products, including personal electronic devices such as cell phones, tablets, and computers:

(1) the scope of products to include;

(2) economic costs and benefits, including economic development and workforce opportunities;

(3) effects on the cost and availability to consumers of new and used

consumer electronic products in the marketplace, including diminished availability of refurbished products for secondary users;

(4) environmental and economic costs of electronic waste;

(5) legal issues, including intellectual property and trade secrets, potential for alignment or conflict with federal law, and litigation risks;

(6) privacy and security features in electronic products; and

(7) any other issues the Task Force considers relevant and necessary to accomplish its work.

(e) Assistance. The Task Force shall have the administrative, legal, and fiscal assistance of the Office of Legislative Council and the Joint Fiscal Office. Relevant agencies and departments within State government shall provide their technical and other expertise upon request of the Task Force.

(f) Report. On or before January 15, 2019, the Task Force shall submit a written report to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on Commerce and Economic Development with its findings and any recommendations for legislative action, including specific findings and recommendations concerning personal electronic devices such as cell phones, tablets, and computers.

(g) Meetings.

(1) The Office of Legislative Council shall call the first meeting of the Task Force to occur on or before August 15, 2018.

(2) The legislative members of the Task Force shall serve as co-chairs.

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

(4) The Task Force shall cease to exist on January 15, 2019.

(h) Compensation and reimbursement. For attendance at meetings during adjournment of the General Assembly, a legislative member of the Task Force serving in his or her capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than five meetings. These payments shall be made from monies appropriated to the General Assembly.

### Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

**Rep. Keenan of St. Albans City** for the committee on Appropriations, to which had been referred the Senate bill reported in favor of its passage in concurrence with proposal of amendment when amended by the committee on Commerce and Economic Development.

Thereupon, the bill was read the second time, the report of the committee on Commerce and Economic Development was agreed to and third reading was ordered.

**Rules Suspended; Second Reading; Proposal of Amendment Agreed to;  
Third Reading Ordered**

**S. 273**

On motion of **Rep. Savage of Swanton**, the rules were suspended and Senate bill, entitled

An act relating to miscellaneous law enforcement amendments

Appearing on the Calendar for notice, was taken up for immediate consideration.

**Rep. Harrison of Chittenden**, for the committee on Government Operations, to which had been referred the Senate bill reported in favor of its passage in concurrence with proposal of amendment by striking all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Training \* \* \*

Sec. 1. 20 V.S.A. § 2351 is amended to read:

§ 2351. CREATION AND PURPOSE OF COUNCIL

\* \* \*

(b) The Council is created to encourage and assist municipalities, counties, and governmental agencies of this State in their efforts to improve the quality of law enforcement and citizen protection by maintaining a uniform standard of ~~recruitment~~ recruit and in-service training for law enforcement officers.

\* \* \*

Sec. 2. 20 V.S.A. § 2351a is amended to read:

§ 2351a. DEFINITIONS

As used in this chapter:

(1) “Executive officer” means the highest-ranking law enforcement officer of a law enforcement agency.

(2) “Law enforcement agency” means the employer of a law enforcement officer.

(3) “Law enforcement officer” means an employee of the Vermont Police Academy as permitted under section 2356 of this chapter; a member of the Department of Public Safety who exercises law enforcement powers; a

member of the State Police; a Capitol Police officer; a municipal police officer; a constable who exercises law enforcement powers; a motor vehicle inspector; an employee of the Department of Liquor Control who exercises law enforcement powers; an investigator employed by the Secretary of State; a Board of Medical Practice investigator employed by the Department of Health; an investigator employed by the Attorney General or a State's Attorney; a fish and game warden; a sheriff; a deputy sheriff who exercises law enforcement powers; a railroad police officer commissioned pursuant to 5 V.S.A. chapter 68, subchapter 8; or a police officer appointed to the University of Vermont's Department of Police Services.

\* \* \*

Sec. 3. 20 V.S.A. § 2356 is added to read:

§ 2356. VERMONT POLICE ACADEMY; LAW ENFORCEMENT OFFICERS

(a) A person employed by the Vermont Police Academy who is certified as a law enforcement officer under this chapter and who maintains that certification shall be a law enforcement officer with statewide law enforcement authority.

(b) The ability of a person to be a certified law enforcement officer solely through his or her employment at the Vermont Police Academy pursuant to subsection (a) of this section shall not qualify that person for Group C membership in the Vermont State Retirement System.

Sec. 4. 20 V.S.A. § 2352 is amended to read:

§ 2352. COUNCIL MEMBERSHIP

(a)(1) The Vermont Criminal Justice Training Council shall consist of:

(A) the Commissioners of Public Safety, of Corrections, of Motor Vehicles, and of Fish and Wildlife, and of Mental Health;

(B) the Attorney General;

(C) a member of the Vermont Troopers' Association or its successor entity, elected by its membership;

(D) a member of the Vermont Police Association, elected by its membership; and

(E) five additional members appointed by the Governor.

(i) The Governor's appointees shall provide broad representation of all aspects of law enforcement and the public in Vermont on the Council.

(ii) The Governor shall solicit recommendations for appointment

from the Vermont State's Attorneys Association, the Vermont State's Sheriffs Association, the Vermont Police Chiefs Association, and the Vermont Constables Association a member of the Chiefs of Police Association of Vermont, appointed by the President of the Association;

(F) a member of the Vermont Sheriffs' Association, appointed by the President of the Association;

(G) a law enforcement officer appointed by the President of the Vermont State Employees Association;

(H) an employee of the Vermont League of Cities and Towns, appointed by the Executive Director of the League;

(I) an employee of the Vermont Center for Crime Victim Services, appointed by the Executive Director of the Center; and

(J) three public members who shall not be law enforcement officers or current legislators or otherwise be employed in the criminal justice system, one of whom shall be appointed by the Speaker of the House, one of whom shall be appointed by the Senate Committee on Committees, and one of whom shall be appointed by the Governor.

\* \* \*

Sec. 5. 20 V.S.A. § 2355 is amended to read:

§ 2355. COUNCIL POWERS AND DUTIES

(a) The Council shall adopt rules with respect to:

(1) the approval, or revocation thereof, of law enforcement officer training schools and off-site training programs, which shall include rules to identify and implement alternate routes to certification aside from the training provided at the Vermont Police Academy;

\* \* \*

(b)(1) The Council shall conduct and administer training schools and offer courses of instruction for law enforcement officers and other criminal justice personnel. The Council shall offer courses of instruction for law enforcement officers in multiple regions of the State and shall strive to replace overnight courses with these regional trainings whenever possible.

(2) The Council may also offer the basic officer's course for pre-service preservice students and educational outreach courses for the public, including firearms safety and use of force.

\* \* \*

Sec. 6. COUNCIL; REPORT ON TRAINING ALTERNATIVES

On or before January 15, 2019, the Executive Director of the Vermont Criminal Justice Training Council shall report to the Senate and House Committees on Government Operations regarding the Council's identification and implementation of alternate routes to certification and its plan to replace some of its overnight law enforcement training requirements at the Robert H. Wood, Jr. Criminal Justice and Fire Service Training Center of Vermont (Police Academy) with training in multiple regions of the State, in accordance with 20 V.S.A. § 2355 in Sec. 5 of this act. The report shall specifically address any budgetary implications of the provisions of Sec. 5. The report may be in verbal form.

Sec. 7. 20 V.S.A. § 2358 is amended to read:

§ 2358. MINIMUM TRAINING STANDARDS; DEFINITIONS

\* \* \*

(b) The Council shall offer or approve basic training and annual in-service training for each of the following three levels of law enforcement officer certification in accordance with the scope of practice for each level, and shall determine by rule the scope of practice for each level in accordance with the provisions of this section:

(1) Level I certification.

\* \* \*

(2) Level II certification.

\* \* \*

(3) Level III certification.

\* \* \*

(c)(1) All programs required by this section shall be approved by the Council.

(2) The Council shall structure its programs so that an officer certified as a Level II law enforcement officer may complete additional training in block steps in order to transition to Level III certification, without such an officer needing to restart the certification process.

(3) Completion of a program shall be established by a certificate to that effect signed by the Executive Director of the Council.

\* \* \*

Sec. 8. 20 V.S.A. § 2361 is amended to read:

§ 2361. ADDITIONAL TRAINING



(a) ~~Nothing in this chapter prohibits any State law enforcement agency, department, or office or any municipality or county of the State from providing additional training beyond basic training to its personnel where no certification is requested of or required by the Council or its Executive Director.~~

(b) ~~The head of a State agency, department, or office, a municipality's chief of police, or a sheriff executive officer of a law enforcement agency may seek certification from the Council for any in-service training he or she, or his or her designee may provide to his or her employees law enforcement officers of his or her agency or of another agency, or both.~~

\* \* \* Vermont State Retirement System; Group C Membership \* \* \*

Sec. 9. LAW ENFORCEMENT STATE RETIREMENT BENEFITS  
STUDY COMMITTEE; REPORT

(a) Creation. There is created the Law Enforcement State Retirement Benefits Study Committee to evaluate the requirements for membership in Group C of the Vermont State Retirement System (System) and to make recommendations to the General Assembly on any proposed changes to those requirements.

(b) Membership.

(1) The Committee shall be composed of the following 10 members:

(A) a current member of the House Committee on Appropriations, appointed by the Speaker;

(B) a current member of the Senate Committee on Appropriations, appointed by the Committee on Committees;

(C) a current member of the House Committee on Government Operations, appointed by the Speaker;

(D) a current member of the Senate Committee on Government Operations, appointed by the Committee on Committees;

(E) the State Treasurer or designee;

(F) the Secretary of Administration or designee;

(G) the Commissioner of Human Resources or designee;

(H) the Commissioner of Public Safety or designee;

(I) the President of the Vermont State Employees' Association or designee; and

(J) the Executive Director of the Vermont Troopers' Association or designee.

(2) Any vacancy in membership shall be filled by the appointing authority for the remainder of the term.

(c) Powers and duties.

(1) Group C analysis. The Committee shall review the requirements for membership in Group C of the System as set forth in 3 V.S.A. § 455(a)(9)(B) and (11)(C) and shall review all current employee positions classified as Group C in order to perform the following analyses:

(A) whether the requirements for membership in Group C are appropriately tailored to provide the appropriate retirement benefit to the appropriate group of employees; and

(B) whether applicable federal requirements, including the provisions of the Age Discrimination in Employment Act, merit changes to the requirements of Group C.

(2) Retirement benefit recommendations. In accordance with its findings made pursuant to subdivision (1) of this subsection, the Committee shall make the following recommendations:

(A) whether any State employee positions currently in Group C should be reclassified to another group within the System, given the nature of the job duties performed by members in those positions;

(B) whether any State employee positions not currently in Group C should be reclassified into Group C, given the nature of the job duties performed by members in those positions; and

(C) whether the General Assembly should consider any revisions or enhancements to the retirement benefits for certain State employee positions that do not qualify for the current or recommended Group C requirements, if the Committee finds that the nature of the position and job duties performed merit such revisions.

(3) Actuarial analysis; appropriation.

(A)(i) The State Treasurer shall consult with an actuary in order to determine any financial impact on the System as a result of changes recommended under subdivision (2) of this subsection.

(ii) The amount of \$75,000.00 is appropriated to the Office of State Treasurer for any actuarial analysis performed under this subdivision (3).

(B) The Committee shall review the actuarial analysis performed by

the State Treasurer and make any adjustments to its recommendations as it deems appropriate in light of the financial impact on the System.

(d) Assistance.

(1) The Committee shall have the administrative, technical, legal, and fiscal assistance of the Office of Legislative Council and the Joint Fiscal Office.

(2) The Offices of the State Treasurer and of the Attorney General, the Agency of Administration, the Department of Finance and Management, the Department of Human Resources, and the Agency of Digital Services shall provide support to the Committee as applicable.

(e) Meetings.

(1) The Office of Legislative Council shall call the first meeting of the Committee to occur on or before September 15, 2018.

(2) The Committee shall select co-chairs from among its membership, one of whom shall be a member of the House and one of whom shall be a member of the Senate, serving in their capacity as a legislator.

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

(4) The Committee shall cease to exist on the date it submits its final report.

(f) Compensation and reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Committee serving in his or her capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406. These payments shall be made from monies appropriated to the General Assembly.

(2) Other members of the Committee shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010. These payments shall be made from monies appropriated to the Agency of Administration.

(g) Reports.

(1) On or before January 15, 2019, the Committee shall provide a progress report to the House and Senate Committees on Government Operations and on Appropriations.

(2) The Committee shall submit its final report during the 2019-2020 biennium.

\* \* \* Law Enforcement Advisory Board \* \* \*

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Sec. 10. LEAB; REPEAL FOR RECODIFICATION

24 V.S.A. § 1939 (Law Enforcement Advisory Board) is repealed.

Sec. 11. 20 V.S.A. § 1818 is added to read:

§ 1818. LAW ENFORCEMENT ADVISORY BOARD

(a) The Law Enforcement Advisory Board is created within the Department of Public Safety to advise the Commissioner of Public Safety, the Governor, and the General Assembly on issues involving the cooperation and coordination of all agencies that exercise law enforcement responsibilities. The Board shall review any matter that affects more than one law enforcement agency. The Board shall comprise the following members:

- (1) the Commissioner of Public Safety or designee;
- (2) a member of the Chiefs of Police Association of Vermont appointed by the President of the Association;
- (3) a member of the Vermont Sheriffs' Association appointed by the President of the Association;
- (4) a representative of the Vermont League of Cities and Towns appointed by the Executive Director of the League;
- (5) a member of the Vermont Police Association appointed by the President of the Association;
- (6) the Attorney General or designee;
- (7) a State's Attorney appointed by the Executive Director of the Department of State's Attorneys and Sheriffs;
- (8) the U.S. Attorney or designee;
- (9) the Executive Director of the Vermont Criminal Justice Training Council;
- (10) the Executive Director of the Vermont Troopers' Association or designee;
- (11) a member of the Vermont Constables Association appointed by the President of the Association; and
- (12) the President of the Vermont State Employees Association or designee.

(b) The Board shall elect a chair and a vice chair, which positions shall rotate among the various member representatives. Each member shall serve a term of two years. The Board shall meet at the call of the Chair or a majority of the members. A quorum shall consist of seven members, and decisions of

the Board shall require the approval of a majority of those members present and voting.

(c) The Board shall undertake an ongoing formal process of reviewing law enforcement policies and practices with a goal of developing a comprehensive approach to providing the best services to Vermonters, given the monies available. The Board shall also provide educational resources to Vermonters about public safety challenges in the State.

(d)(1) The Board shall meet at its discretion to develop policies and recommendations for law enforcement priority needs, including retirement benefits, recruitment of officers, training, homeland security issues, dispatching, and comprehensive drug enforcement.

(2) The Board shall present its findings and recommendations in brief summary form to the House and Senate Committees on Judiciary and on Government Operations annually on or before January 15.

#### Sec. 12. LEAB; RECODIFICATION DIRECTIVE

(a) 24 V.S.A. § 1939 is recodified as 20 V.S.A. § 1818. During statutory revision, the Office of Legislative Council shall revise accordingly any references to 24 V.S.A. § 1939 in the Vermont Statutes Annotated.

(b) Any references in session law and adopted rules to 24 V.S.A. § 1939 as previously codified shall be deemed to refer to 20 V.S.A. § 1818.

#### Sec. 13. LEAB; 2019 REPORT ON MUNICIPAL ACCESS TO LAW

##### ENFORCEMENT SERVICES AND ON AGENCY DATA STANDARDS FOR RECORD SYSTEMS

As part of its annual report in the year 2019, the Law Enforcement Advisory Board shall:

(1) specifically recommend ways that towns can increase access to law enforcement services; and

(2) consult with the Vermont Crime Information Center, the Crime Research Group, and other interested stakeholders regarding the manner in which law enforcement agencies enter data into their systems of records of the commission of crimes and related information in order to recommend in the report how agencies can improve that data entry so that crime data is entered uniformly and in a manner that meets the Center's requirement to have a uniform system of crime records as set forth in 20 V.S.A. § 2053.

\* \* \* State Dispatch Costs \* \* \*

#### Sec. 14. DEPARTMENT OF PUBLIC SAFETY; REPORT ON EXISTING

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 STATE COSTS OF PROVIDING DISPATCH SERVICES
 

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On or before October 1, 2018, the Commissioner of Public Safety shall provide to the House and Senate Committees on Government Operations the existing cost to the State of the Department of Public Safety providing dispatch services.

\* \* \* Effective Dates and Implementation \* \* \*

## Sec. 15. EFFECTIVE DATES; IMPLEMENTATION

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

(1) Sec. 5, amending 20 V.S.A. § 2355 (Council powers and duties) shall take effect on July 1, 2019, except that the requirement to adopt rules set forth in subdivision (a)(1) of that section shall take effect on July 1, 2018 so that those rules are adopted on or before July 1, 2019; and

(2) Sec. 7, amending 20 V.S.A. § 2358 (minimum training standards; definitions) shall take effect on July 1, 2020.

**Rep. Fagan of Rutland City**, for the committee on Appropriations, to which had been referred Senate bill, entitled

An act relating to miscellaneous law enforcement amendments

Reported in favor of its passage when amended as recommended by the committee on Government Operations and when further amended as follows:

First: By striking out Sec. 4, 20 V.S.A. § 2352 (Council membership) in its entirety and inserting in lieu thereof Secs. 4 and 4a to read:

## § 2352. COUNCIL MEMBERSHIP

(a)(1) The Vermont Criminal Justice Training Council shall consist of:

(A) the Commissioners of Public Safety, of Corrections, of Motor Vehicles, ~~and of Fish and Wildlife, and of Mental Health;~~

(B) the Attorney General;

(C) a member of the Vermont Troopers' Association or its successor entity, elected by its membership;

(D) a member of the Vermont Police Association, elected by its membership; ~~and~~

(E) ~~five additional members appointed by the Governor.~~

~~(i) The Governor's appointees shall provide broad representation of all aspects of law enforcement and the public in Vermont on the Council.~~

~~(ii) The Governor shall solicit recommendations for appointment~~

from the Vermont State's Attorneys Association, the Vermont State's Sheriffs Association, the Vermont Police Chiefs Association, and the Vermont Constables Association a member of the Chiefs of Police Association of Vermont, appointed by the President of the Association;

(F) a member of the Vermont Sheriffs' Association, appointed by the President of the Association;

(G) a law enforcement officer appointed by the President of the Vermont State Employees Association;

(H) an employee of the Vermont League of Cities and Towns, appointed by the Executive Director of the League;

(I) an employee of the Vermont Center for Crime Victim Services, appointed by the Executive Director of the Center; and

(J) three public members who shall not be law enforcement officers or current legislators or otherwise be employed in the criminal justice system, one of whom shall be appointed by the Speaker of the House, one of whom shall be appointed by the Senate Committee on Committees, and one of whom shall be appointed by the Governor.

(2) A member's term shall be three years.

\* \* \*

(c) The public members of the Council set forth in subdivision (a)(1)(J) of this section shall be entitled to receive no per diem compensation for their services, but the other members of the Council shall not be entitled to such compensation; provided, however, that all members of the Council shall be allowed their actual and necessary entitled to receive reimbursement of expenses incurred in the performance of their duties. Per diem compensation and reimbursement of expenses under this subsection shall be made as permitted under 32 V.S.A. § 1010 from monies appropriated to the Council.

\* \* \*

#### Sec. 4a. TRANSITIONAL PROVISION TO ADDRESS NEW COUNCIL MEMBERSHIP

Any existing member of the Vermont Criminal Justice Training Council who will serve on the Council under its new membership as set forth in Sec. 4 of this act may serve the remainder of his or her term in effect immediately prior to the effective date of Sec. 4.

Second: In Sec. 6 (Council; report on training alternatives), by striking out the last sentence of that section ("The report may be in verbal form.").

Third: By striking out Sec. 9 (Law Enforcement State Retirement Benefits Study Committee; report) in its entirety and inserting in lieu thereof the following:

Sec. 9. LAW ENFORCEMENT STATE RETIREMENT BENEFITS  
STUDY COMMITTEE; REPORT

(a) Creation. There is created the Law Enforcement State Retirement Benefits Study Committee to evaluate the requirements for membership in Group C of the Vermont State Retirement System (System) and to make recommendations to the General Assembly on any proposed changes to those requirements.

(b) Membership.

(1) The Committee shall be composed of the following 10 members:

(A) a current member of the House Committee on Appropriations, appointed by the Speaker;

(B) a current member of the Senate Committee on Appropriations, appointed by the Committee on Committees;

(C) a current member of the House Committee on Government Operations, appointed by the Speaker;

(D) a current member of the Senate Committee on Government Operations, appointed by the Committee on Committees;

(E) the State Treasurer or designee;

(F) the Secretary of Administration or designee;

(G) the Commissioner of Human Resources or designee;

(H) the Commissioner of Public Safety or designee;

(I) the President of the Vermont State Employees' Association or designee; and

(J) the Executive Director of the Vermont Troopers' Association or designee.

(2) Any vacancy in membership shall be filled by the appointing authority for the remainder of the term.

(c) Powers and duties.

(1) Group C analysis. The Committee shall review the requirements for membership in Group C of the System as set forth in 3 V.S.A. § 455(a)(9)(B) and (11)(C) and shall review all current employee positions classified as



Group C in order to perform the following analyses:

(A) whether the requirements for membership in Group C are appropriately tailored to provide the appropriate retirement benefit to the appropriate group of employees; and

(B) whether applicable federal requirements, including the provisions of the Age Discrimination in Employment Act, merit changes to the requirements of Group C.

(2) Retirement benefit recommendations. In accordance with its findings made pursuant to subdivision (1) of this subsection, the Committee shall make the following recommendations:

(A) whether any State employee positions currently in Group C should be reclassified to another group within the System, given the nature of the job duties performed by members in those positions;

(B) whether any State employee positions not currently in Group C should be reclassified into Group C, given the nature of the job duties performed by members in those positions; and

(C) whether the General Assembly should consider any revisions or enhancements to the retirement benefits for certain State employee positions that do not qualify for the current or recommended Group C requirements, if the Committee finds that the nature of the position and job duties performed merits such revisions.

(3) Legal and IRS compliance consulting; appropriation. The amount of \$5,000.00 is appropriated to the Office of Treasurer for the purpose of contracting with a legal and Internal Revenue Service compliance consultant in order to assist the Committee with its powers and duties set forth in subdivisions (1) and (2) of this subsection.

(d) Assistance.

(1) The Committee shall have the administrative, technical, legal, and fiscal assistance of the Office of Legislative Council and the Joint Fiscal Office.

(2) The Offices of the State Treasurer and of the Attorney General, the Agency of Administration, the Department of Finance and Management, the Department of Human Resources, and the Agency of Digital Services shall provide support to the Committee as applicable.

(e) Meetings.

(1) The Office of Legislative Council shall call the first meeting of the Committee to occur as soon as practicable in fiscal year 2019.

(2) The Committee shall select co-chairs from among its membership, one of whom shall be a member of the House and one of whom shall be a member of the Senate, serving in their capacity as legislators.

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

(4) The Committee shall cease to exist on June 30, 2019.

(f) Compensation and reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Committee serving in his or her capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than six meetings. These payments shall be made from monies appropriated to the General Assembly.

(2) Other members of the Committee shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than six meetings. These payments shall be made from monies appropriated to the Agency of Administration.

(g) Reports. On or before January 15, 2019, the Committee shall report its findings and recommendations to the House and Senate Committees on Government Operations and on Appropriations.

Thereupon, the bill was read the second time, the report of the committee on Appropriations was agreed to.

Thereupon, the report of the committee on Government Operations, as amended, was agreed to and third reading was ordered.

#### **Message from the Senate No. 64**

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 proposal of amendment to Senate bill of the following title:

**S. 166.** An act relating to the provision of medication-assisted treatment for inmates.

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

The Senate has considered House proposal of amendment to Senate

proposal of amendment to House bill of the following title:

**H. 874.** An act relating to inmate access to prescription drugs.

And has concurred therein.

The Senate has considered bills originating in the House of the following titles:

**H. 908.** An act relating to the Administrative Procedure Act.

**H. 910.** An act relating to the Open Meeting Law and the Public Records Act.

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

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

**H. 25.** An act relating to sexual assault survivors' rights.

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

Pursuant to the request of the House for a Committee of Conference on the disagreeing votes of the two Houses on House bill entitled:

**H. 924.** An act relating to making appropriations for the support of government.

The President announced the appointment as members of such Committee on the part of the Senate:

Senator Kitchel  
Senator Sears  
Senator Westman

**Rules Suspended; Senate Proposal of Amendment Not Concurred in;  
Committee of Conference Requested and Appointed**

**H. 780**

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

An act relating to portable rides at agricultural fairs, field days, and other similar events

Was taken up for immediate consideration.

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

## Sec. 1. FINDINGS

The General Assembly finds that:

(1) Fairs are essential to the character, community life, and economy of Vermont, and amusement rides help to increase fair attendance.

(2) Attendance at Vermont fairs exceeds 375,000 people a year, and the total budget for all Vermont fairs exceeds \$7 million a year. Vermont fairs generate over \$85,000.00 of sales tax revenue per year.

(3) An inspection regime for amusement rides based upon standards that are nationally recognized and used in other states will increase the safety of fair rides and help ensure the continued popularity of Vermont fairs.

Sec. 2. 31 V.S.A. § 721 is amended to read:

## § 721. DEFINITIONS

As used in this chapter:

(1) “Amusement ride” means a mechanical device that carries or conveys passengers along, around, or over a fixed or restricted route or course for the purpose of giving the passengers amusement, pleasure, thrills, or excitement. ~~In addition, for~~ For the purposes of this chapter, amusement ride shall also not include bungee jumping, zip lines, or waterslides or obstacle, challenge, or adventure courses.

(2) “Operator” or “owner” means a person who owns or controls or has the duty to control the operation of amusement rides.

~~(3) “Certificate” or “certificate of operation” means a document issued by the Secretary of State authorizing the operation of one or more amusement rides, indicating thereon the following information for each amusement ride: the proper ride model, serial number, passenger capacity of the ride, the recommended maximum speed of the ride, and recommended direction of travel of the ride. The Secretary of State may amend a certificate to add other amusement rides to be operated in the State during a calendar year.~~

Sec. 3. 31 V.S.A. § 722 is amended to read:

## § 722. CERTIFICATE OF OPERATION

(a) An amusement ride may not be operated in this State unless the Secretary of State has issued a certificate of operation to the owner or operator within the preceding 12 months.

(b) An application for a certificate of operation shall be submitted to the Secretary of State not fewer than 30 business days before an amusement ride is operated in this State.

(c) The Secretary of State shall issue a “certificate of operation” ~~no later than~~ not fewer than 15 business days before the amusement ride is ~~first~~ operated in the State, if the owner or operator submits ~~all~~ the following:

(1) Certificate of insurance in the amount of not less than \$1,000,000.00 that insures both the owner and the operator against liability for injury to persons and property arising out of the use or operation of the amusement ride.

(2) Payment of a fee in the amount of \$100.00.

(3) Proof or a statement of compliance with the requirements of 21 V.S.A. chapter 9.

~~(e)~~(d) The certificate of operation shall be valid for one year from the date of issue and shall be in a manner and format to be prescribed by the Secretary of State. A certificate of operation shall identify the ride’s:

(1) name and model;

(2) serial number;

(3) passenger capacity; and

(4) recommended maximum speed.

~~(d)~~(e) A copy of the certificate of operation shall be ~~posted on or near each amusement ride covered by the certificate and shall be in full public view at all times during the operation of the ride~~ kept at the office of the amusement ride operator.

(f) The Secretary of State shall:

(1) determine the manner and format of the certificate of operation, any forms to be used to apply for the certificate of operation, the adhesive sticker that shall be affixed to the ride pursuant to subdivision 723a(b)(2) of this title, and the certification to be filed pursuant to subdivision 723a(b)(3) of this title;

(2) make any forms and certifications available on the Secretary of State’s website and shall provide adhesive stickers to inspectors;

(3) allow an owner or operator to apply for certificates of operation for multiple rides at one time, using one form;

(4) charge one fee for the filing of each application form, regardless of the number of rides listed on the application.

Sec. 4. 31 V.S.A. § 723a is added to read:

§ 723a. SAFETY INSPECTIONS

(a) A amusement ride shall not be operated in this State unless:

(1) The ride has been inspected in the State within the preceding 12 months by a person who is:

(A) certified:

(i) by the National Association of Amusement Ride Safety Officials as a Level II Inspector; or

(ii) by the Amusement Industry Manufacturers and Suppliers International at a level that is equivalent to the certification pursuant to subdivision (i) of this subdivision (1)(A); and

(B) not the owner or operator of the ride or an employee or agent of the owner or operator.

(2) The inspection complied with the American Society for Testing and Materials (ASTM) current standard F770 concerning the practices for ownership, operation, maintenance, and inspection of amusement rides and devices.

(3) A valid certificate of operation has been issued for the ride pursuant to section 722 of this title.

(b) After a ride has been inspected pursuant to subsection (a) of this section:

(1) The owner or operator shall submit the certificate or other record of inspection to the Secretary of State within 15 business days following the date of inspection.

(2) An adhesive sticker, in a format to be determined by the Secretary of State, shall be affixed to the ride that indicates:

(A) the date and location the inspection was completed; and

(B) the name of the inspector.

(3) The owner or operator shall submit a certification, in a format to be determined by the Secretary of State, to the organization hosting a fair, field day, or other event or location, at which the owner or operator intends to operate a ride, stating that the ride has been inspected pursuant to subsection (a) of this section and stickers have been affixed pursuant to this subdivision (b) prior to the ride being used to carry or convey passengers.

(c) A ride shall be inspected for safety by the owner or operator:

(1) after the ride has been set up but before being used to carry or convey passengers; and

(2) every day thereafter that the ride is used to carry or convey passengers.

(d) The owner or operator of an amusement ride shall:

(1) keep records of all safety inspections;

(2) make those records available to the Secretary of State or the Office of the Attorney General promptly upon request;

(3) keep a paper or electronic copy of all required forms or certifications, and of all safety inspections conducted by the owner or operator during the preceding 12 months for each ride:

(A) on or near that ride; or

(B) at the office of the amusement ride operator;

(4) operate, maintain, and inspect all rides in compliance with ASTM current standards for ownership, operation, maintenance, and inspection of amusement rides and devices.

Sec. 5. 31 V.S.A. § 723 is amended to read:

§ 723. OPERATIONS OPERATOR AND PATRON RESPONSIBILITIES

(a) An operator of an amusement ride shall:

(1) be at least 18 years of age;

(2) operate only one amusement ride at a time; ~~and~~

(3) be in attendance at all times that the ride is operating; ~~and~~

(4) operate the ride in accordance with the ride manufacturer's requirements.

(b) An operator of an amusement ride may deny any person entrance to an amusement ride if the operator believes that entrance by that person may jeopardize the safety of the person or other persons.

(c) A patron shall:

(1) understand that there are risks in riding an amusement ride;

(2) exercise good judgment and act in a responsible and safe manner while riding an amusement ride; and

(3) obey all reasonable written and verbal warnings and directions from ride operators or owners that are posted conspicuously at the entrance to the ride or explained in a clear and understandable manner at the beginning of each ride segment.

Sec. 6. REPORT

The Department of Forests, Parks and Recreation shall, on or before

December 1, 2018, prepare a report concerning:

(1) how bungee jumps; zip lines; waterslides and water rides; and obstacle, challenge, and adventure courses in Vermont are inspected for safety; and

(2) how these types of rides are inspected for safety and regulated in other states.

Sec. 7. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

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

An act relating to rides at agricultural fairs, field days, and other similar events.

Pending the question, Will the House concur in the Senate proposal of amendment? **Rep. Lawrence of Lyndon** moved that the House refuse to concur and ask for a Committee of Conference which was agreed to, and the Speaker appointed as members of the Committee of Conference on the part of the House:

**Rep. Lawrence of Lyndon**

**Rep. Bartholomew of Hartland**

**Rep. Young of Glover**

**Rules Suspended; Senate Proposal of Amendment Concurred in**

**H. 895**

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

An act relating to legislative review of certain report requirements

Was taken up for immediate consideration.

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

First: Immediately following the end of Sec. 4, by adding a reader assistance heading to read:

\* \* \* Reports Requirements Modified \* \* \*

Second: By adding a Sec. 4a to read:

Sec. 4a. 18 V.S.A. § 4803 is amended to read:

§ 4803. ALCOHOL AND DRUG ABUSE COUNCIL; CREATION; TERMS;  
PER DIEM



\* \* \*

(g)(1) ~~Annually on or before November 15, the~~ The Council shall ~~may~~ submit a written report to the House Committee on Human Services and to the Senate Committee on Health and Welfare with its findings and any recommendations for legislative action.

\* \* \*

Third: By adding a Sec. 4b to read:

Sec. 4b. 18 V.S.A. § 5208 is amended to read:

§ 5208. DEPARTMENT OF HEALTH; REPORT ON STATISTICS

\* \* \*

~~(b) In addition to the report required by subsection (a) of this section and notwithstanding the provisions of 2 V.S.A. § 20(d), beginning March 1, 2014 and annually thereafter, the Department shall report to the House Committees on Human Services and on Health Care, the Senate Committee on Health and Welfare, and the House and Senate Committees on Judiciary regarding the number of persons who died during the preceding calendar year from an overdose of a Schedule II, III, or IV controlled substance. The report shall list separately the number of deaths specifically related to opioids, including for each death whether an opioid antagonist was administered and whether it was administered by persons other than emergency medical personnel, firefighters, or law enforcement officers. Beginning in 2015, the report shall include similar data from prior years to allow for comparison. [Repealed.]~~

Fourth: By adding a Sec. 4c to read:

Sec. 4c. 19 V.S.A. § 42 is amended to read:

§ 42. REPORTS PRESERVED; CONSOLIDATED TRANSPORTATION REPORT

\* \* \*

(b) Annually, on or before January 15, the Agency shall submit a consolidated transportation system and activities report to the House and Senate Committees on Transportation. The report shall consist of:

(1) Financial and performance data of all public transit systems, as defined in 24 V.S.A. § 5088(6), that receive operating subsidies in any form from the State or federal government, including subsidies related to the Elders and Persons with Disabilities Transportation Program for service and capital equipment. This component of the report shall:

\* \* \*

(C) show as a separate category financial and performance data on the Elders and Persons with Disabilities Transportation Program;

~~(D) describe any action the Agency has taken pursuant to contractual authority to terminate funding for routes or to request service changes for failure to meet performance standards.~~

(2) Data on pavement conditions of the State highway system that, at a minimum, shall include a pavement condition index that rates the State highway system and the current and historic percentage of State highway pavement mileage that is rated in poor or very poor condition.

(3) A description of the conditions of bridges, culverts, and other structures on the State highway system and on town highways ~~and of the status of the accelerated bridge program.~~

\* \* \*

(6) A summary of the statuses of aviation, rail, and public transit projects ~~programmed for construction during the previous calendar year programs.~~

\* \* \*

(8) An overview of operations and maintenance activities, including winter maintenance statistics, ~~snow and ice control plans, and equipment performance measures.~~

(9) ~~Data on the miles of State highway paving completed during the previous construction season.~~

~~(10)~~ A list of projects for which the construction phase was completed during the most recent construction season.

~~(11)~~(10) Such other information that the Secretary determines the Committees on Transportation need to perform their oversight role.

Fifth: By adding a Sec. 4d to read:

Sec. 4d. 2014 Acts and Resolves No. 179, Sec. E.306.2 is amended to read:

Sec. E.306.2 SUBSTANCE ABUSE TREATMENT SERVICES

(a) Program Objectives And Performance Measures:

\* \* \*

~~(2) Thereafter, annually, on or before January 15, the Chief, Secretary, and Commissioners shall report to those Committees on the service delivery system's success in reaching the program objectives using the performance measure data collected for those services. [Repealed.]~~

---

\* \* \*

Sixth: In Sec. 23, 18 V.S.A. § 9374, in subsection (h), in subdivision (4)(B), immediately following the phrase “The Board and the Department shall also present the information required by” by striking out “subsection (a) of this section” and inserting in lieu thereof the phrase this subsection (h)

Which proposal of amendment was considered and concurred in.

**Rules Suspended; Senate Proposal of Amendment Concurred in**

**H. 859**

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

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

Was taken up for immediate consideration.

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

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

§ 2409. RETENTION OF MUNICIPAL OWNERSHIP OF LEASE LANDS

(a) As used in this section:

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

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

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

(4) “Perpetual lease” means any leasehold interest in Vermont land, and every estate in Vermont land other than fee simple absolute, the title to which is held by a municipal corporation according to section 2401 of this title, arising out of or created by an instrument of lease that conveys to a person designated as lessee the right to possess, enjoy, and use the land in perpetuity or substantially in perpetuity. “Perpetual lease” shall include leasehold

interests that are subject to restrictions on the lessee's use of the land and shall include lands that the municipal corporation may repossess for nonpayment of rent or other default under the terms of the lease.

(5) "Perpetual lease land" means all land described in a perpetual lease that is owned by or vested in a municipal corporation. "Perpetual lease land" does not include land described in a perpetual lease that is held in title by any person other than a municipal corporation, or any land described in a perpetual lease over which the municipal corporation acts exclusively as trustee.

(b)(1) On January 1, 2020, fee simple title to perpetual lease lands shall vest in the current lessee of record, free and clear of the interest of a municipal corporation in the perpetual lease lands held in accordance with section 2401 of this title, unless prior to that date the legislative body of the municipal corporation votes in the affirmative to retain ownership of some or all of the perpetual lease lands within that municipal corporation.

(2) At any time, the legislative body of a municipal corporation may vote to relinquish its interest in some or all of the perpetual lease lands within that municipal corporation held in accordance with section 2401 of this title. Upon such a vote, fee simple title to perpetual lease lands shall vest in the current lessee of record.

(3) When fee simple title to perpetual lease land vests in the current lessee of record pursuant to this subsection, the land shall remain subject to any other encumbrances of record, including municipal encumbrances and easements.

(c) Nothing in this section shall prevent a municipal corporation that has retained its interest in perpetual lease land held in accordance with section 2401 of this title from later conveying the land in accordance with section 2406 of this title.

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

§ 1061. CONVEYANCE OF REAL ESTATE

\* \* \*

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

\* \* \*

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

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

\* \* \*

## Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

Which proposal of amendment was considered and concurred in.

**Rules Suspended; Second Reading; Proposal of Amendment Agreed to;  
Third Reading Ordered**

**S. 105**

On motion of **Rep. Savage of Swanton**, the rules were suspended and Senate bill, entitled

An act relating to consumer justice enforcement

Appearing on the Calendar for notice, was taken up for immediate consideration.

**Rep. Colburn of Burlington**, for the committee on Judiciary, to which had been referred the Senate bill reported in favor of its passage in concurrence with proposal of amendment by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 9 V.S.A. chapter 152 is added to read:

CHAPTER 152. MODEL STATE CONSUMER JUSTICE ENFORCEMENT  
ACT; STANDARD-FORM CONTRACTS

§ 6055. UNCONSCIONABLE TERMS IN STANDARD-FORM

CONTRACTS PROHIBITED

(a) Unconscionable terms. There is a rebuttable presumption that the following contractual terms are substantively unconscionable when included in a standard-form contract to which one of the parties to the contract is an individual and that individual does not draft the contract:

(1) A requirement that resolution of legal claims take place in an inconvenient venue. As used in this subdivision, "inconvenient venue" includes for State law claims a place other than the state in which the individual resides or the contract was consummated, and for federal law claims a place other than the federal judicial district where the individual resides or the contract was consummated. Inconvenient venue shall not include the State or federal judicial district in which the individual suffered injury during the performance of the contract.

(2) A waiver of the individual's right to assert claims or seek remedies provided by State or federal statute.

(3) A waiver of the individual's right to seek punitive damages as provided by law.

(4) Pursuant to 12 V.S.A. § 465, a provision that limits the time in which an action may be brought under the contract or that waives the statute of limitations.

(5) A requirement that the individual pay fees and costs to bring a legal claim substantially in excess of the fees and costs that this State's courts require to bring such a State law claim or that federal courts require to bring such a federal law claim.

(b) Relation to common law and the Uniform Commercial Code.

(1) In determining whether the terms described in subsection (a) of this section are unenforceable, a court shall consider the principles that normally guide courts in this State in determining whether unconscionable terms are enforceable. Additionally, the common law and Uniform Commercial Code shall guide courts in determining the enforceability of unfair terms not specifically identified in subsection (a) of this section.

(2) When a party claims or it appears to the court that the contract or any clause within the contract is unconscionable, the parties shall be afforded a reasonable opportunity to present evidence regarding its commercial setting, purpose, and effect to aid the court in making a determination.

(c) Severability. If a court finds that a standard-form contract contains an unconscionable term, the court shall:

(1) so limit the application of the unconscionable term or the clause containing that term as to avoid any illegal or unconscionable result; or

(2) refuse to enforce the entire contract or the specific part, clause, or provision containing the unconscionable term.

(d) Unfair and deceptive act and practice.

(1) In an underlying legal dispute between the drafting and non-drafting parties in which the drafting party seeks to enforce one or more terms identified in subsection (a) of this section, and upon a finding that such terms are actually unconscionable, the court may also find that the drafting party has thereby committed an unfair and deceptive practice in violation of section 2453 of this title and may order up to \$1,000.00 in statutory damages per violation and an award of reasonable costs and attorney's fees.

(2) Each term the drafting party seeks to enforce that is found by the court to be actually unconscionable may constitute a separate violation of this section.

(e) Limitation on applicability. This section shall not apply to contracts to which one party is:

- (1) regulated by the Vermont Department of Financial Regulation; or
- (2) a financial institution as defined by 8 V.S.A. § 11101(32).

Sec. 2. EFFECTIVE DATE

This act shall take effect on October 1, 2019.

Pending the question shall the House propose to the Senate to amend the bill as recommended by the committee on Judiciary? **Rep. Scheuermann of Stowe** moved that the bill be committed to the committee on Commerce and Economic Development.

Pending the question, Shall the bill be committed to the Committee on Commerce and Economic Development? **Rep. Turner of Milton** 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 bill be committed to the Committee on Commerce and Economic Development? was decided in the negative. Yeas, 57. Nays, 73.

Those who voted in the affirmative are:

Bancroft of Westford	Gannon of Wilmington	Nolan of Morristown
Baser of Bristol	Graham of Williamstown	Norris of Shoreham
Batchelor of Derby	Harrison of Chittenden	Pajala of Londonderry
Beck of St. Johnsbury	Helm of Fair Haven	Quimby of Concord
Beyor of Highgate	Higley of Lowell	Read of Fayston
Bissonnette of Winooski	Houghton of Essex	Rosenquist of Georgia
Browning of Arlington	Juskiewicz of Cambridge	Savage of Swanton
Brumsted of Shelburne	Keefe of Manchester	Scheuermann of Stowe *
Burditt of West Rutland	Kimbell of Woodstock	Shaw of Pittsford
Canfield of Fair Haven	LaClair of Barre Town	Smith of New Haven
Cupoli of Rutland City	Lawrence of Lyndon	Strong of Albany
Devereux of Mount Holly	Lefebvre of Newark	Sullivan of Dorset
Dickinson of St. Albans Town	Lewis of Berlin	Terenzini of Rutland Town
Donahue of Northfield	Lucke of Hartford	Turner of Milton
Fagan of Rutland City	Marcotte of Coventry	Van Wyck of Ferrisburgh
Feltus of Lyndon	McCoy of Poultney	Viens of Newport City
Frenier of Chelsea	McFaun of Barre Town	Willhoit of St. Johnsbury
Gage of Rutland City	Morrissey of Bennington	Wood of Waterbury
Gamache of Swanton	Murphy of Fairfax	
	Myers of Essex	

Those who voted in the negative are:

Ancel of Calais	Gardner of Richmond	Noyes of Wolcott
Bartholomew of Hartland	Giambatista of Essex	Ode of Burlington
Belaski of Windsor	Gonzalez of Winooski	Potter of Clarendon

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Bock of Chester	Grad of Moretown	Pugh of South Burlington
Botzow of Pownal	Haas of Rochester	Rachelson of Burlington
Burke of Brattleboro	Head of South Burlington	Scheu of Middlebury
Carr of Brandon	Hill of Wolcott	Sharpe of Bristol
Chesnut-Tangerman of Middletown Springs	Hooper of Montpelier	Squirrell of Underhill
Christensen of Weathersfield	Hooper of Randolph	Stevens of Waterbury
Christie of Hartford	Howard of Rutland City	Stuart of Brattleboro
Cina of Burlington	Jessup of Middlesex	Sullivan of Burlington
Colburn of Burlington	Joseph of North Hero	Taylor of Colchester
Conlon of Cornwall	Keenan of St. Albans City	Till of Jericho
Connor of Fairfield	Kitzmiller of Montpelier	Toleno of Brattleboro
Conquest of Newbury	Krowinski of Burlington	Toll of Danville
Copeland-Hanzas of Bradford	Lalonde of South Burlington	Townsend of South Burlington
Corcoran of Bennington	Lanpher of Vergennes	Troiano of Stannard
Dakin of Colchester	Lippert of Hinesburg	Walz of Barre City
Deen of Westminster	Long of Newfane	Webb of Shelburne
Donovan of Burlington	Macaig of Williston	Weed of Enosburgh
Dunn of Essex	Masland of Thetford	Yacovone of Morristown
Emmons of Springfield	McCormack of Burlington	Yantachka of Charlotte
Fields of Bennington	McCullough of Williston	Young of Glover
Forguites of Springfield	Miller of Shaftsbury	
	Morris of Bennington	
	Mrowicki of Putney	

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

Ainsworth of Royalton	Martel of Waterford	Sheldon of Middlebury
Brennan of Colchester	Mattos of Milton	Sibilia of Dover
Briglin of Thetford	O'Sullivan of Burlington	Smith of Derby
Buckholz of Hartford	Parent of St. Albans Town	Trieber of Rockingham
Condon of Colchester	Partridge of Windham	Wright of Burlington
Hebert of Vernon	Pearce of Richford	
Jickling of Randolph	Poirier of Barre City	

**Rep. Scheuermann of Stowe** explained her vote as follows:

“Madam Speaker:

It is unconscionable that this body would put at risk the success of one of the industries we so often talk about wanting to help grow and prosper without ensuring our own committee that has jurisdiction over economic development does its due diligence.

Yesterday we slapped down our tech. industry. Today, it's our all important outdoor recreation industry. We should be ashamed of ourselves.”

Thereupon, the proposal of amendment as recommended by the committee on Judiciary was agreed to on a division of Yeas 67, Nays 56, and third reading was ordered.



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**Rules Suspended; Bill Messaged to Senate Forthwith**

On motion of **Rep. Savage of Swanton**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

**S. 175**

Senate bill, entitled

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

**S. 206**

Senate bill, entitled

An act relating to business consumer protection for point-of-sale equipment leases

**S. 92**

Senate bill, entitled

An act relating to interchangeable biological products

**H. 780**

House bill, entitled

An act relating to portable rides at agricultural fairs, field days, and other similar events

**Adjournment**

At six o'clock and thirty-seven minutes in the evening, on motion of **Rep. Savage of Swanton**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.