

**CURRENT CRIMES UNDER VITAL RECORDS LAWS (18 V.S.A. Part 6):
TREATMENT UNDER H.111 AS VOTED BY HOUSE GOV OPS**

**I. NEW CRIMINAL (AND ADMINISTRATIVE) PENALTY LANGUAGE IN H.111 AS
VOTED BY HOUSE GOV OPS**

Sec. 13. 18 V.S.A. § 5011 is amended to read:

§ 5011. ~~PENALTY VIOLATIONS; PENALTIES~~

~~A town clerk who fails to transmit such copies of birth, marriage, civil union, and death certificates as provided in section 5010 of this title shall be fined not more than \$100.00.~~

(a)(1) A person shall not:

(A) knowingly make a false statement, or knowingly supply false information intending that such information be used, in connection with a vital record;

(B) without lawful authority and with the intent to deceive, make, counterfeit, alter, or mutilate any vital record;

(C) without lawful authority and with the intent to deceive, obtain, possess, or use, or sell or furnish to another person, any vital record that:

(i) has been counterfeited, altered, or mutilated;

(ii) is false in whole or in part; or

(iii) relates to another person, whether living or deceased;

(D) without lawful authority, possess any vital record knowing the same to have been stolen or otherwise unlawfully obtained.

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

(b)(1) A person shall not:

(A) knowingly refuse to provide information that the person knows is required of him or her by this part or by rules adopted to carry out its purposes; or

(B) knowingly neglect or violate any of the provisions the person knows are imposed upon him or her by this part or knowingly refuse to perform any of the duties the person knows are imposed upon him or her by this part.

(2) A person who violates this subsection shall be fined not more than \$1,000.00 or imprisoned for not more than one year, or both.

(c) An employee of the Office of Vital Records or any issuing agent who knowingly furnishes or processes a certified copy of a vital event certificate with the knowledge or intention that it may be used for the purposes of deception shall be fined not more than \$10,000.00 or imprisoned for not more than five years, or both.

(d) The Commissioner or a hearing officer designated by the Commissioner may, after notice and an opportunity for hearing, impose a civil administrative penalty of not more than \$250.00 against a person who fails to perform any duty imposed or violates a prohibition under this part. A hearing under this subsection shall be a contested case subject to the provisions of 3 V.S.A. chapter 25, and the provisions of 3 V.S.A. §§ 809(h), 809a, and 809b related to subpoenas shall extend to the Commissioner, a hearing officer appointed by the Commissioner, and licensed attorneys representing a party.

II. ANALOGOUS CRIMINAL PROVISIONS IN EXISTING LAW

13 V.S.A. § 3006. Neglect of duty by public officers

A state, county, town, village, fire district or school district officer who wilfully neglects to perform the duties imposed upon him or her by law, either express or implied, shall be imprisoned not more than one year or fined not more than \$1,000.00, or both.

13 V.S.A. § 2904. False swearing

A person of whom an oath is required by law, who wilfully swears falsely in regard to any matter or thing respecting which such oath is required, shall be guilty of perjury and punished as provided in section 2901 of this title.

13 V.S.A. § 2901. Punishment for perjury

A person who, being lawfully required to depose the truth in a proceeding in a court of justice or in a contested case before a state agency pursuant to chapter 25 of Title 3, commits perjury shall be imprisoned not more than 15 years and fined not more than \$10,000.00, or both.

13 V.S.A. § 1801. Forgery and counterfeiting of papers, documents, etc.

A person who wittingly, falsely and deceitfully makes, alters, forges or counterfeits, or wittingly, falsely or deceitfully causes to be made, altered, forged or counterfeited, or procures, aids or counsels the making, altering, forging or counterfeiting, of a writ, process, public record, or any certificate, return or attestation of a clerk of a court, public register, notary public, justice or other public officer, in relation to a matter wherein such certificate, return or attestation may be received as legal proof, or a charter, deed, or any evidence or muniment of title to property, will, terminal care document, testament, bond, or writing obligatory, letter of attorney, policy of insurance, bill of lading, bill of exchange, promissory note, or an order drawn on a person or corporation, or on a state, county or town or school district treasurer, for money or other property, or an acquittance or discharge for money or other property, or an acceptance of a bill of exchange, or indorsement or assignment of a bill of exchange or promissory note, for the payment of money, or any accountable receipt for money, goods or other property, or certificate of stock, with intent to injure or defraud a person, shall be imprisoned not more than 10 years and fined not more than \$1,000.00, or both.

13 V.S.A. § 1802. Uttering forged or counterfeited instrument

A person who utters and publishes as true a forged, altered or counterfeited record, deed, instrument or other writing mentioned in section 1801 of this title, knowing the same to be false, altered, forged or counterfeited, with intent to injure or defraud a person, shall be imprisoned not more than 10 years and fined not more than \$1,000.00, or both.

III. EXISTING VITAL RECORDS PENALTY PROVISIONS AMENDED IN H.111 AS VOTED BY HOUSE GOV OPS TO CROSS-REFERENCE THE NEW CRIMINAL PENALTY SECTION

Sec. 13. 18 V.S.A. § 5011 is amended to read:

§ 5011. PENALTY VIOLATIONS; PENALTIES

~~A town clerk who fails to transmit such copies of birth, marriage, civil union, and death certificates as provided in section 5010 of this title shall be fined not more than \$100.00.~~

* * *

→ Knowing misconduct of this nature would be a misdemeanor under § 5011(b)

Sec. 23. 18 V.S.A. § 5074 is amended to read:

§ 5074. PENALTY

A person who fails to comply with a provision of sections 5071–5073 of this title shall be ~~fin~~ed \$5.00 subject to the penalties prescribed in section 5011 of this title.

→ A knowing violation would be a misdemeanor under § 5011(b)

Sec. 40. 18 V.S.A. § 5139 is amended to read:

§ 5139. CLERK'S DUTIES; PENALTY

(a) ~~A~~ Except under the circumstances described in subsection (b) of this section, a town clerk who knowingly issues a civil marriage license upon application of a person residing in another town in the state, or a county clerk who knowingly issues a civil marriage license upon application of a person other than as provided in section 5005 of this title other than as described in subdivision 5131(a)(3) of this title, or a clerk who issues such a license without first requiring the applicant to fill out, sign, and make oath to the declaration contained therein as provided in section 5131 of this title, shall be fined not more than \$50.00 nor less than \$20.00 subject to the penalties prescribed in section 5011 of this title.

→ A knowing violation would be a misdemeanor under § 5011(b)

Sec. 41. 18 V.S.A. § 5140 is amended to read:

§ 5140. PENALTY FOR MISREPRESENTATION

A person ~~making application who applies~~ to a clerk for a license to marry ~~who and knowingly~~ makes a material misrepresentation in ~~filling the forms contained in the declaration of intention the application~~ shall be ~~deemed guilty of perjury and punished accordingly~~ subject to the penalties prescribed in section 5011 of this title.

→ This is a felony under § 5011(a). Under existing law, this is punishable as perjury, which under 13 V.S.A. § 2901 carries the possibility of imprisonment of not more than 15 years and a fine of not more than \$10,000.

Sec. 42. 18 V.S.A. § 5141 is amended to read:

§ 5141. PROOF CONFIRMATION OF LEGAL QUALIFICATIONS OF PARTIES; PENALTY

* * *

(b) A clerk who fails to comply with the provisions of this section or who issues a civil marriage license with knowledge that the parties, or either of them, are prohibited from marrying or otherwise have failed to comply with the requirements of the laws of this ~~state~~ State, or a

person who having authority and having such knowledge solemnizes such a marriage, shall be ~~fined not more than \$100.00~~ subject to the penalties prescribed in section 5011 of this title

→ Depending on circumstances, could be a felony or a misdemeanor under §§ 5011(a) or (b). If the relevant facts indicate that clerk's or solemnizer's intent falls under the felony provision, the clerk's or solemnizer's conduct would be analogous to conduct prohibited under 13 V.S.A. § 2904 (false swearing), which carries the possibility of imprisonment of not more than 15 years and a fine of not more than \$10,000.

Sec. 44. 18 V.S.A. § 5143 is amended to read:

§ 5143. PENALTIES

~~A clerk who knowingly violates a provision of section 5142 of this title shall be fined not more than \$20.00.~~ A person who aids in procuring such a civil marriage license by falsely pretending to be the parent or guardian having authority to give consent to the marriage of ~~such minors~~ a minor shall be ~~fined not more than \$500.00~~ subject to the penalties prescribed in section 5011 of this title.

→ This is a felony under § 5011(a). The conduct is analogous to conduct prohibited under 13 V.S.A. § 2904 (false swearing), which carries the possibility of imprisonment of not more than 15 years and a fine of not more than \$10,000.

Sec. 45. 18 V.S.A. § 5146 is amended to read:

§ 5146. PENALTY FOR SOLEMNIZATION WITHOUT LICENSE OR
FAILURE TO RETURN

~~A person~~ An individual who solemnizes a marriage, without first obtaining of the parties the license as required by law section 5145 of this title, or who fails to properly fill out the form thereon provided for his or her use and return the license and certificate of civil marriage to the town clerk's office from which it was issued within 10 days from the date of the marriage, shall be ~~fined not less than \$10.00~~ subject to the penalties prescribed in section 5011 of this title.

→ A knowing violation would be a misdemeanor under § 5011(b)

Sec. 46. 18 V.S.A. § 5147 is amended to read:

§ 5147. SOLEMNIZATION BY UNAUTHORIZED PERSON; PENALTY;
VALIDITY OF MARRIAGE

(a) ~~A person~~ An individual who, knowing that he or she is not authorized so to do, undertakes to join others in marriage, shall be ~~imprisoned not more than six months or fined not more than \$300.00 nor less than \$100.00, or both~~ subject to the penalties prescribed in section 5011 of this title.

→ Depending on circumstances, could be a felony or a misdemeanor under §§ 5011(a) or (b). If the relevant facts indicate that solemnizer's intent falls under the felony provision, the solemnizer's conduct would be analogous to conduct prohibited under 13 V.S.A. § 2904 (false swearing), which carries the possibility of imprisonment of not more than 15 years and a fine of not more than \$10,000.

Sec. 51. 18 V.S.A. § 5206 is amended to read:

§ 5206. ~~PENALTY FOR FAILURE TO FURNISH DEATH CERTIFICATE~~
SUBMIT REPORT OF DEATH

~~A physician who fails to furnish a certificate of death licensed health care professional who fails to cause the medical portion of a report of death to be submitted within 24 hours after the death of a person containing a true statement of the cause of such death, and all the other facts provided for in the form of death certificates, so far as these facts are obtainable, shall be fined not more than \$100.00 shall be subject to the penalties prescribed in section 5011 of this title.~~

→ A knowing violation would be a misdemeanor under § 5011(b)

Sec. 54. 18 V.S.A. § 5211 is amended to read:

§ 5211. ~~UNAUTHORIZED BURIAL OR REMOVAL; PENALTY~~

~~A person who buries, entombs, transports, or removes the dead body of a person without a burial-transit or removal permit so to do, or in any other manner or at any other time or place than as specified in such permit, shall be imprisoned not more than five years or fined not more than \$1,000.00, or both subject to the penalties prescribed in section 5011 of this title.~~

→ A knowing violation would be a misdemeanor under § 5011(b)

Sec. 55. 18 V.S.A. § 5216 is amended to read:

§ 5216. ~~PENALTY~~

~~A sexton or other person having charge of a cemetery, tomb, or receiving vault who violates a provision of sections 5214 and 5215 of this title shall be fined not more than \$500.00 nor less than \$20.00 subject to the penalties prescribed in section 5011 of this title.~~

→ A knowing violation would be a misdemeanor under § 5011(b)