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Act No. 54 (H.308). Judiciary; Public Safety

An act relating to the Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel

This act:

- Establishes a Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel within the Office of the Attorney General, comprising 13 members, including five members appointed by the AG to represent the interests of communities of color, the Executive Director of Criminal Justice Training Council, the Attorney General, the Defender General, the Executive Director of the State's Attorneys and Sheriffs, the Chief Superior Judge, the Commissioner of Corrections, the Commissioner of Public Safety, and the Commissioner for Children and Families. Sunsets the Advisory Panel in July of 2020.
- Requires the newly established Panel to consult with the Vermont Police Association, the Vermont Human Rights Commission, the Vermont ACLU, the Sheriff's Association, the Association of Chiefs of Police, and others.
- Sets the responsibilities of the Panel to include:
 - Reviewing and providing recommendations to address systemic racial disparities in statewide systems of criminal and juvenile justice.
 - Continually reviewing the traffic stop data required by 20 V.S.A. § 2366 to monitor progress towards a fair and impartial system of law enforcement.
 - Providing recommendations to the Criminal Justice Training Council and the Vermont Bar Association on trainings for law enforcement, judges, correctional officers, and attorneys to address implicit bias.
 - Providing recommendations to the Council on a model training and policy on the use of force in policing.
 - Educating and engaging with communities, businesses, educational institutions, State and local governments, and the general public

about the nature and scope of racial discrimination and on State progress toward racial justice.

- Monitoring progress on recommendations from 2016 report of the Attorney General's Working Group on Law Enforcement Community Interactions.
- Reporting to the General Assembly on recommendations to address systemic implicit bias, including:
 - How to institute a public complaint process to address perceived implicit bias across all systems of State government.
 - How and whether to prohibit racial profiling.
 - Whether to expand law enforcement race-based data collection to include data on nontraffic stops by law enforcement.
- Requires that the Criminal Justice Training Council regularly report to the Panel on:
 - The adoption and implementation of the Panel's recommended implicit bias trainings for law enforcement, judges, correctional officers, and attorneys.
 - The incorporation of implicit bias training into the requirements of minimum training standards for law enforcement.
 - The implementation of the statutorily required trainings for law enforcement.
- Requires the Attorney General and Human Rights Commission, along with interested stakeholders, to develop a strategy to address racial disparities within the State systems of education, labor and employment, access to housing and health care, and economic development, and report on the proposal to the Justice Oversight Committee on or before November 1, 2017.
- Requires the Criminal Justice Training Council and the Attorney General to modify the model fair and impartial policing policy to bring it into compliance with federal immigration law on or before October 1, 2017.
- Requires the Criminal Justice Training Council, in consultation with stakeholders, to update the model policy to provide one cohesive policy for law enforcement to adopt pursuant to 20 V.S.A. § 2366 on or before January 1, 2018.

- Requires law enforcement to adopt a fair and impartial policing policy that includes, at a minimum, each component of the Criminal Justice Training Council's model policy on or before March 1, 2018.
- Requires the Criminal Justice Training Council, in consultation with others, to review and—if necessary—update the model policy every other year, beginning in 2018.
- Requires the Criminal Justice Training Council and the Attorney General to review the law enforcement policies to ensure they comply with the model policy on or before April 15, 2018. The Council must work with law enforcement to correct any noncompliant policies. If a law enforcement agency does not adopt a policy that meets each component of the model policy, it is deemed to have adopted the model policy.

Bill takes effect on May 31, 2017, except for Sec. 6, which takes effect on March 1, 2018.

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Act No. 62 (H.503). Crimes and criminal procedures; health

An act relating to criminal justice

This act makes a number of changes to various criminal justice issues, including:

- *Bail*. Bail cannot be imposed if a defendant was cited for a misdemeanor and showed up at the initial appearance.
- *Pretrial Communications*. Requires the Court Administrator, the Department of State's Attorneys and Sheriffs, the Office of the Defender General, and the Vermont Chapter of the American Civil Liberties Union to work together and with other interested parties to examine options for facilitating pretrial communication between the courts and defendants with a goal of reducing the risk of nonappearance by defendants and jointly provide options and costs of such options to the Joint Legislative Justice Oversight Committee on or before October 15, 2017.
- *Fentanyl*. Creates stand-alone crime of dispensing, selling, or trafficking fentanyl with penalties ranging from 3 to 30 years
- *National Precursor Log Exchange (NPLEx)*. Reestablishes requirements for using NPLEx to track purchases of over-the-counter medications containing ephedrine/pseudoephedrine/phenylpropanolamine.
- *Cannabidiol*. Requires that, upon approval of one or more prescription drugs containing cannabidiol, such drugs shall be legal in Vermont and the Department of Health shall amend its rules to include such prescriptions.
- *Animal Cruelty*. Bans bestiality. Increases penalty from one to two years for intentionally killing or attempting to kill an animal belonging to another or by torturing, administering poison to, or cruelly beating or mutilating an animal. Increases penalty for aggravated animal cruelty from three to five years
- *Electronic Monitoring*. Eases requirements for requesting home detention in lieu of incarceration pending trial and directs the Department of Corrections to establish an active electronic monitoring program with real-time enforcement.

Multiple effective dates, beginning on June 7, 2017

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Act No. 44 (H.74). Crimes and criminal procedures; domestic relations

An act relating to domestic and sexual violence

This act addresses a number of issues related to domestic and sexual violence, including:

- Creates the misdemeanor crime of prohibited conduct of open and gross lewdness
- Creates a “Bill of Rights for Sexual Assault Survivors”
- Eliminates the statute of limitations for sexual assault and child pornography, which had previously been six years for both
- Eliminates the ability of a defendant to modify a parental rights and responsibilities order in cases involving a child who was conceived as a result of a sexual assault
- Tweaks the language for emergency and final domestic abuse protection orders to allow a court comprehensively to prohibit a defendant from contacting a plaintiff in any way, whether directly or indirectly, and through any method

Multiple effective dates, beginning on May 23, 2017

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Act No. 65 (S.16). Health; Marijuana Registry

An act relating to expanding patient access to the Medical Marijuana Registry

This act makes multiple changes to the Medical Marijuana Registry requirements and regulation of dispensaries, including:

- Adds Crohn's disease and Parkinson's disease as debilitating medical conditions that qualify a person for the Registry. Also adds post-traumatic stress disorder, provided the Registry confirms the applicant is undergoing psychotherapy or counseling with a licensed mental health care provider.
- Expands the number of dispensary licenses available from four to five, with a sixth permitted once the number of registered patients reaches 7,000.
- Allows a dispensary to serve patients at two locations under the same license.
- Eliminates the requirement that a dispensary be a nonprofit organization.
- Allows a patient to cultivate marijuana for one other patient.
- Allows a patient to cultivate marijuana and designate a dispensary.
- Clarifies that the Agency of Agriculture, Food and Markets may possess marijuana and hemp in discharging its duties under State law and directs the Agency to report to the General Assembly on or before October 15, 2017 on issues related to testing and labeling.
- Directs the Department of Public Safety and the Agency of Digital Services to develop an independent web page for the Medical Marijuana Registry.

Multiple effective dates, beginning on June 8, 2017

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Act No. 15 (S.7). Crimes and criminal procedures; Sex Offender Registry; deferred sentences

An act relating to deferred sentences and the sex offender registry

This act provides that when a sex offender receives a deferred sentence, the offender's name is not placed on the Sex Offender Registry during the period of time when the sentence is being deferred, unless either: (1) the offender violates the terms of the deferred sentence agreement and is sentenced on the conviction, in which case the offender's name is placed on the Registry, and is posted on the Internet portion of the Registry, for the period of time applicable to the underlying crime; or (2) the court finds that the interests of justice warrant placing the offender's name on the Registry during the period when the sentence is deferred, in which case the offender's name is posted (though not on the Internet) only until he or she successfully completes the deferred sentence agreement.

Effective Date: May 1, 2017

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Act No. 14 (S.5). Crimes and criminal procedures; plea agreements

An act relating to plea agreements

This act removes the statutory requirement that for felonies the prosecutor must state the reasons for a plea agreement on the record in open court.

Effective Date: July 1, 2017

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Act No. 72 (S.23). Judiciary; youthful offender; juvenile delinquency

An act relating to juvenile jurisdiction

This act:

- Prevents placement of a youthful offender on the Sex Offender Registry unless and until his or her youthful offender status is revoked by the Family Division and his or her case is transferred to and he or she is sentenced in the Criminal Division
- Creates a new chapter in Title 28 enumerating the duties of the Department of Corrections to supervise youthful offenders
- Makes technical corrections to the Juvenile Delinquency chapter to conform with the requirements of 2016 Acts and Resolves No. 153
- Moves the youthful offender statutes to a new chapter 52A in Title 33 and makes technical corrections to those statutes and changes to address the dual role of the Department for Children and Families and the Department of Corrections in supervising youthful offenders
- Provides that in the event a youthful offender violates the terms of his or her probation and the court makes the determination to revoke the youth's status as youthful offender, the case is transferred to the Criminal Division with a record of the adjudication in the Family Division
- Provides that in the pre-disposition phase when the Department for Children and Families recommends secure placement for a juvenile, only the court has the authority to make such a placement, and the court order must include findings that no other suitable placement is available and that the youth presents a risk of harm to others or property
- Directs the Vermont Supreme Court to adopt rules to ensure that it is clear to youth adjudicated as a youthful offender that if their youthful offender status is revoked and they are sentenced in the Criminal Division, they will have waived their right to a jury trial

Multiple effective dates, beginning on July 1, 2017

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Act No. 61 (S.134). Crimes and criminal procedures; court diversion; pretrial services

An act relating to court diversion and pretrial services

This act makes several changes to the court diversion and pretrial services programs. The act expands diversion also to include adults with substance abuse or mental health treatment needs, regardless of the person's prior criminal history record (currently, adult diversion is available only to persons charged with a first or a second misdemeanor or a first nonviolent felony), and requires that for certain crimes the prosecutor must provide the offender with the opportunity to participate in diversion unless the prosecutor states on the record at arraignment or a subsequent court proceeding why doing so would not serve the ends of justice in that particular case. The act limits the initial offering of risk assessments and needs screenings to those who are arrested, lodged, and unable to post bail within 24 hours of lodging (under existing law, the assessments and screenings are available to persons charged with a wide range of felonies and misdemeanors, regardless of their ability to post bail), clarifies that participation is voluntary, and makes clear that failure to comply with court assessment and screening orders is not a criminal violation, although the court retains its independent authority to impose conditions of release. The act also directs the Office of Legislative Council to study and report on the issue of a public-health approach to low-level possession and use of illicit drugs in Vermont.

Effective Date: July 1, 2017

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Act No. 28 (H.297). Judiciary court procedure

An act relating to miscellaneous court operations procedures

This act makes a number of minor and technical amendments to court operations procedures in order to make the Vermont statutes consistent with existing practice.

Effective Date: May 10, 2017

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Act No. 78 (S.61). Corrections; offenders with mental illness

An act relating to offenders with mental illness, inmate records, and inmate services

This act:

- Moves the definition of “segregation” so that it applies to the entirety of Title 28, and amends the definition to clarify that it does not mean confinement to an infirmary or a residential treatment setting for purposes of evaluation, treatment, or provision of services
- Requires that the Department of Corrections (DOC) refer within 24 hours every inmate who is screened by a mental health professional as needing inpatient treatment to a setting appropriate for the clinical needs of that inmate
- Requires that by July 1, 2017, the Department of Corrections and the Department of Mental Health execute a memorandum of understanding that establishes how to care for inmates with mental illness until a forensic mental health center is created on July 1, 2019 (also required by this act)
- Requires that by January 18, 2018, the Department of Corrections, in consultation with the Department of Mental Health and the designated agencies, develop a plan to create or establish access to a forensic mental health center and report on the plan to the standing committees
- In July of 2019, requires that a special unit to serve inmates with mental illness be available and that the Department provide treatment, evaluation, or services within 48 hours to every inmate that is screened as requiring them
- Requires a report from the Secretary of Human Services to the Joint Legislative Justice Oversight Committee on October 15 of 2017. The report shall provide recommendations on how best to provide mental health treatment and services to inmates and detainees who are lodged in a correctional facility, including whether services should be provided by designated agencies, an in-house employee, or contract
- Provides that it is the General Assembly’s intent that the DOC house inmates in the least restrictive setting necessary and, use segregation only in instances when it serves a specific disciplinary or administrative