

1 TO THE HONORABLE SENATE:

2 The Committee on Education to which was referred House Bill No. 513
3 entitled “An act relating to making miscellaneous changes to education law”
4 respectfully reports that it has considered the same and recommends that the
5 Senate propose to the House that that the bill be amended by striking out all
6 after the enacting clause and inserting in lieu thereof the following:

7 * * * Approved Independent Schools Study Committee * * *

8 Sec. 1. APPROVED INDEPENDENT SCHOOLS STUDY COMMITTEE

9 (a) Creation. There is created the Approved Independent Schools Study
10 Committee to consider and make recommendations on the criteria to be used
11 by the State Board of Education for designation as an “approved” independent
12 school.

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

15 (1) one current member of the House of Representatives who shall be
16 appointed by the Speaker of the House;

17 (2) one current member of the Senate who shall be appointed by the
18 Committee on Committees;

19 (3) the Chair of the State Board of Education or designee;

20 (4) the Secretary of Education or designee;

1 (5) the Executive Director of the Vermont Superintendent’s Association
2 or designee;

3 (6) the Executive Director of the Vermont School Boards Association or
4 designee;

5 (7) the Executive Director of the Vermont Independent Schools
6 Association or designee;

7 (8) two representatives of approved independent schools, who shall be
8 chosen by the Executive Director of the Vermont Independent Schools
9 Association; and

10 (9) the Executive Director of the Vermont Council of Special Education
11 Administrators or designee.

12 (c) Powers and duties. The Committee shall consider and make
13 recommendations on the criteria to be used by the State Board of Education for
14 designation as an “approved” independent school, including the following
15 criteria:

16 (1) the school’s enrollment policy and any limitation on a student’s
17 ability to enroll;

18 (2) how the school should be required to deliver special education
19 services and which categories of these services; and

1 (3) the scope and nature of financial information and special education
2 information that should be required to be reported by the school to the State
3 Board or Agency of Education.

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

6 (e) Report. On or before January 15, 2018, the Committee shall submit a
7 written report to the House and Senate Committees on Education with its
8 findings and any recommendations, including recommendations for any
9 amendments to legislation.

10 (f) Meetings.

11 (1) The Secretary of Education shall call the first meeting of the
12 Committee to occur on or before May 30, 2017.

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

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

16 (4) The Committee shall cease to exist on January 16, 2018.

17 (g) Reimbursement.

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

1 (2) Other members of the Committee who are not employees of the State
2 of Vermont and who are not otherwise compensated or reimbursed for their
3 attendance shall be entitled to per diem compensation and reimbursement of
4 expenses pursuant to 32 V.S.A. § 1010 for no more than seven meetings.

5 * * * Educational and Training Programs for College Credit * * *

6 Sec. 2. APPROPRIATION TO THE VERMONT STATE COLLEGES
7 TO EXPAND EDUCATION AND TRAINING EVALUATION
8 SERVICES PROGRAM

9 The sum of \$20,000.00 is appropriated from the Next Generation Initiative
10 Fund created pursuant to 16 V.S.A. § 2887 to the Vermont State Colleges for
11 the purpose of providing funding for the Colleges' Education and Training
12 Evaluation Services Program. The Vermont State Colleges shall use the
13 appropriation to evaluate or reevaluate educational and training programs for
14 college credit at no cost or at a reduced cost to the programs being evaluated.
15 The Vermont State Colleges shall identify training programs in the skilled
16 trades, including the plumbing and electrical trades, to receive these evaluation
17 services. The Vermont State Colleges shall, on or before January 15, 2018,
18 issue a report to the House and Senate Committees on Education describing
19 how the funds appropriated pursuant to this section have been spent, how any
20 remaining funds appropriated pursuant to this section will be spent, and the

1 number and nature of the programs evaluated or reevaluated and the results of
2 the evaluations.

3 * * * Student Enrollment; Small School Grant * * *

4 Sec. 3. 16 V.S.A. § 4015 is amended to read:

5 § 4015. SMALL SCHOOL SUPPORT

6 (a) In this section:

7 (1) “Eligible school district” means a school district that operates at least
8 one school; and

9 (A) has a two-year average combined enrollment of fewer than 100
10 students in all the schools operated by the district; or

11 (B) has an average grade size of 20 or fewer.

12 (2) “Enrollment” means the number of students who are enrolled in a
13 school operated by the district on October 1. A student shall be counted as one
14 whether the student is enrolled as a full-time or part-time student. Students
15 enrolled in prekindergarten programs shall not be counted.

16 (3) “Two-year average enrollment” means the average enrollment of the
17 two most recently completed school years.

18 (4) “Average grade size” means two-year average enrollment divided by
19 the number of grades taught in the district on October 1. For purposes of this
20 calculation, kindergarten and prekindergarten programs shall be counted
21 together as one grade.

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* * * Vermont Standards Board for Professional Educators * * *

Sec. 4. 16 V.S.A. § 1693 is amended to read:

§ 1693. STANDARDS BOARD FOR PROFESSIONAL EDUCATORS

(a) There is hereby established the Vermont Standards Board for Professional Educators comprising 13 members as follows: seven teachers, two administrators, one of whom shall be a school superintendent, one public member, one school board member, one representative of educator preparation programs from a public institution of higher education, and one representative of educator preparation programs from a private institution of higher education.

* * *

Sec. 5. TRANSITIONAL PROVISION

A superintendent shall be appointed to the Vermont Standards Board for Professional Educators upon the next expiration of the term of a member who is serving on the Board as an administrator.

* * * Speech-Language Pathologists * * *

Sec. 6. 26 V.S.A. § 4451 is amended to read:

§ 4451. DEFINITIONS

As used in this chapter:

* * *

1 (5) “Educational speech-language pathologist” means a speech-language
2 pathologist who is employed by a supervisory union or public school district in
3 Vermont or an independent school approved for special education purposes for
4 the purpose of providing speech-language pathology.

5 (6) “Secretary” means the Secretary of State.

6 ~~(6)~~(7) “Speech-language pathologist” means a person licensed to
7 practice speech-language pathology under this chapter, but shall not include an
8 educational speech-language pathologist.

9 ~~(7)~~(8) “Speech-language pathology” means the application of principles,
10 methods, and procedures related to the development and disorders of human
11 communication, which include any and all conditions that impede the normal
12 process of human communication.

13 Sec. 7. 26 V.S.A. § 4454 is amended to read:

14 § 4454. CONSTRUCTION

15 (a) This chapter shall not be construed to limit or restrict in any way the
16 right of a practitioner of another occupation that is regulated by this State from
17 performing services within the scope of his or her professional practice.

18 (b) This chapter shall not be construed to apply to an educational speech-
19 language pathologist, except to the extent that an educational speech-language
20 pathologist provides speech-language pathology services outside a school
21 environment. An educational speech-language pathologist shall be subject to

1 the licensing, training, and professional standards provisions of 16 V.S.A.
2 chapter 51. To the extent that an educational speech-language pathologist
3 provides speech-language pathology services outside a school environment, the
4 educational speech-language pathologist shall be subject to the licensing,
5 training, and professional standards provisions of this chapter.

6 Sec. 8. TRANSITIONAL PROVISION

7 An individual holding an educator license with an endorsement for
8 educational speech-language pathologist from the Agency of Education shall
9 retain that endorsement and shall renew it with the Agency as required by law,
10 in addition to licensure with the Agency of Education.

11 * * * Renewal of Principal's Contracts * * *

12 Sec. 9. 16 V.S.A. § 243(c) is amended to read:

13 (c) Renewal and nonrenewal. A principal who has been continuously
14 employed for more than two years in the same position has the right either to
15 have his or her contract renewed, or to receive written notice of nonrenewal at
16 ~~least 90 days before~~ on or before February 1 of the year in which the existing
17 contract expires. Nonrenewal may be based upon elimination of the position,
18 performance deficiencies, or other reasons. The written notice shall recite the
19 grounds for nonrenewal. If nonrenewal is based on performance deficiencies,
20 the written notice shall be accompanied by an evaluation performed by the
21 superintendent. At its discretion, the school board may allow a period of

1 remediation of performance deficiencies prior to issuance of the written notice.
2 After receiving such a notice, the principal may request in writing, and shall be
3 granted, a meeting with the school board. Such request shall be delivered
4 within 15 days of delivery of notice of nonrenewal, and the meeting shall be
5 held within 15 days of delivery of the request for a meeting. At the meeting,
6 the school board shall explain its position, and the principal shall be allowed to
7 respond. The principal and any member of the board may present written
8 information or oral information through statements of others, and the principal
9 and the board may be represented by counsel. The meeting shall be in
10 executive session unless both parties agree in writing that it be open to the
11 public. After the meeting, the school board shall decide whether or not to offer
12 the principal an opportunity to renew his or her contract. The school board
13 shall issue its decision in writing within five days. The decision of the school
14 board shall be final.

15 * * * Postsecondary Schools * * *

16 Sec. 10. 16 V.S.A § 176(d) is amended to read:

17 (d) Exemptions. The following are exempt from the requirements of this
18 section except for the requirements of subdivision (c)(1)(C) of this section:

19 * * *

20 (4) Postsecondary schools that are accredited. The following
21 postsecondary institutions are accredited, meet the criteria for exempt status,

1 and are authorized to operate educational programs beyond secondary
2 education, including programs leading to a degree or certificate: Bennington
3 College, ~~Burlington College~~, Champlain College, College of St. Joseph,
4 Goddard College, Green Mountain College, Landmark College, Marlboro
5 College, Middlebury College, New England Culinary Institute, Norwich
6 University, Saint Michael's College, SIT Graduate Institute, Southern Vermont
7 College, Sterling College, Vermont College of Fine Arts, and Vermont Law
8 School. This authorization is provided solely to the extent necessary to ensure
9 institutional compliance with federal financial aid-related regulations, and it
10 does not affect, rescind, or supersede any preexisting authorizations, charters,
11 or other forms of recognition or authorization.

12 * * *

13 * * * Educational Opportunities * * *

14 Sec. 11. 16 V.S.A § 165(b) is amended to read:

15 (b) ~~Every two years~~ Annually, the Secretary shall determine whether
16 students in each Vermont public school are provided educational opportunities
17 substantially equal to those provided in other public schools. If the Secretary
18 determines that a school is not meeting the education quality standards listed in
19 subsection (a) of this section or that the school is making insufficient progress
20 in improving student performance in relation to the standards for student
21 performance set forth in subdivision 164(9) of this title, he or she shall

1 describe in writing actions that a district must take in order to meet either or
2 both sets of standards and shall provide technical assistance to the school. If
3 the school fails to meet the standards or make sufficient progress ~~by the end of~~
4 ~~the next two year period~~ within two years of the determination, the Secretary
5 shall recommend to the State Board one or more of the following actions:

6 * * *

7 * * * Local Education Agency * * *

8 Sec. 12. 16 V.S.A. § 563 is amended to read:

9 § 563. POWERS OF SCHOOL BOARDS; FORM OF VOTE

10 The school board of a school district, in addition to other duties and
11 authority specifically assigned by law:

12 * * *

13 (26) ~~Shall carry out the duties of a local education agency, as that term~~
14 ~~is defined in 20 U.S.C. § 7801(26), for purposes of determining student~~
15 ~~performance and application of consequences for failure to meet standards and~~
16 ~~for provision of compensatory and remedial services pursuant to 20 U.S.C.~~
17 ~~§§ 6311-6318. [Repealed.]~~

18 * * *

1 * * * State-placed and Homeless Students * * *

2 Sec. 13. 16 V.S.A § 1075 is amended to read:

3 § 1075. LEGAL RESIDENCE DEFINED; RESPONSIBILITY AND
4 PAYMENT OF EDUCATION OF STUDENT

5 * * *

6 (c) State-placed students.

7 (1) A State-placed student in the legal custody of the Commissioner for
8 Children and Families, other than one placed in a 24-hour residential facility
9 and except as otherwise provided in this subsection, shall be educated by ~~the~~
10 ~~school district in which the student is living~~ the student's school of origin,
11 ~~unless an alternative plan or facility for the education of the student is agreed~~
12 ~~upon by Secretary~~ the student's education team determines that it is not in the
13 student's best interest to attend the school of origin. The student's education
14 team shall include, as applicable, the student, the student's parents and foster
15 parents, the student's guardian ad litem and educational surrogate parent,
16 representatives of both the school of origin and potential new school, and a
17 representative of the Family Services Division of the Department for Children
18 and Families. ~~In the case of a dispute as to where a State placed student is~~
19 ~~living, the Secretary shall conduct a hearing to determine which school district~~
20 ~~is responsible for educating the student. The Secretary's decision shall be final~~
21 about whether it is in the student's best interest to attend the school of origin,

1 the Commissioner for Children and Families shall make the final decision. As
2 used in this section, “school of origin” means the school in which the child was
3 enrolled at the time of placement into custody of the Commissioner for
4 Children and Families, or in the case of a student already in the custody of the
5 Commissioner for Children and Families, the school the student most recently
6 attended.

7 (2) If a student is a State-placed student pursuant to subdivision
8 11(a)(28)(D)(i)(I) of this title, then the Department for Children and Families
9 shall ~~assume responsibility~~ be responsible for the student’s transportation to
10 and from school, unless the receiving district chooses to provide transportation.

11 (3) A State-placed student not in the legal custody of the Commissioner
12 for Children and Families, other than one placed in a 24-hour residential
13 facility and except as otherwise provided in this subsection, shall be educated
14 by the school district in which the student is living unless an alternative plan or
15 facility for the education of the student is agreed upon by the Secretary. In the
16 case of dispute as to where a State-placed student is living, the Secretary shall
17 conduct a hearing to determine which school district is responsible for
18 educating the student. The Secretary’s decision shall be final.

19 (4) A student who is in temporary legal custody pursuant to 33 V.S.A.
20 § 5308(b)(3) or (4) and is a State-placed student pursuant to subdivision
21 11(a)(28)(D)(i)(II) of this title, shall be enrolled, at the temporary legal

1 custodian’s discretion, in the district in which the student’s parents reside, the
2 district in which either parent resides if the parents live in different districts,
3 the district in which the student’s legal guardian resides, or the district in
4 which the temporary legal custodian resides. If the student enrolls in the
5 district in which the temporary legal custodian resides, the district shall
6 provide transportation in the same manner and to the same extent it is provided
7 to other students in the district. In all other cases, the temporary legal
8 custodian is responsible for the student’s transportation to and from school,
9 unless the receiving district chooses to provide transportation.

10 ~~(4)~~(5) If a student who had been a State-placed student pursuant to
11 subdivision 11(a)(28) of this title is returned to live in the district in which one
12 or more of the student’s parents or legal guardians reside, then, at the request
13 of the student’s parent or legal guardian, the Secretary may order the student to
14 continue his or her enrollment for the remainder of the academic year in the
15 district in which the student resided prior to returning to the parent’s or
16 guardian’s district and the student will continue to be funded as a State-placed
17 student. Unless the receiving district chooses to provide transportation:

18 * * *

19 (e) For the purposes of this title, the legal residence or residence of a child
20 of homeless parents is ~~where the child temporarily resides~~ the child’s school
21 of origin, as defined in subdivision (c)(1) of this section, unless the parents

1 and another school district agree that the child’s attendance in school in that
2 school district will be in the best interests of the child ~~in that continuity of~~
3 ~~education will be provided and transportation will not be unduly burdensome~~
4 ~~to the school district.~~ A “child of homeless parents” means a child whose
5 parents:

6 * * *

7 * * * Early College * * *

8 Sec. 14. REPEAL

9 16 V.S.A § 4011(e) (early college) is repealed.

10 Sec. 15. 16 V.S.A § 946 is added to read:

11 § 946. EARLY COLLEGE

12 (a) For each grade 12 Vermont student enrolled, the Secretary shall pay an
13 amount equal to 87 percent of the base education amount to:

14 (1) the Vermont Academy of Science and Technology (VAST); and

15 (2) an early college program other than the VAST program that is

16 developed and operated or overseen by the University of Vermont, by one of

17 the Vermont State Colleges, or by an accredited private postsecondary school

18 located in Vermont and that is approved for operation by the Secretary;

19 provided, however, when making a payment under this subdivision (2), the

20 Secretary shall not pay more than the tuition charged by the institution.

1 (b) The Secretary shall make the payment pursuant to subsection (a) of this
2 section directly to the postsecondary institution, which shall accept the amount
3 as full payment of the student’s tuition.

4 (c) A student on whose behalf the Secretary makes a payment pursuant to
5 subsection (a) of this subsection:

6 (1) shall be enrolled as a full-time student in the institution receiving the
7 payment for the academic year for which payment is made;

8 (2) shall not be enrolled concurrently in a secondary school operated by
9 the student’s district of residence or to which the district pays tuition on the
10 student’s behalf; and

11 (3) shall not be included in the average daily membership of any school
12 district for the academic year for which payment is made; provided, however,
13 that if more than five percent of the grade 12 students residing in a district
14 enroll in an early college program, then the district may include the number of
15 students in excess of five percent in its average daily membership; but further
16 provided that a student in grade 12 enrolled in a college program shall be
17 included in the percentage calculation only if, for the previous academic year,
18 the student was enrolled in a school maintained by the district or was a student
19 for whom the district paid tuition to a public or approved independent school.

1 (d) A postsecondary institution shall not accept a student into an early
2 college program unless enrollment in an early college program was an element
3 of the student’s personalized learning plan.

4 Sec. 16. REPEAL

5 16 V.S.A § 4011a (early college program; report; appropriations) is
6 repealed.

7 Sec. 17. 16 V.S.A § 947 is added to read:

8 § 947. EARLY COLLEGE PROGRAM; REPORT; APPROPRIATION

9 (a) Notwithstanding 2 V.S.A. § 20(d), any postsecondary institution
10 receiving funds pursuant to section 946 of this title shall report annually in
11 January to the Senate and House Committees on Education regarding the level
12 of participation in the institution’s early college program, the success in
13 achieving the stated goals of the program to enhance secondary students’
14 educational experiences and prepare them for success in college and beyond,
15 and the specific results for participating students relating to programmatic
16 goals.

17 (b) In the budget submitted annually to the General Assembly pursuant to
18 32 V.S.A. chapter 5, the Governor shall include the recommended
19 appropriation for all early college programs to be funded pursuant to section
20 946 of this title, including the VAST program, as a distinct amount.

1 * * * Advisory Council on Special Education * * *

2 Sec. 18. 16 V.S.A § 2945(c) is amended to read:

3 (c) The members of the Council who are employees of the State shall
4 receive no additional compensation for their services, but actual and necessary
5 expenses shall be allowed State employees, and shall be charged to their
6 departments or institutions. The members of the Council who are not
7 employees of the State shall receive a per diem compensation ~~of \$30.00 per~~
8 ~~day~~ as provided under 32 V.S.A. § 1010 for each day of official business and
9 reimbursement for actual and necessary expenses at the rate allowed State
10 employees.

11 * * * Criminal Record Checks * * *

12 Sec. 19. 16 V.S.A § 251 is amended to read:

13 § 251. POLICY

14 (a) It is the policy of the State of Vermont to use criminal record checks to
15 deter abuse and exploitation of school children and to do so in a manner that
16 protects, as much as is practicable, the privacy of those subject to such checks.
17 Accordingly, every person who has contact with students in a public school, an
18 approved or recognized independent school, or a prekindergarten program,
19 whether as an operator, employee, or contractor, shall undergo a
20 fingerprint-supported FBI criminal record check prior to having any
21 unsupervised contact with children.

1 (b) With respect to licensed teachers in any setting, the Agency of Education
2 shall conduct a record check at the time the person is licensed to teach in the
3 State and at the time the person’s license is renewed following the requirements
4 in section 251a of this title.

5 (c) Notwithstanding any other provision of law, the fingerprint-supported
6 criminal record check shall be initiated for kindergarten through grade 12 as
7 follows:

8 (1) If the person is not a Vermont licensed teacher but is employed by or
9 under contract to a public school, the superintendent for the district shall
10 conduct the record check at the time of hire pursuant to sections 251a and 255
11 of this title.

12 (2) If the person is not a Vermont licensed teacher and is employed by
13 or under contract to an approved or recognized independent school, the
14 headmaster of that school shall conduct the record check pursuant to sections
15 251a and 255 of this title.

16 (d) The fingerprint-supported criminal record check shall be initiated for a
17 prekindergarten program prequalified pursuant to section 829 of this title or in
18 partnership with a school district pursuant to subdivision 829(e)(1) of this title
19 as follows:

20 (1) If the person is not a Vermont licensed teacher but is employed by or
21 under contract to a public school, with the exception of contractors covered in

1 subdivisions (2) and (3) of this subsection, the superintendent of the district
2 shall request the record check pursuant to sections 251a and 255 of this title.

3 (2) If the person is not a Vermont licensed teacher but is employed by or
4 under contract to a recognized or approved independent school, the headmaster
5 shall request the record check pursuant to sections 251a and 255 of this title.

6 (3) If the person is not a Vermont licensed teacher and is employed by a
7 private program registered or licensed by the Child Development Division, the
8 Department for Children and Families shall request the record check pursuant
9 to 33 V.S.A. § 152 and rules adopted by the Department for Children and
10 Families.

11 (e) The Agency of Education, Department for Children and Families,
12 superintendents, and headmasters shall maintain a registry accessible only to
13 the other parties named in this subsection for the purpose of sharing
14 information, including the person's name and social security number, whether
15 a person has a qualifying criminal record check clearance, the date of the
16 clearance, and whether the person was cleared pursuant to a waiver section
17 251a(c) of this title. Each of the parties named in this subsection shall accept
18 qualifying criminal background check clearances from the other named parties.
19 Nothing in this section, however, shall require a superintendent or headmaster
20 to hire a person who has been cleared.

1 (f) The requirements of this section shall not apply with respect to a school
2 district's partners in any program authorized or student placement created by
3 subchapter 2 of chapter 23 of this title; provided, however, that superintendents
4 may require a fingerprinted supported record check pursuant to school district
5 policy with respect to its partners in such programs.

6 Sec. 20. 16 V.S.A. § 251a is added to read:

7 § 251a. BACKGROUND CHECKS AND ACCESS TO RECORDS

8 (a) Pursuant to section 251 of this title, criminal background checks
9 conducted by the Agency of Education, superintendents, and headmasters shall
10 include:

11 (1) a fingerprint-supported Vermont Crime Information Center and FBI
12 criminal record check;

13 (2) a search of the National Sex Offender Registry established under the
14 Adam Walsh Child Protection and Safety Act of 2006;

15 (3) a search of the Vermont Child Protection Registry;

16 (4) a search of the Vermont Adult Abuse Registry; and

17 (5) a search of the child abuse and neglect registries, repositories, or
18 databases, if available, in each state where the person resided during the
19 preceding five years.

20 (b) The Agency of Education shall deny licensure and superintendents and
21 headmasters shall deny employment or refuse to contract with a person who:

1 (1) is required to complete a background check and who refuses or
2 knowingly makes a materially false statement in connection with such
3 background check;

4 (2) is registered, or is required to be registered, on a state sex offender
5 registry or repository or the National Sex Offender Registry;

6 (3) is convicted of a felony involving:

7 (A) murder;

8 (B) child abuse or neglect;

9 (C) a crime against children, including sexual activity or child
10 pornography;

11 (D) spousal abuse;

12 (E) rape or sexual assault;

13 (F) kidnapping;

14 (G) arson;

15 (H) physical assault or battery; or

16 (I) a drug-related offense committed during the preceding five years;

17 (4) is convicted of a misdemeanor offense against a child or another
18 person involving:

19 (A) violence;

20 (B) child abuse or neglect;

21 (C) child endangerment;

1 (D) sexual assault or activity;

2 (E) child pornography; or

3 (F) other violent bodily injury;

4 (5) is convicted of fraud;

5 (6) is convicted of embezzlement;

6 (7) has had a report of abuse or neglect substantiated against them under
7 33 V.S.A. chapters 49 or 69; or

8 (8) has had a report of child abuse or neglect that is substantiated against
9 them in another state.

10 (c) The Agency of Education, superintendents, and headmasters, in their
11 sole discretion, may allow for a waiver of the disqualifying convictions and
12 findings listed in this subsection. The burden of proof shall be on the person
13 requesting the waiver to prove rehabilitation and that he or she is suitable for
14 licensure or employment. Waivers may be given for:

15 (1) felony convictions for drug-related offenses under subdivision

16 (b)(3)(I) of this section;

17 (2) misdemeanor convictions of bodily injury under subdivision

18 (b)(4)(F) of this section;

19 (3) convictions of fraud under subdivision (b)(5) of this section; or

20 (4) convictions of embezzlement under subdivision (b)(6) of this
21 section.

1 (d) A person who would be subject to a fingerprint supported record check
2 by a superintendent or headmaster, or by the Child Development Division of
3 the Department for Children and Families pursuant to section 251 of this title,
4 shall not be required to submit to a fingerprint criminal record check unless:

5 (1) five years have elapsed since the person underwent a qualifying
6 background check pursuant to section 251 of this title;

7 (2) less than five years have elapsed since the person underwent a
8 qualifying background check pursuant to section 251 of this title and the
9 person has been separated from employment by a public school, private school
10 or a private child care provider licensed by the Child Development Division in
11 Vermont for more than 180 consecutive days since the previous qualifying
12 criminal record check;

13 (3) a superintendent or headmaster chooses to conduct a fingerprint
14 supported criminal record check as a condition of hiring; or

15 (4) a superintendent or headmaster has cause to believe the person may
16 have committed a crime, at any time during the person's employment.

17 (e) A fingerprint supported criminal record check required to be initiated by
18 a superintendent or headmaster shall be requested before the person subject to
19 the check begins working in a public or independent school and until the
20 person is cleared, the person shall be supervised by an individual who has

1 cleared a qualifying background check whenever the person is in the presence
2 of children during the school day.

3 (f) The Agency of Education, superintendents, and headmasters shall take
4 all steps necessary to complete criminal record checks within 45 days after a
5 request has been submitted.

6 (g) Criminal record check results for any person shall not be publicly
7 released, except that aggregated data by crime from background check results
8 may be released as long as such data are not personally identifiable. Pursuant
9 to subsection 251(e) of this title, the Agency of Education, Department for
10 Children and Families, superintendents, and headmasters shall share among
11 each other criminal record check clearance information, as necessary for the
12 requesting entity to ascertain that a fingerprint supported criminal record check
13 has been completed. The subject of the background check shall be entitled to a
14 copy of the background check.

15 (h) Any person subject to a fingerprint supported criminal record check
16 pursuant to this section may challenge the accuracy of the record by appealing
17 to the Vermont Crime Information Center pursuant to rules adopted by the
18 Commissioner of Public Safety.

1 Sec. 21. 16 V.S.A § 255 is amended to read:

2 § 255. PUBLIC AND INDEPENDENT SCHOOL EMPLOYEES;

3 CONTRACTORS

4 (a) Superintendents, headmasters of recognized or approved independent
5 schools, and their contractors shall request criminal record information for the
6 following:

7 (1) ~~the~~ any person, other than a teacher licensed under chapter 51 of this
8 title or a person cleared by the Department for Children and Families pursuant
9 to section 251 of this title, a superintendent or headmaster is prepared to
10 employ or recommend for any full-time, part-time, or temporary employment;

11 (2) any person, other than a teacher licensed under chapter 51 of this
12 title or a person cleared by the Department for Children and Families pursuant
13 to section 251 of this title directly under contract to an independent school or
14 school district who may have unsupervised contact with school children;

15 (3) any employee of a contractor under contract to an independent
16 school or school district, other than a teacher licensed under chapter 51 of this
17 title or a person cleared by the Department for Children and Families pursuant
18 to section 251 of this title who is in a position that may result in unsupervised
19 contact with school children;

20 (4) any student working toward a degree in teaching who is a student
21 teacher in a school within the superintendent's or headmaster's jurisdiction.

1 (b) After signing a user agreement, a superintendent or a headmaster shall
2 make a request directly to the Vermont Crime Information Center pursuant to
3 section 251a of this title. A contractor shall make a request through a
4 superintendent or headmaster.

5 (c) A request made under subsection (b) of this section shall be
6 accompanied by a set of the person's fingerprints and a fee established by the
7 Vermont Crime Information Center that shall reflect the cost of obtaining the
8 record from the FBI. The fee shall be paid in accordance with adopted school
9 board policy.

10 (d)(1) Upon completion of a criminal record check, the Vermont Crime
11 Information Center shall send to the superintendent a notice that no record
12 exists or, if a record exists, a copy of any criminal record.

13 (2) Upon completion of a criminal record check, the Vermont Crime
14 Information Center shall send to the headmaster a notice that no record exists
15 or, if a record exists:

16 (A) A copy of Vermont criminal convictions.

17 (B) A notice of any criminal record that is located in either another
18 state repository or FBI records, but not a record of the specific convictions.
19 However, if there is a record ~~relating to any crimes of a sexual nature involving~~
20 ~~children~~, the Vermont Crime Information Center shall send this record to the
21 Secretary who shall notify the headmaster in writing, with a copy to the person

1 about whom the request was made, that the record includes one or more
2 convictions for a crime ~~of a sexual nature involving children~~ specified in
3 subsection 251a(b) of this title or includes a substantiated report as specified in
4 that subsection.

5 (e) Information received by a superintendent or headmaster under
6 subsection (d) of this section shall be forwarded as follows:

7 (1) In the case of a request other than one made on behalf of a
8 contractor, the superintendent or headmaster shall forward a copy of the
9 information to the person about whom the request was made.

10 (2) In the case of a request made on behalf of a contractor, the
11 superintendent or headmaster shall inform the contractor in writing either that
12 no record exists or that a record does exist but shall not reveal the content of
13 the record to the contractor. The contractor shall then forward a copy of the
14 information received to the person about whom the request was made.

15 (f) Information sent to a person by the Secretary, a headmaster, a
16 superintendent, or a contractor under subsection (e) of this section shall be
17 accompanied by a written notice of the person's rights under ~~subsection (g) of~~
18 ~~this section~~ 251a of this title, a description of the policy regarding maintenance
19 and destruction of records, and the person's right to request that the notice of
20 no record or record be maintained for purposes of using it to comply with
21 future criminal record check requests pursuant to section 256 of this title.

1 ~~(g)(1) Following notice that a headmaster was notified that a criminal~~
2 ~~record which is located in either another state repository or FBI records exists,~~
3 ~~a person may:~~

4 ~~(A) sign a form authorizing the Vermont Crime Information Center~~
5 ~~to release a detailed copy of the criminal record to the person; or~~

6 ~~(B) decline or resign employment.~~

7 ~~(2) Any person subject to a criminal record check pursuant to this~~
8 ~~section may challenge the accuracy of the record by appealing to the Vermont~~
9 ~~Crime Information Center pursuant to rules adopted by the Commissioner of~~
10 ~~Public Safety.~~

11 ~~(h) A superintendent or headmaster shall request and obtain information~~
12 ~~from the Child Protection Registry maintained by the Department for Children~~
13 ~~and Families and from the Vulnerable Adult Abuse, Neglect, and Exploitation~~
14 ~~Registry maintained by the Department of Disabilities, Aging, and Independent~~
15 ~~Living (collectively, the Registries) for any person for whom a criminal record~~
16 ~~check is required under subsection (a) of this section. The Department for~~
17 ~~Children and Families and the Department of Disabilities, Aging, and~~
18 ~~Independent Living shall adopt rules governing the process for obtaining~~
19 ~~information from the Registries and for disseminating and maintaining records~~
20 ~~of that information under this subsection.~~

1 ~~(i) A person convicted of a sex offense that requires registration pursuant to~~
2 ~~13 V.S.A. chapter 167, subchapter 3 shall not be eligible for employment~~
3 ~~under this section.~~

4 (j) The board of trustees of a recognized or approved independent school
5 shall request a criminal record check and a check of the Registries pursuant to
6 the provisions of this section and section 251a of this title prior to offering
7 employment to a headmaster candidate.

8 (h) The requirements of this section shall not apply with respect to a school
9 district's partners in any program authorized or student placement created by
10 subchapter 2 of chapter 23 of this title; provided, however, that superintendents
11 may require a fingerprinted supported record check pursuant to school district
12 policy with respect to its partners in such programs.

13 Sec. 22. 33 V.S.A. § 152 is amended to read:

14 § 152. ACCESS TO RECORDS

15 (a) The Commissioner may obtain from the Vermont Crime Information
16 Center the record of convictions of any person to the extent required by law or
17 the Commissioner has determined by rule that such information is necessary to
18 regulate a facility or individual subject to regulation by the Department or to
19 carry out the Department's child protection obligations under chapters 49-59 of
20 this title. The Commissioner shall first notify the person whose record is being
21 requested.

1 (b) The owner or operator of a facility licensed or registered by the
2 Department may ask the Commissioner for the record of convictions and the
3 record of substantiated reports of child abuse of a current employee or a person
4 to whom the owner or operator has given a conditional offer of employment.
5 The request shall be in writing and shall be accompanied by a release signed
6 by the current or prospective employee. The owner or operator shall inform
7 the current or prospective employee that he or she has the right to appeal the
8 accuracy and completeness of the record. Upon receiving a request under this
9 subsection, the Commissioner shall ask the Vermont Crime Information Center
10 for the record of convictions of the current or prospective employee.

11 (c) If the person has a record of convictions, the Commissioner shall
12 provide the owner or operator with a copy of the record, unless otherwise
13 prohibited by law. If the person has a record of substantiated reports of child
14 abuse, the Commissioner shall inform the requesting owner or operator that
15 such record exists.

16 (d) Information released to an owner or operator under this section shall not
17 be released or disclosed by the owner or operator to any other person. Release
18 or disclosure of such information by an owner or operator may result in the
19 loss of the license or registration.

1 (e) As used in this section:

2 (1) “Commissioner” means the Commissioner for Children and Families
3 or the Commissioner’s designee.

4 (2) “Employee” shall include volunteers.

5 (3) “Substantiated reports of child abuse” means reports of child abuse
6 substantiated under section 4915 of this title.

7 (4) “Volunteer” means an individual who, without compensation,
8 provides services through a public or private organization.

9 (f) The Commissioner shall accept clearance of criminal record checks
10 conducted under 16 V.S.A. §§ 251 and 251a by the Agency of Education or a
11 superintendent of a school district relating to individuals in facilities licensed
12 or registered by the Department.

13 * * * Weighted Membership Report * * *

14 **Sec. 23. WEIGHTED MEMBERSHIP REPORT**

15 Notwithstanding the requirement under 16 V.S.A. § 4010(i) that the
16 Secretary evaluate the accuracy of the prekindergarten through grade 12
17 weights and, at the beginning of each biennium, propose to the House and
18 Senate Committees on Education whether the weights should stay the same or
19 be adjusted, the Secretary, in collaboration with the Joint Fiscal Office of the
20 General Assembly, shall make the following recommendations to the House
21 and Senate Committees on Education on or before January 15, 2018:

1 (1) whether all weighting factors under 16 V.S.A. § 4010, including the
2 weighting factors for students from economically deprived backgrounds and
3 students for whom English is not the primary language, should stay the same
4 or be adjusted; and

5 (2) whether any other factors should be added.

6 *** Effective Dates ***

7 Sec. 24. EFFECTIVE DATES

8 (a) This section, Secs. 1–5, 9–12, 14–18, and 23 shall take effect on
9 passage.

10 (b) Secs. 6–8 (speech-language pathologists) shall take effect on January 1,
11 2018.

12 (c) Sec. 13 (State-placed students) shall take effect beginning with the
13 2017–2018 school year.

14 (d) Secs. 19–22 (criminal record checks) shall take effect on passage and
15 shall apply to persons hired or contracted with after June 30, 2017 and to
16 persons who apply for or renew a teaching or child care provider license after
17 June 30, 2017.

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(Committee vote: _____)

Senator _____

FOR THE COMMITTEE