

Senate proposal of amendment

H. 512

An act relating to miscellaneous court and Judiciary related amendments

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. 12 V.S.A. § 5 is amended to read:

§ 5. DISSEMINATION OF ELECTRONIC CASE RECORDS

(a) The Court shall not permit public access via the Internet to criminal, ~~or family, or probate~~ case records. The Court may permit criminal justice agencies, as defined in 20 V.S.A. § 2056a, Internet access to criminal case records for criminal justice purposes, as defined in section 2056a.

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Sec. 2. 12 V.S.A. § 5169 is amended to read:

§ 5169. JUDGMENT FOR PLAINTIFF; COMMISSIONERS; WAIVER

(a) When the issue is determined in favor of the plaintiff, or if the person interested defaults, the court shall render judgment that partition be made and appoint three disinterested residents of the county as commissioners. The commissioners shall make partition of the estate and set off each share of the several persons interested, according to their respective titles, and shall award to the plaintiff reasonable costs against the adverse party.

(b) Notwithstanding subsection (a) of this section, the parties may, with the approval of the court, waive the use of commissioners and have all matters decided by the court at a bench trial.

Sec. 3. 15A V.S.A. § 1-110 is amended to read:

§ 1-110. NOTICE OF INTENT TO RETAIN PARENTAL RIGHTS

* * *

(b) Each ~~probate division of the superior court~~ Probate Division of the Superior Court shall ~~forward~~ maintain a notice filed with that court under subsection (a) of this section, ~~to the probate division of the superior court in the district of Chittenden, which~~ within an electronic database that shall serve as a central repository for all such notices.

Sec. 4. 33 V.S.A. § 5117 is amended to read:

§ 5117. RECORDS OF JUVENILE JUDICIAL PROCEEDINGS

* * *

(c)(1) Upon motion of a party in a divorce or parentage proceeding related

to parental rights and responsibilities for a child or parent-child contact, the ~~Court~~ court may order that ~~Court~~ court records in a juvenile proceeding involving the same child or children be released to the parties in the divorce proceeding.

(2) Upon the court's own motion in a probate proceeding involving adoption, guardianship, or termination of parental rights, the court may order that court records in a juvenile proceeding involving the same child or children be released to the Probate Division. When the court orders release of records pursuant to this subdivision, the court shall notify the parties that it intends to consider confidential juvenile case information and shall provide the parties with access to the information in a manner that preserves its confidentiality.

(3) Files inspected under this subsection shall be marked: UNLAWFUL DISSEMINATION OF THIS INFORMATION IS A CRIME PUNISHABLE BY A FINE OF UP TO \$2,000.00. The public shall not have access to records from a juvenile proceeding that are filed with the ~~Court~~ court or admitted into evidence in the divorce or parentage proceeding or in the probate proceeding.

* * *

Sec. 5. 33 V.S.A. § 5119 is amended to read:

§ 5119. SEALING OF RECORDS

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(h)(1) In matters relating to a person who was charged with a criminal offense or was the subject of a delinquency petition on or after July 1, 2006, and prior to the person attaining the age of majority, the files and records of the ~~Court~~ court applicable to the proceeding shall be sealed immediately if the case is dismissed.

* * *

Sec. 6. 15 V.S.A. § 752 is amended to read:

§ 752. MAINTENANCE

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

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

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

(b) The maintenance order shall be in such amounts and for such periods of time as the court deems just, after considering all relevant factors, including:

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

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

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

(4) the duration of the civil marriage;

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

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

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

(8) the impact of both parties reaching the age of eligibility to receive full retirement benefits under Title II of the federal Social Security Act or the parties' actual retirement, including any expected discrepancies in federal Social Security Retirement benefits; and

~~(8)~~(9) the following guidelines:

Length of marriage	% of the difference between parties' gross incomes	Duration of alimony award as % length of marriage
0 to <5 years	0-20 <u>16</u> %	No alimony or short-term alimony up to one year
5 to <10 years	15-35 <u>12-29</u> %	20-50% (1-5 yrs)
10 to <15 years	20-40 <u>16-33</u> %	40-60% (34 -9 yrs)
15 to <20 years	24-45 <u>20-37</u> %	40-70% (6-14 yrs)
20+ years	30-50 <u>24-41</u> %	45% (9-20+ yrs)

Sec. 7. Vermont Rule of Criminal Procedure 3(k) is amended to read:

(k) Temporary Release. ~~Either a~~ A law enforcement officer arresting a person ~~or the prosecuting attorney~~ shall contact a judicial officer for determination of temporary release pursuant to Rule 5(b) of these rules without unnecessary delay. The law enforcement officer ~~or prosecuting attorney~~ shall

provide the judicial officer with an affidavit or sworn statement as required by Rule 4(a) of these rules, and information upon which the determination as to temporary release may be made. The affidavit or sworn statement must indicate the ~~charge(s) the prosecuting attorney intends to file~~ crimes to be charged by the arresting officer.

Sec. 8. 18 V.S.A. § 4472 is amended to read:

§ 4472. DEFINITIONS

As used in this subchapter:

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(14) “Possession limit” means the amount of marijuana collectively possessed between the registered patient and the patient’s registered caregiver that is ~~no~~ not more than two mature marijuana plants, seven immature plants, and two ounces of usable marijuana. Any marijuana harvested from the plants shall not count toward the two-ounce possession limit, provided it is stored in an indoor facility on the property where the marijuana was cultivated and reasonable precautions are taken to prevent unauthorized access to the marijuana.

* * *

Sec. 9. 18 V.S.A. § 4474c is amended to read:

§ 4474c. PROHIBITIONS, RESTRICTIONS, AND LIMITATIONS
REGARDING THE USE OF MARIJUANA FOR SYMPTOM
RELIEF

* * *

~~(c) A registered patient or registered caregiver who elects to grow marijuana to be used for symptom relief by the patient may do so only if the marijuana is cultivated in a single, secure indoor facility~~ Personal cultivation of marijuana by a patient or caregiver on behalf of a patient shall only occur:

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

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

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Sec. 10. 18 V.S.A. § 4474n is added to read:

§ 4474n. USE OF U.S. FOOD AND DRUG ADMINISTRATION-
APPROVED DRUGS CONTAINING ONE OR MORE
CANNABINOIDS

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

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

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

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

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

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

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

Sec. 11. REPEAL

2017 Act and Resolves No. 62, Sec. 8 (use of U.S. Food and Drug Administration-approved drugs containing cannabidiol) is repealed.

Sec. 12. 32 V.S.A. § 5894 is amended to read:

§ 5894. LIABILITY FOR FAILURE OR DELINQUENCY

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(f) Violations from income derived from illegal activity. An individual, fiduciary, officer, or employee of any corporation or a partner or employee of any partnership who violates subsections (a)-(e) of this section based on income derived from illegal activity shall be imprisoned not more than three years or fined not more than \$10,000.00 or not more than \$100,000.00 if the

violation was based on income derived from the unlawful sale of a regulated drug in violation of 18 VSA chapter 84, or both. The penalty provided in this subsection shall be in addition to any other civil or criminal penalties provided by law.

Sec. 13. TASK FORCE ON CAMPUS SEXUAL HARM; REPORT

(a) Creation. There is created the Task Force on Campus Sexual Harm to examine issues relating to responses to sexual harm, dating and intimate partner violence, and stalking on campuses of postsecondary educational institutions in Vermont.

(b) Membership. The Task Force shall be composed of the following 19 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) two survivors of campus sexual assault, domestic violence, or stalking incidents, appointed by Vermont Center for Crime Victim Services;

(4) the Executive Director of the Vermont Network Against Domestic and Sexual Violence or designee;

(5) one representative of a community-based sexual violence advocacy organization, appointed by the Vermont Network Against Domestic and Sexual Violence;

(6) three Title IX Coordinators, one employed and appointed by the University of Vermont, one employed and appointed by the Vermont State Colleges, and one employed by a Vermont independent postsecondary educational institution, appointed by the President of the Association of Vermont Independent Colleges;

(7) one campus health and wellness educator or sexual violence prevention educator working in a Vermont postsecondary educational institution, appointed by the Higher Education Subcommittee of the Prekindergarten–16 Council;

(8) one victim advocate working in a Vermont postsecondary educational institution, appointed by the Higher Education Subcommittee of the PreK–16 Council;

(9) two students who are members of campus groups representing traditionally marginalized communities, appointed by the Higher Education Subcommittee of the Prekindergarten–16 Council;

(10) one community-based restorative justice practitioner, appointed

by the Community Justice Network of Vermont;

(11) one representative appointed by the Pride Center of Vermont;

(12) one representative appointed by the Vermont Office of the Defender General;

(13) one representative appointed by the Vermont Department of State's Attorneys and Sheriffs;

(14) one representative appointed by the Vermont Bar Association, with expertise in working with postsecondary educational institutions on the investigation and adjudication of sexual harassment and sexual assault allegations; and

(15) the Executive Director of the Vermont Human Rights Commission, or designee.

(c) Powers and duties. The Task Force shall study the following:

(1) The pathways for survivors of sexual harm in postsecondary educational institutional settings to seek healing and justice and recommendations to increase or enhance those pathways.

(2) Issues with Vermont's campus adjudication processes as identified by survivors of sexual harm, dating and intimate partner violence, or stalking in postsecondary educational institutional settings, including the interface between campus adjudication processes and law enforcement.

(3) Issues relating to transparency, safety, affordability, accountability of outcomes, and due process in campus conduct adjudication processes for sexual harm, dating and intimate partner violence, or stalking, including:

(A) current and best practices relating to outcomes conveyed through a student's transcript record;

(B) the effectiveness of acts passed in New York in 2015 to address campus sexual assault and in Virginia in 2015 to include a notation "on the transcript of each student who has been suspended for, has been permanently dismissed for, or withdraws from the institution while under investigation for an offense involving sexual violence under the institution's code, rules, or set of standards governing student conduct";

(C) the effectiveness of requiring that student transcript records note expulsions or suspensions in order to trigger follow-up conversations between the transferring and receiving schools; and

(D) consideration of concerns raised by the Association of Title IX Administrators with regard to transcript notation, in support of proposed federal legislation known as the Safe Transfer Act (H.R.6523, 114th Congress).

(4) How to improve survivor safety in campus adjudication processes.

(5) Any State policy changes that should be made in response to Title IX changes at the federal level.

(6) How to enhance ties between postsecondary educational institutions and community organizations that focus on domestic and sexual violence.

(d) Assistance. For purposes of scheduling meetings and preparing recommended legislation, the Task Force shall have the assistance of the Office of Legislative Council.

(e) Report. On or before March 15, 2020, the Task Force shall submit a written report to the House and Senate Committees on Education and Judiciary with its findings and any recommendations for legislative action.

(f) Meetings.

(1) The Executive Director of the Vermont Network Against Domestic and Sexual Violence or designee shall call the first meeting of the Task Force to occur on or before July 15, 2019.

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

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

(4) The Task Force shall cease to exist on March 16, 2020.

(g) Compensation and reimbursement.

(1) 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 six meetings. These payments shall be made from monies appropriated to the General Assembly.

(2) Other members of the Task Force who are not otherwise compensated for their service on the Task Force 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 General Assembly.

Sec. 14. PROTECTION OF PROBATION AND PAROLE OFFICERS;
AGENCY OF HUMAN SERVICES REPORT TO JOINT JUSTICE
OVERSIGHT COMMITTEE

On or before December 15, 2019, the Secretary of Human Services, in consultation with the Vermont State Employees Association, shall report to the

Joint Legislative Justice Oversight Committee, the Senate and House Committees on Judiciary, and the House Committee on Corrections and Institutions on best practices and standards for protecting probation and parole officers in the performance of their job duties. The report shall consider:

(1) development of a training and certification program to be administered by the Department of Corrections to enable probation and parole officers to implement and use defensive techniques, equipment, and measures to protect themselves and the public from the risk of serious bodily injury or death;

(2) whether to impose one or more standard conditions of probation to protect the public; and

(3) best practices for the supervision of offenders by probation and parole officers without risk to the safety of themselves or the public.

Sec. 14a. VERMONT SENTENCING COMMISSION; REPORT ON
JUVENILE JURISDICTION

On or before December 15, 2019, the Vermont Sentencing Commission shall report to the Joint Justice Oversight Committee proposed alternatives, in light of 33 V.S.A. § 5204a, for providing the court with jurisdiction over cases where a person under 18 years of age commits a criminal offense that is not a listed crime under 13 V.S.A. § 5301(7) and is not charged with the offense until after turning 18 years of age.

Sec. 15. EFFECTIVE DATE; APPLICABILITY

(a) This act shall take effect on July 1, 2019.

(b) Notwithstanding 1 V.S.A. § 214, Sec. 6, 15 V.S.A. § 752(b)(9) (maintenance guidelines), shall apply to actions filed on or after January 1, 2019.