

1 S.234

2 Introduced by Senator Sears

3 Referred to Committee on

4 Date:

5 Subject: Court procedure; criminal procedure; miscellaneous amendments

6 Statement of purpose of bill as introduced: This bill proposes to make a
7 number of miscellaneous amendments related to civil and criminal procedure
8 statutes.

9 An act relating to miscellaneous judiciary procedures

10 It is hereby enacted by the General Assembly of the State of Vermont:

11 Sec. 1. 7 V.S.A. § 656 is amended to read:

12 § 656. PERSON UNDER 21 YEARS OF AGE MISREPRESENTING AGE,
13 PROCURING, POSSESSING, OR CONSUMING ALCOHOLIC
14 BEVERAGES; CIVIL VIOLATION.

15 (a)(1) Prohibited conduct. A person 16 years of age or older and under
16 21 years of age shall not:

17 (A) Falsely represent his or her age for the purpose of procuring or
18 attempting to procure malt or vinous beverages, spirits, or fortified wines from
19 any licensee, State liquor agency, or other person or persons.

1 (B) Possess malt or vinous beverages, spirits, or fortified wines for
2 the purpose of consumption by himself or herself or other minors, except in the
3 regular performance of duties as an employee of a licensee licensed to sell
4 alcoholic liquor.

5 (C) Consume malt or vinous beverages, spirits, or fortified wines. A
6 violation of this subdivision may be prosecuted in a jurisdiction where the
7 minor has consumed malt or vinous beverages, spirits, or fortified wines or in a
8 jurisdiction where the indicators of consumption are observed.

9 (2) Offense. A person ~~under 21 years of age~~ who knowingly violates
10 subdivision (1) of this subsection commits a civil violation and shall be
11 referred to the Court Diversion Program for the purpose of enrollment in the
12 Youth Substance Abuse Safety Program. A person who fails to complete the
13 program successfully shall be subject to:

14 (A) a civil penalty of \$300.00 and suspension of the person's
15 operator's license and privilege to operate a motor vehicle for a period of
16 30 days, for a first offense; and

17 (B) a civil penalty of not more than \$600.00 and suspension of the
18 person's operator's license and privilege to operate a motor vehicle for a
19 period of 90 days, for a second or subsequent offense.

20 (b) Issuance of notice of violation. A law enforcement officer shall issue a
21 person ~~under 21 years of age~~ who violates this section a notice of violation, in

1 a form approved by the Court Administrator. The notice of violation shall
2 require the person to provide his or her name and address and shall explain
3 procedures under this section, including that:

4 * * *

5 Sec. 2. 23 V.S.A. § 203 is amended to read:

6 § 203. COUNTERFEITING, FRAUD, AND MISUSE; PENALTY

7 (a) A person shall not:

8 * * *

9 (2) display or cause or permit to be displayed, or have in his or her
10 possession, any fictitious or fraudulently altered operator license, learner's
11 permit, nondriver identification card, inspection sticker, or registration
12 certificate, or display for any fraudulent purpose an expired or counterfeit
13 insurance identification card or similar document;

14 * * *

15 (b)(1) A Except as provided in subdivision (2) of this subsection, a
16 violation of subsection (a) of this section shall be a traffic violation for which
17 there shall be a penalty of not more than \$1,000.00. If a person is found to
18 have committed the violation, the person's privilege to operate motor vehicles
19 shall be suspended for 60 days.

20 (2) If a person may be charged with a violation of subdivision (a)(2) of
21 this section or with a violation of 7 V.S.A. § 656 or 18 V.S.A. § 4230b, the

1 person shall be charged with a violation of 7 V.S.A. § 656 or 18 V.S.A.
2 § 4230b and not with a violation of this section.

3 Sec. 3. 12 V.S.A. § 2903(d) is amended to read:

4 (d) If a judgment lien is not satisfied within 30 days of recording, it may be
5 foreclosed and redeemed as provided in this title and V.R.C.P. 80.1. Unless
6 the court finds that as of the date of foreclosure the amount of the outstanding
7 debt exceeds the value of the real property being foreclosed, ~~section 4531~~
8 chapter 172 of this title shall apply to foreclosure of a judgment lien.

9 Sec. 4. 12 V.S.A. § 5812 is amended to read:

10 § 5812. OATH TO BE ADMINISTERED TO ATTORNEYS

11 You solemnly swear that you will do no falsehood, nor consent that any be
12 done in court, and if you know of any, you will give knowledge thereof to the
13 judges of the court or some of them, that it may be reformed; that you will not
14 wittingly, willingly, or knowingly promote, sue, or procure to be sued, any
15 false or unlawful suit, or give aid or consent to the same; that you will delay no
16 ~~man~~ person for lucre or malice, but will act in the office of attorney within the
17 court, according to your best learning and discretion, with all good fidelity as
18 well to the court as to your client. So help you God.

19 Sec. 5. 13 V.S.A. § 3256 is amended to read:

20 § 3256. TESTING FOR INFECTIOUS DISEASES

1 (a)(1)(A) The victim of an offense involving a sexual act may obtain an
2 order from the Criminal or Family Division of the Superior Court in which the
3 offender was convicted of the offense, or was adjudicated delinquent, requiring
4 that the offender be tested for the presence of the etiologic agent for acquired
5 immune deficiency syndrome (AIDS) and other sexually-transmitted diseases,
6 including gonorrhea, herpes, chlamydia, and syphilis.

7 (B) The victim of an offense involving a sexual act may, if the
8 evidence of guilt is great, obtain an order from the Criminal or Family Division
9 of the Superior Court in which the offender was charged with the offense
10 requiring that the offender be tested for the presence of immunodeficiency
11 virus (HIV) within 48 after the offender was charged.

12 (2) If requested by the victim, the State's Attorney shall petition the
13 court on behalf of the victim for an order under this section. For the purposes
14 of this section, "offender" includes a juvenile adjudicated a delinquent.

15 (b) ~~For purposes of~~ As used in this section, "sexual act" means a criminal
16 offense:

17 (1) where the underlying conduct of the offender constitutes a sexual act
18 as defined in section 3251 of this title; and

19 (2) that creates a risk of transmission of the etiologic agent for AIDS to
20 the victim as determined by the federal Centers for Disease Control and
21 Prevention.

1 (c) If the court determines pursuant to subdivision (a)(1)(A) of this section
2 that the offender was convicted or adjudicated of a crime involving a sexual act
3 with the victim, or that pursuant to subdivision (a)(1)(B) of this section that the
4 offender was charged with a crime involving a sexual act with the victim and
5 the evidence of guilt is great, the court shall order the test to be administered
6 by the Department of Health in accordance with applicable law. If appropriate
7 under the circumstances, the court may include in its order a requirement for
8 follow-up testing of the offender. An order for follow-up testing shall be
9 terminated if the offender's conviction is overturned. A sample taken pursuant
10 to this section shall be used solely for purposes of this section. All costs of
11 testing the offender shall, if not otherwise funded, be paid by the Department
12 of Public Safety.

13 (d) The results of the offender's test shall be disclosed only to the offender
14 and the victim.

15 (e) If an offender who is subject to an order pursuant to subsection (c) of
16 this section refuses to comply with the order, the victim, or State's Attorney on
17 behalf of the victim, may seek a civil contempt order pursuant to 12 V.S.A.
18 chapter 5.

19 (f) After arraignment, a defendant who is charged with an offense
20 involving a sexual act may offer to be tested for the presence of the etiologic
21 agent for acquired immune deficiency syndrome (AIDS) and other sexually

1 transmitted diseases, including gonorrhea, herpes, chlamydia, and syphilis.

2 Such testing shall follow the same procedures set forth for testing an offender
3 who is subject to an order pursuant to subsection (c) of this section. The
4 defendant's offer to be tested after arraignment shall not be used as evidence at
5 the defendant's trial. If the defendant is subsequently convicted of an offense
6 involving a sexual act, the court may consider the offender's offer for testing
7 as a mitigating factor.

8 (g) Upon request of the victim at any time after the commission of a crime
9 involving a sexual act under subsection (b) of this section, the State shall
10 provide any of the following services to the victim:

11 (1) counseling regarding human immunodeficiency virus (HIV);

12 (2) testing, which shall remain confidential unless otherwise provided
13 by law, for HIV and other sexually transmitted diseases, including gonorrhea,
14 herpes, chlamydia, and syphilis;

15 (3) counseling by a medically trained professional on the accuracy of the
16 testing, and the risk of transmitting HIV and other sexually transmitted
17 diseases to the victim as a result of the crime involving a sexual act; and

18 (4) prophylaxis treatment, crisis counseling, and support services.

19 (h) A victim who so requests shall receive monthly follow-up HIV testing
20 for six months after the initial test.

1 (i) The State shall provide funding for HIV or AIDS, or both, and sexual
2 assault cross-training between sexual assault programs and HIV and AIDS
3 service organizations.

4 (j) The record of the court proceedings and test results pursuant to this
5 section shall be sealed.

6 (k) The Court Administrator's Office shall develop and distribute forms to
7 implement this section in connection with a criminal conviction or adjudication
8 of delinquency.

9 (l) The Center for Crime Victim Services shall be the primary coordinating
10 agent for the services to be provided in subsections (g), (h), and (i) of this
11 section.

12 Sec. 6. 14 V.S.A. § 1203 is amended to read:

13 § 1203. LIMITATIONS ON PRESENTATION OF CLAIMS

14 * * *

15 (c) Nothing in this section affects or prevents:

16 (1) any proceeding to enforce any mortgage, pledge, or other lien upon
17 property of the estate; ~~or~~

18 (2) to the limits of the insurance protection only, any proceeding to
19 establish liability of the decedent or the executor or administrator for which he
20 or she is protected by liability insurance; or

21 (3) the enforcement of any tax liability.

1 Sec. 7. 15 V.S.A. § 663 is amended to read:

2 § 663. SUPPORT ORDERS; REQUIRED CONTENTS

3 * * *

4 (c) Every order for child support made or modified under this chapter on or
5 after July 1, 1990, shall:

6 (1) include an order for immediate wage withholding or, if not subject to
7 immediate wage withholding, include a statement that wage withholding will
8 take effect under the expedited procedure set forth in section 782 of this title;

9 (2) require payments to be made to the Registry in the Office of Child
10 Support unless subject to an exception under 33 V.S.A. § 4103;

11 (3) require that every party to the order must notify the Registry in
12 writing of their current mailing address and current residence address and of
13 any change in either address within seven business days of the change, until all
14 obligations to pay support or support arrearages or to provide for visitation are
15 satisfied;

16 (4) include in bold letters notification of remedies available under
17 section 798 of this title; and

18 (5) include in bold letters notification that the parent may seek a
19 modification of his or her support obligation if there has been a showing of a
20 real, substantial and unanticipated change of circumstances.

21 * * *

1 Sec. 8. SUNSET REPEAL

2 2017 Acts and Resolves No. 61, Sec. 7 (July 1, 2020 sunset of changes to
3 Court Diversion Program) is repealed.

4 Sec. 9. 2017 Acts and Resolves No. 60, Sec. 3, as amended by 2017 (Adj.
5 Sess.) Acts and Resolves No. 203, Sec. 1, is amended to read:

6 Sec. 3. REPEAL

7 On July 1, 2021, ~~15 V.S.A. § 752(b)(8)~~ 15 V.S.A. § 752(b)(9) (spousal
8 support and maintenance guidelines) is repealed.

9 Sec. 10. EFFECTIVE DATE

10 This act shall take effect on July 1, 2020.