

1 S.234

2 Introduced by Senator Sears

3 Referred to Committee on Judiciary

4 Date: January 7, 2020

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
3 the 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
8 a 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 the
6 court finds that as of the date of foreclosure the amount of the outstanding debt
7 exceeds the value of the real property being foreclosed, ~~section 4531~~ chapter
8 172 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
16 no ~~man~~ person for lucre or malice, but will act in the office of attorney within
17 the court, according to your best learning and discretion, with all good fidelity
18 as 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
9 Division of the Superior Court in which the offender was charged with the
10 offense requiring that the offender be tested for the presence of
11 immunodeficiency 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~~
3 ~~act with the victim, or that pursuant to subdivision (a)(1)(B) of this section that~~
4 ~~the offender was charged with a crime involving a sexual act with the victim~~
5 ~~and the evidence of guilt is great, the court shall order the test to be~~
6 ~~administered by the Department of Health in accordance with applicable law.~~
7 ~~If appropriate under the circumstances, the court may include in its order a~~
8 ~~requirement for follow-up testing of the offender. An order for follow-up~~
9 ~~testing shall be terminated if the offender's conviction is overturned. A~~
10 ~~sample taken pursuant to this section shall be used solely for purposes of this~~
11 ~~section. All costs of testing the offender shall, if not otherwise funded, be paid~~
12 ~~by the Department 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
16 the 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
8 adjudication 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
7 to immediate wage withholding, include a statement that wage withholding
8 will take effect under the expedited procedure set forth in section 782 of this
9 title;

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

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

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

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

22

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.~~

Sec. 1. 3 V.S.A. § 163 is amended to read:

§ 163. JUVENILE COURT DIVERSION PROJECT

** * **

(i) Notwithstanding subdivision (c)(1) of this section, the diversion program may accept cases from the Youth Substance Abuse Awareness Safety Program pursuant to 7 V.S.A. § 656 or 18 V.S.A. § 4230b. The confidentiality provisions of this section shall become effective when a notice of violation is issued under 7 V.S.A. § 656(b) or 18 V.S.A. § 4230b(b), and shall remain in effect unless the person fails to register with or complete the Youth Substance Abuse Awareness Safety Program.

** * **

Sec. 2. 3 V.S.A. § 164 is amended to read:

§ 164. ADULT COURT DIVERSION PROGRAM

** * **

(l) Notwithstanding subdivision (e)(1) of this section, the diversion program may accept cases from the Youth Substance Abuse Awareness Safety Program pursuant to 7 V.S.A. § 656 or 18 V.S.A. § 4230b. The confidentiality provisions of this section shall become effective when a notice of violation is issued under 7 V.S.A. § 656(b) or 18 V.S.A. § 4230b(b), and shall remain in

effect unless the person fails to register with or complete the Youth Substance Abuse Awareness Safety Program.

* * *

Sec. 3. 18 V.S.A. § 4230a is amended to read:

§ 4230A. MARIJUANA CANNABIS POSSESSION BY A PERSON 21 YEARS OF AGE OR OLDER

* * *

(d) Fifty percent of the civil penalties imposed by the Judicial Bureau for violations of this section shall be deposited in the Drug Task Force Special Fund, hereby created to be managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and available to the Department of Public Safety for the funding of law enforcement officers on the Drug Task Force, except for a \$12.50 administrative charge for each violation, which shall be deposited in the Court Technology Special Fund, in accordance with 13 V.S.A. § 7252. The remaining 50 percent shall be deposited in the Youth Substance Abuse Awareness Safety Program Special Fund, hereby created to be managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and available to the Court Diversion Program for funding of the Youth Substance Abuse Awareness Safety Program as required by section 4230b of this title.

* * *

Sec. 4. 18 V.S.A. § 4230f is amended to read:

§ 4230F. DISPENSING MARIJUANA CANNABIS TO A PERSON UNDER 21 YEARS OF AGE; CRIMINAL OFFENSE

* * *

(e)(1) Subsections (a)–(d) of this section shall not apply to a person under 21 years of age who dispenses marijuana cannabis to a person under 21 years of age or who knowingly enables the consumption of marijuana cannabis by a person under 21 years of age.

(2) A person who is 18, 19, or 20 years of age who knowingly dispenses marijuana cannabis to a person who is 18, 19, or 20 years of age commits a civil violation and shall be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Abuse Awareness Safety Program in accordance with the provisions of section 4230b of this title and shall be subject to the penalties in that section for failure to complete the program successfully.

* * *

Sec. 5. 7 V.S.A. § 656 is amended to read:

§ 656. PERSON 16 YEARS OF AGE OR OLDER AND UNDER 21 YEARS OF AGE MISREPRESENTING AGE, PROCURING, POSSESSING, OR CONSUMING ALCOHOLIC BEVERAGES; CIVIL VIOLATION.

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

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

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

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

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

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

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

(b) Issuance of notice of violation. A law enforcement officer shall issue a person ~~under 21 years of age~~ who violates this section a notice of violation, in a form approved by the Court Administrator. The notice of violation shall require the person to provide his or her name and address and shall explain procedures under this section, including that:

** * **

Sec. 6. 18 V.S.A. § 4230b is amended to read:

§ 4230b. MARIJUANA CANNABIS POSSESSION BY A PERSON 16 YEARS OF AGE OR OLDER AND UNDER 21 YEARS OF AGE; CIVIL VIOLATION

(a) Offense. A person 16 years of age or older and under 21 years of age who knowingly and unlawfully possesses one ounce or less of ~~marijuana~~ cannabis or five grams or less of hashish or two mature ~~marijuana~~ cannabis plants or fewer or four immature ~~marijuana~~ cannabis plants or fewer commits a civil violation and shall be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Abuse Safety Program. A person who fails to complete the program successfully shall be subject to:

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

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

(b) Issuance of Notice of Violation. A law enforcement officer shall issue a person ~~under 21 years of age~~ who violates this section with a notice of violation, in a form approved by the Court Administrator. The notice of violation shall require the person to provide his or her name and address and shall explain procedures under this section, including that:

** * **

(d) Registration in Youth Substance Abuse Awareness Safety Program. Within 15 days after receiving a notice of violation, the person shall contact the Diversion Program in the county where the offense occurred and register for the Youth Substance Abuse Awareness Safety Program. If the person fails to do so, the Diversion Program shall file the summons and complaint with the Judicial Bureau for adjudication under 4 V.S.A. chapter 29. The Diversion Program shall provide a copy of the summons and complaint to the law enforcement officer who issued the notice of violation and shall provide two copies to the person charged with the violation.

** * **

(f)(1) Diversion Program Requirements. Upon being contacted by a person who has been issued a notice of violation, the Diversion Program shall register the person in the Youth Substance Abuse Awareness Safety Program. Pursuant to the Youth Substance Abuse Awareness Safety Program, the Diversion Program shall impose conditions on the person. The conditions

imposed shall include only conditions related to the offense and in every case shall include a condition requiring satisfactory completion of substance abuse screening using an evidence-based tool and, if deemed appropriate following the screening, substance abuse assessment and substance abuse education or substance abuse counseling, or both. If the screener recommends substance abuse counseling, the person shall choose a State-certified or State-licensed substance abuse counselor or substance abuse treatment provider to provide the services.

* * *

Sec. 7. 18 V.S.A. § 4230j is added to read:

§ 4230j. CANNABIS POSSESSION BY A PERSON UNDER 16 YEARS OF AGE; DELINQUENCY

A person under 16 years of age who engages in conduct in violation of subdivision 4230b of this title commits a delinquent act and shall be subject to 33 V.S.A. chapter 52. The person shall be provided the opportunity to participate in the Court Diversion Program unless the prosecutor states on the record why a referral to the Program would not serve the ends of justice.

Sec. 8. 23 V.S.A. § 203 is amended to read:

§ 203. COUNTERFEITING, FRAUD, AND MISUSE; PENALTY

(a) A person shall not:

* * *

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

* * *

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

(2) If a person may be charged with a violation of subdivision (a)(2) of this section or with a violation of 7 V.S.A. § 656, the person shall be charged with a violation of 7 V.S.A. § 656 and not with a violation of this section.

Sec. 9. 4 V.S.A. § 1105 is amended to read:

§ 1105. ANSWER TO COMPLAINT; DEFAULT

(a) A violation shall be charged upon a summons and complaint form approved and distributed by the Court Administrator. The complaint shall be signed by the issuing officer or by the State's Attorney. The original shall be filed with the Judicial Bureau; a copy shall be retained by the issuing officer or State's Attorney and two copies shall be given to the defendant. The Judicial Bureau may, consistent with rules adopted by the Supreme Court pursuant to 12 V.S.A. § 1, accept electronic signatures on any document, including the signatures of issuing officers, State's Attorneys, and notaries public. The complaint shall include a statement of rights, instructions, notice that a defendant may ~~admit, not contest, or deny a violation~~ request a hearing or accept the penalties without a hearing, notice of the fee for failure to answer within ~~20~~ 21 days, and other notices as the Court Administrator deems appropriate. The Court Administrator, in consultation with appropriate law enforcement agencies, may approve a single form for charging all violations, or may approve two or more forms as necessary to administer the operations of the Judicial Bureau.

(b) A person who is charged with a violation shall have ~~20~~ 21 days from the date the complaint is issued to ~~admit or deny the allegations or to state that he or she does not contest the allegations in the complaint~~ request a hearing or to state that he or she will accept the penalties without a hearing. The Judicial Bureau shall assess against a defendant a fee of \$20.00 for failure to answer a complaint within the time allowed. The fee shall be assessed in the default judgment and deposited in the Court Technology Special Fund established pursuant to section 27 of this title.

(c) A person who ~~admits or does not contest the allegations~~ accepts the penalties may so indicate and sign the complaint. The Bureau shall accept the admission or statement that the allegations are not contested and accept payment of the waiver penalty.

(d) If the person sends in the amount of the waiver penalty without signing the complaint, the Bureau shall accept the payment indicating that payment was made and that the allegations were not contested.

(e) A person who denies the allegations or who wishes to have a hearing on the complaint for any other reason may so indicate and sign the complaint. Upon receipt, the Bureau shall schedule a hearing.

* * *

Sec. 10. 12 V.S.A. § 2903(d) is amended to read:

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

Sec. 11. 12 V.S.A. § 5812 is amended to read:

§ 5812. OATH TO BE ADMINISTERED TO ATTORNEYS

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

Sec. 12. 13 V.S.A. § 1029 is amended to read:

§ 1029. ALCOHOLISM, LIMITATIONS, EXCEPTIONS

(a) No political subdivision of the State may adopt or enforce a law or rule having the force of law that includes being found in an intoxicated condition as one of the elements of the offense giving rise to a criminal or civil penalty. No political subdivision may interpret or apply any law of general application to circumvent this provision.

(b) Nothing in this section affects any law or rule against operating a motor vehicle or other machinery under the influence of alcohol or possession or use of alcoholic beverages at stated times and places or by a particular class of persons.

(c) This section does not make intoxication or incapacitation as defined in ~~18 V.S.A. § 9142~~ 18 V.S.A. § 4802 an excuse or defense for any criminal act. Nothing contained herein shall change current law relative to insanity as a defense for any criminal act.

(d) This section does not relieve any person from civil liability for any injury to persons or property caused by that person while intoxicated or incapacitated.

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

§ 3256. TESTING FOR INFECTIOUS DISEASES

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

(B) The victim of an offense involving a sexual act may, if a judicial officer finds there is probable cause to believe the offender committed the offense, obtain an order from the Criminal or Family Division of the Superior Court in which the offender was charged with the offense requiring that the offender be tested for the presence of immunodeficiency virus (HIV) within 48 hours after the offender was charged.

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

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

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

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

(c) If the court determines pursuant to subdivision (a)(1)(A) of this section that the offender was convicted or adjudicated of a crime involving a sexual act with the victim, or that pursuant to subdivision (a)(1)(B) of this section that the offender was charged with a crime involving a sexual act with the victim and there is probable cause to believe the offender committed the offense, the court shall order the test to be administered by the Department of Health in accordance with applicable law. If appropriate under the circumstances, the court may include in its order a requirement for follow-up testing of the offender. An order for follow-up testing shall be terminated if the offender's conviction is overturned. A sample taken pursuant to this section shall be used solely for purposes of this section. All costs of testing the offender shall, if not otherwise funded, be paid by the Department of Public Safety.

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

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

(f) After arraignment, a defendant who is charged with an offense involving a sexual act may offer to be tested for the presence of the etiologic agent for acquired immune deficiency syndrome (AIDS) and other sexually transmitted diseases, including gonorrhea, herpes, chlamydia, and syphilis. Such testing shall follow the same procedures set forth for testing an offender who is subject to an order pursuant to subsection (c) of this section. The defendant's offer to be tested after arraignment shall not be used as evidence at the defendant's trial. If the defendant is subsequently convicted of an offense involving a sexual act, the court may consider the offender's offer for testing as a mitigating factor.

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

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

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

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

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

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

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

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

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

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

Sec. 14. 13 V.S.A. § 7602 is amended to read:

*§ 7602. EXPUNGEMENT AND SEALING OF RECORD,
POSTCONVICTION; PROCEDURE*

** * **

(b)(1) The court shall grant the petition and order that the criminal history record be expunged pursuant to section 7606 of this title if the following conditions are met:

** * **

(C) Any restitution and surcharges ordered by the court ~~has~~ have been paid in full, provided that payment of surcharges shall not be required if the surcharges have been waived by the court pursuant to section 7282 of this title.

** * **

(c)(1) The court shall grant the petition and order that the criminal history record be expunged pursuant to section 7606 of this title if the following conditions are met:

** * **

(D) Any restitution and surcharges ordered by the court for any crime of which the person has been convicted has been paid in full, provided that payment of surcharges shall not be required if the surcharges have been waived by the court pursuant to section 7282 of this title.

** * **

(d) For petitions filed pursuant to subdivision (a)(1)(B) of this section, unless the court finds that expungement would not be in the interests of justice, the court shall grant the petition and order that the criminal history record be expunged in accordance with section 7606 of this title if the following conditions are met:

** * **

(2) Any restitution and surcharges ordered by the court ~~has~~ have been paid in full, provided that payment of surcharges shall not be required if the surcharges have been waived by the court pursuant to section 7282 of this title.

** * **

Sec. 15. 13 V.S.A. § 7609 is amended to read:

*§ 7609. EXPUNGEMENT OF CRIMINAL HISTORY RECORDS OF AN
INDIVIDUAL 18–21 YEARS OF AGE*

(a) Procedure. Except as provided in subsection (b) of this section, the record of the criminal proceedings for an individual who was 18–21 years of age at the time the individual committed a qualifying crime shall be expunged within 30 days after the date on which the individual successfully completed the terms and conditions of the sentence for the conviction of the qualifying crime, absent a finding of good cause by the court. The court shall issue an order to expunge all records and files related to the arrest, citation, investigation, charge, adjudication of guilt, criminal proceedings, and probation related to the sentence. A copy of the order shall be sent to each agency, department, or official named in the order. Thereafter, the court, law enforcement officers, agencies, and departments shall reply to any request for information that no record exists with respect to such individual. Notwithstanding this subsection, the record shall not be expunged until restitution has and surcharges have been paid in full, provided that payment of surcharges shall not be required if the surcharges have been waived by the court pursuant to section 7282 of this title.

** * **

Sec. 16. 14 V.S.A. § 107 is amended to read:

§ 107. ALLOWANCE OF WILL; CUSTODY OF PROPERTY

(a) If consents are filed by all the heirs at law and surviving spouse, a will may be allowed without hearing. If consents are not obtained, the court shall schedule a hearing and notice shall be given as provided by the Rules of Probate Procedure.

(b) Objections to allowance of the will must be filed in writing not less than seven days prior to the hearing. In the event that no timely objections are filed, ~~the will may be allowed without hearing if it meets criteria set out in section 108 of this title~~ the court may:

(1) allow the will on the testimony of only one of the subscribing witnesses if the witness testifies that the will was executed as provided in chapter 1 of this title; or

(2) allow the will without hearing if it meets criteria set out in section 108 of this title.

** * **

Sec. 17. 14 V.S.A. § 1203 is amended to read:

§ 1203. LIMITATIONS ON PRESENTATION OF CLAIMS

** * **

(c) Nothing in this section affects or prevents:

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

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

(3) the enforcement of any tax liability.

Sec. 18. 14 V.S.A. § 2643 is amended to read:

§ 2643. RELEASE BY COURT AND PARENT ON BEHALF OF MINOR

(a) The Superior judge of the Superior Court within and for the county where the minor resides, on behalf of a minor, must approve of and consent to a release to be executed by a parent in the settlement of any claim that does not exceed the sum of ~~\$1,500.00~~ \$10,000.00. A release so furnished shall be binding on the minor and both parents, their heirs, executors, administrators, or assigns, respectively.

(b) Any claim settled for a sum in excess of ~~\$1,500.00~~ \$10,000.00 shall require the approval of a court-appointed guardian.

Sec. 19. 15 V.S.A. § 663 is amended to read:

§ 663. SUPPORT ORDERS; REQUIRED CONTENTS

** * **

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

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

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

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

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

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

* * *

Sec. 20. 15 V.S.A. § 664 is amended to read:

§ 664. DEFINITIONS

As used in this subchapter:

(1) “Parental rights and responsibilities” means the rights and responsibilities related to a child’s physical living arrangements, ~~parent-child contact,~~ education, medical and dental care, religion, travel, and any other matter involving a child’s welfare and upbringing.

* * *

Sec. 21. 18 V.S.A. § 7510 is amended to read:

§ 7510. PRELIMINARY HEARING

(a) Within five days after a person is admitted to a designated hospital for emergency examination, he or she may request the ~~Criminal Division of the Superior Court~~ to conduct a preliminary hearing to determine whether there is probable cause to believe that he or she was a person in need of treatment at the time of his or her admission.

* * *

~~Sec. 22. 24 V.S.A. § 1981 is amended to read:~~

~~§ 1981. ENFORCEMENT OF ORDER FROM JUDICIAL BUREAU~~

~~(a) Upon the filing of the complaint and entry of a judgment after admission, hearing or entry of default by the hearing officer, subject to any appeal pursuant to 4 V.S.A. § 1107, the person found in violation shall have up to 30 days to pay the penalty to the Judicial Bureau. Upon the expiration of the period to pay the penalty, the person found in violation shall be assessed a surcharge of \$10.00 for the benefit of the municipality. All the civil remedies for collection of judgments shall be available to enforce the final judgment of the Judicial Bureau.~~

Sec. ~~22~~ 22. 32 V.S.A. § 1434 is amended to read:

§ 1434. PROBATE CASES

(a) *The following entry fees shall be paid to the Probate Division of the Superior Court for the benefit of the State, except for subdivisions (18) and (19) of this subsection, which shall be for the benefit of the county in which the fee was collected:*

* * *

*(28) Petitions for minor settlement pursuant to 14 V.S.A. § 2643—\$90.00
[Repealed.]*

* * *

Sec. ~~23~~ 23. 33 V.S.A. § 5117 is amended to read:

§ 5117. RECORDS OF JUVENILE JUDICIAL PROCEEDINGS

* * *

(b)(1) Notwithstanding the foregoing, inspection of such records and files by the following is not prohibited:

* * *

(D) court personnel, the State's Attorney or other prosecutor authorized to prosecute criminal or juvenile cases under State law, the child's guardian ad litem, the attorneys for the parties, probation officers, and law enforcement officers who are actively participating in criminal or juvenile proceedings involving the child;

(E) the child who is the subject of the proceeding, the child's parents, guardian, and custodian, ~~and guardian ad litem~~ may inspect such records and files upon approval of the Family Court judge;

* * *

Sec. ~~24~~ 24. 33 V.S.A. § 5119 is amended to read:

§ 5119. SEALING OF RECORDS

* * *

(m) Notwithstanding the provisions of this section, a criminal record may not be sealed if restitution and surcharges are owed, provided that payment of surcharges shall not be required if the surcharges have been waived by the court pursuant to 13 V.S.A. § 7282.

Sec. ~~25~~ 25. SUNSET REPEAL

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

Sec. ~~26~~ 26. REPEAL

12 V.S.A. chapter 215, subchapter 1 (voluntary arbitration for medical malpractice cases) is repealed.

Sec. ~~27~~ 27. SUNSET REPEAL

2017 Acts and Resolves No. 54, Sec. 6a (July 1, 2020 repeal of 3 V.S.A. § 168, Racial Disparities in Criminal and Juvenile Justice System Advisory Panel) is repealed.

Sec. ~~28~~ 28. PERSONS WITH SUSPENDED DRIVER'S LICENSES;
AMNESTY PROGRAM

(a) There is established an Amnesty Program to permit the Judicial Bureau and the Department of Motor Vehicles to waive all traffic tickets, fees, and surcharges associated with motor vehicle operators whose licenses have been suspended for noncriminal reasons if the suspension has lasted for one year or longer. The Amnesty Program shall comply with the guidelines set forth in this section.

(b) On or before September 1, 2020, the Department of Motor Vehicles shall provide to the Office of the Attorney General a list of persons whose operator's licenses have been suspended for noncriminal reasons for one year or longer. On or before September 30, 2020, the Office of the Attorney General shall submit the entire list to the Judicial Bureau and file a single motion requesting that the traffic tickets, Judicial Bureau fees, and surcharges for all persons on the list be waived.

(c)(1) Upon filing of the motion from the Attorney' General's Office required by subsection (b) of this section, the Judicial Bureau shall waive the tickets, fees, and surcharges identified in the motion.

(2) The Judicial Bureau shall provide notice of its action under subdivision (1) of this subsection to the Department of Motor Vehicles.

(d) After receiving notice from the Judicial Bureau pursuant to subdivision (c)(2) of this section, the Department of Motor Vehicles shall:

(1) waive any fees, including those associated with reinstatement, for all persons included on the list submitted to the Judicial Bureau pursuant to subsection (b) or this section;

(2) reinstate the operator's licenses of each person on the list, unless the person is otherwise ineligible for reinstatement; and

(3) notify persons that their licenses have been reinstated, or that their licenses are ineligible for reinstatement and the reason for ineligibility.

Sec. ~~29~~ 29. CONFORMING REVISIONS; "MARIJUANA" AND
"CANNABIS"

When preparing the Vermont Statutes Annotated for publication, the Office of Legislative Council shall replace "marijuana" with "cannabis" throughout the statutes as needed for consistency with this act, provided the revisions have no other effect on the meaning of the affected statutes.

Sec. ~~30~~ 30. 4 V.S.A. § 33 is amended to read:

§ 33. JURISDICTION; FAMILY DIVISION

(a) Notwithstanding any other provision of law to the contrary, the Family Division shall have exclusive jurisdiction to hear and dispose of the following proceedings filed or pending on or after October 1, 1990:

* * *

(18) Concurrent with the Probate Division, special immigration judicial determinations regarding the custody and care of children within the meaning of the federal Immigration and Nationality Act (8 U.S.C. Sec. 1101(a)(27)(J) and 8 C.F.R. Sec. 204.11) issued pursuant to 14 V.S.A. chapter III, subchapter 14.

* * *

Sec. ~~31~~ 31. 4 V.S.A. § 35 is amended to read:

§ 35. JURISDICTION; PROBATE DIVISION

The Probate Division shall have jurisdiction of:

* * *

(25) grandparent visitation proceedings under 15 V.S.A. chapter 18; ~~and~~

(26) other matters as provided by law; and

(27) concurrent with the Family Division, special immigration judicial determinations regarding the custody and care of children within the meaning of the federal Immigration and Nationality Act (8 U.S.C. Sec. 1101(a)(27)(J) and 8 C.F.R. Sec. 204.11) issued pursuant to 14 V.S.A. chapter III, subchapter 14.

Sec. ~~32~~ 32. 14 V.S.A. chapter 111, subchapter 14 is added to read:

Subchapter 14. Special Immigration Status

§ 3098. SPECIAL IMMIGRATION JUVENILE STATUS; JURISDICTION
AND FINDINGS

(a) Jurisdiction and Findings. The court has jurisdiction under Vermont law to make judicial determinations regarding the custody and care of children within the meaning of the federal Immigration and Nationality Act (8 U.S.C. Sec. 1101(a)(27)(J) and 8 C.F.R. Sec. 204.11). The court is authorized to make the findings necessary to enable a child to petition the U.S. Citizenship and Immigration Service for classification as a special immigrant juvenile pursuant to 8 U.S.C. Sec. 1101(a)(27)(J).

(b)(1) If an order is requested from the court making the necessary findings regarding special immigrant juvenile status as described in subsection (a) of this section, the court shall issue an order if there is evidence to support those findings, which may include a declaration by the child who is the subject of the petition. The order issued by the court shall include all of the following findings:

(A) The child was either of the following:

(i) Declared a dependent of the court.

(ii) Legally committed to or placed under the custody of a State agency or department or an individual or entity appointed by the court. The court shall indicate the date on which the dependency, commitment, or custody was ordered.

(B) That reunification of the child with one or both of the child's parents was determined not to be viable because of abuse, neglect, abandonment, or a similar basis pursuant to Vermont law. The court shall indicate the date on which reunification was determined not to be viable.

(C) That it is not in the best interests of the child to be returned to the child's or his or her parent's previous country of nationality or country of last habitual residence.

(2) If requested by a party, the court may make additional findings that are supported by evidence.

(c) In any judicial proceedings in response to a request that the court make the findings necessary to support a petition for classification as a special immigrant juvenile, information regarding the child's immigration status that is not otherwise protected by State laws shall remain confidential. This information shall also be exempt from public inspection and copying under the

Public Records Act and shall be kept confidential, except that the information shall be available for inspection by the court, the child who is the subject of the proceeding, the parties, the attorneys for the parties, the child's counsel, and the child's guardian.

(d) As used in this section, "court" means the Probate Division and the Family Division of the Superior Court.

Sec. ~~24~~ 33. EFFECTIVE DATE

This act shall take effect on July 1, 2020.