

# House Calendar

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Monday, May 13, 2019

125th DAY OF THE BIENNIAL SESSION

House Convenes at 3:00 PM

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**ACTION CALENDAR**

**Third Reading**

**S. 41**

An act relating to regulating entities that administer health reimbursement arrangements

**S. 108**

An act relating to employee misclassification

**S. 110**

An act relating to data privacy and consumer protection

**S. 111**

An act relating to the U.S. Department of Veterans Affairs' Airborne Hazards and Open Burn Pit Registry

**Favorable with Amendment**

**S. 134**

An act relating to background investigations for State employees with access to federal tax information

**Rep. Gardner of Richmond**, for the Committee on Government Operations, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Background Investigations \* \* \*

Sec. 1. 3 V.S.A. § 241 is amended to read:

§ 241. BACKGROUND INVESTIGATIONS

\* \* \*

(b) As used in this chapter, "Recipient" means the following authorities of the Executive Branch of State government that receive FTI:

- (1) Agency of Human Services, including the:
  - (A) Department for Children and Families;
  - (B) Department of Health;
  - (C) Department of Mental Health; and

(D) Department of Vermont Health Access.

(2) Department of Labor.

(3) Department of Motor Vehicles.

(4) Department of Taxes.

(5) Agency of Digital Services.

(6) Department of Buildings and General Services.

(c)(1) The Recipient shall conduct an initial background investigation of any individual, including a current or prospective employee, volunteer, contractor, or subcontractor, to whom the Recipient will permit access to FTI for the purpose of assessing the individual's fitness to be permitted access to FTI.

(2) The Recipient shall, at least every 10 years, conduct a periodic background reinvestigation of any employee, volunteer, contractor, or subcontractor to whom the Recipient permits access to FTI.

(3) The impact of the results of a background investigation performed pursuant to subdivision (1) of this subsection shall be the subject of impact bargaining between the State and the collective bargaining representative for the employee's bargaining unit to the extent required by any collective bargaining agreements between the parties.

\* \* \*

\* \* \* State Temporary and Seasonal Employees \* \* \*

Sec. 2. 3 V.S.A. § 323 is amended to read:

§ 323. DEFINITIONS

As used in this chapter, unless the context clearly requires otherwise:

\* \* \*

(2) "Bona fide emergency" means an unanticipated need for short-term staffing:

(A) to prevent significant disruption to the continued operation of State government;

(B) to avoid serious or imminent harm to the public, critical services, or other staff; or

(C) to avoid jeopardizing public safety.

(3) “Class” means one or more positions sufficiently similar in nature, scope, and accountability that the same title, test of fitness, and schedule of compensation may be applied to each position.

(3)(4) “Job evaluation” means the systematic method used to determine the value of each job in relation to other jobs within the State service.

(5) “Seasonal employment” means employment in a temporary position with a specific start date and anticipated end date for a period of not more than seven months in any 12-month period or employment in a temporary position with a specific start date and anticipated end date for a period of more than seven months that has been approved by the Commissioner of Human Resources pursuant to subdivision 331(c)(3) of this chapter. Seasonal employment includes employment in temporary positions that are available on a reoccurring basis from year to year.

Sec. 3. 3 V.S.A. § 331 is amended as follows:

§ 331. TEMPORARY EMPLOYEES

(a) The State shall not employ any person in a temporary capacity except in accordance with the provisions of this section.

(b)(1) On request of the appointing authority, the Commissioner of Human Resources may approve, in writing, the creation of a temporary position and the hiring of a person to fill such temporary position only if the position and person are needed:

(A) to meet a seasonal employment need of State government;

(B) to respond to a bona fide emergency;

(C) to fill in for the temporary absence of an existing employee, or a vacancy in an existing position; or

(D) to perform a governmental function that requires only intermittent, sporadic, or ongoing employment ~~that averages less than 20 hours per week during any one calendar year~~, provided that such employment does not exceed 1,280 work hours in any one calendar year.

\* \* \*

(c)(1) The Commissioner may authorize the continued employment of a person in a temporary capacity for more than 1,280 work hours in any one calendar year if the Commissioner determines, in writing, that a bona fide emergency exists for the appointing authority that requires such continued employment. Authorization of temporary employment for more than 1,280 work hours in a calendar year shall not be required for seasonal employment,

as that term is defined pursuant to section 323 of this chapter. Annually, on or before January 15, the Commissioner shall submit a report to the House Committee on General, Housing, and Military Affairs and the House and Senate Committees on Government Operations:

\* \* \*

(2) It shall be the responsibility of the head of each department to provide to the Department of Human Resources a detailed justification for each waiver to exceed the 1,280-work-hour limit within his or her department and such other information as may be required in order to enable that department to carry out its responsibility under this section.

(3) The Commissioner may authorize seasonal employment in a specific position for a period of between seven and 12 months if the Commissioner determines, in writing, that the nature and duties of the position require the employment of a person for a period of more than seven months in a 12-month period. The Commissioner shall not authorize seasonal employment for a period of more than seven months in a 12-month period if the authorization is intended to circumvent, or has the effect of circumventing, the policies and purposes of the classified service under this chapter. Annually, on or before January 15, the Commissioner shall submit a report to the House and Senate Committees on Government Operations regarding:

(A) the total number of positions in seasonal employment that have been authorized for a period of between seven and 12 months during the prior calendar year;

(B) the agency or department that each position identified in subdivision (A) of this subdivision (c)(3) is assigned to; and

(C) the period of time that each identified position is authorized for.

(d) The Commissioner may transfer and convert existing, vacant positions in the Executive Branch of State government to replace the temporary positions of long-term temporary employees who are performing ongoing and continuing functions of State government ~~for more than an average of 20 hours per week during any one calendar year or for more than 1,280 work hours in any one calendar year.~~

\* \* \*

(f) An individual employed in a temporary or seasonal capacity shall be entitled to the whistleblower protections, rights, and remedies provided to State employees pursuant to sections 971-978 of this title.

Sec. 4. STATE TEMPORARY AND SEASONAL EMPLOYEES; REPORT

On or before January 15, 2020, the Secretary of Administration shall submit a written report to the House and Senate Committees on Appropriations and on Government Operations regarding:

(1) the number of temporary employees, not including individuals working in seasonal employment as defined pursuant to 3 V.S.A. § 323(5), who, during the prior calendar year, were employed by each agency and department in a temporary capacity pursuant to 3 V.S.A. § 331;

(2) the number of temporary positions in each agency or department identified pursuant to subdivision (1) of this section that are performing ongoing and continuing functions of State government for which a permanent classified position would better meet the needs of the State;

(3) the number of temporary positions during the prior calendar year, organized by agency and department, not including individuals working in seasonal employment as defined pursuant to 3 V.S.A. § 323(5), in which one or more individuals have been employed for a combined total of more than 1,280 hours per year for a period of two years;

(4) the projected cost and the potential impact of replacing the temporary positions identified in subdivision (3) of this section with permanent, classified positions on the relevant department or agency's efficiency and ability to fulfill its mission and duties; and

(5) the number of individuals working in seasonal employment as defined pursuant to 3 V.S.A. § 323(5) during the prior calendar year organized by agency and department, including the start and end date for each position and the total number of hours worked by the individual employed in each position.

#### Sec. 5. CREATION OF NEW CORRECTIONAL OFFICER POSITIONS

On or before June 30, 2020, the Secretary of Administration shall create 30 new Correctional Officer I positions in the Department of Corrections, which shall be funded within existing departmental appropriations.

Sec. 6. 4 V.S.A. § 40 is added to read:

#### § 40. REPORT ON TEMPORARY EMPLOYEES

Annually, on or before January 15, the State Court Administrator shall submit a report to the House Committee on General, Housing, and Military Affairs and the House and Senate Committees on Government Operations identifying for each of the two prior calendar years:

(1) the total number of individuals employed by the Judiciary Department on a temporary basis who have worked in excess of 1,280 hours in

the prior calendar year, excluding employees identified in 3 V.S.A. § 1011(7), (8)(A)–(D), (8)(F)–(G), and (8)(I)–(K);

(2) the total number of temporary positions in which one or more individuals have been employed for a combined total of more than 1,280 hours, excluding positions filled by employees identified in 3 V.S.A. § 1011(7), (8)(A)–(D), (8)(F)–(G), and (8)(I)–(K);

(3) the total number of hours worked by each temporary employee identified pursuant to subdivision (1) of this subsection; and

(4) the total number of years during which each temporary employee identified pursuant to subdivision (1) of this subsection has worked for the Judiciary Department.

\* \* \* Expansion and Codification of Position Pilot Program\* \* \*

Sec. 7. 2014 Acts and Resolves No. 179, Sec. E.100(d), as amended by 2015 Acts and Resolves No. 4, Sec. 74, by 2016 Acts and Resolves No.172, Sec. E.100.2, 2017 Acts and Resolves No. 85, Sec. E.100.1, and by 2018 (Sp. Sess.) Acts and Resolves No. 11, Sec. E.100.1 is further amended to read:

(d) Position Pilot Program. A Position Pilot is hereby created to assist participating departments in more effectively managing costs of overtime, compensatory time, temporary employees, and contractual work by removing the position cap with the goal of maximizing resources to the greatest benefit of Vermont taxpayers.

\* \* \*

(7) This Pilot shall sunset on ~~July 1, 2020, unless extended or modified by the General Assembly July 2, 2019.~~

\* \* \*

Sec. 8. 3 V.S.A. § 328 is added to read:

§ 328. CREATION OF NEW POSITIONS

(a) Intent. It is the intent of the General Assembly to maximize the resources of the State to the greatest benefit of Vermont taxpayers by eliminating the cap on the total number of authorized State positions in the Department of State’s Attorneys and Sheriffs, the Vermont Veterans Home, and the State agencies and departments under the Office of Governor to allow those agencies and departments to more effectively manage costs of overtime, compensatory time, temporary employees, and contractual work by permitting the creation of new positions pursuant to the provisions of subsection (b) of this section.



(b) Creation of positions.

(1) On request of an appointing authority, the Secretary of Administration may approve, in writing, the creation of a new permanent position in the Department of State's Attorneys and Sheriffs, the Vermont Veterans Home, and the State agencies and departments under the Office of Governor in order to address a specific need identified by the appointing authority.

(2) The Secretary of Administration may only approve the creation of a new position pursuant to subdivision (1) of this subsection if the creation of the requested permanent position is anticipated to be more cost-effective than meeting the identified need with existing departmental resources, including through the use of overtime or compensatory time for existing State employees.

(3) Any new position created pursuant to this subsection shall be funded within existing departmental appropriations and shall not be transferrable outside the agency or department in which it is created.

(c) Reporting requirements.

(1) No later than 15 days before a position created pursuant to subsection (b) of this section will be established, the Secretary of Administration, in consultation with the Commissioner of Human Resources and the appointing authority, shall submit to the Joint Fiscal Committee, the Government Accountability Committee, and the House and Senate Committees on Government Operations a written report identifying the position to be created, the reason for the creation of the position, the method used to evaluate the cost-effectiveness of creating the position, and the expected short- and long-term impact of creating the position on the agency or department's budget.

(2) Annually, as part of its budget presentation, an agency or department in which, during the prior fiscal year, one or more new positions was created pursuant to this section shall report on the number and type of positions created, the source of funds used to support each position created, the performance and cost outcomes associated with each position created, and whether the projected budgetary outcomes identified pursuant to subdivision (1) of this subsection have been realized.

Sec. 9. AUTHORIZATION FOR CREATION OF NEW POSITIONS

Notwithstanding any provision of law enacted during the 2019 legislative session to the contrary, the Department of State's Attorneys and Sheriffs, the Vermont Veterans Home, and the State agencies and departments under the

Office of Governor may create new positions in conformance with the provisions of 3 V.S.A. § 328.

\* \* \* Repeal of Report on Temporary Employees \* \* \*

Sec. 10. 3 V.S.A. § 331 is amended to read:

§ 331. TEMPORARY EMPLOYEES

\* \* \*

(c)(1) The Commissioner may authorize the continued employment of a person in a temporary capacity for more than 1,280 hours in any one calendar year if the Commissioner determines, in writing, that a bona fide emergency exists for the appointing authority that requires such continued employment. ~~Annually, on or before January 15, the Commissioner shall submit a report to the House Committee on General, Housing, and Military Affairs and the House and Senate Committees on Government Operations:~~

~~(A) identifying the total number of temporary employees who have worked:~~

~~(i) 1,280 hours in the prior calendar year; or~~

~~(ii) in excess of 1,280 hours in the prior calendar year;~~

~~(B) identifying the agency or department that is assigned the temporary position;~~

~~(C) identifying the total number of hours worked by each temporary employee; and~~

~~(D) including a statement:~~

~~(i) recommending the conversion of the position to a permanent classified position; or~~

~~(ii) stating the reasons why the temporary position should be continued.~~

\* \* \*

\* \* \* Effective Dates \* \* \*

Sec. 11. EFFECTIVE DATES

(a) Secs. 7, 8, and 9 shall take effect on July 2, 2019.

(b) Sec. 10 shall take effect on July 1, 2024.

(c) This section and the remaining sections of this act shall take effect on July 1, 2019.

**(Committee vote: 11-0-0 )**

**(For text see Senate Journal March 21, 2019 )**

**Action Postponed Until May 15, 2019**

**Senate Proposal of Amendment**

**H. 13**

An act relating to miscellaneous amendments to alcoholic beverage and tobacco laws

The Senate proposes to the House to amend the bill as follows:

First: In Sec. 3, 7 V.S.A. § 64, after “who intentionally removes or defaces the label attached to a keg shall be” by striking out “imprisoned not more than two years one year or”, and after “fined not more than \$1,000.00” by striking out “, or both”.

Second: By striking out Sec. 15, 7 V.S.A. § 1005, in its entirety and inserting in lieu thereof a new Sec. 15 to read as follows:

Sec. 15. [Deleted.]

Third: By striking out Sec. 45, effective date, and its reader assistance heading in their entirety and inserting in lieu thereof new Secs. 45–47 and their respective reader assistance headings to read as follows:

\* \* \* Tax on Spirits and Fortified Wines \* \* \*

Sec. 45. 7 V.S.A. § 422 is amended to read:

§ 422. TAX ON SPIRITS AND FORTIFIED WINES

(a) A tax of five percent is assessed on the gross revenue from the sale of spirits and fortified wines in the State of Vermont by the Board of Liquor and Lottery or the retail sale of spirits and fortified wines in Vermont by a manufacturer or rectifier of spirits or fortified wines, in accordance with the provisions of this title. ~~The tax shall be at the following rates based on the gross revenue of the retail sales by the seller in the current year:~~

~~(1) if the gross revenue of the seller is \$500,000.00 or lower, the rate of tax is five percent;~~

~~(2) if the gross revenue of the seller is between \$500,000.00 and \$750,000.00, the rate of tax is \$25,000.00 plus 10 percent of the gross revenues over \$500,000.00;~~

~~(3) if the gross revenue of the seller is \$750,000.00 or more, the rate of tax is 25 percent.~~

\* \* \*

\* \* \* Board of Liquor and Lottery; Duties \* \* \*

Sec. 46. 7 V.S.A. § 104 is amended to read:

§ 104. DUTIES; AUTHORITY TO RESOLVE ALLEGED VIOLATIONS

The Board shall supervise and manage the sale of spirits and fortified wines within the State in accordance with the provisions of this title, and through the Commissioner of Liquor and Lottery shall:

\* \* \*

(13) Set and periodically revise the prices for spirits and fortified wines sold in Vermont in a manner that is designed to ensure that the Department generates revenue for the State that is equal to or greater than the revenue generated by the Department during the prior fiscal year.

\* \* \* Effective Date \* \* \*

Sec. 47. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

(For text see House Journal March 19, 2019 )

**Amendment to be offered by Rep. Walz of Barre City to H. 13**

Concur in the Senate Proposal of Amendment with further amendment thereto by striking out Secs. 46–47 and their respective reader assistance headings in their entireties and inserting in lieu thereof Secs. 46–51 and their respective reader assistance headings to read as follows:

\* \* \* Retail Licenses and Permits \* \* \*

Sec. 46. 7 V.S.A. § 223 is amended to read:

§ 223. THIRD-CLASS LICENSES

(a)(1) The Board of Liquor and Lottery may grant to a person who operates a hotel, restaurant, club, boat, or railroad dining car, or who holds a manufacturer's or rectifier's license, a third-class license if:

(1) the person files an application accompanied by the fee provided in section 204 of this title for the premises in which the business of the hotel, restaurant, club, or manufacturer or rectifier is carried on or for the boat or railroad dining car;

(2) the local control commissioners have approved the application; and

~~(2)(3) The the applicant shall satisfy~~ satisfies the Board that:

(A) the applicant is the bona fide owner or lessee of the premises, boat, or railroad dining car;

(B) except in the case of clubs, the premises, boat, or railroad dining car has adequate and sanitary space and equipment for preparing and serving meals to the public; and

(C) ~~that it~~ the premises, boat, or railroad dining car is operated for the purpose covered by the license.

\* \* \*

(d)(1) Except as otherwise provided in ~~subdivision~~ subdivisions (2) and (3) of this subsection and section 271 of this title, a person who holds a third-class license shall purchase from the Board of Liquor and Lottery all spirits and fortified wines dispensed in accordance with the provisions of the third-class license and this title.

(2) For a third-class license issued for a dining car or boat, the licensee may procure outside the State of Vermont spirits and fortified wines that are sold pursuant to the license.

(3) For a third-class license that is issued to a licensed manufacturer or rectifier of spirits or fortified wines, the licensee shall not be required to purchase from the Board of Liquor and Lottery spirits and fortified wines that it has manufactured or rectified before selling them pursuant to its third-class license.

\* \* \*

\* \* \* Tasting and Event Permits \* \* \*

Sec. 47. 7 V.S.A. § 252 is amended to read:

§ 252. SPECIAL EVENT PERMITS

\* \* \*

(c)(1) A licensed manufacturer or rectifier may be issued ~~no~~ not more than ~~104~~ 10 special event permits ~~during a~~ for the same physical location in a calendar year.

~~(2) Each manufacturer or rectifier planning to attend a single special event pursuant to this section may be listed on a single permit for the special event. However, each attendance at a special event shall count toward the manufacturer's or rectifier's annual limit of 104 special event permits.~~

Sec. 48. 7 V.S.A. § 253 is amended to read:

§ 253. FESTIVAL PERMITS

\* \* \*

(b) A festival permit holder shall be permitted to conduct an event that is open to the public at which malt beverages, vinous beverages, fortified wines, spirits, or any combination of the four are served.

(c)(1) A festival permit holder shall require individuals attending the festival to pay an entry fee of at least \$5.00.

(2) Alcoholic beverages served pursuant to a festival permit shall be served in compliance with the following limitations:

(A) Malt beverages shall be served to individuals attending the festival in amounts equal to not more than 12 ounces at one time and not more than 60 ounces total at any one festival.

(B) Vinous beverages shall be served to individuals attending the festival in amounts equal to not more than five ounces at one time and not more than 25 ounces total at any one festival.

(C) Fortified wines shall be served to individuals attending the festival in amounts equal to not more than three ounces at one time and not more than 15 ounces total at any one festival.

(D) Spirits shall be served to individuals attending the festival in amounts equal to not more than one ounce at one time and not more than five ounces total at any one festival.

(E) For festivals at which a combination of malt beverages, vinous beverages, fortified wines, and spirits are served, an individual shall not be served a combined total of more than six standard drinks. As used in this subdivision (E), a "standard drink" means an alcoholic beverage containing 0.6 fluid ounces or 14 grams of pure ethyl alcohol.

(3) A festival permit holder shall ensure that the festival complies with all applicable requirements of this title and the rules of the Board.

(d)(1) A festival permit holder may purchase invoiced volumes of malt or vinous beverages directly from a manufacturer or packager licensed in Vermont, or a manufacturer or packager that holds a federal Basic Permit or Brewers Notice or evidence of licensure in a foreign country that is satisfactory to the Board.

(2) The invoiced volumes of malt or vinous beverages may be transported to the site and sold by the glass to the public by the permit holder or its employees and volunteers only during the event.

~~(e)~~(e) A festival permit holder shall be subject to the provisions of this title, including section 214 of this title, and the rules of the Board regarding the sale of the alcoholic beverages and shall pay the tax on the malt or vinous beverages pursuant to section 421 of this title.

~~(d)~~(f) A person shall be granted ~~no~~ not more than ~~four~~ 10 festival permits per year, and each permit shall be valid for ~~no~~ not more than four consecutive days.

\* \* \* Manufacturing and Distribution of Alcohol \* \* \*

Sec. 49. 7 V.S.A. § 271 is amended to read:

§ 271. MANUFACTURER'S OR RECTIFIER'S LICENSE

(a)(1) The Board of Liquor and Lottery may grant a manufacturer's or rectifier's license upon application and payment of the fee provided in section 204 of this title that permits the license holder to operate a facility that manufacture manufactures or rectify rectifies:

~~(1)~~(A) malt beverages;

~~(2)~~(B) vinous beverages and fortified wines; or

~~(3)~~(C) spirits and fortified wines.

(2) A manufacturer or rectifier shall obtain a separate license for each facility at which it manufactures or rectifies alcoholic beverages.

\* \* \*

(d)(1) The Board of Liquor and Lottery may grant to a licensed manufacturer or rectifier a first-class license or ~~a first-~~ and a third-class license, or both, permitting the licensee to sell alcoholic beverages to the public at an establishment located at the manufacturer's premises or rectifier's licensed facility, provided the manufacturer or rectifier owns or has direct control over that establishment.

(2) ~~For a~~ A licensed manufacturer of malt beverages, ~~the premises of the manufacturer may include~~ may operate up to two licensed establishments pursuant to this subsection that are located at the licensed manufacturing facility or on the property that is owned by the licensee and is contiguous real estate of with the license holder parcel of land on which the licensed manufacturing facility is located, provided the manufacturer owns or has direct control over both establishments.

(3) Notwithstanding subdivisions (1) and (2) of this subsection, a manufacturer or rectifier that, on July 1, 2019, is operating at a location separate from its licensed manufacturing facility an establishment for which it

was granted a first-class license or a third-class license, or both, before July 1, 2019 may continue to operate that establishment, and the local control commissioners and the Board may annually renew the licenses in effect for that establishment on July 1, 2019.

(e) The Board of Liquor and Lottery may grant a licensed manufacturer of malt beverages a second-class license permitting the licensee to sell alcoholic beverages to the public anywhere on the manufacturer's premises of the licensed manufacturing facility.

(f)(1) A licensed manufacturer or rectifier may serve alcoholic beverages with or without charge at an event held ~~on the premises of the licensee at the licensed manufacturing or rectifying facility~~ or at a location on the property that is owned by the licensee and is contiguous real estate of the licensee with the parcel of land on which the licensed facility is located, provided the licensee at least five days before the event gives the Division written notice of the event, including details required by the Division.

\* \* \*

Sec. 50. 7 V.S.A. § 271 is amended to read:

§ 271. MANUFACTURER'S OR RECTIFIER'S LICENSE

\* \* \*

(d)(1) The Board of Liquor and Lottery may grant to a licensed manufacturer or rectifier a first-class license or a third-class license, or both, permitting the licensee to sell alcoholic beverages to the public at an establishment located at the manufacturer's or rectifier's licensed facility, provided the manufacturer or rectifier owns or has direct control over that establishment.

(2) A licensed manufacturer of malt beverages may operate up to two licensed establishments pursuant to this subsection that are located at the licensed manufacturing facility or on property that is owned by the licensee and is contiguous with the parcel of land on which the licensed manufacturing facility is located, provided the manufacturer owns or has direct control over both establishments.

(3) ~~Notwithstanding subdivisions (1) and (2) of this subsection, a manufacturer or rectifier that, on July 1, 2019, is operating at a location separate from its licensed manufacturing facility an establishment for which it was granted a first-class license or a third-class license, or both, before July 1, 2019 may continue to operate that establishment, and the local control commissioners and the Board may annually renew the licenses in effect for that establishment on July 1, 2019. [Repealed.]~~



\* \* \*

\* \* \* Effective Dates \* \* \*

Sec. 51. EFFECTIVE DATES

(a) Sec. 47 (special event permits) and Sec. 50 (repeal of manufacturer grandfather provision) shall take effect on July 1, 2020.

(b) All remaining sections shall take effect on July 1, 2019.

**NOTICE CALENDAR**

**Favorable with Amendment**

**H. 547**

An act relating to approval of an amendment to the charter of the City of Montpelier

**Rep. Kitzmiller of Montpelier**, for the Committee on Government Operations, recommends the bill be amended as follows:

In Sec. 2, 24 V.S.A. chapter 5, § 301, in subdivision (b)(2), by striking out subdivision (D) in its entirety and inserting in lieu thereof the following:

(D) Regulation and enforcement of energy efficiency disclosure requirements for existing and new commercial and residential properties at the time a property is listed for sale.

**( Committee Vote: 10-0-1)**

**S. 37**

An act relating to medical monitoring

**Rep. LaLonde of South Burlington**, for the Committee on Judiciary, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Medical Monitoring \* \* \*

Sec. 1. 12 V.S.A. chapter 219 is added to read:

CHAPTER 219. MEDICAL MONITORING

§ 7201. DEFINITIONS

As used in this chapter:

(1) “Disease” means any disease, illness, ailment, or adverse physiological or chemical change linked to exposure to a toxic substance.

(2) “Establishment” means any premises used for the purpose of carrying on or exercising any trade, business, profession, vocation, commercial or charitable activity, or governmental function.

(3) “Exposure” means ingestion, inhalation, or absorption through any body surface.

(4) “Facility” means all contiguous land, structures, other appurtenances, and improvements on the land where toxic substances are manufactured, processed, used, or stored. A facility may consist of several treatment, storage, or disposal operational units. A facility shall not include land, structures, other appurtenances, and improvements on the land owned by a municipality.

(5) “Large facility” means a facility:

(A) where an activity within a Standard Industrial Classification code of 10 through 14, 20 through 39, 40 through 42, 44 through 46, or 49 is conducted or was conducted; and

(B)(i) where 10 or more full-time employees have been employed at any one time; or

(ii) that is owned or operated by a person who, when all facilities or establishments that the person owns or controls are aggregated, has employed 500 employees at any one time.

(6) “Medical monitoring” means a program of medical tests or procedures for the purpose of early detection of signs or symptoms of a latent disease resulting from exposure.

(7) “Operator” means a person who manages, conducts, or directs the operations of a facility.

(8) “Owner” means a person who owns or controls a facility. “Owner” shall not mean a person who without participating in the management of the facility holds indicia of ownership primarily to protect a security interest.

(9) “Person” means any individual; partnership; company; corporation; association; unincorporated association; joint venture; trust; municipality; the State of Vermont or any agency, department, or subdivision of the State; federal agency; or any other legal or commercial entity.

(10) “Release” means any act or omission that allows a toxic substance to enter the air, land, surface water, or groundwater.

(11) “Tortious conduct” means negligence, trespass, nuisance, product liability, or common law liability for ultra-hazardous or abnormally dangerous activity.

(12)(A) “Toxic substance” means any substance, mixture, or compound that may cause personal injury or disease to humans through ingestion, inhalation, or absorption through any body surface and that satisfies one or more of the following:

(i) the substance, mixture, or compound is listed on the U.S. Environmental Protection Agency Consolidated List of Chemicals Subject to the Emergency Planning and Community Right-To-Know Act, Comprehensive Environmental Response, Compensation and Liability Act, and Section 112(r) of the Clean Air Act;

(ii) the substance, mixture, or compound is defined as a “hazardous material” under 10 V.S.A. § 6602 or under rules adopted under 10 V.S.A. chapter 159;

(iii) testing has produced evidence, recognized by the National Institute for Occupational Safety and Health or the U.S. Environmental Protection Agency, that the substance, mixture, or compound poses acute or chronic health hazards;

(iv) the Department of Health has issued a public health advisory for the substance, mixture, or compound;

(v) the Secretary of Natural Resources has designated the substance, mixture, or compound as a hazardous waste under 10 V.S.A. chapter 159; or

(vi) exposure to the substance is shown by expert testimony to increase the risk of developing a latent disease.

(B) “Toxic substance” shall not mean:

(i) a pesticide when applied consistent with good practice; in conformity with federal, State, and local laws, rules, and regulations; and according to the manufacturer’s instructions; or

(ii) ammunition or components thereof, firearms, air rifles, discharge of firearms or air rifles, or hunting or fishing equipment or components thereof.

§ 7202. MEDICAL MONITORING FOR EXPOSURE TO TOXIC  
SUBSTANCES

(a) A person without a present injury or disease shall have a cause of action for the remedy of medical monitoring against a person who is the owner or operator of a large facility from which a toxic substance was released if all of the following are demonstrated by a preponderance of the evidence:

(1) The person was exposed to the toxic substance as a result of tortious conduct by the owner or operator, or persons under the control of the owner or operator, who released the toxic substance.

(2) As a proximate result of the exposure, the person has a greater risk of contracting a latent disease.

(3) Diagnostic testing is reasonably necessary. Testing is reasonably necessary if, shown by expert testimony, a physician would prescribe diagnostic testing because the person's increased risk of contracting the disease due to the exposure makes it reasonably necessary to undergo diagnostic testing different from what would normally be prescribed in the absence of the exposure.

(4) Medical tests or procedures exist to detect the latent disease.

(b) If the cost of medical monitoring is awarded, a court shall order the defendant found liable to pay the award to a court-supervised medical monitoring program administered by one or more appropriate health professionals, including professionals with expertise in exposure to toxic substances or expertise with treating or monitoring the relevant latent disease or diseases.

(c) Upon an award of medical monitoring under subsection (b) of this section, the court shall award to the plaintiff reasonable attorney's fees and other litigation costs reasonably incurred.

(d)(1) This chapter shall be the exclusive remedy for a person without a present injury to bring a cause of action to seek medical monitoring due to exposure to toxic substance.

(2) Except as provided under subdivision (1) of this subsection, nothing in this chapter shall be deemed to preclude the pursuit of any other civil or injunctive remedy or defense available under statute or common law, including the right of any person to seek to recover for damages related to the manifestation of a latent disease. The remedies and defenses in this chapter are in addition to those provided by existing statutory or common law.

(e) This section shall not increase the rights and remedies available under 21 V.S.A. chapter 9 to an employee who suffers a personal injury by accident arising out of and in the course of employment, provided that 21 V.S.A. chapter 9 shall not limit the right of a person who has not suffered a personal

injury by accident arising out of and in the course of employment to bring a cause of action for medical monitoring.

Sec. 2. APPLICATION TO EXPOSURES PRIOR TO EFFECTIVE DATE

Notwithstanding 1 V.S.A. § 214, the right of a person to bring a cause of action for medical monitoring under 12 V.S.A. chapter 219 shall apply retroactively to an exposure to a toxic substance that was discovered by the person in the six years prior to July 1, 2019, irrespective of any statute of limitations in effect at the time of the discovery of the exposure.

\* \* \* Hazardous Material Releases \* \* \*

Sec. 3. 10 V.S.A. § 6615 is amended to read:

§ 6615. LIABILITY

(a) Subject only to the defenses set forth in subsections (d) and (e) of this section, the following persons shall be liable for abating a release or threatened release of hazardous material and the costs of investigation, removal, and remedial actions incurred by the State that are necessary to protect the public health or the environment:

(1) the owner or operator of a facility, or both;

(2) any person who at the time of release or threatened release of any hazardous material owned or operated any facility at which such hazardous materials were disposed of;

(3) any person who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous materials owned or possessed by such person, by any other person or entity, at any facility owned or operated by another person or entity and containing such hazardous materials; ~~and~~

(4) any person who accepts or accepted any hazardous materials for transport to disposal or treatment facilities selected by such persons, from which there is a release, or a threatened release of hazardous materials ~~shall be liable for;~~ and

~~(A) abating such release or threatened release; and~~

~~(B) costs of investigation, removal, and remedial actions incurred by the State which are necessary to protect the public health or the environment.~~

(5) any person who manufactured for commercial sale a hazardous material and who knew or should have known that the material presented a threat of harm to human health or the natural environment.

\* \* \*

(d)(1) There shall be no liability under this section for a person otherwise liable who can establish by a preponderance of the evidence that the release or threat of release of hazardous material and the resulting damages were caused solely by any of the following:

(A) An act of God.

(B) An act of war.

(C) An act or omission of a third party other than an employee or agent of the defendant, or other than one whose act or omission occurs in connection with a contractual relationship, existing directly or indirectly, with the defendant. If the sole contractual arrangement arises from a published tariff and acceptance for carriage by a common carrier by rail, for purposes of this section, there shall be considered to be no contractual relationship at all. This subdivision (d)(1)(C) shall only serve as a defense if the defendant establishes by a preponderance of the evidence:

(i) that the defendant exercised due care with respect to the hazardous material concerned, taking into consideration the characteristics of that hazardous material, in light of all relevant facts and circumstances; and

(ii) that the defendant took precautions against foreseeable acts or omissions of any such third party and the consequences that could foreseeably result from those acts or omissions.

(D) Any combination of subdivisions (A)-(C) of this subdivision (1).

\* \* \*

(5) A person shall not be liable under subdivision (a)(5) of this section provided that the person demonstrates that he or she provided an adequate warning of the harm posed by the hazardous material known or which should have been known at the time the hazardous material was manufactured.

\* \* \*

(i) In an action brought by the Secretary under this section, a responsible person may implead, or in a separate action a responsible person may sue, another responsible person or persons and may obtain contribution or indemnification, except that a person who is solely liable pursuant to subdivision (a)(5) of this section shall not be able to implead or to sue a person pursuant to this subsection. A responsible person who has resolved its liability to the State under this section through a judicially approved settlement and a secured lender or fiduciary with whom the Secretary has entered into an agreement under subsection (h) of this section shall not be liable for claims for

contribution or indemnification regarding matters addressed in the judicially approved settlement or in the agreement. Likewise, a person who has obtained a certificate of completion pursuant to subchapter 3 of this chapter shall not be liable for claims for contribution or indemnification regarding releases or threatened releases described in the approved corrective action plan, as amended. Such a settlement or agreement or certificate of completion does not discharge any other potentially responsible person unless its terms so provide, but it reduces the potential liability of other potentially responsible persons by the relief agreed upon. A secured lender or fiduciary with whom the Secretary has entered into an agreement under subsection (h) of this section may not seek contribution or indemnification on the basis of such agreement from any other potentially responsible person. In any action for contribution or indemnification, the rights of any person who has resolved its liability to the State shall be subordinate to the rights of the State.

#### Sec. 4. APPLICATION OF LIABILITY

Notwithstanding any contrary provision of 1 V.S.A. § 214, the amendment contained in 10 V.S.A. § 6615(a)(5) shall apply to any relevant release of a hazardous material regardless of the date of the relevant release, including releases that occurred prior to the effective date of 10 V.S.A. § 6615(a)(5).

\* \* \* Effective Date \* \* \*

#### Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

**(Committee vote: 10-0-1 )**

**(For text see Senate Journal March 13, 2019 )**

#### **S. 105**

An act relating to miscellaneous judiciary procedures

**Rep. Grad of Moretown**, for the Committee on Judiciary, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

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

§ 163. JUVENILE COURT DIVERSION PROJECT

\* \* \*

(c) All diversion projects receiving financial assistance from the Attorney General shall adhere to the following provisions:

\* \* \*

(4) Each State's Attorney, in cooperation with the Attorney General and the diversion project program, shall develop clear criteria for deciding what types of offenses and offenders will be eligible for diversion; however, the State's Attorney shall retain final discretion over the referral of each case for diversion. The provisions of 33 V.S.A. § 5225(c) and § 5280(e) shall apply.

\* \* \*

~~(e) Within 30 days of the two-year anniversary of a successful completion of juvenile diversion, the court shall order the sealing of all court files and records, law enforcement records other than entries in the juvenile court diversion project's centralized filing system, fingerprints, and photographs applicable to a juvenile court diversion proceeding unless, upon motion, the court finds:~~

~~(1) the participant has been convicted of a subsequent felony or misdemeanor during the two-year period, or proceedings are pending seeking such conviction; or~~

~~(2) rehabilitation of the participant has not been attained to the satisfaction of the court.~~

(1) Within 30 days after the two-year anniversary of a successful completion of juvenile diversion, the court shall provide notice to all parties of record of the court's intention to order the expungement of all court files and records, law enforcement records other than entries in the juvenile court diversion program's centralized filing system, fingerprints, and photographs applicable to the proceeding. The court shall give the State's Attorney an opportunity for a hearing to contest the expungement of the records. The court shall expunge the records if it finds:

(A) two years have elapsed since the successful completion of juvenile diversion by the participant and the dismissal of the case by the State's Attorney;

(B) the participant has not been convicted of a subsequent felony or misdemeanor during the two-year period, and no proceedings are pending seeking such conviction;

(C) rehabilitation of the participant has been attained to the satisfaction of the court; and

(D) the participant does not owe restitution related to the case under a contract executed with the Restitution Unit.

(2) The court may expunge any records that were sealed pursuant to this subsection prior to July 1, 2018 unless the State's Attorney's office that



prosecuted the case objects. Thirty days prior to expunging a record pursuant to this subdivision, the court shall provide written notice of its intent to expunge the record to the State's Attorney's office that prosecuted the case.

(3)(A) The court shall keep a special index of cases that have been expunged pursuant to this section together with the expungement order. The index shall list only the name of the person convicted of the offense, his or her date of birth, the docket number, and the criminal offense that was the subject of the expungement.

(B) The special index and related documents specified in subdivision (A) of this subdivision (3) shall be confidential and shall be physically and electronically segregated in a manner that ensures confidentiality and that limits access to authorized persons.

(C) Inspection of the expungement order and the certificate may be permitted only upon petition by the person who is the subject of the case. The Chief Superior Judge may permit special access to the index and the documents for research purposes pursuant to the rules for public access to court records.

(D) The Court Administrator shall establish policies for implementing this subsection (e).

~~(f) Upon the entry of an order sealing such files and records under this section, the proceedings in the matter under this section shall be considered never to have occurred, all index references thereto shall be deleted, and the participant, the court, and law enforcement officers and departments shall reply to any request for information that no record exists with respect to such participant inquiry in any matter. Copies of the order shall be sent to each agency or official named therein. Except as otherwise provided in this section, upon the entry of an order expunging files and records under this section, the proceedings in the matter shall be considered never to have occurred, all index references thereto shall be deleted, and the participant, the court, and law enforcement officers and departments shall reply to any request for information that no record exists with respect to such participant inquiry in any matter. Copies of the order shall be sent to each agency or official named therein.~~

~~(g) Inspection of the files and records included in the order may thereafter be permitted by the court only upon petition by the participant who is the subject of such records and only to those persons named therein. The process of automatically expunging records as provided in this section shall only apply to those persons who completed diversion on or after July 1, 2002. Any person who completed diversion prior to July 1, 2002 must apply to the court~~

to have his or her records expunged. Expungement shall occur if the requirements of subsection (e) of this section are met.

\* \* \*

(j) Notwithstanding subdivision (c)(1) of this section, the diversion program may accept cases pursuant to 33 V.S.A. §§ 5225–5280.

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

§ 164. ADULT COURT DIVERSION PROGRAM

\* \* \*

(d) The Office of the Attorney General shall develop program outcomes following the designated State of Vermont performance accountability framework and, in consultation with the Department of State's Attorneys and Sheriffs, the Office of the Defender General, the Center for Crime Victim Services, and the Judiciary, report annually on or before December 1 to the General Assembly on services provided and outcome indicators. As a component of the report required by this subsection, the Attorney General shall include data on diversion program referrals in each county and possible causes of any geographical disparities.

(e) All adult court diversion programs receiving financial assistance from the Attorney General shall adhere to the following provisions:

(1) The diversion program shall accept only persons against whom charges have been filed and the court has found probable cause, but are not yet adjudicated. The prosecuting attorney may refer a person to diversion either before or after arraignment and shall notify in writing the diversion program and the court of his or her intention to refer the person to diversion. The matter shall become confidential when notice is provided to the court, except that for persons who are subject to conditions of release imposed pursuant to 13 V.S.A. § 7554 and who are referred to diversion pursuant to subdivision (b)(2) of this section, the matter shall become confidential upon the successful completion of diversion. If a person is charged with a qualifying crime as defined in 13 V.S.A. § 7601(4)(A) and the crime is a misdemeanor, the prosecutor shall provide the person with the opportunity to participate in the court diversion program unless the prosecutor states on the record at arraignment or a subsequent hearing why a referral to the program would not serve the ends of justice. If the prosecuting attorney refers a case to diversion, the prosecuting attorney may release information to the victim upon a showing of legitimate need and subject to an appropriate protective agreement defining the purpose for which the information is being released and in all other respects maintaining the confidentiality of the information; otherwise, files

held by the court, the prosecuting attorney, and the law enforcement agency related to the charges shall be confidential and shall remain confidential unless:

- (A) the diversion program declines to accept the case;
- (B) the person declines to participate in diversion;
- (C) the diversion program accepts the case, but the person does not successfully complete diversion; or
- (D) the prosecuting attorney recalls the referral to diversion.

\* \* \*

(m) Notwithstanding subdivision (e)(1) of this section, the diversion program may accept cases pursuant to 33 V.S.A. §§ 5225 and 5280.

Sec. 3. 4 V.S.A. § 21b is added to read:

§ 21b. JUDICIAL PERFORMANCE EVALUATIONS

(a) The Judiciary may establish procedures to periodically seek information on the performance of superior judges and magistrates, including the solicitation by survey or otherwise of information about judicial performance from members of the Vermont Bar, pro se litigants, others who attend court proceedings, Judiciary employees, and members of the public. The performance evaluation procedures established pursuant to this subsection shall be subject to the confidentiality provisions of subsection (b) of this section.

(b)(1) All documents developed and used in connection with the performance evaluation procedures established pursuant to subsection (a) of this section, including survey questions and responses, written reviews, comments or suggestions developed to support performance improvement of a superior judge or magistrate under any judicial mentoring program, peer review program, voluntary request for observation or evaluation, or other support program, shall be:

(A) intended and used solely for the purposes of judicial education and judicial self-improvement;

(B) confidential and not subject to disclosure under the Public Records Act; and

(C) disclosed only to the Supreme Court, the Chief Superior Judge, judiciary employees designated by the Judiciary to assist the Chief Superior Judge in the conduct and management of the surveys, the respective judge or magistrate, and judicial officers and judiciary employees designated by the

Judiciary to assist in the development and delivery of any performance improvement program for the respective judge or magistrate.

(2) The Judicial Retention Committee shall not seek access to the survey responses described in subdivision (1) of this section, and shall not consider any survey responses or information about the survey responses that the Committee or its members may receive. A judge or magistrate whose performance is evaluated pursuant to this section shall not disclose the survey responses to the Judicial Retention Committee.

(3) Any agency or party engaged to assist the Judiciary in evaluating judicial performance pursuant to this section, including the Vermont Bar Association, shall be subject to the confidentiality requirements of this subsection.

Sec. 4. 4 V.S.A. § 27b is added to read:

§ 27b. ELECTRONICALLY FILED VERIFIED DOCUMENTS

(a) A registered electronic filer in the Judiciary's electronic document filing system may file any document that would otherwise require the approval or verification of a notary by filing the document with the following language inserted above the signature and date:

I declare that the above statement is true and accurate to the best of my knowledge and belief. I understand that if the above statement is false, I will be subject to the penalty of perjury.

(b) A document filed pursuant to subsection (a) of this section shall not require the approval or verification of a notary.

(c) This section shall not apply to an affidavit in support of a search warrant application or to an application for a nontestimonial identification order.

Sec. 5. 13 V.S.A. § 2904 is amended to read:

§ 2904. FALSE SWEARING; FALSE DECLARATION

(a) A person of whom an oath is required by law, who willfully swears falsely in regard to any matter or thing respecting which such oath is required, shall be guilty of perjury and punished as provided in section 2901 of this title.

(b) A person who declares, certifies, or verifies in a signed writing that a statement is true and is made under the pains and penalties of perjury, and who willfully makes a false statement in the declaration, certification, or verification, shall be guilty of perjury and punished as provided in section 2901 of this title.

Sec. 6. 13 V.S.A. § 11a is amended to read:

§ 11a. ~~VIOLENT CAREER CRIMINALS~~

~~(a) The State may elect to seek the substitute penalty provided for in this section against a person who, after having been two times convicted within this State of a felony crime of violence, or under the law of any other state, government, or country, of a crime which, if committed in this State would be a felony crime of violence, is convicted of a third felony crime of violence within this State.~~

~~(b) If the State seeks a substitute penalty for one of the offenses enumerated in subsection (d) of this section, it shall give notice to the person by filing an information seeking the penalty contained in this section.~~

~~(c) A person charged under this section shall be sentenced upon conviction of such third or subsequent offense to imprisonment up to and including life.~~

~~(d) As used in this section, "felony crime of violence" shall mean the following crimes:~~

~~(1) arson causing death as defined in section 501 of this title;~~

~~(2) assault and robbery with a dangerous weapon as defined in subsection 608(b) of this title;~~

~~(3) assault and robbery causing bodily injury as defined in subsection 608(c) of this title;~~

~~(4) aggravated assault as defined in section 1024 of this title;~~

~~(5) murder as defined in section 2301 of this title;~~

~~(6) manslaughter as defined in section 2304 of this title;~~

~~(7) kidnapping as defined in section 2405 of this title or its predecessor as it was defined in section 2401 of this title;~~

~~(8) maiming as defined in section 2701 of this title;~~

~~(9) sexual assault as defined in subdivision 3252(a)(1) or (2) of this title or its predecessor as it was defined in section 3201 of this title;~~

~~(10) aggravated sexual assault as defined in section 3253 of this title;~~

~~(11) first degree unlawful restraint as defined in section 2407 of this title;~~

~~(12) first degree aggravated domestic assault as defined in section 1043 of this title where the defendant causes serious bodily injury to another person;~~

~~(13) lewd or lascivious conduct with a child as defined in section 2602 of this title where the child is under the age of 13 years and the defendant is 18 years of age or older.~~

~~(e) Notwithstanding any other provision of law to the contrary, the court shall not place on probation or suspend the sentence of any person sentenced under this section. No person who receives a minimum sentence under this section shall be eligible for early release or furlough until the expiration of the minimum sentence.~~

~~(f) For the purposes of this section, multiple convictions that arise out of the same criminal transaction are to be treated as one conviction. [Repealed.]~~

Sec. 7. 13 V.S.A. § 362 is amended to read:

#### § 362. EXPOSING POISON ON THE LAND

A person who deposits any poison or substance poisonous to animals on his or her premises or on the ~~premise~~ premises or buildings of another, with the intent that it be taken by an animal, shall be in violation of subdivision 352(2) of this title. This section shall not apply to control of wild pests, protection of crops from insects, mice, and plant diseases, or the Department of Fish and Wildlife ~~and employees and agents of the State Forest Service~~ in control of destructive wild animals.

Sec. 8. 13 V.S.A. § 397 is amended to read:

#### § 397. ADMINISTRATIVE PENALTY

In addition to the forfeiture of any award, premium, or trophy otherwise due, and in addition to other penalties provided by law, a person violating this chapter may be assessed an administrative penalty in an amount not to exceed \$1,000.00 by the Secretary. The Secretary shall utilize the provisions of 6 V.S.A. §§ 16 and 17 for purposes of assessing the penalty.

Sec. 9. 13 V.S.A. § 508 is amended to read:

#### § 508. SETTING FIRES

A person who enters upon lands of another and sets a fire that causes damage shall be imprisoned not more than 60 days nor less than 30 days, or fined not more than \$100.00 nor less than \$10.00, or both. The provisions of this section shall not affect the provisions of sections section 507 ~~and 3906~~ of this title.

Sec. 10. 13 V.S.A. § 1501 is amended to read:

§ 1501. ESCAPE AND ATTEMPTS TO ESCAPE

(a) A person who, while in lawful custody:

(1) escapes or attempts to escape from any correctional facility or a local lockup shall be imprisoned for not more than 10 years or fined not more than \$5,000.00, or both; or

(2) escapes or attempts to escape from an officer, if the person was in custody as a result of a felony, shall be imprisoned for not more than 10 years or fined not more than \$5,000.00, or both; or if the person was in custody as a result of a misdemeanor, shall be imprisoned for not more than two years, or fined not more than \$1,000.00, or both.

(b)(1) A person shall not, while in lawful custody:

(A) fail to return from work release to the correctional facility at the specified time, or visits other than the specified place, as required by the order issued in accordance with 28 V.S.A. § 753;

(B) fail to return from furlough to the correctional facility at the specified time, or visits other than the specified place, as required by the order issued in accordance with ~~28 V.S.A. § 808, 808a, 808b, or 808e~~ 28 V.S.A. § 808(a)(1)–(5);

(C) escape or attempt to escape while on release from a correctional facility to do work in the service of such facility or of the Department of Corrections in accordance with 28 V.S.A. § 758; or

(D) elope or attempt to elope from the Vermont Psychiatric Care Hospital or a participating hospital, when confined by court order pursuant to chapter 157 of this title, or when transferred there pursuant to 28 V.S.A. § 703 and while still serving a sentence.

(2) A person who violates this subsection shall be imprisoned for not more than five years or fined not more than \$1,000.00, or both.

(3) It shall not be a violation of subdivision (1)(A), (1)(B), or (1)(C) of this subsection (b) if the person is on furlough status pursuant to 28 V.S.A. § 808(a)(6), 808(e), 808(f), 808a, 808b, or 808c.

(c) All sentences imposed under subsection (a) of this section shall be consecutive to any term or sentence being served at the time of the offense.

\* \* \*

Sec. 11. 28 V.S.A. § 808e is added to read:

§ 808e. ABSCONDING FROM FURLOUGH; WARRANT

The Commissioner of Corrections may issue a warrant for the arrest of a person who has absconded from furlough status in violation of 28 V.S.A. § 808(a)(6), 808(e), 808(f), 808a, 808b, or 808c, requiring the person to be returned to a correctional facility. A person for whom an arrest warrant is issued pursuant to this section shall not earn credit toward service of his or her sentence for any days that the warrant is outstanding.

Sec. 12. 13 V.S.A. § 1504 is amended to read:

§ 1504. PLACE OF CONFINEMENT CONSTRUED

The words “place of confinement” as used in sections 1502 and 1503 of this title shall not be construed to include the Weeks School. [Repealed.]

Sec. 13. 13 V.S.A. § 2901 is amended to read:

§ 2901. PUNISHMENT FOR PERJURY

A person who, being lawfully required to depose the truth in a proceeding in a court of justice or in a contested case before a State agency pursuant to 3 V.S.A. chapter 25, commits perjury shall be imprisoned not more than 15 years ~~and~~ or fined not more than \$10,000.00, or both.

Sec. 14. 13 V.S.A. § 2535 is amended to read;

§ 2535. GUARDIAN

A guardian who embezzles or fraudulently converts to his or her own use, money, obligations, securities, or other effects or property belonging to the ~~ward person under guardianship~~ ward person under guardianship or the estate of the ~~ward of whom he or she is guardian~~ ward person under guardianship, shall be guilty of larceny and shall be imprisoned not more than 10 years or fined not more than \$1,000.00, or both.

Sec. 15. 13 V.S.A. § 3403 is amended to read:

§ 3403. MISPRISION OF TREASON

A person owing allegiance to this State, knowing such treason to have been committed, or knowing of the intent of a person to commit such treason, who does not, within 14 days from the time of having such knowledge, give information thereof to the Governor of the State, to one of the Justices of the Supreme Court, a Superior ~~or District~~ judge, or a justice of the peace, shall be guilty of misprision of treason and shall be imprisoned not more than 10 years nor less than five years or fined not more than \$2,000.00, or both.



Sec. 16. 13 V.S.A. § 3485 is amended to read:

§ 3485. PENALTY WHEN OFFENSE IS TREASON

A person who commits an offense punishable under one of sections ~~3481-3484~~ ~~3482-3485~~ of this title, and such offense amounts to treason, shall be punished for treason in lieu of the penalty prescribed in such section.

Sec. 17. 13 V.S.A. § 5415 is amended to read:

§ 5415. ENFORCEMENT; SPECIAL INVESTIGATION UNITS

(a) Special investigation units, created pursuant to 24 V.S.A. § 1940, shall be responsible for the investigation of violations of this chapter's Registry requirements and are authorized to conduct in-person Registry compliance checks in a time, place, and manner it deems appropriate in furtherance of the purposes of this chapter. This section shall not be construed to prohibit local law enforcement from enforcing the provisions of this chapter.

(b) On or before November 1, 2019, and annually thereafter, local law enforcement agencies shall report to the Vermont Crime Information Center about any in-person Registry compliance checks that the agency has conducted during the preceding 12 months. The report shall include the total number of in-person compliance checks conducted during the 12-month period, the number of offenders who were in compliance, the number of offenders who were out of compliance, and the reasons for being out of compliance.

(c) ~~The department of public safety~~ Department of Public Safety shall report to the Senate and House Committees on Judiciary on or before December 15, 2009, and annually thereafter, regarding its efforts under this section.

Sec. 18. 13 V.S.A. § 7041 is amended to read:

§ 7041. DEFERRED SENTENCE

(a) Upon an adjudication of guilt and after the filing of a presentence investigation report, the court may defer sentencing and place the respondent on probation upon such terms and conditions as it may require if a written agreement concerning the deferring of sentence is entered into between the State's Attorney and the respondent and filed with the clerk of the court.

(b) Notwithstanding subsection (a) of this section, the court may defer sentencing and place the respondent on probation without a written agreement between the State's Attorney and the respondent if the following conditions are met:

(1) ~~the respondent is 28 years old or younger;~~ [Repealed.]

(2) the crime for which the respondent is being sentenced is not a listed crime as defined in subdivision 5301(7) of this title;

(3) the court orders a presentence investigation in accordance with the procedures set forth in V.R.C.P. Rule 32, unless the State's Attorney agrees to waive the presentence investigation;

(4) the court permits the victim to submit a written or oral statement concerning the consideration of deferment of sentence;

(5) the court reviews the presentence investigation and the victim's impact statement with the parties; and

(6) the court determines that deferring sentence is in the interests of justice.

\* \* \*

Sec. 19. 13 V.S.A. § 7554c is amended to read:

§ 7554c. PRETRIAL RISK ASSESSMENTS; NEEDS SCREENINGS

\* \* \*

(b)(6) Any person charged with a criminal offense or who is the subject of a youthful offender petition pursuant to 33 V.S.A. § 5280, except those persons identified in subdivision (2) of this subsection, may choose to engage with a pretrial services coordinator.

\* \* \*

Sec. 20. 14 V.S.A. § 1203 is amended to read:

§ 1203. LIMITATIONS ON PRESENTATION OF CLAIMS

(a) All claims against a decedent's estate ~~which~~ that arose before the death of the decedent, including claims of the State and any subdivision thereof, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis, except claims for the possession of or title to real estate and claims for injury to the person and damage to property suffered by the act or default of the deceased, if not barred earlier by other statute of limitations, are barred against the estate, the executor or administrator, and the heirs and devisees of the decedent, unless presented as follows:

(1) within four months after the date of the first publication of notice to creditors if notice is given in compliance with the Rules of Probate Procedure; provided, however, that claims barred by the nonclaim statute of the decedent's

domicile before the first publication for claims in this State are also barred in this State;

\* \* \*

Sec. 21. 18 V.S.A. § 8840 is amended to read:

§ 8840. JURISDICTION AND VENUE

Proceedings brought under this subchapter for commitment to the Commissioner for custody, care, and habilitation shall be commenced by petition in the ~~Criminal~~ Family Division of the Superior Court for the unit in which the respondent resides.

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 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. 23. 33 V.S.A. § 5204a is amended to read:

§ 5204A. JURISDICTION OVER ADULT DEFENDANT FOR CRIME

COMMITTED WHEN DEFENDANT WAS UNDER AGE 18

(a) A proceeding may be commenced in the Family Division against a defendant who has attained ~~the age of 18 years of age~~ if:

(1) the petition alleges that the defendant;

(A) before attaining the age of 18 years of age, violated a crime listed in subsection 5204(a) of this title; or

(B) after attaining 14 years of age but before attaining 18 years of age, committed an offense listed in 13 V.S.A. § 5301(7) but not listed in subsection 5204(a) of this title;

(2) a juvenile petition was never filed based upon the alleged conduct; and

(3) the statute of limitations has not tolled on the crime which the defendant is alleged to have committed.

(b)(1) The Family Division shall, except as provided in subdivision (2) of this subsection, transfer a petition filed pursuant to ~~subsection (a)~~ subdivision (a)(1)(A) of this section to the Criminal Division if the Family Division finds that:

(A) there is probable cause to believe that while the defendant was less than 18 years of age he or she committed an act listed in subsection 5204(a) of this title;

(B) there was good cause for not filing a delinquency petition in the Family Division when the defendant was less than 18 years of age;

(C) there has not been an unreasonable delay in filing the petition; and

(D) transfer would be in the interest of justice and public safety.

(2)(A) ~~The~~ If a petition has been filed pursuant to subdivision (a)(1)(A) of this section, the Family Division may order that the defendant be treated as a youthful offender consistent with the applicable provisions of ~~subchapter 5 of chapter 52~~ 52A of this title if the defendant is under 23 years of age and the Family Division:

(i) makes the findings required by subdivisions (1)(A), (B), and (C) of this subsection;

(ii) finds that the youth is amenable to treatment or rehabilitation as a youthful offender; and

(iii) finds that there are sufficient services in the Family Division system and the Department for Children and Families or the Department of Corrections to meet the youth's treatment and rehabilitation needs.

(B) If the Family Division orders that the defendant be treated as a youthful offender, the ~~Court~~ court shall approve a disposition case plan and impose conditions of probation on the defendant.

(C) If the Family Division finds after hearing that the defendant has violated the terms of his or her probation, the Family Division may:

(i) maintain the defendant's status as a youthful offender, with modified conditions of probation if the ~~Court~~ court deems it appropriate; or

(ii) revoke the defendant's youthful offender status and transfer the petition to the Criminal Division pursuant to subdivision (1) of this subsection.

(3) The Family Division shall in all respects treat a petition filed pursuant to subdivision (a)(1)(B) of this section in the same manner as a petition filed pursuant to section 5201 of this title, except that the Family Division's jurisdiction shall end on or before the defendant's 22nd birthday, if the Family Division:

(A) finds that there is probable cause to believe that, after attaining 14 years of age but before attaining 18 years of age, the defendant committed an offense listed in 13 V.S.A. § 5301(7) but not listed in subsection 5204(a) of this title; and

(B) makes the findings required by subdivisions (b)(1)(B) and (C) of this section.

(4) In making the determination required by subdivision (1)(D) of this subsection, the ~~Court~~ court may consider, among other matters:

(A) the maturity of the defendant as determined by consideration of his or her age; home; environment; emotional, psychological, and physical maturity; and relationship with and adjustment to school and the community;

(B) the extent and nature of the defendant's prior criminal record and record of delinquency;

(C) the nature of past treatment efforts and the nature of the defendant's response to them;

(D) whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner;

(E) the nature of any personal injuries resulting from or intended to be caused by the alleged act;

(F) whether the protection of the community would be best served by transferring jurisdiction from the Family Division to the Criminal Division of the Superior Court.

(c) If the Family Division does not transfer the case a petition filed pursuant to subdivision (a)(1)(A) of this section to the Criminal Division or order that the defendant be treated as a youthful offender pursuant to subsection (b) of this section, the petition shall be dismissed.

#### Sec. 24. 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 on 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 seven 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 seven meetings. These payments shall be made from monies appropriated to the Agency of Education.

(h) Appropriation. The sum of \$11,102.00 is appropriated to the Agency of Administration from the General Fund in fiscal year 2020 for per diem compensation and reimbursement of expenses for nonlegislative members of the Task Force. The sum of \$3,066.00 is appropriated to the General Assembly from the General Fund in fiscal year 2020 for per diem compensation and reimbursement of expenses for legislative members of the Task Force.



Sec. 25. REPEAL; EXTENSION

Sec. 2 of 2016 Acts and Resolves No. 167, as amended by Sec. E.204 of 2017 Acts and Resolves No. 185, is amended to read:

Sec. 2. REPEAL

4 V.S.A. § 38 (Judicial Masters) shall be repealed on July 1, ~~2020~~ 2025.

Sec. 26. EFFECTIVE DATES

This act shall take effect on passage, except that Secs. 9 and 10 shall take effect on July 1, 2019.

**(Committee vote: 10-0-1 )**

**(For text see Senate Journal March 20, 2019 )**

**S. 146**

An act relating to substance misuse prevention

**Rep. Pajala of Londonderry**, for the Committee on Human Services, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Legislative Intent \* \* \*

Sec. 1. LEGISLATIVE INTENT

It is the intent of the General Assembly that:

(1) prevention efforts focus on social and environmental factors to ensure that all Vermonters have opportunities to be active, engaged, connected, and heard throughout their lifetimes;

(2) substance misuse prevention efforts are consolidated and coordinated across State government to improve the health of all Vermonters;

(3) a significant portion of any new revenue generated by taxation of substances at risk of misuse, including cannabis, tobacco, tobacco substitutes, alcohol, and opioids, be directed to fund substance misuse prevention initiatives throughout the State in accordance with the advice of the Substance Misuse Prevention Oversight and Advisory Council established in 18 V.S.A. § 4803; and

(4) funds designated for the Opioid Coordination Council be redirected to fund the Chief Prevention Officer pursuant to 3 V.S.A. § 2321 and the Manager of Substance Misuse Prevention pursuant to 18 V.S.A. § 4804.

\* \* \* Chief Prevention Officer \* \* \*

Sec. 2. 3 V.S.A. chapter 45, subchapter 6 is added to read:

Subchapter 6. Chief Prevention Officer

§ 2321. CHIEF PREVENTION OFFICER

(a) There is created the permanent position of Chief Prevention Officer within the Office of the Secretary in the Agency of Administration for the purpose of coordinating, across State government and in collaboration with community partners, policies, programs, and budgets to support and improve the well-being of all Vermonters through prevention efforts. The Chief Prevention Officer shall:

(1) identify and coordinate initiatives across State government and among community stakeholder groups that improve well-being;

(2) examine promising prevention practices in other jurisdictions that may be replicated in Vermont; and

(3) improve the well-being of all Vermonters by considering population prevention measures in relation to all policy determinations.

(b) The Chief Prevention Officer shall have a master's-level degree or bachelor's-level degree in a human services field, public health, or public administration and professional-level experience in prevention, substance use disorders, public health, or a closely related field.

\* \* \* Substance Misuse Prevention \* \* \*

Sec. 3. 18 V.S.A. chapter 94 is amended to read:

CHAPTER 94. DIVISION OF ALCOHOL AND DRUG ABUSE  
PROGRAMS SUBSTANCE USE DISORDERS

\* \* \*

§ 4803. ALCOHOL AND DRUG ABUSE COUNCIL; CREATION; TERMS;  
PER-DIEM SUBSTANCE MISUSE PREVENTION OVERSIGHT  
AND ADVISORY COUNCIL

~~(a) The Alcohol and Drug Abuse Council is established within the Agency of Human Services to promote the dual purposes of reducing problems arising from alcohol and drug abuse and improving prevention, intervention, treatment, and recovery services by advising the Secretary on policy areas that can inform Agency programs.~~

~~(b) The Council shall consist of 12 members:~~

~~(1) the Secretary of Human Services or designee;~~

- ~~(2) the Commissioner of Public Safety or designee;~~
  - ~~(3) the Commissioner of Mental Health or designee;~~
  - ~~(4) the Deputy Commissioner of Health for the Division of Alcohol and Drug Abuse Programs;~~
  - ~~(5) the Director of the Blueprint for Health or designee;~~
  - ~~(6) a representative of an approved provider or preferred provider, appointed by the Governor;~~
  - ~~(7) a licensed alcohol and drug abuse counselor, appointed by the Governor;~~
  - ~~(8) a representative of hospitals, appointed by the Vermont Association of Hospitals and Health Systems;~~
  - ~~(9) an educator involved in substance abuse prevention services, appointed by the Governor;~~
  - ~~(10) a youth substance abuse prevention specialist, appointed by the Governor;~~
  - ~~(11) a community prevention coalition member, appointed by the Governor; and~~
  - ~~(12) a member of the peer community involved in recovery services, appointed by the Governor.~~
- ~~(c) The term of office of members appointed pursuant to subsection (b) of this section shall be three years.~~
- ~~(d) The Council membership shall annually elect a member to serve as chair.~~
- ~~(e) All members shall be voting members.~~
- ~~(f) At the expiration of the term of an appointed member or in the event of a vacancy during an unexpired term, the new member shall be appointed in the same manner as his or her predecessor. Members of the Council may be reappointed.~~
- ~~(g)(1) The Council may submit a written report to the House Committee on Human Services and to the Senate Committee on Health and Welfare with its findings and any recommendations for legislative action.~~
- ~~(2) The report shall include the following:~~
- ~~(A) measurable goals for the State's substance abuse system of care;~~
- ~~and~~

~~(B) three to five performance measures that demonstrate the system's results.~~

~~(3) The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report required to be made under this subsection.~~

~~(h) Each member of the Council not otherwise receiving compensation from the State of Vermont or any political subdivision thereof shall be entitled to receive per diem compensation as provided in 32 V.S.A. § 1010(b) for not more than six meetings annually. Each member shall be entitled to his or her actual and necessary expenses.~~

(a) Creation. There is created the Substance Misuse Prevention Oversight and Advisory Council within the Department of Health to improve the health outcomes of all Vermonters through a consolidated and holistic approach to substance misuse prevention that addresses all categories of substances. The Council shall provide advice to the Governor and General Assembly for improving prevention policies and programming throughout the State and to ensure that population prevention measures are at the forefront of all policy determinations. The Advisory Council's prevention initiatives shall encompass all substances at risk of misuse, including:

(1) alcohol;

(2) cannabis;

(3) controlled substances, such as opioids, cocaine, and methamphetamines; and

(4) tobacco products and tobacco substitutes as defined in 7 V.S.A. § 1001 and substances containing nicotine or that are otherwise intended for use with a tobacco substitute.

(b)(1) Membership. The agenda of the Council shall be determined by an executive committee composed of the following members:

(A) the Commissioner of Health or designee, who shall serve as co-chair;

(B) a community leader in the field of substance misuse prevention, appointed by the Governor, who shall serve as co-chair;

(C) the Secretary of Education or designee;

(D) the Commissioner of Public Safety or designee; and

(E) the Chief Prevention Officer established pursuant to 3 V.S.A. § 2321.

(2) The members of the executive committee jointly shall appoint members to the Council with demographic and regional diversity and who collectively offer expertise and experience in the following:

(A) at least two people with lived substance use disorder experience, including a person in recovery and a family member of a person in recovery;

(B) one or more youth less than 18 years of age;

(C) one or more young adults between 18 and 25 years of age; and

(D) the Director of Trauma Prevention and Resilience Development established pursuant to 33 V.S.A. § 3403; and

(E) persons with expertise in the following disciplines:

(i) substance misuse prevention in a professional setting;

(ii) pediatric care specific to substance misuse prevention or substance use disorder;

(iii) academic research pertaining to substance misuse prevention or behavioral addiction treatment;

(iv) education in a public school setting specific to substance misuse prevention;

(v) law enforcement with expertise in drug enforcement, addressing impaired driving, and community policing;

(vi) community outreach or collaboration in the field of substance misuse prevention;

(vii) the criminal justice system;

(viii) treatment of substance use disorder;

(ix) recovery from substance use disorder in a community setting;

(x) municipalities;

(xi) substance use disorder or substance misuse prevention within the youth population;

(xii) substance use disorder or substance misuse prevention within the older Vermonter population; and

(xiii) comprehensive communications and media campaigns.

(c) Powers and duties. The Council shall strengthen the State's response to the substance use disorder crisis by advancing evidence-based and evidence-

informed substance misuse prevention initiatives. The Council's duties shall include:

(1) reviewing and making recommendations on best practices to assist communities and schools to significantly reduce the demand for substances through prevention and education;

(2) reviewing substance misuse prevention program evaluations and making specific recommendations for modification based on the results, including recommendations to address gaps in both services and populations served;

(3) reviewing existing State laws, rules, policies, and programs and proposing changes to eliminate redundancy and to eliminate barriers experienced by communities and schools in coordinating preventative action with State government;

(4) reviewing existing community-based youth programming, including recreation, municipal programs, parent-child center programs, and afterschool and year-round programs, to determine a foundation of connection and support for all Vermont children and youth;

(5) reviewing community-based programs for older Vermonters for the purpose of identifying gaps in services, including geographic disparities, eliminating barriers, and coordinating prevention services;

(6) recommending strategies to integrate substance misuse prevention programming across the State, including between State agencies and in public-private partnerships;

(7) development of a statewide media campaign for substance misuse prevention; and

(8) holding a minimum of two public meetings to receive public input and advice for setting program priorities for substances at risk of misuse.

(d) Committees. The Council shall have the ability to create issue-specific committees for the purpose of carrying out its duties, such as a youth committee. Any committees created may draw on the expertise of any individual regardless of whether that individual is a member of the Council.

(e) Assistance. The Council shall have administrative, technical, and communications assistance from the Manager of Substance Misuse Prevention established pursuant to section 4804 of this title.

(f) Report. Annually on or before January 1, the Council shall submit a written report to the Governor, the House Committees on Appropriations and on Human Services, and the Senate Committees on Appropriations and on

Health and Welfare with its findings and any recommendations for legislative action. The report shall also include the following:

(1) measurable goals for the effectiveness of prevention programming statewide;

(2) three to five performance measures for all substances at risk of misuse that demonstrate the system's results;

(3) the results of evaluations of State-funded programs; and

(4) an explanation of State-funded program budgets.

(g) Organization.

(1) Members of the Council shall serve two-year terms and may be reappointed. Any vacancy on the Council shall be filled in the same manner as the original appointment. The replacement member shall serve for the remainder of the unexpired term. Any individual interested in serving on the Council may submit a letter of interest or resume to the Manager of Substance Misuse Prevention.

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

(h) Compensation and reimbursement. Members of the Council who are not employed by the State or whose participation is not supported through their employment or association 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 per year, unless further authorized by the Commissioner of Health. Payments to members of the Council authorized under this subsection shall be made from monies appropriated to the Department of Health.

#### § 4804. ADMINISTRATIVE SUPPORT MANAGER OF SUBSTANCE

##### MISUSE PREVENTION

The Agency of Human Services shall provide the Council with such administrative support as is necessary for it to accomplish the purposes of this chapter. There is created the permanent position of the Manager of Substance Misuse Prevention within the Department of Health for the purpose of:

(1) coordinating the work of the Substance Misuse Prevention Oversight and Advisory Council established pursuant to section 4803 of this title; and

(2) coordinating regional planning.

#### § 4805. DUTIES

The Council shall:

~~(1) advise the Governor as to the nature and extent of alcohol and drug abuse problems and the programs necessary to understand, prevent, and alleviate those problems;~~

~~(2) make recommendations to the Governor and General Assembly for developing:~~

~~(A) a comprehensive and coordinated system for delivering effective programs, including any appropriate reassignment of responsibility for such programs; and~~

~~(B) a substance abuse system of care that integrates substance abuse services with health care reform initiatives, such as pay-for-performance methodologies;~~

~~(3) provide for coordination and communication among the regional alcohol and drug abuse councils, State agencies and departments, providers, consumers, consumer advocates, and interested citizens;~~

~~(4) jointly, with the State Board of Education, develop educational and preventive programs;~~

~~(5) assess substance abuse services and service delivery in the State, including the following:~~

~~(A) the effectiveness of existing substance abuse services in Vermont and opportunities for improved treatment; and~~

~~(B) strategies for enhancing the coordination and integration of substance abuse services across the system of care; and~~

~~(6) provide recommendations to the General Assembly regarding State policy and programs for individuals experiencing public inebriation. [Repealed.]~~

\* \* \*

\* \* \* Repealing the Tobacco Evaluation and Review Board \* \* \*

Sec. 4. 18 V.S.A. chapter 225 is amended to read:

Chapter 225. Tobacco Prevention, Cessation, and Control

§ 9501. DEFINITIONS

As used in this chapter:

(1) “Board” means the Vermont Tobacco Evaluation and Review Board established by this chapter. [Repealed.]

\* \* \*



§ 9503. VERMONT TOBACCO PREVENTION AND TREATMENT

(a) Except as otherwise specifically provided, the tobacco prevention and treatment program shall be administered and coordinated statewide by the Department of Health and the Vermont Tobacco Evaluation and Review Board, pursuant to the provisions of this chapter. The program shall be comprehensive and research-based, and shall include the following components:

- ~~(1) community-based programs;~~
- ~~(2) school-based programs;~~
- ~~(3) tobacco cessation programs;~~
- ~~(4) countermarketing activities;~~
- ~~(5) enforcement activities;~~
- ~~(6) surveillance and evaluation activities;~~
- ~~(7) policy initiatives; and~~

~~(8) any other activities determined by the Commissioner or the Board to be necessary to implement the provisions of this section.~~

~~(b) By June 1, 2001, the Department and the Board shall jointly establish a plan that includes goals for each program component listed in subsection (a) of this section, for reducing adult and youth smoking rates by 50 percent in the following 10 years. By June 1 of each year, the Department and the Board shall jointly establish goals for reducing adult and youth smoking rates in the following two years, including goals for each program component listed in subsection (a) of this section, including performance measures for each goal in conjunction with the Substance Misuse Prevention Oversight and Advisory Council established pursuant to section 4803 of this title. The services provided by a quitline approved by the Department of Health shall be offered and made available to any minor, upon his or her consent, who is a smoker or user of tobacco products as defined in 7 V.S.A. § 1001.~~

\* \* \*

~~(f) The Board shall be represented on all tobacco program advisory committees, including the youth working group, Community Grants Advisory Board, and the Scientific Advisory Board. The Board's representative on any such advisory committee shall include at least one member other than the Commissioner of Health. [Repealed.]~~

§ 9504. ~~CREATION OF THE VERMONT TOBACCO EVALUATION AND  
REVIEW BOARD~~

~~(a) There is created and established, within the Office of the Secretary, a body to be known as the Vermont Tobacco Evaluation and Review Board, an independent State board created to work in partnership with the Agency of Human Services and the Department of Health in establishing the annual budget, program criteria and policy development, and review and evaluation of the tobacco prevention and treatment program.~~

~~(b) The Board shall consist of 14 members, including ex officio the Commissioner of Health and the Secretary of Education or their designees; the Commissioner of Liquor Control or designee; the Attorney General or designee; a member of the House of Representatives appointed by the Speaker of the House; a member of the Senate appointed by the Committee on Committees; a member representing a nonprofit organization qualifying under Section 501(c)(3) of the Internal Revenue Code and dedicated to anti-tobacco activities appointed by the Speaker of the House; a member representing the low-income community appointed by the Senate Committee on Committees; two persons under the age of 30, one appointed by the Speaker of the House and one appointed by the Committee on Committees; and four members appointed by the Governor with the advice and consent of the Senate, including: one K-12 educator involved in prevention education; one tobacco use researcher; one member representing the health care community; and one tobacco industry countermarketing expert. The public members shall serve for three-year terms, beginning on July 1 of the year in which the appointment is made, except that the first members appointed by the Governor to the Board shall be appointed, two for a term of two years, one for a term of three years, and one for a term of four years. Vacancies shall be filled in the same manner as the original appointment for the unexpired portion of the term vacated.~~

~~(c) The Governor shall appoint a chair from among the Board's public members. The Chair shall serve for a term of two years. The Chair may be removed for good cause by a two-thirds, voting majority of the Board. The Board may elect such other officers as it may determine. The Board may appoint committees or subcommittees for the purpose of providing advice on community-based programs, countermarketing activities, and independent program evaluations. Meetings shall be held at the call of the Chair or at the request of three members; however, the Board shall meet no fewer than four times a year. A majority of the sitting members shall constitute a quorum, and action taken by the Board under the provisions of this chapter may be authorized by a majority of the members present and voting at any regular or special meeting. Actions taken by the Board to approve, authorize, award,~~

~~grant, or otherwise expend money appropriated to the Board or the Department shall require authorization from a majority of members of the entire Board.~~

~~(d) Public members other than ex officio members shall be entitled to per diem compensation authorized under 32 V.S.A. § 1010 for each day spent in the performance of their duties, and members shall be reimbursed from the Fund for reasonable expenses incurred in carrying out their duties under this chapter. Legislative members shall be entitled to per diem compensation and reimbursement for expenses in accordance with 2 V.S.A. § 406.~~

~~(e) The Board may employ staff, through the Agency of Human Services, to assist the Board in planning, administering, and executing its functions under this chapter, subject to the policies, control, and direction of its members and the powers and duties of the Board under this chapter. The Board may employ technical experts and contractors as necessary to effect the purposes of this chapter. The Board shall use the Office of the Attorney General for legal services. The Board shall receive additional staff assistance from the Department of Health, the Office of Legislative Council, and the Joint Fiscal Office.~~

~~(f) The Agency of Human Services shall provide administrative support to the Board for the purposes of this chapter.~~

~~(g) No member of the Board shall have any direct or knowing affiliation or contractual relationship with any tobacco company, its affiliates, its subsidiaries, or its parent company. Each Board member shall file a conflict of interest statement, stating that he or she has no such affiliation or contractual relationship. [Repealed.]~~

#### § 9505. GENERAL POWERS AND DUTIES

~~The Board Department shall have all the powers necessary and convenient to carry out and effectuate the purposes and provisions of this section, and shall:~~

~~(1) Establish jointly with the Department of Health the selection criteria for community grants and review and recommend the grants to be funded.~~

~~(2) Select, upon the advice of the Commissioner, a contractor responsible for countermarketing activities. The Department shall pay the fees and costs of any such contractor. The Board and Commissioner shall jointly approve any final countermarketing campaign.~~

~~(3) Review and advise the Department selection criteria for grantees and contracts funded by the Program in conformity with the goals established by the Department and Board.~~

~~(4) Establish jointly with the Department an application process, criteria, and components for an independent evaluation. The Board shall select an independent contractor to perform an independent evaluation, and oversee the independent contractor's evaluation of the tobacco prevention, treatment, and control program. Perform ongoing evaluations of tobacco cessation efforts and publish the evaluation measures on the Department's website.~~

~~(5)(4) Review and make recommendations regarding the overall plan and any Execute a memorandum of understanding developed jointly by the Department of Health and with the Agency of Education for school-based programs funded through the Tobacco Program Fund.~~

~~(6)(5) Review and make recommendations regarding Consult with the Department of Liquor and Lottery concerning enforcement activities administered by the Department of Liquor Control in accordance with the provisions of this chapter.~~

~~(7) Review and advise any State agency on applications for funds contributed from any outside sources that are designated for purposes of reducing tobacco use.~~

~~(8) In collaboration with the Agency and Department, organize a minimum of two public meetings, by September 15 of each year, to receive public input and advice for setting program priorities and establishing an annual program budget.~~

~~(9) Conduct jointly with the Secretary a review of the Department's proposed annual budget for the program, including funds contributed from any outside sources that are designated for purposes of reducing tobacco use, and submit independent recommendations to the Governor, Joint Fiscal Committee, and House and Senate Committees on Appropriations by October 1 of each year.~~

~~(10)(6) Propose to the Department strategies for program coordination and collaboration with other State agencies, health care providers and organizations, community and school groups, nonprofit organizations dedicated to anti-tobacco activities, and other nonprofit organizations.~~

~~(11) Adopt a conflict of interest policy within 30 days of the appointment of the full Board and include this policy in the annual report required under this chapter.~~

#### § 9506. ALLOCATION SYSTEM

~~(a) In determining the allocation of funds available for the purposes of this chapter, the Department and the Board shall consider all relevant factors, including:~~

- (1) the level of funding or other participation by private or public sources in the activity being considered for funding;
- (2) what resources will be required in the future to sustain the program;
- (3) geographic distribution of funds; and
- (4) the extent to which the goals of the project can be measured by reductions in adult or youth smoking rates.

~~(b) The Department's and Board's allocation system shall include a method, developed jointly, that evaluates the need for and impact and quality of the activities proposed by eligible applicants, including, if appropriate, measuring the results of the project through reductions in adult and youth smoking rates.~~

#### § 9507. ANNUAL REPORT

~~(a) On or before January 15 of each year, the Board shall submit a report concerning its activities under this chapter to the Governor and the General Assembly. The report shall include, to the extent possible, the following:~~

~~(1) the results of the independent program evaluation, beginning with the report filed on January 15, 2003, and then each year thereafter;~~

~~(2) a full financial report of the activities of the Departments of Health and of Liquor Control, the Agency of Education, and the Board, including a special accounting of all activities from July 1 through December 31 of the year preceding the legislative session during which the report is submitted;~~

~~(3) a recommended budget for the program; and~~

~~(4) an explanation of the results of approved programs, measured through reductions in adult and youth smoking rates. [Repealed.]~~

~~(b) [Repealed.]~~

\* \* \* Substance Misuse Prevention Inventory \* \* \*

#### Sec. 5. INVENTORY; SUBSTANCE MISUSE PREVENTION SERVICES

(a) On or before January 1, 2021, the Manager of Substance Misuse Prevention established pursuant to 18 V.S.A. § 4804, in consultation with the Chief Prevention Officer established pursuant to 3 V.S.A. § 2321, shall develop and submit to the House Committee on Human Services and to the Senate Committee on Health and Welfare an inventory of substance misuse prevention programs in the State. The Manager shall include in the inventory:

(1) the estimated cost and funding source of each program;

(2) the geographic reach of each program;

(3) the effectiveness of each program; and

(4) any identified gaps in services.

(b) On or before January 1, 2020, the Manager shall submit an interim report to the House Committee on Human Services and to the Senate Committee on Health and Welfare regarding its progress and findings related to subsection (a) of this section.

\* \* \* Vermont Prescription Drug Advisory Council \* \* \*

Sec. 6. 18 V.S.A. § 4255 is amended to read:

§ 4255. ~~CONTROLLED SUBSTANCES AND PAIN MANAGEMENT~~

VERMONT PRESCRIPTION DRUG ADVISORY COUNCIL

(a) There is hereby created the ~~Controlled Substances and Pain Management~~ Vermont Prescription Drug Advisory Council for the purpose of advising the Commissioner of Health on matters related to the Vermont Prescription Monitoring System and to the appropriate use of controlled substances in treating acute and chronic pain and in preventing prescription drug abuse, misuse, and diversion.

(b)(1) The ~~Controlled Substances and Pain Management~~ Advisory Council shall consist of the following members:

\* \* \*

Sec. 7. 18 V.S.A. § 4284 is amended to read:

§ 4284. ~~PROTECTION AND DISCLOSURE OF INFORMATION~~

\* \* \*

(g) Following consultation with the ~~Controlled Substances and Pain Management~~ Vermont Prescription Drug Advisory Council and an opportunity for input from stakeholders, the Department shall develop a policy that will enable it to use information from VPMS to determine if individual prescribers and dispensers are using VPMS appropriately.

(h) Following consultation with the ~~Controlled Substances and Pain Management~~ Vermont Prescription Drug Advisory Council and an opportunity for input from stakeholders, the Department shall develop a policy that will enable it to evaluate the prescription of regulated drugs by prescribers.

\* \* \*

Sec. 8. 18 V.S.A. § 4289 is amended to read:

§ 4289. STANDARDS AND GUIDELINES FOR HEALTH CARE  
PROVIDERS AND DISPENSERS

\* \* \*

(e) The Commissioner of Health shall, after consultation with the ~~Controlled Substances and Pain Management~~ Vermont Prescription Drug Advisory Council, adopt rules necessary to effect the purposes of this section. The Commissioner and the Council shall consider additional circumstances under which health care providers should be required to query the VPMS, including whether health care providers should be required to query the VPMS prior to writing a prescription for any opioid Schedule II, III, or IV controlled substance or when a patient requests renewal of a prescription for an opioid Schedule II, III, or IV controlled substance written to treat acute pain, and the Commissioner may adopt rules accordingly.

\* \* \*

\* \* \* Effective Date \* \* \*

Sec. 9. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

**(Committee vote: 11-0-0 )**

**(For text see Senate Journal March 26, 2019 )**

**Senate Proposal of Amendment**

**H. 460**

An act relating to sealing and expungement of criminal history records

The Senate proposes to the House to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 2658 is amended to read:

§ 2658. ~~PROSTITUTION CONVICTION;~~ MOTION TO VACATE BY  
VICTIM OF HUMAN TRAFFICKING

(a) As used in this section:

(1) “Qualifying crime” means a criminal offense in this State that is not listed in 33 V.S.A. § 5204(a).

(2) ~~“victim~~ Victim of human trafficking” means:

~~(1)(A)~~ a victim of a violation of section 2652 or 2653 of this title;

or

~~(2)(B)~~ “a victim of a severe form of trafficking” as defined by 22 U.S.C. § 7102(14) (federal Trafficking Victims Protection Act).

(b) A person convicted of ~~prostitution in violation of section 2632 of this title~~ a qualifying crime may file a motion to vacate the conviction if it was obtained as a result of the person having been a victim of human trafficking. The motion shall be in writing, describe the supporting evidence with particularity, and include copies of any documents showing that the moving party is entitled to relief under this section.

(c) The court shall hold a hearing on the motion, provided that the court may dismiss a motion without a hearing if the court finds that the motion fails to assert a claim for which relief may be granted.

(d)(1) The court shall grant the motion if it finds by a preponderance of the evidence that:

(A) the moving party was convicted of ~~prostitution in violation of section 2632 of this title~~ a qualifying crime; and

(B) the conviction was obtained as a result of the moving party’s having been a victim of human trafficking.

(2) If the motion is granted, the court shall vacate the conviction, strike the adjudication of guilt, and expunge the record of the criminal proceedings. The court shall issue an order to expunge, or redact the moving party’s name from, all records and files related to the moving party’s arrest, citation, investigation, charge, adjudication of guilt, criminal proceedings, and probation for the offense.

(e) Official documentation of a person’s status as a victim of human trafficking provided by a federal, state, or local government agency shall create a presumption that the person’s ~~prostitution~~ conviction was obtained as a result of having been a victim of human trafficking. Such documentation shall not be required to grant a motion under this section.

Sec. 2. 13 V.S.A. § 7601 is amended to read:

#### § 7601. DEFINITIONS

As used in this chapter:

(1) “Court” means the Criminal Division of the Superior Court.

(2) “Criminal history record” means all information documenting an individual’s contact with the criminal justice system, including data regarding identification, arrest or citation, arraignment, judicial disposition, custody, and



supervision.

(3) “Predicate offense” means a criminal offense that can be used to enhance a sentence levied for a later conviction, and includes operating a vehicle under the influence of alcohol or other substance in violation of 23 V.S.A. § 1201, domestic assault in violation of section 1042 of this title, and stalking in violation of section 1062 of this title. “Predicate offense” shall not include misdemeanor possession of marijuana, or a disorderly conduct offense under section 1026 of this title, or possession of a controlled substance in violation of 18 V.S.A. § 4230(a), 4231(a), 4232(a), 4233(a), 4234(a), 4234a(a), 4234b(a), 4235(b), or 4235a(a).

(4) “Qualifying crime” means:

(A) a misdemeanor offense that is not:

(i) a listed crime as defined in subdivision 5301(7) of this title;

(ii) an offense involving sexual exploitation of children in violation of chapter 64 of this title;

(iii) an offense involving violation of a protection order in violation of section 1030 of this title;

(iv) prostitution as defined in section 2632 of this title, or prohibited conduct under section 2601a of this title; or

(v) a predicate offense;

(B) a violation of subsection 3701(a) of this title related to criminal mischief;

(C) a violation of section 2501 of this title related to grand larceny;

(D) a violation of section 1201 of this title related to burglary, excluding any burglary into an occupied dwelling, as defined in subdivision 1201(b)(2) of this title; or

(E) a violation of 18 V.S.A. § 4223 related to fraud or deceit;

(F) a violation of section 1802 of this title related to uttering a forged or counterfeited instrument;

(G) a violation of 18 V.S.A. § 4230(a) related to possession of marijuana;

(H) a violation of 18 V.S.A. § 4231(a) related to possession of cocaine;

(I) a violation of 18 V.S.A. § 4232(a) related to possession of LSD;

(J) a violation of 18 V.S.A. § 4233(a) related to possession of heroin;

(K) a violation of 18 V.S.A. § 4234(a) related to possession of depressant, stimulant, and narcotic drugs;

(L) a violation of 18 V.S.A. § 4234a(a) related to possession of methamphetamine;

(M) a violation of 18 V.S.A. § 4234b(a) related to possession of ephedrine and pseudoephedrine;

(N) a violation of 18 V.S.A. § 4235(b) related to possession of hallucinogenic drugs;

(O) a violation of 18 V.S.A. § 4235a(a) related to possession of ecstasy; or

(P) any offense for which a person has been granted an unconditional pardon from the Governor.

Sec. 3. 13 V.S.A. § 7602 is amended to read:

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

(a)(1) A person may file a petition with the court requesting expungement or sealing of the criminal history record related to the conviction if:

(A) the person was convicted of a qualifying crime or qualifying crimes arising out of the same incident or occurrence; or

(B) the person was convicted of an offense for which the underlying conduct is no longer prohibited by law or designated as a criminal offense;

(C) pursuant to the conditions set forth in subsection (g) of this section, the person was convicted of a violation of 23 V.S.A. § 1201(a) related to operating under the influence of alcohol or other substance, excluding a violation of that section resulting in serious bodily injury or death to any person other than the operator, or related to operating a school bus with a blood alcohol concentration of 0.02 or more or operating a commercial vehicle with a blood alcohol concentration of 0.04 or more; or

(D) pursuant to the conditions set forth in subsection (h) of this section, the person was convicted under 1201(c)(3)(A) of a violation of subdivision 1201(a) of this title related to burglary when the person was 25 years of age or younger, and the person did not carry a dangerous or deadly weapon during commission of the offense.

(2) The State's Attorney or Attorney General shall be the respondent in

the matter.

(3) The court shall grant the petition without hearing if the petitioner and the respondent stipulate to the granting of the petition. The respondent shall file the stipulation with the court, and the court shall issue the petitioner a certificate an order of expungement and provide notice of the order in accordance with this section.

(4) This section shall not apply to an individual licensed as a commercial driver pursuant to 23 V.S.A. chapter 39 seeking to seal or expunge a record of a conviction for a felony offense committed in a motor vehicle as defined in 23 V.S.A. § 4.

\* \* \*

(g) For petitions filed pursuant to subdivision (a)(1)(C) of this section, only petitions to seal may be considered or granted by the court. This subsection shall not apply to an individual licensed as a commercial driver pursuant to 23 V.S.A. chapter 39. Unless the court finds that sealing would not be in the interests of justice, the court shall grant the petition and order that the criminal history record be sealed in accordance with section 7607 of this title if the following conditions are met:

(1) At least 10 years have elapsed since the date on which the person successfully completed the terms and conditions of the sentence for the conviction, or if the person has successfully completed the terms and conditions of an indeterminate term of probation that commenced at least 10 years previously.

(2) At the time of the filing of the petition:

(A) the person has only one conviction of a violation of 23 V.S.A. § 1201, which shall be construed in accordance with 23 V.S.A. § 1211; and

(B) the person has not been convicted of a crime arising out of a new incident or occurrence since the person was convicted of a violation of 23 V.S.A. § 1201(a).

(3) Any restitution ordered by the court has been paid in full.

(4) The court finds that sealing of the criminal history record serves the interests of justice.

(h) For petitions filed pursuant to subdivision (a)(1)(D) of this section, unless the court finds that expungement or sealing would not be in the interests of justice, the court shall grant the petition and order that the criminal history record be expunged or sealed in accordance with section 7606 or 7607 of this title if the following conditions are met:

(1) At least 15 years have elapsed since the date on which the person successfully completed the terms and conditions of the sentence for the conviction, or the person has successfully completed the terms and conditions of an indeterminate term of probation that commenced at least 15 years previously.

(2) The person has not been convicted of a crime arising out of a new incident or occurrence since the person was convicted of a violation of subdivision 1201(c)(3)(A) of this title.

(3) Any restitution ordered by the court has been paid in full.

(4) The court finds that expungement or sealing of the criminal history record serves the interests of justice.

Sec. 4. 13 V.S.A. § 7603 is amended to read:

§ 7603. EXPUNGEMENT AND SEALING OF RECORD, NO  
CONVICTION; PROCEDURE

(a) Unless either party objects in the interests of justice, the court shall issue an order sealing the criminal history record related to the citation or arrest of a person:

(1) ~~12 months after the dismissal~~ within 60 days after the final disposition of the case if:

(A) the court does not make a determination of probable cause at the time of arraignment ~~or dismisses the charge at the time of arraignment;~~ or

(B) the charge is dismissed before trial without prejudice; or

(2) at any time if the prosecuting attorney and the defendant stipulate that the court may grant the petition to seal the record.

(b) If a party objects to sealing or expunging a record pursuant to this section, the court shall schedule a hearing to determine if sealing or expunging the record serves the interests of justice. The defendant and the prosecuting attorney shall be the only parties in the matter.

(c), (d) [Repealed.]

(e) Unless either party objects in the interests of justice, the court shall issue an order expunging a criminal history record related to the citation or arrest of a person:

(1) ~~not more than 45 days after~~ within 60 days after the final disposition of the case if:

(A) ~~acquittal~~ if the defendant is acquitted of the charges; or

(B) ~~dismissal if the charge is dismissed with prejudice before trial;~~

(2) at any time if the prosecuting attorney and the defendant stipulate that the court may grant the petition to expunge the record.

(f) Unless either party objects in the interests of justice, the court shall issue an order to expunge a record sealed pursuant to subsection (a) or (g) of this section ~~after the statute of limitations has expired~~ eight years after the date on which the record was sealed.

(g) A person may file a petition with the court requesting sealing or expungement of a criminal history record related to the citation or arrest of the person at any time. The court shall grant the petition and issue an order sealing or expunging the record if it finds that sealing or expunging the record serves the interests of justice, or if the parties stipulate to sealing or expungement of the record.

(h) The court may expunge any records that were sealed pursuant to this section prior to July 1, 2018 unless the State's Attorney's office that prosecuted the case objects. Thirty days prior to expunging a record pursuant to this subsection, the court shall provide to the State's Attorney's office that prosecuted the case written notice of its intent to expunge the record.

Sec. 5. 13 V.S.A. § 7606 is amended to read:

#### § 7606. EFFECT OF EXPUNGEMENT

~~(a) Upon entry of an expungement order, the order shall be legally effective immediately and the person whose record is expunged shall be treated in all respects as if he or she had never been arrested, convicted, or sentenced for the offense. 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. The court shall issue the person a certificate stating that such person's behavior after the conviction has warranted the issuance of the order and that its effect is to annul the record of arrest, conviction, and sentence. Order and notice. Upon finding that the requirements for expungement have been met, the court shall issue an order that shall include provisions that its effect is to annul the record of the arrest, conviction, and sentence and that such person shall be treated in all respects as if he or she had never been arrested, convicted, or sentenced for the offense. The court shall provide notice of the expungement to the respondent, Vermont Crime Information Center (VCIC), the arresting agency, and any other entity that may have a record related to the order to expunge. The VCIC shall provide notice of the expungement to the Federal Bureau of Investigation's National Crime Information Center.~~

(b) Effect.

(1) Upon entry of an expungement order, the order shall be legally effective immediately and the person whose record is expunged shall be treated in all respects as if he or she had never been arrested, convicted, or sentenced for the offense.

(2) In any application for employment, license, or civil right or privilege or in an appearance as a witness in any proceeding or hearing, a person may be required to answer questions about a previous criminal history record only with respect to arrests or convictions that have not been expunged.

(3) The response to an inquiry from any person regarding an expunged record shall be that “NO CRIMINAL RECORD EXISTS.”

(4) Nothing in this section shall affect any right of the person whose record has been expunged to rely on it as a bar to any subsequent proceedings for the same offense.

~~(c) Nothing in this section shall affect any right of the person whose record has been expunged to rely on it as a bar to any subsequent proceedings for the same offense~~ Process.

(1) The court shall remove the expunged offense from any accessible database that it maintains.

(2) Until all charges on a docket are expunged, the case file shall remain publicly accessible.

(3) When all charges on a docket have been expunged, the case file shall be destroyed pursuant to policies established by the Court Administrator.

(d) Special index.

(1) The court shall keep a special index of cases that have been expunged together with the expungement order ~~and the certificate issued pursuant to this chapter.~~ The index shall list only the name of the person convicted of the offense, his or her date of birth, the docket number, and the criminal offense that was the subject of the expungement.

(2) The special index and related documents specified in subdivision (1) of this subsection shall be confidential and shall be physically and electronically segregated in a manner that ensures confidentiality and that limits access to authorized persons.

(3) Inspection of the expungement order ~~and the certificate~~ may be permitted only upon petition by the person who is the subject of the case. The ~~Administrative Judge~~ Chief Superior Judge may permit special access to the

index and the documents for research purposes pursuant to the rules for public access to court records.

~~(4) All other court documents in a case that are subject to an expungement order shall be destroyed [Repealed].~~

(5) The Court Administrator shall establish policies for implementing this subsection.

~~(e) Upon receiving an inquiry from any person regarding an expunged record, an entity shall respond that “NO RECORD EXISTS.”~~

Sec. 6. 13 V.S.A. § 7607 is amended to read:

§ 7607. EFFECT OF SEALING

(a) Order and notice. Upon entry of an order to seal, the order shall be legally effective immediately and the person whose record is sealed shall be treated in all respects as if he or she had never been arrested, convicted, or sentenced for the offense. ~~The court shall issue the person a certificate stating that such person’s behavior after the conviction has warranted the issuance of the order and that its effect is to annul the record of arrest, conviction, and sentence.~~ The court shall provide notice of the sealing to the respondent, Vermont Crime Information Center (VCIC), the arresting agency, and any other entity that may have a record related to the order to seal. The VCIC shall provide notice of the sealing to the Federal Bureau of Investigation’s National Crime Information Center.

(b) Effect.

(1) Except as provided in subdivision (c) of this section, upon entry of a sealing order, the order shall be legally effective immediately and the person whose record is sealed shall be treated in all respects as if he or she had never been arrested, convicted, or sentenced for the offense.

(2) In any application for employment, license, or civil right or privilege or in an appearance as a witness in any proceeding or hearing, a person may be required to answer questions about a previous criminal history record only with respect to arrests or convictions that have not been sealed.

(3) The response to an inquiry from any member of the public regarding a sealed record shall be that “NO CRIMINAL RECORD EXISTS.”

(c) Exceptions. Notwithstanding any other provision of law or a sealing order:

(1) An entity that possesses a sealed record may continue to use it for any litigation or claim arising out of the same incident or occurrence or

involving the same defendant.

~~(2) An entity~~ A criminal justice agency as defined in 20 V.S.A. § 2056a may use the criminal history record sealed in accordance with section 7602 or 7603 of this title, regarding a person who was cited or arrested, for future criminal investigations or prosecutions without limitation for criminal justice purposes as defined in 20 V.S.A. § 2056a. A sealed record of a prior violation of 23 V.S.A. § 1201(a) shall be admissible as a predicate offense for the purpose of imposing an enhanced penalty for a subsequent violation of that section, in accordance with the provisions of 23 V.S.A. § 1210.

~~(d) Upon receiving a sealing order, an entity shall:~~ Process.

~~(1) seal the investigation or prosecution record;~~ The court shall bar viewing of the sealed offense in any accessible database that it maintains.

~~(2) enter a copy of the sealing order into the record;~~ Until all charges on a docket have been sealed, the case file shall remain publicly accessible.

~~(3) flag the record as "SEALED" to prevent inadvertent disclosure of sealed information; and~~ When all charges on a docket have been sealed, the case file shall become exempt from public access.

~~(4) upon receiving an inquiry from any person regarding a sealed record, respond that "NO RECORD EXISTS."~~

~~(e) Special index.~~

~~(1) The court shall keep a special index of cases that have been sealed together with the sealing order. The index shall list only the name of the person convicted of the offense, his or her date of birth, the docket number, and the criminal offense that was the subject of the sealing.~~

~~(2) The special index and related documents specified in subdivision (1) of this subsection shall be confidential and shall be physically and electronically segregated in a manner that ensures confidentiality and that limits access to authorized persons.~~

~~(3) Except as provided in subsection (c) of this section, inspection of the sealing order may be permitted only upon petition by the person who is the subject of the case. The Chief Superior Judge may permit special access to the index and the documents for research purposes pursuant to the rules for public access to court records.~~

~~(4) The Court Administrator shall establish policies for implementing this subsection.~~

Sec. 7. 13 V.S.A. § 7610 is added to read:



§ 7610. CRIMINAL HISTORY RECORD SEALING SPECIAL FUND

There is established the Criminal History Record Sealing Special Fund, which shall be managed in accordance with 32 V.S.A. chapter 7, subchapter 5. Fees collected pursuant to 32 V.S.A. § 1431(e) for the filing of a petition to seal a criminal history record of a violation of 23 V.S.A. § 1201(a) shall be deposited into and credited to this Fund. This Fund shall be available to the Office of the Court Administrator, the Department of State's Attorneys and Sheriffs, the Department of Motor Vehicles, and the Vermont Crime Information Center to offset the administrative costs of sealing such records. Balances in the Fund at the end of the fiscal year shall be carried forward and remain in the Fund.

Sec. 8. 23 V.S.A. § 1205 is amended to read:

§ 1205. CIVIL SUSPENSION; SUMMARY PROCEDURE

\* \* \*

(e) Effective date of suspension.

(1) First offense. Unless a hearing is requested, a suspension under this section of the license of a person who the officer has reasonable grounds to believe violated section 1201 of this title a first time becomes effective on the 11th day after the person receives notice or is deemed to have received notice under subsection (c) of this section. If a hearing is requested, a suspension shall not become effective unless the court orders a suspension after hearing as provided in this section.

(2) Second or subsequent offense. A suspension of a person's license under this section shall become effective on the 11th day after the person receives notice or is deemed to have received notice under subsection (c) of this section if:

(A) the officer has reasonable grounds to believe the person has violated section 1201 of this title; and

(B) ~~after July 1, 1991~~ within the last 20 years, the person has:

(i) had his or her operator's license suspended pursuant to this section; or

(ii) been convicted of a violation of section 1201 of this title.

\* \* \*

Sec. 9. 23 V.S.A. § 1210 is amended to read:

§ 1210. PENALTIES

(a) Screening. Before sentencing a defendant under this section, the ~~Court~~ court may order that the defendant submit to an alcohol assessment screening. Such a screening report may be considered at sentencing in the same manner as a presentence report. At sentencing, the defendant may present relevant evidence, including the results of any independent alcohol assessment ~~which~~ that was conducted at the person's own expense. Evidence regarding any such screening or an alcohol assessment performed at the expense of the defendant shall not be admissible for any other purpose without the defendant's consent.

(b) First offense. A person who violates section 1201 of this title may be fined not more than \$750.00, or imprisoned for not more than two years, or both.

(c) Second offense. A person convicted of violating section 1201 of this title who has been convicted of another violation of that section within the last 20 years shall be fined not more than \$1,500.00 or imprisoned not more than two years, or both. At least 200 hours of community service shall be performed, or 60 consecutive hours of the sentence of imprisonment shall be served and may not be suspended or deferred or served as a supervised sentence, except that credit for a sentence of imprisonment may be received for time served in a residential alcohol facility pursuant to sentence if the program is successfully completed.

(d) Third offense. A person convicted of violating section 1201 of this title who has previously been convicted two times of a violation of that section, including at least one violation within the last 20 years, shall be fined not more than \$2,500.00 or imprisoned not more than five years, or both. At least 96 consecutive hours of the sentence of imprisonment shall be served and may not be suspended or deferred or served as a supervised sentence, except that credit for a sentence of imprisonment may be received for time served in a residential alcohol facility pursuant to sentence if the program is successfully completed. The ~~Court~~ court may impose a sentence that does not include a term of imprisonment or that does not require that the 96 hours of imprisonment be served consecutively only if the ~~Court~~ court makes written findings on the record that such a sentence will serve the interests of justice and public safety.

(e)(1) Fourth or subsequent offense. A person convicted of violating section 1201 of this title who has previously been convicted three or more times of a violation of that section, including at least one violation within the last 20 years, shall be fined not more than \$5,000.00 or imprisoned not more than 10 years, or both. At least 192 consecutive hours of the sentence of imprisonment shall be served and may not be suspended or deferred or served as a supervised sentence, except that credit for a sentence of imprisonment may be received for time served in a residential alcohol treatment facility

pursuant to sentence if the program is successfully completed. The ~~Court~~ court shall not impose a sentence that does not include a term of imprisonment unless the ~~Court~~ court makes written findings on the record that there are compelling reasons why such a sentence will serve the interests of justice and public safety.

(2) The Department of Corrections shall provide alcohol and substance abuse treatment, when appropriate, to any person convicted of a violation of this subsection.

\* \* \*

Sec. 10. 32 V.S.A. § 1431 is amended to read:

§ 1431. FEES IN SUPREME AND SUPERIOR COURTS

\* \* \*

(e) Prior to the filing of any postjudgment motion in the Civil, Criminal, or Environmental Division of the Superior Court, including motions to reopen civil suspensions and ~~motions for sealing or expungement in the Criminal Division pursuant to 13 V.S.A. § 7602~~, or motions to reopen existing cases in the Probate Division of the Superior Court, there shall be paid to the clerk of the court for the benefit of the State a fee of \$90.00 except for small claims actions and estates. A filing fee of \$90.00 shall be paid to the clerk of the court for a civil petition for minor settlements. The \$90.00 filing fee shall apply for a motion to seal a criminal history record of a violation of 23 V.S.A. § 1201(a) pursuant to 13 V.S.A. § 7602(a)(1)(C), but shall not apply for any other motion to seal or expunge a criminal history record pursuant to 13 V.S.A. § 7602.

\* \* \*

Sec. 11. VERMONT SENTENCING COMMISSION; COUNCIL OF STATE GOVERNMENTS; JUSTICE OVERSIGHT COMMITTEE; REPORTS ON EXPUNGEMENT AND SEALING

During the 2019 legislative interim:

(1) the Vermont Sentencing Commission, established under 13 V.S.A. § 5451, shall conduct a comprehensive assessment of the statutes governing the expungement and sealing of criminal history records in Vermont, including reviewing the crimes eligible for expungement or sealing, the process by which criminal history records are expunged or sealed, the mechanism by which expunged or sealed records are indexed, and the effect of sealing or expungement. As a part of its assessment, the Commission shall evaluate all Vermont civil offenses and the crime of negligent operation of a motor vehicle

under 23 V.S.A. § 1091(a) for their suitability for expungement or sealing eligibility.

(2) on or before November 1, 2019, the Commission shall report to the Joint Legislative Justice Oversight Committee and the House and Senate Committees on Judiciary with recommendations regarding:

(A) improvements to the expungement and sealing process; and

(B) any additional crimes or civil offenses appropriate for expungement or sealing eligibility.

(3) the Joint Legislative Justice Oversight Committee, working with the Council of State Governments Justice Center, shall conduct a review of the Vermont statutes governing expungement and sealing of criminal history records and develop a comprehensive policy to help individuals with a criminal record overcome barriers to employment and licensing through clearing their records. Any recommendations for reform of the expungement and sealing chapter and other relevant statutes shall be introduced in the form of proposed legislation for the 2020 legislative session.

#### Sec. 12. SURCHARGES STUDY GROUP

During the 2019 legislative interim, the Vermont Center for Crime Victim Services, the Office of the Court Administrator, Vermont Legal Aid, and a representative of the special investigative units created pursuant to 24 V.S.A. § 1940 shall examine the issue of requiring a petitioner to pay outstanding surcharges prior to a court granting an expungement or sealing petition. On or before October 15, 2019, the group shall report to the Joint Legislative Justice Oversight Committee with its findings and any recommendations for legislative action.

#### Sec. 13. REVIEW OF PROSTITUTION AND HUMAN TRAFFICKING LAWS

The Attorney General's Office, the Center for Crime Victim Services, and the Network Against Domestic and Sexual Violence, in consultation with other entities with expertise in these issues, shall review 13 V.S.A. chapter 59, subchapter 2 (prostitution) and 13 V.S.A. chapter 60 (human trafficking), 13 V.S.A. § 1311 (unlawful sheltering; aiding a runaway), and 33 V.S.A. § 5304 (designated shelters for runaway children) for the purpose of making recommendations to the General Assembly regarding modernization of these laws and employment of best practices in addressing the issue of prostitution and human trafficking. The group shall also make a recommendation as to whether 13 V.S.A. § 2658 (motion to vacate by victim of human trafficking) should be amended to allow a person to file a motion to vacate a conviction for

any criminal offense if it was obtained as a result of the moving party's having been a victim of human trafficking. The group shall report its recommendations to the General Assembly not later than October 15, 2019. Recommendations may be made through proposed legislation and do not require a report.

#### Sec. 14. EFFECTIVE DATES

This act shall take effect on July 1, 2019, except that Sec. 3 (expungement and sealing of record; postconviction; procedure) shall take effect on October 1, 2019.

(For text see House Journal March 21, 2019 )

### **H. 543**

An act relating to capital construction and State bonding

The Senate proposes to the House to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Capital Appropriations \* \* \*

#### Sec. 1. LEGISLATIVE INTENT

(a) It is the intent of the General Assembly that of the \$123,180,000.00 authorized in this act, not more than \$62,125,628.00 shall be appropriated in the first year of the biennium, and the remainder shall be appropriated in the second year.

(b) It is the intent of the General Assembly that in the second year of the biennium, any amendments to the appropriations or authorities granted in this act shall take the form of a Capital Construction and State Bonding Adjustment Bill. It is the intent of the General Assembly that unless otherwise indicated, all appropriations in this act are subject to capital budget adjustment.

#### Sec. 2. STATE BUILDINGS

(a) The following sums are appropriated to the Department of Buildings and General Services (BGS), and the Commissioner is authorized to direct funds appropriated in this section to the projects contained in this section; however, no project shall be canceled unless the Chairs of the Senate Committee on Institutions and the House Committee on Corrections and Institutions are notified before that action is taken.

(b) The following sums are appropriated in FY 2020:

(1) Statewide, BGS engineering and architectural project costs:

\$3,583,423.00

(2) <u>Statewide, physical security enhancements:</u>	<u>\$275,000.00</u>
(3) <u>Statewide, major maintenance:</u>	<u>\$6,500,000.00</u>
(4) <u>Statewide, planning, use, and contingency:</u>	<u>\$500,000.00</u>
(5) <u>Burlington, 108 Cherry Street, parking garage repairs:</u>	<u>\$3,000,000.00</u>
(6) <u>Montpelier, 120 State Street, stair towers and rear entry:</u>	<u>\$3,500,000.00</u>
(7) <u>Montpelier, State House, new carpeting or carpeting repair near the Governor's ceremonial office, the Cedar Creek Room, and the Card Room:</u>	<u>\$45,000.00</u>
(8) <u>Montpelier, Department of Labor, facilities modernization project:</u>	<u>\$120,000.00</u>
(9) <u>Newport, Northeast State Correctional Facility, direct digital HVAC control system replacement:</u>	<u>\$900,000.00</u>
(10) <u>Rutland, Asa Bloomer, major renovation:</u>	<u>\$250,000.00</u>
(11) <u>Southern State Correctional Facility, door control project:</u>	<u>\$1,450,000.00</u>
 (c) <u>The following sums are appropriated in FY 2021:</u>	
(1) <u>Statewide, BGS engineering and architectural project costs:</u>	<u>\$3,735,000.00</u>
(2) <u>Statewide, physical security enhancements:</u>	<u>\$275,000.00</u>
(3) <u>Statewide, major maintenance:</u>	<u>\$7,328,313.00</u>
(4) <u>Statewide, planning, use, and contingency:</u>	<u>\$500,000.00</u>
(5) <u>Burlington, 108 Cherry Street, parking garage repairs:</u>	<u>\$7,500,000.00</u>
(6) <u>Montpelier, State House, historical restorations:</u>	<u>\$75,000.00</u>
(7) <u>Montpelier, Department of Labor, facilities modernization project:</u>	<u>\$300,000.00</u>
(8) <u>Newport, Northeast State Correctional Facility, direct digital HVAC control system replacement:</u>	<u>\$900,000.00</u>
(9) <u>Rutland, Asa Bloomer, major renovation:</u>	<u>\$250,000.00</u>
(10) <u>Southern State Correctional Facility, door control project:</u>	<u>\$1,000,000.00</u>

<u>Appropriation – FY 2020</u>	<u>\$20,123,423.00</u>
<u>Appropriation – FY 2021</u>	<u>\$21,863,313.00</u>
<u>Total Appropriation – Section 2</u>	<u>\$41,986,736.00</u>

Sec. 3. HUMAN SERVICES

(a) The following sums are appropriated in FY 2020 to the Department of Buildings and General Services for the Agency of Human Services for the following projects described in this subsection:

(1) Statewide, secure residential recovery facility, replacement, land acquisition, design, permitting, and construction documents: \$3,000,000.00

(2) Statewide, correctional facility, life safety and security needs and enhancements: \$250,000.00

(3) Serenity House, residential treatment center, completion of addition and renovations: \$100,000.00

(b) The sum of \$4,750,000.00 is appropriated in FY 2020 to the Agency of Human Services for the Department of Vermont Health Access, Integrated Eligibility and Enrollment system.

(c) The following sums are appropriated in FY 2021 to the Department of Buildings and General Services for the Agency of Human Services for the following projects described in this subsection:

(1) Statewide, secure residential recovery facility, replacement, land acquisition, design, permitting, and construction: \$1,500,000.00

(2) Statewide, correctional facility, life safety and security needs and enhancements: \$225,000.00

(3) Statewide, correctional facility, justice reinvestment II: \$250,000.00

(d) The sum of \$3,900,000.00 is appropriated in FY 2021 to the Agency of Human Services for the Department of Vermont Health Access, Integrated Eligibility and Enrollment system.

(e) For the project described in subsection (b) of this section:

(1) Installments. The funds shall be appropriated in three installments, as follows:

(A) \$3,250,000.00 upon passage of the act, which shall include \$250,000 to be used as described in Sec. 32 of this act (First Installment);

(B) \$750,000.00 following Joint Fiscal Committee approval to release the funds at its September meeting (Second Installment); and

(C) \$750,000.00 following Joint Fiscal Committee approval to release the funds at its November meeting (Third Installment).

(2) Reports. On or before September 1 and November 1, the Secretary of Human Services and the Secretary of Digital Services shall submit a report on the status of the project. The September and November reports shall include status updates on the projects scheduled for completion in calendar year 2019, as described in the memo from the IT Consultant for the Joint Fiscal Office to the Legislative Joint Fiscal Office, dated April 5, 2019. The September and November reports shall be submitted to the Chair and Vice Chair of the Joint Information Technology Oversight Committee and the Chairs of the House Committees on Corrections and Institutions and on Health Care and the Senate Committees on Health and Welfare and on Institutions. A copy of each report shall also be submitted to the Joint Fiscal Committee.

(3) Recommendations and approvals.

(A) Prior to the September meeting of the Joint Fiscal Committee, the Chair and Vice Chairs of the Joint Information Technology Oversight Committee and the Chairs of the House Committees on Corrections and Institutions and on Health Care and the Senate Committees on Health and Welfare and on Institutions shall provide recommendations to the Joint Fiscal Committee on whether to approve the Second Installment. The Joint Fiscal Committee at its September meeting shall review the report described in subdivision (2) of this subsection (f), consider the recommendations described in this subdivision (3)(A), and vote on whether to approve the Second Installment.

(B) Prior to the November meeting of the Joint Fiscal Committee, the Chair and Vice Chairs of the Joint Information Technology Oversight Committee, the Chairs of the House Committees on Corrections and Institutions and on Health Care, and the Senate Committees on Health and Welfare and on Institutions, shall provide recommendations to the Joint Fiscal Committee on whether to approve the Third Installment. The Joint Fiscal Committee shall review at its November meeting the report described in subdivision (2) of this subsection (f), consider the recommendations described in this subdivision (3)(B), and vote on whether to approve the Third Installment.

<u>Appropriation – FY 2020</u>	<u>\$8,828,000.00</u>
<u>Appropriation – FY 2021</u>	<u>\$5,875,000.00</u>
<u>Total Appropriation – Section 3</u>	<u>\$14,703,000.00</u>

Sec. 4. JUDICIARY



The sum of \$1,496,398.00 is appropriated in FY 2020 to the Judiciary for the case management IT system.

<u>Appropriation – FY 2020</u>	<u>\$1,496,398.00</u>
<u>Total Appropriation – Section 4</u>	<u>\$1,496,398.00</u>

Sec. 5. COMMERCE AND COMMUNITY DEVELOPMENT

(a) The following sums are appropriated in FY 2020 to the Department of Buildings and General Services for the Agency of Commerce and Community Development:

<u>(1) Major maintenance at historic sites statewide:</u>	<u>\$250,000.00</u>
<u>(2) Schooner Lois McClure, repairs and upgrades:</u>	<u>\$50,000.00</u>
<u>(3) Highgate Native American Cemetery, slope stabilization, Monument Road:</u>	<u>\$100,000.00</u>
<u>(4) Grand Isle, maintenance at historic county courthouse:</u>	<u>\$50,000.00</u>

(b) The following sums are appropriated in FY 2020 to the Agency of Commerce and Community Development for the following projects described in this subsection:

<u>(1) Underwater preserves:</u>	<u>\$25,000.00</u>
<u>(2) Placement and replacement of roadside historic markers:</u>	<u>\$25,000.00</u>

(c) The sum of \$250,000.00 is appropriated in FY 2021 to the Department of Buildings and General Services for the Agency of Commerce and Community Development for major maintenance at statewide historic sites.

(d) The following sums are appropriated in FY 2021 to the Agency of Commerce and Community Development for the following projects described in this subsection:

<u>(1) Underwater preserves:</u>	<u>\$25,000.00</u>
<u>(2) Placement and replacement of roadside historic markers:</u>	<u>\$25,000.00</u>

<u>Appropriation – FY 2020</u>	<u>\$500,000.00</u>
<u>Appropriation – FY 2021</u>	<u>\$300,000.00</u>
<u>Total Appropriation – Section 5</u>	<u>\$800,000.00</u>

Sec. 6. GRANT PROGRAMS

(a) The following sums are appropriated in FY 2020 for Building Communities Grants established in 24 V.S.A. chapter 137:

(1) To the Agency of Commerce and Community Development, Division for Historic Preservation, for the Historic Preservation Grant Program: \$200,000.00

(2) To the Agency of Commerce and Community Development, Division for Historic Preservation, for the Historic Barns Preservation Grant Program: \$200,000.00

(3) To the Vermont Council on the Arts for the Cultural Facilities Grant Program, the sum of which may be used to match funds that may be made available from the National Endowment for the Arts, provided that all capital funds are made available to the Cultural Facilities Grant Program: \$200,000.00

(4) To the Department of Buildings and General Services for the Recreational Facilities Grant Program: \$200,000.00

(5) To the Department of Buildings and General Services for the Human Services and Educational Facilities Competitive Grant Program (Human Services): \$100,000.00

(6) To the Department of Buildings and General Services for the Human Services and Educational Facilities Competitive Grant Program (Education): \$100,000.00

(7) To the Department of Buildings and General Services for the Regional Economic Development Grant Program: \$200,000.00

(8) To the Agency of Agriculture, Food and Markets for the Agricultural Fairs Capital Projects Competitive Grant Program: \$200,000.00

(9) To the Enhanced 911 Board for the Enhanced 911 Compliance Grants Program: \$400,000.00

(b) The following sums are appropriated in FY 2021 for Building Communities Grants established in 24 V.S.A. chapter 137:

(1) To the Agency of Commerce and Community Development, Division for Historic Preservation, for the Historic Preservation Grant Program: \$200,000.00

(2) To the Agency of Commerce and Community Development, Division for Historic Preservation, for the Historic Barns Preservation Grant Program: \$200,000.00

(3) To the Vermont Council on the Arts for the Cultural Facilities Grant

Program, the sum of which may be used to match funds that may be made available from the National Endowment for the Arts, provided that all capital funds are made available to the cultural facilities grant program: \$200,000.00

(4) To the Department of Buildings and General Services for the Recreational Facilities Grant Program: \$200,000.00

(5) To the Department of Buildings and General Services for the Human Services and Educational Facilities Competitive Grant Program (Human Services): \$100,000.00

(6) To the Department of Buildings and General Services for the Human Services and Educational Facilities Competitive Grant Program (Education): \$100,000.00

(7) To the Department of Buildings and General Services for the Regional Economic Development Grant Program: \$200,000.00

(8) To the Agency of Agriculture, Food and Markets for the Agricultural Fairs Capital Projects Competitive Grant Program: \$200,000.00

(c) It is the intent of the General Assembly that the Enhanced 911 Compliance Grants Program shall cease to exist on June 30, 2021.

<u>Appropriation – FY 2020</u>	<u>\$1,800,000.00</u>
<u>Appropriation – FY 2021</u>	<u>\$1,400,000.00</u>
<u>Total Appropriation – Section 6</u>	<u>\$3,200,000.00</u>

#### Sec. 7. EDUCATION

(a) The sum of \$50,000.00 is appropriated in FY 2020 to the Agency of Education for emergency aid for school construction.

(b) The sum of \$50,000.00 is appropriated in FY 2021 to the Agency of Education for the project described in subsection (a) of this section.

<u>Appropriation – FY 2020</u>	<u>\$50,000.00</u>
<u>Appropriation – FY 2021</u>	<u>\$50,000.00</u>
<u>Total Appropriation – Section 7</u>	<u>\$100,000.00</u>

#### Sec. 8. UNIVERSITY OF VERMONT

(a) The sum of \$1,300,000.00 is appropriated in FY 2020 to the University of Vermont for construction, renovation, and major maintenance.

(b) The sum of \$1,000,000.00 is appropriated in FY 2021 to the University of Vermont for the projects described in subsection (a) of this section.

(c) The Vermont Division for Historic Preservation and Vermont Advisory Council on Historic Preservation shall be consulted on projects utilizing the funds appropriated in this section before the alteration or demolition of any property that is potentially of historical, architectural, archaeological, or cultural significance, including any property listed in or eligible for the State Register of Historic Places.

<u>Appropriation – FY 2020</u>	<u>\$1,300,000.00</u>
<u>Appropriation – FY 2021</u>	<u>\$1,000,000.00</u>
<u>Total Appropriation – Section 8</u>	<u>\$2,300,000.00</u>

#### Sec. 9. VERMONT STATE COLLEGES

(a) The sum of \$2,100,000.00 is appropriated in FY 2020 to the Vermont State Colleges for construction, renovation, and major maintenance.

(b) The sum of \$2,000,000.00 is appropriated in FY 2021 to the Vermont State Colleges for the projects described in subsection (a) of this section.

(c) The Vermont Division for Historic Preservation and Vermont Advisory Council on Historic Preservation shall be consulted on projects utilizing the funds appropriated in this section before the alteration or demolition of any property that is potentially of historical, architectural, archaeological, or cultural significance, including any property listed in or eligible for the State Register of Historic Places.

<u>Appropriation – FY 2020</u>	<u>\$2,100,000.00</u>
<u>Appropriation – FY 2021</u>	<u>\$2,000,000.00</u>
<u>Total Appropriation – Section 9</u>	<u>\$4,100,000.00</u>

#### Sec. 10. NATURAL RESOURCES

(a) The following sums are appropriated in FY 2020 to the Agency of Natural Resources for the Department of Environmental Conservation for the projects described in this subsection:

(1) Drinking Water Supply, Drinking Water State Revolving Fund:  
\$3,308,508.00

(2) Dam safety and hydrology projects: \$150,000.00

(3) State’s share of the Federal Superfund and State Lead Hazardous Waste Program (Elizabeth Mine): \$59,713.00

(b) The following sums are appropriated in FY 2020 to the Agency of Natural Resources for the Department of Forests, Parks and Recreation for the following projects:

(1) Infrastructure rehabilitation, including statewide small scale rehabilitation, wastewater repairs, preventive improvements and upgrades of restrooms and bathhouses, and statewide small-scale road rehabilitation projects: \$2,925,000.00

(2) Rustic Cabin Construction Program: \$797,586.00

(c) The following sums are appropriated in FY 2020 to the Agency of Natural Resources for the Department of Fish and Wildlife for the projects described in this subsection:

(1) General infrastructure projects, including small-scale maintenance and rehabilitation of infrastructure: \$1,300,000.00

(2) Fish culture stations, address fish stocking impacts of Salisbury Fish Culture Station discharge issues, including analysis and design of treatments or other changes to Salisbury's discharge, a feasibility study of State fish hatcheries to evaluate and design potential increases in capacity at those facilities, and implementing alterations at other fish hatcheries to allow the rearing of brood stock: \$280,000.00

(3) Lake Champlain Walleye Association Inc. to upgrade and repair the Walleye rearing, restoration, and stocking infrastructure: \$25,000.00

(d) The sum of \$130,000.00 is appropriated in FY 2020 to the Green Mountain Club Inc. for the procurement in fee simple or by easement of the Coddling Hollow properties (117.5 acres in the Town of Waterville and an abutting 49.6 acres in the Town of Johnson) containing the Long Trail tread way.

(e) The sum of \$50,000.00 is appropriated in FY 2020 to the Vermont Association of Snow Travelers, Inc. for the STP LVRT(7) project for improvements to the Lamoille Valley Rail Trail.

(f) The following sums are appropriated in FY 2021 to the Agency of Natural Resources for the Department of Environmental Conservation for the projects described in this subsection:

(1) Drinking Water Supply, Drinking Water State Revolving Fund: \$2,221,400.00

(2) Dam safety and hydrology projects: \$895,000.00

(g) The sum of \$2,900,000.00 is appropriated in FY 2021 to the Agency of Natural Resources for the Department of Forests, Parks and Recreation for infrastructure rehabilitation, including statewide small-scale rehabilitation, wastewater repairs, preventive improvements and upgrades of restrooms and bathhouses, and statewide small-scale road rehabilitation projects.

(h) The following sums are appropriated in FY 2021 to the Agency of Natural Resources for the Department of Fish and Wildlife for the projects described in this subsection:

(1) General infrastructure projects, including small-scale maintenance and rehabilitation of infrastructure: \$1,300,000.00

(2) Lake Champlain Walleye Association Inc. to upgrade and repair the Walleye rearing, restoration, and stocking infrastructure: \$25,000.00

Appropriation – FY 2020 \$9,025,807.00

Appropriation – FY 2021 \$7,341,400.00

Total Appropriation – Section 10 \$16,367,207.00

#### Sec. 11. CLEAN WATER INITIATIVES

(a) The sum of \$3,450,000.00 is appropriated in FY 2020 to the Agency of Agriculture, Food and Markets for water quality grants and contracts.

(b) The following sums are appropriated in FY 2020 to the Agency of Natural Resources for the Department of Environmental Conservation projects described in this subsection:

(1) Water Pollution Control Fund, Clean Water State/EPA Revolving Loan Fund (CWSRF) match: \$2,500,000.00

(2) Municipal Pollution Control Grants, pollution control projects and planning advances for feasibility studies: \$3,300,000.00

(c)(1) The sum of \$50,000.00 is appropriated in FY 2020 to the Agency of Natural Resources for the Department of Forests, Parks and Recreation for a grant for forestry skidder bridges.

(2) An applicant for a grant awarded pursuant to subdivision (1) of this subsection shall pay at least 25 percent of the total cost of a wooden skidder bridge, and at least 20 percent of the cost of a steel skidder bridge.

(d)(1) The following sums are appropriated in FY 2020 to the Vermont Housing and Conservation Board for the following projects:

(A) Agricultural water quality projects: \$1,100,000.00

(B) Land conservation and water quality projects: \$1,700,000.00

(2) A grant issued under subdivision (1)(A) of this subsection:

(A) shall not be considered a State grant under 6 V.S.A. chapter 215, subchapter 3 for purposes of calculating the maximum amount of a State water quality assistance award under 6 V.S.A. § 4824 or 4826; and

(B) may be used to satisfy a grant recipient's cost share requirements.

(e) The sum of \$13,900,000.00 is appropriated in FY 2021 to the Agency of Natural Resources for the Department of Environmental Conservation for clean water implementation projects.

(f) On or before December 1, 2019:

(1) the Clean Water Board shall review and recommend Clean Water Act implementation programs funded from subdivision (e) of this section pursuant to 10 V.S.A. § 1389(a)(B)(ii); and

(2) the Board shall submit the list of programs recommended for FY 2021 to the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions and to the Governor for the FY 2021 capital budget adjustment report.

(g) In FY 2020 and FY 2021, any agency that receives funding from this section shall consult with the State Treasurer to ensure that the projects that are receiving funding under this section are capital eligible.

<u>Appropriation – FY 2020</u>	<u>\$12,100,000.00</u>
<u>Appropriation – FY 2021</u>	<u>\$13,900,000.00</u>
<u>Total Appropriation – Section 11</u>	<u>\$26,000,000.00</u>

#### Sec. 12. MILITARY

(a) The sum of \$700,000.00 is appropriated in FY 2020 to the Department of Military for maintenance and renovations at State armories. To the extent feasible, these funds shall be used to match federal funds.

(b) The sum of \$800,000.00 is appropriated in FY 2021 to the Department of Military for the projects described in subsection (a) of this section.

<u>Appropriation – FY 2020</u>	<u>\$700,000.00</u>
<u>Appropriation – FY 2021</u>	<u>\$800,000.00</u>
<u>Total Appropriation – Section 12</u>	<u>\$1,500,000.00</u>

#### Sec. 13. PUBLIC SAFETY

(a) The sum of \$700,000.00 is appropriated in FY 2020 to the Department of Buildings and General Services for design documents for the relocation of the Middlesex Field Station.

(b) The sum of \$1,500,000.00 is appropriated in FY 2020 to the Department of Public Safety for the School Safety and Security Grant Program, as described in Sec. 38 of this act.

(c) The sum of \$5,400,000.00 is appropriated in FY 2021 to the Department of Buildings and General Services for construction of the Williston Public Safety Field Station.

<u>Appropriation – FY 2020</u>	<u>\$2,200,000.00</u>
<u>Appropriation – FY 2021</u>	<u>\$5,400,000.00</u>
<u>Appropriation – Section 13</u>	<u>\$7,600,000.00</u>

Sec. 14. AGRICULTURE, FOOD AND MARKETS

(a) The sum of \$200,000.00 is appropriated in FY 2020 to the Department of Buildings and General Services for the Agency of Agriculture, Food and Markets for major maintenance at the Vermont building of the Eastern States Exposition.

(b) The sum of \$100,000.00 is appropriated in FY 2020 to the Agency of Agriculture, Food and Markets for the Produce Safety Infrastructure Grant Improvement Program. To the extent federal funds are available, the amount appropriated in this subsection shall be used as a match to federal funds. It is the intent of the General Assembly that capital funds shall not be appropriated to this project after FY 2020.

(c) The sum of \$200,000.00 is appropriated in FY 2021 to the Department of Buildings and General Services for the Agency of Agriculture, Food and Markets for major maintenance at the Vermont building of the Eastern States Exposition.

<u>Appropriation – FY 2020</u>	<u>\$300,000.00</u>
<u>Appropriation – FY 2021</u>	<u>\$200,000.00</u>
<u>Total Appropriation – Section 14</u>	<u>\$500,000.00</u>

Sec. 15. VERMONT RURAL FIRE PROTECTION

(a) The sum of \$75,000.00 is appropriated in FY 2020 to the Department of Public Safety for the Vermont Rural Fire Protection Task Force for the dry hydrant program.

(b) The sum of \$75,000.00 is appropriated in FY 2021 to the Department of Public Safety for the Vermont Rural Fire Protection Task Force for the project described in subsection (a) of this section.

<u>Appropriation – FY 2020</u>	<u>\$75,000.00</u>
<u>Appropriation – FY 2021</u>	<u>\$75,000.00</u>
<u>Total Appropriation – Section 15</u>	<u>\$150,000.00</u>



Sec. 16. DEPARTMENT OF LABOR

(a) The sum of \$300,000.00 is appropriated in FY 2020 to the Department of Labor to fund the Adult Career and Technical Education Equipment Grant Pilot Program to provide capital-eligible equipment to support adult tech programs.

(b) The sum of \$300,000.00 is appropriated in FY 2021 to the Department of Labor to fund the project described in subsection (a) of this section.

<u>Appropriation – FY 2020</u>	<u>\$300,000.00</u>
<u>Appropriation – FY 2021</u>	<u>\$300,000.00</u>
<u>Total Appropriation – Section 15</u>	<u>\$600,000.00</u>

Sec. 17. SERGEANT AT ARMS

The sum of \$30,000.00 is appropriated in FY 2020 to the Sergeant at Arms for chairs for Committee rooms.

<u>Appropriation – FY 2020</u>	<u>\$30,000.00</u>
<u>Total Appropriation – Section 17</u>	<u>\$30,000.00</u>

Sec. 18. VERMONT HOUSING AND CONSERVATION BOARD

(a) The sum of \$1,800,000.00 is appropriated in FY 2020 to the Vermont Housing and Conservation Board for housing projects.

(b) The sum of \$1,800,000.00 is appropriated in FY 2021 to the Vermont Housing and Conservation Board for the project described in subsection (a) of this section.

<u>Appropriation – FY 2020</u>	<u>\$1,800,000.00</u>
<u>Appropriation – FY 2021</u>	<u>\$1,800,000.00</u>
<u>Total Appropriation – Section 18</u>	<u>\$3,600,000.00</u>

Sec. 19. AGENCY OF DIGITAL SERVICES

(a) The sum of \$125,000.00 is appropriated in FY 2020 to the Agency of Digital Services for digital orthophotography mapping.

(b) The sum of \$125,000.00 is appropriated in FY 2021 to the Agency of Digital Services for the project described in subsection (a) of this section.

<u>Appropriation – FY 2020</u>	<u>\$125,000.00</u>
<u>Appropriation – FY 2021</u>	<u>\$125,000.00</u>
<u>Total Appropriation – Section 19</u>	<u>\$250,000.00</u>

\* \* \* Financing this Act \* \* \*

Sec. 20. REALLOCATION OF FUNDS; TRANSFER OF FUNDS

(a) The following sums are reallocated to the Department of Buildings and General Services from prior capital appropriations to defray expenditures authorized in Sec. 2 of this act:

(1) of the amount appropriated in 2017 Acts and Resolves No. 160, Sec. 13(c) (Waterbury State Office Complex): \$33,404.00

(2) of the amount appropriated in 2017 Acts and Resolves No. 160, Sec. 5(d)(2) (Barre courthouse study): \$10,076.40

(b) Of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 8(a)(2) (school construction) to the Agency of Education, the amount of \$1,225,076.00 in unexpended funds reallocated to the Department of Buildings and General Services to defray expenditures authorized in Sec. 2 of this act.

(c) Of the amount appropriated in 2018 Acts and Resolves No. 190, Sec. 5(d)(4) (Civil War Heritage Trail Sign) to the Agency of Commerce and Community Development, the amount of \$29,948.00 in unexpended funds is reallocated to the Department of Buildings and General Services to defray expenditures authorized in Sec. 2 of this act:

(d) Of the amount appropriated in 2011 Acts and Resolves No. 40, Sec. 3 (cellular and broadband infrastructure) to the Vermont Telecommunications Authority for capital construction projects, the amount of \$76,836.66 in unexpended funds is reallocated to the Department of Buildings and General Services to defray expenditures authorized in Sec. 2 of this act:

Total Reallocations and Transfers – Section 20 \$1,375,341.06

Sec. 21. GENERAL OBLIGATION BONDS AND APPROPRIATIONS

The State Treasurer is authorized to issue general obligation bonds in the amount of \$123,180,000.00 for the purpose of funding the appropriations of this act. The State Treasurer, with the approval of the Governor, shall determine the appropriate form and maturity of the bonds authorized by this section consistent with the underlying nature of the appropriation to be funded. The State Treasurer shall allocate the estimated cost of bond issuance or issuances to the entities to which funds are appropriated pursuant to this section and for which bonding is required as the source of funds, pursuant to 32 V.S.A. § 954.

Total Revenues – Section 21 \$123,180,000.00

\* \* \* Policy \* \* \*

\* \* \* Buildings and General Services \* \* \*

Sec. 22. PROPERTY TRANSACTIONS; MISCELLANEOUS

(a)(1) The Commissioner of Buildings and General Services is authorized to sell the following five properties:

(A) Jay Peak Villages Townhouse V132, 236 South Village Road, Jay, Vermont;

(B) Parcel Number 17-0400027, Shallow Brook Road, TH 40, Jay, Vermont;

(C) Parcel Number 06-0040006, known as Okcha Land, 76.3 acres, Jay, Vermont;

(D) Vermont AQUIROS Farms, 1294 Loop Road, Troy, Vermont; and

(E) Parcel Number 7020043.000, 4452 Darling Hill Road, Burke, Vermont.

(2) Notwithstanding 29 V.S.A. § 166(d), the net proceeds of the sale of the properties described in subdivision (1) of this subsection (a) shall be transferred to the Newport Economic Development Settlement Fund at the Department of Economic Development (Dept ID 7120010481).

(b)(1) The Commissioner of Buildings and General Services is authorized to transfer a 20-by-20-foot parcel located on the Monocacy National Battlefield Park located at 5201 Urbana Pike, Frederick, Maryland, to the United States National Park Service.

(2) The Commissioner of Buildings and General Services, on behalf of the Division for Historic Preservation, is also authorized to enter into an agreement to transfer the 10th Vermont Volunteer Infantry Regiment Monument at the Monocacy National Battlefield Park in Frederick, Maryland, to the United States National Park Service. The transfer shall be subject to conditions that ensure rights of access, public visitation, and preservation of the Monument.

Sec. 23. 29 V.S.A. § 821(a) is amended to read:

(a) State buildings.

(1) “Asa Bloomer State Office Building” shall be the name of the building now known as the “Hulett” office building in the city of Rutland.

\* \* \*

(14) “Francis B. McCaffrey Courthouse” shall be the name of the courthouse at 9 Merchants Row in Rutland.

Sec. 24. 2016 Acts and Resolves No. 88, Sec. 3a is amended to read:

Sec. 3a. REPEAL

2 V.S.A. chapter 30 (Capitol Complex Security Advisory Committee) is repealed on ~~June 30, 2019~~ June 30, 2021.

Sec. 25. 2013 Acts and Resolves No. 1, Sec. 100(c), as amended by 2014 Acts and Resolves No. 179, Sec. E.113.1, 2015 Acts and Resolves No. 58, Sec. 113.1, 2017 Acts and Resolves No. 84, Sec. 29, and 2018 Acts and Resolves No. 190, Sec. 19 is further amended to read:

(c) Sec. 97 (general obligation debt financing) shall take effect on ~~July 1, 2019~~ July 1, 2020.

Sec. 26. 32 V.S.A. § 310 is amended to read:

§ 310. FORM OF ANNUAL CAPITAL BUDGET AND 10-YEAR  
CAPITAL PROGRAM PLAN

\* \* \*

(b) The capital budget request for the following biennium shall be presented as the next increment of the 10-year plan. Elements of the plan shall include:

\* \* \*

(C) ~~The capital~~ Capital needs and projections shall be for the current and the next nine fiscal years, with longer-term projections presented for programs with reasonably predictable longer-term needs.

(D) Capital needs and projections shall be presented independently of financing requirements or opportunities.

(E) Capital needs and projections shall include an estimated cost of deferred infrastructure maintenance in State buildings and facilities.

\* \* \*

Sec. 26a. 32 V.S.A. § 1001 is amended to read:

§ 1001. CAPITAL DEBT AFFORDABILITY ADVISORY COMMITTEE

(a) Committee established. A Capital Debt Affordability Advisory Committee is hereby created with the duties and composition provided by this section.

\* \* \*

(d) Committee composition.

(1) Committee membership shall consist of:

(A) As ex officio members:

(i) the State Treasurer;

(ii) the Secretary of Administration; and

(iii) a representative of the Vermont Municipal Bond Bank chosen by the directors of the Bank.

(B) Two individuals with experience in accounting or finance, who are not officials or employees of State government appointed by the Governor for six-year terms.

(C) The Auditor of Accounts who shall be a nonvoting ex officio member.

(D) One person who is not an official or employee of State government with experience in accounting or finance appointed by the State Treasurer for a six-year term.

(E) The Legislative Economist or other designee of the Joint Fiscal Office, who shall be a nonvoting ex officio member.

(2) The State Treasurer shall be the Chair of the Committee.

\* \* \*

#### Sec. 27. STATE HOUSE SPACE; SHORT-TERM; ASSESSMENT

(a) On or before January 15, 2020, the Sergeant at Arms and the Commissioner of Buildings and General Services shall conduct an assessment of space needs that considers the following:

(1) repurposing Room 2 to serve as a committee room; and

(2) an assessment of space needs for legislative staff, the Sergeant at Arms, and the Capitol Police.

(b) The Sergeant at Arms and the Commissioner of Buildings and General Services shall report the findings of the assessment described in subsection (a) of this section with options for space reconfiguration to the Joint Legislative Management Committee and the Senate Committee on Institutions and the House Committee on Corrections and Institutions.

\* \* \* Corrections \* \* \*

#### Sec. 28. COUNCIL ON STATE GOVERNMENTS; CORRECTIONS; STUDY

The Legislative Branch shall contract with the Council on State

Governments to work with the Executive, Legislative, and Judicial Branches and conduct a review of programming, transitional services, and population trends in Vermont's correctional facilities. The review may include an evaluation of the women's population in Vermont and the programming and services needed to meet their needs, the detention population, and barriers that exist to reducing the population.

\* \* \* Human Services \* \* \*

Sec. 29. 2017 Acts and Resolves No. 84, Sec. 3, as amended by 2018 Acts and Resolves No. 190, Sec. 2, is further amended to read:

Sec. 3. HUMAN SERVICES

\* \* \*

(b) The following sums are appropriated in FY 2019 to the Department of Buildings and General Services for the Agency of Human Services:

\* \* \*

(2) Chittenden County Regional Correctional Facility and Northwest State Correctional Facility, renovations, beds for therapeutic placement and Southern State Correctional Facility, fit-up for one soft-cell at Chittenden County Regional Correctional Facility and one soft-cell at Southern State Correctional Facility: \$600,000.00

\* \* \*

~~(c) For the amount appropriated in subdivision (b)(2) of this section:~~

~~(1) it is the intent of the General Assembly that the funds be used to construct a therapeutic environment in the Chittenden Regional Correctional Facility and in the Northwest State Correctional Facility for persons in the custody of the Department of Corrections who do not meet the clinical criteria for inpatient hospitalization but would benefit from a more therapeutic placement. The therapeutic environment shall include three beds in the Chittenden Regional Correctional Facility and ten or more beds in the Alpha Unit at the Northwest State Correctional Facility.~~

~~(2) the Commissioner of Buildings and General Services may use up to \$100,000.00 of the funds appropriated in subdivision (b)(1) of this section to support this project. [Repealed.]~~

\* \* \*

Sec. 29a. WOODSIDE JUVENILE REHABILITATION CENTER;  
REPORT

(a) The Secretary of Human Services shall develop an alternative proposal for secure beds for delinquent youth. The proposal shall take into account the report required pursuant to 2018 Acts and Resolves No. 201, Sec. 12 and how therapeutic needs can be met.

(b) On or before January 15, 2020, the Secretary of Human Services shall submit a copy of the proposal to the House Committees on Appropriations, on Corrections and Institutions, on Human Services, and on Judiciary, and the Senate Committees on Appropriations, on Health and Welfare, on Institutions, and on Judiciary.

Sec. 30. REPLACEMENT OF MIDDLESEX SECURE RESIDENTIAL RECOVERY FACILITY; INTENT

(a) To the extent that the Department of Disabilities, Aging, and Independent Living amends its rules pertaining to therapeutic community residences to allow secure residential recovery facilities to utilize emergency involuntary procedures and that these rules are identical to the rules adopted by the Department of Mental Health governing the use of emergency involuntary procedures in psychiatric inpatient units, it is the intent of the General Assembly that the State shall replace the Middlesex Secure Residential Recovery Facility by:

(1) constructing a physically secure State-owned secure residential recovery facility for up to an additional 16 beds that meets the security standards currently used at the Middlesex Secure Residential Recovery Facility; and

(2) exploring the placement of interim secure residential recovery beds or permanent beds that could be flexible to meet other potential therapeutic community residential uses as determined by the Department of Mental Health.

(b) On or before December 15, 2019, the Department shall submit a report to the House Committees on Appropriations, on Corrections and Institutions, and on Health Care and to the Senate Committees on Appropriations, on Institutions, and on Health and Welfare containing an analysis of operating secure residential recovery beds at Rutland Regional Medical Center and Rutland Mental Health Services.

Sec. 31. DEPARTMENT OF DISABILITIES, AGING, AND INDEPENDENT LIVING; RULEMAKING

The Department of Disabilities, Aging, and Independent Living shall amend its rules, pursuant to 3 V.S.A. chapter 25, pertaining to therapeutic community residences to allow secure residential recovery facilities to utilize emergency

involuntary procedures so that those amended rules are finally adopted on or before June 1, 2020, unless that deadline is extended by the Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 843(c). These rules shall be identical to the rules adopted by the Department of Mental Health that govern the use of emergency involuntary procedures in psychiatric inpatient units.

\* \* \* Information Technology \* \* \*

Sec. 32. INFORMATION TECHNOLOGY REVIEW

(a) The Executive Branch shall transfer, upon request, one vacant position for use in the Legislative Joint Fiscal Office (JFO) for a staff position, or the JFO may hire a consultant, to provide support to the General Assembly to conduct independent reviews of State information technology projects and operations.

(b) The Secretary of Digital Services shall:

(1) provide to the JFO access to the reviews conducted by Independent Verification and Validation (IVV) firms hired to evaluate the State's current and planned information technology projects, as requested;

(2) ensure that IVV firms' contracts allow the JFO to make requests for information related to the projects that it is reviewing and that such requests are provided to the JFO in a confidential manner; and

(3) provide to the JFO access to all other documentation related to current and planned information technology projects and operations, as requested.

(c) The JFO shall maintain a memorandum of understanding with the Executive Branch relating to any documentation provided under subsection (b) of this section that shall protect security and confidentiality.

(d) In FY 2020 and FY 2021, the JFO is authorized to use up to \$250,000.00 of the amounts appropriated in Sec. 3(b) of this act to fund activities described in this section.

\* \* \* Labor \* \* \*

Sec. 33. 2018 Acts and Resolves No. 190, Sec. 21 is amended to read:

Sec. 33a. ADULT CAREER AND TECHNICAL EDUCATION  
EQUIPMENT GRANT PILOT PROGRAM

(a) The General Assembly hereby establishes a pilot grant program to authorize the Department of Labor, in consultation with the State Workforce Development Board, to administer the Adult Career and Technical Education



Equipment Grant Pilot Program to support the purchase of equipment necessary for the delivery of occupational training for students enrolled in a postsecondary course offered by Vermont's Career and Technical Education Centers.

(b) Career and Technical Education Centers are the only eligible applicants for grants awarded under the Program. Grants may only be awarded to applicants who demonstrate how use of the grant-funded equipment will be shared with at least one other Career and Technical Education Center, a State correctional facility, or an accredited post-secondary college or university located in Vermont.

(c) An applicant's training program shall qualify for a grant described in subsection (a) of this section if it includes all of the following requirements:

(1) meets current occupational demand, as evidenced by current labor market information;

(2) aligns with a career pathway or set of stackable credentials involving a college or university accredited in Vermont;

~~(3) guarantees delivery of equipment to more than one region of the State;~~

~~(4)~~ is supported with a business or industry partnership;

~~(5)~~(4) sets forth how equipment will be maintained, insured, shared, and transported, if applicable; and

~~(6)~~(5) is endorsed by the Adult Career and Technical Education Association.

~~(e)~~(d) Grants awarded under this program shall be used to purchase capital-eligible equipment. Grants shall not be used to support curriculum development, instruction, or program administration.

~~(d)~~(e) On or before July 15, 2018, the Department shall develop and publish a simplified grant application that meets the criteria described in subsection (b) of this section. The Department shall consult with the Agency of Education and the State Workforce Development Board in reviewing applications and selecting grantees.

~~(e)~~(f) Grantees shall have ownership over any share of equipment purchased with the use of these funds. Any equipment purchased from this program may also be used by secondary career technical education programs.

~~(f)~~(g) On or before February 15, 2019, the Department of Labor shall submit a report to the House Committee on Corrections and Institutions and

the Senate Committee on Institutions that includes the following:

- (1) how the funds were used, expected outcomes, recommended performance metrics to ensure success of the program, and any other relevant information that would inform future decisions about the use of this program;
- (2) assessment of the functionality and accessibility of shared-equipment agreements; and
- (3) how, and the extent to which, the program shall be funded in the future.

\* \* \* Sunset of Adult Career and Technical Education  
Equipment Grant Program \* \* \*

Sec. 33b. REPEAL OF ADULT CAREER AND TECHNICAL  
EDUCATION EQUIPMENT GRANT PROGRAM

The Adult Career and Technical Education Equipment Grant Program established in Sec. 33a of this act shall be repealed on ~~July 1, 2019~~ July 1, 2021.

\* \* \* Military \* \* \*

Sec. 34. 2017 Acts and Resolves No. 84, Sec. 12, as amended by 2018 Acts and Resolves No. 190, Sec. 9, is further amended to read:

Sec. 12. MILITARY

\* \* \*

(b) The following sums are appropriated in FY 2019 to the Department of Military for the projects described in this subsection:

(1) Maintenance, renovations, roof replacements, ADA renovations, and energy upgrades at State armories. To the extent feasible, these funds shall be used to match federal funds: \$780,000.00

(2) Bennington Armory, site acquisition and permitting: \$60,000.00

\* \* \*

\* \* \* Natural Resources \* \* \*

Sec. 35. 2017 Acts and Resolves No. 84, Sec. 11, as amended by 2018 Acts and Resolves No. 190, Sec. 8, is further amended to read:

Sec. 11. CLEAN WATER INITIATIVES

\* \* \*

(l) The following sums are appropriated in FY 2019 to the Municipal Mitigation Assistance Program in the Agency of Transportation:

(1) Municipal Highway and Stormwater Mitigation Program:

~~\$1,000,000.00~~ \$359,860.00

(2) Better Roads Program:

~~\$1,400,000.00~~ \$2,040,140.00

\* \* \*

\* \* \* Municipal Public Water Supply Systems \* \* \*

Sec. 36. 24 V.S.A. § 4755 is amended to read:

§ 4755. LOAN; LOAN AGREEMENTS; GENERAL PROVISIONS

(a) Except as provided by subsection (c) of this section, the Bond Bank may make loans to a municipality on behalf of the State for one or more of the purposes set forth in section 4754 of this chapter. Each of the loans shall be made subject to the following conditions and limitations:

\* \* \*

(3) The loan shall be evidenced by a municipal bond, payable by the municipality over a term not to exceed ~~30~~ 40 years or the projected useful life of the project, whichever is less, except:

(A) there shall be no deferral of payment;

(B) the term of the loan shall not exceed ~~20~~ 30 years when required by section 4763c of this title; ~~and~~

(C) the loan may be evidenced by any other permitted debt instrument payable as permitted by chapter 53 of this title; ~~and~~

(D) the term of the loan shall not exceed 30 years for clean water projects.

\* \* \*

Sec. 37. 24 V.S.A. § 4763c is amended to read:

§ 4763c. LOANS TO MUNICIPALITIES FOR MUNICIPAL PUBLIC WATER SUPPLY SYSTEMS

(a) The Secretary may certify to the Vermont Municipal Bond Bank established by section 4571 of this title the award of a loan to a municipality to assist with a public water supply system project, when the Secretary finds that:

(1) the project is necessary;

(2) the proposed type, size, and estimated cost of the project are suitable

for its intended purpose; and

(3) the municipality will have the technical, financial, and managerial ability to operate the facility in compliance with federal and State law.

(b) The certification by the Secretary shall specify the interest rate, and indicate which of the following loan conditions concerning construction loans apply:

(1) The term shall not exceed ~~20~~ 30 years, and the annual interest rate, plus the administrative fee, shall be no more than three percent or less than zero percent, except that when the applicant municipality is disadvantaged as defined by subdivision 4752(12) of this title, the term shall not exceed ~~30~~ 40 years. When the applicant municipality is disadvantaged as defined in subdivision 4752(12), the annual interest rate, plus the administrative fee, shall be no less than minus three percent.

\* \* \*

(3) Loans awarded to a municipality that have not initiated repayment prior to January 1, 2019 may be extended as provided by subdivisions (b)(1) and (b)(2) of this section.

\* \* \* School Safety and Security \* \* \*

Sec. 38. 2017 Acts and Resolves No. 84, as amended by 2018 Acts and Resolves No. 190, Sec. 26, is further amended to read:

Sec. 36a. SCHOOL SAFETY AND SECURITY CAPITAL GRANT PROGRAM

(a) Creation. There is created the School Safety and Security Capital Grant Program to be administered by the Department of Public Safety to enhance safety and security in Vermont schools, ~~as defined in 16 V.S.A. § 3447.~~

(1) As used in this section, "school" means:

(A) public schools, as defined in 16 V.S.A. § 11;

(B) schools administered by regional career technical center school districts, as defined in 16 V.S.A. § 1571;

(C) joint contract schools, as described in 16 V.S.A. § 571; and

(D) approved independent schools, as defined in 16 V.S.A. § 166.

(2) The amount appropriated in ~~Sec. 10 of this act~~ 2018 Acts and Resolves No. 190, Sec. 10, adding 2017 Acts and Resolves No. 84, Sec. 13(c)(1), and in Sec. 13(b) of this act, shall be used to fund this Program.

\* \* \*

(c) Guidelines. The following guidelines shall apply to capital grants for school safety measures:

\* \* \*

(3) The Program is authorized to award one capital grants grant of up to \$25,000.00 per school. Each school shall be required to provide a 25 percent match to the grant amount. The required match shall be met through dollars raised and not in-kind services.

\* \* \*

(f) FY 2020 Grant Awards. In FY 2020, the Program may award a grant to an eligible school that applied for but did not receive a grant award in FY 2019.

\* \* \* Sunset of School Security Grant Program \* \* \*

#### Sec. 36b. REPEAL OF SCHOOL SECURITY GRANT PROGRAM

The School Safety and Security Grant Program established in Sec. 26 of this act shall be repealed on July 1, 2019 June 30, 2020.

\* \* \*

\* \* \* Effective Date \* \* \*

#### Sec. 39. EFFECTIVE DATE

This act shall take effect on passage, except that Sec. 22(a) (sale of Jay Peak properties) shall not take effect until the final disposition of *State of Vermont v. Quiros, et al.*, Docket No. 217-4-16 (Wnev), including all appeals, is determined, and shall not take effect at all if that final disposition holds that the State has not acquired the properties.

(For text see House Journal March 29, 2019 )