

House Calendar

Wednesday, June 3, 2020

149th DAY OF THE ADJOURNED SESSION

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ACTION CALENDAR

Unfinished Business of Tuesday, March 24 2020

Third Reading

H. 833

An act relating to the interbasin transfer of surface waters

Favorable with Amendment

H. 99

An act relating to trade in covered animal parts or products

Rep. McCullough of Williston, for the Committee on Natural Resources, Fish, and Wildlife, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. part 4, chapter 124 is added to read:

CHAPTER 124. TRADE IN COVERED ANIMAL PARTS OR PRODUCTS

§ 5501. DEFINITIONS

As used in this chapter:

(1) “Bona fide educational or scientific institution” means an institution that establishes through documentation that it is a tax-exempt institution under the Internal Revenue Service’s educational or scientific tax exemption.

(2) “Covered animal” means any species of:

- (A) Cheetah (Acinonyx jubatus);
- (B) Elephant (family Elephantidae);
- (C) Giraffe (Giraffa camelopardalis) ;
- (D) Hippopotamus (family Hippopotamidae);
- (E) Jaguar (Panthera onca);
- (F) Leopard (Panthera pardus);
- (G) Lion (Panthera leo);
- (H) Mammoth (genus Mammuthus);
- (I) Mastodon (genus Mammut),
- (J) Pangolin (family Manidae);

(K) Endangered ray, as listed by the Convention on International Trade in Endangered Species of Wild Fauna and Flora;

(L) Rhinoceros (family Rhinocerotidae);

(M) Sea turtle (family Chelonioidae);

(N) Endangered shark, as listed by the Convention on International Trade in Endangered Species of Wild Fauna and Flora;

(O) Tiger (Panthera tigris);

(P) Whale (families Balaenidae, Balaenopteridae, Cetotheriidae, Eschrichtiidae, Monodontidae, Physeteridae, Kogiidae, and Ziphiidae); or

(Q) The following primates: gorillas, bonobos, orangutans, gibbons, or chimpanzees.

(3) “Commissioner” means the Commissioner of Fish and Wildlife.

(4) “Covered animal part or product” means any item that contains, or is wholly or partially made from, a covered animal, including the meat or flesh of a covered animal sold as food.

(5) “Firearm” has the same meaning as in 13 V.S.A. § 4016(a)(3).

(6) “Sale” or “sell” means any act of selling, trading, or bartering for monetary or nonmonetary consideration, and includes any transfer of ownership that occurs in the course of a commercial transaction. “Sale” or “sell” shall not include a nonmonetary transfer of ownership by way of gift, donation, or bequest.

(7) “Secretary” means the Secretary of Natural Resources.

(8) “Total value” means either the fair market value or the actual price paid for a covered animal part or product, whichever is greater.

§ 5502. PROHIBITION

Except as provided in this chapter, notwithstanding any other provision of law to the contrary, a person shall not purchase, sell, offer for sale, or possess with intent to sell any item that the person knows or should know is a covered animal part or product.

§ 5503. EXCEPTIONS

(a) The prohibition on the purchase, sale, offer for sale, or possession with intent to sell set forth in section 5502 of this title shall not apply:

(1) to employees or agents of the federal or State government undertaking any law enforcement activities pursuant to federal or State law or

any mandatory duties required by federal or State law;

(2) when the activity is expressly authorized by federal law;

(3) when the covered animal part or product is a fixed component of an antique that is not made wholly or partially from the covered animal part or product, provided that:

(A) the antique status is established by the owner or seller of the covered animal part or product with documentation providing evidence of the provenance of the covered animal part or product and showing the covered animal part or product to be not less than 100 years old; and

(B) the total weight of the covered animal part or product is less than 200 grams;

(4) when the covered animal part or product is a fixed component of a firearm; knife; or musical instrument, including string instruments and bows, wind and percussion instruments, and pianos, provided that the covered animal part or product was legally acquired and provided that the total weight of the covered animal part or product is less than 200 grams; or

(5) the activity is authorized under section 5504 of this title.

(b) Documentation evidencing reasonable provenance or the age of a covered animal part or product that may be purchased, sold, offered for sale, or possessed under subsection (a) of this section may include receipts of purchase, invoices, bills of sale, prior appraisals, auction catalogues, museum or art gallery exhibit catalogues, and the signed certification of an antique appraiser to the age of the covered animal part. The issuance of a false or fraudulent certification of the age of a covered animal part or product shall be subject to penalty under section 5506 of this title.

§ 5504. EDUCATIONAL OR SCIENTIFIC USE

The Secretary may permit, under terms and conditions as the Secretary may require, the purchase, sale, offer for sale, or possession with intent to sell of any covered animal part or product for educational or scientific purposes by a bona fide educational or scientific institution unless the activity is prohibited by federal law, and provided that the covered animal part or product was legally acquired.

§ 5505. PRESUMPTION OF POSSESSION WITH INTENT TO SELL

There shall be a rebuttable presumption that a person possesses a covered animal part or product with intent to sell when the part or product is possessed by a retail or wholesale establishment or other forum engaged in the business of buying or selling similar items. This rebuttable presumption shall not

preclude a court from finding intent to sell a covered animal part or product based on any other evidence that may serve to independently establish intent.

§ 5506. ADMINISTRATIVE PENALTIES; REFERRAL FOR CRIMINAL ENFORCEMENT

(a) The Secretary may assess the following administrative penalties for a violation of a provision of this chapter:

(1) For a first offense, a person shall be assessed an administrative penalty of not more than \$1,000.00 nor less than \$400.00.

(2) For a second offense or subsequent offense, a person shall be assessed an administrative penalty of not more than \$4,000.00 nor less than \$2,000.00.

(b) Instead of bringing an environmental enforcement action for a violation of this chapter or rules adopted under this chapter, the Secretary may refer a violation of this chapter to the Commissioner of Fish and Wildlife for criminal enforcement under section 4518 of this title.

§ 5507. SEIZURE.

A person convicted of violating a provision of this chapter shall forfeit to the Secretary the covered animal part or product that is the subject of the violation. The Secretary may:

(1) authorize that the covered animal part or product be maintained for educational or training purposes;

(2) authorize that the covered animal part or product be donated to a bona fide educational or scientific institution; or

(3) require that the covered animal part or product be destroyed.

§ 5508. RULES

The Secretary may adopt rules necessary to implement the requirements of this chapter.

Sec. 2. 10 V.S.A. § 4518 is amended to read:

§ 4518. BIG GAME VIOLATIONS; THREATENED AND ENDANGERED SPECIES; SUSPENSION; VIOLATIONS

Whoever violates a provision of this part or orders or rules of the Board relating to taking, possessing, transporting, buying, or selling of big game or, relating to threatened or endangered species, or relating to the trade in covered animal parts or products shall be fined not more than \$1,000.00 nor less than

\$400.00 or imprisoned for not more than 60 days, or both. Upon a second and all subsequent convictions or any conviction while under license suspension related to the requirements of part 4 of this title, the violator shall be fined not more than \$4,000.00 nor less than \$2,000.00 or imprisoned for not more than 60 days, or both.

Sec. 3. 10 V.S.A. § 8003 is amended to read:

§ 8003. APPLICABILITY

(a) The Secretary may take action under this chapter to enforce the following statutes and rules, permits, assurances, or orders implementing the following statutes, and the Board may take such action with respect to subdivision (10) of this subsection:

* * *

(27) 10 V.S.A. chapter 123, relating to threatened and endangered species;

* * *

(29) 10 V.S.A. § 1420, relating to abandoned vessels; and

(30) 3 V.S.A. § 2810, relating to interim environmental media standards; and

(31) 10 V.S.A. chapter 124, relating to the trade in covered animal parts or products.

Sec. 4. 10 V.S.A. § 8503 is amended to read:

§ 8503. APPLICABILITY

(a) This chapter shall govern all appeals of an act or decision of the Secretary, excluding enforcement actions under chapters 201 and 211 of this title and rulemaking, under the following authorities and under the rules adopted under those authorities:

(1) The following provisions of this title:

* * *

(V) chapter 124 (trade in covered animal parts or products).

* * *

Sec. 5. EFFECTIVE DATE

This act shall take effect on January 1, 2022.

(Committee Vote: 7-4-0)

H. 880

An act relating to Abenaki place names on State park signs

Rep. Howard of Rutland City, for the Committee on General, Housing, and Military Affairs, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 2613 is added to read:

§ 2613. ABENAKI PLACE NAMES IN STATE PARKS

(a) The Commissioner, before installing new signs or replacing existing signs in a State park, shall consult with the Vermont Commission on Native American Affairs to determine if there is an Abenaki name for any site within the park. If the Commission on Native American Affairs advises the Commissioner of an Abenaki name, the Abenaki name shall be displayed with the English name.

(b) On or before July 1, 2025, all existing signs in State parks with Abenaki names shall be replaced to include the Abenaki name.

(c) The Commissioner shall adopt rules establishing a procedure for selecting spelling of the place name if there are multiple spellings provided by the Commission on Native American Affairs.

Sec. 2. LIST OF PLACES WITH ABENAKI NAMES

On or before January 15, 2021, the Vermont Commission on Native American Affairs shall prepare a list of places and landmarks with Abenaki names. The list shall state if there are multiple names or spelling variations for a place. The Commission shall present the list to the Commissioner of Forests, Parks and Recreation in order to facilitate the construction of signs as required under 10 V.S.A. § 2613. The Commission shall also determine if there are sites outside of State parks with Abenaki names that require new signs.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

(Committee Vote: 10-0-1)

**Unfinished Business of Wednesday, March 25 2020
Committee Bill for Second Reading**

H. 940

An act relating to animal cruelty investigation response and training.

(Rep. Bartholomew of Hartland will speak for the Committee on Agriculture and Forestry.)

Favorable with Amendment

H. 581

An act relating to the funding of the Department of Fish and Wildlife

Rep. Squirrell of Underhill, for the Committee on Natural Resources, Fish, and Wildlife, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. VERMONT WORKING GROUP ON WILDLIFE FUNDING;

REPORT

(a) Findings. The General Assembly finds that:

(1) It is the policy of the State that the Commissioner of Fish and Wildlife is required to safeguard the fish, wildlife, and fur-bearing animals of the State for all of the people of the State.

(2) The duties and responsibilities of the Department have grown since the days of focusing primarily on deer herd management and now include management of all wildlife species, including game and non-game; law enforcement; monitoring and restoring threatened and endangered species; habitat conservation; technical assistance; regulatory review; educational programs for hunters, youths, and teachers; public license sales; and management of grants issued or received by the Department.

(3) Since 1985, resident hunting license sales have decreased by 56 percent, resident trapping license sales have decreased by 51 percent, and resident fishing license sales have decreased by 25 percent.

(4) As a result of declining license and fee revenue, the General Assembly has increased and may need to further increase the amount of General Fund dollars annually appropriated to the Department of Fish and Wildlife.

(5) The need for increased funding of the Department will be heightened by the increased research, monitoring, and interventions required by new, contemporary, and well-documented challenges to all wildlife in Vermont, such as climate change, pollution, invasive species, and habitat degradation.

(6) To address declining license and permit fee revenue, the State must find stable, long-term revenue sources to pay for the costs of the Department of Fish and Wildlife conserving and managing fish, wildlife, and fur-bearing animals of the State and the natural systems upon which they depend for all of the people of the State.

(b) Creation of Working Group. Based on the findings set forth in subsection (a) of this section, there is created the Vermont Working Group on Wildlife Funding to identify potential sources of revenue to fund the Department of Fish and Wildlife for the next 20 years.

(c) Membership. The Vermont Working Group on Wildlife Funding shall be composed of the following members:

(1) three current members of the House of Representatives, who shall be appointed by the Speaker of the House and who shall include:

(A) the Chair of the Committee on Natural Resources, Fish, and Wildlife or designee;

(B) the Chair of the Committee on Appropriations or designee; and

(C) the Chair of the Committee on Government Operations or designee; and

(2) three current members of the Senate, who shall be appointed by the Committee on Committees and who shall include:

(A) the Chair of the Committee on Natural Resources and Energy or designee;

(B) the Chair of the Committee on Appropriations or designee; and

(C) a member of the Senate at large.

(d) Powers and duties. The Vermont Working Group on Wildlife Funding shall review and analyze the funding, management, and policies of the Department of Fish and Wildlife (Department) under statute and rule, and shall:

(1) Assess how the principles and priorities for the conservation and management of fish, wildlife, and fur-bearing animals and the natural systems upon which they depend will impact sources and amounts of funding needed by the Department for the next 20 years. The assessment shall:

(A) address the stability of all current Department funding streams going forward;

(B) estimate revenues and identify new and existing revenue sources and other resources needed for new and additional programs at the Department; and

(C) consider equitability when evaluating potential revenue sources.

(2) Recommend how the Department can create and maintain stable and adequate funding for the next 20 years.

(e) Assistance. The Vermont Working Group on Wildlife Funding shall have the administrative, technical, and legal assistance of the Office of Legislative Council. The Working Group shall have the assistance of the Joint Fiscal Office on fiscal issues and the assistance of the Department of Fish and Wildlife on issues related to the jurisdiction of the Department.

(f) Report. On or before January 1, 2021, the Vermont Working Group on Wildlife Funding shall report to the House Committees on Natural Resources, Fish, and Wildlife, on Appropriations, and on Government Operations and the Senate Committees on Natural Resources and Energy, on Appropriations, and on Government Operations with its findings and any recommendations for legislative action.

(g) Meetings.

(1) The Office of Legislative Council shall call the first meeting of the Vermont Working Group on Wildlife Funding to occur on or before July 1, 2020.

(2) The Vermont Working Group on Wildlife Funding shall select a chair from among its members at the first meeting.

(3) A majority of the membership of the Vermont Working Group on Wildlife Funding shall constitute a quorum.

(4) The Vermont Working Group on Wildlife Funding shall cease to exist on February 1, 2021.

(h) Compensation and reimbursement. For attendance at meetings during adjournment of the General Assembly, a legislative member of the Vermont Working Group on Wildlife Funding 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 10 meetings. These payments shall be made from monies appropriated to the General Assembly.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 8-0-2)

Unfinished Business of Wednesday, May 20, 2020

Favorable with Amendment

H. 783

An act relating to recovery residences

Rep. Killacky of South Burlington, for the Committee on General, Housing, and Military Affairs, recommends the bill be amended by striking all

after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE INTENT

It is the intent of the General Assembly that any exceptions made to existing landlord and tenant relationships in this act are limited solely to recovery residences operating pursuant to this act. These exceptions are intended to enable the expansion of recovery residences throughout the State and ensure their accessibility to individuals recovering from a substance use disorder.

Sec. 2. 18 V.S.A. § 4812 is added to read:

§ 4812. RECOVERY RESIDENCES

(a) Definition.

(1) As used in this section, “recovery residence” means a shared living residence supporting persons recovering from a substance use disorder that:

(A) Provides residents with peer support, an environment that prohibits the use of alcohol and the illegal use of prescription drugs or other illegal substances, and provides assistance accessing support services and community resources available to persons recovering from substance use disorder; and

(B) Is certified by an organization that is a Vermont affiliate of the National Alliance for Recovery Residences and adheres to the national standards established by the Alliance or its successor in interest. If there is no successor in interest, the Department of Health shall designate a certifying organization to uphold appropriate standards for recovery housing.

(2) As used in this section, “the illegal use of prescription drugs” refers to the use of prescription drugs by a person who does not hold a valid prescription for that drug or in an amount that exceeds the dosing instructions.

(b) Voluntary arrangement. The decision to live in a recovery residence shall be voluntary and shall not be required or mandated by any private or public entity or individual.

(c) Terms of residency; compliance.

(1) Landlord and tenant relationship. A recovery residence and a resident have a landlord and tenant relationship that is subject to 9 V.S.A. chapter 137, except as otherwise provided in subdivisions (3)–(4) of this subsection.

(2) Residential rental agreement.

(A) A recovery residence and a resident shall execute a written rental agreement that includes:

(i) the policies and procedures governing the tenancy;

(ii) a statement that the recovery residence and the resident will comply with the policies and procedures;

(iii) the consequences of noncompliance;

(iv) the identification of a verified location where the resident may be housed in the event of temporary removal;

(v) payment requirements;

(vi) notice requirements and procedure for terminating the tenancy;

(vii) the contact information for a resident's probation or parole officer, if the resident is on furlough or parole from the Department of Corrections; and

(viii) any other provisions to which the parties agree.

(B) The parties may amend a rental agreement in a written record signed by the parties.

(C) A resident may have a support person present when negotiating and executing a rental agreement or amendment.

(3) Temporary removal.

(A) A recovery residence shall adopt policies and procedures that govern the temporary removal of a resident who uses alcohol or illegal substances, engages in the illegal use of prescription drugs, or engages in violent, sexually harassing, or threatening behavior, consistent with the following:

(i) A recovery residence shall:

(I) provide written notice of the reason for temporary removal and of the actions the resident must take to avoid temporary removal or to be readmitted after temporary removal;

(II) design and implement harm reduction strategies for a resident who is temporarily removed, which may include providing naloxone to the resident upon temporary removal or other strategies more appropriate to the resident's recovery needs; and

(III) take action that is consistent with the resident's most recent reoccurrence agreement to the extent possible.

(ii) A recovery residence shall not temporarily remove a resident based solely on the resident's use of medication in conjunction with medication-assisted treatment, as defined in section 4750 of this title.

(B) Notwithstanding 9 V.S.A. §§ 4463 and 4464, a recovery residence that complies with the policies and procedures adopted pursuant to this subdivision (c)(3) may temporarily deny a resident access to the recovery residence and to his or her property within the residence.

(4) Termination of tenancy.

(A) A recovery residence shall adopt policies and procedures that govern the termination of tenancy of a resident who violates one or more provisions of the rental agreement, consistent with the following:

(i) A recovery residence shall:

(I) provide written notice of its intent to terminate the tenancy that includes the reason for termination and the actions the resident must take to avoid removal;

(II) design and implement harm reduction strategies for a resident whose tenancy is terminated, which may include providing naloxone to the resident upon removal or other strategies more appropriate to the resident's recovery needs; and

(III) adopt a review process under which:

(aa) a person other than the original decision maker or a subordinate of the original decision maker, which may include a Vermont affiliate of the National Alliance for Recovery Residences, reviews the decision to terminate the tenancy;

(bb) the resident has a meaningful opportunity to present evidence why the resident should not be removed; and

(cc) the resident receives prompt written notice of a final decision.

(ii) A recovery residence shall not:

(I) terminate a tenancy because a resident uses alcohol or illegal substances, or engages in the illegal use of prescription drugs, unless:

(aa) the resident fails to take the actions required to avoid temporary removal or to be readmitted after temporary removal; and

(bb) the recovery residence has contemporary drug test results verified by a laboratory approved by the State; or

(II) terminate a tenancy based solely on the resident's use of medication in conjunction with medication-assisted treatment, as defined in section 4750 of this title.

(B) Notwithstanding 9 V.S.A. §§ 4467 and 4468, a recovery residence that complies with the policies and procedures adopted pursuant to this subdivision (c)(5) may terminate the tenancy of a resident pursuant to the notice requirements and procedure for terminating the tenancy provided in the rental agreement.

(d) Drug testing. A recovery residence shall adopt policies and procedures that govern drug testing of residents and shall apply the policies and testing procedures fairly among residents.

(e) Future services. A recovery residence shall not deny future services to a resident who has been either temporarily removed from a recovery residence or whose tenancy has been terminated, based solely on the resident's use of alcohol or illegal substances or the illegal use of prescription drugs.

Sec. 3. 24 V.S.A. § 4412 is amended to read:

§ 4412. REQUIRED PROVISIONS AND PROHIBITED EFFECTS

Notwithstanding any existing bylaw, the following land development provisions shall apply in every municipality:

(1) Equal treatment of housing and required provisions for affordable housing.

* * *

(G) A residential care home or group home to be operated under State licensing or registration, serving not more than eight persons who have a disability as defined in 9 V.S.A. § 4501, and a recovery residence as defined in 18 V.S.A. § 4812, serving not more than eight persons, shall be considered by right to constitute a permitted single-family residential use of property. This subdivision (G) does not require a municipality to allow a greater number of residential care homes or group homes on a lot than the number of single-family dwellings allowed on the lot.

* * *

Sec. 4. REPORT; RECOVERY RESIDENCE; FURLOUGH

On or before January 1, 2021 and annually thereafter through January 1, 2024, the Department of Corrections shall submit a report to the House Committees on General, Housing, and Military Affairs, on Corrections and Institutions, and on Human Services and to the Senate Committees on

Economic Development, on Health and Welfare, and on Judiciary containing the number of individuals on furlough who reside in recovery residences as defined in 18 V.S.A. § 4812 and the number of individuals who have violated the conditions of their furlough and were removed from their recovery residence and returned to prison.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

(Committee Vote:8-1-2)

Rep. Redmond of Essex, for the Committee on Human Services, recommends the bill ought to pass when amended as recommended by the Committee on General, Housing, and Military Affairs and when further amended as follows:

First: In Sec. 2, 18 V.S.A. § 4812, in subdivision (a)(1)(A), by striking out “available to persons recovering from substance use disorder;” and inserting in lieu thereof “.”

Second: In Sec. 2, 18 V.S.A. § 4812, in subsection (c), by striking out subdivision (3)(A)(ii) in its entirety and inserting a new subdivision (3)(A)(ii) to read as follows:

(ii) A recovery residence shall not temporarily remove a resident based on the resident receiving medication-assisted treatment, as defined in section 4750 of this title.

Third: In Sec. 2, 18 V.S.A. § 4812, in subsection (c), by striking out subdivision (4)(A)(ii)(II) in its entirety and inserting a new subdivision (4)(A)(ii)(II) to read as follows:

(II) terminate a tenancy based on the resident receiving medication-assisted treatment, as defined in section 4750 of this title.

Fourth: In Sec. 4, report; recovery residence; furlough, after “Senate Committees on Economic Development” by inserting “, Housing and General Affairs”

(Committee Vote: 9-0-2)

Amendment to be offered by Rep. Killacky of South Burlington to the recommendation of amendment of the Committee on General, Housing, and Military Affairs as further amended as recommended by the Committee on Human Services to H. 783

First: In Sec. 2, 18 V.S.A. § 4812, in subsection (a), by striking out subdivision (1)(B) in its entirety and inserting in lieu thereof a new subdivision (1)(B) to read as follows:

(B) Is certified by an organization that is a Vermont affiliate of the

National Alliance for Recovery Residences or obtains a preliminary certification within 45 days of operation and adheres to the national standards established by the Alliance or its successor in interest. If there is no successor in interest, the Department of Health shall designate a certifying organization to uphold appropriate standards for recovery housing.

Second: In Sec. 2, 18 V.S.A. § 4812, in subsection (c), by striking out subdivision (3)(B) in its entirety and inserting in lieu thereof a new subdivision (3)(B) to read as follows:

(B) Notwithstanding 9 V.S.A. §§ 4463 and 4464, a recovery residence that complies with the policies and procedures adopted pursuant to this subdivision (c)(3) may temporarily deny a resident access to the recovery residence, but shall return to the resident his or her property or ensure its safekeeping.

Unfinished Business of Tuesday, May 26, 2020
Favorable with Amendment
H. 716

An act relating to Abenaki hunting and fishing licenses

Rep. Lefebvre of Newark, for the Committee on Natural Resources; Fish; and Wildlife, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 4255 is amended to read:

§ 4255. LICENSE FEES

* * *

(c) A permanent or free license may be secured on application to the Department by a person qualifying as follows:

* * *

(7) A person who is a certified citizen of one of the State-recognized Native American Indian tribes may receive a free permanent combination hunting and fishing license upon submission of a current and valid tribal identification card or if the person is a minor, upon written certification from the minor's parent or guardian that the minor is a citizen of the State-recognized Native American Indian tribes.

* * *

Sec. 2. REPORT

On or before January 15, 2022, the Commissioner of Fish and Wildlife shall

report to the House Committee on Natural Resources, Fish, and Wildlife and the Senate Committee on Natural Resources and Energy the number of licenses issued pursuant to 10 V.S.A. § 4255(c)(7).

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

(Committee Vote: 10-1-0)

Rep. Kornheiser of Brattleboro, for the Committee on Ways and Means, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 4255 is amended to read:

§ 4255. LICENSE FEES

* * *

(c) A permanent or free license may be secured on application to the Department by a person qualifying as follows:

* * *

(7) A certified citizen of a Native American Indian tribe that has been recognized by the State pursuant to 1 V.S.A. chapter 23 may receive a free permanent fishing license or, if the person qualifies for a hunting license, a free permanent combination hunting and fishing license upon submission of a current and valid tribal identification card.

* * *

Sec. 2. REPORT

On or before January 15, 2024, the Commissioner of Fish and Wildlife shall report to the House Committee on Natural Resources, Fish, and Wildlife and the Senate Committee on Natural Resources and Energy the number of licenses issued pursuant to 10 V.S.A. § 4255(c)(7).

Sec. 3. EFFECTIVE DATE

This act shall take effect on January 1, 2021.

(Committee Vote: 10-1-0)

Amendment to be offered by Rep. Brennan of Colchester to H. 716

Rep. Brennan of Colchester moves that the bill be amended in Sec. 1, 10 V.S.A. § 4255, by striking the section in its entirety and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 4255 is amended to read:

§ 4255. LICENSE FEES

* * *

(c) A permanent or free license may be secured on application to the Department by a person qualifying as follows:

* * *

(7) A Vermont resident who is a certified citizen of a Native American Indian tribe that has been recognized by the State pursuant to 1 V.S.A. chapter 23 may receive a free permanent fishing license or, if the person qualifies for a hunting license, a free permanent combination hunting and fishing license upon submission of a current and valid tribal identification card.

* * *

Amendment to be offered by Rep. Helm of Fair Haven to H. 716

Rep. Helm of Fair Haven moves that the bill be amended in Sec. 3, EFFECTIVE DATE, by striking it in its entirety and inserting in lieu thereof the following:

Sec. 3. 10 V.S.A. § 4049 is amended to read:

§ 4049. FISH AND WILDLIFE TRUST FUND

(a) The General Assembly recognizes the importance to the people of Vermont of conserving Vermont's fish and wildlife resources. Therefore, in order to provide the opportunity for Vermonters to invest in the future of its fish and wildlife resources, there is hereby created a Fish and Wildlife Trust Fund within the Fish and Wildlife Fund which shall consist of:

(1) receipts from sales of any lifetime licenses created pursuant to subsection 4279(f) of this title;

(2) any gifts, grants, or contributions made to the Trust Fund;

(3) transfers from the Attorney General Complex Litigation Special Fund established pursuant to 3 V.S.A. § 167a in the amount of the previous year's revenue lost from the issuance of free permanent licenses pursuant to subsection § 4255(c)(7) of this title; and

(4) funds that may be appropriated by the General Assembly.

* * *

Sec. 4. 3 V.S.A. § 167a is amended to read:

§ 167a. COMPLEX LITIGATION SPECIAL FUND

(a) There is established the Complex Litigation Special Fund pursuant to 32 V.S.A. chapter 7, subchapter 5 to be available for expenditure by the Attorney General, as annually appropriated or authorized pursuant to 32 V.S.A. § 511~~7~~. The funds shall:

(1) be used to pay nonroutine expenses, not otherwise budgeted, incurred in the investigation, prosecution, and defense of complex civil and criminal litigation. These expenses may include, for example, costs incurred for expert witnesses and for support staff and technology needed to review and manage voluminous documents in discovery and at trial in complex cases;

(2) be transferred, on or before March 1 annually, to the Fish and Wildlife Trust Fund to replace revenue lost from the issuance of free permanent licenses pursuant to 10 V.S.A. § 4255(c)(7).

* * *

Unfinished Business of Monday, June 1, 2020

Third Reading

H. 959

An act relating to education property tax.

Amendment to be offered by Representatives Beck of St. Johnsbury, Till of Jericho, Ancel of Calais, Anthony of Barre City, Brennan of Colchester, Canfield of Fair Haven, Donovan of Burlington, Kornheiser of Brattleboro, Masland of Thetford, Scheu of Middlebury, and Young of Greensboro to

Representatives Beck of St. Johnsbury, Till of Jericho, Ancel of Calais, Anthony of Barre City, Brennan of Colchester, Canfield of Fair Haven, Donovan of Burlington, Kornheiser of Brattleboro, Masland of Thetford, Scheu of Middlebury, and Young of Greensboro move that the bill be amended in Sec. 2 (Education Fund deficit), by striking the section in its entirety and inserting a new Sec. 2 to read as follows:

Sec. 2. EDUCATION FUND DEFICIT; REPAYMENT

If a deficit in the Education Fund is projected or created for fiscal year 2021, it is the intent of the General Assembly to address the deficit as follows:

- (1) using federal funds to the greatest extent possible;
- (2) applying reversions;
- (3) drawing down the stabilization reserve;
- (4) using other sources of revenue;

- (5) reducing costs;
- (6) borrowing pursuant to Sec. 3 of this act; and
- (7) using any other source of funding, including making appropriations from the General Fund or other funds.

Amendment to be offered by Rep. Browning of Arlington to H. 959

Representative Browning of Arlington moves that the bill be amended by inserting before the reader assistance heading a new Sec. 5 and its reader assistance heading to read as follows:

* * * Education Finance Reform * * *

Sec. 5. EDUCATION FINANCE REFORM

It is the intent of the General Assembly that the system for funding public education in this State be reformed to ensure greater sustainability, efficiency, and equity. The House Committee on Ways and Means and the Senate Committee on Finance shall develop proposals for reform concerning the equalized pupil weighting formula, the property tax credit program, the formula for setting statewide education property tax rates, and the elimination of obligations from the Education Fund that are not directly related to funding public education in this State. On or before March 1, 2021 and annually until 2025, the Committees shall report on their progress to the General Assembly through the introduction of bills or publication of issue briefs.

And by renumbering the remaining section to be numerically correct.

Amendment to be offered by Rep. Ralph of Hartland to H. 959

Representative Ralph of Hartland moves that the bill be amended by striking Sec. 5 (effective date) and its reader assistance heading in their entireties and inserting in lieu thereof the following:

* * * High-Value Homestead Property Surcharge * * *

Sec. 5. 32 V.S.A. § 5402 is amended to read:

§ 5402. EDUCATION PROPERTY TAX LIABILITY

(a) A statewide education tax is imposed on all nonhomestead and homestead property at the following rates:

* * *

(3) The surcharge rate for homestead properties with a fair market value exceeding \$1,000,000.00 shall be \$0.50 per \$100.00 of value.

(b) The statewide education tax shall be calculated as follows:

(1) The Commissioner of Taxes shall determine for each municipality the education tax rates under subsection (a) of this section, divided by the municipality's most recent common level of appraisal. The legislative body in each municipality shall then bill each property taxpayer at the homestead or nonhomestead rate determined by the Commissioner under this subdivision, multiplied by the education property tax grand list value of the property, properly classified as homestead or nonhomestead property and without regard to any other tax classification of the property. Statewide education property tax bills shall show the tax and any surcharge due and the calculation of the rate determined under subsection (a) of this section, divided by the municipality's most recent common level of appraisal, multiplied by the current grand list value of the property to be taxed. Statewide education property tax bills shall also include language provided by the Commissioner pursuant to subsection 5405(g) of this title.

(2) Taxes and any surcharge assessed under this section shall be assessed and collected in the same manner as taxes assessed under chapter 133 of this title with no tax classification other than as homestead or nonhomestead property; provided, however, that the tax levied under this chapter shall be billed to each taxpayer by the municipality in a manner that clearly indicates the tax is separate from any other tax assessed and collected under chapter 133, including an itemization of the separate taxes due. The bill may be on a single sheet of paper with the statewide education tax and other taxes presented separately and side by side.

* * *

(c) The treasurer of each municipality shall by December 1 of the year in which the tax ~~is~~ and any surcharge are levied and on June 1 of the following year pay to the State Treasurer for deposit in the education fund one-half of the municipality's statewide nonhomestead tax; ~~and~~ one-half of the municipality's homestead education tax, as determined under subdivision (b)(1) of this section; and one-half of the municipality's surcharge imposed under subdivision (a)(3) of this section. The Secretary of Education shall determine the municipality's net nonhomestead education tax payment and its net homestead education tax payment to the State based on grand list information received by the Secretary ~~no~~ not later than the March 15 prior to the June 1 net payment. Payment shall be accompanied by a return prescribed by the Secretary of Education. The municipality may retain 0.225 of one percent of the total education tax collected, only upon timely remittance of net payment to the State Treasurer. The municipality may also retain \$15.00 for each late property tax credit claim filed after April 15 and before September 2, as

notified by the Department of Taxes, for the cost of issuing a new property tax bill.

* * *

Sec. 6. 16 V.S.A. § 4025(a) is amended to read:

(a) The Education Fund is established to comprise the following:

(1) all revenue paid to the State from the statewide education tax on nonhomestead and homestead property and the surcharge on homestead property under 32 V.S.A. chapter 135;

* * *

* * * Effective Dates * * *

Sec. 7. EFFECTIVE DATES

This act shall take effect on July 1, 2020 except, notwithstanding 1 V.S.A. § 214, Secs. 5 (surcharge on homestead property) and 6 (Education Fund) shall take effect retroactively on January 1, 2020 and apply to any grand list lodged after that date.

Amendment to be offered by Rep. Ralph of Hartland to H. 959

Representative Ralph of Hartland moves that the bill be amended by inserting before the reader assistance heading a new Sec. 5 and its reader assistance headings to read as follows:

* * * Education Property Tax; Property Classification Report * * *

Sec. 5. REPORT; DEPARTMENT OF TAXES; PROPERTY

CLASSIFICATION

On or before December 15, 2020, the Department of Taxes, with the assistance of the Joint Fiscal Office and the Office of Legislative Council, shall submit a report to the House Committee on Ways and Means and the Senate Committee on Finance that studies the impact and feasibility of creating a third classification of property for the purposes of the statewide education property tax that shall comprise nonhomestead, non-commercial, and non-agricultural properties with a fair market value exceeding \$1,000,000.00.

And by renumbering the remaining section to be numerically correct.

Favorable with Amendment

H. 611

An act relating to the Older Vermonters Act

Rep. Wood of Waterbury, for the Committee on Human Services, recommends the bill be amended by striking all after the enacting clause and

inserting in lieu thereof the following:

* * * Older Vermonters Act * * *

Sec. 1. 33 V.S.A. chapter 62 is added to read:

CHAPTER 62. OLDER VERMONTERS ACT

§ 6201. SHORT TITLE

This chapter may be cited as the “Older Vermonters Act.”

§ 6202. PRINCIPLES OF SYSTEM OF SERVICES, SUPPORTS, AND PROTECTIONS FOR OLDER VERMONTERS

The State of Vermont adopts the following principles for a comprehensive and coordinated system of services and supports for older Vermonters:

(1) Self-determination. Older Vermonters should be able to direct their own lives as they age so that aging is not something that merely happens to them but a process in which they actively participate. Whatever services, supports, and protections are offered, older Vermonters deserve dignity and respect and must be at the core of all decisions affecting their lives, with the opportunity to accept or refuse any offering.

(2) Safety and protection. Older Vermonters should be able to live in communities, whether urban or rural, that are safe and secure. Older Vermonters have the right to be free from abuse, neglect, and exploitation, including financial exploitation. As older Vermonters age, their civil and legal rights should be protected, even if their capacity is diminished. Safety and stability should be sought, balanced with their right to self-determination.

(3) Coordinated and efficient system of services. Older Vermonters should be able to benefit from a system of services, supports, and protections, including protective services, that is coordinated, equitable, and efficient; includes public and private cross-sector collaboration at the State, regional, and local levels; and avoids duplication while promoting choice, flexibility, and creativity. The system should be easy for individuals and families to access and navigate, including as it relates to major transitions in care.

(4) Financial security. Older Vermonters should be able to receive an adequate income and have the opportunity to maintain assets for a reasonable quality of life as they age. If older Vermonters want to work, they should be able to seek and maintain employment without fear of discrimination and with any needed accommodations. Older Vermonters should also be able to retire after a lifetime of work, if they so choose, without fear of poverty and isolation.

(5) Optimal health and wellness. Older Vermonters should have the opportunity to receive, without discrimination, optimal physical, dental, mental, emotional, and spiritual health through the end of their lives. Holistic options for health, exercise, counseling, and good nutrition should be both affordable and accessible. Access to coordinated, competent, and high-quality care should be provided at all levels and in all settings.

(6) Social connection and engagement. Older Vermonters should be free from isolation and loneliness, with affordable and accessible opportunities in their communities for social connectedness, including work, volunteering, lifelong learning, civic engagement, arts, culture, and broadband access and other technologies. Older Vermonters are critical to our local economies and their contributions should be valued by all.

(7) Housing, transportation, and community design. Vermont communities should be designed, zoned, and built to support the health, safety, and independence of older Vermonters, with affordable, accessible, appropriate, safe, and service-enriched housing, transportation, and community support options that allow them to age in a variety of settings along the continuum of care and that foster engagement in community life.

(8) Family caregiver support. Family caregivers are fundamental to supporting the health and well-being of older Vermonters, and their hard work and contributions should be respected, valued, and supported. Family caregivers of all ages should have affordable access to education, training, counseling, respite, and support that is both coordinated and efficient.

§ 6203. DEFINITIONS

As used in this chapter:

(1) “Area agency on aging” means an organization designated by the State to develop and implement a comprehensive and coordinated system of services, supports, and protections for older Vermonters, family caregivers, and kinship caregivers within a defined planning and service area of the State.

(2) “Choices for Care program” means the Choices for Care program contained within Vermont’s Global Commitment to Health Section 1115 demonstration or a successor program.

(3) “Department” means the Department of Disabilities, Aging, and Independent Living.

(4) “Family caregiver” means an adult family member or other individual who is an informal provider of in-home and community care to an older Vermonter or to an individual with Alzheimer’s disease or a related disorder.

(5) “Greatest economic need” means the need resulting from an income level that is too low to meet basic needs for housing, food, transportation, and health care.

(6) “Greatest social need” means the need caused by noneconomic factors, including:

(A) physical and mental disabilities;

(B) language barriers; and

(C) cultural, social, or geographic isolation, including isolation caused by racial or ethnic status, sexual orientation, gender identity, or HIV status, that:

(i) restricts an individual’s ability to perform normal daily tasks; or

(ii) threatens the capacity of the individual to live independently.

(7) “Home- and community-based services” means long-term services and supports received in a home or community setting other than a nursing home pursuant to the Choices for Care component of Vermont’s Global Commitment to Health Section 1115 Medicaid demonstration or a successor program and includes home health and hospice services, assistive community care services, and enhanced residential care services.

(8) “Kinship caregiver” means an adult individual who has significant ties to a child or family, or both, and takes permanent or temporary care of a child because the current parent is unwilling or unable to do so.

(9) “Older Americans Act” means the federal law originally enacted in 1965 to facilitate a comprehensive and coordinated system of supports and services for older Americans and their caregivers.

(10) “Older Vermonters” means all individuals residing in this State who are 60 years of age or older.

(11)(A) “Self-neglect” means an adult’s inability, due to physical or mental impairment or diminished capacity, to perform essential self-care tasks, including:

(i) obtaining essential food, clothing, shelter, and medical care;

(ii) obtaining goods and services necessary to maintain physical health, mental health, or general safety; or

(iii) managing one’s own financial affairs.

(B) The term “self-neglect” excludes individuals who make a conscious and voluntary choice not to provide for certain basic needs as a matter of lifestyle, personal preference, or religious belief and who understand the consequences of their decision.

(12) “Senior center” means a community facility that organizes, provides, or arranges for a broad spectrum of services for older Vermonters, including physical and mental health-related, social, nutritional, and educational services, and that provides facilities for use by older Vermonters to engage in recreational activities.

(13) “State Plan on Aging” means the plan required by the Older Americans Act that outlines the roles and responsibilities of the State and the area agencies on aging in administering and carrying out the Older Americans Act.

(14) “State Unit on Aging” means an agency within a state’s government that is directed to administer the Older Americans Act programs and to develop the State Plan on Aging in that state.

§ 6204. DEPARTMENT OF DISABILITIES, AGING, AND

INDEPENDENT LIVING; DUTIES

(a) The Department of Disabilities, Aging, and Independent Living is Vermont’s designated State Unit on Aging.

(1) The Department shall administer all Older Americans Act programs in this State and shall develop and maintain the State Plan on Aging.

(2) The Department shall be the subject matter expert to guide decision making in State government for all programs, services, funding, initiatives, and other activities relating to or affecting older Vermonters, including:

(A) State-funded and federally funded long-term care services and supports;

(B) housing and transportation; and

(C) health care reform activities.

(3) The Department shall administer the Choices for Care program, which the Department shall do in coordination with efforts it undertakes in its role as the State Unit on Aging.

(b)(1) The Department shall coordinate strategies to incorporate the principles established in section 6202 of this chapter into all programs serving older Vermonters.

(2) The Department shall use both qualitative and quantitative data to monitor and evaluate the system's success in targeting services to individuals with the greatest economic and social need.

(c) The Department's Advisory Board established pursuant to section 505 of this title shall monitor the implementation and administration of the Older Vermonters Act established by this chapter.

§ 6205. AREA AGENCIES ON AGING; DUTIES

(a) Consistent with the Older Americans Act and in consultation with local home- and community-based service providers, each area agency on aging shall:

(1) develop and implement a comprehensive and coordinated system of services, supports, and protections for older Vermonters, family caregivers, and kinship caregivers within the agency's designated service area;

(2) target services and supports to older Vermonters with the greatest economic and social need;

(3) perform regional needs assessments to identify existing resources and gaps;

(4) develop an area plan with goals, objectives, and performance measures, and a corresponding budget, and submit them to the State Unit on Aging for approval;

(5) concentrate resources, build community partnerships, and enter into cooperate agreements with agencies and organizations for delivery of services;

(6) designate community focal points for colocation of supports and services for older Vermonters; and

(7) conduct outreach activities to identify individuals eligible for assistance.

(b) In addition to the duties described in subsection (a) of this section, the area agencies on aging shall:

(1) promote the principles established in section 6202 of this chapter across the agencies' programs and shall collaborate with stakeholders to educate the public about the importance of each principle;

(2) promote collaboration with a network of service providers to provide a holistic approach to improving health outcomes for older Vermonters; and

(3) use their existing area plans to facilitate awareness of aging issues, needs, and services and to promote the system principles expressed in section

6202 of this chapter.

§ 6206. PLAN FOR COMPREHENSIVE AND COORDINATED SYSTEM
OF SERVICES, SUPPORTS, AND PROTECTIONS

(a) At least once every four years, the Department of Disabilities, Aging, and Independent Living shall adopt a State Plan on Aging, as required by the Older Americans Act. The State Plan on Aging shall describe a comprehensive and coordinated system of services, supports, and protections for older Vermonters that is consistent with the principles set forth in section 6202 of this chapter and sets forth the nature, extent, allocation, anticipated funding, and timing of services for older Vermonters. The State Plan on Aging shall also include the following categories:

(1) priorities for continuation of existing programs and development of new programs;

(2) criteria for receiving services or funding;

(3) types of services provided; and

(4) a process for evaluating and assessing each program's success.

(b)(1) The Commissioner shall determine priorities for the State Plan on Aging based on:

(A) information obtained from older Vermonters, their families, and their guardians, if applicable, and from senior centers and service providers;

(B) a comprehensive needs assessment that includes:

(i) demographic information about Vermont residents, including older Vermonters, family caregivers, and kinship caregivers;

(ii) information about existing services used by older Vermonters, family caregivers, and kinship caregivers;

(iii) characteristics of unserved and underserved individuals and populations; and

(iv) the reasons for any gaps in service, including identifying variations in community needs and resources; and

(C) a comprehensive evaluation of the services available to older Vermonters across the State, including home- and community-based services, residential care homes, assisted living residences, nursing facilities, senior centers, and other settings in which care is or may later be provided.

(2) Following the determination of State Plan on Aging priorities, the Commissioner shall consider funds available to the Department in allocating

resources.

(c) At least 60 days prior to adopting the proposed plan, the Commissioner shall submit a draft to the Department's Advisory Board established pursuant to section 505 of this title for advice and recommendations. The Advisory Board shall provide the Commissioner with written comments on the proposed plan.

(d) The Commissioner may make annual revisions to the plan as needed. The Commissioner shall submit any proposed revisions to the Department's Advisory Board for comment within the time frames established in subsection (c) of this section.

(e) On or before January 15 of each year, and notwithstanding the provisions of 2 V.S.A. § 20(d), the Department shall report to the House Committee on Human Services, the Senate Committee on Health and Welfare, and the Governor regarding:

(1) implementation of the plan;

(2) the extent to which the system principles set forth in section 6202 of this chapter are being achieved;

(3) based on both qualitative and quantitative data, the extent to which the system has been successful in targeting services to individuals with the greatest economic and social need;

(4) the sufficiency of the provider network and any workforce challenges affecting providers of care or services for older Vermonters; and

(5) the availability of affordable and accessible opportunities for older Vermonters to engage with their communities, such as social events, educational classes, civic meetings, health and exercise programs, and volunteer opportunities.

* * * Adult Protective Services Program Reporting * * *

Sec. 2. 33 V.S.A. § 6916 is added to read:

§ 6916. ANNUAL REPORT

On or before January 15 of each year, and notwithstanding the provisions of 2 V.S.A. § 20(d), the Department shall report to the House Committee on Human Services and the Senate Committee on Health and Welfare regarding the Department's adult protective services activities during the previous fiscal year, including:

(1) the number of reports of abuse, neglect, or exploitation of a vulnerable adult that the Department's Adult Protective Services program

received during the previous fiscal year and comparisons with the two prior fiscal years;

(2) the Adult Protective Services program's timeliness in responding to reports of abuse, neglect, or exploitation of a vulnerable adult during the previous fiscal year, including the median number of days it took the program to make a screening decision;

(3) the number of reports received during the previous fiscal year that required a field screen to determine vulnerability and the percentage of field screens that were completed within 10 calendar days;

(4) the number of reports of abuse, neglect, or exploitation of a vulnerable adult that were received from a facility licensed by the Department's Division of Licensing and Protection during the previous fiscal year;

(5) the numbers and percentages of reports received during the previous fiscal year by each reporting method, including by telephone, e-mail, Internet, facsimile, and other means;

(6) the number of investigations opened during the previous fiscal year and comparisons with the two prior fiscal years;

(7) the number and percentage of investigations during the previous fiscal year in which the alleged victim was a resident of a facility licensed by the Department's Division of Licensing and Protection;

(8) data regarding the types of maltreatment experienced by alleged victims during the previous fiscal year, including:

(A) the percentage of investigations that involved multiple types of allegations of abuse, neglect, or exploitation, or a combination;

(B) the numbers and percentages of unsubstantiated investigations by type of maltreatment; and

(C) the numbers and percentages of recommended substantiations by type of maltreatment;

(9) the Department's timeliness in completing investigations during the previous fiscal year, including both unsubstantiated and recommended substantiated investigations;

(10) data on Adult Protective Services program investigator caseloads, including:

(A) average daily caseloads during the previous fiscal year and comparisons with the two prior fiscal years;

(B) average daily open investigations statewide during the previous fiscal year and comparisons with the two prior fiscal years;

(C) average numbers of completed investigations per investigator during the previous fiscal year; and

(D) average numbers of completed investigations per week during the previous fiscal year;

(11) the number of reviews of screening decisions not to investigate, including the number and percentage of these decisions that were upheld during the previous fiscal year and comparisons with the two prior fiscal years;

(12) the number of reviews of investigations that resulted in an unsubstantiation, including the number and percentage of these unsubstantiations that were upheld during the previous fiscal year and comparisons with the two prior fiscal years;

(13) the number of appeals of recommendations of substantiation that concluded with the Commissioner, including the number and percentage of these recommendations that the Commissioner upheld during the previous fiscal year and comparisons with the two prior fiscal years;

(14) the number of appeals of recommendations of substantiation that concluded with the Human Services Board, including the numbers and percentages of these recommendations that the Board upheld during the previous fiscal year and comparisons with the two prior fiscal years;

(15) the number of appeals of recommendations of substantiation that concluded with the Vermont Supreme Court, including the numbers and percentages of these recommendations that the Court upheld during the previous fiscal year and comparisons with the two prior fiscal years;

(16) the number of expungement requests received during the previous fiscal year, including the number of requests that resulted in removal of an individual from the Adult Abuse Registry;

(17) the number of individuals placed on the Adult Abuse Registry during the previous fiscal year and comparisons with the two prior fiscal years; and

(18) the number of individuals removed from the Adult Abuse Registry during the previous fiscal year.

* * * Vermont Action Plan for Aging Well; Development Process * * *

Sec. 3. VERMONT ACTION PLAN FOR AGING WELL; DEVELOPMENT
PROCESS; REPORT

The Secretary of Administration, in collaboration with the Commissioners of Disabilities, Aging, and Independent Living and of Health, shall propose a process for developing the Vermont Action Plan for Aging Well to be implemented across State government, local government, the private sector, and philanthropies. The Vermont Action Plan for Aging Well shall provide strategies and cultivate partnerships for implementation across sectors to promote aging with health, choice, and dignity in order to establish and maintain an age-friendly State for all Vermonters. In crafting the proposed process, the Secretary shall engage a broad array of Vermonters with an interest in creating an age-friendly Vermont, including older Vermonters and their families, adults with disabilities and their families, local government officials, health care and other service providers, employers, community-based organizations, foundations, academic researchers, and other interested stakeholders. On or before January 15, 2021, the Secretary shall submit to the House Committee on Human Services and the Senate Committee on Health and Welfare the proposed process for developing the Vermont Action Plan for Aging Well, including action steps and an achievable timeline, as well as potential performance measures for use in evaluating the results of implementing the Action Plan and the relevant outcomes set forth in 3 V.S.A. § 2311 and related indicators, to which the Action Plan should relate.

* * * Increasing Medicaid Rates for Home- and Community-Based
Service Providers * * *

Sec. 4. 33 V.S.A. § 900 is amended to read:

§ 900. DEFINITIONS

~~Unless otherwise required by the context, the words and phrases in this chapter shall be defined as follows~~ As used in this chapter:

* * *

(7) “Home- and community-based services” means long-term services and supports received in a home or community setting other than a nursing home pursuant to the Choices for Care component of Vermont’s Global Commitment to Health Section 1115 Medicaid demonstration or a successor program and includes home health and hospice services, assistive community care services, and enhanced residential care services.

Sec. 5. 33 V.S.A. § 911 is added to read:

§ 911. INFLATION FACTOR FOR HOME- AND COMMUNITY-BASED SERVICES; PAYMENT RATES

(a) The Director shall establish by rule procedures for determining an

annual inflation factor to be applied to the Medicaid rates for providers of home- and community-based services authorized by the Department of Vermont Health Access or the Department of Disabilities, Aging, and Independent Living, or both.

(b) The Division, in collaboration with the Department of Disabilities, Aging, and Independent Living, shall calculate the inflation factor for home- and community-based services annually according to the procedure adopted by rule and shall report it to the Departments of Disabilities, Aging, and Independent Living and of Vermont Health Access for application to home- and community-based provider Medicaid reimbursement rates beginning on July 1.

(c) Determination of Medicaid reimbursement rates for each fiscal year shall be based on application of the inflation factor to the sum of:

(1) the prior fiscal year's payment rates; plus

(2) any additional payment amounts available to providers of home- and community-based services as a result of policies enacted by the General Assembly that apply to the fiscal year for which the rates are being calculated.

Sec. 6. HOME- AND COMMUNITY-BASED SERVICE PROVIDER

RATE STUDY; REPORT

(a) The Departments of Vermont Health Access and of Disabilities, Aging, and Independent Living shall conduct a rate study of the Medicaid reimbursement rates paid to providers of home- and community-based services, their adequacy, and the methodologies underlying those rates. The Departments shall:

(1) establish a predictable schedule for Medicaid rates and rate updates;

(2) identify ways to align the Medicaid reimbursement methodologies and rates for providers of home- and community-based services with those of other payers, to the extent such other methodologies and rates exist;

(3) limit the number of methodological exceptions; and

(4) communicate the proposed changes to providers of home- and community-based services prior to implementing any proposed changes.

(b) On or before January 15, 2021, the Departments of Vermont Health Access and of Disabilities, Aging, and Independent Living shall report to the House Committees on Human Services and on Appropriations and the Senate Committees on Health and Welfare and on Appropriations with the results of the rate study conducted pursuant to this section.

* * * Self-Neglect Working Group * * *

Sec. 7. SELF-NEGLECT WORKING GROUP; REPORT

(a) Creation. There is created the Self-Neglect Working Group to provide recommendations regarding adults who, due to physical or mental impairment or diminished capacity, are unable to perform essential self-care tasks. For the purposes of the Working Group, “self-neglect” has the same meaning as in 33 V.S.A. § 6203.

(b) Membership. The Working Group shall be composed of the following members:

(1) the Commissioner of Disabilities, Aging, and Independent Living or designee;

(2) the Director of the Adult Services Division in the Department of Disabilities, Aging, and Independent Living or designee;

(3) the Vermont Attorney General or designee;

(4) the State Long-Term Care Ombudsman or designee;

(5) the Executive Director of the Vermont Association of Area Agencies on Aging or designee;

(6) the Executive Director of the Community of Vermont Elders or designee;

(7) the Executive Director of the VNAs of Vermont or designee;

(8) the Executive Director of Disability Rights Vermont or designee;

(9) an elder care clinician selected by Vermont Care Partners; and

(10) the Director of the Center on Aging at the University of Vermont College of Medicine or designee.

(c) Powers and duties. The Working Group shall consider issues and develop recommendations relating to self-neglect, including determining the following:

(1) how to identify adults residing in Vermont who, because of physical or mental impairment or diminished capacity, are unable to perform essential self-care tasks and are self-neglecting;

(2) how prevalent self-neglect is among adults in Vermont, and any common characteristics that can be identified about the demographics of self-neglecting Vermonters;

(3) what resources and services currently exist to assist Vermonters who

are self-neglecting, and where there are opportunities to improve delivery of these services and increase coordination among existing service providers;

(4) what additional resources and services are needed to better assist Vermonters who are self-neglecting; and

(5) how to prevent self-neglect and identify adults at risk for self-neglect.

(d) Assistance. The Working Group shall have the administrative, technical, and legal assistance of the Department of Disabilities, Aging, and Independent Living.

(e) Report. On or before December 15, 2020, the Working Group shall report its findings and its recommendations for legislative and nonlegislative action to the House Committee on Human Services and the Senate Committee on Health and Welfare.

(f) Meetings.

(1) The Commissioner of Disabilities, Aging, and Independent Living or designee shall call the first meeting of the Working Group to occur on or before July 1, 2020.

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

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

(4) The Working Group shall cease to exist following submission of its report pursuant to subsection (e) of this section.

* * * Effective Dates * * *

Sec. 8. EFFECTIVE DATES

(a) Secs. 1 (Older Vermonters Act), 2 (Adult Protective Services reporting), 3 (Strategic Action Plan on Aging; development process; report), 6 (home- and community-based service provider rate study; report), and 7 (Self-Neglect Working Group; report) and this section shall take effect on passage, except that in Sec. 1, 33 V.S.A. § 6206 (plan for comprehensive and coordinated system of services, supports, and protections) shall apply to the State Plan on Aging taking effect on October 1, 2022.

(b) Secs. 4 and 5 (Medicaid rates for home- and community-based service providers) shall take effect on passage and shall apply to home- and community-based service provider rates beginning on July 1, 2021.

(Committee Vote: 11-0-0)

Rep. Lanpher of Vergennes, for the Committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committee on Human Services and when further amended as follows:

First: By striking Secs. 4, 33 V.S.A. § 900, and 5, 33 V.S.A. § 911, in their entireties and inserting in lieu thereof new Secs. 4 and 5 to read as follows:

Sec. 4. [Deleted.]

Sec. 5. [Deleted.]

Second: By striking Sec. 8, effective dates, in its entirety and inserting in lieu thereof a new Sec. 8 to read as follows:

Sec. 8. EFFECTIVE DATE

This act shall take effect on passage, except that in Sec. 1, 33 V.S.A. § 6206 (plan for comprehensive and coordinated system of services, supports, and protections) shall apply to the State Plan on Aging taking effect on October 1, 2022.

(Committee Vote: 10-1-0)

H. 943

An act relating to approval of amendments to the charter of the City of St. Albans

Rep. Brownell of Pownal, for the Committee on Government Operations, recommends the bill ought to pass.

(Committee Vote: 11-0-0)

Rep. Brennan of Colchester, for the Committee on Ways and Means, recommends the bill be amended as follows:

In Sec. 2, 24 App. V.S.A. chapter 11, § 23, in subsection (d), immediately following the period, by inserting “Any tax imposed under the authority of this subsection shall be collected and administered pursuant to 24 V.S.A. § 138.”

(Committee Vote: 10-1-0)

H. 946

An act relating to approval of the adoption of the charter of the Town of Elmore

Rep. Mrowicki of Putney, for the Committee on Government Operations, recommends the bill ought to pass.

(Committee Vote: 11-0-0)

Rep. Donovan of Burlington, for the Committee on Ways and Means, recommends the bill be amended as follows:

In Sec. 2, 24 App. V.S.A. chapter 114G, in section 1, in subsection (c), by striking out the word “Revenues” and inserting in lieu thereof “The Town’s share of the revenues”

(Committee Vote: 10-1-0)

Favorable

S. 347

An act relating to suspension of time frames for civil license suspension hearings for certain DUI offenses

Rep. Christie of Hartford, for the Committee on Judiciary, recommends that the bill ought to pass in concurrence.

(Committee Vote: 9-0-2)

(For text see Senate Journal May 12, 2020, page 455.)

NEW BUSINESS

Committee Bill for Second Reading

H. 960

An act relating to miscellaneous health care provisions.

(**Rep. Donahue of Northfield** will speak for the Committee on Health Care.)

Amendment to be offered by Rep. Donahue of Northfield to H. 960

Rep. Donahue of Northfield moves that bill be amended by striking Sec. 5 in its entirety and inserting in lieu thereof a new Sec. 5 to read as follows:

Sec. 5. BRATTLEBORO RETREAT; CONDITIONS OF STATE FUNDING

(a) Findings. In recognition of the significant need within Vermont’s health care system for inpatient psychiatric capacity, the General Assembly has made significant investments in capital funds and in rate adjustments to assist the Brattleboro Retreat in its financial sustainability. The General Assembly has a significant interest in the quality of care provided at the Brattleboro Retreat, which provides 100 percent of the State’s inpatient psychiatric care for children and youth, and more than half of the adult inpatient care, of which approximately 50 percent is paid for with State funding.

(b) Conditions. As a condition of further State funding, the General Assembly requires that the following quality oversight measures be implemented by the Brattleboro Retreat under the oversight of the Department of Mental Health:

(1) allow the existing mental health patient representative under contract with the Department pursuant to 18 V.S.A. § 7253(1)(J) to have full access to inpatient units to ensure that the mental health patient representative is available to individuals who are not in the custody of the Commissioner;

(2) in addition to existing policies regarding the provision of certificates of need for emergency involuntary procedures, provide to the Department deidentified certificates of need for emergency involuntary procedures used on individuals who are not in the custody of the Commissioner; and

(3) ensure that the mental health patient representative be a regular presenter at the Brattleboro Retreat's employee orientation programming.

(c)(1) Patient Experience and Quality of Care. To support proactive, continuous quality and practice improvement and to ensure timely access to high quality patient care, the Department and the Brattleboro Retreat shall:

(A) to the extent feasible by the Department, meet jointly each month with the mental health patient representative contracted pursuant to 18 V.S.A. § 7253(1)(J) and the mental health care ombudsman established pursuant to 18 V.S.A. § 7259 to review patient experiences of care; and

(B) identify clinical teams within the Department and the Brattleboro Retreat to meet monthly for discussions on quality issues, including service delivery, clinical practices, practice improvement and training, case review, admission and discharge coordination, and other patient care and safety topics.

(2) On or before February 1, 2021, the Department shall report to the House Committee on Health Care and to the Senate Committee on Health and Welfare regarding patient experiences and quality of care at the Brattleboro Retreat.

Favorable with Amendment

S. 128

An act relating to physician assistant licensure

Rep. Cordes of Lincoln, for the Committee on Health Care, 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. 26 V.S.A. chapter 31 is amended to read:

CHAPTER 31. PHYSICIAN ASSISTANTS

§ 1731. POLICY AND PURPOSE

The General Assembly recognizes the need to provide means by which ~~physicians in this State may increase the scope and~~ physician assistants may practice medicine in collaboration with physicians and other health care professionals to provide increased efficiency of their practice in order and to ensure that ~~quality~~ high-quality medical services are available to all Vermonters at reasonable cost. The General Assembly recognizes that physician assistants, with their education, training, and experience in the field of medicine, are well suited to provide these services to Vermonters.

§ 1732. DEFINITIONS

As used in this chapter:

(1) “Accredited physician assistant program” means a physician assistant educational program that has been accredited by the Accreditation Review Commission on Education for the Physician Assistant (ARC-PA), or, prior to 2001, by either the Committee on Allied Health Education and Accreditation (CAHEA), or the Commission on Accreditation of Allied Health Education Programs (CAAHEP).

(2) “Board” means the State Board of Medical Practice established by chapter 23 of this title.

(3) ~~“Delegation agreement” means a detailed description of the duties and scope of practice delegated by a primary supervising physician to a physician assistant that is signed by both the physician assistant and the supervising physicians.~~ “Collaboration” means a physician assistant’s consultation with or referral to an appropriate physician or other health care professional as indicated based on the patient’s condition; the physician assistant’s education, training, and experience; and the applicable standards of care.

(4) “Disciplinary action” means any action taken by the Board against a physician assistant or an applicant, or an appeal of that action, when the action suspends, revokes, limits, or conditions licensure in any way. The term includes reprimands and administrative penalties.

(5) “Health care facility” has the same meaning as in 18 V.S.A. § 9402.

(6) “Participating physician” means a physician practicing as a sole practitioner, a physician designated by a group of physicians to represent their physician group, or a physician designated by a health care facility to represent

that facility, who enters into a practice agreement with a physician assistant in accordance with this chapter.

(7) “Physician” means an individual licensed to practice medicine pursuant to chapter 23 or 33 of this title.

~~(5)~~(8) “Physician assistant” or “PA” means an individual licensed by the State of Vermont ~~who is qualified by education, training, experience, and personal character to provide medical care with the direction and supervision of a Vermont licensed physician to practice medicine in collaboration with one or more physicians pursuant to this chapter.~~

(9) “Physician group” means a medical practice involving two or more physicians.

~~(6)~~(10) “Supervising physician” means an M.D. or D.O. licensed by the state of Vermont who oversees and accepts responsibility for the medical care provided by a physician assistant. “Practice agreement” means an agreement that meets the requirements of section 1735a of this chapter.

~~(7)~~(11) “Supervision” means the direction and review by the supervising physician of the medical care provided by the physician assistant. ~~The constant physical presence of the supervising physician is not required as long as the supervising physician and physician assistant are or easily can be in contact with each other by telecommunication.~~ “Practice as a physician assistant” means the practice of medicine by a PA pursuant to a practice agreement signed by a participating physician.

~~(8) “Disciplinary action” means any action taken against a physician assistant or an applicant by the Board or on appeal therefrom, when that action suspends, revokes, limits, or conditions licensure in any way, and includes reprimands and administrative penalties.~~

§ 1733. LICENSURE

(a) The State Board of Medical Practice is responsible for the licensure of physician assistants, and the Commissioner of Health shall adopt, amend, or repeal rules regarding the training, practice, qualification, and discipline of physician assistants.

~~(b) In order to practice, a licensed physician assistant shall have completed a delegation agreement as described in section 1735a of this title with a Vermont licensed physician signed by both the physician assistant and the supervising physician or physicians. The original shall be filed with the Board and copies shall be kept on file at each of the physician assistant’s practice sites. All applicants and licensees shall demonstrate that the requirements for licensure are met.~~

~~(c),(d) [Repealed.]~~

§ 1734. ELIGIBILITY

(a) The Board may grant a license to practice as a physician assistant to an applicant who meets all of the following requirements:

(1) ~~submits~~ Submits a completed application form provided by the ~~board;~~ Board.

(2) ~~pays~~ Pays the required application fee;.

(3) ~~has~~ Has graduated from an accredited physician assistant program or has passed and maintained the certification examination by the National Commission on the Certification of Physician Assistants (NCCPA) prior to 1988;.

(4) ~~has~~ Has passed the ~~certification examination given~~ Physician Assistant National Certifying Examination administered by the NCCPA;.

(5) ~~is~~ Is mentally and physically able to engage safely in practice as a physician assistant;.

(6) ~~does~~ Does not hold any license, certification, or registration as a physician assistant in another state or jurisdiction that is under current disciplinary action, or has been revoked, suspended, or placed on probation for cause resulting from the applicant's practice as a physician assistant, unless the Board has considered the applicant's circumstances and determines that licensure is appropriate;.

(7) ~~is~~ Is of good moral character;.

(8) ~~submits~~ Submits to the Board any other information that the Board deems necessary to evaluate the applicant's qualifications; ~~and.~~

(9) ~~has~~ Has engaged in practice as a physician assistant within the last three years or has complied with the requirements for updating knowledge and skills as defined by Board rules. This requirement shall not apply to applicants who have graduated from an accredited physician assistant program within the last three years.

~~(b), (c) [Repealed.]~~

(d) When the Board intends to deny an application for licensure, it shall send the applicant written notice of its decision by certified mail. The notice shall include a statement of the reasons for the action. Within 30 days of the date that an applicant receives such notice, the applicant may file a petition with the Board for review of its preliminary decision. At the hearing, the

burden shall be on the applicant to show that licensure should be granted. After the hearing, the Board shall affirm or reverse its preliminary denial.

(e) Failure to maintain competence in the knowledge and skills of a physician assistant, as determined by the Board, shall be cause for revocation of licensure.

§ 1734b. RENEWAL OF LICENSE

(a) Licenses shall be renewed every two years on payment of the required fee. At least one month prior to the date on which renewal is required, the Board shall send to each licensee a license renewal application form and notice of the date on which the existing license will expire. On or before the renewal date, the licensee shall file an application for license renewal and pay the required fee. The Board shall register the applicant and issue the renewal license. Within one month following the date renewal is required, the Board shall pay the license renewal fees into the Medical Practice Board Special Fund. Any physician assistant while on extended active duty ~~in the uniformed services of the United States or member of the National Guard, State Guard, or reserve component~~ as a member of the U.S. Armed Forces, a reserve component of the U.S. Armed Forces, the National Guard, or the State Guard who is licensed as a physician assistant at the time of an activation or deployment shall receive an extension of licensure up to 90 days following the physician assistant's return from activation or deployment, provided the physician assistant notifies the Board of ~~his or her~~ the activation or deployment prior to the expiration of the current license, and certifies that the circumstances of the activation or deployment impede good faith efforts to make timely application for renewal of the license.

(b) A licensee shall demonstrate that the requirements for licensure are met.

(c) A licensee for renewal of an active license to practice shall have practiced as a physician assistant within the last three years or have complied with the requirements for updating knowledge and skills as defined by Board rules.

(d) A licensee shall promptly provide the Board with new or changed information pertinent to the information in ~~his or her~~ the physician assistant's license and license renewal applications at the time ~~he or she~~ the licensee becomes aware of the new or changed information.

(e) A license that has lapsed may be reinstated on payment of a renewal fee and a late renewal fee. The applicant shall not be required to pay renewal fees during periods when the license was lapsed. However, if a license remains

lapsed for a period of three years, the Board may require the licensee to update ~~his or her~~ the licensee's knowledge and skills as defined by Board rules.

§ 1734c. EXEMPTIONS

(a) Nothing in this chapter shall be construed to require licensure under this chapter of any of the following:

(1) ~~a physician~~ Physician assistant ~~student~~ students enrolled in a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant;

(2) ~~a physician assistant~~ Physician assistants employed in the service of the U.S. Armed Forces or National Guard, including National Guard in state status, while performing duties incident to that employment;

(3) ~~a technician~~ Technicians or other ~~assistant or employee~~ assistants or employees of a physician who ~~performs~~ perform physician-delegated tasks but who ~~is~~ are not rendering services as a ~~physician assistant~~ assistants or identifying ~~himself or herself~~ themselves as a ~~physician assistant~~; or assistants.

(4) ~~a physician assistant~~ Physician assistants who ~~is~~ are duly licensed and in good standing in another state, territory, or jurisdiction of the United States or in Canada if the ~~physician assistant is~~ assistants are employed as or formally designated as the ~~team physician assistant~~ assistants by an athletic team visiting Vermont for a specific sporting event and the ~~physician assistant~~ assistants ~~limits his or her~~ limit their practice in this State to the treatment of the members, coaches, and staff of the sports team employing or designating the ~~physician assistant~~ assistants.

(b) Physician assistants licensed in this State or credentialed as physician assistants by a federal employer shall not be required to have a practice agreement when responding to a need for medical care created by a disaster or emergency, as that term is defined in 20 V.S.A. § 102(c).

§ 1735a. SUPERVISION PRACTICE AGREEMENT AND SCOPE OF

PRACTICE

(a) ~~It is the obligation of each team of physician and physician assistant to ensure that the physician assistant's scope of practice is identified; that delegation of medical care is appropriate to the physician assistant's level of competence; that the supervision, monitoring, documentation, and access to the supervising physician is defined; and that a process for evaluation of the physician assistant's performance is established~~ Except as provided in subsection 1734c(b) of this chapter and subsection (e) of this section, a physician assistant shall engage in practice as a physician assistant in this State

only if the physician assistant has entered into a written practice agreement as set forth in subsection (b) of this section.

(1) A physician assistant shall enter into a practice agreement with a physician who practices as a sole practitioner only if the participating physician's area of specialty is similar to or related to the physician assistant's area of specialty.

(2) A physician assistant shall enter into a practice agreement with a participating physician who represents a physician group or health care facility only if one or more of the physicians practicing in the physician group or at the health care facility has an area of specialty similar to or related to the physician assistant's area of specialty.

~~(b) The information required in subsection (a) of this section shall be included in a delegation agreement as required by the Commissioner by rule. The delegation agreement shall be signed by both the physician assistant and the supervising physician or physicians, and a copy shall be kept on file at each of the physician assistant's practice sites and the original filed with the Board~~ A practice agreement shall include all of the following:

(1) Processes for physician communication, availability, decision-making, and periodic joint evaluation of services delivered when providing medical care to a patient.

(2) An agreement that the physician assistant's scope of practice shall be limited to medical care that is within the physician assistant's education, training, and experience. Specific restrictions, if any, on the physician assistant's practice shall be listed.

(3) A plan to have a physician available for consultation at all times when the physician assistant is practicing medicine.

(4) The signatures of the physician assistant and the participating physician; no other signatures shall be required.

~~(c) The physician assistant's scope of practice shall be limited to medical care which is delegated to the physician assistant by the supervising physician and performed with the supervision of the supervising physician. The medical care shall be within the supervising physician's scope of practice and shall be care which the supervising physician has determined that the physician assistant is qualified by education, training, and experience to provide~~ A practice agreement may specify the extent of the collaboration required between the PA and physicians and other health care professionals; provided, however, that a physician shall be accessible for consultation by telephone or electronic means at all times when a PA is practicing.

(d) The practice agreement shall be reviewed by the physician assistant and either the participating physician or a representative of the practice, physician group, or health care facility, at a minimum, at the time of the physician assistant's license renewal.

~~(d)~~(e) In the event of the unanticipated unavailability of a participating physician practicing as a sole practitioner due to serious illness or death, a physician assistant may continue to practice for not more than a 30-day period without entering into a new practice agreement with another participating physician.

(f) The practice agreement shall be filed with the Board. The Board shall not request or require any modifications to the practice agreement. The practice agreement may be filed with the Board electronically at the option of the physician assistant; no original documents shall be required.

(g) Nothing in this section shall be construed to require the physical presence of a physician at the time and place at which a physician assistant renders a medical service.

(h) A physician assistant may prescribe, dispense, and administer, and procure drugs and medical devices to the extent delegated by a supervising physician to the same extent as may a physician. A physician assistant who is authorized by a supervising physician to prescribe prescribes controlled substances must register shall be registered with the federal Drug Enforcement Administration.

~~(e) A supervising physician and physician assistant shall report to the Board immediately upon an alteration or the termination of the delegation agreement.~~

§ 1735b. PHYSICIAN ASSISTANT AS PRIMARY CARE PROVIDER

Notwithstanding any provision of law to the contrary, a physician assistant shall be considered a primary care provider when the physician assistant practices in one or more of the medical specialties for which a physician would be considered to be a primary care provider.

§ 1736. UNPROFESSIONAL CONDUCT

(a) The following conduct and the conduct described in section 1354 of this title by a licensed physician assistant shall constitute unprofessional conduct. ~~When;~~ when that conduct is by an applicant or person who later becomes an applicant, it may constitute grounds for denial of licensure:

(1) fraud or misrepresentation in applying for or procuring a license or in applying for or procuring a periodic renewal of a license;

(2) occupational advertising that is intended or has a tendency to deceive the public;

(3) exercising undue influence on or taking improper advantage of a person using the individual's services, or promoting the sale of professional goods or services in a manner that exploits a person for the financial gain of the practitioner or of a third party;

(4) failing to comply with provisions of federal or state statutes or rules governing the profession;

(5) conviction of a crime related to the profession; and

(6) conduct that evidences unfitness to practice in the profession.

(b) Unprofessional conduct includes the following actions by a licensed physician assistant:

(1) Making or filing false professional reports or records, impeding or obstructing the proper making or filing of professional reports or records, or failing to file ~~the~~ a proper professional report or record.

(2) Practicing the profession when mentally or physically unfit to do so.

~~(3) Practicing the profession without having a delegation agreement meeting the requirements of this chapter on file at the primary location of the physician assistant's practice and the Board~~ Practicing as a physician assistant without a practice agreement meeting the requirements of section 1735a of this chapter, except under the circumstances described in subsections 1734c(b) and 1735a(e) of this chapter. The Board's receipt of a practice agreement filed in accordance with subsection 1735a(f) of this chapter shall not be construed to constitute Board approval of the practice agreement or of its contents.

(4) Accepting and performing responsibilities that the individual knows or has reason to know ~~that he or she~~ the individual is not competent to perform.

(5) Making any material misrepresentation in the practice of the profession, whether by commission or omission.

(6) The act of holding ~~one's self~~ oneself out as, or permitting ~~one's self~~ oneself to be represented as, a licensed physician.

~~(7) Performing otherwise than at the direction and under the supervision of a physician licensed by the Board or an osteopath licensed by the Vermont Board of Osteopathic Physicians and Surgeons; [Repealed.]~~

(8) Performing or offering to perform a task or tasks beyond the individual's ~~delegated~~ scope of practice.

(9) Administering, dispensing, procuring, or prescribing any controlled substance otherwise than as authorized by law.

(10) Habitual or excessive use or abuse of drugs, alcohol, or other substances that impair the ability to provide medical services.

(11) Failure to practice competently by reason of any cause on a single occasion or on multiple occasions. Failure to practice competently includes, as determined by the Board:

(A) performance of unsafe or unacceptable patient care; or

(B) failure to conform to the essential standards of acceptable and prevailing practice.

(c) A person aggrieved by a determination of the Board may, within 30 days of the order, appeal that order to the Vermont Supreme Court on the basis of the record created before the Board.

* * *

§ 1738. USE OF TITLE

Any person who is licensed to practice as a physician assistant in this State shall have the right to use the title “physician assistant” and the ~~abbreviation “P.A.”~~ abbreviations “PA” and “PA-C.” No other person ~~may~~ shall assume that title, ~~or use that abbreviation~~ those abbreviations, or use any other words, letters, signs, or devices to indicate that the person using them is a physician assistant.

§ 1739. LEGAL LIABILITY

~~(a) The supervising physician delegating activities to a physician assistant shall be legally liable for such activities of the physician assistant, and the physician assistant shall in this relationship be the physician’s agent.~~

~~(b) Nothing in this chapter shall be construed as prohibiting a physician from delegating to the physician’s employees certain activities relating to medical care and treatment now being carried out by custom and usage when such activities are under the control of the physician. The physician delegating activities to his or her employees shall be legally liable for such activities of such persons, and such person shall in this relationship be the physician’s agent. Nothing contained in this chapter shall be construed to apply to nurses acting pursuant to chapter 28 of this title. Physician assistants are responsible for their own medical decision making. A participating physician in a practice agreement with a physician assistant shall not, by the existence of the practice agreement alone, be legally liable for the actions or inactions of the physician~~

assistant; provided, however, that this does not otherwise limit the liability of the participating physician.

§ 1739a. ~~INAPPROPRIATE USE OF SERVICES BY PHYSICIAN;~~

~~UNPROFESSIONAL CONDUCT~~

~~Use of the services of a physician assistant by a physician in a manner which is inconsistent with the provisions of this chapter constitutes unprofessional conduct by the physician and such physician shall be subject to disciplinary action by the Board in accordance with the provisions of chapter 23 or 33 of this title, as appropriate. [Repealed.]~~

§ 1740. FEES

Applicants and persons regulated under this chapter shall pay the following fees:

(1) Original application for licensure, \$225.00; the Board shall use at least \$10.00 of this fee to support the cost of maintaining the Vermont Practitioner Recovery Network, which, for the protection of the public, monitors and evaluates, coordinates services for, and promotes rehabilitation of licensees who have or potentially have an impaired ability to practice medicine with reasonable skill and safety.

(2) Biennial renewal, \$215.00; the Board shall use at least \$10.00 of this fee to support the cost of maintaining the Vermont Practitioner Recovery Network, ~~which, for the protection of the public, monitors and evaluates, coordinates services for, and promotes rehabilitation of licensees who have or potentially have an impaired ability to practice medicine with reasonable skill and safety~~ described in subdivision (1) of this section.

§ 1741. ~~NOTICE OF USE OF PHYSICIAN ASSISTANT TO BE POSTED~~

~~A physician, clinic, or hospital that utilizes the services of a physician assistant shall post a notice to that effect in a prominent place. [Repealed.]~~

* * *

§ 1743. MEDICAID REIMBURSEMENT

The Secretary of Human Services shall, ~~pursuant to 3 V.S.A. chapter 25, adopt rules providing for a fee schedule for~~ provide reimbursement under Title XIX (Medicaid) of the Social Security Act and 33 V.S.A. chapter 19, ~~relating to medical assistance that recognizes reasonable cost differences between services provided by physicians and those provided by physician assistants under this chapter.~~

§ 1743a. PAYMENT FOR MEDICAL SERVICES

(a) As used in this section:

(1) “Health insurer” has the same meaning as in 18 V.S.A. § 9402.

(2) “Participating provider” has the same meaning as in 18 V.S.A. § 9418 and includes providers participating in the Vermont Medicaid program.

(b) Health insurers and, to the extent permitted under federal law, Medicaid shall reimburse a participating provider who is a physician assistant for any medical service delivered by the physician assistant if the same service would be covered if delivered by a physician. Physician assistants are authorized to bill for and receive direct payment for the medically necessary services they deliver.

(c) To provide accountability and transparency for patients, payers, and the health care system, the physician assistant shall be identified as the treating provider in the billing and claims processes when the physician assistant delivered the medical services to the patient.

(d) A health insurer shall not impose any practice, education, or collaboration requirement for a physician assistant that is inconsistent with or more restrictive than the provisions of this chapter.

§ 1744. CERTIFIED PHYSICIAN ASSISTANTS

Any person who is certified by the Board as a physician assistant prior to the enactment of this section shall be considered to be licensed as a physician assistant under this chapter immediately upon enactment of this section, and shall be eligible for licensure renewal pursuant to section 1734b of this title. [Repealed.]

Sec. 2. 26 V.S.A. § 1354 is amended to read:

§ 1354. UNPROFESSIONAL CONDUCT

(a) The Board shall find that any one of the following, or any combination of the following, whether the conduct at issue was committed within or outside the State, constitutes unprofessional conduct:

* * *

(38) signing a blank or undated prescription form; or

(39) use of the services of a physician assistant by a physician in a manner that is inconsistent with the provisions of chapter 31 of this title; or [Repealed.]

* * *

Sec. 3. 26 V.S.A. § 1444 is added to read:

§ 1444. LIABILITY FOR ACTIONS OF AGENT

(a) A physician may delegate to a medical technician or other assistant or employee certain activities related to medical care and treatment that the individual is qualified to perform by training, education, experience, or a combination of these when the activities are under the control of the physician. The physician delegating the activities to the individual shall be legally liable for the individual's performance of those activities, and in this relationship, the individual shall be the physician's agent.

(b)(1) Nothing in this section shall be construed to apply to a nurse acting pursuant to chapter 28 of this title.

(2) Nothing in this section shall be construed to apply to a physician assistant acting pursuant to chapter 31 of this title. Liability for the actions or inactions of a physician assistant shall be governed by the provisions of section 1739 of this title.

Sec. 4. DEPARTMENT OF HEALTH; RULEMAKING

The Department of Health shall amend the Board of Medical Practice rules pursuant to 3 V.S.A. chapter 25 to conform the provisions regarding physician assistant licensure to the provisions of this act. The Department shall complete its rulemaking process on or before July 1, 2021.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2020 and shall apply to all physician assistant licenses issued or renewed on and after that date, except that in Sec. 1, 26 V.S.A. § 1743a (payment for medical services) shall apply to Medicaid beginning on January 1, 2021, to the extent permitted under federal law.

(Committee vote: 10-1-0)

(For text see Senate Journal February 12, 2020, page 162)

S. 301

An act relating to miscellaneous telecommunications changes

Rep. Chesnut-Tangerman of Middletown Springs, for the Committee on Energy and Technology, 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. 30 V.S.A. § 248a is amended to read:

§ 248a. CERTIFICATE OF PUBLIC GOOD FOR COMMUNICATIONS

FACILITIES

* * *

(i) Sunset of Commission authority. Effective on July 1, ~~2020~~ 2023, no new applications for certificates of public good under this section may be considered by the Commission.

* * *

(q)(1) Emergency waiver. Notwithstanding any other provisions of this section, when the Governor has declared a state of emergency pursuant to 20 V.S.A. § 9 and for 180 days after the declared state of emergency ends, the Commission may waive, for a specified and limited time, the prohibitions contained in this section upon site preparation for or construction of a temporary telecommunications facility necessary for maintaining or improving access to telecommunications services. Waivers issued under this subsection shall be valid for a period not to exceed the duration of the declared emergency plus 180 days.

(2) A person seeking a waiver under this subsection shall file a petition with the Commission and shall provide copies to the Department of Public Service and the Agency of Natural Resources. The Commission shall require that additional notice be provided to those listed in subsection (e) of this section and any affected communications union districts. Upon receipt of the petition, the Commission shall conduct an expedited preliminary hearing.

(3) An order granting a waiver may include terms, conditions, and safeguards to mitigate significant adverse impacts, including the posting of a bond or other security, as the Commission deems proper, based on the scope and duration of the requested waiver.

(4) A waiver shall be granted only when the Commission finds that:

(A) good cause exists due to an emergency situation;

(B) the waiver is necessary to maintain or provide access to wireless telecommunications services;

(C) procedures will be followed to minimize significant adverse impacts under the criteria specified in subdivision (c)(1) of this section; and

(D) taking into account any terms, conditions, and safeguards that the Commission may require, the waiver will promote the general good of the State.

(5) Upon the expiration of a waiver, if a certificate of public good has not been issued under this section, the Commission shall require the removal,

relocation, or alteration of the facilities subject to the waiver, as it finds will best promote the general good of the State.

Sec. 2. REPORT ON CRITERIA

On or before February 1, 2021, the Public Utility Commission shall review the criteria used in awarding a certificate of public good under 30 V.S.A. § 248a and report to the Senate Committee on Finance and the House Committee on Energy and Technology any changes that should be made in light of the recent developments in telecommunications technology.

Sec. 3. EXTENSION OF SECTION 248a NOTICE PERIOD DURING COVID-19 STATE OF EMERGENCY

Notwithstanding any contrary provision of law, during the declared state of emergency under 20 V.S.A. chapter 1 due to COVID-19, when an applicant provides notice that it will be filing an application for a certificate of public good under 30 V.S.A. § 248a, a municipal legislative body or a planning commission may request, and the Public Utility Commission shall grant, a 30 day extension to the original notice period for a total 90 day notice period. This extended notice period shall be available on any notice of application for a certificate of public good pursuant to 30 V.S.A. § 248a filed during the declared state of emergency under 20 V.S.A. chapter 1 due to COVID-19, except those for de minimis modifications.

Sec. 4. 2019 Acts and Resolves No. 79, Sec. 25 is amended to read:

Sec. 25. OUTAGES AFFECTING E-911 SERVICE; REPORTING; RULE; E-911 BOARD

The E-911 Board shall adopt a rule establishing protocols for the E-911 Board to obtain or be apprised of, in a timely manner, system outages applicable to wireless service providers, providers of facilities-based, fixed voice service that is not line-powered and to electric companies for the purpose of enabling the E-911 Board to assess 911 service availability during such outages. An outage for purposes of this section includes any loss of E-911 calling capacity, ~~whether caused by lack of function of the telecommunications subscriber's backup power equipment, lack of function within a telecommunications provider's system network failure,~~ or an outage in the electric power system. The rule shall incorporate threshold criteria for outage reporting that reflect the sparsely populated rural nature of Vermont. The E-911 Board shall file a final proposed rule with the Secretary of State and with the Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 841 on or before ~~February 1, 2020~~ September 30, 2020.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 9-0-0)

(For text see Senate Journal May 19, 2020, page 500)

Senate Proposal of Amendment

H. 948

An act relating to temporary municipal proceedings provisions in response to the COVID-19 outbreak

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. MUNICIPAL QUASI-JUDICIAL PROCEEDINGS; TEMPORARY
SUSPENSION OF IN-PERSON HEARING AND INSPECTION
REQUIREMENTS

(a) Notwithstanding any provision of law to the contrary, during a declared state of emergency under 20 V.S.A. chapter 1 due to COVID-19, a municipality is authorized to conduct any municipal quasi-judicial proceeding through electronic means, provided that the municipality complies with all other requirements for the conduct of the proceeding. The municipality shall not be required to designate a physical location for the proceeding.

(b)(1) Notwithstanding 32 V.S.A. § 4404(c), during a declared state of emergency under 20 V.S.A. chapter 1 due to COVID-19, a board of civil authority shall not be required to physically inspect any property that is the subject of an appeal. If the appellant requests in writing that the property be inspected for purposes of the appeal, a member or members of the Board shall conduct the inspection through electronic means. If the appellant does not facilitate the inspection through electronic means, then the appeal shall be deemed withdrawn.

(2) Notwithstanding 32 V.S.A. § 4467, during a declared state of emergency under 20 V.S.A. chapter 1 due to COVID-19, a hearing officer shall not be required to physically inspect any property that is the subject of an appeal. If the appellant requests in writing that the property be inspected for purposes of the appeal, the hearing officer shall conduct the inspection through electronic means. If the appellant does not facilitate the inspection through electronic means, then the appeal shall be deemed withdrawn.

(3) As used in this subsection, “electronic means” means the transmittal of video or photographic evidence by the appellant at the direction of the Board members or hearing officer conducting the inspection.

(For text see House Journal May 27, 2020. page 4662)

Action Postponed Until June 3, 2020

Favorable with Amendment

H. 162

An act relating to removal of buprenorphine from the misdemeanor crime of possession of a narcotic

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

Sec. 1. 18 V.S.A. § 4234 is amended to read:

§ 4234. DEPRESSANT, STIMULANT, AND NARCOTIC DRUGS

(a) Possession.

(1) A person knowingly and unlawfully possessing a depressant, stimulant, or narcotic drug, other than heroin or cocaine, shall be imprisoned not more than one year or fined not more than \$2,000.00, or both. For purposes of this subdivision, a narcotic drug shall not include buprenorphine.

* * *

(c) Possession of buprenorphine by a person under 18 years of age.

(1) A person under 18 years of age who knowingly and unlawfully possesses buprenorphine consisting of less than 100 times a benchmark unlawful dosage or its equivalent as determined by the Board of Health by rule commits a civil violation and shall be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Abuse Safety Program. A person who fails to complete the program successfully shall be subject to:

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

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

(2) A law enforcement officer shall issue a person under 18 years of age who violates this subsection with a notice of violation in a form approved by the Court Administrator. The notice of violation shall require the person to provide his or her name and address and shall explain procedures under this subsection, including that:

(A) the person shall contact the Diversion Program in the county where the offense occurred within 15 days;

(B) failure to contact the Diversion Program within 15 days will result in the case being referred to the Judicial Bureau, where the person, if found liable for the violation, will be subject to a civil penalty and a suspension of the person's operator's license and may face substantially increased insurance rates;

(C) no money should be submitted to pay any penalty until after adjudication; and

(D) the person shall notify the Diversion Program if the person's address changes.

(3) When a person is issued a notice of violation under this subsection, the law enforcement officer shall complete a summons and complaint for the offense and send it to the Diversion Program in the county where the offense occurred. The summons and complaint shall not be filed with the Judicial Bureau at that time.

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

(5) Upon receipt from a law enforcement officer of a summons and complaint completed under this subsection, the Diversion Program shall send the person a notice to report to the Diversion Program. The notice to report shall provide that:

(A) The person is required to complete all conditions related to the offense imposed by the Diversion Program, including substance abuse screening and, if deemed appropriate following the screening, substance abuse assessment or substance abuse counseling, or both.

(B) If the person does not satisfactorily complete the substance abuse screening, any required substance abuse assessment or substance abuse counseling, or any other condition related to the offense imposed by the Diversion Program, the case will be referred to the Judicial Bureau, where the person, if found liable for the violation, shall be assessed a civil penalty, the person's operator's license will be suspended, and the person's automobile insurance rates may increase substantially.

(C) If the person satisfactorily completes the substance abuse screening, any required substance abuse assessment or substance abuse counseling, and any other condition related to the offense imposed by the Diversion Program, no penalty shall be imposed and the person's operator's license shall not be suspended.

(6)(A) Upon being contacted by a person who has been issued a notice of violation, the Diversion Program shall register the person in the Youth Substance Abuse Safety Program. Pursuant to the Youth Substance Abuse Safety Program, the Diversion Program shall impose conditions on the person. The conditions imposed shall include only conditions related to the offense and in every case shall include a condition requiring satisfactory completion of substance abuse screening using an evidence-based tool and, if deemed appropriate following the screening, substance abuse assessment and substance abuse education or substance abuse counseling, or both. If the screener recommends substance abuse counseling, the person shall choose a State-certified or State-licensed substance abuse counselor or substance abuse treatment provider to provide the services.

(B) Substance abuse screening required under this subdivision (6) shall be completed within 60 days after the Diversion Program receives a summons and complaint. The person shall complete all conditions at his or her own expense.

(C) When a person has satisfactorily completed substance abuse screening, any required substance abuse education or substance abuse counseling, and any other condition related to the offense that the Diversion Program has imposed, the Diversion Program shall:

(i) Void the summons and complaint with no penalty due.

(ii) Send copies of the voided summons and complaint to the Judicial Bureau and to the law enforcement officer who completed them. Before sending copies of the voided summons and complaint to the Judicial Bureau, the Diversion Program shall redact all language containing the person's name, address, Social Security number, and any other information that identifies the person.

(D) If a person does not satisfactorily complete substance abuse screening, any required substance abuse education or substance abuse counseling, or any other condition related to the offense imposed by the Diversion Program or if the person fails to pay the Diversion Program any required Program fees, the Diversion Program shall file the summons and complaint with the Judicial Bureau for adjudication under 4 V.S.A. chapter 29. The Diversion Program shall provide a copy of the summons and complaint to the law enforcement officer who issued the notice of violation and shall provide two copies to the person charged with the violation.

(E) A person aggrieved by a decision of the Diversion Program or alcohol counselor may seek review of that decision pursuant to Rule 75 of the Vermont Rules of Civil Procedure.

(7) Upon adjudicating a person in violation of this subsection, the Judicial Bureau shall notify the Commissioner of Motor Vehicles, who shall maintain a record of all such adjudications, which shall be separate from the registry maintained by the Department for motor vehicle driving records. The identity of a person in the registry shall be revealed only to a law enforcement officer determining whether the person has previously violated this subsection.

Sec. 2. 18 V.S.A. § 4234 is amended to read:

§ 4234. DEPRESSANT, STIMULANT, AND NARCOTIC DRUGS

(a) Possession.

(1) A person knowingly and unlawfully possessing a depressant, stimulant, or narcotic drug, other than heroin or cocaine, shall be imprisoned not more than one year or fined not more than \$2,000.00, or both. For purposes of this subdivision, a narcotic drug shall not include buprenorphine.

* * *

~~(c) Possession of buprenorphine by a person under 18 years of age.~~

~~(1) A person under 18 years of age who knowingly and unlawfully possesses buprenorphine consisting of less than 100 times a benchmark unlawful dosage or its equivalent as determined by the Board of Health by rule commits a civil violation and shall be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Abuse Safety Program. A person who fails to complete the program successfully shall be subject to:~~

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

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

~~(2) A law enforcement officer shall issue a person under 18 years of age who violates this subsection with a notice of violation in a form approved by the Court Administrator. The notice of violation shall require the person to provide his or her name and address and shall explain procedures under this subsection, including that:~~

~~(A) the person shall contact the Diversion Program in the county where the offense occurred within 15 days;~~

~~(B) failure to contact the Diversion Program within 15 days will result in the case being referred to the Judicial Bureau, where the person, if found liable for the violation, will be subject to a civil penalty and a suspension of the person's operator's license and may face substantially increased insurance rates;~~

~~(C) no money should be submitted to pay any penalty until after adjudication; and~~

~~(D) the person shall notify the Diversion Program if the person's address changes.~~

~~(3) When a person is issued a notice of violation under this subsection, the law enforcement officer shall complete a summons and complaint for the offense and send it to the Diversion Program in the county where the offense occurred. The summons and complaint shall not be filed with the Judicial Bureau at that time.~~

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

~~(5) Upon receipt from a law enforcement officer of a summons and complaint completed under this subsection, the Diversion Program shall send the person a notice to report to the Diversion Program. The notice to report shall provide that:~~

~~(A) The person is required to complete all conditions related to the offense imposed by the Diversion Program, including substance abuse~~

screening and, if deemed appropriate following the screening, substance abuse assessment or substance abuse counseling, or both.

~~(B) If the person does not satisfactorily complete the substance abuse screening, any required substance abuse assessment or substance abuse counseling, or any other condition related to the offense imposed by the Diversion Program, the case will be referred to the Judicial Bureau, where the person, if found liable for the violation, shall be assessed a civil penalty, the person's operator's license will be suspended, and the person's automobile insurance rates may increase substantially.~~

~~(C) If the person satisfactorily completes the substance abuse screening, any required substance abuse assessment or substance abuse counseling, and any other condition related to the offense imposed by the Diversion Program, no penalty shall be imposed and the person's operator's license shall not be suspended.~~

~~(6)(A) Upon being contacted by a person who has been issued a notice of violation, the Diversion Program shall register the person in the Youth Substance Abuse Safety Program. Pursuant to the Youth Substance Abuse Safety Program, the Diversion Program shall impose conditions on the person. The conditions imposed shall include only conditions related to the offense and in every case shall include a condition requiring satisfactory completion of substance abuse screening using an evidence-based tool and, if deemed appropriate following the screening, substance abuse assessment and substance abuse education or substance abuse counseling, or both. If the screener recommends substance abuse counseling, the person shall choose a State-certified or State-licensed substance abuse counselor or substance abuse treatment provider to provide the services.~~

~~(B) Substance abuse screening required under this subdivision (6) shall be completed within 60 days after the Diversion Program receives a summons and complaint. The person shall complete all conditions at his or her own expense.~~

~~(C) When a person has satisfactorily completed substance abuse screening, any required substance abuse education or substance abuse counseling, and any other condition related to the offense that the Diversion Program has imposed, the Diversion Program shall:~~

~~(i) Void the summons and complaint with no penalty due.~~

~~(ii) Send copies of the voided summons and complaint to the Judicial Bureau and to the law enforcement officer who completed them. Before sending copies of the voided summons and complaint to the Judicial~~

~~Bureau, the Diversion Program shall redact all language containing the person's name, address, Social Security number, and any other information that identifies the person.~~

~~(D) If a person does not satisfactorily complete substance abuse screening, any required substance abuse education or substance abuse counseling, or any other condition related to the offense imposed by the Diversion Program or if the person fails to pay the Diversion Program any required Program fees, the Diversion Program shall file the summons and complaint with the Judicial Bureau for adjudication under 4 V.S.A. chapter 29. The Diversion Program shall provide a copy of the summons and complaint to the law enforcement officer who issued the notice of violation and shall provide two copies to the person charged with the violation.~~

~~(E) A person aggrieved by a decision of the Diversion Program or alcohol counselor may seek review of that decision pursuant to Rule 75 of the Vermont Rules of Civil Procedure.~~

~~(7) Upon adjudicating a person in violation of this subsection, the Judicial Bureau shall notify the Commissioner of Motor Vehicles, who shall maintain a record of all such adjudications, which shall be separate from the registry maintained by the Department for motor vehicle driving records. The identity of a person in the registry shall be revealed only to a law enforcement officer determining whether the person has previously violated this subsection.~~

Sec. 3. EFFECTIVE DATES

(a) This section and Sec. 1 shall take effect July 1, 2019.

(b) Sec. 2 shall take effect July 1, 2021.

(Committee Vote: 7-4-0)

Rep. Haas of Rochester, for the Committee on Human Services, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. INTENT

It is the intent of the General Assembly to decriminalize possession of 224 milligrams or less of buprenorphine. Persons under 21 years of age in possession of 224 milligrams or less of buprenorphine would be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Abuse Safety Program. Knowing and unlawful possession of more than 224 milligrams of buprenorphine would continue to be criminal and penalized in the same manner as other narcotics pursuant to 18 V.S.A. § 4234.

Sec. 2. 18 V.S.A. § 4234 is amended to read:

§ 4234. DEPRESSANT, STIMULANT, AND NARCOTIC DRUGS

(a) Possession.

(1)(A) A Except as provided by subdivision (B) of this subdivision (1), a person knowingly and unlawfully possessing a depressant, stimulant, or narcotic drug, other than heroin or cocaine, shall be imprisoned not more than one year or fined not more than \$2,000.00, or both.

(B) A person knowingly and unlawfully possessing more than 224 milligrams of buprenorphine shall be punished in accordance with subdivision (A) of this subdivision (1).

* * *

(c) Possession of buprenorphine by a person under 21 years of age.

(1) A person under 21 years of age who knowingly and unlawfully possesses 224 milligrams or less of buprenorphine commits a civil violation and shall be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Abuse Safety Program. A person who fails to complete the program successfully shall be subject to:

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

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

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

(A) the person shall contact the Diversion Program in the county where the offense occurred within 15 days;

(B) failure to contact the Diversion Program within 15 days shall result in the case being referred to the Judicial Bureau, where the person, if found liable for the violation, shall be subject to a civil penalty and a suspension of the person's operator's license and may face substantially increased insurance rates;

(C) no money shall be submitted to pay any penalty until after adjudication; and

(D) the person shall notify the Diversion Program if the person's address changes.

(3) When a person is issued a notice of violation under this subsection, the law enforcement officer shall complete a summons and complaint for the offense and send it to the Diversion Program in the county where the offense occurred. The summons and complaint shall not be filed with the Judicial Bureau at that time.

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

(5) Upon receipt from a law enforcement officer of a summons and complaint completed under this subsection, the Diversion Program shall send the person a notice to report to the Diversion Program. The notice to report shall provide that:

(A) The person is required to complete all conditions related to the offense imposed by the Diversion Program, including substance abuse screening and, if deemed appropriate following the screening, substance abuse assessment or substance abuse counseling, or both.

(B) If the person does not satisfactorily complete the substance abuse screening, any required substance abuse assessment or substance abuse counseling, or any other condition related to the offense imposed by the Diversion Program, the case will be referred to the Judicial Bureau where the person, if found liable for the violation, shall be assessed a civil penalty, the person's operator's license shall be suspended, and the person's automobile insurance rates may increase substantially.

(C) If the person satisfactorily completes the substance abuse screening, any required substance abuse assessment or substance abuse counseling, and any other condition related to the offense imposed by the Diversion Program, no penalty shall be imposed and the person's operator's license shall not be suspended.

(6)(A) Upon being contacted by a person who has been issued a notice of violation, the Diversion Program shall register the person in the Youth Substance Abuse Safety Program. Pursuant to the Youth Substance Abuse

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

(B) Substance abuse screening required under this subdivision (6) shall be completed within 60 days after the Diversion Program receives a summons and complaint. The person shall complete all conditions at the person's own expense.

(C) When a person has satisfactorily completed substance abuse screening, any required substance abuse education or substance abuse counseling, and any other condition related to the offense that the Diversion Program has imposed, the Diversion Program shall:

(i) Void the summons and complaint with no penalty due.

(ii) Send copies of the voided summons and complaint to the Judicial Bureau and to the law enforcement officer who completed them. Before sending copies of the voided summons and complaint to the Judicial Bureau, the Diversion Program shall redact all language containing the person's name, address, Social Security number, and any other information that identifies the person.

(D) If a person does not satisfactorily complete substance abuse screening, any required substance abuse education or substance abuse counseling, or any other condition related to the offense imposed by the Diversion Program or if the person fails to pay the Diversion Program any required program fees, the Diversion Program shall file the summons and complaint with the Judicial Bureau for adjudication under 4 V.S.A. chapter 29. The Diversion Program shall provide a copy of the summons and complaint to the law enforcement officer who issued the notice of violation and shall provide two copies to the person charged with the violation.

(E) A person aggrieved by a decision of the Diversion Program or substance abuse counselor may seek review of that decision pursuant to Rule 75 of the Vermont Rules of Civil Procedure.

(7) Upon adjudicating a person in violation of this subsection, the Judicial Bureau shall notify the Commissioner of Motor Vehicles who shall

maintain a record of all such adjudications that shall be separate from the registry maintained by the Department for motor vehicle driving records. The identity of a person in the registry shall be revealed only to a law enforcement officer determining whether the person has previously violated this subsection.

Sec. 3. EFFECTIVE DATE

This act shall take effect July 1, 2020.

and that after passage the title of the bill be amended to read: “An act relating to possession of Buprenorphine”

(Committee Vote: 11-0-0)

H. 492

An act relating to establishing a homeless bill of rights and prohibiting discrimination against people without homes

Rep. Troiano of Stannard, for the Committee on General, Housing, and Military Affairs, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The Vermont General Assembly finds that:

(1) At the present time, many persons have been rendered homeless as a result of economic hardship and a shortage of safe and affordable housing.

(2) Article 1 of Chapter I of the Vermont Constitution states that Vermonters are “equally free and independent” and Article 7 of Chapter I states that all Vermonters are entitled to the same benefits and protections. As a result, a person should not be subject to discrimination based on his or her housing status or being homeless.

(3) It is the intent of this act to help mitigate both the discrimination people without homes or perceived to be without homes face and the adverse effects individuals and communities suffer when a person lacks a home.

Sec. 2. 1 V.S.A. § 274 is added to read:

§ 274. HOMELESS BILL OF RIGHTS

(a) A person’s rights, privileges, or access to public services may not be denied or abridged solely because of his or her housing status. Such a person shall be granted the same rights and privileges as any other resident of this State.

(b) A person shall have the right:

(1) To use and move freely in public places, including public sidewalks, parks, transportation, and buildings, in the same manner as any other person and without discrimination on the basis of his or her housing status.

(2) To equal treatment by all State and municipal agencies without discrimination on the basis of his or her housing status.

(3) Not to face discrimination while seeking or maintaining employment, due to his or her housing status.

(4) To emergency medical care free from discrimination based on his or her housing status.

(5) To vote, register to vote, and receive documentation necessary to prove identity for voting, without discrimination due to his or her housing status.

(6) To confidentiality of personal records and information in accordance with all limitations on disclosure established by State and federal law, including the Federal Homeless Management Information Systems, the Federal Health Insurance Portability and Accountability Act, and the Federal Violence Against Women Act, without discrimination based on his or her housing status.

(7) To a reasonable expectation of privacy in his or her personal property without discrimination based on his or her housing status.

(8) To immediate and continued enrollment of his or her school-age children based on the best interests of the child as provided for in 16 V.S.A. § 1075(e) and the McKinney-Vento Act, 42 U.S.C. §§ 11431–11435 without discrimination based on his or her housing status.

(c) No person shall be subject to civil or criminal sanctions for soliciting, sharing, accepting, or offering food, water, money, or other donations in:

(1) a public place; or

(2) a place of public accommodation with the consent of the owner or other person representing the place of public accommodation and in a manner that does not interfere with normal business operations.

(d) No law shall target a person based on that person's housing status or the harmless activities associated with homelessness, or the provision of supports or services to a person without housing or perceived to be without housing in:

(1) a public place; or

(2) a place of public accommodation with the consent of the owner or other person representing the place of public accommodation and in a manner that does not interfere with normal business operations.

(e) A person aggrieved by a violation of this section may bring an action in Superior Court for appropriate relief, including injunctive relief and actual damages sustained as a result of the violation, costs, and reasonable attorney's fees.

(f) As used in this section:

(1) "Housing status" means the actual or perceived status of being homeless, being a homeless individual, or being a homeless person, as defined in 42 U.S.C. § 11302.

(2) "Place of public accommodation" has the same meaning as in 9 V.S.A. § 4501(1).

Sec. 3. 9 V.S.A. § 4501 is amended to read:

§ 4501. DEFINITIONS

As used in this chapter:

* * *

(12) "Housing status" means the actual or perceived status of being homeless, being a homeless individual, or being a homeless person, as defined in 42 U.S.C. § 11302.

Sec. 4. 9 V.S.A. § 4502 is amended to read:

§ 4502. PUBLIC ACCOMMODATIONS

(a) An owner or operator of a place of public accommodation or an agent or employee of such owner or operator shall not, because of the race, creed, color, national origin, housing status, marital status, sex, sexual orientation, or gender identity of any person, refuse, withhold from, or deny to that person any of the accommodations, advantages, facilities, and privileges of the place of public accommodation.

* * *

Sec. 5. 9 V.S.A. § 4503 is amended to read:

§ 4503. UNFAIR HOUSING PRACTICES

(a) It shall be unlawful for any person:

(1) To refuse to sell or rent, or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling or other real estate to any person because of the race, sex, sexual orientation, gender identity, age, marital status, religious creed, color, national origin, housing status, or disability of a person, or because a person intends to occupy a dwelling with

one or more minor children, or because a person is a recipient of public assistance.

(2) To discriminate against, or to harass any person in the terms, conditions, or privileges of the sale or rental of a dwelling or other real estate, or in the provision of services or facilities in connection therewith, because of the race, sex, sexual orientation, gender identity, age, marital status, religious creed, color, national origin, housing status, or disability of a person, or because a person intends to occupy a dwelling with one or more minor children, or because a person is a recipient of public assistance.

(3) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling or other real estate, that indicates any preference, limitation, or discrimination based on race, sex, sexual orientation, gender identity, age, marital status, religious creed, color, national origin, housing status, or disability of a person, or because a person intends to occupy a dwelling with one or more minor children, or because a person is a recipient of public assistance.

(4) To represent to any person because of the race, sex, sexual orientation, gender identity, age, marital status, religious creed, color, national origin, housing status, or disability of a person, or because a person intends to occupy a dwelling with one or more minor children, or because a person is a recipient of public assistance, that any dwelling or other real estate is not available for inspection, sale, or rental when the dwelling or real estate is in fact so available.

* * *

(7) To engage in blockbusting practices, for profit, which may include inducing or attempting to induce a person to sell or rent a dwelling by representations regarding the entry into the neighborhood of a person or persons of a particular race, sex, sexual orientation, gender identity, age, marital status, religious creed, color, national origin, housing status, or disability of a person, or because a person intends to occupy a dwelling with one or more minor children, or because a person is a recipient of public assistance.

(8) To deny any person access to or membership or participation in any multiple listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against any person in the terms or conditions of such access, membership, or participation, on account of race, sex, sexual orientation, gender identity, age, marital status, religious creed, color, national origin,

housing status, or disability of a person, or because a person is a recipient of public assistance.

* * *

(12) To discriminate in land use decisions or in the permitting of housing because of race, sex, sexual orientation, gender identity, age, marital status, religious creed, color, national origin, housing status, disability, the presence of one or more minor children, income, or because of the receipt of public assistance, except as otherwise provided by law.

* * *

Sec. 6. 10 V.S.A. § 601 is amended to read:

§ 601. DEFINITIONS

The following words and terms, unless the context clearly indicates a different meaning, shall have the following meaning:

* * *

(11) “Persons and families of low and moderate income” means persons and families irrespective of race, creed, national origin, sex, sexual orientation, housing status, or gender identity deemed by the Agency to require such assistance as is made available by this chapter on account of insufficient personal or family income, taking into consideration, without limitation, such factors as:

(A) the amount of the total income of such persons and families available for housing needs;

* * *

(20) “Housing status” means the actual or perceived status of being homeless, being a homeless individual, or being a homeless person, as defined in 42 U.S.C. § 11302.

Sec. 7. 21 V.S.A. § 495 is amended to read:

§ 495. UNLAWFUL EMPLOYMENT PRACTICE

(a) It shall be unlawful employment practice, except where a bona fide occupational qualification requires persons of a particular race, color, religion, national origin, housing status, sex, sexual orientation, gender identity, ancestry, place of birth, age, crime victim status, or physical or mental condition:

(1) For any employer, employment agency, or labor organization to discriminate against any individual because of race, color, religion, ancestry,

national origin, sex, sexual orientation, gender identity, place of birth, housing status, crime victim status, or age or against a qualified individual with a disability;

(2) For any person seeking employees or for any employment agency or labor organization to cause to be printed, published, or circulated any notice or advertisement relating to employment or membership indicating any preference, limitation, specification, or discrimination based upon race, color, religion, ancestry, national origin, sex, sexual orientation, gender identity, place of birth, housing status, crime victim status, age, or disability;

(3) For any employment agency to fail or refuse to classify properly or refer for employment or to otherwise discriminate against any individual because of race, color, religion, ancestry, national origin, sex, sexual orientation, gender identity, place of birth, housing status, crime victim status, or age or against a qualified individual with a disability;

(4) For any labor organization, because of race, color, religion, ancestry, national origin, sex, sexual orientation, gender identity, place of birth, housing status, crime victim status, or age to discriminate against any individual or against a qualified individual with a disability or to limit, segregate, or qualify its membership;

* * *

Sec. 8. 21 V.S.A. § 495d is amended to read:

§ 495d. DEFINITIONS

As used in this subchapter:

* * *

(16) “Housing status” means the actual or perceived status of being homeless, being a homeless individual, or being a homeless person, as defined in 42 U.S.C. § 11302.

Sec. 9. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

(Committee Vote: 8-2-1)

H. 535

An act relating to approval of amendments to the charter of the Town of Brattleboro

Rep. Gannon of Wilmington, for the Committee on Government Operations, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. CHARTER AMENDMENT APPROVAL

The General Assembly approves the amendments to the charter of the Town of Brattleboro as set forth in this act. Voters approved proposals of amendment on March 5, 2019.

Sec. 2. 24 App. V.S.A. chapter 107 is amended to read:

CHAPTER 107. TOWN OF BRATTLEBORO

* * *

§ 2.1. DEFINITIONS

* * *

(c) “Youth voter” shall mean any person who is 16 to 18 years of age and is otherwise qualified to vote in Town elections pursuant to 17 V.S.A. chapter 43, subchapter 1.

§ 2.2. ELECTED OFFICERS

On the first Tuesday in March, the voters and youth voters of the Town shall elect by Australian ballot the following:

* * *

~~(3) A Board of five school directors, elected at large, of whom two shall serve for one year and three shall serve for three years. [Repealed.]~~

~~(4) Union High School directors, who shall be elected for terms and in numbers as required by State law. [Repealed.]~~

* * *

§ 2.3. MANNER OF ELECTION

(a) Representative Town Meeting members: Representative Town Meeting members shall be elected by Australian ballot on the first Tuesday in March of each year. Voters and youth voters in each district shall elect, for staggered terms, three members for every 180 voters or major fraction thereof. Members shall serve for three years, except that a member elected to fill a vacancy shall serve for the remainder of the term. The manner of elections is fully prescribed in 1959 Acts and Resolves No. 302 of the Acts of 1959.

* * *

§ 2.4. REPRESENTATIVE TOWN MEETING

(a) Description:

* * *

(2) The Representative Town Meeting consists of up to 140 elected voters and youth voters. It is a guiding body for the Town and a source of ideas, proposals, and comments, elected by district as defined by the Board of Civil Authority. It exercises exclusively all powers vested in the voters of the Town. In addition to the elected members, the following shall be members ex officio: the members of the Selectboard, the School Directors, the Treasurer, the Clerk, the Moderator, and those State Senators and State Representatives who reside in Brattleboro. Representative Town Meeting shall act upon all articles on the Town meeting warning except those ~~which~~ that relate to the election of officers, referenda, and other matters voted upon by Australian ballot.

* * *

§ 2.5. SELECTBOARD

The Selectboard is a legislative body of five persons elected at large by the voters and youth voters of the Town. The Selectboard directs the affairs of the Town within areas specified in subchapter 4 of this charter.

* * *

§ 4.1. COMPOSITION; ELIGIBILITY; ELECTIONS; TERMS

(a) The Selectboard shall be elected at large by the voters and youth voters of the Town from among their number, and newly elected Selectboard members' terms shall begin on the first Monday following the final adjournment of the annual Representative Town Meeting.

* * *

§ 10.3. ELECTION OF TOWN MEETING MEMBERS; CERTIFICATION OF VOTERS; TOWN MEETING MEMBERSHIP; NOTICE; QUALIFICATION; RESPONSIBILITIES

(a)(1) At the first election of Town Meeting members to be held on the first Tuesday in March after the acceptance of this subchapter, the qualified voters of each district shall elect three Town Meeting members for every 180 voters or major fraction thereof, subject to the provisions of subsection (c) of this section. The first one-third elected in each district, in order of the number of votes received, shall serve for three years; the second one-third in ~~such~~ the order of election shall serve for two years; and the remaining one-third in ~~such~~ the order of election shall be elected to serve for one year. In the event of a tie

vote the term of such members shall be designated by lot, and the presiding officer of the district shall certify ~~such~~ the designation. All Town Meeting members shall serve for terms commencing on the day of their election.

(2) Annually thereafter, on the first Tuesday in March, the voters and youth voters of each district shall in like manner elect for the term of three years one Town Meeting member for every 180 voters or major fraction thereof, and shall also in like manner fill for the unexpired term or terms any vacancy or vacancies then existing in the number of Town Meeting members in such district, subject to the provisions of subsection (c) of this section.

* * *

(e) Every Town Meeting member shall be a qualified voter or youth voter in the Town and living in the district from which he or she is chosen at the time of his or her election.

* * *

§ 2.3a. EARLY VOTING

(a)(1) A voter choosing to vote early by Australian ballot in the Town Clerk's office shall vote in the same manner as those voting on election day provided that the voter completes a "Request for Early Voter Absentee Ballot and Certification" form stating the following:

* * *

(4) As authorized for certain Town elections pursuant to this charter, a youth voter choosing to vote early shall vote in the same manner as a youth voter on election day provided that the voter completes an early voting form required by the Town Clerk.

* * *

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 8-2-1)

H. 923

An act relating to entering a vehicle without legal authority or consent

Rep. Hashim of Dummerston, for the Committee on Judiciary, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 3705 is added to read:

§ 3705. UNLAWFUL TRESPASS

* * *

(c) A person who knowingly enters the vehicle of another person without legal authority or the consent of the person in lawful possession of the vehicle shall be fined not more than \$250.00.

(d) A person who enters a building other than a residence, whose access is normally locked, whether or not the access is actually locked, or a residence in violation of an order of any court of competent jurisdiction in this State shall be imprisoned for not more than one year or fined not more than \$500.00, or both.

~~(d)~~(e) A person who enters a dwelling house, whether or not a person is actually present, knowing that he or she is not licensed or privileged to do so shall be imprisoned for not more than three years or fined not more than \$2,000.00, or both.

~~(e)~~(f) A law enforcement officer shall not be prosecuted under subsection (a) of this section if he or she is authorized to serve civil or criminal process, including citations, summons, subpoenas, warrants, and other court orders, and the scope of his or her entrance onto the land or place of another is no more than necessary to effectuate the service of process.

Sec. 2. EFFECTIVE DATE

This act shall take effect July 1, 2020.

(Committee Vote: 8-0-2)