

1 H. XX

2 Introduced by ???

3 Referred to Committee on ???

4 Date: ???

5 Subject: Judiciary; Vermont Statutes Annotated; technical amendments

6 Statement of purpose of bill as introduced: This bill proposes to make

7 nonsubstantive technical amendments to the Vermont Statutes Annotated.

8

9 An Act relating to technical corrections

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

11

12 Sec. 1. 12 V.S.A. § 5 is amended to read:

13 § 5. DISSEMINATION OF ELECTRONIC CASE RECORDS

14 (a) The Court shall not permit public access via the Internet to criminal, ~~or~~ family, or probate

15 case records. The Court may permit criminal justice agencies, as defined in 20 V.S.A. § 2056a,

16 Internet access to criminal case records for criminal justice purposes, as defined in section 2056a.

17 \* \* \*

18 Sec. 2. 13 V.S.A. § 7602 is amended to read:

19 § 7602. EXPUNGEMENT AND SEALING OF RECORD; POSTCONVICTION;

20 PROCEDURE

21 \* \* \*

22 (b)(1) The court shall grant the petition and order that the criminal history record be

23 expunged pursuant to section 7606 of this title if the following conditions are met:

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

5 (B) The person has not been convicted of a crime arising out of a new incident or  
6 occurrence since the person was convicted for the qualifying crime.

7 (C) Any restitution ordered by the court and surcharges have has been paid in full.

8 (D) The court finds that expungement of the criminal history record serves the  
9 interest of justice.

10 (2) The court shall grant the petition and order that all or part of the criminal history  
11 record be sealed pursuant to section 7607 of this title if the conditions of subdivisions (1)(A),  
12 (B), and (C) of this subsection are met and the court finds that:

13 (A) sealing the criminal history record better serves the interest of justice than  
14 expungement; and

15 (B) the person committed the qualifying crime after reaching 19 years of age.

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

18 (A) At least 10 years have elapsed since the date on which the person successfully  
19 completed the terms and conditions of the sentence for the conviction.

20 (B) The person has not been convicted of a felony arising out of a new incident or  
21 occurrence since the person was convicted of the qualifying crime.

22 (C) The person has not been convicted of a misdemeanor during the past five years.

1 (D) Any restitution ordered by the court for any crime of which the person has been  
2 convicted **and surcharges have** ~~has~~ been paid in full.

3 (E) After considering the particular nature of any subsequent offense, the court finds  
4 that expungement of the criminal history record for the qualifying crime serves the interest of  
5 justice.

6 (2) The court shall grant the petition and order that all or part of the criminal history  
7 record be sealed pursuant to section 7607 of this title if the conditions of subdivisions (1)(A),  
8 (B), (C), and (D) of this subsection are met and the court finds that:

9 (A) sealing the criminal history record better serves the interest of justice than  
10 expungement; and

11 (B) the person committed the qualifying crime after reaching 19 years of age.

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

16 (1) The petitioner has completed any sentence or supervision for the offense.

17 (2) Any restitution ordered by the court **and surcharges have** ~~has~~ been paid in full.

18

19 Sec. 3. 13 V.S.A. § 7609 is amended to read:

20 § 7609. EXPUNGEMENT OF CRIMINAL HISTORY RECORDS OF AN INDIVIDUAL 18-

21 21 YEARS OF AGE

22 (a) Procedure. Except as provided in subsection (b) of this section, the record of the criminal  
23 proceedings for an individual who was 18-21 years of age at the time the individual committed a

1 qualifying crime shall be expunged within 30 days after the date on which the individual successfully  
2 completed the terms and conditions of the sentence for the conviction of the qualifying crime, absent  
3 a finding of good cause by the court. The court shall issue an order to expunge all records and files  
4 related to the arrest, citation, investigation, charge, adjudication of guilt, criminal proceedings, and  
5 probation related to the sentence. A copy of the order shall be sent to each agency, department, or  
6 official named in the order. Thereafter, the court, law enforcement officers, agencies, and  
7 departments shall reply to any request for information that no record exists with respect to such  
8 individual. Notwithstanding this subsection, the record shall not be expunged until restitution and  
9 surcharges have ~~has~~ been paid in full.

10

11 Sec. 4. 15 V.S.A. § 293 is amended to read:

12 § 293. WHEN PARENTS LIVE SEPARATELY

13 \* \* \*

14 (b) Any legal presumption of parentage as set forth in section ~~308~~ 401 of ~~this~~ title 15C shall  
15 be sufficient basis for initiating a support action under this section without any further  
16 proceedings to establish parentage. If a party raises an objection to the presumption, the court  
17 may determine the issue of parentage as part of the support action. If no written objection to the  
18 presumption is raised, an order under this section shall constitute a judgment on the issue of  
19 parentage.

20

21 Sec. 5. 15A V.S.A. § 1-110 is amended to read:

22 § 1-110 NOTICE OF INTENT TO RETAIN PARENTAL RIGHTS

23 ...

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

5

6 Sec. 6. 32 V.S.A. § 1431 is amended to read:

7 § 1431. FEES IN SUPREME AND SUPERIOR COURTS

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\* \* \*

9 (d) Prior to the entry of any subsequent pleading which sets forth a claim for relief in the  
10 Supreme Court or the Superior Court, there shall be paid to the clerk of the court for the benefit  
11 of the State a fee of \$120.00 for **every appeal,** cross-claim, or third-party claim and a fee of  
12 \$90.00 for every counterclaim in the Superior Court in lieu of all other fees not otherwise set  
13 forth in this section. The fee for an appeal of a magistrate's decision **or the appeal of a small**  
14 **claims decision** in the Superior Court shall be \$120.00. The filing fee for civil suspension  
15 proceedings filed pursuant to 23 V.S.A § 1205 shall be \$90.00, which shall be taxed in the bill of  
16 costs in accordance with sections 1433 and 1471 of this title. This subsection does not apply to  
17 filing fees in the Family Division, except with respect to the fee for an appeal of a magistrate's  
18 decision.

19 (e) Prior to the filing of any postjudgment motion in the Civil, Criminal, or Environmental  
20 Division of the Superior Court, including motions to reopen civil suspensions and motions for  
21 sealing or expungement in the Criminal Division pursuant to 13 V.S.A. § 7602, or motions to  
22 reopen existing cases in the Probate Division of the Superior Court, there shall be paid to the  
23 clerk of the court for the benefit of the State a fee of \$90.00 except for small claims actions

1 ~~and~~ estates, and motions to confirm sale of property in Foreclosure. A filing fee of \$90.00 shall  
2 be paid to the clerk of the court for a civil petition for minor settlements.

3

4 Sec. 7. 32 V.S.A. § 1434 is amended to read:

5 § 1434. PROBATE CASES

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

9

\* \* \*

10 (26) Petitions for license to sell or convey real estate \$100.00

11 (27) Petition for license to sell or convey personal property \$100.00

12

\* \* \*

13 ~~(31) Requests for findings regarding motor vehicle title pursuant to 23 V.S.A. §~~

14 ~~2023(e)(2) \$50.00~~

15 Petition to appeal State Registrar's denial of an application to amend birth or

16 death certificate pursuant to 18 V.S.A. 5073(b) \$150

17 (32) Petition to obtain birth order pursuant to 15C V.S.A. § 708(a) \$100

18

19 Sec. 8. 33 V.S.A. § 4921 is amended to read:

20 § 4921. DEPARTMENT'S RECORDS OF ABUSE AND NEGLECT

21

\* \* \*

22 (d) Upon request, Department records created under this subchapter shall be disclosed to:

1 (1) the Court, parties to the juvenile proceeding, and the child's guardian ad litem court  
2 appointed special advocate if there is a pending juvenile proceeding or if the child is in the  
3 custody of the Commissioner;

4

5 Sec. 9. 33 V.S.A. § 5110 is amended to read:

6 § 5110. CONDUCT OF HEARINGS

7

\* \* \*

8 (c) There shall be no publicity given by any person to any proceedings under the authority of  
9 the juvenile judicial proceedings chapters except with the consent of the child, the child's  
10 guardian ad litem court appointed special advocate, and the child's parent, guardian, or custodian.  
11 A person who violates this provision may be subject to contempt proceedings pursuant to Rule  
12 16 of the Vermont Rules for Family Proceedings.

13

14 Sec. 10. 33 V.S.A. § 5112 is amended to read:

15 § 5112. ATTORNEY AND COURT APPOINTED SPECIAL ADVOCATE

16

\* \* \*

17 (b) The court shall appoint a guardian ad litem court appointed special advocate for a child  
18 under 18 years of age who is a party to a proceeding brought under the juvenile judicial  
19 proceedings chapters. In a delinquency proceeding, a parent, guardian, or custodian of the child  
20 may serve as a guardian ad litem court appointed special advocate for the child, providing his or  
21 her interests do not conflict with the interests of the child. The guardian ad litem court appointed  
22 special advocate appointed under this section shall not be a party to that proceeding or an  
23 employee or representative of such party.

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Sec. 11. 33 V.S.A. § 5117 is amended to read:

§ 5117. RECORDS OF JUVENILE JUDICIAL PROCEEDINGS

\* \* \*

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

\* \* \*

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

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

Sec. 12. 33 V.S.A. § 5124 is amended to read:

§ 5124. POSTADOPTION CONTACT AGREEMENTS

\* \* \*

(b) The court shall approve the postadoption contact agreement if:

(1) (A) it determines that the child's best interests will be served by postadoption communication or contact with either or both parents; and

(B) in making a best interests determination, it may consider:

\* \* \*



1 (ix)the recommendation of any guardian ad litem court appointed special  
2 advocate;

3 \* \* \*

4 (2) it has reviewed and made each of the following a part of the court record:

5 \* \* \*

6 (D)an agreement to the postadoption contact or communication in writing from the  
7 Department, the guardian ad litem court appointed special advocate, and the attorney for the  
8 child.

9  
10 Sec. 13. 33 V.S.A. § 5225 is amended to read:

11 § 5225. PRELIMINARY HEARING; RISK ASSESSMENT

12 \* \* \*

13 (d) At the preliminary hearing, the court shall appoint a guardian ad litem court appointed  
14 special advocate for the child. The guardian ad litem court appointed special advocate may be the  
15 child's parent, guardian, or custodian. On its own motion or motion by the child's attorney, the  
16 court may appoint a guardian ad litem court appointed special advocate other than a parent,  
17 guardian or custodian.

18 (e) At the preliminary hearing, a denial shall be entered to the allegations of the petition,  
19 unless the juvenile, after adequate consultation with the guardian ad litem court appointed special  
20 advocate and counsel, enters an admission. If the juvenile enters an admission, the disposition  
21 case plan required by section 5230 of this title may be waived and the court may proceed directly  
22 to disposition, provided that the juvenile, the custodial parent, the State's Attorney, the guardian  
23 ad litem court appointed special advocate, and the Department agree.

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Sec. 14. 33 V.S.A. § 5254 is amended to read:

§ 5254. NOTICE OF EMERGENCY CARE ORDER AND TEMPORARY CARE  
HEARING

\* \* \*

(c) Notice to other parties. The Court shall notify the following persons of the date and time of the temporary care hearing:

\* \* \*

(4) A guardian ad litem court appointed special advocate for the child.

Sec. 15. 33 V.S.A. § 5257 is amended to read:

§ 5257. FILING OF INITIAL CASE PLAN

(a) If a temporary care order is issued granting custody to the Commissioner, the Department shall prepare and file with the Court an initial case plan for the child and the family within 60 days of the child's removal from the home. The Department shall provide a copy of the case plan to the parties, their attorneys, and the guardian ad litem court appointed special advocate.

Sec. 16. 33 V.S.A. § 5282 is amended to read:

[Section 5282 effective July 1, 2018.]

§ 5282. REPORT FROM THE DEPARTMENT

\* \* \*

(c) A report filed pursuant to this section is privileged and shall not be disclosed to any person other than:

\* \* \*

1 (4) the youth, the youth's attorney, and the youth's ~~guardian ad litem~~ court appointed  
2 ~~special advocate~~;

3

4 Sec. 17. 33 V.S.A. § 5306 is amended to read:

5 § 5306. NOTICE OF EMERGENCY CARE ORDER AND TEMPORARY CARE  
6 HEARING

7 \* \* \*

8 (d) Notice to other parties. The Court shall notify the following persons of the date and time  
9 of the temporary care hearing:

10 \* \* \*

11 (4) A ~~guardian ad litem~~ court appointed special advocate for the child.

12

13 Sec. 18. 33 V.S.A. § 5307 is amended to read:

14 § 5307. TEMPORARY CARE HEARING

15 \* \* \*

16 (c) The following persons shall be present at the temporary care hearing:

17 \* \* \*

18 (3) The child's ~~guardian ad litem~~ court appointed special advocate.

19

20 Sec. 19. 33 V.S.A. § 5314 is amended to read:

21 § 5314. FILING OF INITIAL CASE PLAN

22 (a) If a temporary care order is issued transferring legal custody of the child to the  
23 Commissioner, the Department shall prepare and file with the Court an initial case plan for the

1 child and the family within 60 days of removal of a child from home. The Department shall  
2 provide a copy of the case plan to the parties, their attorneys, and the guardian ad litem court  
3 appointed special advocate.

4

5 Sec. 20. EFFECTIVE DATE

6 This act shall take effect on July 1, 2019.

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\* \* \*