

Summary of 2020, H.650 As Introduced
An act relating to boards and commissions

I. General Summary

This bill stems from [2018 Sp. Sess. Act No. 2](#) (boards and commissions), which established the temporary Sunset Advisory Commission to make recommendations regarding the State's boards and commissions, including their necessity, their powers and duties, and the per diem compensation of their members. The Commission comprises six members: two Representatives, two Senators, and two gubernatorial appointees. The Commission is to complete its review of the State's boards and commissions by the end of the 2021-2022 biennium.

The Commission began its work during Adjournment 2018 and made recommendations that resulted in [2019, Act No. 61](#) (H.16). The Commission met again during Adjournment 2019 and made the recommendations set forth in 2020, H.650 As Introduced.

II. Section-by-Section Summary

***** Repeal of Committee to Study the Effectiveness of the Juvenile Justice System in Reducing Crime and Recidivism *****

Sec. 1 repeals the Committee to Study the Effectiveness of the Juvenile Justice System in Reducing Crime and Recidivism, which was created in session law by [2012, Act No. 159](#), Sec. 8 and was required to submit a one-time report in 2012, but was never officially repealed.

***** Repeal of Commission on Juvenile Justice *****

- The Commission on Juvenile Justice:
 - was created as a joint venture between DCF and DOC and comprised three members from those two departments; and
 - had duties re: developing a comprehensive system of juvenile justice (including probation; treatment, training, and rehabilitation; and secure detention and treatment programs) and providing advice re: juvenile justice.
- [DCF testimony](#) indicates the Commission has been inactive since approximately 2009.

Sec. 2 repeals the Commission on Juvenile Justice.

Sec. 3 deletes reference to this Commission.

***** Repeal of Educational Opportunities Working Group *****

Sec. 4 repeals the Education Opportunities Working Group, which was created in session law by [2012, Act No. 156](#), Sec. 31 and was required to submit a one-time report in 2012, but was never officially repealed.

***** Repeal of State Board of Education *****

Sec. 5 repeals the main enabling laws that created the State Board of Education, effective 7/1/21.

- See [AOE 8/21/19 testimony](#); [AOE 10/16/19 testimony](#); and [SBE 11/13/19 testimony](#).
- The SBE testimony advises that SBE’s central purpose is to “establish and advance education policy” for the State as set forth in [16 V.S.A. § 164](#), but that the SBE is evaluating its overall statutory duties and will propose to the Leg. the elimination of outdated statutory functions that have been in existence prior to [2012, Act No. 98](#).
 - That 2012 act elevated AOE to an agency; repealed the SBE’s authority to appoint the Commissioner of Education; and eliminated SBE’s supervision over and management of the Dept. of Education and the public school system.

***** Repeal of Council of Independent Schools *****

Sec. 6 repeals the Council of Independent Schools.

- By this enabling law, the Council comprises 11 members, and its duties include providing advice to the Sec. of AOE re: independent schools and serving on a review team when the SBE finds that an independent school has not satisfactorily addressed its financial capacity.
- In subdiv. (b)(8)(B)(ii), an independent school representative appointed by the SBE would be a substitute for the Council on such a review team.
- See [AOE 8/21/19 testimony](#) and [10/16/19 notes on Council phone testimony](#).

***** Revision of State Advisory Panel on Special Education *****

Sec. 7 revises the enabling law of the State Advisory Panel on Special Education in order to conform it with the federal law requiring states to have these advisory panels in order to be eligible for funding assistance for children with disabilities. Sec. 7 is identical to the amendments proposed for this Panel in [2019, H.521 As Passed Senate](#) (an act relating to special education laws), Sec. 11.

- See also [AOE 8/21/19 testimony](#), which advises that certain aspects of the current law—such as its membership cap—make it difficult for the Council to comply with federal law.

Sec. 8 provides a transitional provision re: the deadline to appoint the new members of the Panel in accordance with federal law. Sec. 8 is identical to 2019, H.521 As Passed Senate, Sec. 12, except for the updated dates re: these transition requirements.

***** Merger of the Executive Committee to Advise the Director of the Vermont
Blueprint for Health and the
Blueprint for Health Expansion Design and Evaluation Committee *****

- These two committees generally give advice re: the Blueprint for Health, which is a State health care program.
- The members of the Executive Committee are listed in Sec. 9's 18 V.S.A. § 702(b)(1)(A). Via § 702(b)(1)(B), the Executive Committee is required to engage a broad range of health care professionals.
- The members of the Expansion Design and Evaluation Committee are listed in Sec. 9's 18 V.S.A. § 702(b)(2)(A). They include the Executive Committee, as well as additional members, some of whom are already represented on the Executive Committee.
- [DVHA 10/16/19 testimony](#) advised that these two committees have already merged.

Sec. 9:

- repeals the Expansion Design and Evaluation Committee in § 702(b)(2)(A);
- in § 702(b)(1)(B), requires the Executive Committee to develop recommendations over time for modifications to statewide implementation of Blueprint, which is currently a duty of the Expansion Design and Evaluation Committee; and
- in § 702(b)(2)(B), requires a separate work group to report to the Executive Committee, rather than the Expansion Design and Evaluation Committee.

Sec. 10 likewise substitutes the Executive Committee for the Expansion Design and Evaluation Committee as the entity that makes Blueprint recommendations to the Director of Blueprint.

***** Repeal of Board of Mental Health *****

Secs. 11-14 repeal the statutes that created the Board of Mental Health and its duties. These duties include requiring the Board to make DMH policy and providing the Board with general jurisdiction over people with intellectual disabilities or mental illness who the Board has discharged from a hospital or for whom the Board has ordered care.

- [DMH 9/11/19 testimony](#) advised that the Board has not met since 1998, when it approved a motion to disband the Board. The Board approved this motion after AHS adopted [rules re: designated agencies](#), which cover the services provided to adults and children with mental illness, developmental disabilities, or significant behavioral health needs. The DMH testimony also raised legal concerns with the Board's current statutory authority as compared to that of other entities whose authority has superseded that of the Board. DMH's overall position is that the Board is no longer needed.

Secs. 14 and 15 contain substitute language based on DMH recommendations:

- In Sec. 14, 18 V.S.A. § 7260 requires DMH and DAIL to adhere to the designated agency rules and ensure that the rule’s standing committees that are tasked with oversight of these services are regularly meeting and performing their duties.
- In Sec. 14, 18 V.S.A. § 7261 requires DMH to establish standards for designated hospital oversight.
- Sec. 15 requires DAIL to provide oversight of designated agencies as described in Sec. 14’s 18 V.S.A. § 7260.
 - This cross-reference is made because Sec. 14 pertains to DAIL’s duties re: mental health, whereas Sec. 15 pertains to DAIL’s duties re: developmental disabilities.

Sec. 16 deletes reference to the Board in 32 V.S.A. § 1010, which is the statute providing standard per diems for board members.

*** * * Repeal of Offender Work Programs Board * * ***

The Offender Work Programs Board was established for the purpose of advising the Commissioner of Corrections on the use of offender labor for the public good. [DOC 9/11/19 testimony](#) advised that this Board has not met since 2003 and that its purpose is no longer needed.

Sec. 17 repeals the Board’s creation and its general powers and duties.

- The language in subsec. (c)—prohibiting the Vermont Correctional Industries component of the offender work programs from expanding into an existing market until the Commissioner has evaluated the impact of expansion on private sector business—is retained, but the language authorizing the Board to disapprove of such expansion is deleted.
 - Accordingly, the name of this statute is amended to be “Offender Work Program ~~Board~~ Expansion”

Sec. 18 deletes language regarding the Board’s authority disapprove sales of offender-produced goods or services.

- In subdiv. (d)(3), the “Commissioner or designee” is substituted for the Board as the entity who must give preliminary approval prior to offender work product being sold to private entities outside of a federally-authorized prison program.

Sec. 19 deletes reference to Board expenses being paid from the Offender Work Programs Special Fund.

Sec. 20 deletes reference to the Board in 32 V.S.A. § 1010, which is the statute providing standard per diems for board members.

* * * **Revision of Public Utility Commission Reappointment Process** * * *

Sec. 21 amends the process to **reappoint** the **two non-Chair members** of the PUC.

Under current law:

- ***Initial appointments.***
 - Via Sec. 21's 30 V.S.A. § 3(b), the **Chair** is appointed in the manner of a Superior Court judge.
 - Ie., Judicial Nominating Board (JNB) nominations submitted to Governor; Governor appoints from among the JNB nominees; advice and consent of Senate. *See* [Vt. Const. Ch. II, §§ 32, 33](#) and [4 V.S.A. ch. 15](#).
 - Via Sec. 21's 30 V.S.A. § 3(c), re: the other two **non-Chair members**:
 - The Governor submits at least five potential nominees to the JNB;
 - The JNB recommends to the Governor which of those nominees the JNB considers qualified;
 - The Governor makes the appointment from this list of those qualified candidates; and
 - Advice and consent of the Senate.
 - *See also* [4 V.S.A. § 602a](#).
 - *[Neither of these would change under Sec. 21.]*

- ***Members seeking reappointment.***
 - Via Sec. 21's 30 V.S.A. § 3(d), the **Chair** seeks reappointment in the manner of a Superior Court judge.
 - Ie., declaration of candidacy for retention; recommendation by legislative Joint Committee on Judicial Retention; retention vote by General Assembly). *See* [Vt. Const. Ch. II, § 34](#); [4 V.S.A. § 71\(b\)](#); and [4 V.S.A. §§ 607 and 608](#).
 - *This would not change under Sec. 21.*
 - Via Sec. 21's 30 V.S.A. § 30(d), the other two **non-Chair members** seek reappointment in the manner of their initial appointment.
 - *[see above]*
 - ***This is what would change under Sec. 21.***

Sec. 21—re: the process to reappoint the two non-Chair members of the PUC— would instead allow the Governor to reappoint a non-Chair member, subject to the advice and consent of the Senate.

- Ie., the Governor would no longer need to submit at least five potential nominees to the JNB, and the JNB would no longer make a recommendation re: the Governor's nomination to reappoint a non-Chair member.
- [The Governor's Office requested this amendment.](#)

***** Merger of Equipment Distribution Program Advisory Council and
Telecommunications Relay Service Council *****

- The Dept. of Public Service (DPS) was required to establish the Telecommunications Relay Service Council (TRS Council) to provide advice on telecommunications relay services to DPS and its contractor for those services. Telecommunications relay services assist people who are deaf, deaf-blind, or hard of hearing or who have speech limitations or a physical disability that limits their ability to use standard telephone equipment. *See* 30 V.S.A. § 218a(d) in Sec. 22.
- Relatedly, statute requires DPS to establish by rule or order a telecommunications equipment grant program to assist people in obtaining equipment for these telecommunications relay services if they meet certain qualifications. *See* 30 V.S.A. § 218a(e) in Sec. 22.
 - [DPS 11/13/19 testimony](#) advised that the Equipment Distribution Program Advisory Council was not established by State law, but rather exists in practice as a subcommittee of the TRS Council to provide advice on this program. This testimony further advised that the TRS Council could serve this same purpose.

Sec. 22 in 30 V.S.A. § 218a(d)(3) in effect merges the Equipment Distribution Program Advisory Council into the TRS Council by requiring the TRS Council to provide advice to DPS on subsec. (e)'s telecommunications equipment grant program.

***** Repeal of Racing Commission *****

Secs. 23-27 are in regard to the repeal of the Racing Commission. The Commission was created to regulate horse race betting, but horse race betting is no longer occurring in practice in the State. Horse racing and horse pulling still occur at Vermont agricultural fairs, but those events do not involve betting and are regulated by guidelines of a private entity, such as the Federation Equestre Internationale. The [Administration's 7/31/19 testimony](#) advises that the Racing Commission has not met in the past two fiscal years.

These sections maintain the current law prohibition on dog race betting, which was enacted in 1995; add a horse race betting prohibition; and repeal the Racing Commission. The rationale for prohibiting horse race betting is that such betting is not currently occurring in the State, and the General Assembly should determine the overall scope of sports betting that should be permitted in the State. Since horse race betting would be prohibited, the Racing Commission would no longer be needed. These sections would repeal the T.31 Racing Commission chapter in its entirety and move the horse and dog race betting prohibitions to the subchapter of T.13 (crimes) that currently addresses animal racing.

Sec. 23 repeals the entire T.31 Racing Commission chapter. The current law prohibition on dog race betting, set forth in § 614(b) of the chapter, would be moved to T.13 in Sec. 25.

Sec. 24 makes technical corrections.

- In subsec. (a), it deletes reference to the T.31 Racing Commission chapter that is repealed via Sec. 23.
- In subdiv. (a)(1), it corrects a cross-reference to the applicable statute that defines a non-profit organization: 32 V.S.A. § 10201(5) is repealed, and in accordance with [2017, Act No. 73](#) (misc. tax), Secs. 12 and 13, the correct cross-reference is 31 V.S.A. § 1201(5).

Sec. 25 rewrites a statute currently re: prohibiting drugs and false names for racing horses.

- The amendment would delete all of the current law provisions and add the prohibition on dog and horse race betting. The language is taken verbatim from the current law prohibition on dog race betting in the T.31 Racing Commission chapter, with the prohibition on horse race betting added to it.
- This section's current law language would be deleted because any drugs in horse races or pulls or names of horses in those events are regulated by a private entity.

Sec. 26 repeals the statute defining a “drug,” since the language re: drugs is deleted in Sec. 25.

Sec. 27 repeals a prohibition on touting (in which a person gets compensated for providing betting info on a horse race, knowing the info is false), since horse race betting would be prohibited.

*** * * Restorative Justice Working Group * * ***

Sec. 28 creates a Restorative Justice Working Group to recommend legislation that would conform the law to the current structure of community and restorative justice that happens in practice.

- While [28 V.S.A. ch. 12](#) describes a restorative justice program that is to be used by community reparative boards for offenders required to participate in such a program, DOC 9/11/19 testimony—described in [these notes](#)—indicates that the statutory description of how the grants work and of these reparative boards does not match what happens in practice.
- The Working Group would comprise members who are involved in restorative justice. It would be required to conduct a comprehensive review of the current

structure of community and restorative justice and recommend what provisions of law need to be amended to bring the law in line with that current structure.

- Its report would be due on 1/1/21 and may be in the form of recommended legislation.
- The Working Group members could only receive per diem and expense reimbursement for not more than five meetings, from monies appropriated to DOC.
- The Working Group would sunset on 7/1/21.

*** * * Effective Date * * ***

Sec. 29 provides an effective date of 7/1/20.