

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred House Bill No. 162
3 entitled “An act relating to removal of buprenorphine from the misdemeanor
4 crime of possession of a narcotic” respectfully reports that it has considered the
5 same and recommends that the bill be amended by striking out all after the
6 enacting clause and inserting in lieu thereof the following:

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

8 § 4234. DEPRESSANT, STIMULANT, AND NARCOTIC DRUGS

9 (a) Possession.

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

14 * * *

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

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

1 (A) a civil penalty of \$300.00 and suspension of the person’s
2 operator’s license and privilege to operate a motor vehicle for a period of
3 30 days for a first offense; and

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (6)(A) Upon being contacted by a person who has been issued a notice
16 of violation, the Diversion Program shall register the person in the Youth
17 Substance Abuse Safety Program. Pursuant to the Youth Substance Abuse
18 Safety Program, the Diversion Program shall impose conditions on the person.
19 The conditions imposed shall include only conditions related to the offense and
20 in every case shall include a condition requiring satisfactory completion of
21 substance abuse screening using an evidence-based tool and, if deemed

1 appropriate following the screening, substance abuse assessment and substance
2 abuse education or substance abuse counseling, or both. If the screener
3 recommends substance abuse counseling, the person shall choose a State-
4 certified or State-licensed substance abuse counselor or substance abuse
5 treatment provider to provide the services.

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

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

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

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

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

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

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

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

20 § 4234. DEPRESSANT, STIMULANT, AND NARCOTIC DRUGS

21 (a) Possession.

1 ~~provide his or her name and address and shall explain procedures under this~~
2 ~~subsection, including that:~~

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

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

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

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

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

19 ~~(4) Within 15 days after receiving a notice of violation, the person shall~~
20 ~~contact the Diversion Program in the county where the offense occurred and~~
21 ~~register for the Youth Substance Abuse Safety Program. If the person fails to~~

1 ~~do so, the Diversion Program shall file the summons and complaint with the~~
2 ~~Judicial Bureau for adjudication under 4 V.S.A. chapter 29. The Diversion~~
3 ~~Program shall provide a copy of the summons and complaint to the law~~
4 ~~enforcement officer who issued the notice of violation and shall provide two~~
5 ~~copies to the person charged with the violation.~~

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

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

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

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

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

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

1 ~~(C) When a person has satisfactorily completed substance abuse~~
2 ~~screening, any required substance abuse education or substance abuse~~
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7 ~~Judicial Bureau and to the law enforcement officer who completed them.~~
8 ~~Before sending copies of the voided summons and complaint to the Judicial~~
9 ~~Bureau, the Diversion Program shall redact all language containing the~~
10 ~~person's name, address, Social Security number, and any other information~~
11 ~~that identifies the person.~~

12 ~~(D) If a person does not satisfactorily complete substance abuse~~
13 ~~screening, any required substance abuse education or substance abuse~~
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15 ~~Diversion Program or if the person fails to pay the Diversion Program any~~
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20 ~~provide two copies to the person charged with the violation.~~

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2 ~~alcohol counselor may seek review of that decision pursuant to Rule 75 of the~~
3 ~~Vermont Rules of Civil Procedure.~~

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

10 Sec. 3. EFFECTIVE DATES

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

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

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15 (Committee vote: _____)

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Representative _____

FOR THE COMMITTEE