

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred Senate Bill No. 105  
3 entitled “An act relating to miscellaneous judiciary procedures” respectfully  
4 reports that it has considered the same and recommends that the House propose  
5 to the Senate that the bill be amended by striking out all after the enacting  
6 clause and inserting in lieu thereof the following:

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

8 § 163. JUVENILE COURT DIVERSION PROJECT

9 \* \* \*

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

12 \* \* \*

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

18 \* \* \*

19 (e) Within 30 days of the two-year anniversary of a successful completion  
20 of juvenile diversion, the court shall order the sealing of all court files and  
21 records, law enforcement records other than entries in the juvenile court

1 ~~diversion project's centralized filing system, fingerprints, and photographs~~  
2 ~~applicable to a juvenile court diversion proceeding unless, upon motion, the~~  
3 ~~court finds:~~

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

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

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

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

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

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

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

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

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

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

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

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

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



1 include data on diversion program referrals in each county and possible causes  
2 of any geographical disparities.

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

5 (1) The diversion program shall accept only persons against whom  
6 charges have been filed and the court has found probable cause, but are not yet  
7 adjudicated. The prosecuting attorney may refer a person to diversion either  
8 before or after arraignment and shall notify in writing the diversion program  
9 and the court of his or her intention to refer the person to diversion. The matter  
10 shall become confidential when notice is provided to the court, except that for  
11 persons who are subject to conditions of release imposed pursuant to 13 V.S.A.  
12 § 7554 and who are referred to diversion pursuant to subdivision (b)(2) of this  
13 section, the matter shall become confidential upon the successful completion of  
14 diversion. If a person is charged with a qualifying crime as defined in  
15 13 V.S.A. § 7601(4)(A) and the crime is a misdemeanor, the prosecutor shall  
16 provide the person with the opportunity to participate in the court diversion  
17 program unless the prosecutor states on the record at arraignment or a  
18 subsequent hearing why a referral to the program would not serve the ends of  
19 justice. If the prosecuting attorney refers a case to diversion, the prosecuting  
20 attorney may release information to the victim upon a showing of legitimate  
21 need and subject to an appropriate protective agreement defining the purpose

1 for which the information is being released and in all other respects  
2 maintaining the confidentiality of the information; otherwise, files held by the  
3 court, the prosecuting attorney, and the law enforcement agency related to the  
4 charges shall be confidential and shall remain confidential unless:

5 (A) the diversion program declines to accept the case;

6 (B) the person declines to participate in diversion;

7 (C) the diversion program accepts the case, but the person does not  
8 successfully complete diversion; or

9 (D) the prosecuting attorney recalls the referral to diversion.

10 \* \* \*

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

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

14 § 21b. JUDICIAL PERFORMANCE EVALUATIONS

15 (a) The Judiciary may establish procedures to periodically seek information  
16 on the performance of superior judges and magistrates, including the  
17 solicitation by survey or otherwise of information about judicial performance  
18 from members of the Vermont Bar, pro se litigants, others who attend court  
19 proceedings, Judiciary employees, and members of the public. The  
20 performance evaluation procedures established pursuant to this subsection

1 shall be subject to the confidentiality provisions of subsection (b) of this  
2 section.

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

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

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

14 (C) disclosed only to the Supreme Court, the Chief Superior Judge,  
15 judiciary employees designated by the Judiciary to assist the Chief Superior  
16 Judge in the conduct and management of the surveys, the respective judge or  
17 magistrate, and judicial officers and judiciary employees designated by the  
18 Judiciary to assist in the development and delivery of any performance  
19 improvement program for the respective judge or magistrate.

20 (2) The Judicial Retention Committee shall not seek access to the survey  
21 responses described in subdivision (1) of this section, and shall not consider

1 any survey responses or information about the survey responses that the  
2 Committee or its members may receive. A judge or magistrate whose  
3 performance is evaluated pursuant to this section shall not disclose the survey  
4 responses to the Judicial Retention Committee.

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

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

10 § 27b. ELECTRONICALLY FILED VERIFIED DOCUMENTS

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

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

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

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

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

7        § 2904. FALSE SWEARING; FALSE DECLARATION

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

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

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

17       ~~§ 11a. VIOLENT CAREER CRIMINALS~~

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

1 ~~a felony crime of violence, is convicted of a third felony crime of violence~~  
2 ~~within this State.~~

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

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

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

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

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

13 ~~(3) assault and robbery causing bodily injury as defined in subsection~~  
14 ~~608(e) of this title;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

19          § 362. EXPOSING POISON ON THE LAND

20                 A person who deposits any poison or substance poisonous to animals on his  
21                 or her premises or on the ~~premise~~ premises or buildings of another, with the

1 intent that it be taken by an animal, shall be in violation of subdivision 352(2)  
2 of this title. This section shall not apply to control of wild pests, protection of  
3 crops from insects, mice, and plant diseases, or the Department of Fish and  
4 Wildlife ~~and employees and agents of the State Forest Service~~ in control of  
5 destructive wild animals.

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

7 § 397. ADMINISTRATIVE PENALTY

8 In addition to the forfeiture of any award, premium, or trophy otherwise  
9 due, and in addition to other penalties provided by law, a person violating this  
10 chapter may be assessed an administrative penalty in an amount not to exceed  
11 \$1,000.00 by the Secretary. The Secretary shall utilize the provisions of  
12 6 V.S.A. §§ 16 and 17 for purposes of assessing the penalty.

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

14 § 508. SETTING FIRES

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

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

2 § 1501. ESCAPE AND ATTEMPTS TO ESCAPE

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

4 (1) escapes or attempts to escape from any correctional facility or a local  
5 lockup shall be imprisoned for not more than 10 years or fined not more than  
6 \$5,000.00, or both; or

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

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

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

16 (B) fail to return from furlough to the correctional facility at the  
17 specified time, or visits other than the specified place, as required by the order  
18 issued in accordance with ~~28 V.S.A. § 808, 808a, 808b, or 808c~~ 28 V.S.A.  
19 § 808(a)(1)–(5);

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

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

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

10 (3) It shall not be a violation of subdivision (1)(A), (1)(B), or (1)(C) of  
11 this subsection (b) if the person is on furlough status pursuant to 28 V.S.A.  
12 §§ 808(a)(6), 808(e), 808(f), 808a, 808b, or 808c.

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

15 \* \* \*

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

17 § 808e. ABSCONDING FROM FURLOUGH; WARRANT

18 The Commissioner of Corrections may issue a warrant for the arrest of a  
19 person who has absconded from furlough status in violation of 28 V.S.A.  
20 §§ 808(a)(6), 808(e), 808(f), 808a, 808b, or 808c, requiring the person to be  
21 returned to a correctional facility. A person for whom an arrest warrant is

1 issued pursuant to this section shall not earn credit toward service of his or her  
2 sentence for any days that the warrant is outstanding.

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

4 § 1504. ~~PLACE OF CONFINEMENT CONSTRUED~~

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

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

8 § 2901. PUNISHMENT FOR PERJURY

9 A person who, being lawfully required to depose the truth in a proceeding  
10 in a court of justice or in a contested case before a State agency pursuant to  
11 3 V.S.A. chapter 25, commits perjury shall be imprisoned not more than  
12 15 years ~~and~~ or fined not more than \$10,000.00, or both.

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

14 § 2535. GUARDIAN

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

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

2 § 3403. MISPRISION OF TREASON

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

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

11 § 3485. PENALTY WHEN OFFENSE IS TREASON

12 A person who commits an offense punishable under one of sections ~~3481-~~  
13 ~~3484~~ 3482-3485 of this title, and such offense amounts to treason, shall be  
14 punished for treason in lieu of the penalty prescribed in such section.

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

16 § 5415. ENFORCEMENT; SPECIAL INVESTIGATION UNITS

17 (a) Special investigation units, created pursuant to 24 V.S.A. § 1940, shall  
18 be responsible for the investigation of violations of this chapter's Registry  
19 requirements and are authorized to conduct in-person Registry compliance  
20 checks in a time, place, and manner it deems appropriate in furtherance of the

1 purposes of this chapter. This section shall not be construed to prohibit local  
2 law enforcement from enforcing the provisions of this chapter.

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

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

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

15 § 7041. DEFERRED SENTENCE

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

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

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

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

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

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

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

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

17 \* \* \*

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

19 § 7554c. PRETRIAL RISK ASSESSMENTS; NEEDS SCREENINGS

20 \* \* \*

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

5 \* \* \*

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

7 § 1203. LIMITATIONS ON PRESENTATION OF CLAIMS

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

17 (1) within four months after the date of the first publication of notice to  
18 creditors if notice is given in compliance with the Rules of Probate Procedure;  
19 provided, however, that claims barred by the nonclaim statute of the decedent's  
20 domicile before the first publication for claims in this State are also barred in  
21 this State;

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

§ 8840. JURISDICTION AND VENUE

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

Sec. 22. 24 V.S.A. § 1981 is amended to read:

§ 1981. ENFORCEMENT OF ORDER FROM JUDICIAL BUREAU

(a) Upon the filing of the complaint and entry of a judgment after hearing or entry of default by the hearing officer, subject to any appeal pursuant to 4 V.S.A. § 1107, the person found in violation shall have up to 30 days to pay the penalty to the Judicial Bureau. Upon the expiration of the period to pay the penalty, the person found in violation shall be assessed a surcharge of \$10.00 for the benefit of the municipality. All the civil remedies for collection of judgments shall be available to enforce the final judgment of the Judicial Bureau.

\* \* \*

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

§ 5204A. JURISDICTION OVER ADULT DEFENDANT FOR CRIME  
COMMITTED WHEN DEFENDANT WAS UNDER AGE 18

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

3 (1) the petition alleges that the defendant;

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

6 (B) after attaining the age of 14 but before attaining the age of 18,  
7 committed an offense listed in 13 V.S.A. § 5301(7) but not listed in subsection  
8 5204(a) of this title;

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

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

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

17 (A) there is probable cause to believe that while the defendant was  
18 less than 18 years of age he or she committed an act listed in subsection  
19 5204(a) of this title;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 **Sec. 24. TASK FORCE ON CAMPUS SEXUAL HARM; REPORT**

15 (a) Creation. There is created the Task Force on Campus Sexual Harm to  
16 examine issues relating to responses to sexual harm, dating and intimate  
17 partner violence, and stalking on campuses of postsecondary educational  
18 institutions in Vermont.

19 (b) Membership. The Task Force shall be composed of the following  
20 19 members:

- 1           (1) one current member of the House of Representatives, appointed by  
2           the Speaker of the House;
- 3           (2) one current member of the Senate, appointed by the Committee on  
4           Committees;
- 5           (3) two survivors of campus sexual assault, domestic violence, or  
6           stalking incidents, appointed by Vermont Center for Crime Victim Services;
- 7           (4) the Executive Director of the Vermont Network Against Domestic  
8           and Sexual Violence or designee;
- 9           (5) one representative of a community-based sexual violence advocacy  
10           organization, appointed by the Vermont Network Against Domestic and  
11           Sexual Violence;
- 12           (6) three Title IX Coordinators, one employed and appointed by the  
13           University of Vermont, one employed and appointed by the Vermont State  
14           Colleges, and one employed by a Vermont independent postsecondary  
15           educational institution, appointed by the President of the Association of  
16           Vermont Independent Colleges;
- 17           (7) one campus health and wellness educator or sexual violence  
18           prevention educator working in a Vermont postsecondary educational  
19           institution, appointed by the Higher Education Subcommittee of the  
20           Prekindergarten–16 Council;

1           (8) one victim advocate working in a Vermont postsecondary  
2           educational institution, appointed by the Higher Education Subcommittee of  
3           the PreK–16 Council;

4           (9) two students who are members of campus groups representing  
5           traditionally marginalized communities, appointed by the Higher Education  
6           Subcommittee of the Prekindergarten–16 Council;

7           (10) one community-based restorative justice practitioner, appointed  
8           by the Community Justice Network of Vermont;

9           (11) one representative appointed by the Pride Center of Vermont;

10           (12) one representative appointed by the Vermont Office of the  
11           Defender General;

12           (13) one representative appointed by the Vermont Department of  
13           State’s Attorneys and Sheriffs;

14           (14) one representative appointed by the Vermont Bar Association,  
15           with expertise in working with postsecondary educational institutions on the  
16           investigation and adjudication of sexual harassment and sexual assault  
17           allegations; and

18           (15) the Executive Director of the Vermont Human Rights  
19           Commission, or designee.

20           (c) Powers and duties. The Task Force shall study the following:

1           (1) The pathways for survivors of sexual harm in postsecondary  
2           educational institutional settings to seek healing and justice and  
3           recommendations to increase or enhance those pathways.

4           (2) Issues with Vermont’s campus adjudication processes as identified  
5           by survivors of sexual harm, dating and intimate partner violence, or stalking  
6           in postsecondary educational institutional settings, including the interface  
7           between campus adjudication processes and law enforcement.

8           (3) Issues relating to transparency, safety, affordability, accountability  
9           of outcomes, and due process in campus conduct adjudication processes for  
10           sexual harm, dating and intimate partner violence, or stalking, including:

11           (A) current and best practices relating to outcomes conveyed  
12           through a student’s transcript record;

13           (B) the effectiveness of acts passed in New York in 2015 to address  
14           campus sexual assault and in Virginia in 2015 to include a notation “on the  
15           transcript of each student who has been suspended for, has been permanently  
16           dismissed for, or withdraws from the institution while under investigation for  
17           an offense involving sexual violence under the institution’s code, rules, or set  
18           of standards governing student conduct”;

19           (C) the effectiveness of requiring that student transcript records  
20           note expulsions or suspensions in order to trigger follow-up conversations  
21           between the transferring and receiving schools; and

1           (D) consideration of concerns raised by the Association of Title IX  
2           Administrators with regard to transcript notation, in support of proposed  
3           federal legislation known as the Safe Transfer Act (H.R.6523, 114th  
4           Congress).

5           (4) How to improve survivor safety in campus adjudication processes.

6           (5) Any State policy changes that should be made in response to  
7           Title IX changes at the federal level.

8           (6) How to enhance ties between postsecondary educational  
9           institutions and community organizations that focus on domestic and sexual  
10          violence.

11          (d) Assistance. For purposes of scheduling meetings and preparing  
12          recommended legislation, the Task Force shall have the assistance of the  
13          Office of Legislative Council.

14          (e) Report. On or before March 15, 2020, the Task Force shall submit a  
15          written report to the House and Senate Committees on Education and  
16          Judiciary with its findings and any recommendations for legislative action.

17          (f) Meetings.

18          (1) The Executive Director of the Vermont Network Against Domestic  
19          and Sexual Violence or designee shall call the first meeting of the Task Force  
20          to occur on or before July 15, 2019.

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

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

4           (4) The Task Force shall cease to exist on March 16, 2020.

5           (g) Compensation and reimbursement.

6           (1) For attendance at meetings during adjournment of the General  
7           Assembly, a legislative member of the Task Force serving in his or her  
8           capacity as a legislator shall be entitled to per diem compensation and  
9           reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than  
10           seven meetings. These payments shall be made from monies appropriated to  
11           the General Assembly.

12           (2) Other members of the Task Force who are not otherwise  
13           compensated for their service on the Task Force shall be entitled to per diem  
14           compensation and reimbursement of expenses as permitted under 32 V.S.A.  
15           § 1010 for not more than seven meetings. These payments shall be made  
16           from monies appropriated to the Agency of Education.

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

1 compensation and reimbursement of expenses for legislative members of the  
2 Task Force.

3 Sec. 25. REPEAL; EXTENSION

4 Sec. 2 of 2016 Acts and Resolves No. 167, as amended by Sec. E.204 of  
5 2017 Acts and Resolves No. 185, is amended to read:

6 Sec. 2. REPEAL

7 4 V.S.A. § 38 (Judicial Masters) shall be repealed on July 1, ~~2020~~ 2025.

8 Sec. 26. EFFECTIVE DATE

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

11

12

13 (Committee vote: \_\_\_\_\_)

14

\_\_\_\_\_

15

Representative \_\_\_\_\_

16

FOR THE COMMITTEE