

1 TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred Senate Bill No. 114  
3 entitled “An act relating to expungement of misdemeanor marijuana possession  
4 convictions” respectfully reports that it has considered the same and  
5 recommends that the bill be amended by striking out all after the enacting  
6 clause and inserting in lieu thereof the following:

7 Sec. 1. RENT ESCROW HEARINGS; TEMPORARY JUDICIAL  
8 DISCRETION FOR PAYMENT OF RENT INTO COURT

9 (a) As used in this section, “emergency period” means the period beginning  
10 with the Governor’s declaration of a state of emergency on March 13, 2020  
11 arising from COVID-19 and ending 30 days after the Governor terminates the  
12 state of emergency by declaration.

13 (b) Notwithstanding 12 V.S.A. § 4853a(d), for any hearing on a motion to  
14 order a defendant to pay rent into court that occurs during the emergency  
15 period, the court may order full or partial payment into court of rent as it  
16 accrues while the proceeding is pending and rent accrued from the date of  
17 filing with the court the complaint for ejectment or the date the summons and  
18 complaint for ejectment were served on the tenant pursuant to Rule 3 of the  
19 Vermont Rules of Civil Procedure, whichever occurs first.

1 Sec. 2. 14 V.S.A. § 3503 is amended to read:

2 § 3503. EXECUTION

3 (a) A power of attorney shall be signed by the principal in the presence of  
4 at least one witness and shall be acknowledged before a notary public, who  
5 shall be a person other than the witness.

6 \* \* \*

7 (f)(1) During the period that the Emergency Administrative Rules for  
8 Remote Notarial Acts issued by the Vermont Secretary of State (the  
9 Emergency Rules) are in effect, the witness to a power of attorney signed in  
10 conformity with the Emergency Rules and pursuant to this section shall be  
11 considered to be in the presence of the principal whether or not the witness is  
12 physically present with the principal or the notary. A power of attorney  
13 executed pursuant to this subsection may be recorded in the land records.

14 (2) A power of attorney executed in compliance with the Emergency  
15 Rules shall be presumed to be valid if the notarial certificate attached to the  
16 power of attorney contains an affirmative statement of compliance with the  
17 Emergency Rules.

18 Sec. 3. 27 V.S.A. § 341 is amended to read:

19 § 341. REQUIREMENTS GENERALLY; RECORDING

20 (a) Deeds and other conveyances of lands, or of an estate or interest therein,  
21 shall be signed by the party granting the same and acknowledged by the

1 grantor before a notary public and recorded at length in the clerk’s office of the  
2 town in which such lands lie. Such acknowledgment before a notary public  
3 shall be valid without an official stamp being affixed to his or her signature.

4 \* \* \*

5 (d)(1) A deed or other instrument may be recorded in the land records  
6 pursuant to this section for the purposes provided in this chapter and shall be  
7 deemed to impart notice of its contents if it is signed and acknowledged in  
8 accordance with the procedures specified in the Emergency Administrative  
9 Rules for Remote Notarial Acts adopted by the Vermont Secretary of State (the  
10 Emergency Rules) during the period that the Emergency Rules are in effect.

11 (2) A deed or other instrument executed in compliance with the  
12 Emergency Rules shall be presumed to be valid if the notarial certificate  
13 attached to the deed or other instrument contains an affirmative statement of  
14 compliance with the Emergency Rules.

15 Sec. 4. Vermont Rule of Criminal Procedure 43 is amended to read:

16 **RULE 43. PRESENCE OF THE DEFENDANT**

17 (a) Presence Required. The defendant shall be present at the arraignment,  
18 at any subsequent time at which a plea is offered, at every stage of the trial  
19 including the impaneling of the jury and the return of the verdict, and at the  
20 imposition of sentence, except as otherwise provided by this rule.

21 \* \* \*

1        (d)(1) For purposes of this rule, a defendant shall be deemed to be present  
2        in court if:

3                (A) after having the opportunity to consult with counsel in person,  
4        telephonically, or via audio or video conference, the defendant makes an on-  
5        the-record waiver of the right to be physically present in court at the time of  
6        the proceeding; and

7                (B) the defendant’s appearance at the proceeding is made by means  
8        of contemporaneous video or audio conference transmission.

9                (2) For purposes of this rule, the terms “audio conference” and “video  
10        conference” shall be defined as set forth in V.R.C.P. 43.1, Participation of  
11        Testimony by Video or Audio Conference.

12        Sec. 5. ADMINISTRATIVE ORDER NO. 49; JUDICIAL EMERGENCY  
13                RESPONSE; SUSPENSION AND EXTENSION OF STATUTORY  
14                TIME FRAMES FOR COURT PROCEEDINGS; STAY OF CIVIL  
15                SUSPENSIONS

16        Due to the COVID-19 public health emergency, Administrative Order  
17        No. 49, Declaration of Judicial Emergency and Changes to Court Procedures,  
18        was issued to postpone all nonemergency Superior Court and Judicial Bureau  
19        hearings. As a result, the General Assembly intends this section to temporarily  
20        suspend the time frames by which certain court proceedings are statutorily  
21        required to take place.

1           (1) Notwithstanding any provision of law to the contrary, for the  
2           duration of the time A.O. No. 49 is in effect, the statutory time frames for  
3           certain hearings or court proceedings shall be extended as follows:

4                   (A) conditions of release review pursuant to 13 V.S.A. § 7554(d)(1)  
5           shall be held within seven days following application; and

6                   (B) conditions of release review pursuant to 13 V.S.A. § 7554(d)(2)  
7           shall be held within 14 days following application.

8           (2) Notwithstanding any provision of law to the contrary, for the  
9           duration of the time A.O. No. 49 is in effect and 120 days after A.O. No. 49 is  
10           terminated, all statutory time frames for issuing orders to seal or expunge  
11           criminal history records or processing petitions to seal or expunge criminal  
12           history records pursuant to 13 V.S.A. chapter 230 are suspended.

13           (3) Notwithstanding any provision of law to the contrary, for the  
14           duration of time A.O. No. 49 is in effect, the statutory time frames for  
15           preliminary and merits hearings on civil suspension pursuant to 23 V.S.A.  
16           § 1205(g) and (h) are suspended, and the Superior Court shall not suspend or  
17           disqualify a person’s driver’s license or privilege to operate pursuant to  
18           23 V.S.A. § 1205 until the civil suspension hearing on the merits is held.

19           Sec. 6. SUSPENSION OF STATUTES OF LIMITATIONS

20           Notwithstanding any provision of law to the contrary, all statutes of  
21           limitations or statutes of repose for commencing a civil action in Vermont that

1 would otherwise expire during the duration of any state of emergency declared  
2 by the Governor arising from the spread of COVID-19 are tolled until 60 days  
3 after the Governor terminates the state of emergency by declaration.

4 Sec. 7. NOTARIZATION; ALTERNATIVE FILING REQUIREMENT

5 (a) As used in this section, “emergency period” means the period beginning  
6 with the Governor’s declaration of a state of emergency on March 13, 2020  
7 arising from COVID-19 and ending 30 days after the Governor terminates the  
8 state of emergency by declaration.

9 (b) During the emergency period, notwithstanding 4 V.S.A. § 27b:

10 (1) A party may file any document that would otherwise require the  
11 approval or verification of a notary by filing the document with the following  
12 language inserted above the signature and date:

13 “I declare that the above statement is true and accurate to the best of my  
14 knowledge and belief. I understand that if the above statement is false, I will  
15 be subject to the penalty of perjury or other sanctions in the discretion of the  
16 court.”

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

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

1       Sec. 8. EFFECTIVE DATE

2           This act shall take effect on passage.

3           and that after passage the title of the bill be amended to read: An act  
4 relating to the emergency judicial response to the COVID-19 public health  
5 emergency

6

7

8

9

10

11           (Committee vote: \_\_\_\_\_)

12

\_\_\_\_\_

13

Senator \_\_\_\_\_

14

FOR THE COMMITTEE