

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred Senate Bill No. 234
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 (i) Notwithstanding subdivision (c)(1) of this section, the diversion
11 program may accept cases from the Youth Substance ~~Abuse~~ Awareness Safety
12 Program pursuant to 7 V.S.A. § 656 or 18 V.S.A. § 4230b. The confidentiality
13 provisions of this section shall become effective when a notice of violation is
14 issued under 7 V.S.A. § 656(b) or 18 V.S.A. § 4230b(b), and shall remain in
15 effect unless the person fails to register with or complete the Youth Substance
16 ~~Abuse~~ Awareness Safety Program.

17 * * *

18 Sec. 2. 3 V.S.A. § 164 is amended to read:

19 § 164. ADULT COURT DIVERSION PROGRAM

20 * * *

1 (l) Notwithstanding subdivision (e)(1) of this section, the diversion
2 program may accept cases from the Youth Substance ~~Abuse~~ Awareness Safety
3 Program pursuant to 7 V.S.A. § 656 or 18 V.S.A. § 4230b. The confidentiality
4 provisions of this section shall become effective when a notice of violation is
5 issued under 7 V.S.A. § 656(b) or 18 V.S.A. § 4230b(b), and shall remain in
6 effect unless the person fails to register with or complete the Youth Substance
7 ~~Abuse~~ Awareness Safety Program.

8 * * *

9 Sec. 3. 18 V.S.A. § 4230a is amended to read:

10 § 4230A. ~~MARIJUANA~~ CANNABIS POSSESSION BY A PERSON 21
11 YEARS OF AGE OR OLDER

12 * * *

13 (d) Fifty percent of the civil penalties imposed by the Judicial Bureau for
14 violations of this section shall be deposited in the Drug Task Force Special
15 Fund, hereby created to be managed pursuant to 32 V.S.A. chapter 7,
16 subchapter 5, and available to the Department of Public Safety for the funding
17 of law enforcement officers on the Drug Task Force, except for a \$12.50
18 administrative charge for each violation, which shall be deposited in the Court
19 Technology Special Fund, in accordance with 13 V.S.A. § 7252. The
20 remaining 50 percent shall be deposited in the Youth Substance ~~Abuse~~
21 Awareness Safety Program Special Fund, hereby created to be managed

1 pursuant to 32 V.S.A. chapter 7, subchapter 5, and available to the Court
2 Diversion Program for funding of the Youth Substance ~~Abuse~~ Awareness
3 Safety Program as required by section 4230b of this title.

4 * * *

5 Sec. 4. 18 V.S.A. § 4230f is amended to read:

6 § 4230F. DISPENSING ~~MARIJUANA~~ CANNABIS TO A PERSON UNDER
7 21 YEARS OF AGE; CRIMINAL OFFENSE

8 * * *

9 (e)(1) Subsections (a)–(d) of this section shall not apply to a person under
10 21 years of age who dispenses ~~marijuana~~ cannabis to a person under 21 years
11 of age or who knowingly enables the consumption of ~~marijuana~~ cannabis by a
12 person under 21 years of age.

13 (2) A person who is 18, 19, or 20 years of age who knowingly dispenses
14 ~~marijuana~~ cannabis to a person who is 18, 19, or 20 years of age commits a
15 civil violation and shall be referred to the Court Diversion Program for the
16 purpose of enrollment in the Youth Substance ~~Abuse~~ Awareness Safety
17 Program in accordance with the provisions of section 4230b of this title and
18 shall be subject to the penalties in that section for failure to complete the
19 program successfully.

20 * * *

1 Sec. 5. 7 V.S.A. § 656 is amended to read:

2 § 656. PERSON 16 YEARS OF AGE OR OLDER AND UNDER 21 YEARS
3 OF AGE MISREPRESENTING AGE, PROCURING, POSSESSING,
4 OR CONSUMING ALCOHOLIC BEVERAGES; CIVIL
5 VIOLATION-

6 (a)(1) Prohibited conduct. A person 16 years of age or older and under
7 21 years of age shall not:

8 (A) Falsely represent his or her age for the purpose of procuring or
9 attempting to procure malt or vinous beverages, spirits, or fortified wines from
10 any licensee, State liquor agency, or other person or persons.

11 (B) Possess malt or vinous beverages, spirits, or fortified wines for
12 the purpose of consumption by himself or herself or other minors, except in the
13 regular performance of duties as an employee of a licensee licensed to sell
14 alcoholic liquor.

15 (C) Consume malt or vinous beverages, spirits, or fortified wines. A
16 violation of this subdivision may be prosecuted in a jurisdiction where the
17 minor has consumed malt or vinous beverages, spirits, or fortified wines or in a
18 jurisdiction where the indicators of consumption are observed.

19 (2) Offense. A person ~~under 21 years of age~~ who knowingly violates
20 subdivision (1) of this subsection commits a civil violation and shall be
21 referred to the Court Diversion Program for the purpose of enrollment in the

1 Youth Substance ~~Abuse~~ Awareness Safety Program. A person who fails to
2 complete the program successfully shall be subject to:

3 (A) a civil penalty of \$300.00 and suspension of the person's
4 operator's license and privilege to operate a motor vehicle for a period of
5 30 days, for a first offense; and

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

9 (b) Issuance of notice of violation. A law enforcement officer shall issue a
10 person ~~under 21 years of age~~ who violates this section a notice of violation, in
11 a form approved by the Court Administrator. The notice of violation shall
12 require the person to provide his or her name and address and shall explain
13 procedures under this section, including that:

14 * * *

15 Sec. 6. 18 V.S.A. § 4230b is amended to read:

16 § 4230b. ~~MARIJUANA~~ CANNABIS POSSESSION BY A PERSON 16

17 YEARS OF AGE OR OLDER AND UNDER 21 YEARS OF AGE;

18 CIVIL VIOLATION

19 (a) Offense. A person 16 years of age or older and under 21 years of age
20 who knowingly and unlawfully possesses one ounce or less of ~~marijuana~~
21 cannabis or five grams or less of hashish or two mature marijuana cannabis

1 plants or fewer or four immature ~~marijuana~~ cannabis plants or fewer commits a
2 civil violation and shall be referred to the Court Diversion Program for the
3 purpose of enrollment in the Youth Substance Abuse Safety Program. A
4 person who fails to complete the program successfully shall be subject to:

5 (1) a civil penalty of \$300.00 and suspension of the person's operator's
6 license and privilege to operate a motor vehicle for a period of 30 days, for a
7 first offense; and

8 (2) a civil penalty of not more than \$600.00 and suspension of the
9 person's operator's license and privilege to operate a motor vehicle for a
10 period of 90 days, for a second or subsequent offense.

11 (b) Issuance of ~~Notice~~ notice of ~~Violation~~ violation. A law enforcement
12 officer shall issue a person ~~under 21 years of age~~ who violates this section with
13 a notice of violation, in a form approved by the Court Administrator. The
14 notice of violation shall require the person to provide his or her name and
15 address and shall explain procedures under this section, including that:

16 * * *

17 (d) Registration in Youth Substance ~~Abuse~~ Awareness Safety Program.
18 Within 15 days after receiving a notice of violation, the person shall contact
19 the Diversion Program in the county where the offense occurred and register
20 for the Youth Substance ~~Abuse~~ Awareness Safety Program. If the person fails
21 to do so, the Diversion Program shall file the summons and complaint with the

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

5 * * *

6 (f)(1) Diversion Program ~~Requirements~~ requirements. Upon being
7 contacted by a person who has been issued a notice of violation, the Diversion
8 Program shall register the person in the Youth Substance ~~Abuse~~ Awareness
9 Safety Program. Pursuant to the Youth Substance ~~Abuse~~ Awareness Safety
10 Program, the Diversion Program shall impose conditions on the person. The
11 conditions imposed shall include only conditions related to the offense and in
12 every case shall include a condition requiring satisfactory completion of
13 substance abuse screening using an evidence-based tool and, if deemed
14 appropriate following the screening, substance abuse assessment and substance
15 abuse education or substance abuse counseling, or both. If the screener
16 recommends substance abuse counseling, the person shall choose a State-
17 certified or State-licensed substance abuse counselor or substance abuse
18 treatment provider to provide the services.

19 * * *

1 Sec. 7. 18 V.S.A. § 4230j is added to read:

2 § 4230j. CANNABIS POSSESSION BY A PERSON UNDER 16 YEARS
3 OF AGE; DELINQUENCY

4 A person under 16 years of age who engages in conduct in violation of
5 subdivision 4230b of this title commits a delinquent act and shall be subject to
6 33 V.S.A. chapter 52. The person shall be provided the opportunity to
7 participate in the Court Diversion Program ~~unless the prosecutor states on the~~
8 ~~record why a referral to the Program would not serve the ends of justice.~~

9 Sec. 8. 23 V.S.A. § 203 is amended to read:

10 § 203. COUNTERFEITING, FRAUD, AND MISUSE; PENALTY

11 (a) A person shall not:

12 * * *

13 (2) display or cause or permit to be displayed, or have in his or her
14 possession, any fictitious or fraudulently altered operator license, learner's
15 permit, nondriver identification card, inspection sticker, or registration
16 certificate, or display for any fraudulent purpose an expired or counterfeit
17 insurance identification card or similar document;

18 * * *

19 (b)(1) ~~A~~ Except as provided in subdivision (2) of this subsection, a
20 violation of subsection (a) of this section shall be a traffic violation for which
21 there shall be a penalty of not more than \$1,000.00. If a person is found to

1 have committed the violation, the person’s privilege to operate motor vehicles
2 shall be suspended for 60 days.

3 (2) If a person may be charged with a violation of subdivision (a)(2) of
4 this section or with a violation of 7 V.S.A. § 656, the person shall be charged
5 with a violation of 7 V.S.A. § 656 and not with a violation of this section.

6 Sec. 9. 4 V.S.A. § 1105 is amended to read:

7 § 1105. ANSWER TO COMPLAINT; DEFAULT

8 (a) A violation shall be charged upon a summons and complaint form
9 approved and distributed by the Court Administrator. The complaint shall be
10 signed by the issuing officer or by the State’s Attorney. The original shall be
11 filed with the Judicial Bureau; a copy shall be retained by the issuing officer or
12 State’s Attorney and two copies shall be given to the defendant. The Judicial
13 Bureau may, consistent with rules adopted by the Supreme Court pursuant to
14 12 V.S.A. § 1, accept electronic signatures on any document, including the
15 signatures of issuing officers, State’s Attorneys, and notaries public. The
16 complaint shall include a statement of rights, instructions, notice that a
17 defendant may ~~admit, not contest, or deny a violation~~ request a hearing or
18 accept the penalties without a hearing, notice of the fee for failure to answer
19 within ~~20~~ 21 days, and other notices as the Court Administrator deems
20 appropriate. The Court Administrator, in consultation with appropriate law
21 enforcement agencies, may approve a single form for charging all violations,

1 or may approve two or more forms as necessary to administer the operations of
2 the Judicial Bureau.

3 (b) A person who is charged with a violation shall have ~~20~~ 21 days from
4 the date the complaint is issued to ~~admit or deny the allegations or to state that~~
5 ~~he or she does not contest the allegations in the complaint~~ request a hearing or
6 to state that he or she will accept the penalties without a hearing. The Judicial
7 Bureau shall assess against a defendant a fee of \$20.00 for failure to answer a
8 complaint within the time allowed. The fee shall be assessed in the default
9 judgment and deposited in the Court Technology Special Fund established
10 pursuant to section 27 of this title.

11 (c) A person who ~~admits or does not contest the allegations~~ accepts the
12 penalties may so indicate and sign the complaint. The Bureau shall accept the
13 admission or statement that the allegations are not contested and accept
14 payment of the waiver penalty.

15 (d) If the person sends in the amount of the waiver penalty without signing
16 the complaint, the Bureau shall accept the payment indicating that payment
17 was made and that the allegations were not contested.

18 (e) A person who denies the allegations or who wishes to have a hearing on
19 the complaint for any other reason may so indicate and sign the complaint.

20 Upon receipt, the Bureau shall schedule a hearing.

21 * * *

1 Sec. 10. 12 V.S.A. § 2903(d) is amended to read:

2 (d) If a judgment lien is not satisfied within 30 days of recording, it may be
3 foreclosed and redeemed as provided in this title and V.R.C.P. 80.1. Unless
4 the court finds that as of the date of foreclosure the amount of the outstanding
5 debt exceeds the value of the real property being foreclosed, ~~section 4531~~
6 chapter 172 of this title shall apply to foreclosure of a judgment lien.

7 Sec. 11. 12 V.S.A. § 5812 is amended to read:

8 § 5812. OATH TO BE ADMINISTERED TO ATTORNEYS

9 You solemnly swear (affirm) that you will do no falsehood, nor consent that
10 any be done in court, and if you know of any, you will give knowledge thereof
11 to the judges of the court or some of them, that it may be reformed; that you
12 will not wittingly, willingly, or knowingly promote, sue, or procure to be sued,
13 any false or unlawful suit, or give aid or consent to the same; that you will
14 delay no ~~man~~ person for lucre or malice, but will act in the office of attorney
15 within the court, according to your best learning and discretion, with all good
16 fidelity as well to the court as to your client. So help you God (or, “under the
17 pains and penalties of perjury”).

18 Sec. 12. 13 V.S.A. § 1029 is amended to read:

19 § 1029. ALCOHOLISM, LIMITATIONS, EXCEPTIONS

20 (a) No political subdivision of the State may adopt or enforce a law or rule
21 having the force of law that includes being found in an intoxicated condition as

1 one of the elements of the offense giving rise to a criminal or civil penalty. No
2 political subdivision may interpret or apply any law of general application to
3 circumvent this provision.

4 (b) Nothing in this section affects any law or rule against operating a motor
5 vehicle or other machinery under the influence of alcohol or possession or use
6 of alcoholic beverages at stated times and places or by a particular class of
7 persons.

8 (c) This section does not make intoxication or incapacitation as defined in
9 ~~18 V.S.A. § 9142~~ 18 V.S.A. § 4802 an excuse or defense for any criminal act.
10 Nothing contained herein shall change current law relative to insanity as a
11 defense for any criminal act.

12 (d) This section does not relieve any person from civil liability for any
13 injury to persons or property caused by that person while intoxicated or
14 incapacitated.

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

16 § 7602. EXPUNGEMENT AND SEALING OF RECORD,
17 POSTCONVICTION; PROCEDURE

18 * * *

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

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* * *

(C) Any restitution and surcharges ordered by the court ~~has~~ have been paid in full, provided that payment of surcharges shall not be required if the surcharges have been waived by the court pursuant to section 7282 of this title.

* * *

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

* * *

(D) Any restitution and surcharges ordered by the court for any crime of which the person has been convicted has been paid in full, provided that payment of surcharges shall not be required if the surcharges have been waived by the court pursuant to section 7282 of this title.

* * *

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

* * *

1 surcharges shall not be required if the surcharges have been waived by the
2 court pursuant to section 7282 of this title.

3 * * *

4 Sec. 15. 14 V.S.A. § 107 is amended to read:

5 § 107. ALLOWANCE OF WILL; CUSTODY OF PROPERTY

6 (a) If consents are filed by all the heirs at law and surviving spouse, a will
7 may be allowed without hearing. If consents are not obtained, the court shall
8 schedule a hearing and notice shall be given as provided by the Rules of
9 Probate Procedure.

10 (b) Objections to allowance of the will must be filed in writing not less than
11 seven days prior to the hearing. In the event that no timely objections are filed,
12 ~~the will may be allowed without hearing if it meets criteria set out in section~~
13 ~~108 of this title~~ the court may:

14 (1) allow the will on the testimony of only one of the subscribing
15 witnesses if the witness testifies that the will was executed as provided in
16 chapter 1 of this title; or

17 (2) allow the will without hearing if it meets criteria set out in section
18 108 of this title.

19 * * *

1 Sec. 16. 14 V.S.A. § 1203 is amended to read:

2 § 1203. LIMITATIONS ON PRESENTATION OF CLAIMS

3 * * *

4 (c) Nothing in this section affects or prevents:

5 (1) any proceeding to enforce any mortgage, pledge, or other lien upon
6 property of the estate; ~~or~~

7 (2) to the limits of the insurance protection only, any proceeding to
8 establish liability of the decedent or the executor or administrator for which he
9 or she is protected by liability insurance; or

10 (3) the enforcement of any tax liability.

11 Sec. 17. 14 V.S.A. § 2643 is amended to read:

12 § 2643. RELEASE BY COURT AND PARENT ON BEHALF OF MINOR

13 (a) The Superior judge of the Superior Court within and for the county
14 where the minor resides, on behalf of a minor, must approve of and consent to
15 a release to be executed by a parent in the settlement of any claim that does not
16 exceed the sum of ~~\$1,500.00~~ \$10,000.00. A release so furnished shall be
17 binding on the minor and both parents, their heirs, executors, administrators, or
18 assigns, respectively.

19 (b) Any claim settled for a sum in excess of ~~\$1,500.00~~ \$10,000.00 shall
20 require the approval of a court-appointed guardian.

1 (19) of this subsection, which shall be for the benefit of the county in which
2 the fee was collected:

3 * * *

4 (28) ~~Petitions for minor settlement pursuant to 14 V.S.A. § 2643 - \$90.00~~

5 [Repealed.]

6 * * *

7 Sec. 22. 33 V.S.A. § 5117 is amended to read:

8 § 5117. RECORDS OF JUVENILE JUDICIAL PROCEEDINGS

9 * * *

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

12 * * *

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

18 (E) the child who is the subject of the proceeding, the child's parents,
19 guardian, and ~~custodian, and guardian ad litem~~ may inspect such records and
20 files upon approval of the Family Court judge;

21 * * *

1 Sec. 23. 33 V.S.A. § 5119 is amended to read:

2 § 5119. SEALING OF RECORDS

3 * * *

4 (m) Notwithstanding the provisions of this section, a criminal record may
5 not be sealed if restitution and surcharges are owed, provided that payment of
6 surcharges shall not be required if the surcharges have been waived by the
7 court pursuant to 13 V.S.A. § 7282.

8 Sec. 24. REPEAL

9 12 V.S.A. chapter 215, subchapter 1 (voluntary arbitration for medical
10 malpractice cases) is repealed.

11 Sec. 25. PERSONS WITH SUSPENDED DRIVER'S LICENSES;

12 REINSTATEMENT FEE WAIVER PROGRAM

13 (a) There is established the Reinstatement Fee Waiver Program to permit
14 the Department of Motor Vehicles to waive all license reinstatement fees for
15 motor vehicle operators whose licenses have been suspended under certain
16 circumstances. The Reinstatement Fee Waiver Program shall comply with the
17 guidelines set forth in this section.

18 (b) On or before April 30, 2021, the Department of Motor Vehicles shall:

19 (1) waive all license reinstatement fees for any person whose operator's
20 license has been:

1 (A) suspended for noncriminal reasons for one year or longer and
2 who has satisfied all other reinstatement conditions and requirements; or

3 (B) suspended prior to July 1, 2014 for failure to pay the amount due
4 in a Judicial Bureau judgment and who has satisfied all other reinstatement
5 conditions and requirements;

6 (2) reinstate the operator’s licenses of each person whose reinstatement
7 fees are waived pursuant to subdivision (b)(1) of this section; and

8 (3) notify each person whose reinstatement fees are waived pursuant to
9 subdivision (b)(1) of this section that the person’s license has been reinstated
10 or that the person’s license is ineligible for reinstatement and the reason for
11 ineligibility.

12 (c) As used in this section:

13 (1) “Amount due” means the same as in 4 V.S.A. § 1109(a).

14 (2) “Reinstatement conditions and requirements” shall not include the
15 amount due in a Judicial Bureau judgment.

16 (3) “Suspended for noncriminal reasons” shall not include a license that
17 is under suspension on April 30, 2021 for the accumulation of 10 or more
18 points.

- 1 (25) grandparent visitation proceedings under 15 V.S.A. chapter 18; ~~and~~
2 (26) other matters as provided by law; and
3 (27) concurrent with the Family Division, special immigration judicial
4 determinations regarding the custody and care of children within the meaning
5 of the federal Immigration and Nationality Act (8 U.S.C. § 1101(a)(27)(J) and
6 8 C.F.R. § 204.11) issued pursuant to 14 V.S.A. chapter 111, subchapter 14.

7 Sec. 29. 14 V.S.A. chapter 111, subchapter 14 is added to read:

8 Subchapter 14. Special Immigration Status

9 § 3098. SPECIAL IMMIGRATION JUVENILE STATUS; JURISDICTION

10 AND FINDINGS

11 (a) The court has jurisdiction under Vermont law to make judicial
12 determinations regarding the custody and care of children within the meaning
13 of the federal Immigration and Nationality Act (8 U.S.C. § 1101(a)(27)(J) and
14 8 C.F.R. § 204.11). The court is authorized to make the findings necessary to
15 enable a child to petition the U.S. Citizenship and Immigration Service for
16 classification as a special immigrant juvenile pursuant to 8 U.S.C.
17 § 1101(a)(27)(J).

18 (b)(1) If an order is requested from the court making the necessary findings
19 regarding special immigrant juvenile status as described in subsection (a) of
20 this section, the court shall issue an order if there is evidence to support those
21 findings, which may include a declaration by the child who is the subject of the

1 petition. The order issued by the court shall include all of the following
2 findings:

3 (A) The child was either of the following:

4 (i) Declared a dependent of the court.

5 (ii) Legally committed to or placed under the custody of a State
6 agency or department or an individual or entity appointed by the court. The
7 court shall indicate the date on which the dependency, commitment, or custody
8 was ordered.

9 (B) That reunification of the child with one or both of the child's
10 parents was determined not to be viable because of abuse, neglect,
11 abandonment, or a similar basis pursuant to Vermont law. The court shall
12 indicate the date on which reunification was determined not to be viable.

13 (C) That it is not in the best interests of the child to be returned to the
14 child's or his or her parent's previous country of nationality or country of last
15 habitual residence.

16 (2) If requested by a party, the court may make additional findings that
17 are supported by evidence.

18 (c) In any judicial proceedings in response to a request that the court make
19 the findings necessary to support a petition for classification as a special
20 immigrant juvenile, information regarding the child's immigration status that is
21 not otherwise protected by State laws shall remain confidential. This

1 information shall also be exempt from public inspection and copying under the
2 Public Records Act and shall be kept confidential, except that the information
3 shall be available for inspection by the court, the child who is the subject of the
4 proceeding, the parties, the attorneys for the parties, the child’s counsel, and
5 the child’s guardian.

6 (d) As used in this section, “court” means the Probate Division and the
7 Family Division of the Superior Court.

8 Sec. 30. 13 V.S.A. § 2821 is amended to read:

9 § 2821. DEFINITIONS

10 As used in this chapter:

11 * * *

12 (3) “Performance” means:

13 (A) an event that is photographed, filmed, or visually recorded; or

14 (B) a play, dance, or other visual presentation or exhibition before an
15 audience.

16 * * *

17 Sec. 31. EXPUNGEMENT OF MARIJUANA CRIMINAL HISTORY

18 RECORDS

19 (a) As used in this section:

20 (1) “Court” means the Criminal Division of the Superior Court.

1 (2) “Criminal history record” means all information documenting an
2 individual’s contact with the criminal justice system, including data regarding
3 identification, arrest or citation, arraignment, judicial disposition, custody, and
4 supervision.

5 (b) The court shall order the expungement of criminal history records of
6 violations of 18 V.S.A. § 4230(a)(1) that occurred prior to January 1, 2021.
7 The process for expunging these records shall be completed by the court and
8 all entities subject to the order not later than January 1, 2022.

9 (c) Upon entry of an expungement order, the order shall be legally effective
10 immediately and the person whose record is expunged shall be treated in all
11 respects as if he or she had never been arrested, convicted, or sentenced for the
12 offense. The court shall issue an order to expunge all records and files related
13 to the arrest, citation, investigation, charge, adjudication of guilt, criminal
14 proceedings, and probation related to the sentence. The court shall issue the
15 person a certificate stating that the offense for which the person was convicted
16 has been decriminalized and therefore warrants issuance of the order and that
17 its effect is to annul the record of arrest, conviction, and sentence. The court
18 shall provide notice of the expungement to the person who is the subject of the
19 record at the person’s last known address, the Vermont Crime Information
20 Center (VCIC), the arresting agency, and any other entity that may have a
21 record related to the order to expunge. The VCIC shall provide notice of the

1 expungement to the Federal Bureau of Investigation’s National Crime
2 Information Center.

3 (d) On and after January 1, 2021, a person who was arrested or convicted
4 of a violation of 18 V.S.A. § 4230(a)(1) prior to such date:

5 (1) shall not be required to acknowledge the existence of such a criminal
6 history record or answer questions about the record in any application for
7 employment, license, or civil right or privilege or in an appearance as a witness
8 in any proceeding or hearing;

9 (2) may deny the existence of the record regardless of whether the
10 person has received notice from the court that an expungement order has been
11 issued on the person’s behalf; and

12 (3) may utilize the procedures in chapter 230 of Title 13 to seek
13 expungement or sealing of the record prior to the court taking steps to issue an
14 expungement order pursuant to this section.

15 (e) Nothing in this section shall affect any right of the person whose record
16 has been expunged to rely on it as a bar to any subsequent proceedings for the
17 same offense.

18 (f)(1) The court shall keep a special index of cases that have been expunged
19 together with the expungement order and the certificate issued pursuant to this
20 chapter. The index shall list only the name of the person convicted of the

1 offense, his or her date of birth, the docket number, and the criminal offense
2 that was the subject of the expungement.

3 (2) The special index and related documents specified in subdivision (1)
4 of this subsection shall be confidential and shall be physically and
5 electronically segregated in a manner that ensures confidentiality and that
6 limits access to authorized persons.

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

12 (4) All other court documents in a case that are subject to an
13 expungement order shall be destroyed.

14 (5) The court shall follow policies adopted pursuant to 13 V.S.A. § 7606
15 in implementing this section.

16 (g) Upon receiving an inquiry from any person regarding an expunged
17 record, an entity shall respond that “NO RECORD EXISTS.”

18 Sec. 32. 18 V.S.A. § 4230 is amended to read:

19 § 4230. MARIJUANA

20 (a) Possession and cultivation.

1 (1)~~(A)~~ No person shall knowingly and unlawfully possess more than
2 one ounce of marijuana or more than five grams of hashish or cultivate more
3 than two mature marijuana plants or four immature marijuana plants. A person
4 who violates this subdivision shall be assessed a civil penalty as follows:

5 (A) not more than \$100.00 for a first offense;

6 (B) not more than \$200.00 for a second offense; and

7 (C) not more than \$500.00 for a third or subsequent offense.

8 (2)(A) No person shall knowingly and unlawfully possess two ounces or
9 more of marijuana or ten grams or more of hashish or more than three mature
10 marijuana plants or six immature marijuana plants. For a first offense under
11 this subdivision ~~(A)~~(2), a person shall be provided the opportunity to
12 participate in the Court Diversion Program unless the prosecutor states on the
13 record why a referral to the Court Diversion Program would not serve the ends
14 of justice. A person convicted of a first offense under this subdivision shall be
15 imprisoned not more than six months or fined not more than \$500.00, or both.

16 (B) A person convicted of a second or subsequent offense of
17 ~~knowingly and unlawfully possessing more than one ounce of marijuana or~~
18 ~~more than five grams of hashish or cultivating more than two mature marijuana~~
19 ~~plants or four immature marijuana plants~~ violating subdivision (a)(2)(A) of this
20 section shall be imprisoned not more than two years or fined not more than
21 \$2,000.00, or both.

1 (C) Upon an adjudication of guilt for a first or second offense under
2 this subdivision, the court may defer sentencing as provided in 13 V.S.A.
3 § 7041, except that the court may in its discretion defer sentence without the
4 filing of a presentence investigation report and except that sentence may be
5 imposed at any time within two years from and after the date of entry of
6 deferment. The court may, prior to sentencing, order that the defendant submit
7 to a drug assessment screening, which may be considered at sentencing in the
8 same manner as a presentence report.

9 ~~(2)~~(3) A person knowingly and unlawfully possessing ~~two~~ eight ounces
10 of marijuana or ~~40 grams~~ 1.4 ounces of hashish or knowingly and unlawfully
11 cultivating more than four mature marijuana plants or eight immature
12 marijuana plants shall be imprisoned not more than three years or fined not
13 more than \$10,000.00, or both.

14 ~~(3)~~(4) A person knowingly and unlawfully possessing more than one
15 pound of marijuana or more than 2.8 ounces of hashish or knowingly and
16 unlawfully cultivating more than six mature marijuana plants or 12 immature
17 marijuana plants shall be imprisoned not more than five years or fined not
18 more than \$10,000.00, or both.

19 ~~(4)~~(5) A person knowingly and unlawfully possessing more than 10
20 pounds of marijuana or more than one pound of hashish or knowingly and
21 unlawfully cultivating more than 12 mature marijuana plants or 24 immature

1 marijuana plants shall be imprisoned not more than 15 years or fined not more
2 than \$500,000.00, or both.

3 ~~(5)~~(6) If a court fails to provide the defendant with notice of collateral
4 consequences in accordance with 13 V.S.A. § 8005(b) and the defendant later
5 at any time shows that the plea and conviction for a violation of this subsection
6 may have or has had a negative consequence, the court, upon the defendant's
7 motion, shall vacate the judgment and permit the defendant to withdraw the
8 plea or admission and enter a plea of not guilty. Failure of the court to advise
9 the defendant of a particular collateral consequence shall not support a motion
10 to vacate.

11 ~~(6)~~(7) The amounts of marijuana in this subsection shall not include
12 marijuana cultivated, harvested, and stored in accordance with section 4230e
13 of this title.

14 * * *

15 Sec. 33. 13 V.S.A. § 7601 is amended to read:

16 § 7601. DEFINITIONS

17 As used in this chapter:

18 * * *

19 (4) "Qualifying crime" means:

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* * *

(G) a violation of 18 V.S.A. § 4230(a) related to possession and
cultivation of marijuana;

* * *

Sec. 34. EFFECTIVE DATES

This act shall take effect on July passage, except that Sec. 32 (marijuana
penalties) shall take effect on January 1, 2021.

(Committee vote: _____)

Representative _____

FOR THE COMMITTEE