

1 TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred House Bill No. 512
3 entitled “An act relating to miscellaneous court and Judiciary related
4 amendments” respectfully reports that it has considered the same and
5 recommends that the Senate propose to the House that the bill be amended by
6 striking out all after the enacting clause and inserting in lieu thereof the
7 following:

8 Sec. 1. 12 V.S.A. § 5 is amended to read:

9 § 5. DISSEMINATION OF ELECTRONIC CASE RECORDS

10 (a) The Court shall not permit public access via the Internet to criminal, ~~or~~
11 family, or probate case records. The Court may permit criminal justice
12 agencies, as defined in 20 V.S.A. § 2056a, Internet access to criminal case
13 records for criminal justice purposes, as defined in section 2056a.

14 * * *

15 Sec. 2. 12 V.S.A. § 5169 is amended to read:

16 § 5169. JUDGMENT FOR PLAINTIFF; COMMISSIONERS; WAIVER

17 (a) When the issue is determined in favor of the plaintiff, or if the person
18 interested defaults, the court shall render judgment that partition be made and
19 appoint three disinterested residents of the county as commissioners. The
20 commissioners shall make partition of the estate and set off each share of the

1 several persons interested, according to their respective titles, and shall award
2 to the plaintiff reasonable costs against the adverse party.

3 (b) Notwithstanding subsection (a) of this section, the parties may, with the
4 approval of the court, waive the use of commissioners and have all matters
5 decided by the court at a bench trial.

6 Sec. 3. 15A V.S.A. § 1-110 is amended to read:

7 § 1-110. NOTICE OF INTENT TO RETAIN PARENTAL RIGHTS

8 * * *

9 (b) Each probate division of the superior court shall ~~forward~~ maintain a
10 notice filed with that court under subsection (a) of this section, ~~to the probate~~
11 ~~division of the superior court in the district of Chittenden,~~ within an electronic
12 database which that shall serve as a central repository for all such notices.

13 Sec. 4. 33 V.S.A. § 5117 is amended to read:

14 § 5117. RECORDS OF JUVENILE JUDICIAL PROCEEDINGS

15 * * *

16 (c)(1) Upon motion of a party in a divorce or parentage proceeding related
17 to parental rights and responsibilities for a child or parent-child contact, the
18 Court may order that Court records in a juvenile proceeding involving the
19 same child or children be released to the parties in the divorce proceeding.

20 (2) Upon the court's own motion in a probate proceeding involving
21 adoption, guardianship, or termination of parental rights, the court may order

1 that court records in a juvenile proceeding involving the same child or children
2 be released to the Probate Division. When the court orders release of records
3 pursuant to this subdivision, the court shall notify the parties that it intends to
4 consider confidential juvenile case information and shall provide the parties
5 with access to the information in a manner that preserves its confidentiality.

6 (3) Files inspected under this subsection shall be marked: UNLAWFUL
7 DISSEMINATION OF THIS INFORMATION IS A CRIME PUNISHABLE
8 BY A FINE OF UP TO \$2,000.00. The public shall not have access to records
9 from a juvenile proceeding that are filed with the Court or admitted into
10 evidence in the divorce or parentage proceeding or in the probate proceeding.

11 * * *

12 Sec. 5. 33 V.S.A. § 5119 is amended to read:

13 § 5119. SEALING OF RECORDS

14 * * *

15 (h)(1) In matters relating to a person who was charged with a criminal
16 offense or was the subject of a delinquency petition on or after July 1, 2006,
17 and prior to the person attaining the age of majority, the files and records of the
18 Court applicable to the proceeding shall be sealed immediately if the case is
19 dismissed.

20 * * *

21 Sec. 6. 15 V.S.A. § 752 is amended to read:

1 § 752. MAINTENANCE

2 (a) In an action under this chapter, the court may order either spouse to
3 make maintenance payments, either rehabilitative or ~~permanent~~ long-term in
4 nature, to the other spouse if it finds that the spouse seeking maintenance:

5 (1) lacks sufficient income or property, or both, including property
6 apportioned in accordance with section 751 of this title, to provide for his or
7 her reasonable needs; and

8 (2) is unable to support himself or herself through appropriate
9 employment at the standard of living established during the civil marriage or is
10 the custodian of a child of the parties.

11 (b) The maintenance order shall be in such amounts and for such periods of
12 time as the court deems just, after considering all relevant factors, including:

13 (1) the financial resources of the party seeking maintenance, the
14 property apportioned to the party, the party's ability to meet his or her needs
15 independently, and the extent to which a provision for support of a child living
16 with the party contains a sum for that party as custodian;

17 (2) the time and expense necessary to acquire sufficient education or
18 training to enable the party seeking maintenance to find appropriate
19 employment;

20 (3) the standard of living established during the civil marriage;

21 (4) the duration of the civil marriage;

- 1 (5) the age and the physical and emotional condition of each spouse;
- 2 (6) the ability of the spouse from whom maintenance is sought to meet
- 3 his or her reasonable needs while meeting those of the spouse seeking
- 4 maintenance;
- 5 (7) inflation with relation to the cost of living; ~~and~~
- 6 (8) the impact of both parties reaching the age of eligibility to receive
- 7 full retirement benefits under Title II of the federal Social Security Act or the
- 8 parties' actual retirement, including any expected discrepancies in federal
- 9 Social Security Retirement benefits; and

10 ~~(8)~~(9) the following guidelines:

11	Length of marriage	% of the difference	Duration of alimony award
12		between parties'	as % length of marriage
13		gross incomes	
14	0 to <5 years	0-20 <u>16%</u>	No alimony
15			or short-term alimony
16			up to one year
17	5 to <10 years	15-35 <u>12-29%</u>	20-50% (1-5 yrs)
18	10 to <15 years	20-40 <u>16-33%</u>	40-60% (34 -9 yrs)
19	15 to <20 years	24-45 <u>20-37%</u>	40-70% (6-14 yrs)
20	20+ years	30-50 <u>24-41%</u>	45% (9-20+ yrs)

1 two ounces of usable marijuana. Any marijuana harvested from the plants
2 shall not count toward the two-ounce possession limit, provided it is stored in
3 an indoor facility on the property where the marijuana was cultivated and
4 reasonable precautions are taken to prevent unauthorized access to the
5 marijuana.

6 * * *

7 Sec. 9. 18 V.S.A. § 4474c is amended to read:

8 § 4474c. PROHIBITIONS, RESTRICTIONS, AND LIMITATIONS

9 REGARDING THE USE OF MARIJUANA FOR SYMPTOM

10 RELIEF

11 * * *

12 (c) ~~A registered patient or registered caregiver who elects to grow~~
13 ~~marijuana to be used for symptom relief by the patient may do so only if the~~
14 ~~marijuana is cultivated in a single, secure indoor facility~~ Personal cultivation of
15 marijuana by a patient or caregiver on behalf of a patient shall only occur:

16 (1) on property lawfully in possession of the cultivator or with the
17 written consent of the person in lawful possession of the property; and

18 (2) in an enclosure that is screened from public view and is secure so
19 that access is limited to the cultivator and persons 21 years of age or older who
20 have permission from the cultivator.

21 * * *

1 Sec. 10. 18 V.S.A. § 4474n is added to read:

2 § 4474n. USE OF U.S. FOOD AND DRUG ADMINISTRATION-

3 APPROVED DRUGS CONTAINING ONE OR MORE

4 CANNABINOIDS

5 (a) Upon approval by the U.S. Food and Drug Administration (FDA) of
6 one or more prescription drugs containing one or more cannabinoids, the
7 following activities shall be lawful in Vermont:

8 (1) the clinically appropriate prescription for a patient of an FDA-
9 approved prescription drug containing one or more cannabinoids by a health
10 care provider licensed to prescribe medications in this State and acting within
11 his or her authorized scope of practice;

12 (2) the dispensing, pursuant to a valid prescription, of an FDA-approved
13 prescription drug containing one or more cannabinoids to a patient or a
14 patient's authorized representative by a pharmacist or by another health care
15 provider licensed to dispense medications in this State and acting within his or
16 her authorized scope of practice;

17 (3) the possession and transportation of an FDA-approved prescription
18 drug containing one or more cannabinoids by a patient to whom a valid
19 prescription was issued or by the patient's authorized representative;

20 (4) the possession and transportation of an FDA-approved prescription
21 drug containing one or more cannabinoids by a licensed pharmacy or

1 wholesaler in order to facilitate the appropriate dispensing and use of the drug;

2 and

3 (5) the use of an FDA-approved prescription drug containing one or
4 more cannabinoids by a patient to whom a valid prescription was issued,
5 provided the patient uses the drug only for legitimate medical purposes in
6 conformity with instructions from the prescriber and dispenser.

7 (b) Upon approval by the U.S. Food and Drug Administration of one or
8 more prescription drugs containing one or more cannabinoids, the Department
9 of Health shall amend its rules to conform to the provisions of subsection (a) of
10 this section.

11 Sec. 11. REPEAL

12 2017 Act and Resolves No. 62, Sec. 8 (use of U.S. Food and Drug
13 Administration-approved drugs containing cannabidiol) is repealed.

14 Sec. 12. 32 V.S.A. § 5894 is amended to read:

15 § 5894. LIABILITY FOR FAILURE OR DELINQUENCY

16 * * *

17 (f) Violations from income derived from illegal activity. An individual,
18 fiduciary, officer, or employee of any corporation or a partner or employee of
19 any partnership who violates subsections (a)-(e) of this section based on
20 income derived from illegal activity shall be imprisoned not more than three
21 years or fined not more than \$10,000.00, or not more than \$100,000.00 if the

1 violation was based on income derived from the unlawful sale of a regulated
2 drug in violation of 18 VSA chapter 84, or both. The penalty provided in this
3 subsection shall be in addition to any other civil or criminal penalties provided
4 by law.

5 Sec. 19. 13 V.S.A. § 7030 is amended to read:

6 § 7030. SENTENCING ALTERNATIVES

7 (a) In determining which of the following should be ordered, the court shall
8 consider the nature and circumstances of the crime, the history and character of
9 the defendant, the need for treatment, and the risk to self, others, and the
10 community at large presented by the defendant:

11 (1) A deferred sentence pursuant to section 7041 of this title.

12 (2) Referral to a community reparative board pursuant to 28 V.S.A.
13 chapter 12 in the case of an offender who has pled guilty to a nonviolent
14 felony, a nonviolent misdemeanor, or a misdemeanor that does not involve the
15 subject areas prohibited for referral to a community justice center under 24
16 V.S.A. § 1967. Referral to a community reparative board pursuant to this
17 subdivision does not require the court to place the offender on probation. The
18 offender shall return to court for further sentencing if the reparative board does
19 not accept the case or if the offender fails to complete the reparative board
20 program to the satisfaction of the board in a time deemed reasonable by the
21 board.

1 ~~(3) Probation pursuant to 28 V.S.A. § 205.~~

2 ~~(4) Supervised community sentence pursuant to 28 V.S.A. § 352.~~

3 ~~(5) Sentence of imprisonment.~~

4 ~~(6)(A) The prosecuting attorney shall refer to a post-plea adult drug~~
5 ~~docket or DUI treatment docket an offender:~~

6 ~~(i) charged with a new criminal offense or a violation of~~
7 ~~conditions of a probationary sentence, where the offense is associated with a~~
8 ~~substance use disorder; and~~

9 ~~(ii) screened with a validated instrument by a treatment docket~~
10 ~~coordinator as having a high prognostic risk and high criminogenic needs.~~

11 ~~(B) An offender charged with a crime pursuant to this subdivision (6)~~
12 ~~of this subsection (a) shall be presumed eligible for participation in a treatment~~
13 ~~docket unless the prosecutor, after consultation with the victim, states on the~~
14 ~~record why a referral to the program would not serve the ends of justice~~
15 ~~because:~~

16 ~~(i) evidence demonstrates that the individual cannot be managed~~
17 ~~safely or effectively in a treatment docket; or~~

18 ~~(ii) adequate treatment is not available to the offender in the~~
19 ~~treatment docket's jurisdiction.~~

1 ~~(C) Referrals to determine eligibility may be made by the court,~~
2 ~~defense counsel or the State within 90 days of arraignment, but a person will~~
3 ~~not be deemed ineligible if a referral is made after 90 days from arraignment.~~

4 ~~(b) When ordering a sentence of probation, the court may require~~
5 ~~participation in the Restorative Justice Program established by 28 V.S.A.~~
6 ~~chapter 12 as a condition of the sentence.~~

7 Sec. 13. TASK FORCE ON CAMPUS SEXUAL HARM; REPORT

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

12 (b) Membership. The Task Force shall be composed of the following
13 19 members:

14 (1) one current member of the House of Representatives, appointed by
15 the Speaker of the House;

16 (2) one current member of the Senate, appointed by the Committee on
17 Committees;

18 (3) two survivors of campus sexual assault, domestic violence, or
19 stalking incidents, appointed by Vermont Center for Crime Victim Services;

20 (4) the Executive Director of the Vermont Network Against Domestic
21 and Sexual Violence or designee;

1 (5) one representative of a community-based sexual violence advocacy
2 organization, appointed by the Vermont Network Against Domestic and
3 Sexual Violence;

4 (6) three Title IX Coordinators, one employed and appointed by the
5 University of Vermont, one employed and appointed by the Vermont State
6 Colleges, and one employed by a Vermont independent postsecondary
7 educational institution, appointed by the President of the Association of
8 Vermont Independent Colleges;

9 (7) one campus health and wellness educator or sexual violence
10 prevention educator working in a Vermont postsecondary educational
11 institution, appointed by the Higher Education Subcommittee of the
12 Prekindergarten–16 Council;

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

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

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

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

1 (12) one representative appointed by the Vermont Office of the
2 Defender General;

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

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

9 (15) the Executive Director of the Vermont Human Rights
10 Commission, or designee.

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

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

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

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

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

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

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

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

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

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

19 (6) How to enhance ties between postsecondary educational
20 institutions and community organizations that focus on domestic and sexual
21 violence.

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

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

8 (f) Meetings.

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

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

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

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

17 (g) Compensation and reimbursement.

18 (1) For attendance at meetings during adjournment of the General
19 Assembly, a legislative member of the Task Force serving in his or her
20 capacity as a legislator shall be entitled to per diem compensation and
21 reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than

1 seven meetings. These payments shall be made from monies appropriated to
2 the General Assembly.

3 (2) Other members of the Task Force who are not otherwise
4 compensated for their service on the Task Force shall be entitled to per diem
5 compensation and reimbursement of expenses as permitted under 32 V.S.A.
6 § 1010 for not more than seven meetings. These payments shall be made
7 from monies appropriated to the Agency of Education.

8 (h) Appropriation. The sum of ~~\$10,248.00~~ \$11,102.00 is appropriated to
9 the Agency of Education from the General Fund in fiscal year 2020 for per
10 diem compensation and reimbursement of expenses for nonlegislative
11 members of the Task Force. The sum of \$3,066.00 is appropriated to the
12 General Assembly from the General Fund in fiscal year 2020 for per diem
13 compensation and reimbursement of expenses for legislative members of the
14 Task Force.

15 Sec. 14. PROTECTION OF PROBATION AND PAROLE OFFICERS;
16 AGENCY OF HUMAN SERVICES REPORT TO JOINT JUSTICE
17 OVERSIGHT COMMITTEE

18 On or before December 15, 2019, the Secretary of Human Services, in
19 consultation with the Vermont State Employees Association, shall report to the
20 Joint Legislative Justice Oversight Committee, the Senate and House
21 Committees on Judiciary, and the House Committee on Correction and

1 Institutions on best practices and standards for protecting probation and parole
2 officers in the performance of their job duties. The report shall consider:

3 (1) development of a training and certification program to be
4 administered by the Department of Corrections to enable probation and parole
5 officers to implement and use defensive techniques, equipment, and measures
6 to protect themselves and the public from the risk of serious bodily injury or
7 death;

8 (2) whether to impose one or more standard conditions of probation to
9 protect the public; and

10 (3) best practices for the supervision of offenders by probation and
11 parole officers without risk to the safety of themselves or the public.

12 Sec. 15. EFFECTIVE DATE; APPLICABILITY

13 (a) This act shall take effect on July 1, 2019.

14 (b) Notwithstanding 1 V.S.A. § 214, Sec. 6, 15 V.S.A. § 752(b)(9)
15 (maintenance guidelines), shall apply to actions filed on or after January 1,
16 2019.

17
18
19 (Committee vote: _____)

1
2
3

Senator _____

FOR THE COMMITTEE