

1 H.104

2 Senators Clarkson of Windsor District, Bray of Addison District, Collamore  
3 of Rutland District, Pollina of Washington District, and White of Windham  
4 District move that the report of the Committee on Government Operations be  
5 amended by striking out in its entirety Sec. 28, 26 V.S.A. § 5305 (notaries  
6 public; exemptions) and inserting in lieu thereof the following:

7 Sec. 28. 26 V.S.A. § 5305 is amended to read:

8 § 5305. EXEMPTIONS

9 (a) ~~Generally~~ Judiciary- and law enforcement-related employees.

10 (1) Employee exemptions.

11 (A) Judiciary-related.

12 (i) The persons set forth in subdivision (2)(A) of this subsection,  
13 when acting within the scope of their official duties, are exempt from all of the  
14 requirements of this chapter, including the requirement to pay the fee set forth  
15 in section 5324 of this chapter, except for the ~~requirements:~~

16 (A) ~~requirement~~ to apply for a commission as set forth in section  
17 5341(a), (b)(1)–(3), (c), (d), and (e) of this chapter; ~~and~~

18 (B) ~~unless exempted under subsection (c) of this section, to pay the~~  
19 ~~fee set forth in section 5324 of this chapter.~~

20 (ii) A commission issued to a person under this subdivision (A)  
21 shall not be considered a license.

1           (B) Law enforcement-related.

2           (i) The persons set forth in subdivision (2)(B) of this subsection,  
3           when acting within the scope of their official duties, shall be commissioned as  
4           notaries public authorized to perform a notarial act as a matter of law and are  
5           exempt from all of the requirements of this chapter, including the requirement  
6           to pay the fee set forth in section 5324 of this chapter.

7           (ii) A notarial act that identifies the notary public as a person who  
8           is exempt under this subdivision (B) shall establish as a matter of law that the  
9           person is commissioned as a notary public for the purpose of acting within the  
10          scope of official duties under this subsection.

11          (2) Employees, defined.

12          (A) Judiciary-related. Persons employed by the Judiciary, including  
13          judges, Superior Court clerks, court operations managers, Probate registers,  
14          case managers, docket clerks, assistant judges, county clerks, and after-hours  
15          relief from abuse contract employees.

16          (B) Law enforcement-related. Persons employed as law enforcement  
17          officers certified under 20 V.S.A. chapter 151; who are noncertified  
18          constables; or who are employed by a Vermont law enforcement agency, the  
19          Department of Public Safety, of Fish and Wildlife, of Motor Vehicles, of  
20          Liquor Control, or for Children and Families, the Office of the Defender  
21          General, the Office of the Attorney General, or a State’s Attorney or Sheriff.

1           (3) Official duties, defined. As used in subdivision (1) of this  
2 subsection, “acting within the scope of official duties” means that a person is  
3 notarizing a document that:

4           (A) he or she believes is related to the execution of his or her duties  
5 and responsibilities of employment or is the type of document that other  
6 employees notarize in the course of employment;

7           (B) is useful or of assistance to any person or entity identified in  
8 subdivision (2) of this subsection (a);

9           (C) is required, requested, created, used, submitted, or relied upon by  
10 any person or entity identified in subdivision (2) of this subsection (a);

11           (D) is necessary in order to assist in the representation, care, or  
12 protection of a person or the State;

13           (E) is necessary in order to protect the public or property;

14           (F) is necessary to represent or assist crime victims in receiving  
15 restitution or other services;

16           (G) relates to a Vermont or federal court rule or statute governing any  
17 criminal, postconviction, mental health, family, juvenile, civil, probate,  
18 Judicial Bureau, Environmental Division, or Supreme Court matter; or

19           (H) relates to a matter subject to Title 4, 12, 13, 15, 18, 20, 23, or 33  
20 of the Vermont Statutes Annotated.

1 (b) Attorneys.

2 (1) Attorneys licensed and in good standing in this State are exempt  
3 from:

4 (A) the examination requirement set forth in subsection 5341(b) of  
5 this chapter; and

6 (B) the continuing education requirement set forth in section 5343 of  
7 this chapter.

8 (2) If a complaint of a violation of this chapter is filed in regard to a  
9 Vermont licensed attorney, the Office shall refer the complaint to the  
10 Professional Responsibility Board and shall request a report back from the  
11 Board regarding the final disposition of the complaint.

12 (c) ~~Fees Town clerks, assistants, and justices of the peace. The following~~  
13 ~~persons are exempt from the fee set forth in section 5324 of this chapter:~~

14 (1)~~(A) a judge, clerk, or other court staff, as designated by the Court~~  
15 ~~Administrator;~~ A town clerk and his or her assistants may perform notarial acts  
16 as notaries public throughout the town clerk's county, provided that they shall  
17 comply with all of the requirements of this chapter, except as provided in  
18 subdivision (2) of this subsection.

19 (B) Subject to the provisions of subdivision (A) of this subdivision  
20 (1), performing notarial acts as a notary public shall be considered within the  
21 scope of the official duties of a town clerk and his or her assistants.

1           (2) ~~State's Attorneys and their deputies and Assistant Attorneys~~

2           ~~General, public defenders, and their staff;~~

3           (3) ~~justices~~ Justices of the peace and town clerks and their assistants;

4           and

5           (4) ~~State Police officers, municipal police officers, fish and game~~

6           ~~wardens, sheriffs and deputy sheriffs, motor vehicle inspectors, employees of~~

7           ~~the Department of Corrections, and employees of the Department for Children~~

8           ~~and Families~~ are exempt from the fee set forth in section 5324 of this chapter.

9           (d) Unauthorized practice. Nothing in this section is intended to prohibit  
10          prosecution of a person under 3 V.S.A. § 127 (unauthorized practice).