

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. 12 V.S.A. § 4853a is amended to read:

8 § 4853a. PAYMENT OF RENT INTO COURT; EXPEDITED HEARING

9 * * *

10 (d) If the court finds the tenant is obligated to pay rent and has failed to do
11 so, the court ~~shall~~ may order full or partial payment into court of rent as it
12 accrues while the proceeding is pending and rent accrued from the date of
13 filing with the court the complaint for ejectment or the date the summons and
14 complaint for ejectment were served on the tenant pursuant to Rule 3 of the
15 Vermont Rules of Civil Procedure, whichever occurs first.

16 * * *

17 Sec. 2. Vermont Rule of Criminal Procedure 43 is amended to read:

18 RULE 43. PRESENCE OF THE DEFENDANT

19 (a) Presence Required. The defendant shall be present at the arraignment,
20 at any subsequent time at which a plea is offered, at every stage of the trial

1 including the impaneling of the jury and the return of the verdict, and at the
2 imposition of sentence, except as otherwise provided by this rule.

3 * * *

4 (d) For purposes of this rule, a defendant shall be deemed to be present in
5 court if, at the time of the proceeding, the defendant makes an on-the-record
6 waiver of the right to be physically present in court, and the defendant's
7 appearance at the proceeding is made by means of contemporaneous video or
8 audio conference transmission. For purposes of this rule, the terms "audio
9 conference" and "video conference" shall be defined as set forth in V.R.C.P.
10 43.1, Participation of Testimony by Video or Audio Conference.

11 Sec. 3. 13 V.S.A. § 7042(d) is added to read:

12 (d) For the duration of any state of emergency declared by the Governor
13 arising from the spread of COVID-19 and until 60 days after the Governor
14 terminates the state of emergency by declaration, any court that has imposed or
15 is imposing a sentence under the authority of this title may, upon the
16 stipulation of the prosecutor's office that prosecuted the case and the
17 defendant, reduce or otherwise modify the sentence at any time after the
18 imposition of sentence.

19 Sec. 4. Vermont Rule of Criminal Procedure 35 is amended to read:

20 RULE 35. CORRECTION, REDUCTION, AND MODIFICATION OF
21 SENTENCE

1 (a) Correction of Sentence. The court may correct an illegal sentence at
2 any time and may correct a sentence imposed in an illegal manner within the
3 time provided herein for the reduction of sentence.

4 (b) Reduction of Sentence. The court, on its own initiative or on motion of
5 the defendant, may reduce a sentence within 90 days after the sentence is
6 imposed, or within 90 days after entry of any order or judgment of the
7 Supreme Court upholding a judgment of conviction. The court may also
8 reduce a sentence upon revocation of probation as provided by law. Changing
9 a sentence from a sentence of incarceration to a grant of probation shall
10 constitute a permissible reduction of sentence under this subdivision.

11 (c) Modification of Sentence on Motion of Prosecuting Attorney. A
12 motion to modify a sentence filed by the prosecuting attorney shall be made
13 within seven business days of the date of imposition of sentence.

14 (d) Procedure. A request for relief under this rule shall be by motion, and
15 the procedure shall be governed by Rule 47.

16 (e) Stipulation to reduce or modify. For the duration of any state of
17 emergency declared by the Governor arising from the spread of COVID-19
18 and until 60 days after the Governor terminates the state of emergency by
19 declaration, any court that has imposed or is imposing a sentence under the
20 authority of this title may, upon the stipulation of the prosecutor's office that

1 prosecuted the case and the defendant, reduce or otherwise modify the
2 sentence at any time after the imposition of sentence.

3 Sec. 5. ADMINISTRATIVE ORDER NO. 49; JUDICIAL EMERGENCY
4 RESPONSE; SUSPENSION OF STATUTORY TIME FRAMES FOR
5 COURT PROCEEDINGS; STAY OF CIVIL SUSPENSIONS

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

12 (1) Notwithstanding any provision of law to the contrary, for the
13 duration of the time A.O. No. 49 is in effect, the statutory time frames for the
14 following hearings or court proceedings shall be suspended:

15 (A) hearing on application for involuntary treatment pursuant to
16 18 V.S.A. § 7615;

17 (B) 18 V.S.A. § 7625, hearing on application for involuntary
18 medication; and

19 (C) preliminary and merits hearings on civil suspension pursuant to
20 23 V.S.A. § 1205(g) and (h).

1 (2) Notwithstanding any provision of law to the contrary, for the
2 duration of the time A.O. No. 49 is in effect and 160 days after A.O. No. 49 is
3 terminated, all statutory timeframes for processing petitions to seal or expunge
4 criminal history records pursuant to 13 V.S.A. chapter 230 are suspended.

5 (3) Notwithstanding any provision of law to the contrary, for the
6 duration of the time A.O. No. 49 is in effect, the Superior Court shall not
7 suspend or disqualify a person’s driver’s license or privilege to operate
8 pursuant to 23 V.S.A. § 1205 until the civil suspension hearing on the merits is
9 held.

10 Sec. 6. SUSPENSION OF STATUTES OF LIMITATIONS

11 Notwithstanding any provision of law to the contrary, all statutes of
12 limitations, statutes of repose, or similar statutory deadlines for commencing a
13 civil action in Vermont are tolled for the duration of any state of emergency
14 declared by the Governor arising from the spread of COVID-19 and until
15 60 days after the Governor terminates the state of emergency by declaration.
16 Deadlines imposed by court order for civil cases pending on the effective date
17 of this act shall remain in effect but may be extended by the court for good
18 cause shown, including cause related to the COVID-19 public health
19 emergency.

1 Sec. 7. 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 (Committee vote: _____)

7

8

Senator _____

9

FOR THE COMMITTEE