

# House Calendar

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Friday, March 11, 2022

67th DAY OF THE ADJOURNED SESSION

House Convenes at 9:30 A.M.

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**ACTION CALENDAR**

**Action Postponed Until March 11, 2022**

**Governors Veto**

**H. 361**

An act relating to approval of amendments to the charter of the Town of Brattleboro.

**Text of Veto Message**

The text of the communication from His Excellency, the Governor, whereby he vetoed and returned unsigned **House Bill No. H. 361** to the House is as follows:

Dear Ms. Wrask:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H.361, *An Act Relating to Approval of Amendments to the Charter of the Town of Brattleboro*, without my signature.

While I applaud 16- and 17-year-old Vermonters who take an interest in the issues affecting their communities, their state and their country, I do not support lowering the voting age in Brattleboro.

First, given how inconsistent Vermont law already is on the age of adulthood, this proposal will only worsen the problem. For example, the Legislature has repeatedly raised the age of accountability to reduce the consequences when young adults commit criminal offenses. They have argued this approach is justified because these offenders are not mature enough to contemplate the full range of risks and impacts of their actions.

Testimony given by leaders from Columbia University's Justice Lab, who said Vermont should raise the upper age of juvenile jurisdiction for most crimes, (including some violent crimes) described adolescents and what they called "emerging adults" as more volatile; more susceptible to peer influence; greater risk-takers; and less future-oriented than adults. This view was cited by the Legislature as justification to expand the definition of "child" to those 18 to 22 for purposes of criminal accountability. "Youthful offenders" up to age 22 may now avoid criminal responsibility for their crimes.

Second, if the Legislature is interested in expanding voting access to school-aged children, they should debate this policy change on a statewide basis. I do not support creating a patchwork of core election laws and policies that are

different from town to town. The fundamentals of voting should be universal and implemented statewide.

For these reasons, I am returning this legislation without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution.

I understand this is a well-intended local issue. I urge the Legislature to take up a thorough and meaningful debate on Vermont's age of majority and come up with consistent, statewide policy for both voting and criminal justice.

Sincerely,  
Philip B. Scott  
Governor

## **NEW BUSINESS**

### **Third Reading**

#### **H. 115**

An act relating to household products containing hazardous substances

#### **Favorable with Amendment**

#### **H. 279**

An act relating to miscellaneous changes affecting the duties of the Department of Vermont Health Access

**Rep. Page of Newport City**, for the Committee on Health Care, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 33 V.S.A. § 1992 is amended to read:

#### **§ 1992. MEDICAID COVERAGE FOR ADULT DENTAL SERVICES**

(a) Vermont Medicaid shall provide coverage for medically necessary dental services provided by a dentist, dental therapist, or dental hygienist working within the scope of the provider's license as follows:

(1) ~~Up to two visits per calendar year for preventive~~ Preventive services, including prophylaxis and fluoride treatment, with no co-payment. These services shall not be counted toward the annual maximum benefit amount set forth in subdivision (2) of this subsection.

\* \* \*

Sec. 2. 33 V.S.A. § 2001 is amended to read:

#### **§ 2001. LEGISLATIVE OVERSIGHT**

~~(a) In connection with the Pharmacy Best Practices and Cost Control Program, the Commissioner of Vermont Health Access shall report for review by the House Committees on Appropriations, on Health Care, and on Human Services and the Senate Committees on Appropriations and on Health and Welfare prior to any modifications:~~

~~(1) the compilation that constitutes the preferred drug list or list of drugs subject to prior authorization or any other utilization review procedures;~~

~~(2) any utilization review procedures, including any prior authorization procedures; and~~

~~(3) the procedures by which drugs will be identified as preferred on the preferred drug list, and the procedures by which drugs will be selected for prior authorization or any other utilization review procedure.~~

~~(b) The Committees shall closely monitor implementation of the preferred drug list and utilization review procedures to ensure that the consumer protection standards enacted pursuant to section 1999 of this title are not diminished as a result of implementing the preferred drug list and the utilization review procedures, including any unnecessary delay in access to appropriate medications. The Committees shall ensure that all affected interests, including consumers, health care providers, pharmacists, and others with pharmaceutical expertise have an opportunity to comment on the preferred drug list and procedures reviewed under this subsection.~~

~~(e) The Notwithstanding the provisions of 2 V.S.A. § 20(d), the Commissioner of Vermont Health Access shall report annually on or before October 30 to the House Committees on Appropriations, on Health Care, and on Human Services and the Senate Committees on Appropriations and on Health and Welfare concerning the Pharmacy Best Practices and Cost Control Program and the operation of Vermont's pharmaceutical assistance programs for the most recent State fiscal year. Topics covered in the report shall include:~~

~~(1) issues related to drug cost and utilization;~~

~~(2) the effect of national trends on the pharmacy ~~program~~ programs;~~

~~(3) comparisons to other states;~~

~~(4) the Department's administration of Vermont's pharmaceutical assistance programs;~~

~~(5) the Department's use of prior authorization requirements for prescription drugs; and~~

(6) decisions made by the Department's Drug Utilization Review Board in relation to both drug utilization review efforts and the placement of drugs on the Department's preferred drug list.

~~(d) [Repealed.]~~

~~(e)(b)(1) [Repealed.]~~

(2) The Commissioner shall not enter into a contract with a pharmacy benefit manager unless the pharmacy benefit manager has agreed to disclose to the Commissioner the terms and the financial impact on Vermont and on Vermont beneficiaries of:

\* \* \*

~~(3)~~(2) The Commissioner shall not enter into a contract with a pharmacy benefit manager who has entered into an agreement or engaged in a practice described in subdivision ~~(2)~~(1) of this subsection, unless the Commissioner determines that the agreement or practice furthers the financial interests of Vermont and does not adversely affect the medical interests of Vermont beneficiaries.

Sec. 3. 33 V.S.A. § 2081 is amended to read:

§ 2081. ~~RULES AND LEGISLATIVE OVERSIGHT~~ RULEMAKING

~~(a) The Agency of Human Services shall adopt rules necessary to implement and administer the provisions of this subchapter, including standards and schedules establishing coverage and exclusion of pharmaceuticals and maximum quantities of pharmaceuticals to be dispensed, and to comply with the requirements of the Medicare Modernization Act. The Agency of Human Services shall submit the proposed rule to the Health Care Oversight Committee. The Health Care Oversight Committee shall review and advise on the Agency rules and policies developed under this subsection and shall submit for consideration any recommendations to the joint Legislative Committee on Administrative Rules.~~

~~(b) DVHA shall report on the status of the pharmaceutical assistance programs established by this subchapter to the Health Care Oversight Committee.~~

Sec. 4. SEPARATE INDIVIDUAL AND SMALL GROUP HEALTH

INSURANCE MARKETS FOR PLAN YEAR 2023 IF FEDERAL  
SUBSIDIES EXTENDED

(a) Purpose. The purpose of this section is to allow for separate individual and small group health insurance markets for plan year 2023 in the event that

Congress extends increased opportunities for federal advanced premium tax credits to include plan year 2023 and that extension is enacted on or before September 1, 2022.

(b) Definitions. As used in this section, “health benefit plan,” “registered carrier,” and “small employer” have the same meanings as in 33 V.S.A. § 1811.

(c) Separate plans and community rating. Notwithstanding any provision of 33 V.S.A. § 1811 to the contrary, if the Department of Vermont Health Access, after consultation with interested stakeholders, determines on or before September 1, 2022 that Congress has extended the increased opportunities for federal premium assistance originally made available through the American Rescue Plan Act of 2021, Pub. L. No. 117-2 to eligible households purchasing qualified health benefit plans in the individual market to include plan year 2023, or has made substantially similar opportunities available, then for plan year 2023, a registered carrier shall:

(1) offer separate health benefit plans to individuals and families in the individual market and to small employers in the small group market;

(2) apply community rating in accordance with 33 V.S.A. § 1811(f) to determine the premiums for the carrier’s plan year 2023 individual market plans separately from the premiums for its small group market plans; and

(3) file premium rates with the Green Mountain Care Board pursuant to 8 V.S.A. § 4062 separately for the carrier’s individual market and small group market plans.

#### Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

**( Committee Vote: 9-0-2)**

### **H. 572**

An act relating to the retirement allowance for interim educators

**Rep. Copeland Hanzas of Bradford**, for the Committee on Government Operations, recommends the bill be amended as follows:

In Sec. 1, amending 16 V.S.A. § 1939, by striking out subsection (d) in its entirety and inserting in lieu thereof a new subsection (d) to read as follows:

(d)(1) Notwithstanding any other provision of law, in any fiscal year, a beneficiary who retired from the System as a Group A or a Group C member may resume service under subsection (a) of this section to serve as an interim school educator for a period not to exceed one school year and receive the



beneficiary's retirement allowance for the entire period that service is resumed, provided that:

(A) the beneficiary has received a retirement allowance for six months or more prior to resuming service;

(B) the beneficiary maintains or obtains an active educator's license in the area in which the beneficiary will serve as an interim educator;

(C) the beneficiary makes contributions at the rate established for members of the beneficiary's group for the entire period that service is resumed;

(D) the source of funding for the employer's contributions for the beneficiary for the entire period that service is resumed is consistent with how contributions are paid for new members in the beneficiary's group as of the date service is resumed; and

(E) the employer of the beneficiary makes payments into the Retired Teachers' Health and Medical Benefits Fund, established in section 1944b of this title, for the entire period that service is resumed in a manner consistent with how those payments are made for new members in the beneficiary's group as of the date service is resumed.

(2) Upon subsequent retirement of a person who once again becomes a member under subdivision (1) of this subsection, the beneficiary shall not be entitled to a retirement allowance separately computed for the period that service was resumed.

(e)(1) Annually, on or before July 15 each year, each superintendent shall submit to the Agency of Education a report on the number of beneficiaries of the System who have resumed service pursuant to subsection (d) of this section.

(2) On or before August 15 each year, the Secretary of Education shall compile the data received by each superintendent pursuant to subdivision (1) of this subsection and submit a report to the Joint Pension Oversight Committee.

**( Committee Vote: 10-0-1)**

**Rep. Scheu of Middlebury**, for the Committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committee on Government Operations.

**(Committee Vote:10-0-1)**

## H. 629

An act relating to access to adoption records

**Rep. Goslant of Northfield**, for the Committee on Judiciary, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

### Sec. 1. PURPOSE

The purpose of this act is to permit an adopted person who is 18 years of age or older to obtain a certified copy of the person's original birth certificate regardless of whether the adoptee's former parent has consented to such disclosure.

Sec. 2. 15A V.S.A. § 3-802 is amended to read:

### § 3-802. ISSUANCE OF NEW, AMENDED BIRTH CERTIFICATE

\* \* \*

(c) In the case of birth certificates registered prior to July 1, 2019 that are to be replaced or amended pursuant to subdivision (a)(1) or (5) of this section, the State Registrar shall notify the town clerk or clerks with custody of the certificate, who shall substitute the new or amended birth certificate for the original birth certificate. The Except as otherwise provided in this title, the original certificate and all copies of the certificate in the files shall be sealed and shall not be subject to inspection or copying until 99 years after the adoptee's date of birth, except as provided by this title.

\* \* \*

Sec. 3. 15A V.S.A. § 6-105 is amended to read:

### § 6-105. DISCLOSURE OF IDENTIFYING INFORMATION

(a) ~~Identifying~~ Unless a former parent has filed a request for nondisclosure, identifying information about an adoptee's former parent shall be disclosed by the registry to any of the following persons upon request:

(1) ~~An an~~ an adoptee who is 18 ~~or more~~ or more years ~~old~~ of age or older;

(2) ~~An an~~ an adoptee who is emancipated; ~~and~~

(3) ~~A a~~ a deceased adoptee's direct descendant who is 18 ~~or more~~ or more years ~~old~~ of age or older or the parent or guardian of a direct descendant who is less than 18 years ~~old~~ of age.

(b) ~~From July 1, 1996 to December 31, 1997, the registry shall disclose identifying information under subsection (a) of this section only if the former~~

~~parent consents to such disclosure. After December 31, 1997, the registry shall disclose information under subsection (a) of this section as follows:~~

~~(1) For adoptions that were finalized prior to July 1, 1986, the registry shall disclose identifying information if the former parent has filed in any Probate Division of the Superior Court or agency any kind of document that clearly indicates that he or she consents to such disclosure.~~

~~(2) For adoptions that were finalized on or after July 1, 1986, the registry shall disclose identifying information without requiring the consent of the former parent except the registry shall not disclose such information if the former parent has filed a request for nondisclosure in accordance with the provisions of section 6-106 of this title and has not withdrawn the request or, prior to July 1, 1996, has filed in any court or agency any kind of document that clearly indicates that his or her identity not be disclosed and has not withdrawn the document. [Repealed]~~

(c) An adult descendant of a deceased former parent or the guardian of a former parent who has been declared incompetent may consent to the disclosure of information as provided for in subsection (a) of this section.

(d) If an adoptee, who is 18 ~~or more~~ years ~~old~~, of age or older consents, identifying information about the adoptee shall be disclosed by the registry to any of the following persons upon request:

(1) ~~The~~ the adoptee's former parent; and

(2) ~~The~~ the adoptee's sibling who is 18 ~~or more~~ years ~~old~~ of age or older.

(e) Identifying information about the adoptee shall be disclosed to the adoptee's former parent if the parent of an adoptee who is less than 18 years ~~old~~ of age consents to the disclosure.

(f) Identifying information about a deceased adoptee shall be disclosed by the registry to the adoptee's former parent or sibling upon request if:

(1) the deceased adoptee's direct descendant is 18 ~~or more~~ years ~~old~~ of age or older and consents to the disclosure; or

(2) the parent or guardian of a direct descendant who is less than 18 years ~~old~~ of age consents to the disclosure.

(g) Identifying information about a sibling of an adoptee shall be disclosed by the registry to the adoptee upon request if both the sibling and the adoptee are 18 ~~or more~~ years ~~old~~ of age or older and the sibling consents to disclosure.

Sec. 4. 15A V.S.A. § 6-106 is amended to read:

§ 6-106. REQUEST FOR NONDISCLOSURE

~~A former parent of an adoptee may prevent disclosure of identifying information about himself or herself by filing a request for nondisclosure with the registry as provided in section 6-105 of this title. A request for nondisclosure may be withdrawn by a former parent at any time~~ If a former parent of an adoptee filed a request for nondisclosure of identifying information prior to July 1, 2024, the request shall be honored and a request for disclosure of identifying information made pursuant to section 6-105 of this title shall be denied. This section shall not be interpreted to interfere with a person's right to obtain a copy of an original birth certificate pursuant to section 6-107 of this title.

Sec. 5. 15A V.S.A. § 6-107 is amended to read:

§ 6-107. RELEASE OF ORIGINAL BIRTH CERTIFICATE

(a) ~~A copy of the adoptee's original birth certificate may be released to the adoptee upon the request of an adoptee who has attained the age of 18 and who has access to identifying information under this article~~ certified copy of an adoptee's original birth certificate and any evidence of the adoption previously filed with the State Registrar shall be released to persons identified in subsection 6-105(a) of this title upon request. The copy of the original birth certificate shall clearly indicate that it may not be used for identification purposes. The State Registrar shall develop a notice to accompany an original birth certificate requested pursuant to this section that advises the requestor of the potential availability of former parent contact preference information that may be obtained through the Registry.

(b) When 99 years have elapsed after the date of birth of an adoptee whose original birth certificate is sealed under this title, the Department of Health shall unseal the original certificate and file it with any new or amended certificate that has been issued. The unsealed certificate becomes a public record in accordance with any statute or regulation applicable to the retention and disclosure of birth certificates.

(c)(1) A person who is listed as a parent on an adoptee's original birth certificate may file a contact preference form with the Registry. The contact preference form shall be developed by the Registry and shall indicate whether the parent would:

(A) like to be contacted by the adoptee;

(B) prefer to be contacted by the adoptee only through an intermediary; or

(C) prefer not to be contacted by the adoptee at this time.

(2) A contact preference form may be withdrawn or revised at any time.

(d) Upon filing with the Registry, the contact preference form shall be confidential and exempt from public inspection and copying under the Public Records Act pursuant to section 6-102 of this title.

(e) Upon request, persons identified in subsection 6-105(a) of this title may receive from the Registry the indicated contact preference choice from the filed contact preference form or nondisclosure form provided by the adoptee's former parent.

Sec. 6. 15A V.S.A. § 6-111 is amended to read:

§ 6-111. PUBLIC NOTICE OF STATUTORY CHANGE

The Department, with the cooperation of other departments of State government, shall make reasonable efforts to notify members of the public who may be affected by changes in statute governing the release of identifying and nonidentifying information and access to original birth certificates, including:

(1) informing the general public by submitting press releases to the news media in Vermont and other states;

(2) informing adoptee, birth parent, and genealogy groups in Vermont and other states;

(3) including information in motor vehicle registration and license renewals;

(4) including information in appropriate locations on the Internet; and

(5) contacting the adoption coordinators in each state and determining what agencies or groups in that state should be notified.

Sec. 7. 15A V.S.A. § 6-112 is amended to read:

§ 6-112. ACTION FOR DISCLOSURE OF INFORMATION

(a) A person denied disclosure of information under section 6-104, ~~subdivision 6-105(b)(1) or (2), or section 6-107~~ of this title may file a petition in the court to obtain the information being sought.

(b) In determining whether to grant a petition under this section, the court shall review the records of the relevant proceeding for adoption and shall make specific findings concerning:

(1) the reasons the information is sought;

(2) ~~whether the individual about whom information is sought has filed a request for nondisclosure under section 6-106 of this title or any other kind of~~

~~document requesting that his or her identity not be disclosed, has not filed any document, or has otherwise indicated a preference regarding the disclosure of his or her identity; [Repealed.]~~

(3) if known, whether the individual about whom information is sought is alive;

(4) whether it is possible to satisfy the petitioner's request without disclosing the identity of another individual; and

(5) the expressed needs of the adoptee, including the emotional and mental health needs of the adoptee.

(c) Before making a determination under this section, the court shall make a reasonable effort to confidentially contact the person whose identity is being sought in order to determine that person's response to the petition and shall consider any response in reaching its decision.

~~(d) If the reason the petitioner was denied disclosure was due to the fact that there was no consent on file and there is no request for nondisclosure filed under section 6-106 or any other kind of document in the court or agency that clearly indicates that the identity of the person being sought not be disclosed, the court shall order disclosure of the requested information if the court finds by a preponderance of the evidence that disclosure is in the best interests of the petitioner and that disclosure is unlikely to cause harm to the person whose identity is being sought. [Repealed.]~~

~~(e) If the reason the petitioner was denied disclosure was due to the fact that there was no consent on file and a request for nondisclosure was filed under section 6-106 or any kind of document was filed in the court or agency that clearly indicates that the identity of the person being sought not be disclosed, the court shall not make a search under subsection (c) of this section and shall not order the disclosure of the requested information except for compelling reasons. [Repealed.]~~

## Sec. 8. IMPLEMENTATION

Not later than September 1, 2022, the Department for Children and Families shall:

(1) develop contact preference forms and make such forms readily available to the public; and

(2) initiate plans to notify members of the public about this act.

## Sec. 9. EFFECTIVE DATES

(a) This section and Secs. 1 and 8 shall take effect on passage.

(b) Secs. 2–7 shall take effect July 1, 2024.

**( Committee Vote: 10-1-0)**

## **NOTICE CALENDAR**

### **Favorable with Amendment**

#### **H. 96**

An act relating to creating the Truth and Reconciliation Commission  
Development Task Force

**Rep. Stevens of Waterbury**, for the Committee on General, Housing, and Military Affairs, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. INTENT

It is the intent of the General Assembly to establish the Vermont Truth and Reconciliation Commission to:

(1) examine and begin the process of dismantling institutional, structural, and systemic discrimination in Vermont, both past and present, that has been caused or permitted by State laws and policies;

(2) establish a public record of institutional, structural, and systemic discrimination in Vermont that has been caused or permitted by State laws and policies; and

(3) identify potential actions that can be taken by the State to repair the damage caused by institutional, structural, and systemic discrimination in Vermont that has been caused or permitted by State laws and policies and prevent the recurrence of such discrimination in the future.

Sec. 2. 1 V.S.A. chapter 25 is added to read:

#### CHAPTER 25. TRUTH AND RECONCILIATION COMMISSION

##### § 901. DEFINITIONS

As used in this chapter:

(1) “Commission” means the Vermont Truth and Reconciliation Commission, including its commissioners, committees, and staff.

(2) “Consultation” means a meaningful and timely process of seeking, discussing, and considering carefully the views of others in a manner that is cognizant of all parties’ cultural values.

(3) “Panel” means the Selection Panel established pursuant to section 904 of this chapter.

(4) “Record” means any written or recorded information, regardless of physical form or characteristics.

§ 902. VERMONT TRUTH AND RECONCILIATION COMMISSION;

ESTABLISHMENT; ORGANIZATION

(a) There is created and established a body corporate and politic to be known as the Vermont Truth and Reconciliation Commission to carry out the provisions of this chapter. The Truth and Reconciliation Commission is constituted a public instrumentality exercising public and essential government functions and the exercise by the Commission of the power conferred by this chapter shall be deemed and held to be the performance of an essential governmental function.

(b)(1) The Commission shall consist of three commissioners appointed pursuant to section 905 of this chapter and shall include one or more committees established by the commissioners to examine institutional, structural, and systemic discrimination caused or permitted by State laws and policies experienced by each of the following populations and communities in Vermont:

(A) individuals who identify as Native American or Indigenous;

(B) individuals with a physical or mental disability and the families of individuals with a physical or mental disability;

(C) individuals of color;

(D) individuals with French Canadian, French-Indian, or other mixed ethnic or racial heritage; and

(E) in the commissioners’ discretion, other populations and communities that have experienced institutional, structural, and systemic discrimination caused or permitted by State laws and policies.

(2)(A) Each committee shall consist of the commissioners and members appointed by the commissioners in consultation with the populations and communities identified pursuant to subdivision (1) of this subsection (b).

(B) The commissioners shall ensure that the members of each committee shall be broadly representative of the populations and communities who are the subject of that committees’ work.

(C) The commissioners may appoint not more than 30 committee members in the aggregate across all of the committees established pursuant to subdivision 906(a)(1) of this chapter.



(D) The commissioners shall determine the amount of an annual stipend to be paid to committee members, provided that not more than \$1,000.00 from monies appropriated by the State may be used for each committee member's annual stipend. Stipend payments shall be made from the Truth and Reconciliation Commission Special Fund.

(3) Nothing in this subsection shall be construed to require the Commission to examine institutional, structural, and systemic discrimination experienced by the populations and communities identified in subdivision (1) of this subsection in isolation or separately from each other.

#### § 903. COMMISSIONERS

(a) Commissioners shall be full-time State employees and shall be exempt from the State classified system.

(b) The commissioners shall receive compensation equal to one-half that of a Superior Court Judge.

(c) The term of each commissioner shall begin on the date of appointment and end on July 1, 2026.

#### § 904. SELECTION PANEL; MEMBERSHIP; DUTIES

(a)(1) The Selection Panel shall be composed of seven members selected on or before September 1, 2022 by a majority vote of the following:

(A) the Executive Director of Racial Equity or designee;

(B) the Executive Director of the Human Rights Commission or designee;

(C) one member, who shall not be a current member of the General Assembly, appointed by the Speaker of the House;

(D) one member, who shall not be a current member of the General Assembly, appointed by the Committee on Committees; and

(E) an individual appointed by the Chief Justice of the Vermont Supreme Court.

(2) The individuals identified in subdivision (1) of this subsection shall hold their first meeting on or before August 1, 2022 at the call of the Executive Director of the Human Rights Commission.

(3) Individuals selected pursuant to subdivision (1) of this subsection who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for

not more than two meetings. These payments shall be made from the Truth and Reconciliation Commission Special Fund.

(b)(1) The Selection Panel shall select and appoint the commissioners of the Truth and Reconciliation Commission as provided pursuant to section 905 of this chapter.

(2) To enable it to carry out its duty to select and appoint the commissioners of the Truth and Reconciliation Commission as provided pursuant to section 905 of this chapter, the Panel may:

(A) adopt procedures as necessary to carry out the duties set forth in section 905 of this chapter;

(B) establish and maintain a principal office;

(C) meet and hold hearings at any place in this State; and

(D) hire temporary staff to provide administrative assistance during the period from September 1, 2022 through January 15, 2023, provided that if the Panel extends the time to select commissioners pursuant to subdivision 905(c)(1) of this chapter, it may retain staff to provide administrative assistance through March 31, 2023.

(c) The term of each member of the Panel shall begin on the date of appointment and end on January 15, 2023, except if the Panel extends the time to select commissioners pursuant to subdivision 905(c)(1) of this chapter, the term of the Panel members shall end on March 31, 2023.

(d) The Panel shall select a chair and a vice chair from among its members.

(e)(1) Meetings shall be held at the call of the Chair or at the request of four or more members of the Panel.

(2) A majority of the current membership of the Panel shall constitute a quorum, and actions of the Panel may be authorized by a majority of the members present and voting at a meeting of the Panel.

(f) Members of the Panel shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than 20 meetings during fiscal year 2023. These payments shall be made from the Truth and Reconciliation Commission Special Fund.

#### § 905. SELECTION OF COMMISSIONERS

(a)(1) Except as otherwise provided pursuant to subdivision (c)(1) of this section, the Selection Panel shall, on or before December 31, 2022, select three individuals to serve as the commissioners of the Vermont Truth and Reconciliation Commission.

(2) In carrying out its duty to select the commissioners, the Panel shall:

(A) Establish a public, transparent, and simple process for candidates to apply to serve as a commissioner.

(B) Publicize the application process, deadlines, and requirements to serve as a commissioner through media outlets, civil society organizations, and any other forms of public outreach that the Panel determines to be appropriate.

(C) Solicit nominations for individuals to serve as commissioners from civil society organizations in Vermont whose work relates to the mission of the Commission.

(D) Invite Vermont residents to submit applications to serve as commissioners.

(E) Publish the names of all applicants who have applied to serve as commissioners and provide not less than 30 days for members of the public to submit comments on the suitability of any applicant to serve as a commissioner. Public comments regarding an applicant shall only be considered by the Panel if the comment includes the name and contact information of the commenter. Comments received by the Panel shall be exempt from public inspection and copying pursuant to the Public Records Act and shall be kept confidential, except that comments that may be detrimental to an applicant's application shall be shared with the applicant and the applicant shall be provided with an opportunity to provide the Panel with a response to the comment.

(F) Hold one or more public hearings to provide an opportunity for members of the public to comment on the suitability of any finalist to serve as a commissioner.

(G) Hold public interviews for each individual selected by the Panel as a finalist for selection as a commissioner.

(H) Conduct criminal history record checks for finalists, provided that the Panel shall only consider felony convictions or convictions for crimes involving untruthfulness or falsification. A finalist who has been convicted of a felony or a crime involving untruthfulness or falsification shall be afforded an opportunity to explain the information and the circumstances regarding the conviction, including postconviction rehabilitation.

(I) Take any other actions that the Panel deems appropriate or necessary to carry out its duties in relation to the selection of commissioners.

(3) The three commissioners selected by the Panel shall:

(A) be residents of Vermont;

(B) not be members of the Selection Panel;

(C) have knowledge of the problems and challenges facing the populations and communities identified pursuant to subdivision 902(b)(1)(A)–(D) of this chapter;

(D) have experience advocating in relation to the issues of the populations and communities identified pursuant to subdivision 902(b)(1)(A)–(D) of this chapter in Vermont;

(E) have demonstrated leadership in programs or activities to improve opportunities for the populations and communities identified pursuant to subdivision 902(b)(1)(A)–(D) of this chapter; and

(F) satisfy any additional criteria established by the Panel.

(b) Not later than five days after selecting the commissioners pursuant to subsection (a) of this section, the Panel shall submit a brief report to the Governor and the General Assembly identifying the commissioners. The names of the commissioners shall be made available to the public on the same day that the report is submitted.

(c)(1) If the Panel is unable identify three suitable applicants on or before December 31, 2022, the Panel may by a majority vote extend the time to select commissioners to March 31, 2023.

(2) If the Panel extends the time to select commissioners pursuant to this subsection, the Panel shall, on or before January 5, 2023, submit a brief written report to the House Committee on General, Housing, and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs providing notice of its decision to extend the time to select commissioners and its reasons for doing so and identifying any changes to the provisions of this chapter that may be necessary to enable the Panel to successfully identify and select commissioners.

## § 906. POWERS AND DUTIES OF THE COMMISSIONERS

(a) Duties. The commissioners shall:

(1) establish, in consultation with the populations and communities identified pursuant to subdivision 902(b)(1) of this chapter and other interested parties in the commissioners' discretion, committees to examine institutional, structural, and systemic discrimination caused or permitted by State laws and policies that has been experienced by the populations and communities identified pursuant to subdivision 902(b)(1) of this chapter;

(2) determine, in consultation with the populations and communities identified pursuant to subdivision 902(b)(1) of this chapter, historians, social

scientists, experts in restorative justice, and other interested parties in the commissioners' discretion, the scope and objectives of the work to be carried out by each committee established pursuant to subdivision (1) of this subsection;

(3) develop and implement a process for each committee established pursuant to subdivision (1) of this subsection to fulfill the objectives established pursuant to subdivision (2) of this subsection;

(4) work with the committees and Commission staff to carry out research, public engagement, and other work necessary to:

(A) identify and examine historic and ongoing institutional, structural, and systemic discrimination against members of the populations and communities identified pursuant to subdivision 902(b)(1) of this chapter that has been caused or permitted by State laws and policies;

(B) determine the current status of members of the populations and communities identified pursuant to subdivision 902(b)(1) of this chapter; and

(C) satisfy the scope of work and the objectives established pursuant to subdivision (1) of this subsection (a);

(5) work with the committees and Commission staff to identify potential programs and activities to create and improve opportunities for or to eliminate disparities experienced by the populations and communities that are the subject of the committees' work;

(6) work with the committees and Commission staff to identify potential educational programs related to historic and ongoing institutional, structural, and systemic discrimination against members of the populations and communities that are the subject of the committees' work;

(7) work in consultation with the populations and communities identified pursuant to subdivision 902(b)(1) of this chapter, experts in restorative justice, and, in the commissioners' discretion, other interested parties to ensure that the work of the Commission is open, transparent, inclusive, and meaningful;

(8) seek gifts, donations, and grants from public and private sources to support the Commission and its work; and

(9) supervise the work of the Executive Director of the Commission.

(b) Powers. To carry out its duties pursuant to this chapter, the commissioners may:

(1) Adopt rules in accordance with 3 V.S.A. chapter 25 as necessary to implement the provisions of this chapter.

(2) Adopt procedures as necessary to carry out the duties set forth in subsection (a) of this section.

(3) Establish and maintain a principal office.

(4) Meet and hold hearings at any place in this State.

(5) Consult with local, national, and international experts on issues related to discrimination, truth and reconciliation, and restorative justice.

(6) Interview and take statements from members of the populations and communities identified pursuant to subdivision 902(b)(1) of this chapter; members of the public; and persons with knowledge of the institutional, structural, and systemic discrimination experienced by such populations and communities.

(7) Study, research, investigate, and report on the impact of State laws and policies on populations and communities identified pursuant to subdivision 902(b)(1) of this chapter. If the Commission determines that particular laws or policies caused or permitted institutional, structural, and systemic discrimination against a population or community, regardless of whether the discrimination was intentional or adversely impacted the population or community, the Commission may propose legislative or administrative action to the General Assembly or Governor, as appropriate, to remedy the impacts on the population or community.

(8) Enter into cooperative agreements with private organizations or individuals or with any agency or instrumentality of the United States or of this State to carry out the provisions of this chapter.

(9) Make and execute legal documents necessary or convenient for the exercise of its powers and duties under this chapter.

(10) Hire consultants and independent contractors to assist the Commission in carrying out the provisions of this chapter.

(11) Take any other actions necessary to carry out the provisions of this chapter.

#### § 907. EXECUTIVE DIRECTOR; DUTIES

(a) The Commissioners shall appoint an Executive Director, who shall be an individual with experience in relation to racial justice or advocating on behalf of historically disadvantaged groups. The Executive Director shall be a

full-time State employee, shall be exempt from the State classified system, and shall serve at the pleasure of the commissioners.

(b) The Executive Director shall be responsible for the following:

(1) supervising and administering the implementation of the provisions of this chapter on behalf of the commissioners;

(2) assisting the commissioners in carrying out their duties;

(3) ensuring that the Commission has the resources and staff assistance necessary to collect historical materials, take statements from individuals, hold public hearings and events, and prepare and publish reports and other documents;

(4) facilitating communications between the Commission and members of the populations and communities identified pursuant to subdivision 902(b)(1) of this chapter, interested parties, and members of the public;

(5) hiring staff, including researchers and administrative and legal professionals, as necessary to carry out the duties of the Commission; and

(6) preparing an annual budget for submission to the commissioners.

#### § 908. REPORTS

(a) On or before January 15, 2024, the Commission shall submit to the Governor and General Assembly an interim report on the Commission's progress to date, the committees established pursuant to subdivision 906(a)(1) of this chapter and the scope and objectives of their work, emerging themes and issues that the Commission has identified, and, if available, any preliminary findings and recommendations for legislative or other action that the Commission believes should be prioritized to address instances of institutional, structural, and systemic discrimination identified by the Commission.

(b)(1) On or before June 15, 2026, the Commission shall submit a final report incorporating the findings and recommendations of each committee. Each report shall detail the findings and recommendations of the relevant committee and shall include recommendations for actions that can be taken to eliminate ongoing instances of institutional, structural, and systemic discrimination and to address the harm caused by historic instances institutional, structural, and systemic discrimination.

(2) The Commission shall, on or before January 15, 2026, make a draft of the final report publicly available and provide copies of the draft to interested parties from the populations and communities identified pursuant to subdivision 902(b)(1) of this chapter and other interested parties. The

Commission shall provide the interested parties and members of the public with not less than 60 days to review the draft and provide comments on it. The Commission shall consider fully all comments submitted in relation to the draft and shall include with the final version of the report a summary of all comments received and a concise statement of the reasons why the Commission decided to incorporate or reject any proposed changes. Comments submitted in relation to the final report shall be made available to the public in a manner that complies with the requirements of section 910 of this chapter.

(c) The Commission may, in its discretion, issue additional reports to the Governor, General Assembly, and public.

#### § 909. TRUTH AND RECONCILIATION COMMISSION SPECIAL FUND

(a) There is established the Truth and Reconciliation Commission Special Fund, which shall be managed in accordance with 32 V.S.A. chapter 7, subchapter 5. The Fund shall consist of amounts appropriated by the State and any gifts, donations, or grants received by the Vermont Truth and Reconciliation Commission. The Fund shall be available to the commissioners to carry out the work of the Commission pursuant to this chapter and to the Selection Panel to carry out its duties pursuant to this chapter.

(b) The commissioners may seek and accept gifts, donations, and grants from any source, public or private, to be dedicated for deposit into the Fund.

#### § 910. ACCESS TO INFORMATION; CONFIDENTIALITY

(a) Access to State records and information.

(1) The Commission shall have access to and the right to copy any record or other information held by all executive, administrative, and judicial agencies and departments and all instrumentalities of the State. All executive, administrative, and judicial agencies and departments and all instrumentalities of the State shall cooperate with the Commission with respect to any request for access to any record or other information and shall provide all records or other information requested by the Commission to the extent permitted by law.

(2) The Commission shall keep confidential any information received from an executive, administrative, or judicial agency or department or an instrumentality of the State that is confidential or is exempt from the Public Records Act.

(b) Confidentiality requirements.

(1) Except as otherwise provided pursuant to subsection (c) of this section, information and records acquired by or provided to the Commission



that would in any manner reveal an individual's identity shall be kept confidential and shall be exempt from public inspection and copying under the Public Records Act.

(2) The Commission shall not include the personally identifying information of any individual in any report that it produces without the express, written consent of the individual.

(c) Exceptions.

(1) Except as provided in subdivision (2) of this subsection, information and records acquired by or provided to the Commission shall only be available to the public in an anonymized form that does not reveal the identity of any individual.

(2) Information or records acquired by or provided to the Commission may be disclosed in a manner that would reveal the identity of an individual if that individual has provided their express, written consent to the disclosure of the information or record in a manner that would reveal their identity.

(d) Private proceedings.

(1) The Commission shall permit any individual who is interviewed by the Commission to elect to have their interview conducted in a manner that protects the individual's privacy and to have any recording of the interview kept confidential by the Commission. Any other record or document produced in relation to an interview conducted pursuant to this subdivision (d)(1) shall only be available to the public in an anonymized form that does not reveal the identity of any individual.

(2) The Commission shall adopt procedures and safeguards to ensure to the greatest extent possible that it does not conduct any interview in a manner that is open to the public if the interview will reveal the identities of individuals other than the interviewee without the express, written consent of those individuals.

Sec. 3. APPROPRIATION

The sum of \$ \_\_\_\_\_ is appropriated to the Truth and Reconciliation Commission Special Fund in fiscal year 2023.

Sec. 4. REPEAL

1 V.S.A. chapter 25 (Truth and Reconciliation Commission) is repealed on July 1, 2026.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

and that after passage the title of the bill be amended to read: “An act relating to creating the Vermont Truth and Reconciliation Commission”

( Committee Vote: 8-2-1)

#### H. 244

An act relating to authorizing the natural organic reduction of human remains

**Rep. Walz of Barre City**, for the Committee on General, Housing, and Military Affairs, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Deaths, Burials, and Autopsies \* \* \*

Sec. 1. 18 V.S.A. § 5200 is added to read:

#### § 5200. DEFINITIONS

As used in this chapter:

(1) “Cemetery” has the same meaning as in section 5302 of this title.

(2) “Cremation” has the same meaning as in section 5302 of this title.

(3) “Disposition facility” has the same meaning as in section 5302 of this title.

(4) “Natural organic reduction” has the same meaning as in section 5302 of this title.

Sec. 2. 18 V.S.A. § 5201 is amended to read:

§ 5201. PERMITS; REMOVAL OF BODIES; ~~CREMATION;~~

WAITING PERIOD; INVESTIGATION INTO CIRCUMSTANCES  
OF DEATH

(a) ~~Burial transfer permit.~~ A dead body shall not be buried, entombed, or removed, or otherwise disposed of without a burial-transit permit issued and signed by a municipal clerk, a county clerk, or a deputy clerk for the municipality or unorganized town or gore in which the dead body is located; a funeral director licensed in Vermont; an owner or designated manager of a ~~crematorium~~ licensed disposition facility in Vermont who is registered to perform removals; or a law enforcement officer.

\* \* \*

(3) A funeral director licensed in Vermont or an owner or designated manager of a ~~crematory~~ licensed disposition facility in Vermont who is

registered to perform removals may issue a burial-transit permit for any municipality or unorganized town or gore at any time, including during the normal business hours of a municipal clerk.

\* \* \*

(b) ~~No~~ An operator of a ~~crematory~~ disposition facility shall not cremate or process by means of natural organic reduction or allow the cremation or processing by means of natural organic reduction of a dead human body until the passage of at least 24 hours following the death of the decedent, as indicated on the death certificate, unless, if the decedent died from a virulent, communicable disease, a Department of Health rule or order requires the cremation to occur prior to the end of that period. If the Attorney General or a State's Attorney requests the delay of a cremation or natural organic reduction based upon a reasonable belief that the cause of death might have been due to other than accidental or natural causes, the cremation or natural organic reduction of a dead human body shall be delayed, based upon such request, a sufficient time to permit a civil or criminal investigation into the circumstances that caused or contributed to the death.

(c) The person in charge of the body shall not release for cremation or natural organic reduction the body of a person who died in Vermont until the person in charge has received a certificate from the chief, regional, or assistant medical examiner that the medical examiner has made personal inquiry into the cause and manner of death and is satisfied that no further examination or judicial inquiry concerning it is necessary. Upon request of a funeral director, the person in charge of the body, or the ~~crematory~~ operator of a disposition facility, the Chief Medical Examiner shall issue a ~~cremation~~ disposition certificate after the medical examiner has completed an autopsy. The certificate shall be retained by the ~~crematory~~ disposition facility for a period of three years. The person requesting cremation or natural organic reduction shall pay the ~~department~~ Department a fee of \$25.00.

(d)(1) For all cremations or natural organic reductions requested for the body of a person who died outside Vermont, the ~~crematory~~ operator of a disposition facility shall do the following before conducting the cremation or natural organic reduction:

(A) obtain a permit for transit ~~or~~, cremation, or natural organic reduction; and

(B) comply with the laws of the state in which the person died, including obtaining a copy of a medical examiner's permit if one is required.

(2) No additional approval from the Vermont medical examiner's office is required if compliance with the laws of the state in which the person died is achieved.

Sec. 3. 18 V.S.A. § 5207 is amended to read:

§ 5207. CERTIFICATE FURNISHED FAMILY; BURIAL-TRANSIT  
PERMIT

Within 24 hours after death, the death certificate shall be made available upon request to the family of the deceased, if any, or the undertaker or person who has charge of the body. The certificate shall be filed with the person issuing the burial-transit permit obtained by the person who has charge of the body before ~~such dead body shall be buried, entombed, or removed~~ permanent disposition or removal from the town. When the death certificate is so filed, the officer or person shall immediately issue a burial-transit permit under legal restrictions and safeguards.

Sec. 4. 18 V.S.A. § 5210 is amended to read:

§ 5210. FORM OF BURIAL OR REMOVAL PERMIT

If it is desired to bury, entomb, or otherwise dispose of a dead body within the limits of a town where the death occurred, the certificate of permission shall state plainly the time, place, and manner of such burial, entombment, or disposition. If it is desired to remove a dead body from the town where the death occurred, the certificate of permission shall contain the essential facts contained in the certificate of death on which it is issued, shall accompany the body to its destination, and may be accepted as a permit for ~~burial or entombment~~ permanent disposition by a sexton or other person having the care of a cemetery, burial ground, tomb, or receiving vault.

Sec. 5. 18 V.S.A. § 5213 is amended to read:

§ 5213. REMOVAL; FORM AND DISPOSITION OF PERMIT

Such permit shall state specifically ~~where such body is to be buried, cremated, or entombed~~ the location of the body's permanent disposition and the time and manner of its removal. A town clerk issuing such a permit shall make it in duplicate if the body is to be removed from the town, one copy of which shall be delivered to the person having charge of the cemetery or tomb from which the body is to be taken and the other shall be delivered to the person having charge of the cemetery or tomb wherein it is desired to place the body.

Sec. 6. 18 V.S.A. § 5224 is amended to read:

§ 5224. DISPOSITION OF REMAINS; PERMITS

(a) Fetal remains shall be disposed of by burial, ~~or cremation,~~ or natural organic reduction unless released to an educational institution for scientific purposes or disposed of by the hospital or as directed by the attending physician in a manner ~~which~~ that will not create a public health hazard. Permission shall be obtained from one of the parents, if competent, for disposition in all cases where a funeral director is not involved. One copy of the fetal death report shall be printed in such manner that completion and signing by the physician or medical examiner shall constitute permission to make ~~final~~ permanent disposition of the fetal remains.

(b) When a funeral director is involved or when the fetal remains are to be privately buried or disposed of by a ~~commercial crematory~~ disposition facility, the funeral director or other person taking charge of the remains shall obtain from the hospital or physician the disposition permit portion of the report and shall deliver it to the sexton or other person having care of the cemetery, tomb, vault, or ~~crematory~~ disposition facility before burial or other disposition takes place. These permits shall be delivered each month to the clerk of the town in which burial or disposition took place, in the same manner as permits for burial of dead bodies; so also shall all other provisions of sections 5209-5216 of this title be applicable to fetal remains as are applicable to dead bodies.

\* \* \*

Sec. 7. 18 V.S.A. chapter 107, subchapter 3 is amended to read:

Subchapter 3. Rights of Family Members, ~~and~~ Other Interested Persons,  
Funeral Directors, and ~~Crematory~~ Operators of Disposition Facilities

\* \* \*

§ 5227. RIGHT TO DISPOSITION

(a) If there is no written directive of the decedent, in the following order of priority, one or more competent adults shall have the right to determine the disposition of the remains of a decedent, including the location, manner, and conditions of disposition and arrangements for funeral goods and services:

\* \* \*

(9) the funeral director or ~~crematory~~ disposition facility operator with custody of the body, after attesting in writing that a good faith effort has been made to contact the individuals described in subdivisions (1) through (8) of this subsection; or

\* \* \*

(c)(1) If the disposition of the remains of a decedent is determined under subdivision (a)(9) of this section and the funeral director or ~~erematory~~ disposition facility operator has cremated or processed the remains, as applicable, the funeral director or ~~erematory~~ disposition facility operator shall retain the remains for three years and, if no interested party as provided in subdivisions (a)(1) through (8) of this section claims the decedent's remains after three years, the funeral director or ~~erematory~~ disposition facility operator shall arrange for the ~~final~~ permanent disposition of the ~~eremated~~ remains consistent with any applicable law and standard funeral practices.

(2) Notwithstanding any provision of subdivision (1) of this subsection to the contrary, a funeral director or ~~erematory~~ disposition facility operator may determine that the unclaimed ~~eremated~~ remains of a deceased veteran shall be interred at the Vermont Veterans Memorial Cemetery pursuant to 20 V.S.A. § 1586 if:

(A) at least 180 days have passed since the funeral director or ~~erematory~~ disposition facility operator cremated or processed the remains;

(B) the funeral director or ~~erematory~~ disposition facility operator either:

(i) has actual knowledge that there is no interested party as provided in subdivisions (a)(1) through (8) of this section to claim the decedent's remains; or

(ii) after making reasonable efforts, has been unable to locate and contact any known interested party as provided in subdivisions (a)(1) through (8) of this section; and

(C) the funeral director or ~~erematory~~ disposition facility operator has confirmed with the Office of Veterans Affairs that the deceased veteran is eligible to be interred at the Vermont Veterans Memorial Cemetery.

(d)(1) If the disposition of the remains of a decedent is determined under subdivision (a)(10) of this section, the Office of the Chief Medical Examiner may contract with a funeral director or ~~erematory~~ disposition facility operator to cremate the remains of the decedent.

(2)(A) If the cremation of the decedent is arranged and paid for under 33 V.S.A. § 2301, the Department for Children and Families shall pay the cremation expenses to the funeral home, up to the maximum payment permitted by rule by the Department for Children and Families.

(B) If the cremation of the decedent is not arranged and paid for under 33 V.S.A. § 2301, the Department of Health shall pay the cremation

expenses to the funeral home, up to the maximum payment permitted by rule by the Department for Children and Families.

(3) The cremated remains shall be returned to the Office of the Chief Medical Examiner. The Office shall retain the remains for three years, and if no interested party, as described in subdivisions (a)(1) through (8) of this section, claims the decedent's remains after three years, the Office shall arrange for the ~~final~~ permanent disposition of the cremated remains consistent with any applicable law and standard funeral practices.

(4) Notwithstanding any provision of subdivision (3) of this subsection to the contrary, the Office of the Chief Medical Examiner may determine that the unclaimed cremated remains of a deceased veteran shall be interred at the Vermont Veterans Memorial Cemetery pursuant to 20 V.S.A. § 1586 if:

(A) at least 180 days have passed since the remains were cremated;

(B) the Office of the Chief Medical Examiner either:

(i) has actual knowledge that there is no interested party as provided in subdivisions (a)(1) through (8) of this section to claim the decedent's remains; or

(ii) after making reasonable efforts, has been unable to locate and contact any known interested party as provided in subdivisions (a)(1) through (8) of this section; and

(C) the Office of the Chief Medical Examiner has confirmed with the Office of Veterans Affairs that the deceased veteran is eligible to be interred at the Vermont Veterans Memorial Cemetery.

#### § 5228. FORFEITURE

An individual recognized under section 5227 of this title to have a right of disposition shall forfeit that right in the following circumstances:

(1) the individual is identified by a law enforcement agency as a person of interest and likely to be prosecuted or is under prosecution for first or second degree murder or voluntary manslaughter in connection with the decedent's death, if the status of the investigation or the prosecution is known to the funeral director or ~~crematory~~ disposition facility operator, except that if the prosecution is not pursued or the individual is acquitted of the alleged crime before the remains are disposed of, the individual shall regain the right;

\* \* \*

#### § 5229. COST OF DISPOSITION

The cost for the disposition of remains and funeral goods or services shall be borne by the decedent's estate, subject to the limits for insolvent estates imposed by 14 V.S.A. § 1205, or by any individual who agrees to pay the costs. Nothing in this subchapter shall be construed to require a funeral director or ~~crematory~~ disposition facility operator to provide goods or services for which there is no payment.

§ 5230. RIGHTS OF FUNERAL DIRECTOR OR ~~CREMATORY~~

OPERATOR OF A DISPOSITION FACILITY

A funeral director or ~~crematory~~ disposition facility operator may determine the ~~final permanent~~ disposition of remains and may file a civil action in Probate Division of the Superior Court against a person, estate, banking institution, governmental agency, or other entity ~~which~~ that may have liability for the ~~final permanent~~ disposition, either:

(1) to seek a declaratory judgment that the director's or operator's proposed action would be in compliance with the applicable provisions of law; or

(2) to seek a judgment that the director or operator's action is in compliance with the applicable provisions of law and to recover reasonable costs and fees for the ~~final permanent~~ disposition when:

(A) the funeral director or ~~crematory~~ disposition facility operator has actual knowledge that there is no surviving family member, guardian, or individual appointed to arrange for the disposition of decedent's remains pursuant to chapter 231 of this title;

(B) the funeral director or ~~crematory~~ disposition facility operator has made reasonable efforts to locate and contact any known family member, guardian, or agent; and

(C) the appropriate local or State authority, if any, fails to assume responsibility for disposition of the remains within 36 hours of written notice, which may be delivered by hand, U.S. mail, facsimile transmission, electronic means, or telegraph.

§ 5231. CIVIL ACTION

\* \* \*

(c) Except as provided for under subdivision (b)(4) of this section, an individual who has paid or agreed to pay for all or part of the funeral arrangements or ~~final permanent~~ disposition does not have greater priority to the right to disposition than as set forth in section 5227 of this title.



(d)(1) A funeral director or ~~erematory~~ disposition facility operator may refuse to accept bodily remains, to inter or otherwise dispose of bodily remains, or to complete the arrangements for the ~~final permanent~~ disposition until such time as the court issues an order or the parties to the action submit a final stipulation approved by the court regarding the disposition of remains.

(2) If the funeral director or ~~erematory~~ disposition facility operator retains the remains for ~~final permanent~~ disposition while an action is pending, the funeral director or ~~erematory~~ disposition facility operator may refrigerate or shelter the remains while awaiting a preliminary or final order of the court. The cost of refrigeration or sheltering shall be the responsibility of the party or parties who contracted with the funeral director or ~~erematory~~ disposition facility operator, the person or entity who is otherwise liable for the costs of ~~final permanent~~ disposition, or the estate as ordered by the court, or any combination of these, and the court may include in the order a decision concerning which of these shall be responsible for paying these costs.

(e) If a funeral director or ~~erematory~~ disposition facility operator commences an action under this section, the funeral director or ~~erematory~~ disposition facility operator may ask the court to include an order against the estate or the parties for reasonable legal fees and costs. If the estate is insolvent and no other person should be responsible for the filing fee, the court may waive the filing fee. The court, in its discretion, may order a party or parties to pay the reasonable costs of ~~final permanent~~ disposition as a condition of the appointment to make disposition decisions. The court may order that a party, or parties, including the petitioner, pay reasonable legal fees and costs associated with the action.

(f) Any appeal from the ~~probate court~~ Probate Division shall be on the record to the Civil Division of the Superior Court. There shall be no appeal as a matter of right to the Supreme Court.

\* \* \*

#### § 5233. LIMITED LIABILITY

A funeral director or ~~erematory~~ disposition facility operator shall not be subject to civil liability or subject to disciplinary action for carrying out the disposition of the remains if he or she relied in good faith on a funeral service contract or authorization or for following the instructions of an individual ~~whom~~ who the funeral director or ~~erematory~~ disposition facility operator reasonably believes or believed holds the right of disposition.

\* \* \*

\* \* \* Cemeteries \* \* \*

Sec. 8. 18 V.S.A. § 5302 is amended to read:

§ 5302. DEFINITIONS

As used in this chapter and unless otherwise required by the context:

(1) “Agencies” means town cemeteries, religious or ecclesiastical society cemeteries, cemetery associations, and any person, firm, corporation, or unincorporated association engaged in the business of a cemetery.

(2) “Cemetery” means any plot of ground used or intended to be used for the burial or permanent disposition ~~permanently~~ of the remains of the human dead in a grave, a mausoleum, a columbarium, a vault, or other receptacle.

(3) “Cemetery association” means any corporation now or hereafter organized ~~which~~ that is or shall be authorized by its articles to conduct the business of a cemetery.

(4) “Columbarium” means a structure or room or other space in a building or structure of durable and lasting fireproof construction, containing niches, used or intended to be used, to contain ~~cremated~~ the permanent disposition of human remains.

(5) “Community mausoleum” means a structure or building of durable and lasting construction used or intended to be used for the permanent disposition of the remains of deceased persons in crypts or spaces, provided such crypts or spaces are available to or may be obtained by individuals or the public for a price in money or its equivalent.

(6) “Cremated remains” means remains of a deceased person after incineration in a ~~crematory~~ disposition facility.

(7) “Cremation” means the reducing of the remains of deceased persons, by the use of retorts, to cremated remains and the disposal thereof in a columbarium, niche, mausoleum, grave, or in any other manner not contrary to law.

~~(8) “Crematory” means a building or structure containing one or more retorts, used or intended to be used, for the reducing of the bodies of deceased persons to cremated remains.~~

~~(9)~~(8) “Crypt” means the chamber in a mausoleum of sufficient size to contain the remains of deceased persons.

(9) “Disposition facility” means a building or structure for the reducing of human remains by means of cremation, alkaline hydrolysis, or natural organic reduction.

(10) “Ecological land management practices” means utilization of land stewardship decision-making processes that account for the best available understanding of ecosystem functions and biological diversity.

(11) “Natural burial ground” means a cemetery maintained using ecological land management practices and without the use of vaults for the burial of unembalmed human remains or human remains embalmed using nontoxic embalming fluids and that rest in either no burial container or in a nontoxic, nonhazardous, plant-derived burial container or shroud.

(12) “Natural organic reduction” means the contained, accelerated conversion of human remains to soil.

~~(12)~~(13) “Niche” means a recess in a columbarium used, or intended to be used, for the permanent disposition of ~~the cremated~~ human remains of one or more deceased persons.

~~(13)~~(14) “Temporary receiving vault” means a vault or crypt in a structure of durable and lasting construction, used, or intended to be used, for the temporary deposit of the remains of a deceased person for a period of time not exceeding one year.

Sec. 9. 18 V.S.A. § 5313 is amended to read:

§ 5313. RECORDS; BURIAL RECORDS OPEN TO PUBLIC

An agency engaged in the business of a cemetery, community mausoleum, or columbarium shall provide and maintain a suitable place of deposit for the records and files of such cemetery, community mausoleum, or columbarium, of such character as will safely keep and preserve such records and files from loss and destruction, and it shall make and file proper records in such place. The record of burials, interments, and cremations the permanent disposition of human remains shall at all reasonable times be open to the public.

Sec. 10. 18 V.S.A. § 5315 is amended to read:

§ 5315. SALE OF PROPERTY FOR OTHER THAN BURIAL PURPOSES;  
DISPOSITION OF PROCEEDS

Either before or after the recording of the plat, as hereinbefore provided, whenever it is determined that such lands acquired for cemetery purposes, except those acquired by condemnation proceedings, are unsuitable for ~~burial purposes~~ the permanent disposition of human remains, such lands may be sold

for purposes other than ~~interment~~ permanent disposition and conveyed in fee simple in such manner and upon such terms as may be provided by the agencies owning the same. The proceeds thereof shall be applied to the purchase of other lands or to general cemetery purposes. When such sales are made, the land so sold shall be returned by the agencies to the tax lists for taxation. In the case of land acquired by condemnation proceedings, it shall be disposed of under the law governing the disposal of land acquired by condemnation proceedings.

Sec. 11. 18 V.S.A. § 5319 is amended to read:

§ 5319. DISPOSITION OF REMAINS OF DEAD

(a)(1) The permanent disposition of human remains shall be by:

(A) interment in the earth ~~or~~;

(B) deposit in a chamber, vault, or tomb formed wholly or partly above the surface of the ground of a cemetery conducted and maintained pursuant to the laws of the State, ~~or by~~;

(C) deposit in a crypt of a mausoleum, ~~or by~~;

(D) cremation; or

(E) natural organic reduction.

(2) However, this shall not be construed to prevent a private individual from setting aside a portion of his or her premises owned in fee by him or her and using the premises as a burial space for the members of his or her immediate family, ~~so long as~~ provided his or her use for such purpose is not in violation of the health laws and regulations of the State and the town in which the land is situated.

\* \* \*

(c) ~~No deposit of the remains of the human dead~~ With the exception of human remains processed by natural organic reduction, the permanent disposition of human remains shall not be made in a single chamber, vault, or tomb wholly or partly above the surface of the ground unless the part thereof below the natural surface of the ground be of a permanent character, constructed of materials capable of withstanding extreme climatic conditions, be waterproof and air tight, and can be sealed permanently so as to prevent all escape of effluvia. That portion of the same above the natural surface of the ground shall be constructed of natural stone of a standard not less than that required by the U.S. government for monuments erected in national cemeteries, of durability sufficient to withstand all conditions of weather, and of a character to ensure its permanence.

(d) The remains of a human body after cremation or natural organic reduction may be deposited in a niche of a columbarium, ~~in a~~ or a crypt of a mausoleum; ~~be buried;~~ or disposed of in any manner not contrary to law.

Sec. 12. 18 V.S.A. § 5361 is amended to read:

§ 5361. APPROPRIATIONS AND REGULATIONS BY TOWNS

A town may vote sums of money necessary for purchasing, holding, and keeping in repair suitable grounds and other conveniences for ~~burying~~ permanent disposition of the dead. The selectboard may make necessary regulations concerning public burial grounds and for fencing and keeping the same in proper order.

Sec. 13. 18 V.S.A. § 5376 is amended to read:

§ 5376. SALE OF LOTS; TAX EXEMPTION

The board of cemetery commissioners, by one of the commissioners appointed by it for that purpose, in the name of the town, by deed, may grant and convey lots in such burial grounds to be used for the ~~burial~~ permanent disposition of the dead and on which tombs, cenotaphs, and other monuments are to be erected. Such lots shall be exempt from taxation. The deeds thereof shall be recorded in the office of the town clerk of the town wherein such lots lie.

Sec. 14. 18 V.S.A. § 5378 is amended to read:

§ 5378. BYLAWS AND REGULATIONS

The board of cemetery commissioners may make necessary bylaws and regulations in respect to such burial grounds, and ~~interment~~ permanent disposition of the dead not inconsistent with law, and may alter the same. Such bylaws and regulations shall be recorded in the office of the town clerk. A bylaw or regulation shall not be adopted to restrain a person in the free exercise of his or her religious sentiments as to the ~~burial~~ permanent disposition of the dead.

Sec. 15. 18 V.S.A. § 5434 is amended to read:

§ 5434. PENALTY FOR DOING BUSINESS AS A CEMETERY

ASSOCIATION WITHOUT AUTHORITY

A person, firm, corporation, or association, or a trust, trustee, or trustees of any person, firm, corporation, or association, who, without authority of this chapter so to do, shall exercise or attempt to exercise any powers, privileges, or franchises ~~which~~ that are specified or may be granted under this chapter to incorporated cemetery associations, or who shall by any device attempt to

evade the provisions of this chapter applicable to cemetery associations in respect to the sale of ~~burial~~ lots or ~~burial~~ spaces for the permanent disposition of human remains and the disposition of the proceeds thereof, shall be fined not less than \$1,000.00 nor more than \$10,000.00, and may be enjoined from further doing of such acts at the suit of any taxpayer of the State. However, the provisions of this section shall not affect or impair the rights of a person, firm, corporation, or association or a trust, trustee, or trustees of such person, firm, corporation, or association under any existing contract or contracts between such parties and incorporated cemetery associations, nor shall the performance of the provisions of such contract or contracts subject parties thereto to the penalties imposed by this section.

Sec. 16. 18 V.S.A. § 5435 is amended to read:

§ 5435. SALES OF LOTS, CRYPTS, AND NICHES; HOW INCOME  
APPLIED; RULES

(a) The income of a cemetery association, whether derived from the sale of lots, ~~burial~~ spaces, crypts, or niches for the permanent disposition of human remains, from donations, or otherwise, shall be exclusively applied to paying for the land or other cemetery property; laying out, preserving, protecting, and embellishing the cemetery and avenues leading thereto; the erection of buildings necessary for cemetery purposes; the establishing of a fund to care permanently for the cemetery; the repair and upkeep of mausoleums, vaults, columbariums, crypts, and niches therein; and to paying the necessary expenses of the cemetery association. A debt shall not be contracted in anticipation of future receipts, except for the original purchase of the land, community mausoleum, or columbarium, laying out, enclosing, and embellishing the grounds and avenues therein and to a sum not exceeding \$50,000.00 in the whole, to be paid out of future income. ~~No part of the~~ The proceeds from the sale of lots, ~~burial~~ spaces, crypts, or niches for the permanent disposition of human remains, or other income of such association, shall ~~ever not~~ be divided among its members. All its income shall be used exclusively for the purposes of the association, as provided in this chapter, or invested in a fund the income of which shall be so used. Such association may adopt such reasonable rules and regulations as it deems expedient for disposing of and conveying ~~burial~~ lots, spaces, crypts, and niches for the permanent disposition of human remains.

\* \* \*

Sec. 17. 18 V.S.A. § 5436 is amended to read:

§ 5436. PERPETUAL CARE FUND

A cemetery association established prior to June 1, 1933 may create a perpetual care fund out of surplus money on hand or ~~which that~~ has been given to it by will, deed, or otherwise. A cemetery association established after such date shall create such a perpetual care fund by applying thereto from the initial proceeds received from the sale of lots or ~~burial spaces~~ for the permanent disposition of human remains a sum ~~which that~~ shall be equivalent to and not less than 20 percent of the sale price of each lot or ~~burial space~~ so sold, and such association may at any time increase the same by the addition of surplus money or property received by it by will, deed, or otherwise.

Sec. 18. 18 V.S.A. § 5488 is amended to read:

§ 5488. ENLARGEMENT OF CEMETERIES BY ASSOCIATIONS-

PETITION TO SUPERIOR COURT TO ACQUIRE LAND

When an incorporated cemetery association wishes to enlarge the limits of its burial ground, and votes to purchase additional land for ~~burial~~ permanent disposition purposes and the owner of such land refuses to convey the same to ~~such the~~ cemetery association for a reasonable compensation, the trustees or president of such association, by a petition in writing, may apply to the Superior Court in the county in which such burial ground is located for the appointment of commissioners.

\* \* \* Funeral Services \* \* \*

Sec. 19. 26 V.S.A. § 1211 is amended to read:

§ 1211. DEFINITIONS

(a) As used in this chapter, unless a contrary meaning is required by the context:

(1) ~~“Crematory establishment” means a business registered with the Office conducted at a specific street address or location devoted to the disposition of dead human bodies by means of cremation, alkaline hydrolysis, or any other type of human reduction acceptable to the Director as established by the Director by rule. [Repealed.]~~

(2) “Director” means the Director of the Office of Professional Regulation.

(3) “Funeral director” means a licensed person who is the owner, co-owner, employee, or manager of a licensed funeral establishment and who, for compensation, engages in the practice of funeral service.

(4) “Funeral establishment” means a business registered with the Office conducted at a specific street address or location devoted to the practice of funeral service, and includes a limited services establishment.

(5) “Office” means the Office of Professional Regulation.

(6) “Practice of funeral service” means arranging, directing, or providing for the care, preparation, or disposition of dead human bodies for a fee or other compensation. This includes:

(A) meeting with the public to select a method of disposition or funeral observance and merchandise;

(B) entering into contracts, either at-need or pre-need, for the provision of dispositions, funeral observances, and merchandise;

(C) arranging, directing, or performing the removal or transportation of a dead human body;

(D) securing or filing certificates, permits, forms, or other documents;

(E) supervising or arranging a funeral, memorial, viewing, or graveside observance; and

(F) holding oneself out to be a licensed funeral director by using the words or terms “funeral director,” “mortician,” “undertaker,” or any other words, terms, title, or picture that, when considered in context, would imply that such person is engaged in the practice of funeral service or is a licensed funeral director.

(7) “Removal” means the removal of dead human bodies from places of death, hospitals, institutions, or other locations, for a fee or other compensation.

(8) “Disposition facility” means a business registered with the Office conducted at a specific street address or location devoted to the disposition of human remains by means of cremation, alkaline hydrolysis, or natural organic reduction.

(9) “Natural organic reduction” has the same meaning as in 18 V.S.A. § 5302.

\* \* \*

(c) Notwithstanding this section, ~~crematory~~ owners of a disposition facility, and their personnel may engage in the listed activities in ~~subsection~~ subdivision (a)(6) of this section only to the extent such functions are



necessary to the performance of their duties. Specifically, ~~crematory~~ personnel at a disposition facility may:

(1) provide for the disposition of dead human bodies by cremation, alkaline hydrolysis, or natural organic reduction and meet with the public to arrange and provide for the disposition;

(2) enter into contracts, without taking prepaid funds, for the provision of dispositions by cremation, alkaline hydrolysis, or natural organic reduction;

(3) arrange, direct, or perform the removal or transportation of a dead human body, ~~so long as~~ provided that removals are performed by licensed removal personnel; and

(4) secure and file certificates, permits, forms, or other documents.

Sec. 20. 26 V.S.A. § 1212 is amended to read:

§ 1212. ADVISOR APPOINTEES; DIRECTOR DUTIES; RULES

(a)(1) The Secretary of State shall appoint four persons for five-year staggered terms to serve at the Secretary's pleasure as advisors in matters relating to funeral service. Three of the initial appointments shall be for four-, three-, and two-year terms. Appointees shall include three licensed funeral directors, one of whom is a licensed embalmer and one of whom has training or experience in the operation of ~~crematoria~~ a disposition facility. One appointee shall be a public member.

(2) The Director shall seek the advice of the advisor appointees in carrying out the provisions of this chapter.

(b) The Director shall:

\* \* \*

(6) adopt rules regarding:

(A) minimum standards for ~~crematory establishments~~ disposition facilities, including standards for permits and documentation, body handling, containers, infectious diseases, pacemakers, body storage, sanitation, equipment and maintenance, dealing with the public, and other measures necessary to protect the public; and

(B) the transaction of business as the Director deems necessary.

(7) [Repealed.]

(8) [Repealed.]

Sec. 21. 26 V.S.A. § 1213 is amended to read:

§ 1213. INSPECTION OF PREMISES

(a) The Director or his or her designee may, at any reasonable time, inspect funeral ~~and crematory~~ establishments and disposition facilities.

(b) Each funeral ~~and crematory~~ establishment and disposition facility shall be inspected at least once every two years. Copies of the inspector's report of inspections of establishments and facilities shall be provided to the Director.

Sec. 22. 26 V.S.A. § 1251 is amended to read:

§ 1251. LICENSE REQUIREMENTS

(a) A person, partnership, corporation, association, or other organization shall not open or maintain a funeral establishment unless the establishment is licensed by the Office to conduct the business and unless the owner, a co-owner, or manager is a licensed funeral director.

(b) A person, partnership, corporation, association, or other organization shall not open or maintain a ~~crematory establishment~~ disposition facility unless the establishment is licensed by the Office.

(c) A person shall not hold himself or herself out as performing the duties of a funeral director unless licensed by the Office.

(d) Except as otherwise permitted by law, a person employed by a funeral ~~or crematory~~ establishment or disposition facility shall not perform a removal unless registered with the Office.

Sec. 23. 26 V.S.A. § 1252 is amended to read:

§ 1252. APPLICATION; QUALIFICATIONS

\* \* \*

(d) ~~Crematory establishment~~ Disposition facility.

(1) A person, partnership, corporation, association, or other organization desiring to operate a ~~crematory establishment~~ disposition facility shall apply, in writing, to the Director for a license. The applicant, if a partnership, corporation, association, or other organization, must have a designated manager or co-owner who is responsible for the operation of the ~~establishment~~ disposition facility and who is registered with the Office under subsection (e) of this section.

(2) The application for a license shall be sworn to by the individual, or a partner or a duly authorized officer of a corporation, shall be on the form prescribed and furnished by the Director, and the applicant shall furnish

information, as required by rule. The application shall be accompanied by a licensing fee. However, the applicant shall not be required to pay the fee under this subsection if the applicant pays the fee under subsection (b) of this section.

(e) ~~Crematory~~ Disposition facility personnel.

(1) Any person who desires to engage in direct handling, processing, identification, ~~or cremation,~~ alkaline hydrolysis, or natural organic reduction of dead human remains within a licensed ~~crematory establishment~~ disposition facility shall register with the Office and pay the fee established in subsection 1256(d) of this chapter. The applicant shall have attained the age of majority and be directly employed by a licensed ~~crematory establishment~~ disposition facility.

(2) The Director may prescribe, by rule, the forms for applicants, which may include proof of completion of up to three hours of education and training in programs approved by the Director.

(f) Removal personnel.

(1) Any person who desires to engage in removals shall register with the Office and pay the fee established in subsection 1256(d) of this chapter. The applicant shall have attained the age of majority and be directly employed by a licensed funeral ~~or crematory~~ establishment or disposition facility, or the University of Vermont for removals related to the University's anatomical gift program.

(2) The Director may prescribe, by rule, the forms for applicants, which may include proof of completion of up to three hours of education and training in infectious diseases in programs approved by the Director.

(3) Registrants under this subsection are authorized to perform removals only, as defined by this chapter. Unregistered personnel may accompany registered personnel to assist in removals ~~so long as~~ provided they have been instructed in handling and precautionary procedures prior to the call.

(g) Limited services establishment.

(1) The Director may adopt rules for the issuance of limited service establishment licenses in accordance with this chapter. Limited service establishment licensees are authorized to perform only disposition services without arranging, directing, or performing embalming, public viewings, gatherings, memorials, funerals, or related ceremonies. Disposition services under this subsection include direct cremation, direct alkaline hydrolysis, direct natural organic reduction, immediate burial, or direct ~~green~~ natural burial.

(2) Limited services shall be overseen by a funeral director licensed under this chapter who is employed by the limited service establishment.

(3) Each limited service arrangement shall include a mandatory written disclosure providing notice to the purchaser that limited services do not include embalming, public viewings, gatherings, memorials, funerals, or related ceremonies.

(4) A funeral director associated with a funeral establishment licensed under subsection (c) of this section may provide limited services ~~so long as,~~ provided the mandatory disclosure described under subdivision (3) of this subsection is provided to the purchaser.

Sec. 24. 26 V.S.A. § 1254 is amended to read:

§ 1254. ISSUANCE OR DENIAL OF LICENSE

If, upon review, it is found that the applicant possesses sufficient skill and knowledge of the business and has met the application and qualification requirements set forth in this chapter, the Director shall issue to him or her a license to engage in the business of funeral director, embalmer, funeral establishment, ~~crematory establishment~~ disposition facility, or removal personnel.

Sec. 25. 26 V.S.A. § 1256 is amended to read:

§ 1256. RENEWAL OF REGISTRATION OR LICENSE

\* \* \*

(d) Applicants and persons regulated under this chapter shall pay the following fees:

(1) Application for license	\$ 70.00
(2) Biennial renewal of license	
(A) Funeral director	\$ 350.00
(B) Embalmer	\$ 350.00
(C) Funeral establishment	\$ 800.00
(D) <del>Crematory establishment</del> <u>Disposition facility</u>	\$ 800.00
(E) <del>Crematory</del> <u>Disposition facility</u> personnel	\$ 125.00
(F) Removal personnel	\$ 125.00
(G) Limited services establishment license	\$ 800.00

\* \* \*

Sec. 26. 26 V.S.A. § 1272 is amended to read:

§ 1272. RULES; PREPAID FUNERAL FUNDS

\* \* \*

(9) Establishment of a funeral services trust account.

(A) For purposes of funding the Funeral Services Trust Account, the Office shall assess each funeral ~~or crematory~~ establishment or disposition facility a per funeral, burial, or disposition fee of \$6.00.

(B) The Account shall be administered by the Secretary of State and shall be used for the sole purpose of protecting prepaid funeral contract holders in the event a funeral establishment or disposition facility defaults on its obligations under the contract.

(C) The Account shall consist of all fees collected under this subdivision (9) and any assessments authorized by the General Assembly. The principal and interest remaining in the Account at the close of any fiscal year shall not revert but shall remain in the Account for use in succeeding fiscal years.

(D) Notwithstanding the provisions of this subdivision (9) to the contrary, if the fund balance at the beginning of a fiscal year is at least \$200,000.00, no fees shall be imposed during that fiscal year.

(E) Payments on consumer claims from the fund shall be made on warrants by the Commissioner of Finance and Management, at the direction of the Director.

(F) When an investigation reveals financial discrepancies within a licensed establishment or facility, the Director may order an audit to determine the existence of possible claims on the Funeral Services Trust Account. In cases where both a funeral ~~and crematory~~ establishment or disposition facility are involved in a disposition, the party receiving the burial permit shall be responsible for the disposition fee.

\* \* \* Fee Structure as of June 1, 2023 \* \* \*

Sec. 27. 3 V.S.A. § 125 is amended to read:

§ 125. FEES

\* \* \*

(b) Unless otherwise provided by law, the following fees shall apply to all professions regulated by the Director in consultation with advisor appointees under Title 26:

- (1) Application for registration, \$75.00, except application for:
  - (A) Private investigator and security services employees, unarmed registrants, \$60.00.
  - (B) Private investigator and security service employees, transitory permits, \$60.00.
  - (C) Private investigator and security service employees, armed registrants, \$120.00.
- (2) Application for licensure or certification, \$100.00, except application for:
  - (A) Barbering or cosmetology schools and shops, \$300.00.
  - (B) Funeral directors, embalmers, ~~crematory~~ disposition facility personnel, removal personnel, funeral establishments, ~~crematory establishments~~ disposition facilities, and limited services establishments, \$70.00.
  - (C) Application for real estate appraisers, \$275.00.
  - (D) Temporary real estate appraiser license, \$150.00.
  - (E) Appraisal management company registration, \$600.00.
  - (F) Private investigator or security services agency, \$340.00.
  - (G) Private investigator and security services agency, \$400.00.
  - (H) Private investigator or security services sole proprietor, \$250.00.
  - (I) Private investigator or security services unarmed licensee, \$150.00.
  - (J) Private investigator or security services armed licensee, \$200.00.
  - (K) Private investigator and security services instructor, \$120.00.
- (3) Optician trainee registration, \$50.00.
- (4) Biennial renewal, \$240.00, except biennial renewal for:
  - (A) Independent clinical social workers and master's social workers, \$150.00.
  - (B) Occupational therapists and assistants, \$150.00.
  - (C) Physical therapists and assistants, \$150.00.
  - (D) Optician trainees, \$100.00.

- (E) Barbers, cosmetologists, nail technicians, and estheticians, \$130.00.
- (F) Schools of barbering or cosmetology, \$300.00.
- (G) Funeral directors and embalmers, \$280.00.
- (H) ~~Crematory~~ Disposition facility personnel and removal personnel, \$100.00.
- (I) Funeral establishments, ~~crematory establishments~~ disposition facilities, and limited services establishments, \$640.00.
- (J) [Repealed.]
- (K) Radiologic therapist, radiologic technologist, nuclear medicine technologist, \$150.00.
- (L) Certified alcohol and drug abuse counselor, certified apprentice addiction professional, and licensed alcohol and drug abuse counselor, \$225.00.
- (M) Private investigator or security services agency, or both, \$300.00.
- (N) Private investigator or security services unarmed licensee, \$120.00.
- (O) Private investigator or security services armed licensee, \$180.00.
- (P) Private investigator or security services unarmed registrant, \$80.00.
- (Q) Private investigator or security services armed registrant, \$130.00.
- (R) Private investigator or security services sole proprietor, \$250.00.
- (S) Private investigator or security services instructor, \$180.00.
- (5) Limited temporary license or work permit, \$50.00.

\* \* \*

\* \* \* Effective Dates and Transitional Rulemaking Provision \* \* \*

Sec. 28. EFFECTIVE DATES

Sec. 27 (fees) shall take effect on June 1, 2023. All other sections shall take effect on January 1, 2023, except that the Director of the Office of Professional Regulation shall adopt any rules necessary prior to that date in order to perform the Director's duties under this act.

**( Committee Vote: 10-0-1)**

**Rep. Masland of Thetford**, for the Committee on Ways and Means, recommends the bill ought to pass when amended as recommended by the Committee on General, Housing, and Military Affairs.

**(Committee Vote:10-1-0)**

### **H. 500**

An act relating to prohibiting the sale of mercury lamps in the State

**Rep. McCullough of Williston**, for the Committee on Natural Resources, Fish, and Wildlife, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 7101 is amended to read:

#### § 7101. LEGISLATIVE FINDINGS

The General Assembly finds and declares that:

(1) Mercury is a persistent and toxic pollutant that bioaccumulates in the environment and poses a serious threat to humans, particularly young children and the developing fetus, and wildlife.

\* \* \*

(7) Human exposure to mercury can result in nervous system, kidney, and liver damage and impaired childhood development.

(8) There has been a threefold increase in mercury loading to the environment over the past 150 years. Much of the mercury deposited from the atmosphere is from human and natural sources, but anthropogenic emissions exceed those that occur naturally.

\* \* \*

(13) Many of the states in the region, including Connecticut, Maine, New York, and Rhode Island, have adopted comprehensive mercury-added product legislation to identify and eliminate unnecessary uses of mercury.

(14) Significant use of mercury-added products occurs in health care facilities, schools, and dental practices, in all of which mercury use or release reduction is technically and economically feasible.

\* \* \*

(17) Vermont's mercury product legislation passed in 1998 does not comprehensively restrict the sale and use of mercury-added products.

(18) Studies conducted for the State state of Maine show that mercury-free alternatives exist for a majority of the thousands of products containing



mercury components. These products include thermometers, thermostats, flow meters, barometers, manometers, medical devices, and electrical switches and relays.

(19) Studies conducted for the ~~State~~ state of Maine show that manufacturers are beginning to market mercury-free versions of all types of mercury-added button cell and other miniature batteries.

(20) Novelty products using mercury have been banned from sale in several states.

(21) All fluorescent lamps contain mercury and can create an immediate public health and environmental hazard when they accidentally break during installation, use, transportation, storage, recycling, or disposal. Light-emitting diode (LED) replacements for fluorescent lamps do not contain any mercury.

(22) Fluorescent lamps are no longer the most energy-efficient lighting option in the marketplace. Lamps that contain LEDs have advanced significantly and today use approximately half the electricity as fluorescent lamps to produce the same amount of light. LEDs also last two to three times longer than fluorescent lamps.

(23) Fluorescent lamps are no longer the least life-cycle cost (LLCC) option because they cost twice as much to operate compared to an LED. LED retrofit tubes are the LLCC, and they pay for the slightly higher first cost in a matter of one to eight months, depending on price and application. After paying back initial costs, the LED tubes continue to operate for years to come, saving consumers and businesses on their lighting bills.

(24) LED retrofit lamps are widely available in a comprehensive set of sizes, shapes, lengths, and light colors. There are over 10,000 models of four-foot LED retrofit tubes that can replace fluorescent T5, T8, and T12 in the Design Lights Consortium Qualified Product List database.

(25) Suppliers who sold fluorescent lamps in Vermont after July 1, 2012 made a profit from the sales of those lamps in the State, and they should remain responsible for ensuring the safe collection at the end-of-life of those lamps due to the toxic nature of the mercury contained in the products they sold.

(26) Citizens of Vermont, the Vermont environment, and the Agency will benefit from comprehensive mercury product legislation that further reduces mercury emissions and is consistent with model mercury product legislation developed jointly by the northeast states.

Sec. 2. 10 V.S.A. § 7102 is amended to read:

§ 7102. DEFINITIONS

As used in this chapter:

(1) “Agency” means the Vermont Agency of Natural Resources.

(2) “Elemental mercury” means the chemical symbol Hg. Elemental Hg is a silvery-white liquid (at room temperature) with an atomic number of 80 and an atomic mass of 200.57.

\* \* \*

(9) “Mercury-added product” means a product, a commodity, a chemical, a product with one or more components, or a product that cannot function without the use of that component, that contains mercury or a mercury compound intentionally added to the product, commodity, chemical, or component in order to provide a specific characteristic, appearance, or quality, or to perform a specific function, or for any other reason. These products include formulated mercury-added products and fabricated mercury-added products.

\* \* \*

(20) “Four-foot linear fluorescent lamp” means a general purpose, low-pressure, mercury-containing, electric-discharge light source in which a fluorescing coating transforms some of the ultraviolet energy generated by the mercury discharge into visible light, and includes all of the following characteristics:

(A) two bases or endcaps of any type, including single-pin, two-pin, or recessed double contact;

(B) light emission between a correlated color temperature of 1700K and 24000K and a Duv of +0.024 and –0.024 in the International Commission on Illumination (CIE) Uniform Color Space (CAM02-UCS);

(C) all tube diameters, including T2, T5, T8, T10, and T12; and

(D) four feet in length.

Sec. 3. 10 V.S.A. § 7105 is amended to read:

§ 7105. RESTRICTIONS ON THE SALE AND USE OF CERTAIN

MERCURY-ADDED PRODUCTS

\* \* \*

(g) Fluorescent lamps. Beginning on January 1, 2024, no four-foot linear fluorescent lamp may be offered for final sale, sold at final sale, or distributed in Vermont as a new manufactured product.

(h) Exclusion for existing equipment. The prohibitions in subsections (e) and (f) of this section do not apply if the switch, relay, or measuring device is used to replace a switch, relay, or measuring device ~~which~~ that is a component of a larger product in use prior to January 1, 2007, provided the owner of that equipment has made every reasonable effort to determine that no compatible nonmercury replacement component exists.

(h)(i) Exemptions.

\* \* \*

(7) The prohibition in subsection (g) of this section shall not apply to the following four-foot linear fluorescent lamps:

(A) lamps used for image capture and projection, including photocopying, printing directly or in pre-processing, lithography, film and video projection, and holography;

(B) lamps that have high proportions of ultraviolet light emission, including only the following:

(i) lamps with high ultraviolet content that have ultraviolet power >2 milliwatts per kilolumen (mW/klm);

(ii) lamps for germicidal use or destruction of DNA that emit a peak radiation of approximately 253.7 nanometers;

(iii) lamps used for disinfection or fly trapping where the radiation power emitted is between 250–315 nanometers represents  $\geq 5$  % or is between 315–400 nanometers represents  $\geq 20$  % of the total radiation power emitted is between 250–800 nanometers;

(iv) lamps used for the generation of ozone where the primary purpose is to emit radiation at approximately 185.1 nanometers;

(v) lamps used for coral zooxanthellae symbioses where the radiation power emitted between 400–480 nanometers represents  $\geq 40$  % of total radiation power emitted is between 250–800 nanometers; and

(vi) Any lamp intended for use in a sunlamp product, as that term is defined in 21 C.F.R. § 1040.20.

Sec. 4. 10 V.S.A. § 7161 is added to read:

§ 7161. CONTINUED IMPLEMENTATION OF APPROVED

COLLECTION PLAN

(a) Notwithstanding application of the requirements of this chapter to manufacturers of mercury containing lamps who sell, offer for sale, or deliver

for subsequent sale in the State, a manufacturer that sold, offered for sale, or delivered mercury containing lamps for subsequent sale in the State prior to January 1, 2024 shall be required to continue implementation of an approved collection plan and to continue compliance with the requirements under this chapter.

(b) Beginning on January 15, 2025, and biennially thereafter, the Secretary of Natural Resources shall recommend to the House Committee on Natural Resources, Fish, and Wildlife and the Senate Committee on Natural Resources and Energy whether the General Assembly should continue to require implementation of a collection plan by manufacturers under subsection (a) of this section. The Secretary may include the recommendation required by this subsection in the biennial report on solid waste required under subsection 6004(b) of this title.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

( Committee Vote: 9-0-2)

**H. 505**

An act relating to reclassification of penalties for unlawfully possessing, dispensing, and selling a regulated drug

**Rep. LaLonde of South Burlington**, for the Committee on Judiciary, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. § 4215a is amended to read:

§ 4215a. SALE OF SCHEDULE V DRUGS

(a) A duly licensed pharmacist may sell and dispense schedule V drugs only upon written prescription or oral prescription ~~which~~ that is promptly reduced to writing by a pharmacist, of a licensed physician, dentist, or veterinarian, dated and signed by the person prescribing or, if an oral prescription, by the pharmacist on the date when written.

\* \* \*

(d) ~~For a first offense, a~~ A person knowingly and unlawfully violating the provisions of this section ~~may be imprisoned for not more than six months or fined not more than \$500.00, or both. For a second or subsequent offense, a~~ person knowingly and unlawfully violating the provisions of this section may be imprisoned for not more than two years or fined not more than \$2,000.00,

~~or both~~ commits a Class C misdemeanor. Notwithstanding 13 V.S.A. § 53, a person who violates this section shall not be fined more than \$500.00.

Sec. 2. 18 V.S.A. § 4223 is amended to read:

§ 4223. FRAUD OR DECEIT

\* \* \*

(i) A person who violates this section ~~shall be imprisoned not more than two years and one day or fined not more than \$5,000.00, or both~~ commits a Class A misdemeanor.

Sec. 3. 18 V.S.A. § 4228 is amended to read:

§ 4228. UNLAWFUL MANUFACTURE, DISTRIBUTION, DISPENSING,  
OR SALE OF A NONCONTROLLED DRUG OR SUBSTANCE

(a) It is unlawful for any person to knowingly dispense, manufacture, process, package, distribute, or sell or attempt to dispense, manufacture, process, package, distribute, or sell a noncontrolled drug or substance upon either:

(1) the express or implied representation that the drug or substance is a controlled drug; or

(2) the express or implied representation that the drug or substance is of such nature or appearance that the dispensee or purchaser will be able to dispense or sell the drug or substance as a controlled drug.

(b) For the purposes of this section, a “controlled” drug or substance shall mean those drugs or substances listed under schedules I through V in the federal Controlled Substances Act, 21 U.S.C. § 801 et seq. as amended.

\* \* \*

(f) A person convicted of violating this section ~~shall be subject to imprisonment for a term of up to one year or a fine of up to \$5,000.00, or both~~ commits a Class B misdemeanor. If the violation of this section involves dispensing, distributing, or selling to a person under the age of 21 years of age, the person ~~shall be subject to a term of imprisonment of not more than two years or fined up to \$10,000.00, or both~~ commits a Class A misdemeanor.

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

§ 4230. CANNABIS

(a) Possession and cultivation.

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

- (A) not more than \$100.00 for a first offense;
- (B) not more than \$200.00 for a second offense; and
- (C) not more than \$500.00 for a third or subsequent offense.

(2)(A) No person shall knowingly and unlawfully possess two ounces or more of cannabis or ten grams or more of hashish or more than three mature cannabis plants or six immature cannabis plants. For a first offense under this subdivision (2), a person shall be provided the opportunity to participate in the Court Diversion Program unless the prosecutor states on the record why a referral to the Court Diversion Program would not serve the ends of justice. A person convicted of a first offense under this subdivision ~~shall be imprisoned not more than six months or fined not more than \$500.00, or both~~ commits a Class C misdemeanor. Notwithstanding 13 V.S.A. § 53, a person who violates this section shall not be fined more than \$500.00.

~~(B) A person convicted of a second or subsequent offense of violating subdivision (A) of this subdivision (2) shall be imprisoned not more than two years or fined not more than \$2,000.00, or both. [Repealed.]~~

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

(3) A person knowingly and unlawfully possessing eight ounces of cannabis or 1.4 ounces of hashish or knowingly and unlawfully cultivating more than four mature cannabis plants or eight immature cannabis plants ~~shall be imprisoned not more than three years or fined not more than \$10,000.00, or both~~ commits a Class A misdemeanor.

(4) A person knowingly and unlawfully possessing more than one pound of cannabis or more than 2.8 ounces of hashish or knowingly and unlawfully cultivating more than six mature cannabis plants or 12 immature cannabis plants ~~shall be imprisoned not more than five years or fined not more than \$10,000.00, or both~~ commits a Class E felony.

(5) A person knowingly and unlawfully possessing more than 10 pounds of cannabis or more than one pound of hashish or knowingly and unlawfully cultivating more than 12 mature cannabis plants or 24 immature cannabis plants ~~shall be imprisoned not more than 15 years or fined not more than \$500,000.00, or both~~ commits a Class D felony.

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

(7) The amounts of cannabis in this subsection shall not include cannabis cultivated, harvested, and stored in accordance with section 4230e of this title.

(b) Selling or dispensing.

(1) A person knowingly and unlawfully selling cannabis or hashish ~~shall be imprisoned not more than two years or fined not more than \$10,000.00, or both~~ commits a Class B misdemeanor.

(2) A person knowingly and unlawfully selling or dispensing more than one ounce of cannabis or five grams or more of hashish ~~shall be imprisoned not more than five years or fined not more than \$100,000.00, or both~~ commits a Class A misdemeanor.

(3) A person knowingly and unlawfully selling or dispensing one pound or more of cannabis or 2.8 ounces or more of hashish ~~shall be imprisoned not more than 15 years or fined not more than \$500,000.00, or both~~ commits a Class D felony.

(4) A person 21 years of age or older may dispense one ounce or less of cannabis or five grams or less of hashish to another person who is 21 years of age or older, provided that the dispensing is not advertised or promoted to the public.

(c) Trafficking. A person knowingly and unlawfully possessing 50 pounds or more of cannabis or five pounds or more of hashish with the intent to sell or dispense the cannabis or hashish ~~shall be imprisoned not more than 30 years or fined not more than \$1,000,000.00, or both~~ commits a Class C felony. There shall be a permissive inference that a person who possesses 50 pounds or more

of cannabis or five pounds or more of hashish intends to sell or dispense the cannabis or hashish.

~~(d) Cannabis-infused~~ Cannabis-infused products. Only the portion of a cannabis-infused product that is attributable to cannabis shall count toward the possession limits of this section. ~~The weight of cannabis that is attributable to cannabis-infused products shall be determined according to methods set forth in rule by the Department of Public Safety in accordance with chapter 86 of this title (therapeutic use of cannabis).~~

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

§ 4230f. DISPENSING CANNABIS TO A PERSON UNDER 21 YEARS  
OF AGE; CRIMINAL OFFENSE

(a) No person shall:

(1) dispense cannabis to a person under 21 years of age; or

(2) knowingly enable the consumption of cannabis by a person under 21 years of age.

(b) As used in this section, “enable the consumption of cannabis” means creating a direct and immediate opportunity for a person to consume cannabis.

(c) Except as provided in subsection (d) of this section, a person who violates subsection (a) of this section shall ~~be imprisoned not more than two years or fined not more than \$2,000.00, or both~~ commit a Class A misdemeanor. Notwithstanding 13 V.S.A. § 53, a person who violates this section shall not be fined more than \$2,000.00.

(d) A person who violates subsection (a) of this section, where the person under 21 years of age while operating a motor vehicle on a public highway causes death or serious bodily injury to ~~himself or herself~~ themselves or to another person as a result of the violation, ~~shall be imprisoned not more than five years or fined not more than \$10,000.00, or both~~ commits a Class D felony.

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

(2) A person who is 18, 19, or 20 years of age who knowingly dispenses cannabis to a person who is 18, 19, or 20 years of age commits a civil violation and shall be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Awareness Safety Program in accordance



with the provisions of section 4230b of this title and shall be subject to the penalties in that section for failure to complete the program successfully.

(3) A person 18, 19, or 20 years of age who knowingly dispenses to a person under 18 years of age who is at least three years that person's junior ~~shall be sentenced to a term of imprisonment of not more than five years in accordance with section 4237 of this title~~ commits a Class B misdemeanor. Notwithstanding 13 V.S.A. § 53, a person who violates this section shall not be fined.

(4) A person who is 19 years of age who knowingly dispenses to a person 17 years of age or a person who is 18 years of age who knowingly dispenses cannabis to a person who is 16 or 17 years of age ~~commits a misdemeanor crime and shall be fined not more than \$500.00~~ Class E misdemeanor.

(5) A person who is under 18 years of age who knowingly dispenses cannabis to another person who is under 18 years of age commits a delinquent act and shall be subject to 33 V.S.A. chapter 52.

\* \* \*

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

§ 4230h. CHEMICAL EXTRACTION VIA BUTANE OR HEXANE

PROHIBITED

(a) No person shall manufacture concentrated cannabis by chemical extraction or chemical synthesis using butane or hexane ~~unless authorized as a dispensary pursuant to a registration issued by the Department of Public Safety pursuant to chapter 86 of this title.~~

(b) A person who violates subsection (a) of this section ~~shall be imprisoned not more than two years or fined not more than \$2,000.00, or both~~ commits a Class A misdemeanor. Notwithstanding 13 V.S.A. § 53, a person who violates this section shall not be fined more than \$2,000.00. A person who violates subsection (a) of this section and causes serious bodily injury to another person ~~shall be imprisoned not more than five years or fined not more than \$5,000.00, or both~~ commits a Class E felony. Notwithstanding 13 V.S.A. § 53, a person who violates this section shall not be fined more than \$5,000.00.

Sec. 7 . 18 V.S.A. § 4231 is amended to read:

§ 4231. COCAINE

(a) Possession.

(1) A person knowingly and unlawfully possessing cocaine ~~shall be imprisoned not more than one year or fined not more than \$2,000.00, or both~~ commits a Class B misdemeanor. Notwithstanding 13 V.S.A. § 53, a person who violates this section shall not be fined more than \$2,000.00.

(2) A person knowingly and unlawfully possessing cocaine in an amount consisting of 2.5 grams or more of one or more preparations, compounds, mixtures, or substances containing cocaine ~~shall be imprisoned not more than five years or fined not more than \$100,000.00, or both~~ commits a Class E felony.

(3) A person knowingly and unlawfully possessing cocaine in an amount consisting of one ounce or more of one or more preparations, compounds, mixtures, or substances containing cocaine ~~shall be imprisoned not more than 10 years or fined not more than \$250,000.00, or both~~ commits a Class D felony.

(4) [Repealed.]

(b) Selling or dispensing.

(1) A person knowingly and unlawfully dispensing cocaine ~~shall be imprisoned not more than three years or fined not more than \$75,000.00, or both~~ commits a Class E felony. A person knowingly and unlawfully selling cocaine ~~shall be imprisoned not more than five years or fined not more than \$100,000.00, or both~~ commits a Class D felony.

(2) ~~A person knowingly and unlawfully selling or dispensing cocaine in an amount consisting of 2.5 grams or more of one or more preparations, compounds, mixtures, or substances containing cocaine shall be imprisoned not more than 10 years or fined not more than \$250,000.00, or both.~~ [Repealed.]

(3) A person knowingly and unlawfully selling or dispensing cocaine in an amount consisting of one ounce or more of one or more preparations, compounds, mixtures, or substances containing cocaine ~~shall be imprisoned not more than 20 years or fined not more than \$1,000,000.00, or both~~ commits a Class C felony.

(c) Trafficking.

(1) A person knowingly and unlawfully possessing cocaine in an amount consisting of 150 grams or more of one or more preparations, compounds, mixtures, or substances containing cocaine with the intent to sell or dispense the cocaine ~~shall be imprisoned not more than 30 years or fined not more than \$1,000,000.00, or both~~ commits a Class B felony. There shall be a permissive inference that a person who possesses cocaine in an amount

consisting of 150 grams or more of one or more preparations, compounds, mixtures, or substances containing cocaine intends to sell or dispense the cocaine. The amount of possessed cocaine under this subdivision to sustain a charge of conspiracy under 13 V.S.A. § 1404 shall be not less than 400 grams in the aggregate.

~~(2) A person knowingly and unlawfully possessing crack cocaine in an amount consisting of 60 grams or more of one or more preparations, compounds, mixtures, or substances containing crack cocaine with the intent to sell or dispense the crack cocaine shall be imprisoned not more than 30 years or fined not more than \$1,000,000.00, or both. There shall be a permissive inference that a person who possesses crack cocaine in an amount consisting of 60 grams or more of one or more preparations, compounds, mixtures, or substances containing crack cocaine intends to sell or dispense the crack cocaine. [Repealed.]~~

Sec. 8. 18 V.S.A. § 4232 is amended to read:

§ 4232. LSD

(a) Possession.

(1) A person knowingly and unlawfully possessing lysergic acid diethylamide shall be imprisoned not more than one year or fined not more than ~~\$2,000.00, or both~~ commits a Class B misdemeanor. Notwithstanding 13 V.S.A. § 53, a person who violates this section shall not be fined more than \$2,000.00.

(2) A person knowingly and unlawfully possessing lysergic acid diethylamide in an amount consisting of 100 milligrams or more of one or more preparations, compounds, mixtures, or substances containing lysergic acid diethylamide shall be imprisoned not more than five years or fined not more than ~~\$25,000.00, or both~~ commits a Class E felony.

(3) A person knowingly and unlawfully possessing lysergic acid diethylamide in an amount consisting of one gram or more of one or more preparations, compounds, mixtures, or substances containing lysergic acid diethylamide shall be imprisoned not more than 10 years or fined not more than ~~\$100,000.00, or both~~ commits a Class D felony.

~~(4) A person knowingly and unlawfully possessing lysergic acid diethylamide in an amount consisting of 10 grams or more of one or more preparations, compounds, mixtures, or substances containing lysergic acid diethylamide shall be imprisoned not more than 20 years or fined not more than \$500,000.00, or both. [Repealed.]~~

(b) Selling or dispensing.

(1) A person knowingly and unlawfully dispensing lysergic acid diethylamide shall be imprisoned not more than three years or fined not more than \$25,000.00, or both commits a Class E felony. A person knowingly and unlawfully selling lysergic acid diethylamide shall be imprisoned not more than five years or fined not more than \$25,000.00, or both commits a Class D felony.

(2) A person knowingly and unlawfully selling or dispensing lysergic acid diethylamide in an amount consisting of 100 milligrams or more of one or more preparations, compounds, mixtures, or substances containing lysergic acid diethylamide shall be imprisoned not more than 10 years or fined not more than \$100,000.00, or both commits a Class C felony.

(3) A person knowingly and unlawfully selling or dispensing lysergic acid diethylamide in an amount consisting of one gram or more of one or more preparations, compounds, mixtures, or substances containing lysergic acid diethylamide shall be imprisoned not more than 20 years or fined not more than \$500,000.00, or both. [Repealed.]

Sec. 9. 18 V.S.A. § 4233 is amended to read:

§ 4233. HEROIN

(a) Possession.

(1) A person knowingly and unlawfully possessing heroin shall be imprisoned not more than one year or fined not more than \$2,000.00, or both commits a Class B misdemeanor. Notwithstanding 13 V.S.A. § 53, a person who violates this section shall not be fined more than \$2,000.00.

(2) A person knowingly and unlawfully possessing heroin in an amount consisting of 200 milligrams or more of one or more preparations, compounds, mixtures, or substances containing heroin shall be imprisoned not more than five years or fined not more than \$100,000.00, or both commits a Class A misdemeanor.

(3) A person knowingly and unlawfully possessing heroin in an amount consisting of one gram or more of one or more preparations, compounds, mixtures, or substances containing heroin shall be imprisoned not more than 10 years or fined not more than \$250,000.00, or both commits a Class D felony.

(4) A person knowingly and unlawfully possessing heroin in an amount consisting of two grams or more of one or more preparations, compounds, mixtures, or substances containing heroin shall be imprisoned not more than 20 years or fined not more than \$1,000,000.00, or both commits a Class C felony.

(b) Selling or dispensing.

(1) A person knowingly and unlawfully dispensing heroin shall be imprisoned not more than three years or fined not more than \$75,000.00, or both commits a Class E felony. A person knowingly and unlawfully selling heroin shall be imprisoned not more than five years or fined not more than \$100,000.00, or both commits a Class D felony.

(2) A person knowingly and unlawfully selling or dispensing heroin in an amount consisting of 200 milligrams or more of one or more preparations, compounds, mixtures, or substances containing heroin shall be imprisoned not more than 10 years or fined not more than \$250,000.00, or both. [Repealed]

(3) A person knowingly and unlawfully selling or dispensing heroin in an amount consisting of one gram or more of one or more preparations, compounds, mixtures, or substances containing heroin shall be imprisoned not more than 20 years or fined not more than \$1,000,000.00, or both commits a Class C felony.

(c) Trafficking. A person knowingly and unlawfully possessing heroin in an amount consisting of 3.5 grams or more of one or more preparations, compounds, mixtures, or substances containing heroin with the intent to sell or dispense the heroin shall be imprisoned not more than 30 years or fined not more than \$1,000,000.00, or both commits a Class B felony. There shall be a permissive inference that a person who possesses heroin in an amount of 3.5 grams or more of one or more preparations, compounds, mixtures, or substances containing heroin intends to sell or dispense the heroin. The amount of possessed heroin under this subsection to sustain a charge of conspiracy under 13 V.S.A. § 1404 shall be no less than 10 grams in the aggregate.

(d) Transportation into the State. In addition to any other penalties provided by law, a person knowingly and unlawfully transporting one gram or more of heroin into Vermont with the intent to sell or dispense the heroin shall be imprisoned not more than 10 years or fined not more than \$100,000.00, or both. [Repealed]

Sec. 10. 18 V.S.A. § 4233a is amended to read:

§ 4233a. FENTANYL

(a) Selling or dispensing.

(1) A person knowingly and unlawfully dispensing fentanyl shall be imprisoned not more than three years or fined not more than \$75,000.00, or both commits a Class E felony. A person knowingly and unlawfully selling

~~fentanyl shall be imprisoned not more than five years or fined not more than \$100,000.00, or both~~ commits a Class D felony.

(2) A person knowingly and unlawfully selling or dispensing fentanyl in an amount consisting of four milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl ~~shall be imprisoned not more than 10 years or fined not more than \$250,000.00, or both~~ commits a Class C felony.

(3) A person knowingly and unlawfully selling or dispensing fentanyl in an amount consisting of 20 milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl ~~shall be imprisoned not more than 20 years or fined not more than \$1,000,000.00, or both~~ commits a Class B felony.

(4) In lieu of a charge under this subsection, but in addition to any other penalties provided by law, a person knowingly and unlawfully selling or dispensing any regulated drug containing a detectable amount of fentanyl ~~shall be imprisoned not more than five years or fined not more than \$250,000.00, or both~~ commits a Class D felony.

(b) Trafficking. A person knowingly and unlawfully possessing fentanyl in an amount consisting of 70 milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl with the intent to sell or dispense the fentanyl ~~shall be imprisoned not more than 30 years or fined not more than \$1,000,000.00, or both~~ commits a Class B felony. There shall be a permissive inference that a person who possesses fentanyl in an amount of 70 milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl intends to sell or dispense the fentanyl. The amount of possessed fentanyl under this subsection to sustain a charge of conspiracy under 13 V.S.A. § 1404 shall be not less than 70 milligrams in the aggregate.

(c) Transportation into the State. In addition to any other penalties provided by law, a person knowingly and unlawfully transporting more than 20 milligrams of fentanyl into Vermont with the intent to sell or dispense the fentanyl ~~shall be imprisoned not more than 10 years or fined not more than \$100,000.00, or both~~ commits a Class C Felony.

Sec. 11. 18 V.S.A. § 4234 is amended to read:

§ 4234. DEPRESSANT, STIMULANT, AND NARCOTIC DRUGS

(a) Possession.

~~(1)(A) Except as provided by subdivision (B) of this subdivision (1), a~~ A person knowingly and unlawfully possessing a depressant, stimulant, or

~~narcotic drug, other than heroin or cocaine, shall be imprisoned not more than one year or fined not more than \$2,000.00, or both commits a Class B misdemeanor. Notwithstanding 13 V.S.A. § 53, a person who violates this section shall not be fined more than \$2,000.00.~~

~~(B) A person knowingly and unlawfully possessing 224 milligrams or less of buprenorphine shall not be punished in accordance with subdivision (A) of this subdivision (1).~~

~~(2) A person knowingly and unlawfully possessing a depressant, stimulant, or narcotic drug, other than heroin or cocaine, consisting of 100 times a benchmark unlawful dosage or its equivalent as determined by the Board of Health by rule shall be imprisoned not more than five years or fined not more than \$25,000.00, or both commits a Class E felony.~~

~~(3) A person knowingly and unlawfully possessing a depressant, stimulant, or narcotic drug, other than heroin or cocaine, consisting of 1,000 times a benchmark unlawful dosage or its equivalent as determined by the Board of Health by rule shall be imprisoned not more than 10 years or fined not more than \$100,000.00, or both commits a Class D felony.~~

~~(4) A person knowingly and unlawfully possessing a depressant, stimulant, or narcotic drug, other than heroin or cocaine, consisting of 10,000 times a benchmark unlawful dosage or its equivalent as determined by the Board of Health by rule shall be imprisoned not more than 20 years or fined not more than \$500,000.00, or both. [Repealed.]~~

(b) Selling or dispensing.

~~(1) A person knowingly and unlawfully dispensing a depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, shall be imprisoned not more than three years or fined not more than \$75,000.00, or both commits a Class E felony. A person knowingly and unlawfully selling a depressant, stimulant, or narcotic drug, other than fentanyl, cocaine, or heroin, shall be imprisoned not more than five years or fined not more than \$25,000.00, or both commits a Class D felony.~~

~~(2) A person knowingly and unlawfully selling or dispensing a depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, consisting of 100 times a benchmark unlawful dosage or its equivalent as determined by the Board of Health by rule shall be imprisoned not more than 10 years or fined not more than \$100,000.00, or both. [Repealed.]~~

~~(3) A person knowingly and unlawfully selling or dispensing a depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, consisting of 1,000 times a benchmark unlawful dosage or its equivalent as~~

~~determined by the Board of Health by rule shall be imprisoned not more than 20 years or fined not more than \$500,000.00, or both. [Repealed.]~~

(c) Possession of buprenorphine by a person under 21 years of age.

~~(1) Except as provided in subdivision (2) of this subsection, a person under 21 years of age who knowingly and unlawfully possesses 224 milligrams or less of buprenorphine commits a civil violation and shall be subject to the provisions of section 4230b of this title.~~

~~(2) A person under 16 years of age who knowingly and unlawfully possesses 224 milligrams or less of buprenorphine commits a delinquent act and shall be subject to the provisions of section 4230j of this title. [Repealed.]~~

Sec. 12. 18 V.S.A. § 4234a is amended to read:

§ 4234a. METHAMPHETAMINE

(a) Possession.

(1) A person knowingly and unlawfully possessing methamphetamine shall be imprisoned not more than one year or fined not more than \$2,000.00, or both commits a Class B misdemeanor. Notwithstanding 13 V.S.A. § 53, a person who violates this section shall not be fined more than \$2,000.00.

(2) A person knowingly and unlawfully possessing methamphetamine in an amount consisting of 2.5 grams or more of one or more preparations, compounds, mixtures, or substances containing methamphetamine shall be imprisoned not more than five years or fined not more than \$100,000.00, or both commits a Class D felony.

(3) A person knowingly and unlawfully possessing methamphetamine in an amount consisting of 25 grams or more of one or more preparations, compounds, mixtures, or substances containing methamphetamine shall be imprisoned not more than 10 years or fined not more than \$250,000.00, or both commits a Class C felony.

(b) Selling and dispensing.

(1) A person knowingly and unlawfully dispensing methamphetamine shall be imprisoned not more than three years or fined not more than \$75,000.00, or both commits a Class E felony. A person knowingly and unlawfully selling methamphetamine shall be imprisoned not more than five years or fined not more than \$100,000.00, or both commits a Class D felony.

(2) A person knowingly and unlawfully selling or dispensing methamphetamine in an amount consisting of 2.5 grams or more of one or more preparations, compounds, mixtures, or substances containing



~~methamphetamine shall be imprisoned not more than 10 years or fined not more than \$250,000.00, or both. [Repealed.]~~

(3) A person knowingly and unlawfully selling or dispensing methamphetamine in an amount consisting of 25 grams or more of one or more preparations, compounds, mixtures, or substances containing methamphetamine ~~shall be imprisoned not more than 20 years or fined not more than \$1,000,000.00, or both~~ commits a Class C felony.

(c) Trafficking. A person knowingly and unlawfully possessing methamphetamine in an amount consisting of 300 grams or more of one or more preparations, compounds, mixtures, or substances containing methamphetamine with the intent to sell or dispense the methamphetamine ~~shall be imprisoned not more than 30 years or fined not more than \$1,000,000.00, or both~~ commits a Class B felony. There shall be a permissive inference that a person who possesses methamphetamine in an amount consisting of 300 grams or more of one or more preparations, compounds, mixtures, or substances containing methamphetamine intends to sell or dispense the methamphetamine. The amount of possessed methamphetamine under this subsection to sustain a charge of conspiracy under 13 V.S.A. § 1404 shall be ~~no~~ not less than 800 grams in the aggregate

Sec. 13. 18 V.S.A. § 4234b is amended to read:

§ 4234b. EPHEDRINE AND PSEUDOEPHEDRINE

(a) Possession.

(1) No person shall knowingly and unlawfully possess a drug product containing ephedrine base, pseudoephedrine base, or phenylpropanolamine base with the intent to use the product as a precursor to manufacture methamphetamine or another controlled substance.

(2) A person who violates this subsection ~~shall:~~

(A) commits a Class B misdemeanor if the offense involves possession of less than nine grams of ephedrine base, pseudoephedrine base, or phenylpropanolamine base, ~~be imprisoned not more than one year or fined not more than \$2,000.00, or both; however, notwithstanding 13 V.S.A. § 53, a person who violates this section shall not be fined more than \$2,000.00;~~

(B) commits a Class E felony if the offense involves possession of nine or more grams of ephedrine base, pseudoephedrine base, or phenylpropanolamine base, ~~be imprisoned not more than five years or fined not more than \$100,000.00, or both.~~

\* \* \*

Sec. 14. 18 V.S.A. § 4235 is amended to read:

§ 4235. HALLUCINOGENIC DRUGS

(a) “Dose” of a hallucinogenic drug means that minimum amount of a hallucinogenic drug, not commonly used for therapeutic purposes, ~~which~~ that causes a substantial hallucinogenic effect. The Board of Health shall adopt rules ~~which~~ that establish doses for hallucinogenic drugs. The Board may incorporate, where applicable, dosage calculations or schedules, whether described as “dosage equivalencies” or otherwise, established by the federal government.

(b) Possession.

(1) A person knowingly and unlawfully possessing a hallucinogenic drug, other than lysergic acid diethylamide, ~~shall be imprisoned not more than one year or fined not more than \$2,000.00, or both~~ commits a Class B misdemeanor. Notwithstanding 13 V.S.A. § 53, a person who violates this section shall not be fined more than \$2,000.00.

(2) A person knowingly and unlawfully possessing 10 or more doses of a hallucinogenic drug, other than lysergic acid diethylamide, ~~shall be imprisoned not more than five years or fined not more than \$25,000.00, or both~~ commits a Class A misdemeanor.

(3) A person knowingly and unlawfully possessing 100 or more doses of a hallucinogenic drug, other than lysergic acid diethylamide, ~~shall be imprisoned not more than 10 years or fined not more than \$100,000.00, or both~~ commits a Class D felony.

(4) A person knowingly and unlawfully possessing 1,000 or more doses of a hallucinogenic drug, other than lysergic acid diethylamide, ~~shall be imprisoned not more than 15 years or fined not more than \$500,000.00, or both~~ commits a Class C felony.

(c) Selling or dispensing.

(1) A person knowingly and unlawfully dispensing a hallucinogenic drug, other than lysergic acid diethylamide, ~~shall be imprisoned not more than three years or fined not more than \$25,000.00, or both~~ commits a Class E felony. A person knowingly and unlawfully selling a hallucinogenic drug, other than lysergic acid diethylamide, shall be imprisoned not more than five years or fined not more than \$25,000.00, or both commits a Class D felony.

(2) ~~A person knowingly and unlawfully selling or dispensing 10 or more doses of a hallucinogenic drug, other than lysergic acid diethylamide, shall be~~

~~imprisoned not more than 10 years or fined not more than \$100,000.00, or both. [Repealed.]~~

~~(3) A person knowingly and unlawfully selling or dispensing 100 or more doses of a hallucinogenic drug, other than lysergic acid diethylamide, shall be imprisoned not more than 15 years or fined not more than \$500,000.00, or both commits a Class C felony.~~

Sec. 15. 18 V.S.A. § 4235a is amended to read:

§ 4235a. ECSTASY

(a) Possession.

~~(1) A person knowingly and unlawfully possessing Ecstasy shall be imprisoned not more than one year or fined not more than \$2,000.00, or both commits a Class B misdemeanor. Notwithstanding 13 V.S.A. § 53, a person who violates this section shall not be fined more than \$2,000.00.~~

~~(2) A person knowingly and unlawfully possessing Ecstasy in an amount consisting of two grams or more of one or more preparations, compounds, mixtures, or substances containing Ecstasy shall be imprisoned not more than five years or fined not more than \$25,000.00, or both commits a Class E felony.~~

~~(3) A person knowingly and unlawfully possessing Ecstasy in an amount consisting of 20 grams or more of one or more preparations, compounds, mixtures, or substances containing Ecstasy shall be imprisoned not more than 10 years or fined not more than \$100,000.00, or both commits a Class D felony.~~

~~(4) A person knowingly and unlawfully possessing Ecstasy in an amount consisting of seven ounces or more of one or more preparations, compounds, mixtures, or substances containing Ecstasy shall be imprisoned not more than 20 years or fined not more than \$500,000.00, or both. [Repealed.]~~

(b) Selling or dispensing.

~~(1) A person knowingly and unlawfully dispensing Ecstasy shall be imprisoned not more than three years or fined not more than \$25,000.00, or both commits a Class E felony. A person knowingly and unlawfully selling Ecstasy shall be imprisoned not more than five years or fined not more than \$25,000.00, or both commits a Class D felony.~~

~~(2) A person knowingly and unlawfully selling or dispensing Ecstasy in an amount consisting of two grams or more of one or more preparations, compounds, mixtures, or substances containing Ecstasy shall be imprisoned~~

~~not more than 10 years or fined not more than \$100,000.00, or both.~~  
[Repealed.]

(3) A person knowingly and unlawfully selling or dispensing Ecstasy in an amount consisting of 20 grams or more of one or more preparations, compounds, mixtures, or substances containing Ecstasy ~~shall be imprisoned not more than 20 years or fined not more than \$500,000.00, or both~~ commits a Class C felony.

Sec. 16. 18 V.S.A. § 4236 is amended to read:

§ 4236. MANUFACTURE OR CULTIVATION

(a) A person knowingly and unlawfully manufacturing or cultivating a regulated drug ~~shall be imprisoned not more than 20 years or fined not more than \$1,000,000.00, or both~~ commits a Class B felony.

(b) This section shall not apply to the cultivation of cannabis.

Sec. 17. 18 V.S.A. § 4237 is amended to read:

§ 4237. SELLING OR DISPENSING TO MINORS; SELLING ON SCHOOL GROUNDS

(a) Dispensing regulated drugs to minors. A person knowingly and unlawfully dispensing any regulated drug to a minor who is at least three years that person's junior ~~shall be sentenced to a term of imprisonment of not more than five years~~ commits a Class E felony. Notwithstanding 13 V.S.A. § 53, a person who violates this section shall not be fined.

(b) Sale of regulated drugs. A person knowingly and unlawfully selling any regulated drug to a minor shall, in addition to any other penalty, be sentenced to a term of imprisonment of not more than ~~10~~ 5 years.

(c) Selling on school grounds. No person shall knowingly and unlawfully:

(1) dispense or sell a regulated drug to any person on a school bus or on real property owned by a public or private elementary, secondary, or vocational school;

(2) sell a regulated drug to any person on real property abutting real property owned by a public or private elementary, secondary, or vocational school; or

(3) dispense a regulated drug to any person in public view on real property abutting real property owned by a school.

(d) Abutting school property. The selling or dispensing of a regulated drug to a person on property abutting school property is a violation under this

section only if it occurs within 500 feet of the school property. Property shall be considered abutting school property if:

(1) it shares a boundary with school property; or

(2) it is adjacent to school property and is separated only by a river, stream, or public highway.

(e) Penalty. A person who violates subsection (c) of this section shall, in addition to any other penalty, be sentenced to a term of imprisonment of not more than ~~40~~ 5 years.

(f) Definitions. As used in this section:

(1) "Minor" means a person under ~~the age of 18~~ years of age.

(2) "Owned by a school" means owned, leased, controlled, or subcontracted by a school and used frequently by students for educational or recreational activities.

Sec. 18. 18 V.S.A. § 4249 is amended to read:

§ 4249. TRANSPORTATION OF ALCOHOL, TOBACCO, OR  
REGULATED DRUGS INTO PLACES OF DETENTION

(a) No person shall knowingly carry or introduce or cause to be carried or introduced into a lockup, jail, prison, or correctional facility:

(1) alcohol or alcoholic beverages;

(2) cannabis;

(3) a regulated drug, other than cannabis, as defined in section 4201 of this title, except upon the prescription or direction of a practitioner as that term is defined in 26 V.S.A. chapter 36; or

(4) tobacco or tobacco products, except that an employee may possess or store tobacco or tobacco products in a locked automobile parked on the correctional facility grounds, store tobacco or tobacco products in a secure place within the correctional facility ~~which~~ that is designated for storage of employee tobacco, and possess tobacco or tobacco products in a designated smoking area.

(b) A person who violates subdivision (a)(1) of this section ~~shall be imprisoned not more than three months or fined not more than \$300.00, or both~~ commits a Class D misdemeanor. Notwithstanding 13 V.S.A. § 53, a person who violates this section shall not be fined more than \$300.00.

(c) A person who violates subdivision (a)(2) of this section ~~shall be imprisoned not more than six months or fined not more than \$500.00, or both~~ commits a Class D misdemeanor.

(d) A person who violates subdivision (a)(3) of this section ~~shall be imprisoned not more than one year or fined not more than \$1,000.00, or both~~ commits a Class B misdemeanor. Notwithstanding 13 V.S.A. § 53, a person who violates this section shall not be fined more than \$1,000.00.

\* \* \*

Sec. 19. 18 V.S.A. § 4250 is amended to read:

§ 4250. SELLING OR DISPENSING A REGULATED DRUG WITH  
DEATH RESULTING

(a) If the death of a person results from the selling or dispensing of a regulated drug to the person in violation of this chapter, the person convicted of the violation ~~shall be imprisoned not less than two years nor more than 20 years~~ commits a Class B felony. Notwithstanding 13 V.S.A. § 53, a person who violates this section shall not be fined.

(b) This section shall apply only if the person's use of the regulated drug is the proximate cause of ~~his or her~~ the person's death.

Sec. 20. 18 V.S.A. § 4252 is amended to read:

§ 4252. PENALTIES FOR DISPENSING OR SELLING REGULATED  
DRUGS IN A DWELLING

(a) No person shall knowingly permit a dwelling, building, or structure owned by or under the control of the person to be used for the purpose of illegally dispensing or selling a regulated drug.

(b) A landlord shall be in violation of subsection (a) of this section only if the landlord knew at the time ~~he or she~~ the landlord signed the lease agreement that the tenant intended to use the dwelling, building, or structure for the purpose of illegally dispensing or selling a regulated drug.

(c) A person who violates this section ~~shall be imprisoned not more than two years or fined not more than \$1,000.00 or both~~ commits a Class A misdemeanor. Notwithstanding 13 V.S.A. § 53, a person who violates this section shall not be fined more than \$1,000.00.

Sec. 21. 18 V.S.A. § 4256 is added to read:

§ 4256. DRUG USE STANDARDS ADVISORY BOARD

(a) There is hereby created the Drug Use Standards Advisory Board established within the Vermont Sentencing Commission composed of experts in the fields of general and behavioral health care, substance use disorder treatment, and drug user communities.

(b) The primary objective of the Board shall be to determine, for each regulated and unregulated drug, the benchmark personal use dosage and the benchmark personal use supply. The benchmarks determined pursuant to this subsection shall be determined with a goal of preventing and reducing the criminalization of personal drug use. The Board may provide additional recommendations to the Commission and the General Assembly regarding how to transition from a criminal justice approach to a public health approach to addressing drug possession.

(c) The Board shall be convened and chaired by the Deputy Commissioner of Health for Alcohol and Drug Abuse Programs. After receiving nominations from harm reduction service providers, the Deputy Commissioner shall appoint three consumer representatives to the Board who have lived experience in drug use and consumption practices. The Deputy Commissioner and the three consumer representatives shall appoint the remaining Board members as follows:

(1) two representatives from harm reduction service providers;

(2) an expert on medication-assisted treatment programs;

(3) an expert on human behavior and addiction;

(4) an expert on substance use disorder treatment;

(5) an expert on legal reform from the University of Vermont Law School Center for Justice Reform; and

(6) an academic researcher specializing in drug use or drug policy.

(d) The Board shall have the administrative assistance of the Division of Alcohol and Drug Abuse Programs.

(e) Members of the Board shall be entitled to per diems pursuant to 32 V.S.A. § 1010 for not more than three meetings to develop initial recommendations required by subsection (f) of this section and once annually thereafter.

(f) On or before September 1, 2022, the Board shall provide to the Commission and the General Assembly:

(1) the recommended quantities for both the benchmark personal use dosage and benchmark personal use supply for each category of regulated drug listed in subdivision 4201(29) of this title; and

(2) a recommendation as to whether 18 V.S.A. § 4233 (heroin) and 18 V.S.A. § 4234a (fentanyl) should be combined into one statute.

(g) On or before December 1, 2022, based on the benchmark personal use dosage and benchmark personal use supply recommendations of the Board, the Commission shall make recommendations to the General Assembly regarding adjustments in the amounts for possession, dispensing, and sale of regulated drugs under this chapter and a proposal for combining the heroin and fentanyl statutes if recommended by the Board.

(h) Starting in 2023, the Board shall convene at least one time per year to review benchmarks established pursuant to this section and recommend any necessary amendments to the Commission and the General Assembly.

(i) As used in this section:

(1) “Benchmark personal use dosage” means the quantity of a drug commonly consumed over a 24-hour period for any therapeutic, medicinal, or recreational purpose.

(2) “Benchmark personal use supply” means the quantity of a drug commonly possessed for consumption by an individual for any therapeutic, medicinal, or recreational purpose.

Sec. 22. 18 V.S.A. § 4476 is amended to read:

§ 4476. OFFENSES AND PENALTIES

(a) A person who sells drug paraphernalia to a person under 18 years of age ~~shall be imprisoned for not more than two years or fined not more than \$2,000.00, or both~~ commits a Class C misdemeanor.

(b) The distribution and possession of needles and syringes as part of an organized community-based needle exchange program shall not be a violation of this section or of chapter 84 of this title.

Sec. 24. EFFECTIVE DATES

(a) This section and Sec. 21 shall take effect on July 1, 2022.

(b) All remaining sections shall take effect on July 1, 2023.

**( Committee Vote: 11-0-0)**



## H. 518

An act relating to the creation of the Municipal Fuel Switching Grant Program

**Rep. Sibilis of Dover**, for the Committee on Energy and Technology, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Findings \* \* \*

### Sec. 1. FINDINGS; MUNICIPAL ENERGY RESILIENCE

The General Assembly finds that:

(1) Vermont's municipalities own and operate more than 2,000 buildings and facilities, which are used to provide services to its citizens, including libraries; storing town vehicles; providing space for civic engagement; and connecting citizens to healthcare, education, and commercial interests.

(2) Vermont's Global Warming Solutions Act sets aggressive targets for greenhouse gas emissions reductions, and the heating of buildings provide significant opportunities for meeting these targets.

(3) The volatile cost of fossil fuel heating is often one of the largest line items in a municipal budget, which impacts the residential and commercial taxpayers in that municipality.

(4) A modest expansion to the State Energy Management Program, established in 29 V.S.A. § 168, made in 2019 can assist municipalities with responding to the greenhouse gas emissions targets set forth in the Global Warming Solutions Act.

(5) Connecting technical resources at the local, regional, and State level and expanding the State's energy management program to include municipal buildings will promote increased resilience and sustained connection to critical services for all Vermonters.

### Sec. 2. MUNICIPAL ENERGY RESILIENCE; DEPARTMENT OF BUILDINGS AND GENERAL SERVICES; ASSESSMENTS

(a) Energy resilience assessments. On or before September 1, 2022, the Department of Buildings and General Services shall issue a request for proposal for a comprehensive energy resilience assessment of covered municipal buildings and facilities.

(b) Request for proposal. The Commissioner of Buildings and General Services shall contract with an independent third party to conduct the assessment described in subsection (a) of this section. The assessment shall be completed on or before January 15, 2024.

(c) Application. A covered municipality, in coordination with a regional planning commission that shall assist a municipality in developing plans, shall submit an application to the Department of Buildings and General Services to receive an assessment of its buildings and facilities pursuant to the guidelines established in subsection (e) of this section.

(d) Scope. For each covered municipality, the assessment described in subsection (a) of this section shall include a scope of work, cost, and timeline for completion for each building or facility. The assessment shall also include:

(1) recommendations for improvements that reduce the operating and maintenance costs, enhance comfort, and reduce energy intensity in a municipal building or facility, including:

(A) the improvement or replacement, or both, of heating, ventilation and air conditioning systems;

(B) the use of a renewable energy source for heating systems, provided that recommendations for the use of a heating systems that uses fossil fuels is not eligible; and

(C) improvements to the buildings or facilities thermal envelope;

(2) an evaluation on the reasonableness of battery storage and EV charging stations and recommended locations, as applicable;

(3) an evaluation of the potential for on-site renewable energy generation options and recommendation on the one most feasible, as applicable;

(4) an estimate of costs for each recommendation;

(5) an estimate of system and equipment life cycle costs and consumption data; and

(6) the potential to phase the scope of work and suggest a prioritized order of completion separate from the energy assessment scope.

(e) Administration. The Department of Buildings and General Services shall establish guidelines for a covered municipality to receive an assessment and shall require at a minimum that:

(1) the covered municipality has access to high-speed Internet as defined in the State’s Telecommunication Plan set forth in 30 V.S.A. § 202c or a plan is in place by 2024 to ensure access to high-speed Internet;

(2) the municipality commits for at least a five-year period to have or create at least one space in a building that is being assessed that is available to the public to enable work, education, and health monitoring or telehealth; and

(3) any building that is assessed is compliant with the American Disabilities Act at the time the project is completed.

(f) Definition. As used in this section, “covered municipality” means a city, town, fire district or incorporated village, and all other governmental incorporated units.

### Sec. 3. MUNICIPAL ENERGY RESILIENCE GRANT PROGRAM

(a) Program established. In fiscal year 2023, there is established the Municipal Energy Resilience Grant Program to award grants to:

(1) make recommendations to municipalities on the use of renewable and efficient heating systems; and

(2) make necessary improvements to reduce emissions by reducing fossil fuel usage and increasing efficiency in municipally owned buildings.

(b) Definition. As used in this section, “covered municipality” means a city, town, fire district or incorporated village, and all other governmental incorporated units.

(c) Administration; implementation.

(1) Grant awards. The Department of Buildings and General Services, in coordination with Efficiency Vermont, through the State Energy Management Program, shall administer the Program, which shall award grants for the following:

(A) not more than \$200,000.00 to each covered municipality for approved projects for weatherization, thermal efficiency, to supplement or replace fossil fuel heating systems with more efficient renewable energy heating systems, and any other expenditures necessary for the project to be eligible for funding under federal law and guidelines; and

(B) not more than \$4,000.00 to each covered municipality to facilitate community meetings and communication about municipal energy resilience.

(2) Grant program design. The Department of Buildings and General Services, in consultation with Efficiency Vermont; the Vermont League of

Cities and Towns; regional planning commissions; and experts in the field of thermal enclosure, energy efficiency, and renewable building space systems, shall design the Program. The Program shall include a streamlined and minimal application process for a municipality to apply directly to the Department of Buildings and General Services or with the assistance of a regional planning commission. The Program design shall establish:

(A) an outreach and education plan by regional planning commissions, including specific tactics to reach and support each covered municipality;

(B) an equitable system for distributing grants statewide on the basis of need according to a system of priorities, including the following ranked in priority order:

(i) a municipality with the highest energy burden community needs and lowest resources, as defined in Efficiency Vermont's 2019 Energy Burden Report;

(ii) a municipality that may not have administrative support to apply for grants;

(iii) geographic location;

(iv) community size; and

(v) whether another division of the municipality has already received a grant;

(C) guidelines for renewable and energy efficiency buildings systems resilience, durability, health, and efficiency measures and costs that will be eligible for grant funding; and

(D) eligibility criteria for covered municipalities, including written commitment by the municipality to conduct community workshops and a self-assessment.

(d) Coordination. The Department of Buildings and General Services shall coordinate with any other State entities and agencies working with covered municipalities to provide grants for the Program.

(e) Funding. The Program shall be funded by the American Rescue Plan Act Capital Projects Fund.

(f) Assessment. A covered municipality is only eligible for a grant under this section if an assessment of its buildings and facilities has been conducted pursuant to Sec. 2 of this act.

Sec. 4. MUNICIPAL ENERGY RESILIENCE GRANT PROGRAM;

APPROPRIATION

In fiscal year 2023, the amount of \$48,400,000.00 shall be appropriated from the American Rescue Plan Act (ARPA) from the Capital Projects Fund to the Municipal Energy Resilience Grant Program for use as follows:

(1) The amount of \$2,400,000.00 shall be appropriated to the Agency of Commerce and Community Development for regional planning commissions to assist with grant and assessment applications and provide programming and technical assistance to covered municipalities.

(2) The amount of \$46,000,000.00 shall be appropriated to the Department of Buildings and General Services to be used as follows:

(A) \$5,000,000.00 for hiring a contractor to conduct assessments pursuant to Sec. 2 of this act;

(B) \$1,000,000.00 for grants to covered municipalities to facilitate community meetings and communication about municipal energy resilience; and

(C) \$40,000,000.00 for grants to covered municipalities for weatherization, thermal efficiency, and to supplement or replace heating systems with more efficient renewable energy heating systems.

\* \* \* Municipal Energy Loan Program \* \* \*

Sec. 5. 29 V.S.A. § 168a is added to read:

§ 168a. MUNICIPAL ENERGY LOAN PROGRAM

(a) Authority. The Department of Buildings and General Service is authorized to provide financing to municipalities through the Municipal Energy Loan Program for equipment replacement, studies, weatherization, construction of improvements affecting the use of energy resources, the implementation of energy efficiency and conservation measures, and the use of renewable resources.

(b) Loan eligibility and criteria. The Commissioner shall establish for the Program described in subsection (a) of this section:

(1) criteria to determine eligibility for funding, including repayment terms;

(2) a priority basis for the selection process that ensures equitable allocation of funds to municipalities, considering at least financial need, geographic distribution, and ability to repay; and

(3) loan conditions that ensure accountability by a municipality receiving funds.

(c) Definitions. As used in this section:

(1) “Energy efficiency improvement” has the same meaning as in section 168 of this title.

(2) “Municipality” means a city, town, fire district or incorporated village, and all other governmental incorporated units.

(3) “Renewables” has the same meaning as in 30 V.S.A. § 8002.

(4) “Resource conservation measures” has the same meaning as in section 168 of this title.

Sec. 6. 29 V.S.A. § 168b is added to read:

§ 168b. MUNICIPAL ENERGY REVOLVING FUND

(a) Creation. There is established the Municipal Energy Revolving Fund to provide financing for the Municipal Energy Loan Program established in section 168a of this title.

(b) Monies in the Fund. The Fund shall consist of:

(1) monies appropriated to the Fund or that are paid to it under authorization of the Emergency Board;

(2) loan repayment by municipalities; and

(3) fees for administrative costs paid by municipalities, which may be fixed by the Commissioner subject to the approval of the Secretary of Administration.

(c) Repayment terms. A municipality receiving funding shall repay the Fund through its regular operating budget according to a schedule established by the Commissioner. Repayment may include charges of fees for administrative costs over the term of the repayment.

(d) Fund administration.

(1) The Commissioner of Finance and Management may anticipate receipts to this Fund and issue warrants based thereon.

(2) The Commissioner of Buildings and General Services shall maintain accurate and complete records of all receipts by and expenditures from the Fund.

(3) All balances remaining at the end of a fiscal year shall be carried over to the following year.

(e) Definitions. As used in this section:

(1) “Energy efficiency improvement” has the same meaning as in section 168 of this title.

(2) “Renewables” has the same meaning as in 30 V.S.A. § 8002.

(f) Annual report. Beginning on or before January 15, 2023 and annually thereafter, the Commissioner of Buildings and General Services shall report to the House Committees on Corrections and Institutions and on Energy and Technology and the Senate Committee on Institutions on the expenditure of funds from the Municipal Energy Revolving Fund. For each fiscal year, the report shall include a summary of each project receiving funding and the municipality’s expected savings. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

#### Sec. 7. MUNICIPAL ENERGY REVOLVING FUND; FY 2023

##### APPROPRIATION; REPORT

(a) In FY 2023, to the extent permitted by federal law, the following amounts shall be transferred to the Department of Buildings and General Services from the Department of Public Service for the Municipal Energy Revolving Fund, as established in 29 V.S.A. § 168b:

(1) not more than \$750,000.00 from the Energy Efficiency Revolving Loan Fund Capitalization Grant allocated in the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 pursuant to the process set forth in 32 V.S.A. § 5; and

(2) not more than \$1,500,000.00 from the Energy Efficiency and Renewable Energy Block Grant Fund in the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 pursuant to the process set forth in 32 V.S.A. § 5.

(b) On or before January 15, 2023, the Department of Public Service shall report to the House Committee on Energy and Technology and the Senate Committee on Finance on the total grant amounts approved by the State and transferred to the Municipal Energy Revolving Fund pursuant to subsection (a) of this section.

Sec. 8. 2015 Acts and Resolves No. 58, Sec. E.112, as amended by 2019 Acts and Resolves No. 72, Sec. E.112, is further amended to read:

#### Sec. E.112 ENERGY EFFICIENCY; STATE BUILDINGS AND FACILITIES

\* \* \*

(b) Notwithstanding any provision of Title 30 of the Vermont Statutes Annotated, Public Service Board order, or other provision of law to the contrary:

(1) The Department and Efficiency Vermont (EVT) shall augment the Program for a preliminary period of ~~eight~~ 11 years commencing in fiscal year 2016 under which EVT shall provide the Department with support for the Program to deliver cost-effective energy efficiency and conservation measures to State buildings and facilities, with the goal of this pilot to create a self-sustaining program at the Department, with annual savings from energy projects exceeding the annual cost to staff the Program. The Department and EVT may agree to continue conducting this augmented Program in subsequent fiscal years, after considering recommendations for improvement based on evaluation of the preliminary period.

\* \* \*

(2) In addition to the requirements of subdivision (1) of this subsection, the project shall include provision by EVT of support for personnel to implement the Program during fiscal years 2016 to ~~2023~~ 2027.

\* \* \*

(B) Under this subdivision (2), EVT shall provide up to \$290,000 during fiscal year 2016. For the remaining ~~seven~~ 10 fiscal years, EVT shall ~~provide an additional amount sufficient to support annual salary and benefit adjustments~~ make available under agreement with the Department an additional amount sufficient to support annual salary and benefit adjustments. These funds shall be received in the Facilities Operations Fund established in 29 V.S.A. § 160a, and may be spent using excess receipts authority. Efficiency Vermont and the Department may agree to adjust the funding committed to this Program based on a joint evaluation that annual energy savings generated by this Program exceed the annual cost of the staff positions.

(3) The Public Service Board shall adjust any performance measures applicable to EVT to recognize the requirements of this section.

(c) The Department and EVT shall execute a new or amended memorandum of understanding to implement this section, which shall include targets for future energy savings, a process for determining how savings targets are met, and details of EVT's commitment for personnel over ~~an eight-year~~ a 10-year time period.

(d) On or before October 1 of each year commencing in 2016 and ending in ~~2023~~ 2027, the Department and EVT shall provide a joint report on the implementation of this section.



\* \* \*

(5) The report to be submitted in 2019 ~~and~~, in 2023, and in 2027 shall contain an evaluation of the Program authorized under this section and any resulting recommendations, including recommendations related to Program continuation beyond ~~2023~~ 2027.

\* \* \*

Sec. 9. FY 2023; APPROPRIATION; DEPARTMENT OF BUILDINGS  
AND GENERAL SERVICES; REGIONAL PLANNING  
COMMISSIONS; POSITIONS

(a) Department of Buildings and General Services. Two full-time, limited-service positions are created in the Department of Buildings and General Services in fiscal years 2023 for three fiscal years as part of the expanded State Energy Management Program, as set forth between Efficiency Vermont and the Department of Public Service. The positions shall be responsible for determining project eligibility; coordinating with regional planning commissions to recruit and coordinate auditors, engineers, and contractors; and providing financing technical assistance for municipalities implementing projects. These positions shall be funded by Efficiency Vermont pursuant to the authority set forth in 2015 Acts and Resolves No. 58, Sec. E.112, as amended by 2019 Acts and Resolves No. 72, Sec. E.112. No additional budget appropriation or State funds shall be used for these positions.

(b) Regional planning commissions. The amount of \$2,400,000.00 in General Funds shall be appropriated to the Agency of Commerce and Community Development's Community Development Program to fund staffing at each regional planning commission in fiscal years 2023 and 2024 to solicit, coordinate, and develop projects for covered municipalities through the Municipal Energy Resilience Grant Program. The funding to RPCs shall be distributed as follows:

(1) Fifty-five percent of the funds shall be divided equally among the regional planning commissions.

(2) Forty-five percent of the funds shall be allocated according to the number of Vermont member municipalities in each regional planning commission as of July 1, 2022.

\* \* \* Effective Date \* \* \*

Sec. 10. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

and that after passage the title of the bill be amended to read: “An act relating to municipal energy resilience initiatives”

**( Committee Vote: 9-0-0)**

**Rep. Harrison of Chittenden**, for the Committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committee on Energy and Technology and when further amended as follows:

First: In Sec. 3, municipal energy resilience grant program, in subdivision (a)(1), by striking out “renewable and” and inserting in lieu thereof “more”; in subdivision (c)(1)(A) by striking out “\$200,000.00” and inserting in lieu thereof “\$250,000.00”; and in subdivision (c)(1)(A), by striking out “renewable energy”

Second: In Sec. 4, municipal energy resilience grant program; appropriation, by adding the following at the end of subdivision (1):

“The funding to regional planning commissions shall be distributed as follows:

(A) Fifty-five percent of the funds shall be divided equally among the regional planning commissions.

(B) Forty-five percent of the funds shall be allocated according to the number of Vermont member municipalities in each regional planning commission as of July 1, 2022.”

and by striking out subdivision (2)(B) in its entirety and inserting in lieu thereof a new subdivision (2)(B) to read as follows:

“(B) \$1,000,000.00 for costs associated with administering the grant program; and”

and in subdivision (2)(C) by striking out “heating systems with more efficient renewable energy” and inserting in lieu thereof “less efficient”

Third: In Sec. 7, municipal energy revolving fund; FY 2023 appropriation; report, in subdivision (a)(1), by striking out “\$750,000.00” and inserting in lieu thereof “\$800,000.00”, and in subdivision (a)(2), by striking out “\$1,500,000.00” and inserting in lieu thereof “\$2,000,000.00”

Fourth: In Sec. 9, FY 2023, appropriation; Department of Buildings and General Services; regional planning commissions; positions, in the section title, by striking out “regional planning commissions”; in subsection (a) by inserting “; State Energy Management Program” after “Department of Buildings and General Services” and by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) Department of Buildings and General Services; Municipal Energy Resilience Grant Program. Two full-time, limited-service positions are created in the Department of Buildings and General Services in fiscal year 2023 for three fiscal years to administer the Municipal Energy Resilience Grant Program created in Sec. 3 of this act. The positions shall be funded from the amount of \$1,000,000.00 for administrative costs appropriated in Sec. 4(2)(B) of this act.

**( Committee Vote:10-0-1)**

**H. 523**

An act relating to reducing hydrofluorocarbon emissions

**Rep. Morris of Springfield**, for the Committee on Natural Resources, Fish, and Wildlife, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 586 is amended to read:

§ 586. REGULATION OF HYDROFLUOROCARBONS

\* \* \*

(b)(1) A person may not offer any product or equipment for sale, lease, or rent, or install or otherwise cause any equipment or product to enter into commerce in Vermont if that equipment or product consists of, uses, or will use a substitute, as set forth in Appendix U or V, Subpart G of 40 C.F.R. Part 82, as those read on January 3, 2017, for the applications or end uses restricted by Appendix U or V, as those read on January 3, 2017, and consistent with the dates established in subdivision (b)(4) of this section.

\* \* \*

(4) The restrictions under subdivision (b)(1) of this section shall take effect beginning:

\* \* \*

(E) January 1, 2024, for centrifugal chillers and positive displacement chillers; ~~and~~

(F) January 1, 2020, or the effective date of the restrictions identified in appendix U or V, Subpart G of 40 C.F.R. Part 82, as those read on January 3, 2017, whichever comes later, for all other applications and end uses for substitutes not covered by the categories listed in subdivisions (A) through (E) of this subsection (b);

(G) July 1, 2022, for the construction of or improvement to ice skating rinks; and

(H) January 1, 2023, for containers designed for consumer recharge of motor vehicle air conditioners that use substitutes prohibited under this section.

\* \* \*

(e) The Secretary of Administration shall include in Administrative Bulletin 3.5 a requirement that State procurement contracts shall not include products that contain hydrofluorocarbons, as prohibited in this section.

Sec. 2. 10 V.S.A. § 573 is amended to read:

§ 573. MOTOR VEHICLE AIR CONDITIONING

\* \* \*

(g) No person shall repair motor vehicle air conditioning without the use of equipment for the extraction and reclamation of hydrofluorocarbons from the air conditioners.

Sec. 3. 20 V.S.A. § 2731 is amended to read:

§ 2731. RULES; INSPECTIONS; VARIANCES

\* \* \*

(m) Refrigerants. No statute, rule adopted under this section, or any other requirement of the State, may prohibit or otherwise limit the use of a refrigerant designated as acceptable for use pursuant to and in accordance with 42 U.S.C. 7671k, provided any equipment containing such refrigerant is listed and installed in accordance with safety standards and use conditions imposed pursuant to such designation.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

**( Committee Vote: 9-0-2)**

## H. 551

An act relating to prohibiting racially and religiously restrictive covenants in deeds

**Rep. Grad of Moretown**, for the Committee on Judiciary, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

### Sec. 1. LEGISLATIVE INTENT

While racially and religiously restrictive covenants have been held unenforceable by courts since the U.S. Supreme Court's 1948 decision in *Shelley v. Kramer*, 344 U.S. 1 (1948), no State law currently exists to remove or render these covenants void and to put an end to what was an invidious, historical practice of discrimination in the United States. This practice was responsible, in part, for preventing Americans of BIPOC and religious minority backgrounds from fully participating in one of the greatest expansions of wealth and prosperity in this country's history through federally backed mortgages and freely available homeownership. It is the intent of the General Assembly that this act prohibit racially and religiously restrictive covenants from ever from being used in Vermont again, regardless of their enforceability, and that it establish a process for their removal from existing real estate transaction records.

Sec. 2. 27 V.S.A. § 546 is added to read:

### § 546. RACIALLY AND RELIGIOUSLY RESTRICTIVE COVENANTS IN DEEDS PROHIBITED; PROCESS FOR REMOVAL

(a)(1) A deed, mortgage, plat, or other recorded device recorded on or after July 1, 2022 shall not contain a covenant, easement, or any other restrictive or reversionary interest purporting to restrict the ownership or use of real property on the basis of race or religion.

(2) A covenant, easement, or any other restrictive or reversionary interest in a deed, mortgage, plat, or other recorded device purporting to restrict the ownership or use of real property on the basis of race or religion is declared contrary to the public policy of the State of Vermont and shall be void and unenforceable. This subdivision shall apply to a restrictive covenant executed at any time.

(b) A restrictive covenant, easement, or similar restrictive or reversionary interest prohibited by subsection (a) of this section may be released by the owner of the real property interest subject to the covenant by recording a Certificate of Release of Certain Prohibited Covenants. The real property

owner may record the certificate prior to recording a deed conveying the property or at any other time the owner discovers that the prohibited covenant exists. The certificate may be prepared without assistance of an attorney but shall conform substantially to the following Certificate of Certain Prohibited Covenants form:

“CERTIFICATE OF RELEASE OF CERTAIN PROHIBITED COVENANTS

Town of Record: \_\_\_\_\_

Date of Instrument containing prohibited covenant(s): \_\_\_\_\_

Instrument Type: \_\_\_\_\_

Deed Book \_\_\_\_\_ Page \_\_\_\_\_ or Plat Book \_\_\_\_\_ Page \_\_\_\_\_

Name(s) of Current Owner(s): \_\_\_\_\_

Real Property Description: \_\_\_\_\_

The covenant contained in the above-mentioned instrument is released from the above-described real property to the extent that it contains terms purporting to restrict the ownership or use of the property as prohibited by 27 V.S.A. § 546(a).

The undersigned is/are the legal owner(s) of the property described herein.

Given under my/our hand(s) this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_

\_\_\_\_\_

(Current Owners)

(1) For an acknowledgment in an individual capacity:

State of Vermont [County] of \_\_\_\_\_

This record was acknowledged before me on \_\_\_\_\_ by \_\_\_\_\_

\_\_\_\_\_

Date \_\_\_\_\_ Name(s) of individual(s) \_\_\_\_\_

Signature of notary public \_\_\_\_\_

Stamp \_\_\_\_\_ [\_\_\_\_\_]

Title of office \_\_\_\_\_ [My commission expires: \_\_\_\_\_]

(2) For an acknowledgment in a representative capacity:

State of Vermont [County] of \_\_\_\_\_

This record was acknowledged before me on \_\_\_\_\_ by \_\_\_\_\_  
Date \_\_\_\_\_ Name(s) of individual(s) \_\_\_\_\_ as \_\_\_\_\_  
(type of authority, such as officer or trustee) of \_\_\_\_\_ (name of  
party on behalf of whom record was executed).

Signature of notary public \_\_\_\_\_

Stamp [ \_\_\_\_\_ ]

Title of office \_\_\_\_\_ [My commission expires: \_\_\_\_\_]

The clerk has satisfied the requirements of 32 V.S.A. § 1671.”

Sec. 3. 32 V.S.A. § 1671 is amended to read:

§ 1671. TOWN CLERK

(a) For the purposes of this section, a “page” is defined as a single side of a leaf of paper on which is printed, written, or otherwise placed information to be recorded or filed. The maximum covered area on a page shall be 7 1/2 inches by 14 inches. All letters shall be at least one-sixteenth inch in height or in at least eight-point type. Unless otherwise provided by law, the fees to the town clerks shall be as follows:

(1) For recording a trust mortgage deed as provided in 24 V.S.A. § 1155, \$15.00 per page;

\* \* \*

(g) When a fee applies under this section, no fee shall be required for the recordation of:

(1) a Certificate of Release of Certain Prohibited Covenants pursuant to 27 V.S.A. § 546(b); or

(2) a deed correction subject to 27 V.S.A. § 546(a).

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

**( Committee Vote: 11-0-0)**

## **H. 606**

An act relating to community resilience and biodiversity protection

**Rep. Sheldon of Middlebury**, for the Committee on Natural Resources, Fish, and Wildlife, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. SHORT TITLE

This act may be cited as the “Community Resilience and Biodiversity Protection Act” or “CRBPA”.

## Sec. 2. FINDINGS

### The General Assembly finds:

(1) Nature is facing a catastrophic loss of biodiversity, both globally and locally.

(2) In addition to its intrinsic value, biodiversity is essential to human survival.

(3) According to the United Nations:

(A) one million species of plants and animals are threatened with extinction;

(B) human activity has altered almost 75 percent of the Earth’s surface, squeezing wildlife and nature into ever-smaller natural areas of the planet;

(C) the health of ecosystems on which humans and all other species depend is deteriorating more rapidly than ever, affecting the very foundations of economies, livelihoods, food security, health, and quality of life worldwide; and

(D) the causes of the drivers of changes in nature rank as: (1) changes in land and sea use, (2) direct exploitation of organisms, (3) climate change, (4) pollution, and (5) invasive species.

(4) The 2017 Vermont Forest Action Plan found that fragmentation and parcelization represent major threats to forest health and productivity and exacerbate the impacts of climate change.

(5) The 2021 Vermont Climate Assessment highlights an increase in extreme weather events such as droughts and floods as a significant impact of climate change in Vermont and recommends nature-based solutions as a proven, low-cost strategy for climate adaptation and resilience.

(6) The initial Vermont Climate Action Plan calls for investing in strategic conservation to increase the pace of permanent conservation towards 30 by 30 targets, with Vermont Conservation Design guiding prioritization of efforts.

(7) The Nature Conservancy has developed the Resilient and Connected Landscapes project and found that Vermont plays a key role in the conservation of biodiversity regionally.



(8) The Staying Connected Initiative is an international partnership of public and private organizations. Its goal is to maintain, enhance, and restore landscape connectivity for wide-ranging mammals across the Northern Appalachians-Acadian region, from the Adirondacks Mountains to the Maritime Provinces. The Staying Connected Initiative has identified nine linkages across this vast region that are extremely important to wildlife. Six of these linkages lie within Vermont.

(9) The Vermont Department of Fish and Wildlife, working within the Agency of Natural Resources and with Vermont conservation organizations, has developed Vermont Conservation Design, a vision to sustain the State's ecologically functional landscape into the future.

(10) Intact and connected ecosystems support Vermont's biodiversity, reduce flood risks, mitigate drought, and sequester and store carbon.

(11) Vermont's most effective and efficient contribution to conserving biological diversity and maintaining a landscape resilient to climate change is to conserve an intact and connected landscape.

(12) In order to conserve ecological functions in intact and connected ecosystems, the full range of conservation approaches is needed, including supporting private landowner education, technical assistance, and programs, conservation easements that promote sustainable forest management, and conservation easements and fee acquisitions focused on passive management.

Sec. 3. 10 V.S.A. chapter 89 is added to read:

#### CHAPTER 89. COMMUNITY RESILIENCY AND BIODIVERSITY PROTECTION

##### § 2801. DEFINITIONS

As used in this section:

(1) "Ecological reserve area" means an area having permanent protection from conversion of natural land cover and is managed to maintain a natural state within which natural ecological processes and disturbance events are allowed to proceed with minimal interference.

(2) "Biodiversity conservation area" means an area having permanent protection from conversion of natural land cover for the majority of the area and is managed for the primary goal of sustaining species or habitats. These areas may include regular, active interventions to address the needs of particular species or to maintain or restore habitats.

(3) “Natural resource management area” means an area having permanent protection from conversion of natural land cover for the majority of the area but that is subject to long-term sustainable forest management.

(4) “Sustainable forest management” means the stewardship and use of forests and forest lands in a way, and at a rate, that maintains their biodiversity, productivity, regeneration capacity, vitality and their potential to fulfill, now and in the future, relevant ecological, economic and social functions, at local, State, and regional levels, and that does not cause damage to other ecosystems.

#### § 2802. CONSERVATION GOALS

(a) Thirty percent of Vermont’s total land area shall be conserved by 2030, and 50 percent of the State’s total land area shall be conserved by 2050. The Secretary of Natural Resources shall assist the State in achieving these goals. The land conserved shall include State, federal, municipal, and private land.

(b) Reaching 30 percent by 2030 and 50 percent by 2050 shall include a mix of ecological reserve areas, biodiversity reserve areas, and natural resource management areas. In order to support an ecologically functional landscape with sustainable production of natural resources and recreational opportunities, the approximate percentages of each type of conservation category shall be guided by the conservation targets within Vermont Conservation Design, including the use of ecological reserve areas to protect highest priority natural communities and maintain or restore old forests.

#### § 2803. CONSERVATION PLAN

(1) On or before December 31, 2023, the Secretary shall develop a plan to implement the conservation goals of Vermont Conservation Design to meet the goals established in section 2802 of this title. The plan shall be submitted for review to the House Committees on Natural Resources, Fish, and Wildlife, on Agriculture and Forestry, and on Energy and Technology and the Senate Committee on Natural Resources and Energy.

(2) The plan shall include:

(A) a review of the three conservation categories defined in section 2801 of this title, and suggestions for modifications or additions to these categories;

(B) an initial inventory of the amount of land in Vermont that is permanently conserved and to the extent practical, the amount of permanently conserved land that generally falls into each of the three conservation categories defined in section 2801 of this title, including public and private land;

(C) an evaluation of the impact of intergenerational land transfer trends;

(D) a summary of the totality of conservation practices available for reaching the goals of this chapter, including what they are, what they do, how they contribute, and what metrics are available to quantify them;

(E) an assessment of how State lands will be used to increase ecological reserve areas;

(F) the implementation methods for achieving the goals of this chapter using Vermont Conservation Design as a guide;

(G) an inventory and assessment of existing programs that will be used to meet the permanent, nonconversion conservation goals of this chapter and recommendations for new programs that will be needed to meet the goals; and

(H) an assessment of existing funding and recommendations for new funding sources that will be needed for acquisition of land, staffing capacity, and long-term stewardship to meet the goals.

(3) In developing the plan, the Secretary shall hold not less than three public meetings on the plan and accept public comments. The Secretary shall solicit input from various stakeholders, including private owners of forest and agricultural lands, land trusts, conservation organizations, the Vermont Housing and Conservation Board, environmental organizations, working lands enterprises, outdoor recreation groups, Indigenous groups, regional planning commissions, conservation commissions, and relevant State and federal agencies.

(4) The conserved land inventory shall be updated annually to track progress toward meeting the goals of this chapter.

#### Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

**( Committee Vote: 8-1-2)**

### **H. 624**

An act relating to supporting creative sector businesses and cultural organizations

**Rep. Jerome of Brandon**, for the Committee on Commerce and Economic Development, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

## Sec. 1. FINDINGS; PURPOSE

### (a) Findings. The General Assembly finds:

(1) The COVID-19 pandemic has profoundly jeopardized the economic viability of creative sector businesses, museums, theaters, galleries, studios, performing arts venues, and other cultural organizations.

(2) Creative sector businesses and nonprofits are important to Vermont's economic growth and community vitality, attracting tourists, boosting local sales, and generating more than nine percent of Vermont's jobs.

(3) These businesses and organizations were among the first to close to protect public health and are also among the last to fully reopen.

(4) Even as performances and cultural activities slowly return to operation, they are often are not able to operate at pre-pandemic capacity, and the public remains trepidatious to gather in close proximity with others, even if masked.

(5) Past financial support for creative sector businesses, performing arts venues, and other cultural organizations has provided a bridge to this point, but these entities continue to have significant need until vaccinations and other public health measures allow them to return to economic health.

(b) Purpose. The purpose of this act is to provide \$17.5 million in additional financial assistance to creative sector businesses and cultural organizations as follows:

(1) to provide direct financial assistance for COVID-19-safe equipment, marketing and re-engaging audiences, and covering operating costs;

(2) to support statewide promotion and marketing of Vermont's creative economy;

(3) to provide funding for the Vermont Arts Council to implement the CreateVT Action Plan; and

(4) to support both creative sector businesses and downtown growth and revitalization by expanding access to affordable studio, housing, performance, and exhibition space and opportunities for artists and other creative sector businesses.

## Sec. 2. CREATIVE ECONOMY RECOVERY PROGRAM

In fiscal year 2022, of the amounts remaining in the Economic Recovery Grant Program, the Agency of Commerce and Community Development shall subgrant the amount of \$17,500,000.00 to the Vermont Arts Council to administer consistent with the provisions of this section.

(1) Creative economy grants. The Council shall allocate funding for creative economy grants to theaters, community arts centers, galleries, museums, dance studios, and similarly situated entities as follows:

(A) \$10,000,000.00 to cover a portion of monthly operating costs for businesses and organizations that have sustained substantial losses due to the pandemic, including rent, mortgage, utilities, and insurance;

(B) \$2,000,000.00 for public health-related business and programming adaptations, including to purchase and implement touchless ticketing, online sales platforms, and COVID-19-related health and safety protocols; and

(C) \$4,000,000.00 for public health-related facility adaptations, including the purchase of air purification systems, hand-sanitizer dispensers, expanded outdoor seating, and HVAC assessments and upgrades.

(2) Statewide promotion and marketing of Vermont's creative sector. The Council shall allocate \$500,000.00 to support statewide and regional marketing of arts and cultural events, venues, and creative sector businesses that are essential to revive consumer confidence and spending.

(3) Vermont Creative Network Coordinator and network support. The Council shall allocate \$250,000.00 to hire the Vermont Creative Network Coordinator and Zone Leader positions for two years to implement the CreateVT Action Plan.

(4) Creative sector space in vacant downtown storefronts. The Council shall allocate \$750,000.00 for creative spaces grants to restore vitality to vacant downtown buildings and other retail spaces and provide expanded access to affordable studio, housing, exhibition, and performance space for the creative sector.

(A) A creative sector business may apply for a grant to lease vacant downtown retail space for not more than three years.

(B) A grantee may also use funds to lease residential space in the same building.

(C) The Council shall pay grant funds directly to a landlord after the execution of a lease agreement.

### Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

**( Committee Vote: 11-0-0)**

## H. 626

An act relating to the sale, use, or application of neonicotinoid pesticides

**Rep. Surprenant of Barnard**, for the Committee on Agriculture and Forestry, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 6 V.S.A. § 1105a is amended to read:

§ 1105a. TREATED ARTICLES; POWERS OF SECRETARY; BEST  
MANAGEMENT PRACTICES

(a) The Secretary of Agriculture, Food and Markets, upon the recommendation of the Agricultural Innovation Board, may adopt by rule:

(1) best management practices (BMPs), standards, procedures, and requirements relating to the sale, use, storage, or disposal of treated articles the use of which the Agricultural Innovation Board has determined will have a hazardous or long-term deleterious effect on the environment, presents a likely risk to human health, or is dangerous;

(2) requirements for the response to or corrective actions for exigent circumstances or contamination from a treated article that presents a threat to human health or the environment;

(3) requirements for the examination or inspection of treated articles the use of which the Agricultural Innovation Board has determined will have a hazardous or long-term deleterious effect on the environment, presents a likely risk to human health, or is dangerous;

(4) requirements for persons selling treated articles to keep or make available to the Secretary records of sale of treated articles, and what treatments were received, the use of which the Agricultural Innovation Board has determined will have a hazardous or long-term deleterious effect on the environment, presents a likely risk to human health, or is dangerous; or

(5) requirements for reporting of incidents resulting from accidental contamination from or misuse of treated articles the use of which the Agricultural Innovation Board has determined will have a hazardous or long-term deleterious effect on the environment, presents a likely risk to human health, or is dangerous.

(b) At least 30 days prior to prefiling a rule authorized under subsection (a) or subsection (c) of this section with the Interagency Committee on Administrative Rules under 3 V.S.A. § 837, the Secretary shall submit a copy

of the draft rule to the Senate Committee on Agriculture and the House Committee on Agriculture and Forestry for review.

(c)(1) Under subsection (a) of this section, the Secretary of Agriculture, Food and Markets, after consultation with the Agricultural Innovation Board, shall adopt by rule BMPs for the use of treated article seeds in the State. In developing the rules with the Agricultural Innovation Board, the Secretary shall address:

(A) establishment of threshold levels of pest pressure required prior to use of treated article seeds;

(B) availability of nontreated article seeds;

(C) economic impact from crop loss as compared to crop yield when treated article seeds are used;

(D) relative toxicities of different treated article seeds and effects of treated article seeds on human health and the environment;

(E) surveillance and monitoring techniques for in-field pest pressure;

(F) ways to reduce pest harborage from conservation tillage practices; and

(G) criteria for a system of approval of treated article seeds.

(2) In implementing the rules required under this subsection, the Secretary of Agriculture, Food and Markets shall work with farmers, seed companies, and other relevant parties to ensure that farmers have access to appropriate varieties and amounts of untreated seed or treated seed that has not been treated with a neonicotinoid pesticide.

Sec. 2. 6 V.S.A. § 3036 is added to read:

#### § 3036. MONITORING OF POLLINATOR HEALTH

The Secretary of Agriculture, Food and Markets shall monitor managed pollinator health to establish pollinator health benchmarks for Vermont, including:

(1) presence of pesticides in hives;

(2) mite pressure;

(3) disease pressure;

(4) mite control methods;

(5) genetic influence on survival;

(6) winter survival rate; and

(7) forage availability.

Sec. 3. IMPLEMENTATION; RULEMAKING

The Secretary of Agriculture, Food and Markets shall adopt the rules required under 6 V.S.A. § 1105a for the use of treated article seeds on or before July 1, 2024.

Sec. 4. AGENCY OF AGRICULTURE, FOOD AND MARKETS;  
RESIDUALS MANAGEMENT POSITIONS

Two new permanent classified positions at the Agency of Agriculture, Food and Markets are authorized in fiscal year 2023 for the purpose of staffing the Agency's Residuals Management Program, supporting the Agricultural Innovation Board, and enforcing and reviewing the use of treated article pesticides in the State. The two positions shall be transferred and converted from existing vacant positions in the Executive Branch. The two positions shall be funded from the revenue raised from the registration of soil amendments under 6 V.S.A. chapter 28 and the registration of dosage form animal health products and feed supplements under 6 V.S.A. chapter 26.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

( Committee Vote: 8-0-0)

**H. 655**

An act relating to establishing a telehealth licensure and registration system

**Rep. Houghton of Essex**, for the Committee on Health Care, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Telehealth Licensure and Registration \* \* \*

Sec. 1. 26 V.S.A. chapter 56 is added to read:

CHAPTER 56. TELEHEALTH LICENSURE AND REGISTRATION FOR  
OUT-OF-STATE HEALTH CARE PROFESSIONALS

§ 3051. SCOPE

(a) This chapter shall apply to the following health care professions regulated by the Office of Professional Regulation:

(1) alcohol and drug abuse counseling;



(2) allied mental health professions, including mental health counseling, marriage and family therapy, and services provided by nonlicensed and noncertified psychotherapists;

(3) applied behavior analysis;

(4) athletic training;

(5) audiology;

(6) chiropractic;

(7) dentistry;

(8) dietetics;

(9) midwifery;

(10) naturopathy;

(11) nursing;

(12) nursing home administration;

(13) occupational therapy;

(14) optometry;

(15) osteopathy;

(16) pharmacy;

(17) physical therapy;

(18) psychoanalysis;

(19) psychology;

(20) respiratory care;

(21) social work;

(22) speech language pathology; and

(23) veterinary medicine.

(b) This chapter shall apply to the following health care professions regulated by the Board of Medical Practice:

(1) physicians;

(2) physician assistants; and

(3) podiatrists.

§ 3052. DEFINITIONS

As used in this chapter:

(1) “Board” means the Board of Medical Practice.

(2) “Health care professional” means an individual who holds a valid license, certificate, or registration to provide health care services in any other U.S. jurisdiction in a health care profession listed in section 3051 of this chapter.

(3) “Health care services” means services for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease.

(4) “In good standing” means that a health care professional holds an active license, certificate, or registration from another U.S. jurisdiction; the health care professional is not subject to a disciplinary order that conditions, suspends, or otherwise restricts the professional’s practice in any other U.S. jurisdiction; and the health care professional is not affirmatively barred from practice in Vermont for any reason, including reasons of fraud or abuse, patient care, or public safety.

(5) “Mandatory disclosure” means the information that the health care professional must disclose to the patient at the initial telehealth visit or consultation, as determined by the relevant regulatory body by rule.

(6) “Office” means the Office of Professional Regulation.

(7) “Store and forward” means an asynchronous transmission of medical information, such as one or more video clips, audio clips, still images, x-rays, magnetic resonance imaging scans, electrocardiograms, electroencephalograms, or laboratory results, sent over a secure connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191 to be reviewed at a later date by a health care provider at a distant site who is trained in the relevant specialty. In store and forward, the health care provider at the distant site reviews the medical information without the patient present in real time and communicates a care plan or treatment recommendation back to the patient or referring provider, or both.

(8) “Telehealth” means health care services delivered by telemedicine, store and forward, or audio-only telephone.

(9) “Telemedicine” means the delivery of health care services such as diagnosis, consultation, or treatment through the use of live interactive audio and video over a secure connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

§ 3053. TELEHEALTH LICENSURE OR TELEHEALTH REGISTRATION  
REQUIRED

(a) A health care professional who is not otherwise licensed, certified, or registered to practice in Vermont but is licensed, certified, or registered in good standing in all other U.S. jurisdictions in which the health care professional is or has been licensed, certified, or registered and who wishes to provide health care services to a patient or client located in Vermont using telehealth shall obtain a telehealth license or telehealth registration from the Office or the Board in accordance with this chapter.

(b) A telehealth license or telehealth registration issued pursuant to this chapter shall authorize a health care professional to provide services to a patient or client located in Vermont using telehealth only. Telehealth licensure or telehealth registration does not authorize the health care professional to open an office in Vermont or to provide in-person health care services to patients or clients located in Vermont.

(c) A health care professional who is not otherwise licensed, certified, or registered to practice in Vermont and provides health care services in Vermont using telehealth without a telehealth registration or telehealth license, or provides services beyond the limitations of the telehealth registration or telehealth license, is engaged in unauthorized practice as defined in 3 V.S.A. § 127 and section 1314 of this title and is subject to the penalties set forth in those sections.

§ 3054. SCOPE OF TELEHEALTH LICENSE AND TELEHEALTH  
REGISTRATION

(a) Telehealth license.

(1) A health care professional who is not otherwise licensed, certified, or registered to practice in Vermont may obtain a telehealth license to provide health care services using telehealth to a total of not more than 20 unique patients or clients located in Vermont during the two-year license term.

(2) To be eligible to obtain a telehealth license under this chapter, a health care professional shall:

(A) complete an application in a format and with such content as prescribed by the Office or the Board;

(B) hold an active, unencumbered license, certificate, or registration in good standing in any other U.S. jurisdiction to practice the health care profession that the professional seeks to practice in Vermont using telehealth

and provide verification of the license, registration, or certificate to the Office or the Board if required by the profession;

(C) if required by the rules adopted by the Office or the Board pursuant to section 3061 of this chapter, submit a copy of a mandatory disclosure that conforms to the requirements established by rule;

(D) if required by the rules adopted by the Office or the Board pursuant section 3061 of this chapter, provide documentation of professional liability coverage or financial responsibility that includes coverage or financial responsibility for services provided by telehealth to patients or clients not located in the health care professional's home state in an amount established by rule;

(E) provide any other information and documentation of qualifications required by the Office or the Board by rule; and

(F) pay the required telehealth licensure fee, which shall be 75 percent of the renewal fee for the profession as set forth in 3 V.S.A. § 125 or in the applicable chapter of this title.

(3) A health care professional may renew a telehealth license every two years upon application and payment of the required fee. A license that has expired shall be reinstated upon payment of the biennial renewal fee and the late renewal penalty, which shall be 75 percent of the late renewal penalty established in 3 V.S.A. § 127 or in section 1401a of this title, as applicable.

(b) Telehealth registration.

(1) A health care professional who is not otherwise licensed, certified, or registered to practice in Vermont may obtain a telehealth registration to provide health care services using telehealth:

(A) for a period of not more than 120 consecutive days from the date the registration was issued; and

(B) to a total of not more than 10 unique patients or clients over the 120-day period that the registration is in effect.

(2) To be eligible to obtain a telehealth registration under this chapter, a health care professional shall:

(A) complete an application in a format and with such content as prescribed by the Office or the Board;

(B) hold an active, unencumbered license, certificate, or registration in good standing in any other U.S. jurisdiction to practice the health care profession that the professional seeks to practice in Vermont using telehealth

and provide verification of the license, registration, or certificate to the Office or the Board if required by the profession;

(C) if required by the rules adopted by the Office or the Board pursuant to section 3061 of this chapter, submit a copy of a mandatory disclosure that conforms to the requirements established by rule; and

(D) pay the required telehealth registration fee, which shall be 50 percent of the renewal fee for the profession as set forth in 3 V.S.A. § 125 or in the applicable chapter of this title.

(3) A health care professional may only reactivate a telehealth registration once every three years. A telehealth registration shall not be renewed or reactivated upon expiration.

(c) Other license or registration. A health care professional seeking to provide health care services to a patient or client located in Vermont using telehealth may register or apply for a full license to practice the profession in this State in accordance with the applicable provisions of this title. Nothing in this section shall be construed to prohibit a qualified health care professional from registering or obtaining a full license to practice in Vermont in accordance with relevant laws.

#### § 3055. SCOPE OF PRACTICE; STANDARD OF PRACTICE

(a) In order to be eligible for a telehealth license or telehealth registration under this chapter, a health care professional shall hold a license, certificate, or registration in another U.S. jurisdiction that authorizes the provider to engage in the same or a broader scope of practice as health care professionals in the same field are authorized to engage pursuant to a license, certificate, or registration issued in accordance with the relevant provisions of this title.

(b) While practicing in Vermont using telehealth, a health care professional holding a telehealth license or telehealth registration issued pursuant to this chapter shall:

(1) practice within the scope of practice established in this title for that profession; and

(2) practice in a manner consistent with the prevailing and acceptable professional standard of practice for a health care professional who is licensed, certified, or registered in Vermont to provide in-person health care services in that health care profession.

#### § 3056. RECORDS

A health care professional holding a telehealth license or telehealth registration issued pursuant to this chapter shall document in a patient's or

client's medical record the health care services delivered using telehealth in accordance with the same standard used for in-person services and shall comply with the requirements of 18 V.S.A. §§ 9361 and 9362 to the extent applicable to the profession. Records, including video, audio, electronic, or other records generated as a result of delivering health care services using telehealth, are subject to all federal and Vermont laws regarding protected health information.

§ 3057. EFFECT OF DISCIPLINARY ACTION ON OUT-OF-STATE

LICENSE, CERTIFICATE, OR REGISTRATION

(a) A health care professional shall not obtain a telehealth license or telehealth registration under this chapter if the health care professional's license, certificate, or registration to provide health care services has been revoked or is subject to a pending disciplinary investigation or action in any other U.S. jurisdiction.

(b) A health care professional holding a telehealth license or telehealth registration under this chapter shall notify the Office or the Board, as applicable, within five business days following a disciplinary action that places a warning, reprimand, condition, restriction, suspension, or any other disciplinary action on the professional's license, certificate, or registration in any other U.S. jurisdiction or of any other disciplinary action taken or pending against the health care professional in any other U.S. jurisdiction.

§ 3058. JURISDICTION; APPLICATION OF VERMONT LAWS

A health care professional holding a telehealth license or telehealth registration in accordance with this chapter is subject to the laws and jurisdiction of the State of Vermont, including 18 V.S.A. §§ 9361 and 9362 and laws regarding prescribing, health information sharing, informed consent, supervision and collaboration requirements, and unprofessional conduct.

§ 3059. EXEMPTIONS FROM REGISTRATION AND LICENSURE

REQUIREMENTS

A health care professional is not required to obtain a telehealth registration or licensure solely to provide consultation services to another health care professional regarding care for a patient or client located in Vermont, provided the consulting health care professional holds a license, certificate, or registration to practice the profession in one or more U.S. jurisdictions and the consultation is based on a review of records without in-person or remote contact between the consulting health care professional and the patient or client.

§ 3060. VENUE

Venue for a civil action initiated by the Office, the Board, or a patient or client who has received telehealth services in Vermont from an out-of-state health care professional holding a telehealth license or telehealth registration shall be in the patient's or client's county of residence or in Washington County.

§ 3061. RULEMAKING

The Office or the Board may adopt rules in accordance with 3 V.S.A. chapter 25 to carry out the purposes of this chapter, including, in consultation with the appropriate boards and advisor appointees for professions regulated by the Office, rules regarding any profession-specific requirements related to telehealth licenses and telehealth registrations.

\* \* \* Provisional Licensure for Professions Regulated by

Office of Professional Regulation \* \* \*

Sec. 2. 3 V.S.A. § 130 is added to read:

§ 130. PROVISIONAL LICENSURE

(a) The Director may issue a 90-day provisional license to an individual who has completed an application for full licensure and:

(1) whose eligibility for licensure is contingent upon acceptable verification of licensure from another jurisdiction;

(2) whose eligibility for licensure is contingent upon completion of a background check; or

(3) who is an active-duty member of the U.S. Armed Forces assigned to duty in Vermont or the spouse of such a member.

(b) A provisional license shall be based on a voluntary agreement between the applicant and the Office to expedite the applicant's entry into the workforce, in which the applicant agrees to forgo the procedural rights associated with traditional licensure in exchange for a provisional license pending final determination of the license application.

(c) A provisional license shall only be issued to an applicant who can attest to material facts consistent with the requirements of full licensure, including the applicant's standing in other U.S. jurisdictions, criminal history, and disciplinary history. An individual to whom a provisional license is issued shall expressly agree that the Office may summarily withdraw the provisional license upon discovery of any inconsistency or inaccuracy in the application materials.

(d) An individual aggrieved by a denial or summary withdrawal of a provisional license issued under this section shall have as an exclusive remedy the right to have the individual's application for conventional licensure determined according to the usual process.

(e) The Director may extend a provisional license beyond the initial 90-day period if the reason for issuing the license, as set forth in subdivisions (a)(1)–(3) of this section, has not been resolved.

\* \* \* Effective Dates \* \* \*

### Sec. 3. EFFECTIVE DATES

(a) Sec. 1 (26 V.S.A. chapter 56) shall take effect on July 1, 2023, except that the Office and the Board shall commence the rulemaking process prior to that date in order to have rules in place on July 1, 2023.

(b) Sec. 2 (3 V.S.A. § 130) and this section shall take effect on passage.

and that after passage the title of the bill be amended to read: “An act relating to telehealth licensure and registration and to provisional licensure for professions regulated by the Office of Professional Regulation”

#### **( Committee Vote: 10-0-1)**

**Rep. Durfee of Shaftsbury**, for the Committee on Ways and Means, recommends the bill ought to pass when amended as recommended by the Committee on Health Care and when further amended as follows:

First: In Sec. 1, 26 V.S.A. chapter 56, in section 3054, in subdivision (b)(2), by striking out subdivision (D) in its entirety and inserting in lieu thereof a new subdivision (D) to read as follows:



(D) pay the required telehealth registration fee, which shall be the lesser of:

(i) 50 percent of the renewal fee for the profession as set forth in 3 V.S.A. § 125 or in the applicable chapter of this title; or

(ii) the application fee for a full license for the profession as set forth in 3 V.S.A. § 125 or in the applicable chapter of this title.

Second: In Sec. 1, 26 V.S.A. chapter 56, in section 3054, by adding a subsection (d) to read as follows:

(d) Transition to licensure; fee credit.

(1) If a health care professional holding a telehealth registration issued pursuant to this chapter elects to apply for a telehealth license or a full license while the professional's telehealth registration is in effect or within three years following the effective date of the professional's telehealth registration, the amount of the fee paid by the health care professional for the telehealth registration pursuant to subdivision (b)(2)(D) of this section shall be credited and applied toward the amount of the relevant telehealth license under subdivision (a)(2)(F) of this section if the professional is seeking a telehealth license or the application fee for a full license for the profession as set forth in 3 V.S.A. § 125 or in the applicable chapter of this title.

(2) If a health care professional holding a telehealth license issued pursuant to this chapter elects to apply for a full license while the professional's telehealth license is in effect, the amount of the fee paid by the health care professional for the telehealth license pursuant to subdivision (a)(2)(F) of this section shall be credited and applied toward the amount of the application fee for a full license for the profession as set forth in 3 V.S.A. § 125 or in the applicable chapter of this title.

Third: By adding a reader assistance heading and a new section to be Sec. 3 to read as follows:

\* \* \* Appropriation \* \* \*

Sec. 3. TELEHEALTH LICENSURE AND REGISTRATION SYSTEM;

APPROPRIATION

The sum of \$360,000.00 is appropriated from the General Fund to the Office of Professional Regulation in fiscal year 2023 to develop and implement the telehealth licensure and registration system established in this act.

Fourth: By renumbering the existing Sec. 3, effective dates, to be Sec. 4 and, in the renumbered section, by adding a subsection (c) to read as follows:

(c) Sec. 3 (telehealth licensure and registration system; appropriation) shall take effect on July 1, 2022.

**( Committee Vote:11-0-0)**

**Rep. Townsend of South Burlington**, for the Committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committees on Health Care and Ways and Means.

**(Committee Vote:10-0-1)**

#### **H. 716**

An act relating to making miscellaneous changes in education law.

**(Rep. Webb of Shelburne** will speak for the Committee on Education.)

**Rep. Beck of St. Johnsbury**, for the Committee on Ways and Means, recommends the bill ought to pass when amended as follows:

In Sec. 1, 16 V.S.A. § 2961 in subdivision (d)(1)(A), by striking out subdivision (i) in its entirety and inserting in lieu thereof a new subdivision (i) to read as follows:

(i) the average amount it received for fiscal years 2018, 2019, and 2020, or the average amount it received for fiscal years 2019, 2020, and 2021, whichever amount is greater, from the State for special education under sections 2961 (standard mainstream block grants), 2963 (special education expenditures reimbursement), and 2963a (exceptional circumstances) of this title; increased by

**(Committee Vote 11-0-0)**

#### **Favorable**

#### **H. 482**

An act relating to the Petroleum Cleanup Fund

**Rep. Satcowitz of Randolph**, for the Committee on Natural Resources, Fish, and Wildlife, recommends the bill ought to pass.

**( Committee Vote: 9-0-2)**

**Action Postponed Until April 20, 2022**

**Governor's Veto**

**H. 157**

An act relating to registration of construction contractors.

For Text of Veto Message, please see House Journal of February 10, 2022

**Consent Calendar**

**Concurrent Resolutions for Adoption Under Joint Rule 16a**

The following concurrent resolutions have been introduced for approval by the Senate and House and will be adopted automatically unless a Senator or Representative requests floor consideration before today's adjournment. Requests for floor consideration in either chamber should be communicated to the Secretary's office and/or the House Clerk's office, respectively. For text of resolutions, see Addendum to House Calendar and Senate Calendar of March 10, 2022.

**H.C.R. 109**

House concurrent resolution congratulating the 2022 Essex High School Hornets girls' indoor track and field team on winning a second consecutive Division I championship

**H.C.R. 110**

House concurrent resolution congratulating the 2022 Essex High School boys' indoor track and field team on winning a second consecutive Division I championship

**H.C.R. 111**

House concurrent resolution congratulating William O'Neil of Essex on his induction into the Vermont Sports Hall of Fame

**H.C.R. 112**

House concurrent resolution honoring the Voices of St. Joseph's Orphanage

**H.C.R. 113**

House concurrent resolution honoring the USS VERMONT (SSN 792)

**H.C.R. 114**

House concurrent resolution congratulating the 2021 Brattleboro Union High School Colonels Division II championship boys' hockey team

**H.C.R. 115**

House concurrent resolution congratulating the 2022 Essex High School Hornets State championship gymnastics team

**H.C.R. 116**

House concurrent resolution commemorating the 250th anniversary of the New Yorkers' capture and Bennington posse's rescue of early Arlington leader and pre-Revolutionary War patriot Remember Baker Jr.

**H.C.R. 117**

House concurrent resolution congratulating Catamount Access Television in Bennington on its 30th anniversary

**H.C.R. 118**

House concurrent resolution honoring Diane Dalmasse for her extraordinary half century of State public service and leadership

**H.C.R. 119**

House concurrent resolution honoring Anthony Mariano for 44 years of exemplary athletics leadership at Norwich University

**For Informational Purposes**

**Crossover Deadline**

(1) All **Senate/House** bills must be reported out of the last committee of reference (including the Committees on Appropriations and on Finance/Ways and Means, except as provided below in (2) and the exceptions listed below) on or before **Friday, March 11, 2022**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day – Committee bills must be voted out of Committee by **Friday, March 11, 2022**.

(2) All **Senate/House** bills referred pursuant to Senate Rule 31 or House Rule 35(a) to the Committees on Appropriations and on Finance/Ways and Means must be reported out by the last of those committees on or before **Friday, March 18, 2022**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

**Exceptions to the foregoing deadlines include the major money bills (the general Appropriations bill (“The Big Bill”), the Transportation capital bill, the Capital Construction bill, and the Fee/Revenue bills).**

### **Information Notice**

Grants and Positions that have been submitted to the Joint Fiscal Committee by the Administration, under 32 V.S.A. §5(b)(3)(D):

**JFO #3089** - \$6,589,481 to the VT Agency of Human Services, Dept of Disabilities, Aging and Independent Living from U.S. Dept of Education. Funds to establish a system and to provide support for 500 Vermonters with disabilities to achieve credentials leading to high-wage employment. Includes eight (8) limited-service positions: one (1) Project Director; six (6) VR Counselor/Career Navigator; one (1) Assistive Technology Specialist funded through 9/30/2026.

*[Received 2/17/2022, expedited review requested 2/17/2022]*

**JFO #3090** –Three (3) limited-service positions: Military Project Manager. Positions needed to replace Federal personnel reductions in project management and program management staffing levels. VT Military confirms the positions are fully funded through the Master Cooperative Agreement through 9/30/24. *[Received February 17, 2022]*

**JFO #3091** - **\$60,528** to the VT Department of Public Safety from the National Governor’s Association to fund the Agency of Digital Services staff to assist the Department of Public Safety with IT concerns specific to improving multi-agency information sharing and governance. *[Received February 17, 2022]*