

Senate Calendar

WEDNESDAY, MAY 19, 2021

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ACTION CALENDAR

NEW BUSINESS

Third Reading

H. 431.

An act relating to miscellaneous energy subjects.

**Proposal of amendment to H. 431 to be offered by Senator Perchlik before
Third Reading**

Senator Perchlik moves to amend the Senate proposal of amendment in Sec. 5, 30 V.S.A. § 201, in subsection (4), by inserting after the first sentence the following:

This shall not include devices or systems that store energy produced entirely from fossil fuels, such as petroleum products.

Second Reading

Favorable with Proposal of Amendment

H. 289.

An act relating to professions and occupations regulated by the Office of Professional Regulation.

**Reported favorably with recommendation of proposal of amendment
by Senator Clarkson for the Committee on Government Operations.**

The Committee recommends that the Senate propose to the House to amend the bill as follows:

First: By striking out Sec. 1, 3 V.S.A. § 122, in its entirety and inserting in lieu thereof a new Sec. 1 to read as follows:

Sec. 1. 3 V.S.A. § 122 is amended to read:

§ 122. OFFICE OF PROFESSIONAL REGULATION

The Office of Professional Regulation is created within the Office of the Secretary of State. The Office shall have a director who shall be ~~appointed by the Secretary of State and shall be an exempt employee~~ qualified by education and professional experience to perform the duties of the position. ~~The Director of the Office of Professional Regulation shall be a classified position with the Office of the Secretary of State.~~ The following boards or professions are attached to the Office of Professional Regulation:

* * *

(2) ~~Board of Barbers and Cosmetology~~ Cosmetologists

* * *

(6) ~~Board of Funeral Service~~

* * *

(18) ~~Board of Private Investigative and Security Services~~

* * *

(50) Well Drillers

Second: By striking out Sec. 15, effective date, and its reader assistance heading in their entirety, and inserting in lieu thereof a new reader assistance heading and seven new sections to be Secs. 15–21 to read as follows:

* * * Mixed Martial Arts * * *

Sec. 15. 26 V.S.A. chapter 107 is added to read:

CHAPTER 107. BOXING AND MIXED MARTIAL ARTS

Subchapter 1. Boxing

* * *

Subchapter 2. Mixed Martial Arts

§ 6025. DEFINITIONS

As used in this subchapter:

(1) “Contestant” means an individual who competes in a mixed martial arts match, including an exhibition. “Contestant” includes both amateur and professional mixed martial arts competitors.

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

(3) “Event” or “mixed martial arts event” means a mixed martial arts match or two or more mixed martial arts matches held at the same location on the same or consecutive dates.

(4) “Exhibition” means an engagement in which the contestants show or display their skills without necessarily striving to win.

(5) “Match” or “mixed martial arts match” means any occurrence in which a mixed martial arts contestant competes against another mixed martial arts contestant using mixed martial arts. “Match” or “mixed martial arts match” includes amateur matches and exhibitions.

(6) “Mixed martial arts” means unarmed combat involving the use, subject to any applicable limits set forth in this subchapter and in any rules adopted in accordance with this subchapter, of a combination of techniques, including grappling, kicking, and striking, from different disciplines of martial arts. Mixed martial arts includes kickboxing, pankration, Muay Thai, and extreme martial arts. Mixed martial arts does not include boxing.

(7) “Office” means the Vermont Office of Professional Regulation.

(8) “Participant” means individuals who participate, directly or indirectly, in mixed martial arts matches, including managers, referees, match makers, seconds, corners, and judges. “Participant” does not include spectators and audience members.

(9) “Promoter” means any person, club, corporation, or association and, in the case of a corporate promoter, includes any officer, director, employee, or stockholder thereof, who produces, arranges, or stages any mixed martial arts match.

§ 6026. JURISDICTION OF OFFICE

(a) The Office shall have and exercise sole discretion, management, control, and supervision over all mixed martial arts events taking place within the State. No mixed martial arts event shall take place within the State except in accordance with the provisions of this subchapter and the rules adopted by the Office.

(b) Every license issued under this subchapter shall be subject to the rules adopted pursuant to this subchapter.

§ 6027. DIRECTOR; POWERS; DUTIES

(a) In addition to the powers and duties of the Director, as established in this subchapter and in 3 V.S.A. chapter 5, subchapter 3, the Director shall have the following powers and duties:

(1) provide information to applicants for obtaining a license;

(2) receive applications for licenses; grant licenses to applicants qualified under this subchapter and in accordance with rules adopted pursuant to this subchapter; renew licenses; and deny, revoke, suspend, reinstate, or condition licenses as directed by an Administrative Law Officer;

(3) administer the inspection of facilities where a mixed martial arts event is to be held and the records associated with the event;

(4) administer fees collected under this subchapter;

(5) collect taxes and bonds in accordance with this subchapter and any rules adopted pursuant this subchapter;

(6) explain appeal procedures to licensees and applicants and complaint procedures to the public; and

(7) refer all disciplinary matters to an Administrative Law Officer.

(b) The Director, in consultation with the advisors appointed in accordance with this subchapter, shall adopt rules necessary to perform the Director's duties under this subchapter and shall establish safety standards for the protection of contestants, participants, promoters, and the public. The rules adopted by the Director in accordance with this subchapter shall, at a minimum, include the following:

(1) rules for the conduct and holding of amateur and professional mixed martial arts events;

(2) requirements and qualifications to be eligible for licenses for anyone involved, indirectly or directly, in a mixed martial arts event, including promoters, contestants, and participants, and to be eligible for event licenses;

(3) requirements for the collection, retention, and remission of bonds provided by promoters as a condition of licensure or of an event permit;

(4) requirements for promoter reports to the Office, including reports following a mixed martial arts event and for promoter payment of the event tax;

(5) requirements for medical examinations of participants and contestants to be performed prior to licensure and renewal;

(6) requirements for medical examinations of contestants and participants before, during, and after mixed martial arts matches or events;

(7) exemptions for certain mixed martial arts events;

(8) requirements for the inspection of facilities where a mixed martial arts event is to be held and of associated records; and

(9) all other requirements necessary for the safe conduct of mixed martial arts matches and events.

§ 6028. ADVISORS

(a) The Secretary of State shall appoint two individuals to serve as advisors in matters related to mixed martial arts regulation. Both advisors shall be an individual with at least three years' experience in mixed martial arts as a promoter, participant, or contestant. The advisor appointees shall be appointed for staggered five-year terms and shall serve at the pleasure of the Secretary.

(b) The Director shall seek the advice of the advisors appointed under this section in carrying out the provisions of this subchapter. The advisors shall be entitled to compensation and necessary expenses in the amount provided in 32 V.S.A. § 1010 for attendance at any meeting called by the Director for this purpose.

§ 6029. AMATEUR EVENTS; EXEMPTION FOR SCHOOLS;
EXEMPTIONS

(a) All amateur mixed martial arts events shall be regulated by the Office in accordance with this subchapter and rules adopted under this subchapter except for amateur mixed martial events conducted by a school, college, or university.

(b) The Director may, by rules adopted in accordance with this subchapter, exempt from the application of these rules mixed martial arts events in which there is minimal or no contact between contestants, for which there is no remuneration for participation, and for which no tickets are sold or admission fees charged.

§ 6030. CONTESTANTS; LICENSING; EXAMINATION

(a) Contestant license.

(1) No individual shall participate as a contestant in a mixed martial arts event, which includes a sole match, in the State without first having obtained a license from the Office.

(2) Every contestant licensed in accordance with this subchapter shall be subject to the rules adopted by the Director.

(3) A fee may be assessed for a contestant license in accordance with section 6033 of this subchapter.

(4) An individual who wants to be licensed under this subsection shall apply for a contestant license in the manner specified by the Director in rules adopted in accordance with this subchapter, accompanied by payment of the required fee.

(5) Licenses shall be renewed every year on a date set by the Director in rules adopted in accordance with this subchapter. Licenses shall be subject to the provisions of this subchapter and to all rules adopted in accordance with this subchapter.

(b) Medical examination; report.

(1) Each contestant shall be examined by a physician, who is licensed under 26 V.S.A. chapter 23 or 26 V.S.A. chapter 33, at the time and in accordance with rules adopted by the Director in accordance with this subchapter.

(2) No contestant shall be granted a license or permitted to renew a license without first submitting a report from a physician, who is licensed under 26 V.S.A. chapter 23 or 26 V.S.A. chapter 33 and who performed an examination in accordance with rules adopted under this subchapter, certifying the contestant is in appropriate physical condition to engage in a mixed martial arts event. Reports from an examining physician shall be submitted directly to the Office by the examining physician and shall contain such information as required by the Director in rules adopted in accordance with this subchapter. The examining physician shall provide an assessment in the report of the contestant's physical condition to engage in a mixed martial arts match.

(3) No contestant shall participate in a mixed martial arts match unless:

(A) the contestant has been examined not more than twelve hours before the match by a physician licensed under 26 V.S.A. chapter 23 or 26 V.S.A. chapter 33 and who performed the medical examination in accordance with rules adopted under this subchapter; and

(B) the physician who performed the examination certifies in writing to the referee of the match that the contestant is in appropriate physical condition to engage in a mixed martial arts match.

(4) Fees for the pre-match examination shall be paid by the promoter of the match. In addition to providing the certification to the referee on the day of the event, the contestant shall submit the certification of the examining physician to the Office within 48 hours following the mixed martial arts match for which the physician provided the examination.

§ 6031. PROMOTERS

(a) Promoter license.

(1) No person shall hold or conduct a mixed martial arts event, which includes a sole match, in the State without first having obtained a license from the Office.

(2) A person who wants to be licensed under this subsection shall apply for a promoter license in the manner specified by the Director in rules adopted in accordance with this subchapter, accompanied by payment of the required fee.

(3) Licenses shall be renewed every two years on a date set by the Director in rules adopted in accordance with this subchapter. Licenses shall be subject to the provisions of this subchapter and to all rules adopted in accordance with this subchapter.

(4) In addition to the bond required under this subchapter, a fee may be assessed for a promoter license in accordance with section 6033 of this subchapter.

(5) Before any promoter license is granted or renewed, the applicant shall execute and file with the Office a bond to the State in the amount of \$10,000.00, to be conditioned upon the faithful performance by the applicant of the provisions of this subchapter and the payment of the taxes imposed under this subchapter. The bond shall be in a form with sureties satisfactory to the Office. No promoter license shall be renewed unless this bond has been renewed and filed with the Board.

(b) Event license.

(1) No mixed martial arts event, including a sole match, shall be held by any promoter licensed under this subchapter unless the promoter has obtained from the Office an event license to hold the event at least two weeks prior to the first day of the event. The application to the Office for an event license shall be in such form, with such information, and at such place as the Office may, by rules adopted in accordance with this subchapter, prescribe.

(2) A fee may be assessed for this match or event license in accordance with section 6033 of this subchapter. The Office may charge a separate event license fee for each day of an event.

(3) No event license shall be granted to any promoter who is not licensed in the State; whose license is suspended, disciplined, or revoked in any state or jurisdiction; or who is delinquent in paying a tax that has been assessed pursuant to section 6039 of this subchapter.

(4) No event license shall be granted until the Office performs an inspection of the facilities where the mixed martial arts event is to be held and of records associated with the event.

(5) No event license shall be renewed. A separate event license shall be obtained for each event, including a for a sole match.

§ 6032. PARTICIPANTS

(a) No individual shall participate, either directly or indirectly, as a participant in a mixed martial arts event, including a sole match, in the State without first having obtained a license from the Office.

(b) A fee may be assessed for a participant license in accordance with section 6033 of this subchapter.

(c) Every participant licensed in accordance with this subchapter shall be subject to the rules adopted by the Director.

(1) An individual who wants to be licensed under this section shall apply for a participant license in the manner specified by the Director in rules adopted in accordance with this subchapter, accompanied by payment of the required fee.

(2) Licenses shall be renewed every two years on a date set by the Director in rules adopted in accordance with this subchapter. Licensees shall be subject to the provisions of this subchapter and to all rules adopted in accordance with this subchapter.

§ 6033. FEES

Applicants and persons regulated by this subchapter shall be subject to the following fees:

(1) Application:

<u>(A) Promoter license</u>	<u>\$500.00</u>
<u>(B) Event license</u>	<u>\$250.00</u>
<u>(C) Contestant license</u>	<u>\$25.00</u>
<u>(D) Participant license</u>	<u>\$25.00</u>

(2) Biennial renewal for managers, seconds, referees, and judges
\$25.00

(3) Biennial renewal for promoters \$500.00

(4) Annual renewal for contestants \$25.00

(5) Late fees set pursuant to 3 V.S.A. § 127(d)(1).

§ 6034. RENEWAL

(a) General provisions. A licensee shall apply to renew the license prior to the expiration of the current license. The Director shall send a reminder to licensees prior to the expiration of their licenses. The Office may charge, in addition to the license fee, a late fee to licensees who do not apply to renew a license until after the license is expired.

(b) Renewal deadlines.

(1) Licenses for participants and promoters shall be renewed every two years upon payment of the required fees and in accordance with rules adopted under this subchapter.

(2) Licenses for contestants shall be renewed every year upon payment of the required fees and in accordance with rules adopted under this subchapter.

§ 6035. MEDICAL INSURANCE

(a) Promoters licensed in accordance with this subchapter shall carry medical insurance covering all contestants who participate in an event, including a sole match, conducted by the promoter.

(b) The cost of the medical insurance, including deductibles and premiums, shall be borne by the promoter.

(c) The promoter shall obtain medical insurance coverage in an amount to be determined by the Director in rules adopted in accordance with this subchapter that shall cover the expenses for the treatment of any injuries the contestant may suffer as a result of a mixed martial arts event.

(d) The medical insurance coverage shall extend for at least six months following the date of the mixed martial arts event.

(e) No mixed martial arts event shall be approved in the State unless the promoter is in full compliance with the requirements of this section concerning medical insurance coverage.

§ 6036. MEDICAL EXAM

The Director shall adopt rules for medical examination of contestants and participants, as needed, including examinations before, during, and after a match or event and as a condition of licensure under this subchapter.

§ 6037. REFEREES

(a) No mixed martial arts event, including a sole match, shall take place in Vermont without a referee present and overseeing the event in accordance with rules adopted under this subchapter.

(b) The sole arbiter in the ring in a mixed martial arts match shall be the referee, licensed as a participant in Vermont, who shall govern the match in accordance with the rules adopted by the Director under this subchapter. The referee shall have full power to stop the match whenever the referee deems it advisable because of the physical condition of a contestant, when one of the contestants is clearly outclassed by an opponent, or for other reasonable cause.

§ 6038. MEDICAL ASSISTANCE AT EVENTS

(a) Physician. Every promoter shall have in attendance at every mixed martial arts match at least one physician, who is licensed under 26 V.S.A. chapter 23 or 26 V.S.A. chapter 33. The physician shall perform medical examinations of the contestants not more than twelve hours before the beginning of the match and shall certify in writing to the referee whether or not the contestant is in appropriate physical condition to engage in a mixed martial arts match.

(b) Ambulance. Every promoter shall have at every mixed martial arts match an ambulance containing the standard medical equipment necessary to treat cerebral injuries. If the ambulance leaves an event, no other mixed martial arts match may commence or resume until the ambulance returns. The promoter shall stop or delay a match until an ambulance is present.

(c) Upon the recommendation of the physician present during a mixed martial arts event, a contestant shall be required to undergo an ophthalmological and neurological examination after each match in accordance with rules adopted under this subchapter.

(1) The cost of such an examination shall be borne by the promoter of the event.

(2) The physician shall provide a certified writing of the examination findings to the referee and the contestant.

(3) Within 48 hours after receiving the examination, the contestant shall submit the physician's certified writing to the Office.

(4) If the physician, after an examination in accordance with this section and rules adopted under this subchapter, certifies that the contestant is not in a physical condition to engage in a mixed martial arts match, the contestant shall not be permitted to engage in another match until a subsequent examination is conducted in accordance with rules adopted under this subchapter and a physician certifies that the contestant is in an appropriate physical condition to engage in a mixed martial arts match. The physician providing the subsequent examination does not need to be the same physician who provided the examination at the mixed martial arts match.

§ 6039. TAX; POST-EVENT REPORT BY PROMOTER

(a) Every promoter shall, not later than seven days after the conclusion of a mixed martial arts event, submit a post-event report to the Office in accordance with rules adopted pursuant to this subchapter. The report shall include the exact number of tickets to the event sold, the amount of gross and net receipts from the event, and any other facts as the Director may by rule require. The

promoter shall report on tickets sold to an entire event not to an individual match within an event.

(b) Every promoter shall, not later than seven days after the conclusion of a mixed martial arts event, pay to the Office by certified check a tax of five percent of the receipts from tickets, admission fees, and sponsorships after all costs from the event and any other State and federal taxes thereon have been paid. The promoter shall pay the tax on the receipts from the entire event. This tax shall be deposited in the Professional Regulation Fee Fund and used to carry out the provisions of this subchapter.

(c) If the report required under this section and the accompanying tax are not paid within the seven days required, the Office may examine, or cause to be examined, the books and records of the promoter and any corporation on behalf of which the promoter held the event.

§ 6040. UNPROFESSIONAL CONDUCT

(a) All persons. All persons licensed under this subchapter are subject to 3 V.S.A. chapter 5, subchapter 3, including the unprofessional conduct items established under 3 V.S.A. § 129a.

(b) Contestants. In addition to the items set forth in 3 V.S.A. § 129a, it shall be unprofessional conduct for a contestant to do any of the following:

(1) engage in a mixed martial arts match after a physician, licensed under 26 V.S.A. chapter 23 or 26 V.S.A. chapter 33, certifies, following an annual examination or an examination before, during, or within seven days after a match and carried out in accordance with this subchapter and rules adopted in accordance with this subchapter, that the contestant is not in a physical condition to engage in a mixed martial arts match;

(2) engage in a mixed martial arts match when suspended or prohibited from competing in a mixed martial arts match by any entity that regulates mixed martial arts;

(3) engage in a mixed martial arts match when the contestant's license to engage in mixed martial arts, as a contestant, promoter, or participant, is suspended in any other state or jurisdiction;

(4) engage in a mixed martial arts match less than 30 days after competing as a contestant in another mixed martial arts match;

(5) engage in a mixed martial arts match less than 60 days after having been knocked out in a mixed martial arts match or less than 30 days after having been technically knocked out in a mixed martial arts match; or

(6) any other activity as established by the Director in rules adopted in accordance with this subchapter.

(c) Promoters. In addition to the items set forth in 3 V.S.A. § 129a, it shall be unprofessional conduct for a promoter to do any of the following:

(1) fail to submit a required report or information to the Office within the time period and with the information, taxes, and fees required under this subchapter and in accordance with rules adopted pursuant to this subchapter;

(2) directly or indirectly have any financial interest in an individual competing in a mixed martial arts match arranged by the promoter;

(3) engage a contestant who is suspended or prohibited from competing in mixed martial arts matches by any state or jurisdiction to compete in a match held by the promoter;

(4) conduct a mixed martial arts match with no ambulance present;

(5) conduct a mixed martial arts match with no physician present;

(6) conduct a mixed martial arts match without a referee present; or

(7) any other activity as established by the Director in rules adopted in accordance with this subchapter.

(d) Participants. In addition to the items set forth in 3 V.S.A. § 129a, it shall be unprofessional conduct for a participant to do any of the following:

(1) for a referee, to unreasonably fail to comply with the rules adopted by the Director in accordance with this subchapter for the conduct of a mixed martial arts match;

(2) for a referee, match-maker, or judge, to directly or indirectly have any financial interest in an individual competing in a mixed martial arts match at which the referee, match-maker, or judge is acting as a judge, match-maker, or referee; or

(3) any other activity as established by the Director in rules adopted in accordance with this subchapter.

§ 6041. INSPECTIONS

The Director or designee may inspect facilities, including the ring, where a mixed martial arts match is to be held, before or during any match or event, and the records required for each licensee and the event or match in accordance with this subchapter and rules adopted pursuant to this subchapter. The Director or designee may suspend an event license immediately for failure to comply with this subchapter or with any rules adopted in accordance with this subchapter.

§ 6042. AGE

No individual under 18 years of age shall engage in a mixed martial arts event, including a sole match, in which money, a prize or purse, or other form of monetary compensation is offered or given to any contestant.

§ 6043. INJUNCTION

The Director may, in addition to other remedies available under law, bring an action in a court of this State to enjoin a person from continuing any violation of this subchapter or doing any acts in furtherance thereof and for any other relief that the court deems appropriate.

* * * Boxing * * *

Sec. 16. REDESIGNATIONS; BOXING

(a) 31 V.S.A. chapter 21 is redesignated as 26 V.S.A. chapter 107, subchapter 1.

(b) 31 V.S.A. §§ 1101–1113 are redesignated as 26 V.S.A. §§ 6001–6013, respectively.

Sec. 17. CONFORMING CHANGES

When preparing the Vermont States Annotated for publication, the Office of Legislative Counsel shall revise any cross-references to 31 V.S.A. chapter 21 and its sections as redesignated and codified in Sec. 16 of this act.

* * * Endorsement Process * * *

Sec. 18. 3 V.S.A. § 136a is amended to read:

§ 136a. UNIFORM PROCESS FOR ENDORSEMENT FROM OTHER STATES

(a) ~~Except~~ Notwithstanding any statute or rule to the contrary and except as provided in subsection (b) of this section, all professions attached to the Office shall have an endorsement process that requires not more than three years of practice in good standing in another jurisdiction within the United States, regardless of whether that jurisdiction has licensing requirements substantially similar to those of this State.

(b) Any profession determining that three years of demonstrated practice in another jurisdiction is not adequately protective of the public shall provide its rationale to the Director, who may propose any necessary statutory or rule amendments in order to implement more restrictive requirements for endorsement.

(c) The Director may issue to an endorsement applicant a waiver of the profession's practice requirement if there is a showing that the waiver follows State policy and the public is adequately protected.

* * * Home Health Nursing * * *

Sec. 19. 2020 Acts and Resolves No. 90, as amended by 2020 Acts and Resolves No. 140, Sec. 13, and 2021 Acts and Resolves No. 6, Sec. 1, is further amended to read:

* * * Supporting Health Care and Human Service
Provider Sustainability * * *

Sec. 1. AGENCY OF HUMAN SERVICES; HEALTH CARE AND
HUMAN SERVICE PROVIDER SUSTAINABILITY

* * *

* * * Regulation of Professions * * *

* * *

Sec. 17. OFFICE OF PROFESSIONAL REGULATION; BOARD OF
MEDICAL PRACTICE; OUT-OF-STATE HEALTH CARE
PROFESSIONALS

(a) Notwithstanding any provision of Vermont's professional licensure statutes or rules to the contrary, through March 31, 2022, a health care professional, including a mental health professional, who holds a valid license, certificate, or registration to provide health care services in any other U.S. jurisdiction shall be deemed to be licensed, certified, or registered to provide health care services, including mental health services, to a patient located in Vermont using telehealth;² as a volunteer member of the Medical Reserve Corps;² or as part of the staff of a licensed facility, other health care facility as defined in 18 V.S.A. § 9432, or federally qualified health center, provided the health care professional:

(1) is licensed, certified, or registered in good standing in the other U.S. jurisdiction or jurisdictions in which the health care professional holds a license, certificate, or registration;

(2) is not subject to any professional disciplinary proceedings in any other U.S. jurisdiction; and

(3) is not affirmatively barred from practice in Vermont for reasons of fraud or abuse, patient care, or public safety.

(b) A health care professional who plans to provide health care services in Vermont as a volunteer member of the Medical Reserve Corps or as part of the staff of a licensed facility, other health care facility as defined in 18 V.S.A. § 9432, or federally qualified health center shall submit or have submitted on the individual's behalf the individual's name, contact information, and the location or locations at which the individual will be practicing to:

(1) the Board of Medical Practice for medical doctors, physician assistants, and podiatrists; or

(2) the Office of Professional Regulation for all other health care professions.

(c) A health care professional who delivers health care services in Vermont pursuant to subsection (a) of this section shall be subject to the imputed jurisdiction of the Board of Medical Practice or the Office of Professional Regulation, as applicable based on the health care professional's profession, in accordance with Sec. 19 of this act.

(d)(1) This section shall remain in effect through March 31, 2022, provided the health care professional remains licensed, certified, or registered in good standing.

(2) The Board of Medical Practice and Office of Professional Regulation shall provide appropriate notice of the March 31, 2022 expiration date of this section to:

(A) health care professionals providing health care services in Vermont under this section;

(B) the Medical Reserve Corps; and

(C) health care facilities and federally qualified health centers at which health care professionals are providing services under this section.

Sec. 18. INACTIVE LICENSEES; BOARD OF MEDICAL PRACTICE;
OFFICE OF PROFESSIONAL REGULATION

(a)(1) Through March 31, 2022, a former health care professional, including a mental health professional, whose Vermont license, certificate, or registration became inactive not more than three years earlier and was in good standing at the time it became inactive may provide health care services, including mental health services, to a patient located in Vermont using telehealth; as a volunteer member of the Medical Reserve Corps; or as part of the staff of a licensed facility, other health care facility as defined in 18 V.S.A. § 9432, or federally qualified health center after submitting, or having submitted on the individual's behalf, to the Board of Medical Practice or

Office of Professional Regulation, as applicable, the individual's name, contact information, and the location or locations at which the individual will be practicing.

(2) A former health care professional who returns to the Vermont health care workforce pursuant to this subsection shall be subject to the regulatory jurisdiction of the Board of Medical Practice or the Office of Professional Regulation, as applicable.

(3) The Board of Medical Practice and Office of Professional Regulation shall provide appropriate notice of the March 31, 2022 expiration date of this section to:

(A) health care professionals providing health care services under this section;

(B) the Medical Reserve Corps; and

(C) health care facilities and federally qualified health centers at which health care professionals are providing services under this section.

(b) Through March 31, 2022, the Board of Medical Practice and the Office of Professional Regulation may permit former health care professionals, including mental health professionals, whose Vermont license, certificate, or registration became inactive more than three but less than 10 years earlier and was in good standing at the time it became inactive to return to the health care workforce on a temporary basis to provide health care services, including mental health services, to patients in Vermont. The Board of Medical Practice and Office of Professional Regulation may issue temporary licenses to these individuals at no charge and may impose limitations on the scope of practice of returning health care professionals as the Board or Office deems appropriate.

* * *

Sec. 20. 3 V.S.A. § 129a is amended to read:

§ 129a. UNPROFESSIONAL CONDUCT

(a) In addition to any other provision of law, the following conduct by a licensee constitutes unprofessional conduct. When that conduct is by an applicant or person who later becomes an applicant, it may constitute grounds for denial of a license or other disciplinary action. Any one of the following items or any combination of items, whether the conduct at issue was committed within or outside the State, shall constitute unprofessional conduct:

* * *

(10) Conviction of a crime related to the practice of the profession or conviction of a felony, whether or not related to the practice of the profession. If an individual has a conviction of concern, the board or hearing officer shall consider the following in determining whether to deny or discipline a license, certification, or registration to the individual based on the following factors:

(A) the nature and seriousness of the conviction;

(B) the amount of time since the commission of the crime;

(C) the relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the profession; and

(D) evidence of rehabilitation or treatment.

* * *

* * * Effective Dates * * *

Sec. 21. EFFECTIVE DATES

This act shall take effect on passage except that Secs. 2–7 and Secs. 13–17 shall take effect on July 1, 2021.

(Committee vote: 5-0-0)

(No House amendments.)

Reported favorably with recommendation of proposal of amendment by Senator Hardy for the Committee on Finance.

The Committee recommends that the bill be amended as recommended by the Committee on Government Operations with the following amendment thereto:

By adding a new section to be Sec. 15a to read as follows:

Sec. 15a. 31 V.S.A. § 1101 is redesignated and amended to read:

§ ~~1101~~ 6001. DEFINITIONS

As used in this ~~chapter~~ subchapter:

(1) “Boxer” means an individual who participates in a boxing match.

(2) “Boxing match” or “match” means a contest or training exhibition for a prize or purse where an admission fee is charged and where individuals score points by striking the head and upper torso of an opponent with padded fists. An amateur match is a match held under the supervision of a school, college, or university; under the supervision of United States Amateur Boxing, Inc. or its successor as the nationally designated governing body for amateur

boxing; or, for any other amateur match, under the supervision of a nationally designated governing body. All other matches shall be considered professional matches. ~~Kickboxing, martial arts, and mixed martial arts, as defined in this section, shall be considered “matches” for the purposes of this chapter.~~

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

(4) “Disciplinary action” includes any action by the administrative law officer appointed under 3 V.S.A. § 129, premised upon a finding of wrongdoing. It includes all sanctions of any kind, including denying, suspending, or revoking a registration and issuing warnings.

(5) “Health care provider” means a health care practitioner licensed in Vermont who is permitted under ~~his or her~~ the practitioner’s statutory or regulatory scope of practice to conduct the types of examinations set forth in ~~this chapter~~ subchapter.

~~(6) “Kickboxing” means unarmed combat involving the use of striking techniques delivered with the upper and lower body and in which the competitors remain standing while striking.~~

~~(7) “Martial arts” means any form of unarmed combative sport or unarmed combative entertainment that allows contact striking, except boxing or wrestling.~~

~~(8) “Mixed martial arts” means unarmed combat involving the use of a combination of techniques from different disciplines of the martial arts, including grappling, submission holds, and strikes with the upper and lower body.~~

~~(9)~~(6) “Manager” means a person who receives compensation for service as an agent or representative of a professional boxer.

~~(10)~~(7) “National Boxer Registry” means an entity certified by the Association of Boxing Commissions for the purpose of maintaining records for the identification of professional boxers and for tracking their records and suspensions.

~~(11)~~(8) “Participant” means managers, seconds, referees, and judges in a professional boxing match.

~~(12)~~(9) “Promoter” means a person that organizes, holds, advertises, or otherwise conducts a professional boxing match.

(Committee vote: 7-0-0)

Reported favorably by Senator Starr for the Committee on Appropriations.

The Committee recommends that the bill ought to pass in concurrence with proposals of amendment as recommended by the Committees on Government Operations and Finance.

(Committee vote: 7-0-0)

House Proposal of Amendment

S. 3

An act relating to competency to stand trial and insanity as a defense.

The House proposes to the Senate to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

*** Competency to Stand Trial and Sanity at the Time of the Offense ***

Sec. 1. 13 V.S.A. § 4816 is amended to read:

§ 4816. SCOPE OF EXAMINATION; REPORT; EVIDENCE

(a) Examinations provided for in section 4815 of this title shall have reference to one or both of the following:

(1) ~~mental~~ Mental competency of the person examined to stand trial for the alleged offense; ~~and~~.

(2) ~~sanity~~ Sanity of the person examined at the time of the alleged offense.

(b) A competency evaluation for an individual thought to have a developmental disability shall include a current evaluation by a psychologist skilled in assessing individuals with developmental disabilities.

(c)(1) As soon as practicable after the examination has been completed, the examining psychiatrist or, if applicable under subsection 4816(b) of this title, the psychiatrist and the psychologist, if applicable, shall prepare a report containing findings in regard to ~~each of the matters listed in applicable provisions of~~ subsection (a) of this section. The report shall be transmitted to the court issuing the order for examination, and copies of the report sent to the State's Attorney, ~~and, to the respondent,~~ to the respondent's attorney if the respondent is represented by counsel, to the Commissioner of Mental Health, and, if applicable, to the Department of Disabilities, Aging, and Independent Living.

(2) If the court orders examination of both the person's competency to stand trial and the person's sanity at the time of the alleged offense, those opinions shall be presented in separate reports and addressed separately by the court. In such cases, the examination of the person's sanity shall only be undertaken if the psychiatrist or, if applicable under subsection 4816(b) of this title, the psychiatrist and the psychologist are able to form the opinion that the person is competent to stand trial, unless the defendant requests that the examinations occur concurrently. If the evaluation of the defendant's sanity at the time of the alleged offense does not occur until the defendant is deemed competent to stand trial, the psychiatrist or, if applicable under subsection 4816(b) of this title, the psychiatrist and the psychologist shall make a reasonable effort to collect and preserve any evidence necessary to form an opinion as to sanity if the person regains competence.

* * *

Sec. 2. 13 V.S.A. § 4820 is amended to read:

§ 4820. HEARING REGARDING COMMITMENT

(a) When a person charged on information, complaint, or indictment with a criminal offense:

(1) Is reported by the examining psychiatrist following examination pursuant to sections 4814–4816 of this title to have been insane at the time of the alleged offense.

(2) Is found upon hearing pursuant to section 4817 of this title to be incompetent to stand trial due to a mental disease or mental defect.

(3) Is not indicted upon hearing by grand jury by reason of insanity at the time of the alleged offense, duly certified to the court.

(4) Upon trial by court or jury is acquitted by reason of insanity at the time of the alleged offense; the court before which such person is tried or is to be tried for such offense, shall hold a hearing for the purpose of determining whether such person should be committed to the custody of the Commissioner of Mental Health. Such person may be confined in jail or some other suitable place by order of the court pending hearing for a period not exceeding 15 days.

(b) When a person is found to be incompetent to stand trial, has not been indicted by reason of insanity for the alleged offense, or has been acquitted by reason of insanity at the time of the alleged offense, the person shall be entitled to have counsel appointed from Vermont Legal Aid to represent the person. The Department of Mental Health and, if applicable, the Department of Disabilities, Aging, and Independent Living shall be entitled to appear and call witnesses at the proceeding.

Sec. 3. 13 V.S.A. § 4822 is amended to read:

§ 4822. FINDINGS AND ORDER; PERSONS WITH A MENTAL ILLNESS

(a) If the court finds that the person is a person in need of treatment or a patient in need of further treatment as defined in 18 V.S.A. § 7101, the court shall issue an order of commitment directed to the Commissioner of Mental Health that shall admit the person to the care and custody of the Department of Mental Health for an indeterminate period. In any case involving personal injury or threat of personal injury, the committing court may issue an order requiring a court hearing before a person committed under this section may be discharged from custody.

(b) An order of commitment issued pursuant to this section shall have the same force and effect as an order issued under 18 V.S.A. §§ 7611–7622, and a person committed under this order shall have the same status and the same rights, including the right to receive care and treatment, to be examined and discharged, and to apply for and obtain judicial review of his or her case, as a person ordered committed under 18 V.S.A. §§ 7611–7622.

(c)(1) Notwithstanding the provisions of subsection (b) of this section, at least 10 days prior to the proposed discharge of any person committed under this section, the Commissioner of Mental Health shall give notice of the discharge to the committing court and State’s Attorney of the county where the prosecution originated. In all cases requiring a hearing prior to discharge of a person found incompetent to stand trial under section 4817 of this title, the hearing shall be conducted by the committing court issuing the order under that section. In all other cases, when the committing court orders a hearing under subsection (a) of this section or when, in the discretion of the Commissioner of Mental Health, a hearing should be held prior to the discharge, the hearing shall be held in the Family Division of the Superior Court to determine if the committed person is no longer a person in need of treatment or a patient in need of further treatment as set forth in subsection (a) of this section. Notice of the hearing shall be given to the Commissioner, the State’s Attorney of the county where the prosecution originated, the committed person, and the person’s attorney. Prior to the hearing, the State’s Attorney may enter an appearance in the proceedings and may request examination of the patient by an independent psychiatrist, who may testify at the hearing.

(2)(A) This subdivision (2) shall apply when a person is committed to the care and custody of the Commissioner of Mental Health under this section after having been found:

(i) not guilty by reason of insanity; or

(ii) incompetent to stand trial, provided that the person's criminal case has not been dismissed.

(B)(i) When a person has been committed under this section, the Commissioner shall provide notice to the State's Attorney of the county where the prosecution originated or to the Office of the Attorney General if that office prosecuted the case:

(I) at least 10 days prior to discharging the person from:

(aa) the care and custody of the Commissioner; or

(bb) a hospital or a secure residential recovery facility to the community on an order of nonhospitalization pursuant to 18 V.S.A. § 7618;

(II) at least 10 days prior to the expiration of a commitment order issued under this section if the Commissioner does not seek continued treatment; or

(III) any time that the person elopes from the custody of the Commissioner.

(ii) When the State's Attorney or Attorney General receives notice under subdivision (i) of this subdivision (B), the Office shall provide notice of the action to any victim of the offense for which the person has been charged who has not opted out of receiving notice.

(iii) As used in this subdivision (B), "victim" has the same meaning as in section 5301 of this title.

* * *

Sec. 4. Vermont Rule of Criminal Procedure 16.1 is amended to read:

RULE 16.1. DISCLOSURE TO THE PROSECUTION

(a) The Person of the Defendant.

(1) Notwithstanding the initiation of judicial proceedings, and subject to constitutional limitations, upon motion and notice a judicial officer may require the defendant to:

* * *

(H) provide specimens of ~~his~~ the defendant's handwriting; ~~and~~

(I) submit to a reasonable physical or medical inspection of ~~his~~ the defendant's body or, if notice is given by the defendant that sanity is in issue or that expert testimony will be offered as provided in Rule 12.1, to a reasonable mental examination by a psychiatrist or other expert; and

(J) submit to a reasonable mental examination by a psychiatrist or other expert when a court ordered examiner pursuant to 13 V.S.A. § 4814(a)(2) or (4) reports that a defendant is not competent to stand trial.

* * *

*** Reports and Studies ***

Sec. 5. CORRECTIONS; ASSESSMENT OF MENTAL HEALTH SERVICES

(a) On or before January 1, 2022, the Departments of Corrections and of Mental Health shall jointly submit an inventory and evaluation of the mental health services provided by the entity with whom the Department of Corrections contracts for health care services to the House Committees on Corrections and Institutions, on Health Care, and on Judiciary and to the Senate Committees on Health and Welfare and on Judiciary.

(b) The evaluation shall include:

(1) a comparison as to how the type, frequency, and timeliness of mental health services provided in a correctional setting differ from those services available in the community, recognizing that comparison to currently available community services does not necessarily establish the standard of care for best practices;

(2) a comparison as to how the type, frequency, and timeliness of mental health services differ among Vermont correctional settings, including between men's and women's facilities, and from those mental health services provided to individuals under the care and custody of the Department of Corrections incarcerated in an out-of-state correctional facility;

(3) an assessment as to how the use of a for-profit entity with whom the Department of Corrections contracts for health care services affects costs or quality of care in correctional settings;

(4) an assessment as to whether the Department of Mental Health should provide oversight authority for mental health services provided by the entity with whom the Department of Corrections contracts for health care services; and

(5) information as to how the memorandum of understanding executed by the Departments of Corrections and of Mental Health impacts the mental health services provided by the entity with whom the Department of Corrections contracts for health care services and whether it is adequately addressing needs of those individuals with severe illness or in need of inpatient care.

(c) In conducting the work required by this section, the Departments of Corrections and of Mental Health shall ensure that social and racial equity issues are considered, including issues related to transgender and gender nonconforming persons.

Sec. 6. FORENSIC CARE WORKING GROUP

(a) On or before July 15, 2021, the Department of Mental Health shall convene a working group of interested stakeholders to provide recommendations necessary to carry out the provisions in subsections (b) and (c) of this section, including as appropriate:

- (1) a representative from the Department of Corrections;
- (2) a representative from the Department of Disabilities, Aging, and Independent Living;
- (3) the Chief Superior Judge;
- (4) a representative from the Department of State's Attorneys and Sheriffs;
- (5) a representative from the Office of the Attorney General;
- (6) a representative from the Office of the Defender General;
- (7) the Director of Health Care Reform or designee;
- (8) a representative appointed by Vermont Care Partners;
- (9) a representative appointed by Vermont Legal Aid's Mental Health Project;
- (10) a representative appointed by the Vermont Medical Society;
- (11) three crime victims representatives, appointed by the Vermont Center for Crime Victim Services;
- (12) the Mental Health Care Ombudsman established pursuant to 18 V.S.A. § 7259 or designee;
- (13) a representative of the designated hospitals, appointed by the Vermont Association of Hospitals and Health Care Systems;
- (14) three individuals with lived experience of mental illness, at least one of whom has lived experience of the criminal justice system or the civil commitment system, or both, appointed by Vermont Psychiatric Survivors;
- (15) a representative appointed by the Vermont Developmental Disabilities Council; and

(16) any other interested party permitted by the Commissioner of Mental Health.

(b)(1) On or before January 15, 2022, the Department of Mental Health shall submit a preliminary report to the House Committees on Corrections and Institutions, on Health Care, and on Judiciary and to the Senate Committees on Health and Welfare and on Judiciary addressing:

(A) any gaps in the current mental health and criminal justice system structure;

(B) opportunities to:

(i) improve public safety and address the treatment needs for individuals incompetent to stand trial or who are adjudicated not guilty by reason of insanity; and

(ii) consider the importance of victims' rights in the forensic care process;

(C) competency restoration models used in other states, including both:

(i) models that do not rely on involuntary medication to restore competency; and

(ii) how cases where competency is not restored are addressed;

(D) models used in other states to determine public safety risks and the means used to address such risks, including guilty but mentally ill verdicts in criminal cases;

(E) due process requirements for defendants held without adjudication of a crime and presumed innocent;

(F) processes regarding other mental conditions affecting competence or sanity, including intellectual disabilities, traumatic brain injury, and dementia;

(G) models for forensic treatment, including inpatient treatment, community-based treatment, or other treatment models; and

(H) any additional recommendations to address the gaps in the current mental health and criminal justice system structures and opportunities to improve public safety and address the treatment needs for individuals incompetent to stand trial or who are adjudicated not guilty by reason of insanity.

(2) Based on the recommendations in the preliminary report submitted to the General Assembly pursuant to subdivision (1) of this subsection, the Department shall submit a second preliminary report to the House Committees on Corrections and Institutions, on Health Care, and on Judiciary and to the Senate Committees on Health and Welfare and on Judiciary on or before April 15, 2022 as to whether or not a forensic treatment facility is needed in Vermont.

(3) On or before September 15, 2022, the Department shall submit a final report to the Joint Legislative Justice Oversight Committee that refines and finalizes the recommendations made pursuant to subdivisions (1) and (2) of this subsection, including addressing the size, scope, and fiscal impact of any forensic treatment facility if one is recommended in subdivision (2).

(c) On or before February 1, 2022, the Department of Mental Health shall submit a report to the House Committees on Corrections and Institutions, on Health Care, and on Judiciary and to the Senate Committees on Health and Welfare and on Judiciary that assesses the necessity of notification to the prosecutor upon becoming aware that individuals on orders of nonhospitalization pursuant to 18 V.S.A. § 7618 are not complying with the order or that the alternative treatment is not adequate to meet the individual's treatment needs, including any recommendations:

(1) necessary to clarify the process;

(2) addressing what facts and circumstances should trigger the Commissioner's duty to notify the prosecutor; and

(3) addressing steps that the prosecutor should take after receiving the notification.

(d)(1) In conducting the work required by this section, including evaluations for forensic treatment facility models pursuant to subdivision (b)(2) of this section, the working group shall ensure:

(A) that social and racial equity issues are considered, including issues related to transgender and gender nonconforming persons; and

(B) consistency with the General Assembly's policy in 18 V.S.A. § 7629(c) of working "toward a mental health system that does not require coercion or the use of involuntary medication."

(2) These considerations shall be reflected in the final report submitted pursuant to subdivision (b)(3) of this section and the report submitted pursuant to subsection (c) of this section.

(e) The Department shall access regional or national expertise to present models to the working group for review, including any model recommended by members of the working group.

(f) The final report submitted pursuant to subdivision (b)(3) of this section and the report submitted pursuant to subsection (c) of this section shall include proposed draft legislation addressing any identified needed changes to statute.

(g) Members of the working group who are neither State employees nor otherwise paid to participate in the working group in their professional capacity shall be entitled to per diem compensation and reimbursement of expenses for attending meetings as permitted under 32 V.S.A. § 1010.

* * * Amendment of the Joint Legislative Justice Oversight Committee * * *

Sec. 7. 2 V.S.A. § 801 is amended to read:

§ 801. CREATION OF COMMITTEE

* * *

(b) The Committee shall be composed of ~~10~~ 12 members: ~~five~~ six members of the House of Representatives, who shall not all be from the same party, appointed by the Speaker of the House; and ~~five~~ six members of the Senate, who shall not all be from the same party, appointed by the Committee on Committees. In addition to one ~~member-at-large~~ member at large appointed ~~from each chamber,~~ by the House and two members at large appointed by the Senate, one appointment shall be made from each of the House and Senate Committees on Appropriations and on Judiciary, the Senate Committees on Health and Welfare and on Institutions, and the House Committees on Corrections and Institutions, on Health Care, and on Human Services.

* * *

* * * Appropriations * * *

Sec. 8. APPROPRIATIONS

The sum of \$530,000.00 is appropriated from the General Fund to the Department of Mental Health to be allocated as follows:

(1) \$250,000.00 to contract with Vermont Legal Aid for the purpose of providing legal representation in commitment proceedings pursuant to 13 V.S.A. § 4820.

(2) \$250,000.00 to provide legal representation and independent psychiatric evaluations in connection with commitment proceedings pursuant to 13 V.S.A. § 4820.

(3) \$25,000.00 to support the work of the Forensic Care Working Group established by Sec. 6 of this act.

(4) \$5,000.00 for per diem compensation and reimbursement of expenses as permitted by 32 V.S.A. § 1010 to members of the Forensic Care Working Group established by Sec. 6 of this act.

* * * Effective Date * * *

Sec. 9. EFFECTIVE DATE

This act shall take effect on July 1, 2021.

Proposal of amendment to House proposal of amendment to S. 3 to be offered by Senator Sears

Senator Sears moves that the Senate concur in the House proposal of amendment with a proposal of amendment as follows:

First: By striking out Sec. 6, forensic care working group, in its entirety and inserting in lieu thereof a new Sec. 6 to read as follows:

Sec. 6. REPORTS; FORENSIC CARE WORKING GROUP; PROSECUTOR NOTIFICATION; COMPETENCY RESTORATION MODELS

(a) On or before July 15, 2021, the Department of Mental Health shall convene working groups of interested stakeholders to provide recommendations necessary to carry out the provisions in subsections (b), (c), and (d) of this section, including as appropriate:

(1) a representative from the Department of Corrections;

(2) a representative from the Department of Disabilities, Aging, and Independent Living;

(3) a representative from the Department of Buildings and General Services;

(4) the Chief Superior Judge;

(5) a representative from the Department of State's Attorneys and Sheriffs;

(6) a representative from the Office of the Attorney General;

(7) a representative from the Office of the Defender General;

(8) the Director of Health Care Reform or designee;

(9) a representative, appointed by Vermont Care Partners;

(10) a representative, appointed by Vermont Legal Aid's Mental Health Project;

(11) a representative, appointed by the Vermont Medical Society;

(12) three crime victims representatives, appointed by the Vermont Center for Crime Victim Services;

(13) the Mental Health Care Ombudsman established pursuant to 18 V.S.A. § 7259 or designee;

(14) a representative of the designated hospitals, appointed by the Vermont Association of Hospitals and Health Care Systems;

(15) three individuals with lived experience of mental illness, at least one of whom has lived experience of the criminal justice system or the civil commitment system, or both, appointed by Vermont Psychiatric Survivors;

(16) a representative appointed by the Vermont Developmental Disabilities Council; and

(17) any other interested party permitted by the Commissioner of Mental Health.

(b)(1) On or before August 1, 2022, the Department of Mental Health shall submit a final report to the Joint Legislative Justice Oversight Committee and the chairs of the House Committees on Corrections and Institutions, on Health Care, and on Judiciary and of the Senate Committees on Health and Welfare and on Judiciary addressing:

(A) any gaps in the current mental health and criminal justice system structure related to individuals incompetent to stand trial or who are adjudicated not guilty by reason of insanity;

(B) opportunities to:

(i) improve public safety and address the treatment needs for individuals incompetent to stand trial or who are adjudicated not guilty by reason of insanity; and

(ii) consider the importance of victims' rights in the forensic care process;

(C) models used in other states to determine public safety risks and the means used to address such risks, including guilty but mentally ill verdicts in criminal cases;

(D) due process requirements for defendants held without adjudication of a crime and presumed innocent;

(E) processes regarding other mental conditions affecting competence or sanity, including intellectual disabilities, traumatic brain injury, and dementia;

(F) models for forensic treatment, including the size, scope, and fiscal impact of any forensic treatment facility; and

(G) any additional recommendations.

(2) On or before January 15, 2022, the Department shall submit a preliminary report to the House Committees on Corrections and Institutions, on Health Care, and on Judiciary and to the Senate Committees on Health and Welfare and on Judiciary summarizing the work completed pursuant to subdivision (1) of this subsection to date.

(c) On or before February 1, 2022, the Department of Mental Health shall submit a report to the House Committees on Corrections and Institutions, on Health Care, and on Judiciary and to the Senate Committees on Health and Welfare and on Judiciary that assesses the necessity of notification to the prosecutor upon becoming aware that individuals on orders of nonhospitalization pursuant to 18 V.S.A. § 7618 are not complying with the order or that the alternative treatment is not adequate to meet the individual's treatment needs, including any recommendations:

(1) necessary to clarify the process;

(2) addressing what facts and circumstances should trigger the Commissioner's duty to notify the prosecutor; and

(3) addressing steps that the prosecutor should take after receiving the notification.

(d) On or before January 15, 2023, the Department of Mental Health shall submit a report to the House Committees on Corrections and Institutions, on Health Care, and on Judiciary and to the Senate Committees on Health and Welfare and on Judiciary comparing competency restoration models and addressing how cases where competency is not restored are addressed.

(e)(1) In conducting the work required by this section, including evaluations for forensic treatment facility models pursuant to subsection (b) of this section, the working group shall ensure:

(A) that social and racial equity issues are considered, including issues related to transgender and gender nonconforming persons; and

(B) consistency with the General Assembly's policy in 18 V.S.A. § 7629(c) of working "toward a mental health system that does not require coercion or the use of involuntary medication."

(2) These considerations shall be reflected in the final report submitted pursuant to subdivision (b)(1) of this section and the reports submitted pursuant to subsections (c) and (d) of this section.

(f) The Department shall access regional or national expertise to present models to the working group for review, including any model recommended by members of the working group.

(g) The final report submitted pursuant to subdivision (b)(1) of this section and the reports submitted pursuant to subsections (c) and (d) of this section shall include proposed draft legislation addressing any identified needed changes to statute.

(h) Members of the working group who are neither State employees nor otherwise paid to participate in the working group in their professional capacity shall be entitled to per diem compensation and reimbursement of expenses for attending meetings as permitted under 32 V.S.A. § 1010.

Second: By striking out Sec. 7, creation of Committee, and its reader assistance heading in their entirety and inserting in lieu thereof:

Sec. 7 [Deleted.]

NOTICE CALENDAR

Second Reading

Favorable

J.R.H. 6.

Joint resolution relating to racism as a public health emergency.

Reported favorably by Senator Hardy for the Committee on Health and Welfare.

(Committee vote: 5-0-0)

(No House amendments)

House Proposals of Amendment

S. 47

An act relating to motor vehicle manufacturers, dealers, and warranty or service facilities.

The House proposes to the Senate to amend the bill as follows:

First: In Sec. 2, 9 V.S.A. § 4085(18), in subdivision (18), by striking out the words “zero emissions” and inserting in lieu thereof the words zero-emission

Second: In Sec. 2, 9 V.S.A. § 4085(18), in subdivision (18)(D), by striking out the words “zero emissions” and inserting in lieu thereof the words zero-emission

Third: In Sec. 3, 9 V.S.A. § 4086(i), in subdivision (i)(3), by striking out the words “zero emissions” and inserting in lieu thereof the words zero-emission

Fourth: By striking out Sec. 4, 9 V.S.A. § 4097, in its entirety and inserting in lieu thereof the following:

Sec. 4. 9 V.S.A. § 4097 is amended to read:

§ 4097. MANUFACTURER VIOLATIONS

It shall be a violation of this chapter for any manufacturer defined under this chapter:

* * *

(8)(A) To compete with a new motor vehicle dealer ~~in the same line-~~ make operating under an agreement or franchise from the aforementioned manufacturer ~~in the relevant market area~~ in the State.

(B) For purposes of this subdivision (8), any manufacturer that is not a non-franchised zero-emission vehicle manufacturer competes with a new motor vehicle dealer if it engages in the business of any of the following with respect to new motor vehicles:

- (i) selling or leasing;
- (ii) offering to sell or lease; or
- (iii) soliciting or advertising the sale or lease.

(C) A manufacturer shall not, however, be deemed to be competing when operating a dealership either temporarily for a reasonable period, or in a bona fide retail operation that is for sale to any qualified independent person at a fair and reasonable price, or in a bona fide relationship in which an independent person has made a significant investment subject to loss in the dealership and can reasonably expect to acquire full ownership of the dealership on reasonable terms and conditions.

* * *

Sec. 4a. 9 V.S.A. § 4097(8) is amended to read:

(8)(A) To compete with a new motor vehicle dealer operating under an agreement or franchise from the aforementioned in the State.

(B) For purposes of this subdivision (8), any manufacturer that is not a non-franchised zero-emission vehicle manufacturer competes with a new motor vehicle dealer if it engages in the business of any of the following with respect to new motor vehicles or the retail sale of parts and accessories for those new motor vehicles:

- (i) selling or leasing;
- (ii) offering to sell or lease; or
- (iii) soliciting or advertising the sale or lease; or
- (iv) offering through a subscription or like agreement.

* * *

Fifth: By striking out Sec. 6, effective date, in its entirety and inserting in lieu thereof the following:

Sec. 6. EFFECTIVE DATES

(a) Sec. 4a (9 V.S.A. § 4097(8); manufacturer violations) shall take effect on July 1, 2022.

(b) All other sections shall take effect on passage.

S. 48

An act relating to Vermont's adoption of the interstate Nurse Licensure Compact.

The House proposes to the Senate to amend the bill as follows:

First: By adding a new section to be Sec. 1a to read as follows:

Sec. 1a. SECRETARY OF STATE; OFFICE OF PROFESSIONAL
REGULATION; REPORT

On or before January 15, 2024, the Office of Professional Regulation shall report to the House Committees on Health Care and on Government Operations and to the Senate Committees on Health and Welfare and on Government Operations concerning the implementation of 26 V.S.A. chapter 28, subchapter 5, including:

(1) the number of compact licensees and single state licenses issued annually following the adoption of the Nurse Licensure Compact and noting how many of those license fees were paid by a licensee and how many were paid by an employer or other entity on behalf of a licensee;

(2) the resources necessary to implement the Nurse Licensure Compact ;

(3) the fiscal impact on the Vermont State Board of Nursing’s special fund; and

(4) if the Office of Professional Regulation determines that implementation of the Nurse Licensure Compact has resulted in a reduction of revenue available to the Vermont Board of Nursing, the Office shall include in its report:

(A) a proposal to manage the reduction through administrative efficiencies; and

(B) if the Office is not able to manage the reduction in revenue through administrative efficiencies, a proposal to address the reduction through an increase in the license fee for a compact multistate license only.

Second: In Sec. 1, 26 V.S.A. chapter 28, subchapter 5, in section 1648, in subsection (a), in subdivision (2), following “taken against that nurse;” by inserting “and” and by striking out subdivision (a)(3) in its entirety and redesignating subdivision (a)(4) to be subdivision (a)(3)

House Proposals of Amendment to Senate Proposals of Amendment

H. 426

An act relating to addressing the needs and conditions of public school facilities in the State

The House concurs in the Senate proposal of amendment with further amendment thereto as follows:

First: In Sec. 3, school facilities inventory and conditions assessment; Agency of Education; Department of Buildings and General Services; report, in subsection (a), by striking out “coordination” and inserting in lieu thereof consultation

Second: In Sec. 10, State Energy Management Program; financing for schools, by striking out “coordination” and inserting in lieu thereof consultation

Third: In Sec. 12, radon testing; school facilities; Department of Health, in the title, by striking out “; Department of Health”; by striking out subsection (a) in its entirety and inserting in lieu thereof the following:

(a) On or before June 30, 2023, each public school and approved independent school, as defined in 16 V.S.A. § 11, shall perform a radon measurement in accordance with the ANSI/AARST protocol for conducting Radon and Radon Decay Products in Schools and Large Buildings (MALB-

2014) on any facility that has not had a test completed in five or more years; provided, however, that any public school or approved independent school that is engaged in implementing an indoor air quality improvement project prior to June 30, 2023 shall perform a radon measurement on or before June 30, 2024.

And in subsection (b), by inserting and approved independent school after “public school”

H. 435

An act relating to miscellaneous Department of Corrections-related amendments

The House concurs in the Senate proposal of amendment with further amendment thereto as follows:

First: In Sec. 2, 28 V.S.A. § 123, in subsection (b), in subdivision (1), following “shall be composed of the following,” by striking out “nine” and inserting in lieu thereof eight

Second: In Sec. 2, 28 V.S.A. § 123, in subsection (b), in subdivision (1), by striking out subdivisions (F)–(H) in their entireties and inserting in lieu thereof the following:

(F) a former management-level employee of the Department of Corrections with experience in corrections management, appointed by the Governor; and

(G) an individual at large with knowledge of and experience in the correctional system, crime prevention, human resources, or compliance, appointed by the Governor.

Third: In Sec. 2, 28 V.S.A. § 123, in subsection (c), in subdivision (2), following “The Commission may,” by striking out “interview current Department employees and individuals in the custody of the Department, review exit interview records for former Department employees” and inserting in lieu thereof engage with current and former Department employees and individuals in the custody of the Department, review the Analysis of State of Vermont Employee Engagement Survey Results from the Department of Human Resources

Fourth: In Sec. 2, 28 V.S.A. § 123, in subsection (c), in subdivision (4), following “Beginning on January 1, 2023,” by striking out “, report annually” and inserting in lieu thereof , submit an annual report

Fifth: By striking out Sec. 3, sunset of Corrections Monitoring Commission, in its entirety and inserting in lieu thereof a new Sec. 3 to read as follows:

Sec. 3. SUNSET OF CORRECTIONS MONITORING COMMISSION
REPORT; SUNSET OF COMMISSION

(a) 28 V.S.A. § 123(c)(4) (Commission report) is repealed on July 1, 2024.

(b) 28 V.S.A. § 123 (Department of Corrections Monitoring Commission) is repealed on July 1, 2025.

Sixth: In Sec. 4, implementation of the Corrections Monitoring Commission, in subsection (c), in subdivision (1), by striking out subdivisions (F)–(H) in their entireties and inserting in lieu thereof the following:

(F) the Governor shall appoint a member to fill the position designated in subdivision (b)(1)(F) of Sec. 2 of this act for a two-year term; and

(G) the Governor shall appoint a member to fill the position designated in subdivision (b)(1)(G) of Sec. 2 of this act for a one-year term.

J.R.H. 2

Joint resolution sincerely apologizing and expressing sorrow and regret to all individual Vermonters and their families and descendants who were harmed as a result of State-sanctioned eugenics policies and practices

The House concurs in the Senate proposal of amendment with further amendment thereto as follows:

In the first Whereas clause, by striking out the phrase “and the title of the book *Breeding Better Vermonters* by Nancy L. Gallagher accurately describes the movement’s purported intent,”

CONFIRMATIONS

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Utility Commission shall be fully and separately acted upon.

Margaret Cheney of Norwich, Member, Public Utility Commission – By Sen. Hardy for the Committee on Finance. (5/12/21)

Daniel M. French of Manchester Center, Secretary, Agency of Education – By Sen. Campion for the Committee on Education. (5/12/21)

Peter Walke of Montpelier, Commissioner, Department of Environmental Conservation – By Sen. Campion for the Committee on Natural Resources and Energy. (5/12/21)

Maria Mercedes Avila of Burlington, Member, Children and Family Council for Prevention Programs – By Sen. Hooker for the Committee on Health and Welfare. (5/13/21)

Stuart Berry of Belmont, Member, Children and Family Council for Prevention Programs – By Sen. Hooker for the Committee on Health and Welfare. (5/13/21)

Katherine O'Day of White River Jct, Member, Children and Family Council for Prevention Programs – By Sen. Hardy for the Committee on Health and Welfare. (5/14/21)

Kreig Pinkham of Northfield, Member, Children and Family Council for Prevention Programs – By Sen. Hardy for the Committee on Health and Welfare. (5/14/21)

Clarence Davis of Shelburne, Member, Vermont Housing and Conservation Board – By Sen. Ram for the Committee on Economic Development, Housing and General Affairs. (5/19/21)

Mary Alice McKenzie of Colchester, Director, Municipal Bond Bank – By Sen. Hardy for the Committee on Finance. (5/19/21)

Mark Nicholson of Barre, Member, Vermont Economic Progress Council – By Sen. Clarkson for the Committee on Economic Development, Housing and General Affairs. (5/19/21)

Rachel Smith of Saint Albans, Member, Vermont Economic Progress Council – By Sen. Brock for the Committee on Economic Development, Housing and General Affairs. (5/19/21)

Amy Davenport of Montpelier, Member, Children and Family Council for Preventions Programs – By Sen. Cummings for the Committee on Health and Welfare. (5/20/21)

Henri Sparks of Colchester, Member, Children and Family Council for Prevention Programs – By Sen. Cummings for the Committee on Health and Welfare. (5/20/21)

Karen Vastine of Burlington, Member, Children and Family Council for Prevention Programs – By Sen. Lyons for the Committee on Health and Welfare. (5/20/21)

JFO NOTICE

Grants and Positions that have been submitted to the Joint Fiscal Committee by the Administration, under 32 V.S.A. §5(b)(3):

JFO #3046 – One (1) limited service position, Grants Program Manager, to the VT Dept. of Economic Development to provide management, oversight and technical assistance to grantees. This position is funded through the Northern Border Regional Commission Capacity Grants through previously approved JFO Grant #2971. Position is for one year with expected approval for a second year.

[JFO received 4/21/2021]

JFO #3047 – \$1,000,000 to the VT Department of Public Service from the Northern Border Regional Commission. Funds will be used to build out infrastructure and expand broadband throughout Vermont. This grant includes a \$1.75M match as follows: \$1.5M from Act 154 (2020), \$60,000K from Act 79 (2019) and the rest from an existing position – Rural Broadband Technical Assistant.

[JFO received 4/21/2021]

JFO #3048 – One (1) limited-service position, Recreation Vehicle Equipment Technician, to the VT Department of Public Safety from the United States Coast Guard Recreational Boating Safety Grant to service the Dept. of Public Safety and Dept. of Fish and Wildlife recreational vehicle fleet.

[JFO received 5/3/2021]

JFO #3049 – \$1,250,000.00 to the VT Dept. of Public Service from the Northern Border Regional Commission. Funds will be used as the award to the VT Dept. of Public Service's request for proposals to promote a public-private partnership between one of Vermont's Communications Union Districts and a broadband provider. The successful proposal will provide service to the greatest quantity of eligible locations.

[JFO received 5/3/2021]

JFO #3050 – \$49,490.00 to the VT Dept. for Children and Families from the VT Community Foundation. Funds will be used for subgrants to Weatherization Agencies to fund low-income weatherization projects not covered by current funding streams.

[JFO received 5/3/2021]

JFO #3051 - Three (3) limited-service positions, Adult Protective Services Service Navigator, to assess needs of victims and work with community providers to ensure proper services are in place. Funded through previously approved grant JFO #2986. Positions expected to be funded through 9/30/2022.

[JFO received 5/3/2021, expedited requested on 5/12/2021]