

Journal of the House

Wednesday, March 17, 2021

At one o'clock and fifteen minutes in the afternoon the Speaker called the House to order.

Devotional Exercises

A moment of silence was observed in lieu of a devotion.

Message from the Senate No. 27

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that:

The Senate has on its part adopted joint resolution of the following title:

J.R.S. 19. Joint resolution relating to weekend adjournment.

In the adoption of which the concurrence of the House is requested.

The Governor has informed the Senate that on the thirteenth day of March, 2021, he approved and signed a bill originating in the Senate of the following title:

S. 14. An act relating to deed restrictions and housing density.

Joint Resolution Adopted in Concurrence

J.R.S. 19

By Senator Balint,

J.R.S. 19. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, March 19, 2021, it be to meet again no later than Tuesday, March 23, 2021.

Was taken up, read, and adopted in concurrence.

Second Reading; Bill Amended; Third Reading Ordered

H. 87

Rep. LaLonde of South Burlington, for the Committee on Judiciary, to which had been referred House bill, entitled

An act relating to establishing a classification system for criminal offenses

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. chapter 2 is added to read:

CHAPTER 2. CLASSIFICATION OF CRIMINAL OFFENSES

§ 51. CLASSIFICATION OF OFFENSES

(a) All felonies shall be classified as follows: Class A, Class B, Class C, Class D, and Class E.

(b) All misdemeanors shall be classified as follows: Class A, Class B, Class C, Class D, and Class E.

(c) Except as otherwise provided by law, for all offenses the court may impose a sentence of imprisonment or a fine, or both.

§ 52. SENTENCES OF IMPRISONMENT

(a) The maximum term of imprisonment for a felony shall be as follows:

(1) Class A: life imprisonment.

(2) Class B: imprisonment for 20 years.

(3) Class C: imprisonment for 10 years.

(4) Class D: imprisonment for five years.

(5) Class E: imprisonment for three years.

(b) The maximum term of imprisonment for a misdemeanor shall be as follows:

(1) Class A: imprisonment for two years.

(2) Class B: imprisonment for one year.

(3) Class C: imprisonment for six months.

(4) Class D: imprisonment for 30 days.

(5) Class E: no term of imprisonment.

(c) The minimum term of imprisonment for a felony or a misdemeanor shall be as provided by law.

(d) Any statutory or mandatory minimum or maximum term of imprisonment for a felony or a misdemeanor shall be as provided by law.

§ 53. FINES

(a) Unless otherwise provided by law, the maximum fine for a felony shall be as follows:

- (1) Class A: \$100,000.00.
- (2) Class B: \$50,000.00.
- (3) Class C: \$25,000.00.
- (4) Class D: \$10,000.00.
- (5) Class E: \$7,500.00.

(b) Unless otherwise provided by law, the maximum fine for a misdemeanor shall be as follows:

- (1) Class A: \$5,000.00.
- (2) Class B: \$2,500.00.
- (3) Class C: \$1,000.00.
- (4) Class D: \$500.00.
- (5) Class E: \$250.00.

(c) When determining the amount of a fine and the method of payment, the court shall consider, based on all financial information available to the court, including information provided by the offender:

(1) the defendant's present and future financial ability to pay the fine; and

(2) the nature of the financial burden that payment of the fine will impose on the defendant and any dependents of the defendant.

§ 54. TRANSITIONAL PROVISIONS

Unless otherwise provided by law, criminal offenses shall be classified according to each offense's statutory maximum penalty. Criminal offenses shall be classified as follows:

(1) Felonies.

(A) All felonies punishable by a maximum term of life imprisonment shall be Class A felonies.

(B) All felonies punishable by a maximum term of 20 years or more but less than life shall be Class B felonies.

(C) All felonies punishable by a maximum term of 10 years or more but less than 20 years shall be Class C felonies.

(D) All felonies punishable by a maximum term of five years or more but less than ten years shall be Class D felonies.

(E) All felonies punishable by a maximum term of less than five years shall be Class E felonies.

(2) Misdemeanors.

(A) All misdemeanors punishable by a maximum term of imprisonment of two years shall be Class A misdemeanors.

(B) All misdemeanors punishable by a maximum term of imprisonment of one year or more but less than two years shall be Class B misdemeanors.

(C) All misdemeanors punishable by a maximum term of imprisonment of six months or more but less than one year shall be Class C misdemeanors.

(D) All misdemeanors punishable by a maximum term of imprisonment of 30 days or more but less than six months shall be Class D misdemeanors.

(E) All misdemeanors punishable by a fine and no term of imprisonment or a maximum term of imprisonment of less than 30 days shall be Class E misdemeanors.

§ 55. CLASSIFICATION OF PROPERTY OFFENSES

All criminal property offenses to which this section applies shall be classified as follows:

(1) If the value of the property that is at issue in the offense is less than \$100.00, the offense shall be a Class D misdemeanor.

(2) If the value of the property that is at issue in the offense is less than \$1,000.00 and equal to or greater than \$100.00, the offense shall be a Class C misdemeanor.

(3) If the value of the property that is at issue in the offense is less than \$3,000.00 and equal to or greater than \$1,000.00, the offense shall be a Class A misdemeanor.

(4) If the value of the property that is at issue in the offense is less than \$100,000.00 and equal to or greater than \$3,000.00, the offense shall be a Class E felony.

(5) If the value of the property that is at issue in the offense is equal to or greater than \$100,000.00, the offense shall be a Class D felony.

Sec. 2. 13 V.S.A. § 9 is amended to read:

§ 9. ATTEMPTS

(a) A person who attempts to commit an offense and does an act toward the commission thereof, but by reason of being interrupted or prevented fails in the execution of the same, shall be punished as herein provided unless other express provision is made by law for the punishment of the attempt. If the offense attempted to be committed is murder, aggravated murder, kidnapping, arson causing death, human trafficking, aggravated human trafficking, aggravated sexual assault, or sexual assault, a person shall be punished as the offense attempted to be committed is by law punishable.

(b) If the offense attempted to be committed is a felony other than those set forth in subsection (a) of this section, a person shall be punished by the less severe of the following punishments:

(1) ~~imprisonment for not more than 10 years or fined not more than \$10,000.00, or both as a Class C felony;~~ or

(2) as the offense attempted to be committed is by law punishable.

(c) If the offense attempted to be committed is a misdemeanor, a person shall be ~~imprisoned or fined, or both, in an amount not to exceed one-half the maximum penalty for which~~ subject to the punishment applicable to the misdemeanor that is one class level lower than the offense so attempted to be committed is by law punishable.

Sec. 3. 9 V.S.A. § 4043 is amended to read:

§ 4043. FRAUDULENT USE

(a) A person shall not with intent to defraud, obtain, or attempt to obtain money, property, services, or any other thing of value, by the use of a credit card which he or she knows, or reasonably shall have known, to have been stolen, forged, revoked, cancelled, unauthorized, or invalid for use by him or her for such purpose.

(b) A person who violates this section shall be sentenced pursuant to 13 V.S.A. §§ 52, 53, and 55.

Sec. 4. 9 V.S.A. § 4044 is amended to read:

§ 4044. PENALTY

~~(a) A person who violates section 4043 of this title shall be fined not more than \$500.00 or be imprisoned not more than six months, or both, if the aggregate value of the money, property, services, or other things of value so obtained is \$50.00 or less.~~

~~(b) A person who violates section 4043 of this title shall be fined not more than \$1,000.00 or be imprisoned not more than one year, or both, if the aggregate value of the money, property, services, or other things of value so obtained exceeds \$50.00. [Repealed.]~~

Sec. 5. 13 V.S.A. § 1801 is amended to read:

§ 1801. FORGERY AND COUNTERFEITING OF PAPERS,
DOCUMENTS, ETC.

A person who wittingly, falsely, and deceitfully makes, alters, forges, or counterfeits, or wittingly, falsely, or deceitfully causes to be made, altered, forged, or counterfeited, or procures, aids, or counsels the making, altering, forging, or counterfeiting, of a writ, process, public record, or any certificate, return, or attestation of a clerk of a court, public register, notary public, justice, or other public officer, in relation to a matter wherein such certificate, return, or attestation may be received as legal proof, or a charter, deed, or any evidence or muniment of title to property, will, terminal care document, testament, bond, or writing obligatory, letter of attorney, policy of insurance, bill of lading, bill of exchange, promissory note, or an order drawn on a person or corporation, or on a State, county, or town or school district treasurer, for money or other property, or an acquittance or discharge for money or other property, or an acceptance of a bill of exchange, or indorsement or assignment of a bill of exchange or promissory note, for the payment of money, or any accountable receipt for money, goods, or other property, or certificate of stock, with intent to injure, or defraud a person, shall be ~~imprisoned not more than 10 years and fined not more than \$1,000.00, or both~~ sentenced pursuant to sections 52, 53, and 55 of this title.

Sec. 6. 13 V.S.A. § 1802 is amended to read:

§ 1802. UTTERING FORGED OR COUNTERFEITED INSTRUMENT

A person who utters and publishes as true a forged, altered, or counterfeited record, deed, instrument, or other writing mentioned in section 1801 of this title, knowing the same to be false, altered, forged, or counterfeited, with intent to injure or defraud a person, shall be ~~imprisoned not more than 10 years and fined not more than \$1,000.00, or both~~ sentenced pursuant to sections 52, 53, and 55 of this title.

Sec. 7. 13 V.S.A. § 1804 is amended to read:

§ 1804. COUNTERFEITING PAPER MONEY

A person who falsely makes, alters, forges, or counterfeits, or procures to be made, altered, forged, or counterfeited, or aids or assists in making, altering, forging, or counterfeiting, a note, or imitation of, or purporting to be

a note issued by the United States, used as currency, or a bank bill or promissory note, or imitation of, or purporting to be a bank bill or promissory note, issued by a banking company incorporated by the Congress of the United States or by the legislature of a state of the United States or of another country, with intent to injure or defraud a person; and a person who utters, passes, or gives in payment, or offers to pass or give in payment, or procures to be offered, passed, or given in payment, or has in his or her possession with intent to offer, pass, or give in payment, such altered, forged, counterfeited, or imitated note, bank bill, or promissory note, knowing the same to be altered, forged, counterfeited, or imitated, ~~shall be imprisoned not more than 14 years and fined not more than \$1,000.00, or both~~ commits a Class D felony.

Sec. 8. 13 V.S.A. § 1816 is amended to read:

§ 1816. POSSESSION OR USE OF CREDIT CARD SKIMMING DEVICES
AND RE-ENCODERS

(a) A person who knowingly, wittingly, and with the intent to defraud possesses a scanning device, or who knowingly, wittingly, and with intent to defraud uses a scanning device to access, read, obtain, memorize, or store, temporarily or permanently, information encoded on the computer chip or magnetic strip of a payment card without the permission of the authorized user of the payment card ~~shall be imprisoned not more than 10 years or fined not more than \$10,000.00, or both~~ commits a Class C felony.

(b) A person who knowingly, wittingly, and with the intent to defraud possesses a re-encoder, or who knowingly, wittingly, and with the intent to defraud uses a re-encoder to place encoded information on the computer chip or magnetic strip or stripe of a payment card or any electronic medium that allows an authorized transaction to occur without the permission of the authorized user of the payment card from which the information is being re-encoded ~~shall be imprisoned not more than 10 years or fined not more than \$10,000.00, or both~~ commits a Class C felony.

* * *

Sec. 9. 13 V.S.A. § 2001 is amended to read:

§ 2001. FALSE PERSONATION

A person who falsely personates or represents another, and in such assumed character receives money or other property intended to be delivered to the party so personated, with intent to convert the same to the person's own use, ~~shall be imprisoned not more than 10 years or fined not more than \$2,000.00, or both~~ sentenced pursuant to sections 52, 53, and 55 of this title.

Sec. 10. 13 V.S.A. § 2002 is amended to read:

§ 2002. FALSE PRETENSES OR TOKENS

A person who designedly by false pretenses or by privy or false token and with intent to defraud, obtains from another person money or other property, or a release or discharge of a debt or obligation, or the signature of a person to a written instrument, the false making whereof would be punishable as forgery, shall be ~~imprisoned not more than 10 years or fined not more than \$2,000.00, or both, if the money or property so obtained exceeds \$900.00 in value. A person who violates this section shall be imprisoned for not more than one year or fined not more than \$1,000.00, or both, if the money or property obtained in violation of this section is valued at \$900.00 or less~~ sentenced pursuant to sections 52, 53, and 55 of this title.

Sec. 11. 13 V.S.A. § 2029 is amended to read:

§ 2029. HOME IMPROVEMENT FRAUD

* * *

(d)(1) A person who violates subsection (b) of this section ~~shall be imprisoned not more than two years or fined not more than \$1,000.00, or both, if the loss to a single consumer is less than \$1,000.00~~ commits a Class A misdemeanor.

(2) A person who is convicted of a second or subsequent violation of subdivision (1) of this subsection ~~shall be imprisoned not more than three years or fined not more than \$5,000.00, or both~~ commits a Class E felony.

(3) A person who violates subsection (b) of this section ~~shall be imprisoned not more than three years or fined not more than \$5,000.00, or both,~~ commits a Class E felony if:

(A) the loss to a single consumer is \$1,000.00 or more; or

(B) the loss to more than one consumer is \$2,500.00 or more in the aggregate.

(4) A person who is convicted of a second or subsequent violation of subdivision (3) of this subsection ~~shall be imprisoned not more than five years or fined not more than \$10,000.00, or both~~ commits a Class D felony.

(5) A person who violates subsection (c) or (e) of this section ~~shall be imprisoned for not more than two years or fined not more than \$1,000.00, or both~~ commits a Class A misdemeanor.

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Sec. 12. 13 V.S.A. § 2030 is amended to read:

§ 2030. IDENTITY THEFT

* * *

(f) A person who violates this section shall ~~be imprisoned for not more than three years or fined not more than \$5,000.00, or both~~ commits a Class E felony. A person who is convicted of a second or subsequent violation of this section involving a separate scheme shall ~~be imprisoned for not more than 10 years or fined not more than \$10,000.00, or both~~ commits a Class C felony.

Sec. 13. 13 V.S.A. § 2031 is amended to read:

* * *

(c) Penalties. A person who violates subsection (b) of this section shall:

(1) ~~if the benefit wrongfully obtained or the loss suffered by any person as a result of the violation has a value of less than \$900.00, be imprisoned for not more than six months or fined not more than \$5,000.00, or both; or~~

(2) ~~if the benefit wrongfully obtained or the loss suffered by any person as a result of the violation has a value of more than \$900.00, be imprisoned for not more than five years or fined not more than \$10,000.00, or both; or~~

(3) ~~for a second or subsequent offense, regardless of the value of the benefit wrongfully obtained, be imprisoned not more than five years or fined not more than \$20,000.00, or both~~ be sentenced pursuant to sections 52, 53, and 55 of this title.

* * *

Sec. 14. 13 V.S.A. § 2501 is amended to read:

§ 2501. GRAND AND PETIT LARCENY

A person who steals from the actual or constructive possession of another, other than from his or her person, money, goods, chattels, bank notes, bonds, promissory notes, bills of exchange or other bills, orders, or certificates, or a book of accounts for or concerning money, or goods due or to become due or to be delivered, or a deed or writing containing a conveyance of land, or any other valuable contract in force, or a receipt, release or defeasance, writ, process, or public record, shall ~~be imprisoned not more than 10 years or fined not more than \$5,000.00, or both, if the money or other property stolen exceeds \$900.00 in value~~ be sentenced pursuant to sections 52, 53, and 55 of this title.

Sec. 15. 13 V.S.A. § 2502 is amended to read:

§ 2502. PETIT LARCENY

~~For offenses mentioned in section 2501 of this title where the money or other property stolen does not exceed \$900.00 in value, the court may sentence~~

~~the person convicted to imprisonment for not more than one year or to pay a fine of not more than \$1,000.00, or both. [Repealed.]~~

Sec. 16. 13 V.S.A. § 2503 is amended to read:

§ 2503. LARCENY FROM THE PERSON

A person who steals or attempts to steal from the person and custody of another, property, the subject of larceny, ~~shall be imprisoned not more than 10 years or fined not more than \$500.00, or both~~ commits a Class C felony.

Sec. 17. 13 V.S.A. § 2531 is amended to read:

§ 2531. EMBEZZLEMENT GENERALLY

(a) An officer, agent, bailee for hire, clerk, or servant of a banking association or an incorporated company, or a clerk, agent, bailee for hire, officer, or servant of a private person, partnership, trades union, joint stock company, unincorporated association, fraternal or benevolent association, except apprentices and other persons under ~~the age of 16 years of age~~, who embezzles or fraudulently converts to his or her own use, or takes or secretes with intent to embezzle or fraudulently convert to his or her own use, money or other property that comes into his or her possession or is under his or her care by virtue of such employment, notwithstanding he or she may have an interest in such money or property, shall be guilty of embezzlement and sentenced pursuant to sections 52, 53, and 55 of this title.

~~(b) If the money or property embezzled does not exceed \$100.00 in value, the person shall be imprisoned not more than one year or fined not more than \$1,000.00, or both. If the money or property embezzled exceeds \$100.00 in value, the person shall be imprisoned not more than 10 years or fined not more than \$10,000.00, or both.~~

Sec. 18. 13 V.S.A. § 2532 is amended to read:

§ 2532. OFFICER OR SERVANT OF INCORPORATED BANK

A cashier or other officer, agent, or servant of an incorporated bank who embezzles or fraudulently converts to his or her own use bullion, money, notes, bills, obligations, or securities or other effects or property belonging to and in the possession of such bank or belonging to any person and deposited therein, shall be guilty of larceny and ~~shall be imprisoned not more than 10 years or fined not more than \$1,000.00, or both~~ commits a Class D felony.

Sec. 19. 13 V.S.A. § 2533 is amended to read:

§ 2533. RECEIVER OR TRUSTEE

A receiver or trustee appointed by the court in any litigation in this State, who embezzles or fraudulently converts to his or her own use any money or other property in his or her hands as such receiver or trustee, shall be guilty of larceny and ~~shall be imprisoned not more than 10 years or fined not more than \$1,000.00, or both~~ commits a Class D felony.

Sec. 20. 13 V.S.A. § 2537 is amended to read:

§ 2537. PERSON HOLDING PROPERTY IN OFFICIAL CAPACITY OR
BELONGING TO THE STATE OR A MUNICIPALITY

A State, county, town, or municipal officer or other person who in his or her official capacity receives, collects, controls, or holds money, obligations, securities, or other property, who embezzles or fraudulently converts to his or her own use any of such money, obligations, securities, or other property, or a person who embezzles or fraudulently converts to his or her own use money or other property belonging to the State or to a county or municipality, or a municipal corporation, or a special purpose district, shall be guilty of larceny and shall be ~~imprisoned not more than 10 years or fined not more than \$1,000.00, or both~~ sentenced pursuant to sections 52, 53, and 55 of this title.

Sec. 21. 13 V.S.A. § 2561 is amended to read:

§ 2561. PENALTY FOR RECEIVING STOLEN PROPERTY; VENUE

(a) A person who is a dealer in property who buys, receives, sells, possesses unless with the intent to restore to the owner, or aids in the concealment of property, knowing or believing the property to be stolen, shall be ~~punished the same as for the stealing of such property~~ sentenced pursuant to sections 52, 53, and 55 of this title.

(b) A person who buys, receives, sells, possesses unless with the intent to restore to the owner, or aids in the concealment of stolen property, knowing the same to be stolen, shall be ~~punished the same as for the stealing of such property~~ sentenced pursuant to sections 52, 53, and 55 of this title.

* * *

Sec. 22. 13 V.S.A. § 2575a is added to read:

§ 2575a. ORGANIZED RETAIL THEFT

(a) A person commits the offense of organized retail theft when he or she commits the offense of retail theft pursuant to section 2575 of this title and

acts in concert with one or more persons on one or more occasions within a period of 180 days.

(b) A person who violates subsection (a) of this section shall be sentenced pursuant to sections 52, 53, and 55 of this title. The aggregate retail value of the merchandise obtained shall be used to determine the classification of the offense under section 55 of this title.

Sec. 23. 13 V.S.A. § 2577 is amended to read:

§ 2577. PENALTY

~~(a) A person convicted of the offense of retail theft of merchandise having a retail value not in excess of \$900.00 shall be punished by a fine of not more than \$500.00 or imprisonment for not more than six months, or both.~~

~~(b) A person convicted of the offense of retail theft of merchandise having a retail value in excess of \$900.00 shall be punished by a fine of not more than \$1,000.00 or imprisonment for not more than 10 years, or both.~~

~~(c) Notwithstanding the provisions of subsections (a) and (b) of this section, a person convicted of retail theft pursuant to:~~

~~(1) Subdivision 2575(4) of this title shall be imprisoned not more than two years or fined not more than \$1,000.00, or both.~~

~~(2) Subdivision 2575(5), (6), or (7) of this title shall be imprisoned for not more than 10 years or fined not more than \$5,000.00, or both shall be sentenced pursuant to sections 52, 53, and 55 of this title.~~

Sec. 24. 13 V.S.A. § 2582 is amended to read:

§ 2582. THEFT OF SERVICES

(a) A person who purposely obtains services that he or she knows are available only for compensation, by deception or threat, or by false token or other means to avoid payment for the service shall ~~if the services exceed \$900.00 in value be imprisoned for not more than 10 years or fined not more than \$5,000.00, or both. Otherwise, a person who violates a provision of this subsection shall be imprisoned for not more than one year or fined not more than \$1,000.00, or both~~ be sentenced pursuant to sections 52, 53, and 55 of this title. Where compensation for service is ordinarily paid immediately upon the rendering of such service, as in the case of hotels, restaurants, and transportation, refusal to pay or absconding without payment or offer to pay gives rise to a rebuttable presumption that the service was obtained by deception as to intention to pay.

(b) A person who, having control over the disposition of services of others, to which he or she is not entitled, knowingly diverts such services to the

person's own benefit or to the benefit of another not entitled thereto shall ~~if the services exceed \$900.00 in value be imprisoned for not more than 10 years or fined not more than \$5,000.00, or both. Otherwise a person who violates a provision of this subsection shall be imprisoned for not more than one year or fined not more than \$1,000.00, or both~~ be sentenced pursuant to sections 52, 53, and 55 of this title.

Sec. 25. 13 V.S.A. § 2591 is amended to read:

§ 2591. THEFT OF RENTED PROPERTY

(a) A person who converts to his or her own use any personal property, other than a motor vehicle leased or rented pursuant to a written agreement that has been entrusted to the person under an agreement in writing that provides for the delivery of that personal property to a particular person or place or at a particular time, abandons it, or refuses or neglects to deliver it to the person or place and at the time specified in the written agreement, or who destroys, secretes, appropriates, converts, sells, or attempts to sell all or any part of it, or who removes or permits or causes it to be removed from this State, without the consent of its owner, shall be:

(1) ~~if the value of the property involved is \$900.00 or less, imprisoned not more than six months or fined not more than \$500.00, or both; for a first offense, sentenced pursuant to sections 52, 53, and 55 of this title, provided that the sentence shall not exceed the penalty for a Class C misdemeanor; or~~

(2) if the property involved exceeds \$900.00 in value:

(A) ~~imprisoned for not more than two years or fined not more than \$1,000.00, or both; or~~

(B) ~~imprisoned for not more than five years or fined not more than \$5,000.00 if the person has been previously convicted of a violation of this subdivision (a)(2) of this section for a second or subsequent offense, sentenced pursuant to sections 52, 53, and 55 of this title, provided that the sentence shall not exceed the penalty for a Class D felony.~~

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Sec. 26. 13 V.S.A. § 2592 is amended to read:

§ 2592. FAILURE TO RETURN A RENTED OR LEASED MOTOR
VEHICLE

* * *

(b) A person who violates this section ~~shall be imprisoned for not more than three years or fined not more than \$3,000.00, or both~~ commits a Class E

felony. If the person has been previously convicted of a violation of this section, the person shall ~~be imprisoned not more than five years or fined not more than \$5,000.00, or both~~ commits a Class D felony.

Sec. 27. 13 V.S.A. § 3016 is amended to read:

§ 3016. FALSE CLAIM

* * *

~~(b) A person who violates this section shall, if the prohibited act results in no loss to a governmental entity or benefit to the person or results in a loss to a governmental entity or benefit to the person of less than \$500.00 in value, be imprisoned not more than two years or fined not more than \$5,000.00, or both. A person who violates this section shall, if the prohibited act results in a loss to any governmental entity or a benefit to the person of \$500.00 or more in value, whether by a single act or by a common scheme or course of conduct involving one or more transactions, be imprisoned not more than five years or fined not more than \$10,000.00, or both~~ be sentenced pursuant to sections 52, 53, and 55 of this title.

* * *

Sec. 28. 13 V.S.A. § 3606a is amended to read:

§ 3606a. TRESPASS; CRIMINAL PENALTY

(a) No person shall knowingly or recklessly:

(1) cut down, fell, destroy, remove, injure, damage, or carry away any timber or forest product placed or growing for any use or purpose whatsoever, or timber or forest product lying or growing belonging to another person, without permission from the owner of the timber or forest product; or

(2) deface the mark of a log, forest product, or other valuable timber in a river or other place.

(b) Any person who violates subsection (a) of this section shall:

(1) ~~for a first offense, be imprisoned not more than one year or fined not more than \$20,000.00, or both~~ commits a Class B misdemeanor; or

(2) ~~for a second or subsequent offense, be imprisoned not more than two years or fined not more than \$50,000.00, or both~~ commits a Class A misdemeanor.

Sec. 29. 13 V.S.A. § 3701 is amended to read:

§ 3701. UNLAWFUL MISCHIEF

~~(a) A person who, with intent to damage property, and having no right to do so or any reasonable ground to believe that he or she has such a right, does any damage to any property which is valued in an amount exceeding \$1,000.00 shall be imprisoned for not more than five years or fined not more than \$5,000.00, or both shall be sentenced pursuant to sections 52, 53, and 55 of this title.~~

~~(b) A person who, with intent to damage property, and having no right to do so or any reasonable ground to believe that he or she has such a right, does any damage to any property which is valued in an amount exceeding \$250.00 shall be imprisoned for not more than one year or fined not more than \$1,000.00, or both.~~

~~(c) A person who, having no right to do so or any reasonable ground to believe that he or she has such a right, intentionally does any damage to property of any value not exceeding \$250.00 shall be imprisoned for not more than six months or fined not more than \$500.00, or both.~~

~~(d) A person who, with intent to damage property, and having no right to do so or any reasonable ground to believe that he or she has such a right, does any damage to any property by means of an explosive shall be imprisoned for not more than five years or fined not more than \$5,000.00, or both commits a Class D felony.~~

~~(e)(c) For the purposes of As used in this section “property” means real or personal property.~~

~~(f)(d) A person who suffers damages as a result of a violation of this section may recover those damages together with reasonable attorney’s fees in a civil action under this section.~~

Sec. 30. 13 V.S.A. § 3705 is amended to read:

§ 3705. UNLAWFUL TRESPASS

~~(a)(1) A person shall be imprisoned for not more than three months or fined not more than \$500.00, or both, commits a Class D misdemeanor if, without legal authority or the consent of the person in lawful possession, he or she enters or remains on any land or in any place as to which notice against trespass is given by:~~

~~(A) actual communication by the person in lawful possession or his or her agent or by a law enforcement officer acting on behalf of such person or his or her agent;~~

~~(B) signs or placards so designed and situated as to give reasonable notice; or~~

(C) in the case of abandoned property:

(i) signs or placards, posted by the owner, the owner's agent, or a law enforcement officer, and so designed and situated as to give reasonable notice; or

(ii) actual communication by a law enforcement officer.

* * *

(c) A person who enters a building other than a residence, whose access is normally locked, whether or not the access is actually locked, or a residence in violation of an order of any court of competent jurisdiction in this State ~~shall be imprisoned for not more than one year or fined not more than \$500.00, or both~~ commits a Class B misdemeanor.

(d) A person who enters a dwelling house, whether or not a person is actually present, knowing that he or she is not licensed or privileged to do so ~~shall be imprisoned for not more than three years or fined not more than \$2,000.00, or both~~ commits a Class E felony.

* * *

Sec. 31. 13 V.S.A. § 3732 is amended to read:

§ 3732. UNAUTHORIZED REMOVAL OF BOOKS FROM LIBRARY

A person who removes from a free public library, or a free town, village, or traveling library, a book, paper, magazine, document, or other reading matter, or an art book, picture, print, plate, or other art work, kept in such library for public use or circulation, without the consent of the librarian or other person in charge of such library, ~~shall be fined not more than \$50.00 for each offense, half to the use of~~ commits a Class E misdemeanor. One-half of the criminal fine shall be paid to the library from which the same was so removed, and the other half to the use of one-half shall be paid to the treasury liable for the costs of prosecution.

Sec. 32. 13 V.S.A. § 3733 is amended to read:

§ 3733. MILLS, DAMS OR BRIDGES

A person who willfully and maliciously injures, removes, or opens a dam, reservoir, gate, or flume; or injures or removes the wheels, mill gear, or machinery of a water mill; or injures, removes, or destroys a public or toll bridge, ~~shall be imprisoned not more than five years or fined not more than \$500.00, or both~~ commits a Class D felony.

Sec. 33. 13 V.S.A. § 3738 is amended to read:

§ 3738. OBSTRUCTION AND USE OF PRIVATE ROADS AND LANDS
BY MOTOR VEHICLE

(a) A person ~~who shall not, without the permission of the owner or occupant and by use of a motor vehicle as defined in 23 V.S.A. § 4:~~

(1) ~~obstructs obstruct~~ a private driveway, barway, or gateway; ~~or~~

(2) ~~travels travel~~ over a private road that is so marked, ~~or travels travel~~ over other private lands; or

(3) ~~enters enter~~ on private lands for the purpose of camping; ~~without the permission of the owner or occupant shall be fined not more than \$500.00.~~

(b) A person who violates this section commits a Class E misdemeanor.

Sec. 34. 13 V.S.A. § 3739 is amended to read:

§ 3739. OPERATION OF VEHICLES ON STATE OWNED LAND

(a) A person ~~who operates shall not operate~~ a motor vehicle, as defined in 23 V.S.A. § 4, on any land that is owned or held by the State:

(1) ~~except in places or on trails specifically designated and marked by the Secretary of Natural Resources; or~~

(2) ~~contrary to any rule governing the use of the place or trail shall be fined not more than \$500.00.~~

(3) For the purposes of this section “land owned or held by the State” does not include a highway as defined in 23 V.S.A. § 4.

* * *

(c) A person who violates this section commits a Class E misdemeanor.

Sec. 35. 13 V.S.A. § 3740 is amended to read:

§ 3740. DAMAGE TO STATE LAND

A person who operates a motor vehicle, as defined in 23 V.S.A. § 4, on any land, that is owned or held by the State, in such a manner as to purposely and maliciously cause injury, damage, erosion, or waste to the land ~~shall be fined not more than \$500.00~~ commits a Class E misdemeanor. For the purposes of this section “land” does not include a highway as defined in 23 V.S.A. § 4.

Sec. 36. 13 V.S.A. § 3761 is amended to read:

§ 3761. UNAUTHORIZED REMOVAL OF HUMAN REMAINS

A person who, not being authorized by law, intentionally excavates, disinters, removes, or carries away a human body, or the remains thereof, interred or entombed in this State or intentionally excavates, disinters, removes, or carries away an object interred or entombed with a human body in this State, or knowingly aids in such excavation, disinterment, removal, or carrying away, or is accessory thereto, ~~shall be imprisoned not more than 15 years or fined not more than \$10,000.00, or both~~ commits a Class C felony.

Sec. 37. 13 V.S.A. § 3767 is amended to read:

§ 3767. PENALTIES

(a) A person who violates a provision of sections 3764–3766 of this title shall, except as provided in subsection (b) of this section, ~~be imprisoned not more than five years or fined not more than \$5,000.00, or both~~ commits a Class D felony.

(b) A person who violates subsection 3766(c) of this title ~~shall be imprisoned not more than one year or fined not more than \$500.00, or both~~ commits a Class B misdemeanor.

Sec. 38. 13 V.S.A. § 3771 is amended to read:

§ 3771. DISTURBING A FUNERAL SERVICE

* * *

(b) No person shall disturb or attempt to disturb a funeral service by engaging in picketing within 100 feet of the service within one hour prior to and two hours following the publicly announced time of the commencement of the service.

(c) A person who violates this section ~~shall be imprisoned not more than 30 days or fined not more than \$500.00, or both~~ commits a Class D misdemeanor.

Sec. 39. 13 V.S.A. § 3781 is amended to read:

§ 3781. TAPPING GAS PIPES WITH INTENT TO DEFRAUD

A person who taps gas pipes with intent to take gas therefrom, or who connects pipes with such gas pipes so that gas may be used without passing through the meters for measurement, or who knowingly burns gas without measurement by gas meters, without the consent of the owner, ~~shall be imprisoned not more than one year or fined not more than \$100.00, or both~~ commits a Class B misdemeanor. The owner of the gas may recover of the

person so unlawfully tapping or connecting such pipes or using gas, the actual damages, with costs, in a civil action on this statute.

Sec. 40. 13 V.S.A. § 3782 is amended to read:

§ 3782. TAPPING ELECTRIC LINES; INJURIES TO ELECTRIC PLANTS

A person who willfully commits or causes to be committed an act with intent to injure a machine, apparatus, or structure appertaining to the works of a person, firm, association, or corporation engaged in manufacturing, selling, or distributing electrical energy in this State, or whereby such works may be stopped, obstructed, or injured, or who taps an electrical line of a person, firm, association, or corporation so that electricity can be taken therefrom, or knowingly uses electricity taken from such line without the consent of such person, firm, association, or corporation, ~~shall be imprisoned not more than two years or fined not more than \$300.00, or both~~ commits a Class A misdemeanor. Such person shall also be liable to such person, firm, association, or corporation or to anyone injured for actual damages, with full costs, in a civil action on this statute.

Sec. 41. 13 V.S.A. § 3784 is amended to read:

§ 3784. INTERFERING WITH METERS

A person, other than an authorized agent or employee acting for the owner, manufacturer, or operator thereof, who maliciously opens, closes, breaks into, or in any manner adjusts or interferes with a meter, or other regulating or measuring device or appliance attached to or connected with wires, pipe lines, mains, service pipes, or house pipes owned or used by a manufacturer or furnisher of electricity, gas, or water ~~shall be imprisoned not more than three months or fined not more than \$100.00, or both~~ commits a Class D misdemeanor.

Sec. 42. 13 V.S.A. § 3785 is amended to read:

§ 3785. INJURING LIGHTS IN STREETS AND PUBLIC BUILDINGS

A person who willfully and maliciously breaks the glass about a street lamp or gaslight, or a lamp or gaslight in the grounds about a public building, or, without authority, lights such a lamp or gaslight or extinguishes the same when lighted, or in any manner interferes therewith, or injures any part of the fixtures supporting such lamp or gaslight, or defaces the same by painting or posting notices thereon, or fastens a horse or animal thereto, ~~shall be imprisoned not more than three months or fined not more than \$50.00, or both~~ commits a Class D misdemeanor.

Sec. 43. 13 V.S.A. § 3786 is amended to read:

§ 3786. TAPPING CABLE TELEVISION SYSTEMS; DAMAGE TO
EQUIPMENT

A person who willfully or maliciously damages, or causes to be damaged, any wire, cable, conduit, apparatus, or equipment of a company operating a cable television system, as defined in 30 V.S.A. § 501, or who commits any act with intent to cause damage to any wire, cable, conduit, apparatus, or equipment of a company operating such a system, or who taps, tampers with, or connects any wire or device to the equipment of the cable television company that would degrade the service rendered without authorization of the company ~~may be fined not more than \$100.00~~ commits a Class E misdemeanor and shall be liable in a civil action for three times the actual amount of damages sustained thereby.

Sec. 44. 13 V.S.A. § 3831 is amended to read:

§ 3831. CUTTING ICE AND NOT FENCING HOLE

A person who takes ice from water over which people are accustomed to pass and does not place around the opening thereby made in the ice suitable guards to prevent a person, team, or vehicle from falling into such hole or opening ~~shall be fined not more than \$50.00~~ commits a Class E misdemeanor.

Sec. 45. 13 V.S.A. § 3833 is amended to read:

§ 3833. UNLAWFUL TAKING OF TANGIBLE PERSONAL PROPERTY;
PENALTY

A person who, without the consent of the owner, takes and carries away or causes to be taken and carried away any tangible personal property with the intent of depriving the owner temporarily of the lawful possession of his or her property ~~shall be fined not more than \$100.00~~ commits a Class E misdemeanor. This section shall not be construed to limit or restrict prosecutions for larceny or theft.

Sec. 46. 13 V.S.A. § 3834 is amended to read:

§ 3834. REMOVAL OF SURVEYING MONUMENTS

A person who knowingly removes or alters monuments marking the boundary of lands or knowingly defaces, alters, or removes marks upon any tree, post, or stake that is a monument designating a point, course, or line in the boundary of a parcel of land ~~shall be fined \$100.00~~ commits a Class E misdemeanor and shall be civilly liable for the replacement cost and any consequential damages. However, land surveyors in their professional practice may perpetuate such monumentation by adding additional marks, or by

remonumenting nonsubstantial monuments or by the placing of new monuments to preserve monuments to be destroyed or made inaccessible.

Sec. 47. 13 V.S.A. § 4102 is amended to read:

§ 4102. UNAUTHORIZED ACCESS

A person who knowingly and intentionally and without lawful authority, accesses any computer, computer system, computer network, computer software, computer program, or data contained in such computer, computer system, computer program, or computer network ~~shall be imprisoned not more than six months or fined not more than \$500.00, or both~~ commits a Class C misdemeanor.

Sec. 48. 13 V.S.A. § 4103 is amended to read:

§ 4103. ACCESS TO COMPUTER FOR FRAUDULENT PURPOSES

* * *

(b) Penalties. A person convicted of the crime of access to computer for fraudulent purposes shall be:

~~(1) if the value of the matter involved does not exceed \$500.00, imprisoned not more than one year or fined not more than \$500.00, or both;~~

~~(2) if the value of the matter involved does not exceed \$500.00, for a second or subsequent offense, imprisoned not more than two years or fined not more than \$1,000.00, or both; or~~

~~(3) if the value of the matter involved exceeds \$500.00, imprisoned not more than 10 years or fined not more than \$10,000.00, or both~~ sentenced pursuant to sections 52, 53, and 55 of this title.

Sec. 49. 13 V.S.A. § 4104 is amended to read:

§ 4104. ALTERATION, DAMAGE, OR INTERFERENCE

(a) A person shall not intentionally and without lawful authority, alter, damage, or interfere with the operation of any computer, computer system, computer network, computer software, computer program, or data contained in such computer, computer system, computer program, or computer network.

(b) Penalties. A person convicted of violating this section shall be:

~~(1) if the damage or loss does not exceed \$500.00 for a first offense, imprisoned not more than one year or fined not more than \$5,000.00, or both;~~

~~(2) if the damage or loss does not exceed \$500.00 for a second or subsequent offense, imprisoned not more than two years or fined not more than \$10,000.00, or both; or~~

~~(3) if the damage or loss exceeds \$500.00, imprisoned not more than 10 years or fined not more than \$25,000.00, or both~~ sentenced pursuant to sections 52, 53, and 55 of this title.

Sec. 50. 13 V.S.A. § 4105 is amended to read:

§ 4105. THEFT OR DESTRUCTION

(a)(1) A person shall not intentionally and without claim of right deprive the owner of possession, take, transfer, copy, conceal, or retain possession of, or intentionally and without lawful authority, destroy any computer system, computer network, computer software, computer program, or data contained in such computer, computer system, computer program, or computer network.

(2) Copying a commercially available computer program or computer software is not a crime under this section, provided that the computer program and computer software has a retail value of \$500.00 or less and is not copied for resale.

(b) Penalties. A person convicted of violating this section shall be:

~~(1) if the damage or loss does not exceed \$500.00 for a first offense, imprisoned not more than one year or fined not more than \$5,000.00, or both;~~

~~(2) if the damage or loss does not exceed \$500.00 for a second or subsequent offense, imprisoned not more than two years or fined not more than \$10,000.00, or both; or~~

~~(3) if the damage or loss exceeds \$500.00, imprisoned not more than 10 years or fined not more than \$25,000.00, or both~~ sentenced pursuant to sections 52, 53, and 55 of this title.

Sec. 51. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

The bill, having appeared on the Calendar one day for Notice, was taken up, read the second time, report of the Committee on Judiciary agreed to, and third reading ordered.

Third Reading; Bills Passed

House bills of the following titles were severally taken up, read the third time, and passed:

H. 10

House bill, entitled

An act relating to permitted candidate expenditures

H. 46

House bill, entitled

An act relating to miscellaneous provisions of mental health law

H. 104

House bill, entitled

An act relating to allowing certain licensed out-of-state mental health professionals to treat Vermont patients using telemedicine

H. 149

House bill, entitled

An act relating to modernizing statutes related to the Vermont National Guard

Bill Amended; Read Third Time; Bill Passed

H. 337

House bill, entitled

An act relating to the printing and distribution of State publications

Was taken up and pending third reading of the bill, **Rep. Donahue of Northfield** moved to amend the bill as follows:

In Sec. 6., 22 V.S.A. § 611, by striking out subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read as follows:

(c) Upon request, the State Librarian shall give:

(1) one copy of the Vermont Statutes Annotated and any cumulative pocket part supplements to a bar association, university, college, or public library that is located in Vermont; or

(2) one copy of the Acts and Resolves or the Vermont Statutes Annotated and any cumulative pocket part supplements to a member of the General Assembly.

Which was agreed to.

Pending third reading of the bill, **Rep. Lefebvre of Orange** moved to amend the bill as follows:

In Sec. 6, 22 V.S.A. § 611, in subsection (d), immediately following the words “may be sold to parties identified in this” by striking out the word “subsection” and inserting in lieu thereof the word “section”

Which was agreed to. Thereupon, the bill was read the third time and passed.

Third Reading; Bill Passed

H. 366

House bill, entitled

An act relating to 2021 technical corrections

Was taken up, read the third time, and passed.

Committee Bill; Second Reading; Third Reading Ordered

H. 428

Rep. Christie of Hartford spoke for the Committee on Judiciary.

House bill entitled

An act relating to hate-motivated crimes and misconduct

Having appeared on the Calendar one day for Notice and appearing on the Calendar for Action, was taken up, read the second time, and third reading ordered.

Second Reading; Bill Amended; Third Reading Ordered

H. 145

Rep. LaLonde of South Burlington, for the Committee on Judiciary, to which had been referred House bill, entitled

An act relating to amending the standards for law enforcement use of force

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 20 V.S.A. § 2368 is added to read:

§ 2368. STANDARDS FOR LAW ENFORCEMENT USE OF FORCE

(a) Definitions. As used in this section:

(1) “Chokehold” means the use of any maneuver on a person that employs a lateral vascular neck restraint, carotid restraint, or other action that applies any pressure to the throat, windpipe, or neck in a manner that limits the person’s breathing or blood flow.

(2) “Deadly force” means any use of force that creates a substantial risk of causing death or serious bodily injury.

(3) “Force” means the physical coercion employed by a law enforcement officer to compel a person’s compliance with the officer’s instructions.

(4) “Imminent threat of death or serious bodily injury” means when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the law enforcement officer or another person. An imminent threat is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be immediately addressed and confronted.

(5) “Law enforcement officer” has the same meaning as in 20 V.S.A. § 2351a.

(6) “Totality of the circumstances” means the conduct and decisions of the law enforcement officer leading up to the use of force and all facts known to the law enforcement officer at the time, including the conduct of the person or persons involved.

(b) Use of force.

(1) Whether the decision by a law enforcement officer to use force was objectively reasonable shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances. A law enforcement officer’s failure to use feasible and reasonable alternatives to force shall be a consideration for whether its use was objectively reasonable.

(2) A law enforcement officer shall use only the force objectively reasonable, necessary, and proportional to effect an arrest, to prevent escape, or to overcome resistance of a person the officer has reasonable cause to believe has committed a crime or to achieve any other lawful law enforcement objective.

(3) The authority of law enforcement to use physical force is a serious responsibility that shall be exercised judiciously and with respect for human rights and dignity and for the sanctity of every human life. Every person has a right to be free from excessive use of force by officers acting under authority of the State.

(4) The decision by a law enforcement officer to use force shall be evaluated carefully and thoroughly, in a manner that reflects the gravity of that authority and the serious consequences of the use of force by law enforcement officers, in order to ensure that officers use force consistent with law and with agency policies.

(5) When a law enforcement officer knows that a subject's conduct is the result of a medical condition, mental impairment, developmental disability, physical limitation, language barrier, drug or alcohol impairment, or other factor beyond the subject's control, the officer shall take that information into account in determining the amount of force appropriate to use on the subject, if any.

(6) A law enforcement officer who makes or attempts to make an arrest need not retreat or desist from his or her efforts by reason of the resistance or threatened resistance of the person being arrested. A law enforcement officer shall not be deemed an aggressor or lose the right to self-defense by the use of proportional force if necessary in compliance with subdivision (2) of this subsection to effect the arrest or to prevent escape or to overcome resistance. For the purposes of this subdivision, "retreat" does not mean tactical repositioning or other de-escalation tactics.

(7) A law enforcement officer has a duty to intervene when the officer observes another officer using a chokehold on a person.

(c) Use of deadly force.

(1) A law enforcement officer is justified in using deadly force upon another person only when, based on the totality of the circumstances, such force is objectively reasonable and necessary to:

(A) defend against an imminent threat of death or serious bodily injury to the officer or to another person; or

(B) apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.

(2) The use of deadly force is necessary when, given the totality of the circumstances, an objectively reasonable law enforcement officer in the same situation would conclude that there was no reasonable alternative to the use of deadly force that would prevent death or serious bodily injury to the officer or to another person.

(3) A law enforcement officer shall cease the use of deadly force as soon as the subject is under the officer's control or no longer poses an imminent threat of death or serious bodily injury to the officer or to another person.

(4) A law enforcement officer shall not use deadly force against a person based on the danger that person poses to himself or herself if an objectively reasonable officer would believe the person does not pose an

imminent threat of death or serious bodily injury to the law enforcement officer or to another person.

(5) When feasible, a law enforcement officer shall, prior to the use of force, make reasonable efforts to identify himself or herself as a law enforcement officer and to warn that deadly force may be used.

(6) A law enforcement officer shall not use a chokehold on a person unless deadly force is justified pursuant to subdivisions (1)–(4) of this subsection.

Sec. 2. 13 V.S.A. § 1032 is amended to read:

§ 1032. LAW ENFORCEMENT USE OF ~~PROHIBITED RESTRAINT~~
CHOKEHOLDS

(a) As used in this section:

(1) “Law enforcement officer” ~~shall have~~ has the same meaning as in 20 V.S.A. § 2351a.

(2) ~~“Prohibited restraint” means the use of any maneuver on a person that applies pressure to the neck, throat, windpipe, or carotid artery that may prevent or hinder breathing, reduce intake of air, or impede the flow of blood or oxygen to the brain~~ “Chokehold” means the use of any maneuver on a person that employs a lateral vascular neck restraint, carotid restraint, or other action that applies any pressure to the throat, windpipe, or neck in a manner that limits the person’s breathing or blood flow.

(3) “Serious bodily injury” ~~shall have~~ has the same meaning as in section 1021 of this title.

(b) A law enforcement officer acting in the officer’s capacity as law enforcement who employs a ~~prohibited restraint~~ chokehold on a person that causes serious bodily injury to or death of the person shall be imprisoned for not more than 20 years or fined not more than \$50,000.00, or both.

Sec. 3. 20 V.S.A. § 2358(g) is amended to read:

(g) The Council shall not offer or approve any training on the use of a ~~prohibited restraint~~ chokehold as defined in section 2401 of this chapter, except for training designed to identify and prevent the use of ~~prohibited restraints~~ chokeholds.

Sec. 4. 13 V.S.A. § 2305 is amended to read:

§ 2305. JUSTIFIABLE HOMICIDE

If a person kills or wounds another under any of the circumstances enumerated below, he or she shall be guiltless:

(1) in the just and necessary defense of ~~his or her~~ the person's own life or the life of ~~his or her husband, wife~~ the person's spouse, parent, child, ~~brother, sister, master, mistress, servant~~ sibling, guardian, or ward; or

(2) in the forceful or violent suppression of a person attempting to commit murder, sexual assault, aggravated sexual assault, burglary, or robbery; ~~with force or violence~~; or

(3) in the case of a ~~civil officer; or a military officer or private soldier when lawfully called out to suppress riot or rebellion, or to prevent or suppress invasion, or to assist in serving legal process, in suppressing opposition against him or her in the just and necessary discharge of his or her duty~~ law enforcement officer as defined in 20 V.S.A. § 2351(a) using force in compliance with 20 V.S.A. § 2368(b)(1), (2), and (5) or deadly force in compliance with 20 V.S.A. § 2368(c)(1)–(4) and (6).

Sec. 5. 20 V.S.A. § 2401 is amended to read:

§ 2401. DEFINITIONS

As used in this subchapter:

* * *

(2) “Category B conduct” means gross professional misconduct amounting to actions on duty or under authority of the State, or both, that involve willful failure to comply with a State-required policy or substantial deviation from professional conduct as defined by the law enforcement agency’s policy or if not defined by the agency’s policy, then as defined by Council policy, and shall include:

(A) sexual harassment involving physical contact or misuse of position;

(B) misuse of official position for personal or economic gain;

(C) excessive use of force under authority of the State, first offense;

(D) biased enforcement;

(E) use of electronic criminal records database for personal, political, or economic gain;

(F) placing a person in a ~~prohibited restraint~~ chokehold;

(G) failing to intervene and report to a supervisor when the officer observes another officer placing a person in a ~~prohibited restraint~~ chokehold or using excessive force.

* * *

~~(7) "Prohibited restraint" means the use of any maneuver on a person that applies pressure to the neck, throat, windpipe, or carotid artery that may prevent or hinder breathing, reduce intake of air, or impede the flow of blood or oxygen to the brain~~ "Chokehold" means the use of any maneuver on a person that employs a lateral vascular neck restraint, carotid restraint, or other action that applies any pressure to the throat, windpipe, or neck in a manner that limits the person's breathing or blood flow.

Sec. 6. 20 V.S.A. § 2407 is amended to read:

§ 2407. LIMITATION ON COUNCIL SANCTIONS; FIRST OFFENSE OF
CATEGORY B CONDUCT

(a) Category B conduct; first offense. If a law enforcement agency conducts a valid investigation of a complaint alleging that a law enforcement officer committed a first offense of Category B conduct, the Council shall take no action, except that the Council may take action for a first offense under subdivision 2401(2)(C) (excessive use of force under authority of the State), 2401(2)(F) (placing a person in a ~~prohibited-restraint~~ chokehold), or 2401(2)(G) (failing to intervene and report to a supervisor when an officer observes another officer placing a person in a ~~prohibited-restraint~~ chokehold or using excessive force) of this chapter.

* * *

Sec. 7. 2020 Acts and Resolves No. 165, Sec. 5 is amended to read:

Sec. 5. EFFECTIVE DATES

(a) Sec. 1 (standards for law enforcement use of force) and Sec. 2 (justifiable homicide) shall take effect on July 1, 2021.

(b) Sec. 2 (justifiable homicide) shall take effect on September 1, 2021.

(c) The remainder of this act shall take effect on passage.

Sec. 8. REPEAL

2020 Acts and Resolves No. 165, Sec. 1 (standards for law enforcement use of force) is repealed.

Sec. 9. EFFECTIVE DATES

(a) This section and Sec. 8 (repeal) shall take effect on July 1, 2021.

(b) The remainder of this act shall take effect on September 1, 2021.

Having appeared on the Calendar one day for Notice, was taken up and read the second time.

Rep. LaLonde of South Burlington moved to amend the report of the Committee on Judiciary as follows:

First: In Sec. 2, 13 V.S.A. § 1032, in subsection (b), after the words “on a person” by adding “in violation of 20 V.S.A. § 2368(c)(6)”

Second: By striking out Secs. 7 (2020 Acts and Resolves No. 165), 8 (repeal), and 9 (effective dates) in their entireties and inserting in lieu thereof the following:

Sec. 7. REPEALS

2020 Acts and Resolves No. 165, Sec. 1 (standards for law enforcement use of force), Sec. 2 (justifiable homicide), and subsection (a) of Sec. 5 (effective dates) are repealed.

Sec. 8. EFFECTIVE DATES

(a) This section and Sec. 7 (repeals) shall take effect on July 1, 2021.

(b) The remainder of this act shall take effect on September 1, 2021.

Which was agreed to. Thereupon the report of the Committee on Judiciary, as amended, was agreed to, and third reading ordered.

Second Reading; Bill Amended; Third Reading Ordered

H. 218

Rep. Surprenant of Barnard, for the Committee on Agriculture and Forestry, to which had been referred House bill, entitled

An act relating to the sale of unpasteurized raw milk

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 6 V.S.A. chapter 152 is amended to read:

CHAPTER 152: SALE OF UNPASTEURIZED (RAW) MILK

§ 2775. LIMITED SALE OF UNPASTEURIZED (RAW) MILK

PERMISSIBLE

Notwithstanding section 2701 of this title, the production and sale of unpasteurized milk to a consumer for personal consumption is permitted within the State of Vermont only when produced, marketed, and sold in conformance with this chapter.

§ 2776. DEFINITIONS

~~In~~ As used in this chapter:

(1) “Consumer” means a customer who purchases, barter for, receives delivery of, or otherwise acquires unpasteurized milk according to the requirements of this chapter.

(2) “Milk” ~~shall have~~ has the same meaning as set forth in section 2672 of this title.

(3) “Personal consumption” means the use by a consumer of unpasteurized milk for food or to create a food product made with or from unpasteurized milk that is intended to be ingested by the consumer, members of his or her household, or any nonpaying guests.

(4) “Unpasteurized milk” or “unpasteurized (raw) milk” means milk that is unprocessed.

(5) “Unprocessed” means milk that has not been modified from the natural state it was in as it left the animal, other than filtering, packaging, and cooling.

(6) “Community-supported agriculture organization” or “CSA organization” means a farm or group of farms each subject to regulation under the Required Agricultural Practices that grow, raise, or produce agricultural products for consumer shareholders or subscribers who pledge or contract to buy a portion of the agricultural products of the farm or group of farms.

(7) “Farm stand” means a site on a farm subject to the Required Agricultural Practices where agricultural products principally produced on the farm are sold to the public.

§ 2777. STANDARDS FOR THE SALE OF UNPASTEURIZED (RAW)

MILK

(a) ~~Unpasteurized~~ Except as provided under section 2778 of this title, unpasteurized milk shall be sold directly from the producer to the consumer for personal consumption only and shall not be resold.

(b) Unpasteurized milk shall be sold only from the farm on which it was produced except when sale or delivery off the farm is allowed under section 2778 of this chapter. Unpasteurized milk shall not be offered as free samples at any location other than on the farm on which the milk was produced.

(c) Unpasteurized milk operations shall conform to reasonable sanitary standards, including:

(1)(A) Unpasteurized milk shall be derived from healthy animals that are subject to appropriate veterinary care, including rabies vaccination administered by a licensed veterinarian according to accepted vaccination standards established by the Agency.

(B) A producer shall ensure that all ruminant animals are tested for brucellosis and tuberculosis, conducted by a licensed veterinarian according to accepted testing standards established by the Agency, prior to the sale of unpasteurized milk.

(C) A producer shall ensure that dairy animals entering the producer's milking herd, including those born on the farm, are tested for brucellosis and tuberculosis, conducted by a licensed veterinarian according to accepted testing standards established by the Agency, prior to the animal's milk being sold to consumers, unless:

(i) ~~The~~ the dairy animal has a negative U.S. Department of Agriculture approved test for brucellosis within 30 days prior to importation into the State, in which case a brucellosis test shall not be required;

(ii) ~~The~~ the dairy animal has a negative U.S. Department of Agriculture approved tuberculosis test within 60 days prior to importation into the State, in which case a tuberculosis test shall not be required; or

(iii) ~~The~~ the dairy animal leaves and subsequently reenters the producer's herd from a state or Canadian province that is classified as "certified free" of brucellosis and "accredited free" of tuberculosis or an equivalent classification, in which case a brucellosis or tuberculosis test shall not be required.

(D) A producer shall post test results and verification of vaccinations on the farm in a prominent place and make results available to customers and the Agency.

(2) The animal's udders and teats shall be cleaned and sanitized prior to milking.

(3) The animals shall be housed in a clean, dry environment.

(4) Milking equipment shall be of sanitary construction, cleaned after each milking, and sanitized prior to the next milking.

(5) Milking shall be conducted in a clean environment appropriate for maintaining cleanliness.

(6) The farm shall have a potable water supply ~~which~~ that is sampled for bacteriological examination according to Agency standards every three years and whenever any alteration or repair of the water supply has been made.

(7) If an animal is treated with antibiotics, that animal's milk shall be tested for and found free of antibiotics before its milk is offered for sale.

(d) Unpasteurized milk shall conform to the following production and marketing standards:

(1) Record keeping and reporting.

(A) A producer shall collect one composite sample of unpasteurized milk each day and keep the previous 14 days' samples frozen. The producer shall provide samples to the Agency if requested.

(B) A producer shall maintain a current list of all customers, including addresses, telephone numbers, and, when available, e-mail addresses.

(C) The producer shall maintain a list of transactions for at least one year that shall include customer names, the date of each purchase, and the amount purchased.

(2) Labeling. Unpasteurized (raw) milk shall be labeled as such, and the label shall contain:

(A) The date the milk was obtained from the animal.

(B) The name, address, zip code, and telephone number of the producer.

(C) The common name of the type of animal producing the milk, such as cattle, goat, sheep, or an image of the animal.

(D) The words "Unpasteurized (Raw) Milk. Keep Refrigerated." on the container's principal display panel, and these words shall be clearly readable in letters at least one-eighth inch in height and prominently displayed.

(E) The words "Consuming raw unpasteurized milk may cause illness, particularly in children, seniors, persons with weakened immune systems, and pregnant women." on the container's principal display panel and clearly readable in letters at least one-sixteenth inch in height.

(3) Temperature. Unpasteurized milk shall be cooled to 40 degrees Fahrenheit or lower within two hours of the finish of milking and so maintained until it is obtained by the consumer. All farms shall be able to demonstrate to the Agency's inspector that they have the capacity to keep the amount of milk sold on the highest volume day stored and kept at 40 degrees Fahrenheit or lower in a sanitary and effective manner.

(4) Storage. An unpasteurized milk bulk storage container shall be cleaned and sanitized after each emptying. Each container shall be emptied within 24 hours of the first removal of milk for packaging. Milk may be stored for up to 72 hours, but all storage containers shall be emptied and cleaned at least every 72 hours. Unless milk storage containers are cleaned and sanitized daily, a written log of dates and times when milking, cleaning,

and sanitizing occur shall be posted in a prominent place and be easily visible to customers.

(5) Shelf life. Unpasteurized milk shall not be transferred to a consumer after four days from the date on the label.

(6) Customer inspection and notification.

(A) The producer shall provide the customer with the opportunity to tour the farm and any area associated with the milking operation. The producer shall permit the customer to return to the farm at a reasonable time and at reasonable intervals to reinspect any areas associated with the milking operation.

(B)(i) A sign, provided by the Agency of Agriculture, Food and Markets, that is 8 eight and ~~one-half~~ one-half inches by 11 inches in size with the words “Unpasteurized (Raw) Milk. Keep Refrigerated.” “Consuming raw unpasteurized milk may cause illness, particularly in children, seniors, persons with weakened immune systems, and pregnant women.” shall be displayed prominently on the farm in a place where it can be easily seen by customers. The text of the sign required under this subdivision shall be clearly visible and easily readable to consumers on the farm or at a farmers’ market.

(ii) The Secretary of Agriculture, Food and Markets shall post a copy of the sign required under subdivision (6)(B)(i) of this section to the website of the Agency of Agriculture, Food and Markets for use by producers.

(e) A producer selling 87.5 or fewer gallons (350 quarts) of unpasteurized milk per week shall meet the requirements of subsections (a) through (d) of this section and shall sell unpasteurized milk from the farm on which it was produced. A producer selling 87.5 or fewer gallons of unpasteurized milk may choose to meet the requirements of subsection (f) of this section, in which case the producer may deliver or sell in accordance with section 2778 of this title.

(f) A producer selling more than 87.5 gallons to 350 gallons (more than 350 to 1,400 quarts) of unpasteurized milk per week shall meet the requirements of subsections (a) through (d) of this section as well as the following standards:

(1) Inspection. The Agency shall annually inspect the producer’s facility and determine that the producer is in compliance with the sanitary standards listed in subsection (c) of this section.

(2) Bottling. Unpasteurized milk shall be sold in containers that have been filled by the producer. Containers shall be cleaned by the producer except that the producer may allow customers to clean their own containers only if each customer’s container is labeled with the customer’s name and

address and the customers use their own containers. Producers shall ensure that only clean bottles are filled and distributed.

(3) Testing.

(A) A producer shall have unpasteurized milk tested twice per month by a U.S. Food and Drug Administration accredited laboratory using accredited lab-approved testing containers. Milk shall be tested for the following and the results shall be below these limits:

- (i) total bacterial (aerobic) count: 15,000 cfu l (cattle and goats);
- (ii) total coliform count: 10 cfu l (cattle and goats); and
- (iii) somatic cell count: 225,000 l (cattle); 500,000 l (goats).

(B) The producer shall ensure that all test results are forwarded to the Agency, by the laboratory, upon completion of testing or within five days of receipt of the results by the producer.

(C) The producer shall keep test results on file for one year and shall post results on the farm in a prominent place that is easily visible to customers. The producer shall provide test results to the farm's customers if requested.

(D) The Secretary shall issue a warning to a producer when any two out of four consecutive, monthly tests exceed the limits. The Secretary shall have the authority to suspend unpasteurized milk sales if any three out of five consecutive, monthly tests exceed the limits until an acceptable sample result is achieved. The Secretary shall not require a warning to the consumer based on a high test result.

(4) Registration. Each producer operating under this subsection shall register with the Agency.

(5) Reporting. On or before March 1 of each year, each producer shall submit to the Agency a statement of the total gallons of unpasteurized milk sold in the previous 12 months.

(6) Off-farm sale and delivery. The sale and delivery of unpasteurized milk is permitted as provided for under section 2778 of this title.

(g) The sale of more than 350 gallons (1,400 quarts) of unpasteurized milk in any one week is prohibited.

§ 2778. SALE OR DELIVERY OF UNPASTEURIZED (RAW) MILK

(a) Sale or delivery of unpasteurized milk off the farm, at a farm stand, or by a CSA organization is permitted ~~only~~ within the State of Vermont and ~~only~~ of milk produced by a producer meeting the requirements of subsection 2777(f) of this chapter.

(b) Sale or delivery of unpasteurized milk off the farm, at a farm stand, or by a CSA organization shall conform to the following requirements:

(1) ~~Vendors~~ Persons selling or delivery unpasteurized milk shall verbally inform each customer of the need to keep milk refrigerated.

(2) A producer may sell or deliver unpasteurized milk directly to the customer:

(A) at the customer's home or may deliver it to the customer's home when delivery is into a refrigerated unit at the customer's home if such unit is capable of maintaining the unpasteurized milk at 40 degrees Fahrenheit or lower until obtained by the customer; or

(B) at a farmers' market, as that term is defined in section 5001 of this title, where the producer is a vendor.

(3) During delivery or storage prior to sale, unpasteurized milk shall be protected from exposure to direct sunlight.

(4) During delivery or storage prior to sale, unpasteurized milk shall be kept at 40 degrees Fahrenheit or lower at all times.

(c)(1) A producer may contract with another individual, a farm stand, or a CSA organization to deliver or sell the unpasteurized milk in accordance with this section.

(2) The producer shall be jointly and severally liable for the delivery or sale of the unpasteurized milk in accordance with this section.

(3) The producer shall submit to the Agency of Agriculture, Food and Markets notice of the farm stands or CSA organizations with whom the producer has contracted to sell the producer's unpasteurized milk under this section.

(d) Prior to delivery or sale at a farmers' market under this section, a producer shall submit to the Agency of Agriculture, Food and Markets written or electronic notice of intent to deliver or sell unpasteurized milk at a farmers' market. The notice shall:

(1) include the producer's name and proof of registration;

(2) identify the farmers' market or markets where the producer will deliver milk; and

(3) specify the day or days of the week on which delivery or sale will be made at a farmers' market.

(e) A producer selling or delivering unpasteurized milk at a farmers' market under this section shall display the registration required under

subdivision 2777(f)(4) of this title and the sign required under subdivision 2777(d)(6) on the farmers' market stall or stand in a prominent manner that is clearly visible to consumers.

(f) A farm stand or a CSA organization selling unpasteurized milk produced on a farm other than the farm or farms where the farm stand or CSA organization is located shall:

(1) maintain a list of all customers to whom unpasteurized milk is sold, including addresses, telephone numbers, and, when available, e-mail addresses; date of purchase; and amount purchased;

(2) submit the records required under subdivision (1) of this section to the producer weekly;

(3) store unpasteurized milk in a refrigerated unit or other adequate storage that is capable of keeping the milk at 40 degrees Fahrenheit or lower in a sanitary and effective manner; and

(4) display the sign required for producers under subdivision 2777(d)(6)(B) in a place where clearly visible to and easily readable by customers at the farm stand or CSA organization.

(g) Sale of unpasteurized milk by a farm stand or a CSA organization under this subsection shall be deemed to be farming under 10 V.S.A. § 6001(22) and the Required Agricultural Practices.

(h) The Secretary may inspect a farm stand or CSA organization selling unpasteurized milk under this section during reasonable hours for the purposes of determining compliance with this section.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2021.

The bill, having appeared on the Calendar one day for Notice, was taken up, read the second time, report of the Committee on Agriculture and Forestry agreed to, and third reading ordered.

Joint Resolution Adopted

J.R.H. 5

Joint resolution, entitled

Joint resolution authorizing, subject to the determination of and limitations that the Sergeant at Arms may establish, the Green Mountain Boys State educational program to use the State House;

Was taken up and adopted on the part of the House.

Second Reading; Bill Amended; Third Reading Ordered**H. 154**

Rep. Vyhovsky of Essex, for the Committee on Government Operations, to which had been referred House bill, entitled

An act relating to the failure of municipal officers to accept office

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 24 V.S.A. § 961 is amended to read:

§ 961. VACANCY OR SUSPENSION OF OFFICER'S DUTIES

(a) When a ~~town~~ municipal officer resigns ~~his or her~~ the officer's office, ~~or~~ has been removed ~~therefrom~~ from the office, ~~or~~ dies, ~~or~~ becomes unable to perform ~~his or her~~ the officer's duties due to a mental condition or psychiatric disability, or removes from town, ~~such~~ the office shall become vacant. Notice of this vacancy shall be posted by the legislative body in at least two public places in the ~~town~~ municipality, and in and near the ~~town~~ municipal clerk's office, within 10 days of the creation of the vacancy.

(b) In the event there are so many vacancies on the ~~selectboard~~ legislative body that a quorum cannot be achieved, the remaining ~~selectperson~~ member or ~~selectpersons~~ members of the legislative body shall be authorized to draw orders for payment of continuing obligations and necessary expenses until the vacancies are filled pursuant to section 963 of this title.

* * *

(d) When a municipal officer refuses or neglects within 30 days of election or appointment to take an oath of office pursuant to section 831 of this title, the office shall become vacant. However, the office shall not be deemed vacant until the legislative body of the municipality has warned a regular meeting for that purpose and affords the municipal officer the opportunity to take the oath of office at the meeting.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2021.

The bill, having appeared on the Calendar one day for Notice, was taken up, read the second time, report of the Committee on Government Operations agreed to, and third reading ordered.

**Rules Suspended; Second Reading; Proposal of Amendment Offered;
Recess; Proposal of Amendment Agreed to; Third Reading Ordered;
Rules Suspended; Third Reading; Bill Passed in Concurrence with
Proposal of Amendment; Rules Suspended;
Bill Messaged to Senate Forthwith**

S. 117

On motion of **Rep. McCoy of Poultney**, the rules were suspended and Senate bill, entitled

An act relating to extending health care regulatory flexibility during and after the COVID-19 pandemic and to coverage of health care services delivered by audio-only telephone

Appearing on the Calendar for Notice, was taken up for immediate consideration.

Rep. Houghton of Essex, for the Committee on Health Care, to which had been referred the Senate bill reported in favor of its passage in concurrence.

Thereupon, the bill was read the second time.

Pending the question, Shall the bill be read a third time? **Rep. Strong of Albany** moved that the House propose to the Senate that the bill be amended by striking out Sec. 11, 18 V.S.A. § 1129, in its entirety and inserting in lieu thereof the following:

Sec. 11. [Deleted.]

At three o'clock and and thirty-nine minutes in the afternoon, the Speaker declared a recess until the fall of the gavel.

At four o'clock and fifty-seven minutes in the afternoon, the Speaker called the House to order.

Thereupon, the proposal of amendment was agreed to, and third reading was ordered.

On motion of **Rep. McCoy of Poultney**, the rules were suspended and the bill placed in all remaining stages of passage. Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

On motion of **Rep. McCoy of Poultney**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

Message from the Senate No. 28

A message was received from the Senate by Mr. Bloomer, its Secretary, as follows:

Madam Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bills of the following titles:

S. 7. An act relating to expanding access to expungement and sealing of criminal history records.

S. 78. An act relating to binding interest arbitration for employees of the Vermont Judiciary.

In the passage of which the concurrence of the House is requested.

Adjournment

At five o'clock and eleven minutes in the afternoon, on motion of **Rep. McCoy of Poultney**, the House adjourned until tomorrow at one o'clock and fifteen minutes in the afternoon.