

Journal of the Senate

TUESDAY, MARCH 23, 2021

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Kenzan of East Calais.

Pledge of Allegiance

The President then led the members of the Senate in the pledge of allegiance.

Bill Referred to Committee on Appropriations

H. 81.

House bill of the following title, appearing on the Calendar for notice, and carrying an appropriation or requiring the expenditure of funds, under the rule, was referred to the Committee on Appropriations:

An act relating to statewide public school employee health benefits.

Joint Senate Resolution Adopted on the Part of the Senate

J.R.S. 20.

Joint Senate resolution of the following title was offered, read and adopted on the part of the Senate, and is as follows:

By Senator Balint,

J.R.S. 20. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, March 26, 2021, it be to meet again no later than Tuesday, March 30, 2021.

Bills Referred

House bills of the following titles were severally read the first time and referred:

H. 87.

An act relating to establishing a classification system for criminal offenses.

To the Committee on Judiciary.

H. 145.

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

To the Committee on Judiciary.

H. 154.

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

To the Committee on Government Operations.

H. 428.

An act relating to hate-motivated crimes and misconduct.

To the Committee on Judiciary.

Bill Amended; Third Reading Ordered

S. 3.

Senator Sears, for the Committee on Judiciary, to which was referred Senate bill entitled:

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

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

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 psychologist, ~~if applicable,~~ shall prepare a report containing findings in regard to ~~each of the applicable matters listed in 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's attorney if the respondent is represented by counsel, and to the Commissioner of Mental Health.

(2) If the psychiatrist or psychologist has been asked to provide opinions as to 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 psychologist is able to form the opinion that the person is competent to stand trial.

* * *

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 pursuant to subdivision (a)(2) of this section, 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 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) commitment in 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 absconds 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 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.

(C) When a person has been committed under this section and is subject to a nonhospitalization order as a result of that commitment under 18 V.S.A. § 7618, the Commissioner shall provide notice to the committing court and 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, if the Commissioner becomes aware that:

(i) the person is not complying with the order; or

(ii) the alternative treatment has not been adequate to meet the person's treatment needs.

* * *

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.

* * *

Sec. 5. CORRECTIONS; ASSESSMENT OF MENTAL HEALTH SERVICES

On or before November 1, 2021, 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. The evaluation shall include 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. The evaluation shall further address 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.

Sec. 6. FORENSIC CARE WORKING GROUP

(a) On or before August 1, 2021, the Department of Mental Health shall convene a working group of interested stakeholders, including as appropriate, the Department of Corrections, the Department of State's Attorneys and Sheriffs, the Office of the Attorney General, the Office of the Defender General, the Director of Health Care Reform, the Department of Buildings and General Services, a representative appointed by Vermont Care Partners, a representative appointed by Vermont Legal Aid's Mental Health Project, two crime victims representatives appointed by the Vermont Center for Crime Victim Services, the Mental Health Care Ombudsman established pursuant to

18 V.S.A. § 7259, a representative of the designated hospitals appointed by the Vermont Association of Hospitals and Health Care Systems, a person with lived experience of mental illness, and any other interested party permitted by the Commissioner of Mental Health, to:

(1) Identify any gaps in the current mental health and criminal justice system structure and opportunities to improve public safety and the coordination of treatment for individuals incompetent to stand trial or who are adjudicated not guilty by reason of insanity. The working group shall review competency restoration models used in other states and explore models used in other states that balance the treatment and public safety risks posed by individuals found not guilty by reason of insanity, such as Psychiatric Security Review Boards, including the Connecticut Psychiatric Security Review Board, and guilty but mentally ill verdicts in criminal cases.

(2) Evaluate various models for the establishment of a State-funded forensic treatment facility for individuals found incompetent to stand trial or who are adjudicated not guilty by reason of insanity. The evaluation shall address:

(A) the need for a forensic treatment facility in Vermont;

(B) the entity or entities most appropriate to operate a forensic treatment facility;

(C) the feasibility and appropriateness of repurposing an existing facility for the purpose of establishing a forensic treatment facility versus constructing a new facility for this purpose;

(D) the number of beds needed in a forensic treatment facility and the impact that repurposing an existing mental health treatment facility would have on the availability of beds for persons seeking mental health treatment in the community or through the civil commitment system; and

(E) the fiscal impact of constructing or repurposing a forensic treatment facility and estimated annual operational costs considering “institutions of mental disease” waivers available through the Center for Medicare and Medicaid Services that do not provide federal fiscal participation for forensic mental health patients.

(b) Members of the working group who are not State employees shall be entitled to per diem compensation and reimbursement of expenses for attending meetings as permitted under 32 V.S.A. § 1010.

(c) On or before November 1, 2021, the Department of Mental Health shall submit a report containing the findings and recommendations of the working group to the Joint Legislative Justice Oversight Committee. The report shall

include proposed draft legislation addressing any identified needed changes to statute.

Sec. 7. APPROPRIATIONS

(a) The sum of \$250,000.00 is appropriated from the General Fund to Vermont Legal Aid for the purpose of providing legal representation in commitment proceedings pursuant to 13 V.S.A. § 4820(b).

(b) The sum of \$250,000.00 is appropriated from the General Fund to the Department of Mental Health. for the purpose of providing legal representation in commitment proceedings pursuant to 13 V.S.A. § 4820(b).

Sec. 8. EFFECTIVE DATE

This act shall take effect on July 1, 2021.

And that when so amended the bill ought to pass.

Senator Sears, for the Committee on Appropriations, to which the bill was referred, reported that the bill be amended as recommended by the Committee on Judiciary with the following amendment thereto:

By striking out Sec. 7 in its entirety and by renumbering the remaining section to be numerically correct.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of the Committee on Judiciary was amended as recommended by the Committee on Appropriations.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Judiciary, as amended?, Senator Sears moved to amend the recommendation of the Committee on Judiciary, as amended as follows:

In Sec. 6, forensic care working group, subsection (a), by inserting a subdivision (3) to read as follows:

(3) Consider the notification process under 13 V.S.A. § 4822(c)(2)(C) when the Commissioner is required to provide notification to the prosecutor upon becoming aware that persons on orders of non-hospitalization are not complying with the order or that the alternative treatment is not adequate to meet the person's treatment needs. The working group shall make any recommendations it deems necessary to clarify the process, including recommendations as to what facts and circumstances should trigger the Commissioner's duty to notify the prosecutor, and recommendations as to steps that the prosecutor should take after receiving the notification.

Which was agreed to.

Thereupon, the recommendation of amendment of the Committee on Judiciary, as amended, was agreed to and third reading of the bill was ordered.

Bill Amended; Third Reading Ordered

S. 97.

Senator Nitka, for the Committee on Judiciary, to which was referred Senate bill entitled:

An act relating to miscellaneous judiciary procedures.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following::

* * * Sunset Repeals and Extension * * *

Sec. 1. SUNSET REPEAL; COURT DIVERSION PROGRAM CHANGES

2017 Acts and Resolves No. 61, Sec. 7, as amended by 2020 Acts and Resolves No. 134, Sec. 1 (July 1, 2020 repeal of changes to the court diversion program), is repealed.

Sec. 2. SUNSET REPEAL; RACIAL DISPARITIES IN THE CRIMINAL AND JUVENILE JUSTICE SYSTEMS ADVISORY PANEL

2017 Acts and Resolves No. 54, Sec. 6a, as amended by 2020 Acts and Resolves No. 134, Sec. 2 (July 1, 2020 repeal of 3 V.S.A. § 168, Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel), is repealed.

Sec. 3. SUNSET REPEAL; SPOUSAL MAINTENANCE AND SUPPORT GUIDELINES

2017 Acts and Resolves No. 60, Sec. 3, as amended by 2018 Acts and Resolves No. 203, Sec. 1 (July 1, 2021 repeal of spousal maintenance and support guidelines), is repealed.

Sec. 4. 2017 Acts and Resolves No. 142, Sec. 5, is amended to read:

Sec. 5. REPEAL

13 V.S.A. §§ 5451 (creation of Vermont Sentencing Commission) and 5452 (creation of Vermont Sentencing Commission) shall be repealed on July 1, ~~2021~~ 2022.

* * * Repeals * * *

Sec. 5. 13 V.S.A. § 2579 is amended to read:

§ 2579. ~~CIVIL RECOVERY FOR RETAIL THEFT~~

~~(a) Any person over the age of 16 years or any emancipated minor who commits the offense of retail theft against a retail mercantile establishment in violation of section 2575 of this title shall be civilly liable to the retail mercantile establishment in an amount consisting of:~~

~~(1) damages equal to the retail price of the merchandise if the item is not returned in a merchantable condition; and~~

~~(2) a civil penalty of two times the retail price of the merchandise, to be not less than \$25.00 and not more than \$300.00.~~

~~(b) The fact that an action may be brought against an individual as provided in this section shall not limit the right of a retail mercantile establishment to demand, in writing, that a person who is liable for damages and penalties under this section remit the damages and penalties prior to the commencement of any legal action.~~

~~(c) If the person to whom a demand is made complies with the demand, that person shall incur no further civil liability for that specific act of retail theft.~~

~~(d) Any demand made under this section shall be accompanied by a copy of this law.~~

~~(e) A criminal prosecution under section 2575 of this title is not a prerequisite to the applicability of this section and such a criminal prosecution shall not bar an action under this section. An action under this section shall not bar a criminal prosecution under section 2575 of this title.~~

~~(f) The provisions of this section shall not be construed to prohibit or limit any other cause of action that a retail mercantile establishment may have against a person who unlawfully takes merchandise from a retail mercantile establishment, except as provided in subsection (c) of this section.~~

~~(g) Any testimony or statements by the defendant or any evidence derived from an attempt to reach a civil settlement or from a civil proceeding brought under this section shall be inadmissible in any other court proceeding relating to such retail theft.~~

~~(h) If a retail mercantile establishment files suit to recover damages and penalties pursuant to subsection (a) of this section and the mercantile establishment fails to appear at a hearing in such proceedings without excuse from the court, the court shall dismiss the suit with prejudice and award costs~~

to the defendant.

(i) ~~A person who knowingly uses the provisions of this section to demand or extract money from a person who is not legally obligated to pay a penalty shall be imprisoned not more than one year or fined not more than \$1,000.00, or both. [Repealed.]~~

Sec. 6. 20 V.S.A. § 187 is amended to read:

§ 187. ~~SPECIAL EMERGENCY JUDGES~~

~~In the event that any district judge is unavailable to exercise the powers and discharge the duties of his or her office, the duties of the office shall be discharged and the powers exercised by one of three special emergency judges residing in the district served by such judge, and designated by him or her within 60 days after the approval of this chapter, and thereafter immediately after the date that he or she shall have been appointed and qualified as such. Such special emergency judges shall, in the order specified, exercise the powers and discharge the duties of such office in case of the unavailability of the regular judge or persons immediately preceding them in the designation. The designating authority shall, each year, review and shall revise, as necessary, designations made pursuant to this chapter to insure their current status. Forthwith after such designations are made and after a revision thereof copies shall be filed in the offices of the governor and the county clerk. Said emergency special judges shall discharge the duties and exercise the powers of such office until such time as a vacancy which may exist shall be filled in accordance with the constitution and statutes or until the regular judge or one preceding the designee in the order of designation becomes available to exercise the powers and discharge the duties of his or her office. While exercising the powers and discharging the duties of the office of a district judge a special emergency judge shall receive the pro rata salary and perquisites thereof. [Repealed.]~~

* * * Probate Fees * * *

* * *

Sec. 7. 14 V.S.A. § 1492 is amended to read:

§ 1492. ACTION FOR DEATH FROM WRONGFUL ACT; PROCEDURE;
DAMAGES

(a) The action shall be brought in the name of the personal representative of the deceased person and commenced within two years from the discovery of the death of the person, but if the person against whom the action accrues is out of the State, the action may be commenced within two years after the person comes into the State. After the cause of action accrues and before the

two years have run, if the person against whom it accrues is absent from and resides out of the State and has no known property within the State that can by common process of law be attached, the time of his or her absence shall not be taken as part of the time limited for the commencement of the action. If the death of the decedent occurred under circumstances such that probable cause is found to charge a person with homicide, the action shall be commenced within seven years after the discovery of the death of the decedent or not more than two years after the judgment in that criminal action has become final, whichever occurs later.

* * *

(f) The fee for the appointment of a personal representative to bring an action pursuant to subsection(a) of this section shall be the entry fee established by 32 V.S.A. § 1434(a)(1).

Sec. 8. 32 V.S.A. § 1434 is amended to read:

§ 1434. PROBATE CASES

(a) The following entry fees shall be paid to the Probate Division of the Superior Court for the benefit of the State, except for subdivisions (18) and (19) of this subsection, which shall be for the benefit of the county in which the fee was collected:

(1) Estates of \$10,000.00 or less \$50.00

* * *

(34) Registration of foreign guardianship order \$90.00

* * *

* * * Judicial Bureau; Agricultural Product Identification
Labels Misuse * * *

Sec. 9. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

(a) The Judicial Bureau is created within the Judicial Branch under the supervision of the Supreme Court.

(b) The Judicial Bureau shall have jurisdiction of the following matters:

* * *

(7) Violations of 16 V.S.A. chapter 4 9, subchapter 9 5, relating to hazing.

* * *

(19) ~~Violations of 6 V.S.A. § 2965, relating to the misuse of identification labels for agricultural products produced in Vermont and meeting standards of quality established by the Secretary of Agriculture, Food and Markets. [Repealed.]~~

* * *

* * * Roadside Safety Technical Correction * * *

Sec. 10. 23 V.S.A. § 1203 is amended to read:

§ 1203. ADMINISTRATION OF TESTS; RETENTION OF TEST AND
VIDEOTAPE

(a) A breath test shall be administered only by a person who has been certified by the Vermont Criminal Justice Council to operate the breath testing equipment being employed. In any proceeding under this subchapter, a person's testimony that he or she is certified to operate the breath testing equipment employed shall be prima facie evidence of that fact.

(b)(1) Only a physician, licensed nurse, medical technician, physician assistant, medical technologist, laboratory assistant, intermediate or advanced emergency medical technician, or paramedic acting at the request of a law enforcement officer may, at a medical facility, police or fire department, or other safe and clean location as determined by the individual withdrawing blood, withdraw blood for the purpose of determining the presence of alcohol or another drug. A Any withdrawal of blood shall not be taken at roadside, and a law enforcement officer, even if trained to withdraw blood, acting in that official capacity may not withdraw blood for the purpose of determining the presence of alcohol or another drug. These limitations do not apply to the taking of a breath sample. A medical facility or business may not charge more than \$75.00 for services rendered when an individual is brought to a facility for the sole purpose of an evidentiary blood sample or when an emergency medical technician or paramedic draws an evidentiary blood sample.

(2) A saliva sample may be obtained by a person authorized by the Vermont Criminal Justice Council to collect a saliva sample for the purpose of evidentiary testing to determine the presence of a drug. Any saliva sample obtained pursuant to this section shall not be taken at roadside.

(c) ~~When a breath test that is intended to be introduced in evidence is taken with a crimper device or when blood or saliva is withdrawn at an officer's request, a sufficient amount of breath saliva or blood, as the case may be, shall be taken to enable the person to have made an independent analysis of the sample and shall be held for at least 45 days from the date the sample was taken. At any time during that period, the person may direct that the sample be sent to an independent laboratory of the person's choosing for an~~

independent analysis. The Department of Public Safety shall adopt rules providing for the security of the sample. At no time shall the defendant or any agent of the defendant have access to the sample. A preserved sample of breath shall not be required when an infrared breath-testing instrument is used. A person tested with an infrared breath-testing instrument shall have the option of having a second infrared test administered immediately after receiving the results of the first test.

(d) In the case of a breath, saliva, or blood test ~~administered using an infrared breath testing instrument~~, the test shall be analyzed in compliance with rules adopted by the Department of Public Safety. The analyses shall be retained by the State. A sample is adequate if the infrared breath testing instrument analyzes the sample and does not indicate the sample is deficient. ~~Analysis~~ An analysis of the person's ~~breath~~ saliva or blood that is available to that person for independent analysis shall be considered valid when performed according to methods approved by the Department of Public Safety. The analysis performed by the State shall be considered valid when performed according to a method or methods selected by the Department of Public Safety. The Department of Public Safety shall use rule making procedures to select its method or methods. Failure of a person to provide an adequate breath or saliva sample constitutes a refusal.

(e) [Repealed.]

(f) When a law enforcement officer has reason to believe that a person may be violating or has violated section 1201 of this title, the officer may request the person to provide a sample of breath for a preliminary screening test using a device approved by the Commissioner of Public Safety for this purpose. The person shall not have the right to consult an attorney prior to submitting to this preliminary breath alcohol screening ~~test~~. The results of this preliminary screening ~~test~~ may be used for the purpose of deciding whether an arrest should be made and whether to request an evidentiary test and shall not be used in any court proceeding except on those issues. Following the screening, ~~test~~ additional tests may be required of the operator pursuant to the provisions of section 1202 of this title.

* * *

(h) A Vermont law enforcement officer shall have a right to request a breath, saliva, or blood sample in an adjoining state or country under this section unless prohibited by the law of the other state or country. If the law in an adjoining state or country does not prohibit an officer acting under this section from taking a breath, saliva, or blood sample in its jurisdiction, evidence of such sample shall not be excluded in the courts of this State solely on the basis that the test was taken outside the State.

* * *

Sec. 11. REPEAL

2020 Acts and Resolves No. 164, Sec. 24 (administration of tests; 23 V.S.A. § 1203) is repealed.

Sec. 12. 2020 Acts and Resolves No. 164, Sec. 33(c) is amended to read:

(c) Secs. 10 (implementation of Medical Cannabis Registry), 13 (implementation of medical cannabis dispensaries), 18 (income tax deduction), 18c (legislative intent), 21 (definition of evidentiary test), 22 (operating vehicle under the influence of alcohol or other substance), 23 (consent to taking of tests to determine blood alcohol content or presence of other drug), 24 (~~administration of tests~~), and 25 (independent testing of evidentiary sample) shall take effect January 1, 2022.

* * * Effective Dates * * *

Sec. 13. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 10 shall take effect on January 1, 2022.

And that when so amended the bill ought to pass.

Senator Sirotkin, for the Committee on Finance, to which the bill was referred, reported that the bill ought to pass when so amended.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to and third reading of the bill was ordered.

Bills Passed

Senate bills of the following titles were severally read the third time and passed:

S. 88. An act relating to insurance, banking, and securities.

S. 114. An act relating to improving prekindergarten through grade 12 literacy within the State.

Third Reading Ordered**S. 66.**

Senator Chittenden, for the Committee on Transportation, to which was referred Senate bill entitled:

An act relating to electric bicycles.

Reported that the bill ought to pass.

Senator Pearson, for the Committee on Finance, to which the bill was referred, reported that the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

Bill Amended; Third Reading Ordered

S. 51.

Senator Pollina, for the Committee on Government Operations, to which was referred Senate bill entitled:

An act relating to the persons authorized to make contributions to candidates and political parties and to political committee names.

Reported recommending that the bill be amended by striking out Sec. 4 in its entirety and inserting in lieu thereof a two new sections to be numbered Secs. 4 and 5 to read as follows:

Sec. 4. PUBLIC CAMPAIGN FINANCE STUDY COMMITTEE; REPORT

(a) Creation. There is created the Public Campaign Finance Study Committee to study and make recommendations regarding Vermont's current public campaign finance option.

(b) Membership. The Committee shall be composed of the following members:

(1) one current member of the Senate, who shall be appointed by the Committee on Committees and who shall be Co-Chair;

(2) one current member of the House of Representatives, who shall be appointed by the Speaker of the House and who shall be Co-Chair;

(3) the Secretary of State or designee;

(4) the Attorney General or designee; and

(5) the Executive Director of the State Ethics Commission or designee.

(c) Powers and duties. The Committee shall consult with interested stakeholders to study and make recommendations on Vermont's current public campaign finance option (Option), including the following issues:

(1) whether the structure of the Option is appropriate or whether Vermont should instead enact a different public campaign finance system, such as one based on vouchers as in the Seattle Democracy Voucher Program or one that provides supplemental payments based on the amount of qualifying contributions as in the Maine Clean Election Act;

(2) if Vermont should retain the Option;

(A) whether the current qualifying contributions and grant amounts for candidates for Governor and Lieutenant Governor are appropriate;

(B) whether the Option should be extended to other offices and, if so, which offices and what the qualifying contributions and grant amounts should be for each office; and

(C) how it may be improved; and

(3) what the funding source should be for either the Option or any recommended substitute.

(d) Assistance. The Committee shall have the assistance of the Office of Legislative Counsel and the Joint Fiscal Office.

(e) Report. On or before December 1, 2021, the Committee shall report to the Senate and House Committees on Government Operations with its findings and any recommendations for legislative action. The report may be in the form of legislation.

(f) Meetings.

(1) The Co-Chairs shall call the first meeting of the Committee to occur on or before August 15, 2021.

(2) A majority of the membership shall constitute a quorum.

(3) The Committee shall cease to exist on December 1, 2021.

(g) Compensation and reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than five meetings. These payments shall be made from monies appropriated to the General Assembly.

(2) Other members of the Committee shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than five meetings. These payments shall be made from monies appropriated to the member's appointing authority.

Sec. 5. EFFECTIVE DATES

This act shall take effect on December 11, 2022, except that Sec. 4 (campaign finance study) shall take effect upon passage.

And that when so amended the bill ought to pass.

Senator Starr, for the Committee on Appropriations, to which the bill was referred, reported that the bill ought to pass when so amended.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was and third reading of the bill was ordered.

Bill Amended; Third Reading Ordered

S. 62.

Senator Brock, for the Committee on Economic Development, Housing and General Affairs, to which was referred Senate bill entitled:

An act relating to creating a New Vermont Employee Incentive Program.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. INTENT AND PURPOSE

It is the intent of the General Assembly and the purpose of this act to:

- (1) expand the Vermont workforce;
- (2) attract new residents to the State; and

(3) provide support to employers who are unable to fill positions from among candidates who are already located in this State, whether due to very low unemployment rate or due to a disconnect between job requirements and candidate qualifications.

Sec. 2. 10 V.S.A. chapter 1 is amended to read:

CHAPTER 1. ECONOMIC DEVELOPMENT

* * *

§ 4. NEW RELOCATING AND REMOTE EMPLOYEES; INCENTIVES

(a) The Agency of Commerce and Community Development shall design and implement a program to award incentive grants to relocating employees as provided in this section and subject to the policies and procedures the Agency adopts to implement the program.

(b) A relocating employee may be eligible for a grant under the program for qualifying expenses, subject to the following:

(1) A base grant shall not exceed \$5,000.00.

(2) The Agency may award an enhanced grant, which shall not exceed \$7,500.00, for a relocating employee who becomes a resident in a labor market area in this State in which:

(A) the average annual unemployment rate in the labor market area exceeds the average annual unemployment rate in the State; or

(B) the average annual wage in the State exceeds the annual average wage in the labor market area.

(c) The Agency shall:

(1) adopt procedures for implementing the program, which shall include a simple certification process to certify relocating employees and qualifying expenses;

(2) promote awareness of the program, including through coordination with relevant trade groups and by integration into the Agency's economic development marketing campaigns;

(3) award grants to relocating employees on a first-come, first-served basis beginning on July 1, 2021, subject to available funding; and

(4) adopt measurable goals, performance measures, and an audit strategy to assess the utilization and performance of the program.

(d) Annually, on or before December 15, the Agency shall submit a report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs concerning the implementation of this section, including:

(1) a description of the policies and procedures adopted to implement the program;

(2) the promotion and marketing of the program;

(3) an analysis of the utilization and performance of the program, including the projected revenue impacts and other qualitative and quantitative returns on investment in the program based on available data and modeling.

(e) As used in this section:

(1) "Qualifying expenses" means the actual costs a relocating employee incurs for one or more of the following:

(A) relocation expenses, which may include moving costs, closing costs for a primary residence, rental security deposit, one month's rent payment, and other relocation expenses established in Agency guidelines;

(B) reasonable and necessary costs, considering the employee's location and employment position, to access or upgrade broadband Internet connectivity or to acquire membership in a co-working or similar space.

(2) "Relocating employee" means an individual who on or after July 1, 2021 meets the following criteria:

(A) The individual becomes a full-time resident of this State.

(B) The individual:

(i)(I) becomes a full-time employee at a Vermont location of a business domiciled or authorized to do business in this State; and

(II) the employer attests to the Agency that, after reasonable time and effort, the employer has been unable to fill the employee's position from among Vermont applicants; or

(ii) is a full-time employee of an out-of-state business and performs the majority of his or her employment duties remotely from a home office or a co-working space located in this State.

(C) The individual receives gross salary or wages that equal or exceed:

(i) 160 percent of the State minimum wage; or

(ii) 140 percent of the State minimum wage if:

(I) the individual becomes a full-time employee at a Vermont location of a business domiciled or authorized to do business in this State that is located in a Vermont labor market area in which the average annual unemployment rate is higher than the average annual unemployment rate for the State; or

(II) the individual is a full-time employee of an out-of-state business and performs the majority of his or her employment duties remotely from a home office or a co-working space located in this State, and the individual becomes a resident in a Vermont labor market area in which the average annual unemployment rate is higher than the average annual unemployment rate for the State.

(D) The individual is subject to Vermont income tax.

Sec. 3. IMPLEMENTATION; FUNDING; TRANSITION; REPORT

(a) It is the intent of the General Assembly to consolidate into a single program:

(1) the funding and activities of the New Remote Worker Grant Program created in 2018 Acts and Resolves No. 197, Sec. 1, as amended by 2019 Acts and Resolves No. 80, Sec. 15; and

(2) the funding and activities of the New Worker Relocation Incentive Program created by 2019 Acts and Resolves No. 80, Sec. 12.

(b) Consistent with subsection (a) of this section, the Agency of Commerce and Community Development may use any remaining funds appropriated to it for the New Remote Worker Grant Program and the New Worker Relocation

Incentive Program to:

(1) award incentives to new remote workers and new relocating workers who qualify for an incentive under either of those programs until July 1, 2021; and

(2) award incentives to relocating employees under the program created pursuant to Sec. 2 of this act on or after July 1, 2021.

(c) On or before January 15, 2022, the Agency of Commerce and Community Development shall report to the Senate Committee on Economic Development, Housing and General Affairs and to the House Committee on Commerce and Economic Development concerning any recommended changes to the program created in Sec. 2 of this act, including any residency requirements or other further changes on new employee eligibility.

Sec. 4. REPEAL

The following are repealed:

(1) 2018 Acts and Resolves No. 197, Sec. 1, as amended by 2019 Acts and Resolves No. 80, Sec. 15 (New Remote Worker Grant Program); and

(2) 2019 Acts and Resolves No. 80, Sec. 12 (New Worker Relocation Incentive Program).

Sec. 5. APPROPRIATION

(a) In fiscal year 2022, the amount of \$1,000,000.00 is appropriated from the General Fund to the Agency of Commerce and Community Development to provide grants pursuant to the program created in Sec. 2 of this act.

(b) The Agency shall make reasonable efforts to promote the availability of grants through the program to communities that are underrepresented in Vermont and to populations that have historically experienced discrimination or unequal access to benefits and services.

Sec. 6. EFFECTIVE DATES

(a) This section and Sec. 3 shall take effect on passage.

(b) The remaining sections shall take effect on July 1, 2021.

And that after passage the title of the bill be amended to read:

An act relating to creating incentives for new remote and relocating workers.

And that when so amended the bill ought to pass.

Senator Baruth, for the Committee on Appropriations, to which the bill was referred, reported that the bill be amended as recommended by the Committee

on Economic Development, Housing and General Affairs with the following amendment thereto:

By striking out Sec. 5 in its entirety

And by renumbering the remaining section to be numerically correct.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of the Committee on Economic Development, Housing and General Affairs was amended as recommended by the Committee on Appropriations.

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs, as amended? was agreed to and third reading of the bill was ordered.

Joint Resolution Adopted in Concurrence

J.R.H. 5.

Joint House 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.

Having been placed on the Calendar for action, was taken up and adopted in concurrence.

Adjournment

On motion of Senator Balint, the Senate adjourned until one o'clock in the afternoon on Wednesday, March 24, 2021.