

1 H.878

2 Introduced by Committee on Judiciary

3 Date:

4 Subject: Court procedure; criminal procedure; miscellaneous amendments

5 Statement of purpose of bill as introduced: This bill proposes to make a
6 number of miscellaneous amendments related to civil and criminal procedure
7 statutes.

8 An act relating to miscellaneous judiciary procedures

9 It is hereby enacted by the General Assembly of the State of Vermont:

10 Sec. 1. 4 V.S.A. § 41 is added to read:

11 § 41. COURT SECURITY OFFICERS

12 (a) Authorization. The Court Administrator shall define the scope of duties
13 for Judiciary-employed Court Security Officers. The Court Administrator shall
14 have direct authority over Judiciary-employed Court Security Officers and may
15 authorize them to perform judicial security officer functions necessary for the
16 performance of their duties.

17 (b) Training. The Court Administrator shall develop a training program
18 pursuant to appropriate training standards to perform judicial security officer

1 functions. The Court Administrator shall establish a use of force policy based
2 on State standards.

3 (c) Training; equipment. At the direction of the Court Administrator and
4 with the approval of the Court Security and Safety Program Manager,
5 Judiciary-employed Court Security Officers shall be provided with training and
6 equipment necessary for the performance of their duties. Equipment provided
7 pursuant to this subsection shall remain the property of the Judiciary.

8 (d) Coordination of Judiciary security. Judiciary-employed Court Security
9 Officers shall provide security at court properties and at other court-related
10 functions for the Vermont Judiciary at the direction of the Court Administrator.

11 (e) Construction. This section shall not be construed to limit the Court
12 Administrator's authority to hire additional court security personnel, including
13 private security guards and County Sheriffs.

14 Sec. 2. 4 V.S.A. § 355 is amended to read:

15 § 355. DISQUALIFICATION OR DISABILITY OF JUDGE

16 When a Probate judge is incapacitated for the duties of office by absence,
17 removal from the district, resignation, sickness, death, or otherwise or if the
18 judge or the judge's spouse or child is heir or legatee under a will filed in the
19 judge's district, or if the judge is executor or administrator of the estate of a
20 deceased person in ~~his or her~~ the judge's district, or is interested as a creditor or
21 otherwise in a question to be decided by the court, ~~he or she~~ the judge shall not

1 act as judge. ~~The judge's duties shall be performed by a Superior judge~~
2 ~~assigned by the presiding judge of the unit.~~

3 Sec. 3. 4 V.S.A. § 1102 is amended to read:

4 § 1102. JUDICIAL BUREAU; JURISDICTION

5 * * *

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

7 * * *

8 (4) Violations of 7 V.S.A. § ~~1005(a)~~ 1005, relating to possession of
9 tobacco products by a person under 21 years of age.

10 * * *

11 Sec. 4. 12 V.S.A. § 1913(b) is amended to read:

12 (b) ~~Authentication, admissibility, and presumptions.~~

13 (1) A digital record electronically registered in a blockchain shall be
14 self-authenticating pursuant to Vermont Rule of Evidence 902, if it is
15 accompanied by a written declaration of a qualified person, made under oath,
16 stating the qualification of the person to make the certification and:

17 (A) the date and time the record entered the blockchain;

18 (B) the date and time the record was received from the blockchain;

19 (C) that the record was maintained in the blockchain as a regular
20 conducted activity; and

1 recipient of the report shall provide written notification to the survivor that ~~he~~
2 ~~or she~~ the survivor has the following rights:

3 (1) The right to receive a medical forensic examination and any related
4 toxicology testing at no cost to the survivor in accordance with 32 V.S.A.
5 § 1407, irrespective of whether the survivor reports to or cooperates with law
6 enforcement. If the survivor opts to have a medical forensic examination, ~~he or~~
7 ~~she~~ the survivor shall have the following additional rights:

8 (A) the right to have the medical forensic examination kit or its
9 probative contents delivered to a forensics laboratory within 72 hours of
10 collection;

11 (B) the right to have the sexual assault evidence collection kit or its
12 probative contents preserved without charge for the duration of the maximum
13 applicable statute of limitations;

14 (C) the right to be informed in writing of all policies governing the
15 collection, storage, preservation, and disposal of a sexual assault evidence
16 collection kit;

17 (D) the right to be informed of a DNA profile match on a kit reported
18 to law enforcement or on a confidential kit, on a toxicology report, or on a
19 medical record documenting a medical forensic examination, if the disclosure
20 would not impede or compromise an ongoing investigation; ~~and~~

1 (E) the right to be informed of the status and location of the sexual
2 assault evidence collection kit; and

3 (F) upon written request from the survivor, the right to:

4 (i) receive written notification from the appropriate official with
5 custody not later than 60 days before the date of the kit's intended destruction
6 or disposal; and

7 (ii) be granted further preservation of the kit or its probative
8 contents.

9 (2) The right to consult with a sexual assault advocate.

10 (3) The right to information concerning the availability of protective
11 orders and policies related to the enforcement of protective orders.

12 (4) The right to information about the availability of, and eligibility for,
13 victim compensation and restitution.

14 (5) The right to information about confidentiality.

15 (d) Notification protocols. The Vermont Network Against Domestic and
16 Sexual Violence and the Sexual Assault Nurse Examiner Program, in
17 consultation with other parties referred to in this section, shall develop
18 protocols and written materials to assist all responsible entities in providing
19 notification to victims.

1 Sec. 7. 13 V.S.A. § 3401 is amended to read:

2 § 3401. DEFINITION AND PUNISHMENT OF TREASON

3 A person owing allegiance to this State, who levies war or conspires to levy
4 war against the same, or adheres to the enemies thereof, giving them aid and
5 comfort, within the State or elsewhere, shall be guilty of treason against this
6 State and shall ~~suffer the punishment of death~~ be imprisoned for not less than
7 25 years with a maximum term of life and, in addition, may be fined not more
8 than \$50,000.00.

9 Sec. 8. REPEALS

10 The following sections are repealed: 13 V.S.A. § 7101 (sentence and
11 warrant); 13 V.S.A. § 7102 (pardon); 13 V.S.A. § 7103 (place of execution);
12 13 V.S.A. § 7104 (manner of confinement); 13 V.S.A. § 7105 (persons present
13 at execution); 13 V.S.A. § 7106 (manner of execution); and 13 V.S.A. § 7107
14 (returns of Commissioner).

15 Sec. 9. 13 V.S.A. § 4056 is amended to read:

16 § 4056. SERVICE

17 (a) A petition, ex parte temporary order, or final order issued under this
18 subchapter shall be served in accordance with the Vermont Rules of Civil
19 Procedure and may be served by any law enforcement officer. A court that
20 issues an order under this chapter during court hours shall promptly transmit

1 the order electronically or by other means to a law enforcement agency for
2 service, and shall deliver a copy to the holding station.

3 (b) A respondent who attends a hearing held under section 4053, 4054, or
4 4055 of this title at which a temporary or final order under this subchapter is
5 issued and who receives notice from the court on the record that the order has
6 been issued shall be deemed to have been served. A respondent notified by the
7 court on the record shall be required to adhere immediately to the provisions of
8 the order. ~~However, even when the court has previously notified the~~
9 ~~respondent of the order, the court shall transmit the order for additional service~~
10 ~~by a law enforcement agency. The clerk shall mail a copy of the order to the~~
11 ~~respondent at the respondent's last known address.~~

12 * * *

13 Sec. 10. 13 V.S.A. § 4814 is amended to read:

14 § 4814. ORDER FOR EXAMINATION OF COMPETENCY

15 * * *

16 (d) Notwithstanding any other provision of law, an examination ordered
17 pursuant to subsection (a) of this section may be conducted by a doctoral-level
18 psychologist trained in forensic psychology and licensed under 26 V.S.A.
19 chapter 55. ~~This subsection shall be repealed on July 1, 2024.~~

20 * * *

1 Sec. 11. 13 V.S.A. § 4816 is amended to read:

2 § 4816. SCOPE OF EXAMINATION; REPORT; EVIDENCE

3 * * *

4 (e) The relevant portion of a psychiatrist's report or of a report conducted
5 pursuant to subsection 4814(d) of this title by a doctoral-level psychologist
6 trained in forensic psychology shall be admitted into evidence as an exhibit on
7 the issue of the person's mental competency to stand trial and the opinion shall
8 be conclusive on the issue if agreed to by the parties and if found by the court
9 to be relevant and probative on the issue.

10 * * *

11 Sec. 12. 13 V.S.A. § 7282(c) is amended to read:

12 (c) SIU surcharge. In addition to any penalty or fine imposed by the court
13 ~~or Judicial Bureau~~ for a criminal offense committed after July 1, 2009, the
14 clerk of the court ~~or Judicial Bureau~~ shall levy an additional surcharge of
15 \$100.00 to be deposited in the General Fund, in support of the Specialized
16 Investigative Unit Grants Board created in 24 V.S.A. § 1940(c), and used to
17 pay for the costs of Specialized Investigative Units.

18 Sec. 13. 13 V.S.A. § 7554c(e)(3) is amended to read:

19 (3) All records of information obtained during risk assessment or needs
20 screening shall be stored in a manner making them accessible only to the
21 Director of Pretrial Services and pretrial service coordinators for a period of

1 three years, after which the records shall be maintained as required by sections
2 ~~117 and 218 of this title~~ 3 V.S.A. §§ 117 and 218 and any other State law. The
3 Director of Pretrial Services shall be responsible for the destruction of records
4 when ordered by the court.

5 Sec. 14. 14 V.S.A. § 4020 is amended to read:

6 § 4020. LIABILITY FOR REFUSAL TO ACCEPT ACKNOWLEDGED

7 ~~STATUTORY FORM POWER OF ATTORNEY~~

8 (a) ~~As used in this section, “statutory form power of attorney” means a~~
9 ~~power of attorney substantially in the form provided in section 4051 or 4052 of~~
10 ~~this title or that meets the requirements for a military power of attorney~~
11 ~~pursuant to 10 U.S.C. § 1044b, as amended.~~

12 (b) Except as otherwise provided in subsection ~~(e)~~(b) of this section:

13 (1) a person shall either accept an acknowledged ~~statutory form~~ power of
14 attorney or request a certification, a translation, or an opinion of counsel under
15 subsection 4019(d) of this title not later than seven business days after
16 presentation of the power of attorney for acceptance;

17 (2) if a person requests a certification, a translation, or an opinion of
18 counsel under subsection 4019(d) of this title, the person shall accept the
19 ~~statutory form~~ power of attorney not later than five business days after receipt
20 of the certification, translation, or opinion of counsel; and

1 (3) a person may not require an additional or different form of power of
2 attorney for authority granted in the ~~statutory form~~ power of attorney
3 presented.

4 ~~(e)~~(b) A person is not required to accept an acknowledged ~~statutory form~~
5 power of attorney if:

6 (1) the person is not otherwise required to engage in a transaction with
7 the principal in the same circumstances;

8 (2) engaging in a transaction with the agent or the principal in the same
9 circumstances would be inconsistent with federal or state law;

10 (3) the person has actual knowledge of the termination of the agent's
11 authority or of the power of attorney before exercise of the power;

12 (4) a request for a certification, a translation, or an opinion of counsel
13 under subsection 4019(d) of this title is refused;

14 (5) the person in good faith believes that the power is not valid or that
15 the agent does not have the authority to perform the act requested, whether or
16 not a certification, a translation, or an opinion of counsel under subsection
17 4019(d) of this title has been requested or provided; or

18 (6) the person makes, or has actual knowledge that another person has
19 made, a report to the Adult Protective Services program or other appropriate
20 entity within the Department of Disabilities, Aging, and Independent Living or
21 to a law enforcement agency stating a good faith belief that the principal may

1 be subject to physical or financial abuse, neglect, exploitation, or abandonment
2 by the agent or a person acting for or with the agent.

3 ~~(d)~~(c) A person who refuses in violation of this section to accept an
4 acknowledged ~~statutory form~~ power of attorney is subject to:

5 (1) a court order mandating acceptance of the power of attorney; and

6 (2) liability for reasonable attorney's fees and costs incurred in any
7 action or proceeding that confirms the validity of the power of attorney or
8 mandates acceptance of the power of attorney.

9 Sec. 15. 14 V.S.A. § 4047 is amended to read:

10 § 4047. GIFTS

11 * * *

12 (b) An agent may make a gift of the principal's property only as the agent
13 determines is consistent with the principal's objectives if actually known by the
14 agent or, if unknown, as the agent determines is consistent with the principal's
15 best interests based on all relevant factors, including:

16 (1) evidence of the principal's intent;

17 (2) the principal's personal history of making or joining in the making of
18 lifetime gifts;

19 (3) the principal's estate plan;

1 (4) the principal's foreseeable obligations and maintenance needs and
2 the impact of the proposed gift on the principal's housing options, access to
3 care and services, and general welfare;

4 (5) the income, gift, estate, or inheritance tax consequences of the
5 transaction; and

6 (6) whether the proposed gift creates a foreseeable risk that the principal
7 will be deprived of sufficient assets to cover the principal's needs during any
8 period of Medicaid ineligibility that would result from the proposed gift.

9 (c) ~~An agent may make a gift of the principal's property only as the agent
10 determines is consistent with the principal's objectives if actually known by the
11 agent and, if unknown, as the agent determines is consistent with the
12 principal's best interests based on all relevant factors, including:~~

13 ~~(1) the value and nature of the principal's property;~~

14 ~~(2) the principal's foreseeable obligations and need for maintenance;~~

15 ~~(3) minimization of taxes, including income, estate, inheritance,
16 generation-skipping transfer, and gift taxes;~~

17 ~~(4) eligibility for a benefit, a program, or assistance under a statute or
18 regulation; and~~

19 ~~(5) the principal's personal history of making or joining in making gifts.~~

20 [Repealed.]

1 Sec. 16. 14 V.S.A. § 4051 is amended to read:

2 § 4051. STATUTORY FORM POWER OF ATTORNEY

3 A document substantially in the following form may be used to create a
4 statutory form power of attorney that has the meaning and effect prescribed by
5 this chapter.

6 VERMONT STATUTORY FORM POWER OF ATTORNEY IMPORTANT
7 INFORMATION

8 This power of attorney authorizes another person (your agent) to make
9 decisions concerning your property for you (the principal). Your agent will be
10 able to make decisions and act with respect to your property (including your
11 money) whether or not you are able to act for yourself. The meaning of
12 authority over subjects listed on this form is explained in the Vermont Uniform
13 Power of Attorney Act, 14 V.S.A. chapter 127.

14 This power of attorney does not authorize the agent to make health-care
15 decisions for you.

16 You should select someone you trust to serve as your agent. Unless you
17 specify otherwise, generally the agent's authority will continue until you die or
18 revoke the power of attorney or the agent resigns or is unable to act for you.
19 Your agent is entitled to reasonable compensation unless you state otherwise in
20 the Special Instructions.

1 DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

2 If my agent is unable or unwilling to act for me, I name as my successor
3 agent:

4 Name of Successor Agent: _____

5 Successor Agent's Address: _____

6 Successor Agent's Telephone Number: _____

7 If my agent is unable or unwilling to act for me, I name as my second
8 successor agent:

9 Name of Second Successor Agent: _____

10 Second Successor Agent's Address: _____

11 Second Successor Agent's Telephone Number: _____

12 GRANT OF GENERAL AUTHORITY

13 I grant my agent and any successor agent general authority to act for me
14 with respect to the following subjects as defined in the Vermont Uniform
15 Power of Attorney Act, 14 V.S.A. chapter 127, together with the incidental
16 powers enumerated in section 4033 of that chapter.

17 (~~INITIAL STRIKE THROUGH~~ each subject you DO NOT want to include
18 in the agent's general authority. ~~If you wish to grant general authority over all~~
19 ~~of the subjects, you may initial "All Preceding Subjects" instead of initialing~~
20 ~~each subject.~~)

21 (→ Real Property

- 1 () Tangible Personal Property
- 2 () Stocks and Bonds
- 3 () Commodities and Options
- 4 () Banks and Other Financial Institutions
- 5 () Operation of Entity or Business
- 6 () Insurance and Annuities
- 7 () Estates, Trusts, and Other Beneficial Interests
- 8 () Claims and Litigation
- 9 () Personal and Family Maintenance
- 10 () Benefits from Governmental Programs or Civil or Military Service
- 11 () Retirement Plans
- 12 () Taxes
- 13 () ~~All Preceding Subjects~~

14 GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

15 My agent MAY NOT do any of the following specific acts for me UNLESS

16 I have INITIALED the specific authority listed below:

17 (CAUTION: Granting any of the following will give your agent the
18 authority to take actions that could significantly reduce your property or change
19 how your property is distributed at your death. INITIAL ONLY the specific
20 authority you WANT to give your agent.)

1 () An agent who is not an ancestor, spouse, or descendant may exercise
2 authority under this power of attorney to create in the agent or in an individual
3 to whom the agent owes a legal obligation of support an interest in my property
4 whether by gift, rights of survivorship, beneficiary designation, disclaimer, or
5 otherwise

6 () Create, amend, revoke, or terminate an inter vivos, family, living,
7 irrevocable, or revocable trust

8 () Consent to the modification or termination of a noncharitable irrevocable
9 trust under 14A V.S.A. § 411

10 () Make a gift, subject to the limitations of 14 V.S.A. § 4047 (gifts) and any
11 special instructions in this power of attorney

12 () Consent to the modification or termination of a noncharitable irrevocable
13 trust under 14A V.S.A. § 411

14 () Create, amend, or change a beneficiary designation

15 () Waive the principal's right to be a beneficiary of a joint and survivor
16 annuity, including a survivor benefit under a retirement plan

17 () Exercise fiduciary powers that the principal has authority to delegate

18 () Authorize another person to exercise the authority granted under this
19 power of attorney

20 () Disclaim or refuse an interest in property, including a power of
21 appointment

1 _____
2 _____
3 _____
4 _____
5 _____
6 _____
7 _____

8 EFFECTIVE DATE

9 This power of attorney is effective immediately unless I have indicated or
10 stated otherwise in the section above entitled When Power of Attorney
11 Effective or in the section below entitled Special Instructions.

12 SPECIAL INSTRUCTIONS (OPTIONAL)

13 You may give special instructions on the following lines:

14 _____
15 _____
16 _____
17 _____
18 _____
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EFFECTIVE DATE

~~This power of attorney is effective immediately unless I have stated otherwise in the Special Instructions.~~

NOMINATION OF GUARDIAN (OPTIONAL)

If it becomes necessary for a court to appoint a guardian of my estate or a guardian of my person, I nominate the following person(s) for appointment:

Name of Nominee for [conservator or guardian] of my estate: _____

Nominee's Address: _____

Nominee's Telephone Number: _____

Name of Nominee for guardian of my person: _____

Nominee's Address: _____

Nominee's Telephone Number: _____

RELIANCE ON THIS POWER OF ATTORNEY

Any person, including my agent, may rely upon the validity of this power of attorney or a copy of it unless that person knows it has terminated or is invalid. Unless expressly stated otherwise, this power of attorney is durable and shall remain valid if I become incapacitated or unavailable.

SIGNATURE AND ACKNOWLEDGMENT

Your Name Printed: _____

Your Address: _____

Your Telephone Number: _____

1 State of: _____

2 County of: _____

3 This document was acknowledged before me on: _____ (Date)

4 by _____ . (Name of Principal)

5 (Seal, if any): _____

6 Signature of Notary: _____

7 My commission expires: _____

8 IMPORTANT INFORMATION FOR AGENT

9 Agent's Duties

10 When you accept the authority granted under this power of attorney, a
11 special legal relationship is created between you and the principal. This
12 relationship imposes upon you legal duties that continue until you resign or the
13 power of attorney is terminated or revoked. You must:

14 (1) do what you know the principal reasonably expects you to do with
15 the principal's property or, if you do not know the principal's expectations, act
16 in the principal's best interests;

17 (2) act in good faith;

18 (3) do nothing beyond the authority granted in this power of attorney;

19 and

20 (4) disclose your identity as an agent whenever you act for the principal

21 by writing or printing the name of the principal and signing your own name as

1 “agent” in the following manner: (Principal’s Name) by (Your Signature) as
2 Agent.

3 Unless the Special Instructions in this power of attorney state otherwise, you
4 must also:

5 (1) act loyally for the principal’s benefit;

6 (2) avoid conflicts that would impair your ability to act in the principal’s
7 best interest;

8 (3) act with care, competence, and diligence;

9 (4) keep a record of all receipts, disbursements, and transactions made
10 on behalf of the principal;

11 (5) cooperate with any person that has authority to make health-care
12 decisions for the principal to do what you know the principal reasonably
13 expects or, if you do not know the principal’s expectations, to act in the
14 principal’s best interests; and

15 (6) attempt to preserve the principal’s estate plan if you know the plan
16 and preserving the plan is consistent with the principal’s best interests.

17 Termination of Agent’s Authority

18 You must stop acting on behalf of the principal if you learn of any event that
19 terminates this power of attorney or your authority under this power of
20 attorney. Events that terminate a power of attorney or your authority to act
21 under a power of attorney include:

- 1 (1) death of the principal;
- 2 (2) the principal's revocation of the power of attorney or your authority;
- 3 (3) the occurrence of a termination event stated in the power of attorney;
- 4 (4) the purpose of the power of attorney is fully accomplished; or
- 5 (5) if you are married to the principal, a legal action is filed with a court
- 6 to end your marriage, or for your legal separation, unless the Special
- 7 Instructions in this power of attorney state that such an action will not
- 8 terminate your authority.

9 Liability of Agent

10 The meaning of the authority granted to you is defined in the Vermont
11 Uniform Power of Attorney Act, 14 V.S.A. chapter 127. If you violate the
12 Vermont Uniform Power of Attorney Act, or act outside the authority granted,
13 you may be liable for any damages caused by your violation. In addition to
14 civil liability, failure to comply with your duties and authority granted under
15 this document could subject you to criminal prosecution.

16 If there is anything about this document or your duties that you do not
17 understand, you should seek legal advice.

18 Sec. 17. 14 V.S.A. § 4052 is amended to read:

19 § 4052. STATUTORY SHORT FORM POWER OF ATTORNEY FOR
20 REAL ESTATE TRANSACTIONS

1 (a) A document substantially in the following form may be used to create a
2 statutory form power of attorney for a real estate transaction that has the
3 meaning and effect prescribed by this chapter. Nothing in this section shall
4 prohibit a principal from using this form to grant other powers to an agent with
5 respect to real property consistent with section 4034 of this title.

6 VERMONT STATUTORY FORM POWER OF ATTORNEY IMPORTANT
7 INFORMATION

8 This power of attorney authorizes another person (your agent) to take
9 actions for you (the principal) in connection with a real estate transaction (sale,
10 purchase, mortgage, or gift). Your agent will be able to make decisions and act
11 with respect to a specific parcel of land whether or not you are able to act for
12 yourself. The meaning of authority over subjects listed on this form is
13 explained in the Vermont Uniform Power of Attorney Act, 14 V.S.A. chapter
14 127.

15 DESIGNATION OF AGENT

16 I/we _____ and _____

17 (Name(s) of Principal) appoint the following person as my (our) agent:

18 Name of Agent: _____

19 Name of ~~Alternate~~ Successor Agent: _____

20 Address of Property that is the subject of this power of attorney

21 (Street): _____, (Municipality)

1 _____, Vermont.

2 ~~Transaction for which the power of attorney is given~~ STRIKE THROUGH

3 each type of transaction for which the power of attorney is not given:

4 Sale

5 Purchase or Acquisition

6 Mortgage

7 Finance and/or Mortgage

8 Gift

9 GRANT OF AUTHORITY

10 I/we grant my (our) agent and any alternate agent authority named in this
11 power of attorney to act for me/us with respect to a real estate transaction
12 involving the property with the address stated above, including, but not limited
13 to, the powers described in 14 V.S.A. § 4034(2), (3), and (4) as provided in the
14 Vermont Uniform Power of Attorney Act, 14 V.S.A. chapter 127, together with
15 the incidental powers enumerated in section 4033 of that chapter.

16 POWER TO DELEGATE

17 If this box is checked, each agent appointed in this power of attorney may
18 delegate the authority to act to another person. Any delegation shall be in
19 writing and executed in the same manner as this power of attorney.

1 TERM

2 This power of attorney commences when fully executed and continues until
3 the real estate transaction for which it was given is complete.

4 SELF HEALING

5 [] If this box is checked, the agent named in this power of attorney may
6 convey the subject real estate with or without consideration to the agent,
7 individually, in trust, or to one or more persons with the agent.

8 CHOICE OF LAW

9 This power of attorney and the effect hereof shall be determined by the
10 application of Vermont law and the Vermont Uniform Power of Attorney Act.

11 SIGNATURE AND ACKNOWLEDGMENT

12 _____

13 Your Name Printed

14 _____

15 Your Address

16 _____

17 Your Telephone Number

18 _____

19 State of _____

20 County of _____

21 This document was acknowledged before me on _____ (Date)

1 by _____

2 (Name of Principal)

3 _____ (Seal, if any)

4 Signature of Notary _____

5 My Commission expires: _____

6 (b) A power of attorney in the form above confers on the agent the powers
7 provided in subdivisions 4034(2), (3), and (4) of this chapter.

8 Sec. 18. 27 V.S.A. § 305 is amended to read:

9 § 305. CONVEYANCES EFFECTED THROUGH POWER OF ATTORNEY

10 (a) A deed or other conveyance of lands or of an estate or interest therein,
11 made by virtue of a power of attorney, shall not be of any effect or admissible
12 in evidence unless the power of attorney is signed, ~~witnessed by one or more~~
13 ~~witnesses,~~ acknowledged, and recorded in the office where the deed is required
14 to be recorded.

15 * * *

16 Sec. 19. 27 V.S.A. § 657 is amended to read:

17 § 657. EXECUTION BY GUARDIAN; USE OF POWER OF ATTORNEY

18 (a) With the approval of the Probate Division, a guardian may convey the
19 real property of a person under guardianship by an ELE deed.

1 (b) An ELE deed may be executed by an agent under a power of attorney if
2 the power of attorney complies with the ~~requirements of 14 V.S.A. chapter 123~~
3 following, including any applicable gifting and self-dealing provisions:

4 (1) 14 V.S.A. chapter 123, if the ELE deed was executed before July 1,
5 2023; or

6 (2) 14 V.S.A. chapter 127, if the ELE deed was executed on or after July
7 1, 2023.

8 Sec. 20. 15 V.S.A. § 293 is amended to read:

9 § 293. WHEN PARENTS LIVE SEPARATELY

10 (a) When parents of minor children, or parents and stepparents of minor
11 children, whether said parents are married or unmarried, are living separately,
12 on the complaint of either parent or stepparent or, if it is a party in interest, the
13 Department for Children and Families, the Family Division of the Superior
14 Court may make such decree concerning parental rights and responsibilities and
15 parent-child contact (as defined in section 664 of this title), and the support of
16 the children, as in cases where either parent deserts or without just cause fails
17 to support the children. Thereafter on the motion of either of the parents, the
18 stepparent, or the Department for Children and Families, the court may annul,
19 vary, or modify the decrees.

20 (b) Any legal presumption of parentage as set forth in ~~section 308 of this~~
21 title 15C V.S.A. § 401 or an unrescinded acknowledgment of parentage signed

1 by the parties and executed in accordance with 15C V.S.A. § 301 shall be
2 sufficient basis for initiating a support action under this section without any
3 further proceedings to establish parentage. ~~If a party raises an objection to the~~
4 ~~presumption, the court may determine the issue of parentage as part of the~~
5 ~~support action. If no written objection to the presumption is raised, an order~~
6 ~~under this section shall constitute a judgment on the issue of parentage.~~

7 Sec. 21. REPEAL

8 15 V.S.A. § 294 (man in the house) is repealed.

9 Sec. 22. 15 V.S.A. § 295 is amended to read:

10 § 295. ~~SUBSTITUTE HUSBAND AND FATHER SERVICE OF~~
11 COMPLAINT

12 When a complaint is made under section ~~292, 293 or 294~~ of this title, a
13 summons shall be issued to the other party directing ~~him to cause his~~
14 ~~appearance therein to be entered~~ such person to appear not later than 21 days
15 after the date of the service thereof and show cause why ~~the prayer of the~~
16 complaint should not be granted, ~~which.~~ The summons and ~~the~~ complaint shall
17 be served on ~~such~~ the party as provided by section ~~596 or by section 597~~ of this
18 title Rule 4.0 of the Vermont Rules for Family Proceedings. After the filing of
19 ~~such~~ the complaint, the Superior Court in which the cause is pending, or any
20 Superior judge, may, on application of either party make such order concerning

1 the care and custody of the minor children during the pendency of the
2 complaint, as is deemed expedient and for the benefit of such children.

3 Sec. 23. 15 V.S.A. § 780(7) is amended to read:

4 (7) “Support order” means any judgment, order, or contract for support
5 enforceable in this state State, including, ~~but not limited to,~~ orders issued
6 pursuant to:

7 (A) 15 V.S.A. ~~chapter~~ chapters 5 (relating to desertion and support
8 ~~and parentage), 7 (relating to URESA) or and~~ 11 (relating to annulment and
9 divorce);

10 (B) 15B V.S.A. chapters 1–19 (relating to Uniform Interstate Family
11 Support Act); and

12 (C) 15C V.S.A. chapters 1–8 (relating to parentage proceedings).

13 Sec. 24. 15 V.S.A. § 558 is amended to read:

§ 558. WOMAN SPOUSE ALLOWED TO TAKE MAIDEN ~~BIRTH~~ PRIOR
NAME

Upon granting a divorce ~~to a woman~~, unless good cause is shown to the
contrary, the court ~~may~~ shall allow ~~her~~ a spouse to resume ~~her maiden the~~
spouse’s ~~birth~~ prior name or the name of a former ~~husband~~ spouse.

14 Sec. 25. 15 V.S.A. § 788 is amended to read:

15 § 788. PARENT’S RESPONSIBILITY

1 (a) Any parent subject to a child support or parental rights and
2 responsibilities order shall notify in writing the court ~~which~~ that issued the
3 most recent order and the Office of Child Support of ~~his or her~~ the parent's
4 current mailing address and current residence address and of any change in
5 either address within seven business days of the change, until all obligations to
6 pay support or support arrearages, or to provide for parental rights and
7 responsibilities are satisfied. For good cause, the court may keep information
8 provided under this subsection confidential.

9 (b) When a wage withholding order is in effect, either parent shall notify in
10 writing the registry of the name and address of a new employer within seven
11 days of commencing new employment. If the Registry has received
12 information that a parent has changed employment, it shall notify the other
13 parent of the fact of the change but shall not disclose the identity or the location
14 of the employer. On request of a parent, the Registry shall provide information
15 on the other parent's wages.

16 (c)(1) In all cases in which a temporary or final order for relief from abuse
17 has been entered, information provided under this section shall be kept
18 confidential by the court. The court, for good cause shown, may release such
19 information.

20 (2) For purposes of this subsection, good cause shall be deemed
21 established when:

1 (2)(A) If a person may be charged with a violation of subdivision (a)(2)
2 of this section or with a violation of 7 V.S.A. § 656, the person shall be charged
3 with a violation of 7 V.S.A. § 656 and not with a violation of this section.

4 (B) If a person may be charged with a violation of subdivision (a)(2)
5 of this section or with a violation of 7 V.S.A. § 1005, the person shall be
6 charged with a violation of 7 V.S.A. § 1005 and not with a violation of this
7 section.

8 Sec. 27. 27 V.S.A. § 349 is amended to read:

9 § 349. CONVEYANCE TO GRANTOR AND OTHERS

10 (a)(1) Without an intervening conveyance, a person may convey interests in
11 real estate directly:

12 (1)(A) ~~to himself or herself~~ themselves in a different legal capacity; ~~or~~

13 (2)(B) ~~to his or her~~ the person's spouse; or

14 (3)(C) ~~to himself or herself~~ themselves and one or more other persons,
15 including ~~his or her~~ the person's spouse.

16 (2) A person shall not convey an interest in a tenancy by the entirety or
17 in homestead property to any person except ~~his or her~~ the person's spouse,
18 unless the spouse joins in the conveyance.

19 (b) A conveyance made pursuant to this section shall be effective to convey
20 such title as would be conveyed by the deed if the grantor were not also a
21 grantee.

1 Sec. 28. 27 V.S.A. § 378 is amended to read:

2 § 378. EFFECT OF RECORDING UNACKNOWLEDGED DEED

3 A person interested in a deed or lease not acknowledged may cause the deed
4 or lease to be recorded without acknowledgment before or during the
5 application to the court or the proceedings before any of the authorities named
6 in sections ~~371-376~~ 371-375 of this title; and, when so recorded in the proper
7 office, it shall be as effectual as though the same had been duly acknowledged
8 and recorded for 60 days thereafter. If such proceedings for proving the
9 execution of the deed are pending at the expiration of such 60 days, the effect
10 of such record shall continue until the expiration of six business days after the
11 termination of the proceedings.

12 Sec. 29. 27 V.S.A. § 1302 is amended to read:

13 § 1302. DEFINITIONS

14 As used in this chapter, unless the context otherwise requires:

15 * * *

16 (7) “Common expenses” include:

17 (A) all sums lawfully assessed against the apartment or site owners by
18 the association of owners;

19 (B) expenses of administration, maintenance, repair, or replacement
20 of the common areas and facilities;

1 (C) expenses agreed upon as common expenses by the association of
2 owners; and

3 (D) expenses declared common expenses by this chapter, or by the
4 declaration or the bylaws.

5 Sec. 30. 27 V.S.A. § 1470(a) is amended to read:

6 (a) ~~In~~ As used in this section, “Death Master File” means the U.S. Social
7 Security Administration Death Master File or other database or service that is
8 at least as comprehensive as the U.S. Social Security Administration Death
9 Master File for determining that an individual reportedly has died.

10 Sec. 31. 27 V.S.A. § 1531(b) is amended to read:

11 (b) Before selling property under subsection (a) of this section, the
12 Administrator shall give notice to the public of:

13 (1) the date of the sale; and

14 (2) a reasonable description of the property.

15 Sec. 32. 27 V.S.A. § 1533(b) is amended to read:

16 (b) Replacement of the security or calculation of market value under
17 subsection (a) of this section must take into account a stock split, reverse stock
18 split, stock dividend, or similar corporate action.

19 Sec. 33. 27 V.S.A. § 1552(c) is amended to read:

20 (c) The Administrator shall decide a claim under this section not later than
21 90 days after it is presented. If the Administrator determines that the other

1 state is entitled under subsection (a) of this section to custody of the property,
2 the Administrator shall allow the claim and pay or deliver the property to the
3 other state.

4 Sec. 34. 27 V.S.A. § 1595(a) is amended to read:

5 (a) If a holder enters into a contract or other arrangement for the purpose of
6 evading an obligation under this chapter or otherwise willfully fails to perform
7 a duty imposed on the holder under this chapter, the Administrator may require
8 the holder to pay the Administrator, in addition to interest as provided in
9 subsection 1594(a) of this title, a civil penalty of \$1,000.00 for each day the
10 obligation is evaded or the duty is not performed, up to a cumulative maximum
11 amount of \$25,000.00, plus 25 percent of the amount or value of property that
12 should have been but was not reported, paid, or delivered as a result of the
13 evasion or failure to perform.

14 Sec. 35. REPEAL

15 27 V.S.A. chapter 7, subchapter 4 (congregational churches) is repealed.

16 Sec. 36. CONSTRUCTION OF ACT; PROPERTY INTERESTS NOT

17 AFFECTED

18 Sec. 35 of this act repeals 27 V.S.A. chapter 7, subchapter 4 for the purpose
19 of removing the statutory duties and procedures governing the transfer of
20 property by congregational churches. This act shall not be construed to affect a
21 religious corporation's rights or property interest in congregational church

1 property. This act shall not supersede any act of the General Assembly that
2 vested specific rights or interests in, or established specific procedures for the
3 transfer of property by, a chartered religious corporation.

4 Sec. 37. 28 V.S.A. § 126 is amended to read:

5 § 126. COORDINATED JUSTICE REFORM ADVISORY COUNCIL

6 * * *

7 (c) Powers and duties. The Coordinated Justice Reform Advisory Council
8 shall:

9 * * *

10 (5) on or before September 1, 2023 and annually thereafter, recommend
11 to the Commissioner of Corrections ~~the~~ a new appropriate allocation of not
12 more than \$900,000.00 from the Justice Reinvestment II line item of the
13 Department of Corrections' budget for the ~~upcoming~~ next fiscal year to support
14 community-based programs and services, related data collection and analysis
15 capacity, and other initiatives in accordance with subsection (a) of this section.

16 * * *

17 (e) Reports. On or before November 15, 2023 and annually thereafter, the
18 Coordinated Justice Reform Advisory Council shall submit recommendations
19 pursuant to subdivisions (c)(4) and (c)(5) of this section to the Joint Legislative
20 Justice Oversight Committee; the Senate Committees on Appropriations and on
21 Judiciary; and the House Committees on Appropriations, on Corrections and

1 Institutions, and on Judiciary. Any recommendations submitted pursuant to
2 subdivision (c)(4) shall be in the form of proposed legislation. The Council
3 shall include in its reports the efforts it has made to consult with the
4 organizations listed in subdivision (c)(3) of this section.

5 * * *

6 Sec. 38. 28 V.S.A. § 102 is amended to read:

7 § 102. COMMISSIONER OF CORRECTIONS; APPOINTMENT; POWERS;
8 RESPONSIBILITIES

9 * * *

10 (c) The Commissioner is charged with the following responsibilities:

11 * * *

12 (23) To include the Coordinated Justice Reform Advisory Council's
13 appropriation recommendations made pursuant to subdivision 126(c)(5) of this
14 title in the Department's annual proposed budget for the next subsequent fiscal
15 year for the purposes of developing the State budget required to be submitted to
16 the General Assembly in accordance with 32 V.S.A. § 306.

17 Sec. 39. 29 V.S.A. § 561 is added to read:

18 § 561. RELEASE OF OIL AND GAS LEASES

19 (a) After the expiration, cancellation, surrender, or relinquishment of an oil
20 and gas lease, upon written request of the lessor, the lessee shall file a release
21 or discharge of the lease in the land records of the town or towns where the

1 lands described in the lease are located. The filing shall be in recordable form
2 and shall include any fees.

3 (b) If any lessee, or the lessee's personal representative, successor, or
4 assign, fails or refuses to record a release for a period of 30 days after being so
5 requested, the lessee shall be liable for all damages occasioned thereby,
6 including costs and reasonable attorney's fees.

7 (c) A lessor's request for release or discharge shall be in writing and
8 delivered to the lessee by personal service or registered mail at the lessee's last
9 known address.

10 Sec. 40. 29 V.S.A. § 563 is added to read:

11 § 563. ABANDONMENT OF OIL AND GAS INTERESTS;

12 PRESERVATION

13 (a) An abandoned interest in oil and gas shall revert to and merge with the
14 surface estate from which it was severed.

15 (b) An interest in oil and gas is deemed abandoned at any time that:

16 (1) it has been unused for a continuous period of 10 years after July 1,

17 1973; and

18 (2) no statement of interest under subsection (e) of this section has been
19 filed at any time within the preceding five years.

20 (c) The provisions of subsection (b) of this section shall not apply to any
21 interest in oil or gas that has been retained by the owner who originally severed

1 the mineral estate from the surface estate, notwithstanding that other interests
2 in the land, including ownership of the surface, may have been sold, leased,
3 mortgaged, or otherwise transferred.

4 (d) This section applies to all interests in oil and gas. It also applies to
5 interests in other minerals if created inclusively in the same instrument that
6 expressly creates an oil and gas interest. It does not apply to mineral interests
7 that do not expressly include an oil and gas interest or were intended to be
8 separate from an oil and gas interest.

9 (e) An interest in oil and gas is deemed used at any time in which:

10 (1) there is actual production of oil or gas, including production from
11 lands covered by a lease to which an oil and gas interest is subject, or from
12 lands pooled or unitized with such lands;

13 (2) oil and gas operations are conducted under the terms of the
14 instrument creating the oil and gas interest;

15 (3) payment is made of rental or royalties for the purpose of delaying the
16 use or continuing the use of the oil and gas interest;

17 (4) payment of taxes is made on the oil and gas interest; or

18 (5) there exists a currently valid permit under 10 V.S.A. chapter 151 or a
19 currently valid drilling permit under this chapter for development of the oil and
20 gas interest.

1 (f) The owner of an interest in oil or gas may file a statement of interest in
2 the land records of any municipality in which the land affected is located. The
3 statement shall include a description of the land affected, the nature of the
4 interest claimed, the book and page of recording of the original grant of the
5 interest, and the name and address of the person claiming the interest.

6 (g) The owner of the surface estate from which an oil and gas interest was
7 severed may give notice of abandonment under this subsection. Notice shall
8 contain the name of the record owner of the interest; a description of the land
9 and the nature of the interest; the book and page of filing of the interest, if it is
10 filed; the name and address of the person giving notice; and a statement that the
11 interest is presumed abandoned. The notice shall be published in a newspaper
12 of general circulation in the town or towns where the land affected is located.
13 If the address of the owner of the oil and gas interest is shown on record, a
14 copy of the notice shall be mailed to that address by certified or registered mail
15 within 10 days after the date of publication.

16 (h) A copy of the notice under subsection (g) of this section, and an
17 affidavit, may be filed in the land records of the municipality in which the land
18 is located. The affidavit shall state that the oil or gas interest has been
19 abandoned under the criteria set forth in subsection (b) of this section, and that
20 notice of abandonment has been given under the criteria set forth in subsection
21 (g). After the notice and affidavit have been filed, unless a court finds to the

1 contrary, the oil and gas interest shall be presumed abandoned, and the interest
2 of the surface owner shall be presumed for all purposes free of encumbrance
3 from that interest.

4 Sec. 41. 2022 Acts and Resolves No. 165, Secs. 8–10 are amended to read:

5 Sec. 8. [Deleted.]

6 Sec. 9. [Deleted.]

7 Sec. 10. [Deleted.]

8 Sec. 42. 2022 Acts and Resolves No. 165, Sec. 11(d) is amended to read:

9 (d) ~~Secs. 8–10 (repeal of authority to use gun suppressors while hunting)~~
10 ~~shall take effect on July 1, 2024.~~ [Deleted.]

11 Sec. 43. REPEAL OF DEPARTMENT OF CORRECTIONS PILOT
12 PROJECT

13 Sec. 2 of 2021 Acts and Resolves No. 14 (Department of Corrections pilot
14 project requiring report to court prior to sentencing a defendant to a term of
15 probation for a felony) is repealed.

Sec. 44. 20 V.S.A. § 4626 is added to read:

§ 4626. DRONES; OPERATION OVER PRIVATE PROPERTY WITHOUT
CONSENT OF OWNER; CIVIL PENALTY

(a) A person shall not fly a drone for hobby or recreational purposes at an
altitude of less than 100 feet above privately owned real property unless the
person has obtained prior written consent from the property owner.

(b) A person shall not, without the prior written consent of the property owner or occupant, use a drone to record an image of privately owned real property or of the owner or occupant of the property with the intent to conduct surveillance on the person or the property in violation of the person's reasonable expectation of privacy. For purposes of this subsection, a person is presumed to have a reasonable expectation of privacy on the person's privately owned real property if the person is not observable by another person located at ground level in a place where the other person has a legal right to be, regardless of whether the person is observable from the air using a drone.

(c) A person engaged in the business of selling drones shall provide written notice to each purchaser of a drone required to be registered by the U.S. Department of Transportation about the requirements under subsections (a) and (b) of this section for flying a drone above privately owned real property without the property owner's prior written consent.

(d) A person who violates this section shall be assessed a civil penalty of not more than:

(1) \$50.00 for a first violation; or

(2) \$250.00 for a second or subsequent violation.

(e) As used in this section:

(1) "Property owner" means a person who owns, leases, licenses, or otherwise controls ownership or use of land, or an employee or agent of that person.

(2) "Surveillance" means:

(A) with respect to an owner or occupant of privately owned real property, the observation of the person with sufficient visual clarity to be able to obtain information about the person's identity, habits, conduct, movements, or whereabouts; or

(B) with respect to privately owned real property, the observation of the property's physical improvements with sufficient visual clarity to be able to determine unique identifying features about the property or information about its owners or occupants.

(f) This section shall not apply to the use of drones by distribution or transmission utilities or their contractors for purposes of ensuring system reliability and resiliency.

Sec. 45. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

* * *

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

* * *

(31) Violations of 20 V.S.A. § 4626, relating to flying, and providing information about flying, a drone above privately owned real property without the owner's consent.

1 Sec. ~~44~~ 46. EFFECTIVE DATE

2 This act shall take effect on passage.