

House Calendar

Friday, March 17, 2023

73rd DAY OF THE BIENNIAL SESSION

House Convenes at 9:30 A.M.

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ORDERS OF THE DAY

ACTION CALENDAR

Third Reading

H. 62

An act relating to the interstate Counseling Compact

H. 77

An act relating to Vermont's adoption of the Physical Therapy Licensure Compact

H. 86

An act relating to Vermont's adoption of the Audiology and Speech-Language Pathology Interstate Compact

H. 465

An act relating to regional emergency management committees' meeting quorum requirement

H. 466

An act relating to technical corrections for the 2023 legislative session

Committee Bill for Second Reading

H. 470

An act relating to miscellaneous amendments to alcoholic beverage laws

(Rep. Birong of Vergennes will speak for the Committee on Government Operations and Military Affairs.)

NOTICE CALENDAR

Committee Bill for Second Reading

H. 471

An act relating to technical and administrative changes to Vermont's tax laws

(Rep. Branagan of Georgia will speak for the Committee on Ways and Means.)

Favorable with Amendment

H. 55

An act relating to miscellaneous unemployment insurance amendments

Rep. Mulvaney-Stanak of Burlington, for the Committee on Commerce and Economic Development, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 21 V.S.A. § 1301 is amended to read:

§ 1301. DEFINITIONS

~~The following words and phrases, as As used in this chapter, shall have the following meanings unless the context clearly requires otherwise:~~

* * *

(25) “Son,” “daughter,” and “child” include an individual’s biological child, foster child, adoptive child, stepchild, a child for whom the individual is listed as a parent on the child’s birth certificate, a legal ward of the individual, a child of the individual’s spouse, or a child that the individual has day-to-day responsibilities to care for and financially support.

(26) “Spouse” includes an individual’s domestic partner or civil union partner.

Sec. 2. 21 V.S.A. § 1301 is amended to read:

As used in this chapter:

* * *

(5) “Employer” includes:

(A) Any employing unit ~~which, after December 31, 1971~~ that in any calendar quarter in either the current or preceding calendar year paid for service in employment, as ~~hereinafter defined pursuant to subdivision (6) of this section~~, wages of \$1,500.00 or more, or for some portion of a day in each of 20 different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, had in employment, ~~as hereinafter defined~~, at least one individual (irrespective of whether the same individual was in employment in each such day). When an employing unit described in either this subdivision or subdivision (5)(B) of this section, becomes an employer within any calendar year, it shall be subject to this chapter for the whole of ~~such~~ the calendar year.

(B)(i) Any employing unit for which service in employment for a religious, charitable, educational, or other organization as defined in

subdivision (6)(A)(ix) of this section is performed after December 31, 1971^{1/2}, except as provided in subdivision (5)(C) of this section.

* * *

(6)(A)(i) “Employment,” subject to the other provisions of this subdivision (6), means service within the jurisdiction of this State, ~~performed prior to January 1, 1978, which was employment as defined in this subdivision prior to such date and, subject to the other provisions of this subdivision, service performed after December 31, 1977,~~ performed by an employee, as defined in subsections 3306(i) and (o) of the Federal Unemployment Tax Act, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, expressed or implied. Services partly within and partly ~~without~~ outside this State may by election as ~~hereinbefore~~ provided in subdivision (5)(E)(i) of this section be treated as if wholly within the jurisdiction of this State. ~~And whenever~~ If an employing unit ~~shall have~~ has elected to come under the provisions of a similar act of a state where a part of the services of an employee are performed, the Commissioner, upon ~~his or her~~ approval of said approving the election as to ~~any such~~ the employee, may treat the services covered by ~~said approved~~ said approved the election as having been performed wholly ~~without~~ outside the jurisdiction of this State.

* * *

(ix) The term “employment” shall also include service for any employing unit ~~which is performed after December 31, 1971~~ by an individual in the employ of a religious, charitable, educational, or other organization ~~but only if:~~

(I) ~~the service is excluded from “employment” as defined in the Federal Unemployment Tax Act solely by reason of section subdivision 3306(c)(8) of that act; and~~

~~(II) the organization had four or more individuals in employment for some portion of a day in each of 20 different weeks, whether or not such weeks were consecutive, within either the current or preceding calendar year, regardless of whether they were employed at the same moment of time.~~

Sec. 3. 21 V.S.A. § 1321 is amended to read:

§ 1321. CONTRIBUTIONS; TAXABLE WAGE BASE CHANGES

* * *

(c)(1) Financing benefits paid to employees of nonprofit organizations.

(A) Benefits paid to employees of nonprofit organizations shall be financed in accordance with the provisions of this subsection (c).

(B) ~~For the purposes of~~ As used in this subsection (c), a “nonprofit organization” is means an organization (, or group of organizations), described in Section 501(c)(3) of the U.S. Internal Revenue Code ~~which that~~ is exempt from income tax under Section 501(a) of ~~such the~~ Internal Revenue Code.

(2) Liability for contributions and election of reimbursement. Any nonprofit organization ~~which that~~, pursuant to subdivision 1301(5)(B)(i) of this ~~title chapter~~, is, or becomes, subject to this chapter ~~on or after January 1, 1972~~ shall pay contributions under the provisions of this section, unless it elects, in accordance with this subsection, to pay to the Commissioner, for the Unemployment Insurance Trust Fund, an amount equal to the amount of regular benefits and of one-half of the extended benefits paid, that is attributable to service in the employ of ~~such the~~ nonprofit organization, to individuals for weeks of unemployment ~~which that~~ begin during the effective period of ~~such the~~ election.

(A) ~~Any nonprofit organization which is, or becomes, subject to this chapter on January 1, 1972 may elect to become liable for payments in lieu of contributions for a period of not less than one calendar year beginning with January 1, 1972 provided it files with the Commissioner a written notice of its election within the 30-day period immediately following such date or within a like period immediately following April 16, 1971, whichever occurs later. [Repealed.]~~

(B) Any nonprofit organization ~~which that~~ becomes subject to this chapter ~~after January 1, 1972~~ may elect to become liable for payments in lieu of contributions for a period of not less than 12 months ~~beginning with the date on which such subjectivity begins~~ by filing a written notice of its election with the Commissioner not later than 30 days immediately following the date of the determination ~~of such subjectivity~~ that the organization is subject to this chapter.

(C) Any nonprofit organization ~~which that~~ makes an election in accordance with ~~subdivisions (c)(2)(A) and subdivision (B) of this section will subdivision (c)(2) shall~~ continue to be liable for payments in lieu of contributions until it files with the Commissioner a written notice terminating its election not later than 30 days prior to the beginning of the calendar year for which ~~such the~~ termination shall first be effective.

(D) Any nonprofit organization ~~which that~~ has been paying contributions under this chapter ~~for a period subsequent to January 1, 1972 may change to a reimbursable basis~~ elect to become liable for payments in lieu

of contributions by filing with the Commissioner not later than 30 days prior to the beginning of any calendar year a written notice of election to become liable for payments in lieu of contributions. ~~Such~~ An election under this subdivision (c)(2)(D) shall not be terminable by the organization for that year and the next year.

(E) The Commissioner may for good cause extend the period within which a notice of election, or a notice of termination, must be filed and may permit an election to be retroactive ~~but not any earlier than with respect to benefits paid after December 31, 1969.~~

(F) The Commissioner, in accordance with ~~such~~ any applicable rules as adopted by the Board ~~may prescribe~~, shall notify each nonprofit organization of any determination ~~which he or she may make of that the Commissioner makes with regard to~~ its status as an employer and of the effective date of any election ~~which it that the organization makes~~ and of any termination of ~~such~~ an election. ~~Such~~ The determinations shall be subject to reconsideration and to appeal and review in accordance with the provisions of section 1337a of this title.

(3) Reimbursement payments. Payments in lieu of contributions shall be made in accordance with the provisions of this subdivision, including either subdivision (A) or ~~subdivision~~ (B).

(A) At the end of each calendar quarter, or at the end of any other period as determined by the Commissioner, the Commissioner shall bill each nonprofit organization, or group of ~~such~~ nonprofit organizations, ~~which that~~ has elected to make payments in lieu of contributions for an amount equal to the full amount of regular benefits plus one-half of the amount of extended benefits paid during ~~such~~ the quarter or other prescribed period that is attributable to service in the employ of ~~such~~ the organization.

(B)(i) Each nonprofit organization that has elected payments in lieu of contributions may request permission to make ~~such~~ payments as provided in this subdivision (c)(3)(B). ~~Such method of payment~~ Payment pursuant to the provisions of this subdivision (c)(3)(B) shall become effective upon approval of the Commissioner.

(ii) At the end of each calendar quarter, the Commissioner shall bill each nonprofit organization approved to make payments pursuant to the provisions of this subdivision (c)(3)(B) for an amount representing ~~one of the following:~~

~~(i) For 1972, two-tenths of one percent of its total payroll for 1971.~~

~~(H) For years after 1972, such a percentage of its total payroll for the immediately preceding calendar year as that the Commissioner shall determine. The determination shall be determines to be appropriate based each year on the average benefit costs attributable to service in the employ of nonprofit organizations during the preceding calendar year.~~

~~(HH) For The Commissioner may determine a different rate for any organization which that did not pay wages throughout the four calendar quarters of the preceding calendar year, such percentage of its payroll during that year as the Commissioner shall determine.~~

(iii) At the end of each calendar year, the Commissioner may modify the quarterly percentage of payroll thereafter payable by the nonprofit organization in order to minimize excess or insufficient payments.

(iv) At the end of each calendar year, the Commissioner shall determine whether the total of payments for ~~such~~ the year made by a nonprofit organization is less than, or in excess of, the total amount of regular benefits plus one-half of the amount of extended benefits paid to individuals during ~~such~~ the taxable year based on wages attributable to service in the employ of ~~such~~ the organization. Each nonprofit organization whose total payments for ~~such~~ the year are less than the amount so determined shall be liable for payment of the unpaid balance to the Trust Fund in accordance with subdivision (3)(C) of this subsection (c). If the total payments exceed the amount so determined for the taxable year, all or a part of the excess shall, at the election of the nonprofit organization, be refunded from the Trust Fund or retained in the Trust Fund as part of the payments ~~which~~ that may be required for the next calendar year.

(C) Payment of any bill rendered under subdivision (2) or ~~subdivision~~ (3) of this subsection (c) shall be made not later than 30 days after the bill is mailed to the last known address of the nonprofit organization or is otherwise delivered to it, unless there has been an application for redetermination by the Commissioner or a petition for hearing before a referee in accordance with subdivision (3)(E) of this subsection (c).

(D) Payments made by any nonprofit ~~corporation~~ organization under the provisions of this section shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of the organization.

(E)(i) The amount due specified in any bill from the Commissioner shall be conclusive on the organization unless, not later than 30 days after the date of the bill, the organization files an application for reconsideration by the

Commissioner, or a petition for a hearing before a referee, setting forth the grounds for ~~such~~ the application or petition.

(ii) The Commissioner shall promptly review and reconsider the amount due specified in the bill and shall thereafter issue a redetermination in any case in which ~~such~~ an application for redetermination has been filed. Any such redetermination shall be conclusive on the organization unless, not later than 30 days after the date of the redetermination, the organization files a petition for a hearing before a referee, setting forth the grounds for the petition.

(iii) Proceedings on the petition for a hearing before a referee on the amount of a bill rendered under this section or a redetermination of ~~such~~ the amount shall be in accordance with the provisions of section 1331 of this title, and the decision of the referee shall be subject to the provisions of that section. Review of the decision of the referee by the Employment Security Board shall be in accordance with, and its decision shall be subject to, the provisions of section 1332 of this title.

(F) Any employer, including the State of Vermont ~~which,~~ that makes payments in lieu of contributions under this section shall be subject to the provisions of sections 1314, 1322, 1328, 1329, 1334, and 1336 of this title as follows:

(i) ~~that~~ The employer shall be liable for any reports as required by the Commissioner ~~may require~~ pursuant to sections 1314 and 1322 of this title;.

(ii) ~~that~~ The employer shall be liable for any penalty imposed pursuant to sections 1314 and 1328 of this title;.

(iii) ~~that~~ The employer shall be liable for the same interest on past due payments pursuant to subsection 1329(a) of this title;.

(iv) ~~that~~ The employer shall be subject to a civil action for the collection of past due payments as if those payments were contributions pursuant to subsections 1329(b) and 1334(a) of this title; ~~and.~~

(v) ~~that~~ The employer shall be subject to ~~those~~ actions for the collection of past due payments as if those payments were contributions pursuant to subsections 1329(c) and (d), and 1334(b) and (c), and section 1336 of this title; however, those provisions shall not apply to the State of Vermont.

(4) Authority to terminate elections. If any nonprofit organization is delinquent in making payments in lieu of contributions as required under this subsection, the Commissioner may terminate ~~such~~ the organization's election to make payments in lieu of contributions as of the beginning of the next

taxable year, and the termination shall be effective for that and the next taxable year.

(5) Allocation of benefit costs.

(A) Each employer that is liable for payments in lieu of contributions shall pay to the Commissioner for the Trust Fund the amount of regular benefits plus the amount of one-half of extended benefits paid that are attributable to service in the employ of ~~such~~ the employer.

(B) If benefits paid to an individual are based on wages paid by more than one employer and one or more of ~~such~~ the employers are liable for payments in lieu of contributions, the amount payable to the Trust Fund by each employer that is liable for ~~such~~ payments in lieu of contributions shall be ~~determined in accordance with subdivisions (5)(A) and (B) of this subsection (e):~~

~~(A) Proportionate allocation when fewer than all base-period employers are liable for reimbursement. If benefits paid to an individual are based on wages paid by one or more employers that are liable for payments in lieu of contributions and on wages paid by one or more employers who are liable for contributions, the amount of benefits payable by each employer that is liable for payments in lieu of contributions shall be an amount which that bears the same ratio to the total benefits paid to the individual as the total base-period wages paid to the individual by ~~such~~ the employer bear to the total base-period wages paid to the individual by all of his or her the individual's base-period employers.~~

~~(B) Proportionate allocation when all base-period employers are liable for reimbursement. If benefits paid to an individual are based on wages paid by two or more employers that are liable for payments in lieu of contributions, the amount of benefits payable by each employer shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base-period wages paid to the individual by the employer bear to the total base-period wages paid to the individual by all of his or her base-period employers.~~

(6) Group accounts. Two or more employers that have become liable for payments in lieu of contributions, in accordance with the provisions of this section and section 1380 of this title, may file a joint application to the Commissioner for the establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of ~~such~~ the employers. Each application shall identify and authorize a group representative to act as the group's agent for the purpose of this section. Upon ~~his or her~~ approval of the application, the Commissioner shall establish a

group account for ~~such~~ the employers effective as of the beginning of the calendar quarter in which ~~he or she~~ the Commissioner receives the application and shall notify the group's representative of the effective date of the account. The account shall remain in effect for not less than two years and thereafter until terminated at the discretion of the Commissioner or upon application by the group. Upon establishment of the account, each member of the group shall be liable for payments in lieu of contributions with respect to each calendar quarter in the amount that bears the same ratio to the total benefits paid in ~~such~~ the quarter that are attributable to service performed in the employ of all members of the group as the total wages paid for service in employment by ~~such~~ the member in ~~such~~ the quarter bear to the total wages paid during ~~such~~ the quarter for service performed in the employ of all members of the group. The Board shall ~~prescribe regulations~~ adopt rules as it deems necessary with respect to applications for establishment, maintenance, and termination of group accounts that are authorized by this subdivision, for addition of new members to, and withdrawal of active members from, such accounts, and for the determination of the amounts that are payable under this ~~section~~ subsection by members of the group and the time and manner of ~~such~~ the payments.

~~(7) Notwithstanding any of the foregoing provisions of this section, any nonprofit organization that prior to January 1, 1969, paid contributions required by this section, and, pursuant to subsection (c) of this section, elects within 30 days after January 1, 1972, to make payments in lieu of contributions, shall not be required to make any such payment on account of any regular or extended benefits paid, on the basis of wages paid by such organization to individuals for weeks of unemployment which begin on and after the effective date of the election until the total amount of benefits equals the amount (1) by which the contributions paid by the organization with respect to the two-year period before the effective date of the election under subsection (b) of this section exceed (2) the total amount of unemployment benefits paid for the same period that were attributable to service performed in the employ of the organization and were charged to the experience rating record of the organization. [Repealed.]~~

* * *

(f) Any employer who makes payments in lieu of contributions under the provisions of this section is considered to be self-insuring and shall pay to the Commissioner for the Unemployment Compensation Trust Fund ~~such~~ any amounts as the Commissioner finds to be due under this chapter, including benefits paid but denied on appeal or benefits paid in error which ~~that~~ that cannot be properly charged either against another employer who makes payments in lieu of contributions or against the experience-rating record of another

employer who pays contributions. Benefits improperly paid where repayment by the claimant is ordered pursuant to subsection 1347(a) or (b) of this title will be credited to the employer's account when repayment from the claimant is actually received by the Commissioner.

Sec. 4. NONPROFIT AND MUNICIPAL REIMBURSABLE EMPLOYERS;
EDUCATION; OUTREACH

(a) On or before October 1, 2023, the Commissioner of Labor, in consultation with the Vermont League of Cities and Towns, Common Good Vermont, United Way of Northwest Vermont, and other interested stakeholders, shall develop information and education materials for nonprofit and municipal employers regarding the unemployment insurance system. At a minimum, the materials shall:

(1) explain the options available to nonprofit and municipal employers, including paying regular unemployment insurance contributions, reimbursing the Unemployment Insurance Trust Fund for attributable unemployment insurance costs, and, with respect to nonprofit employers, quarterly payments of estimated unemployment insurance costs;

(2) identify the potential benefits and drawbacks of each of the options identified in subdivision (1) of this subsection;

(3) provide information on how a nonprofit or municipal employer can evaluate its potential liability under each of the options identified in subdivision (1) of this subsection;

(4) provide information developed by the Vermont League of Cities and Towns, Common Good Vermont, United Way of Northwest Vermont, and other interested stakeholders regarding how a nonprofit or municipal employer can plan and budget for the potential expenses associated with each of the options identified in subdivision (1) of this subsection; and

(5) provide additional information regarding the Unemployment Insurance program and related laws that the Commissioner determines, in consultation with the Vermont League of Cities and Towns, Common Good Vermont, United Way of Northwest Vermont, and other interested stakeholders, to be helpful or necessary for nonprofit and municipal employers.

(b)(1) The informational and educational materials developed pursuant to subsection (a) of this section shall be made available on the Department's website and shall, in coordination with the Secretary of State, Common Good Vermont, United Way of Northwest Vermont, the Vermont League of Cities

and Towns, and other interested stakeholders, be shared directly with Vermont nonprofit and municipal employers to the extent practicable.

(2) The Secretary of State shall assist the Commissioner of Labor in identifying and contacting all active Vermont nonprofit employers. The Office of the Secretary of State shall also make available on its website a link to the information and educational materials provided on the Department of Labor's website pursuant to this section.

(c) The Department of Labor, in collaboration with the Vermont League of Cities and Towns, Common Good Vermont, United Way of Northwest Vermont, and other interested stakeholders, shall hold one or more informational sessions to present the materials and information developed pursuant to subsection (a) of this section to nonprofit employers and municipal employers. At least one session shall be held on or before November 1, 2023. Each session shall allow for both in-person and remote participation and shall be recorded. Recordings shall be made available to the public and to stakeholder organizations for distribution to their members.

Sec. 5. 2021 Acts and Resolves No. 183, Sec. 59(b)(6) is amended to read:

(6) Sec. 52g (prospective repeal of unemployment insurance benefit increase) shall take effect upon the payment of a when the cumulative total amount of additional benefits paid pursuant to 21 V.S.A. § 1338(e) when, compared to the rate at which benefits would have been paid under the formula set forth in 21 V.S.A. § 1338(e) on June 30, 2025 equal to \$92,000,000.00, plus the difference between \$8,000,000.00 and the amount of additional benefits paid out pursuant to section 52b, if any, compared to the amount that would have been paid pursuant to the provisions of 21 V.S.A. § 1338(f)(1) on June 30, 2022, equals \$100,000,000.00 and shall apply to benefit weeks beginning after that date.

Sec. 6. UNEMPLOYMENT DUE TO URGENT, COMPELLING, OR
NECESSITOUS CIRCUMSTANCES; COVERAGE; IMPACT;
REPORT

(a) On or before January 15, 2024, the Commissioner of Labor shall submit a written report prepared in consultation with the Joint Fiscal Office to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs regarding the potential impact of extending eligibility for unemployment insurance benefits to individuals who separate from employment due to urgent, compelling, or necessitous circumstances, including the individual's injury or illness, to obtain or recover from medical treatment, to escape domestic or

sexual violence, to care for a child following an unexpected loss of child care, or to care for an ill or injured family member.

(b) The report shall include:

(1) a list of states in which individuals who separate from employment due to circumstances similar to those described in subsection (a) of this section are eligible for unemployment insurance and shall identify the specific circumstances for separation from employment in each identified state for which there is no waiting period or period of disqualification related to the circumstance;

(2) information, to the extent it is available, regarding the number of approved claims in the states identified pursuant to subdivision (1) of this subsection where the individual separated from employment due to circumstances similar to those described in subsection (a) of this section;

(3) an estimate of the projected range of additional approved claims per year in Vermont if individuals who separate from employment due to circumstances similar to those described in subsection (a) of this section are made eligible for unemployment insurance;

(4) an estimate of the range of potential impacts on the Unemployment Insurance Trust Fund of making individuals who separate from employment due to circumstances similar to those described in subsection (a) of this section eligible for unemployment insurance; and

(5) any recommendations for legislative action.

Sec. 7. DOMESTIC AND SEXUAL VIOLENCE SURVIVORS'

TRANSITIONAL EMPLOYMENT PROGRAM; UTILIZATION; REPORT

On or before January 15, 2024, the Commissioner of Labor shall submit a written report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs regarding the utilization of the Domestic and Sexual Violence Survivors' Transitional Employment Program. The report shall include information regarding the utilization of the Program during the past 10 years, a summary of the Department's efforts to make members of the public aware of the Program and improve access to it, how the identified changes have impacted utilization of the Program in comparison to prior years, any potential ways to further increase awareness and utilization of the Program, and any suggestions for legislative action to improve awareness or utilization of the Program.

Sec. 8. 21 V.S.A. § 1256 is added to read:

§ 1256. NOTIFICATION TO THE PUBLIC

The Department shall take reasonable measures to provide information to the public about the Program, including publishing information on the Department's website and providing timely materials related to the Program to public agencies of the State and organizations that work with domestic and sexual violence survivors, including law enforcement, State's Attorneys, community justice centers, the Center for Crime Victim Services, the Vermont Network Against Domestic and Sexual Violence (the Network), and any others deemed appropriate by the Commissioner in consultation with the Network.

Sec. 9. EFFECTIVE DATES

(a) This section and Secs. 1, 3, 4, 5, 6, 7, and 8 shall take effect on July 1, 2023.

(b) Sec. 2 shall take effect on July 1, 2024.

(Committee Vote: 9-0-2)

Rep. Anthony of Barre City, for the Committee on Ways and Means, recommends the bill ought to pass when amended as recommended by the Committee on Commerce and Economic Development.

(Committee Vote: 11-0-1)

H. 102

An act relating to the Art in State Buildings Program

Rep. Headrick of Burlington, for the Committee on Corrections and Institutions, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. REPEAL

29 V.S.A. chapter 2 (art in State buildings) is repealed.

Sec. 2. 29 V.S.A. chapter 2 is added to read:

CHAPTER 2. ART IN STATE BUILDINGS

§ 41. PURPOSE AND INTENT

(a) Purpose. The State of Vermont recognizes that public art improves the character and quality of State buildings; enhances the workplace of State employees by creating an environment of distinction, enjoyment, and pride; and adds value to the cultural, aesthetic, and economic vitality of the State.

(b) Intent. It is the intent of the General Assembly to support Vermont artists and the benefits of public art by providing ongoing funding for the commissioning of works of art for installation in State buildings and facilities.

§ 42. DEFINITIONS

As used in this chapter:

(1) “Addition” means any new construction that increases the height or floor area of an existing building or facility.

(2) “Art selection panel” means a Council-appointed group of individuals consisting of the Department of Buildings and General Services project manager, the project architect, a representative or representatives from the occupant agency or agencies, the community, and arts professionals who forward recommendations of artwork to the Advisory Committee for final approval.

(3) “Commissioner” means the Commissioner of Buildings and General Services.

(4) “Contracting agency” means the administrative unit of State government responsible for securing the preparation of plans and specifications of a State building or facility for the purpose of negotiating or advertising for bids for the construction of such building or facility.

(5) “Council” means the Vermont Council on the Arts, Inc.

(6) “Mixed media” means any combination of two or more types of materials used to create a single work of art in two or three dimensions.

(7) “Occupant agency” means that public entity that has or will have principal authority to use or occupy a public building.

(8) “Project cost” means the budgeted cost of a construction or renovation project, which may include an addition, excluding the cost of design and of land acquisition or land improvement.

(9) “Project site” means any State building or facility undergoing new construction or renovation, which may include an addition, with a total project cost of \$1,000,000.00 or more that is funded from an appropriation or appropriations in one or more capital construction act and has been recommended for consideration by the Commissioner pursuant to this chapter.

(10) “State building or facility” means any State building, facility, permanent structure, park, or appurtenant structure thereof, wholly or partially enclosed, owned or leased by State government, that is to be constructed or renovated, which may include an addition, in part or totally with funds from

any appropriation from the capital construction act. The term does not include highways, airport runways, or taxi ways, hangars, railroad tracks, sidings or yards, garages, sheds, warehouses, heating plants, sewers, parking lots, bridges, highway garages, or buildings used for storage or that are of a temporary nature. The term does not include buildings or facilities owned by units of local government, including school districts.

(11) “Work of art” means an original creation of visual art in sculpture, paintings, graphic arts, mosaics, photography, crafts, calligraphy, mixed media, or any other creation that the Advisory Committee deems a visual art. Works of art may be attached to the structure of a State building or facility or may be detached within or outside the structure.

§ 43. ART IN STATE BUILDINGS PROGRAM

(a) Program established. There is established the Art in State Buildings Program to authorize the State to fund and contract for the design, purchase, commission, fabrication, installation, and integration of permanent works of art during the design of new construction or renovation, which may include an addition, of State buildings and facilities. Works of art may be donated to the Program pursuant to the guidelines established in subdivision (b)(2) of this section, provided the donation meets the purpose and intent of the Program as described in section 41 of this chapter.

(b) Administration.

(1) The Vermont Council on the Arts, in coordination with the Department of Buildings and General Services and the Art in State Buildings Advisory Committee, shall administer the Program.

(2) The Commissioner of Buildings and General Services shall establish procedures to administer this chapter, including procedures for communicating with artists interested in donating works of art to the Program and the acceptance of donated works of art to the Program, pursuant to the requirements of 32 V.S.A. § 5.

(3) The Council shall establish contract procedures for commissioning with artists for the design and creation of works of art.

(c) Project site selection process.

(1) On or before July 1 each year, the Commissioner of Buildings and General Services shall recommend to the Council project sites for consideration under this chapter for the installation of artwork. In recommending a project site to the Council, the Commissioner shall give priority to buildings and facilities that are frequently visited by members of the public.

(2) The Commissioner and the Council shall present the recommendations to the Art in State Buildings Advisory Committee for final approval.

(d) Project design.

(1) Upon final selection for any approved project site, the contracting agency, in coordination with the Department of Buildings and General Services, shall:

(A) notify the architect of the provisions of this chapter, including the architect's participation on the art selection panel; and

(B) notify the Commissioner and the Council of the selection of the architect and the details of the project.

(2) The Commissioner of Buildings and General Services shall:

(A) ensure that early in the building design phase, the architect will discuss the potential placement and form of artwork with the art selection panel and the selected artist, and that bid specifications will inform potential contractors of the artwork to be installed in the building or facility; and

(B) assist occupant and contracting agencies in locating liability insurance for artwork when necessary.

(e) Artist selection process.

(1) Upon final approval of any project site by the Advisory Committee pursuant to subdivision (c)(2) of this section, the Council shall facilitate a process with the appointed art selection panel that will result in a recommendation of an artist or artist team for each project selected for installation of artwork. Priority in acquisitions and commissions of works of art shall be given to Vermont artists.

(2) The artist or artist team shall collaborate with the design team and the art selection panel during the initial design phase of the project.

(3) The Council shall arrange contracts with artists and order payments from the Art Acquisition Fund for the design and fabrication of such works of art.

(f) Installation of works of art. The Commissioner of Buildings and General Services and the Council shall review the final installation and placement of works of art.

(g) Ownership of works of art. The State of Vermont shall be the sole owner of all works of art acquired or commissioned through the Program.

Title shall vest in the State upon completion of installation and final acceptance of the work of art.

§ 44. ADVISORY COMMITTEE

(a) Establishment. There is established the Art in State Buildings Advisory Committee to oversee the administration of the Program.

(b) Members. The Advisory Committee shall consist of the following or designee:

(1) the Commissioner of Buildings and General Services;

(2) the Director of the Arts Council;

(3) the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions;

(4) the State Curator; and

(5) the Chair of the Vermont Board of Architects.

(c) Powers and duties. The Committee shall:

(1) provide final approval of project sites and works of art; and

(2) establish guidelines for the selection, acquisition, and commissioning of works of art.

(d) Compensation and reimbursements. Legislative members of the Committee shall be entitled to per diem compensation and expense reimbursement for attending Committee meetings pursuant to the provisions of 2 V.S.A. § 23.

§ 45. ART ACQUISITION FUND

(a) Creation. The Art Acquisition Fund, administered by the Council, is created to finance the design, construction, integration, and purchase or commissioning of works of art for the Art in State Buildings Program.

(b) Source of funds. The Fund shall be composed of any amounts transferred or appropriated to it by the General Assembly.

(c) Use of funds. Amounts in the Fund shall be expended upon order of the Council for the acquisition or commissioning of works of art and administration of the Program.

(d) Fund balances. Any balance remaining at the end of the fiscal year shall remain in the Fund.

(e) Administration costs. In each fiscal year, the Council may use not more than 15 percent of funds transferred or appropriated to the Fund for the expenses of administering this chapter.

(f) Funding requests. The Commissioner of Buildings and General Services shall include in the Department's proposed biennial capital budget request, as described in 32 V.S.A. § 310, a separate line item of not less than \$75,000.00 in any single fiscal year for the Art Acquisition Fund.

Sec. 3. 29 V.S.A. § 154a is amended to read:

§ 154a. STATE CURATOR

(a) Creation. The position of State Curator is created within the Department of Buildings and General Services.

(b) Duties. The State Curator's responsibilities shall include:

(1) oversight of the historical integrity of the State House;

(2) interpretation of the State House to the visiting public through exhibits, publications, tours, and other means of communication;

(3) acquisition, management, and care of State collections of art, historic artifacts, and furnishings, provided that all items obtained for the State House are acquired pursuant to the collections policy adopted pursuant to subsection (c) of this section; ~~and~~

(4) oversight and management of the State's historic and contemporary art and collections in other State buildings and on State property; and

(5) maintenance and conservation of works of art acquired or commissioned by the State pursuant to chapter 2 of this title.

* * *

(e) Funding. The Curator, upon approval of the Commissioner of Buildings and General Services, is authorized to purchase artwork for the permanent State collection with funds appropriated to the Department for that or other purposes in any capital construction act.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 11-0-0)

H. 125

An act relating to boards and commissions

Rep. Mrowicki of Putney, for the Committee on Government Operations and Military Affairs, recommends the bill be amended as follows:

First: By inserting a new section to be Sec. 2a to read as follows:

Sec. 2a. GOVERNMENT ACCOUNTABILITY; SUMMER

GOVERNMENT ACCOUNTABILITY COMMITTEE; REPORT

(a) Creation. There is created the Summer Government Accountability Committee to reexamine the principle of government accountability in the Legislative Branch.

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

(1) four current members of the House of Representatives, not from the same political party, who shall be appointed by the Speaker of the House; and

(2) four current members of the Senate, not from the same political party, who shall be appointed by the Committee on Committees.

(c) Powers and duties. The Summer Government Accountability Committee shall consider the issue of accountability in the Legislative Branch, including the following:

(1) ways to ensure that the Legislative Branch is accountable to the people of Vermont by creating new processes and metrics by which to measure accountability;

(2) ways to ensure equity in pay across commissions, boards, and joint legislative committees based on the nature of the service and required skill level; and

(3) codifying mechanisms for controlling and restraining the increasing number of commissions, boards, and joint legislative committees.

(d) Assistance. For purposes of scheduling meetings and preparing recommended legislation, the Summer Government Accountability Committee shall have the assistance of the Office of Legislative Operations and the Office of Legislative Counsel.

(e) Report. On or before January 15, 2024, the Summer Government Accountability Committee shall report to the House Committee on Government Operations and Military Affairs and the Senate Committee on Government Operations with any recommendations for legislative action.

(f) Meetings.

(1) A member of the House of Representatives designated by the Speaker of the House shall call the first meeting of the Summer Government Accountability Committee to occur on or before July 1, 2023.

(2) The Summer Government Accountability Committee shall select a chair from among its members at the first meeting.

(3) A majority of the members of the Summer Government Accountability Committee shall constitute a quorum.

(4) The Summer Government Accountability Committee shall cease to exist on November 1, 2024.

(g) Compensation and reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, the members of the Summer Government Accountability Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 23 for not more than four meetings. These payments shall be made from monies appropriated to the General Assembly.

Second: In Sec. 101, 18 V.S.A. § 4201, by striking out subsection (45) in its entirety and inserting in lieu thereof a new subsection (45) to read as follows:

(45) “Benchmark unlawful dosage” means the maximum recommended therapeutic dose, or maximum daily dose, as determined by the Department by rule.

Third: In Sec. 140, effective dates, by striking out “and Sec. 137 (amending 30 V.S.A. § 8015), shall take effect on June 30, 2025” and inserting in lieu thereof “and Sec. 137 (amending 30 V.S.A. § 8015) shall take effect on June 30, 2027.”

(Committee Vote: 11-0-1)

H. 171

An act relating to adult protective services

Rep. Noyes of Wolcott, for the Committee on Human Services, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 33 V.S.A. chapter 69, subchapter 1 is amended to read:

Subchapter 1. Reports of Abuse of Vulnerable Adults

§ 6901. PURPOSE

(a) The purpose of this chapter is to:

(1) protect vulnerable adults whose health and welfare may be adversely affected through abuse, neglect, or exploitation; ~~provide a temporary or permanent nurturing and safe environment for vulnerable adults when necessary; and for these purposes to require the reporting of suspected abuse, neglect, and exploitation of vulnerable adults and the investigation of such reports and provision of services, when needed; and to intervene in the family or substitute care situation only when necessary to ensure proper care and protection of a vulnerable adult or to carry out other statutory responsibilities~~

(2) recognize and accommodate the barriers for vulnerable adults that may impair both their response to maltreatment and the ability to substantiate allegations of maltreatment; and

(3) require the reporting of suspected abuse, neglect, and exploitation of vulnerable adults, the investigation of such reports, and the establishment of protective services, when needed.

(b) The provision of protective services under this chapter shall not cause undue harm or violate the individual's autonomy and shall provide opportunities for the vulnerable adult's preferences to be considered.

§ 6902. DEFINITIONS

As used in this chapter:

(1) "Abuse" means:

(A) Any medical treatment of a vulnerable adult that places life, health, or welfare in jeopardy or is likely to result in impairment of health that purposely, knowingly, recklessly, or negligently places the life, health, or welfare of a vulnerable adult in jeopardy or is likely to result in impairment of health to the vulnerable adult.

(B) Any conduct committed ~~with an intent or reckless disregard that such conduct purposely, knowingly, or recklessly that~~ is likely to cause unnecessary harm, unnecessary pain, or unnecessary suffering to a vulnerable adult or places the life, health, or welfare of a vulnerable adult in jeopardy or is likely to result in impairment of health to the vulnerable adult.

(C) ~~Unnecessary or unlawful confinement or unnecessary or unlawful restraint of a vulnerable adult~~ Confinement, seclusion, restraint, or interference with the freedom of movement of a vulnerable adult, unless necessary to ensure the health and safety of the vulnerable adults or others.

(D)(i) Any sexual activity or acts of a sexual nature with a vulnerable adult by a caregiver ~~who volunteers for or is paid by a caregiving facility or~~

~~program.~~ This definition shall not apply to a consensual relationship between a vulnerable adult and a spouse or household member as defined in 15 V.S.A. § 1101, ~~nor~~ or to a consensual relationship between a vulnerable adult and a caregiver hired, supervised, and directed by the vulnerable adult.

(ii) Any sexual activity or acts of a sexual nature such as fondling, exposure of genitals, and lewd and lascivious conduct with a vulnerable adult when the vulnerable adult does not consent or when the individual knows or should know that the vulnerable adult is incapable of resisting or consenting to the sexual activity due to age, disability, or fear of retribution or hardship, regardless of whether the individual has actual knowledge of the adult's status as a vulnerable adult.

~~(E) Intentionally subjecting a vulnerable adult to behavior that should reasonably be expected to result in intimidation, fear, humiliation, degradation, agitation, disorientation, or other forms of serious emotional distress~~ Purposely or recklessly subjecting a vulnerable adult to behavior that a reasonable person would expect to result in serious emotional or psychological distress, including intimidation, fear, humiliation, degradation, agitation, or disorientation.

~~(F) Administration, or threatened administration, of a drug, or substance, or preparation to a vulnerable adult for a purpose other than legitimate and lawful medical or therapeutic treatment.~~

(G) Wrongful denial or withholding of necessary medication, care, durable medical equipment, or treatment.

(H) Use of deception, force, threat, undue influence, harassment, duress, or fraud to induce a vulnerable adult to request or consent to receive or refuse treatment.

(2) "Activities of daily living" means dressing and undressing, bathing, personal hygiene, bed mobility, toilet use, transferring, mobility in and around the home, communication, and eating.

(3) "Acts of a sexual nature" means fondling, exposure of genitals, and lewd and lascivious conduct.

(4) "Adult" means any individual who is 18 years of age or older.

(5) "Alleged perpetrator" means the individual alleged to have abused, neglected, or exploited the alleged victim.

(6) "Alleged victim" means the individual who is alleged to have been abused, neglected, or exploited by the alleged perpetrator.

(7) “Assessment” means a process by which Adult Protective Services gathers additional information to determine if an investigation should be opened.

(8) “Care” means subsistence, medical services, personal care services, mental health services, or rehabilitative services and includes assistance with activities of daily living or instrumental activities of daily living.

(9) “Caregiver” means:

(A) a person, agency, facility, or other organization with a designated responsibility for providing subsistence or medical or other care to an adult who is an elder or has a disability, who has assumed the responsibility voluntarily, by contract, or by an order of the court; or a person providing care, including medical care, custodial care, personal care, mental health services, rehabilitative services, or any other kind of care provided that is required because of another’s age or disability care to another;

(B) a worker or employee in a facility or program that provides care to an adult who is an elder or has a disability and who has assumed the responsibility voluntarily, by contract, or by an order of the court; or

(C) a person providing care to a person that is required because of the person’s age or disability.

~~(3)~~(10) “Commissioner” means the Commissioner of Disabilities, Aging, and Independent Living.

~~(4)~~(11) “Department” means the Department of Disabilities, Aging, and Independent Living.

~~(5)~~(12) “Employer” means a person or organization who employs or contracts with one or more individuals to care for vulnerable adults, on either a paid or volunteer basis.

~~(6)~~(13) “Exploitation” means:

(A) willfully or knowingly using, withholding, transferring, or disposing of funds or property of a vulnerable adult without or in excess of legal authority for the wrongful profit or advantage of another to the detriment of a vulnerable adult;

(B) purposeful unauthorized access, sharing, or use of identifying information, image or likeness, personal accounts, or documents of a vulnerable adult without or in excess of legal authority to the detriment of the vulnerable adult or for the wrongful profit or advantage of another;

(C) breach of duty by a guardian, agent, or other fiduciary to the detriment of a vulnerable adult;

(D) acquiring or attempting to acquire possession or control of or an interest in funds or property of a vulnerable adult through the use of deception, force, threat, undue influence, harassment, duress, or fraud;

(C)(E) the act of forcing or compelling a vulnerable adult against his or her will to perform services for the profit or advantage of another refusing to return or surrender possession or control of an interest in funds or property of a vulnerable adult upon the request of a vulnerable adult or the vulnerable adult's representative;

(D)(F) any sexual activity with a vulnerable adult when the vulnerable adult does not consent or when the actor knows or should know that the vulnerable adult is incapable of resisting or declining consent to the sexual activity due to age or disability or due to fear of retribution or hardship, whether or not the actor has actual knowledge of vulnerable status knowingly failing to use a vulnerable adult's income and assets for the necessities required for that vulnerable adult's support and maintenance;

(G) influencing or persuading a vulnerable adult to perform services with substandard compensation for the profit or advantage of another.

(14) "Expungement" means the removal of an individual's name and associated identifying information from the Adult Abuse Registry.

(15) "Instrumental activities of daily living" means meal preparation, medication management, phone use, money management, household maintenance, housekeeping, laundry, shopping, transportation, and care of adaptive equipment.

(16) "Interested person" means a representative of the vulnerable adult; Adult Protective Services staff; the Commissioner of Disabilities, Aging, and Independent Living; or the Commissioner's designee.

(17) "Investigative summary report" means the document that summarizes the investigation conducted by Adult Protective Services and includes a recommendation to substantiate or unsubstantiate the investigated allegations against the alleged perpetrator.

(18) "Lewd or lascivious conduct" has the same meaning as in 13 V.S.A. § 1375.

(19) "Maltreatment" means abuse, neglect, or exploitation as defined in this section. "Maltreatment" does not include self-neglect.

(20) “Mandatory reporter” means an individual with an obligation to report allegations of maltreatment of vulnerable adults pursuant to 6903 of this title.

~~(7)~~(21)(A) “Neglect” means purposeful or, knowing, reckless, or negligent failure or omission by a caregiver that has resulted in, or could be expected to result in, physical or psychological harm, including a failure or omission to:

(i) provide care or arrange for goods or services necessary to maintain the health or safety of a vulnerable adult, including food, clothing, medicine, shelter, supervision, and medical services, unless the caregiver is acting pursuant to the wishes of the vulnerable adult or ~~his or her~~ the vulnerable adult’s representative, or an advance directive, as defined in 18 V.S.A. § 9701;

(ii) make a reasonable effort, in accordance with the authority granted the caregiver, to protect a vulnerable adult from abuse, neglect, or exploitation by others;

(iii) carry out a plan of care for a vulnerable adult ~~when such failure results in or could reasonably be expected to result in physical or psychological harm or a substantial risk of death to the vulnerable adult, unless the caregiver is acting pursuant to the wishes of the vulnerable adult or his or her~~ the vulnerable adult’s representative, or an advance directive, as defined in 18 V.S.A. § 9701; or

(iv) report significant changes in the health status of a vulnerable adult to a physician, nurse, or immediate supervisor, when the caregiver is employed by an organization that offers, provides, or arranges for personal care.

(B) ~~Neglect may be repeated conduct or a single incident that has resulted in or could be expected to result in physical or psychological harm, as a result of subdivision (A)(i), (ii), or (iii) of this subdivision~~ (7) does not include self-neglect.

~~(8)~~(22) “Plan of care” includes a duly means a medically approved plan of treatment, protocol, individual care plan, rehabilitative plan, plan to address activities of daily living, or similar procedure describing the care, treatment, or services to be provided to address a vulnerable adult’s physical, psychological, or rehabilitative needs.

~~(9)~~(23) “Protective services” means services, actions, measures, or intervention interventions that will, are intended, through voluntary agreement or through appropriate court action, to prevent further neglect, abuse, or

~~exploitation of a vulnerable adult. Such services may include supervision, guidance, counseling, referrals, petitioning for relief from abuse, or petitioning for the appointment of a guardian, and, when necessary, assistance in the securing of safe and sanitary living accommodations. However, nothing in this chapter gives the Commissioner authority to place the vulnerable adult in a State school or hospital, except pursuant to 18 V.S.A. chapter 181 or 206.~~

(24) “Provider” means an individual, organization, or entity that provides care to adults known to be vulnerable.

(25) “Recommendation for substantiation” means that an investigation has been conducted and the Adult Protective Services investigator has concluded that the preponderance of the evidence discovered in the course of the investigation would lead a reasonable person to believe that the alleged perpetrator abused, neglected, or exploited the vulnerable adult.

(26) “Report” means the statements provided to Adult Protective Services from a reporter alleging that a vulnerable adult has been abused, neglected, or exploited.

(27) “Reporter” means the person who has submitted a report to Adult Protective Services.

~~(10)~~(28) “Representative” means a court-appointed guardian, or an agent acting under an advance directive executed pursuant to 18 V.S.A. chapter 231, or an agent under a power of attorney, unless otherwise specified in the terms of the advance directive power of attorney.

(29)(A) “Self-neglect” means an adult’s inability, due to physical or mental impairment or diminished capacity, to perform essential self-care tasks including:

(i) obtaining essential food, clothing, shelter, and medical care;

(ii) obtaining goods and services necessary to maintain physical health, mental health, or general safety; or

(iii) managing one’s own financial affairs.

(B) The term “self-neglect,” which is not maltreatment by another and is distinct from the definition of “neglect,” excludes individuals who make a conscious and voluntary choice not to provide for certain basic needs as a matter of lifestyle, personal preference, or religious belief and who understand the consequences of their decision.

~~(11)~~(30) “Sexual activity” means a sexual act as defined in 13 V.S.A. § 3251, other than appropriate medical care or personal hygiene, or lewd and lascivious conduct.

~~(12)~~(31) “Substantiated report” means that the Commissioner or the Commissioner’s designee has determined, after the investigation, that a report is based upon accurate and reliable information that would lead a reasonable person to believe demonstrates, by a preponderance of the evidence, that the vulnerable adult has been abused, neglected, or exploited by the alleged perpetrator.

(32) “Unsubstantiated” means that an investigation has been conducted without a recommendation of substantiation. “Unsubstantiated” does not imply that maltreatment of a vulnerable adult by an alleged perpetrator did or did not occur. Reasons for unsubstantiation include:

(A) the Adult Protective Services investigator’s conclusion that the preponderance of the evidence would not lead a reasonable person to believe that the alleged perpetrator had abused, neglected, or exploited the vulnerable adult;

(B) evidence that the alleged victim is not vulnerable;

(C) evidence that maltreatment did not occur; or

(D) a lack of sufficient evidence to demonstrate that the alleged victim meets the definition of a vulnerable adult or that maltreatment occurred.

~~(13)~~(33) “Volunteer” means an individual who, without compensation, provides services through a private or public organization.

~~(14)~~(34) “Vulnerable adult” means any person 18 years of age or older who:

(A)(i) is a resident of a facility required to be licensed under chapter 71 of this title;

~~(B)~~(ii) is a resident of a psychiatric hospital or a psychiatric unit of a hospital;

~~(C)~~(B) has been was receiving assistance with personal care services for more than one month from a designated home health agency ~~certified by the Vermont Department of Health~~ or from a person or organization that offers, provides, or arranges for personal care; or

~~(D)~~(C) regardless of residence or whether any type of service is received, ~~is impaired due to~~ has a physical, mental, or developmental disability; infirmities as a result of brain damage, or a mental condition; infirmities of aging; mental condition, or physical, psychiatric, or developmental disability; or is determined to be clinically eligible to receive Long-Term Care Medicaid waiver services resulting in:

(i) ~~that results in some impairment of the individual's ability to provide for his or her own care without assistance, including the provision of food, shelter, clothing, health care, supervision, or management of finances independently engage in activities of daily living or instrumental activities of daily living or to provide for some aspect of the adult's own personal care without assistance; or~~

(ii) ~~because of the disability or infirmity, the individual has an impaired some impairment of the adult's ability to protect himself or herself the adult from abuse, neglect, or exploitation.~~

§ 6903. REPORTING SUSPECTED ABUSE, NEGLECT, AND
EXPLOITATION OF VULNERABLE ADULTS

(a) ~~Any of the following, other than a crisis worker acting pursuant to 12 V.S.A. § 1614 and the State Long Term Care Ombudsman or a representative of the Office, as defined in section 7501 of this title, who knows of or has received information of abuse, neglect, or exploitation of a vulnerable adult or who has reason to suspect that any vulnerable adult has been abused, neglected, or exploited shall report or cause a report to be made in accordance with the provisions of section 6904 of this title within 48 hours: All employees, contractors, volunteers, or grantees who directly provide health care, law enforcement, caregiving, counseling, education, or social services to adults, other than a crisis worker acting pursuant to 12 V.S.A. § 1614 and the State Long Term Ombudsman or a designee of the Office, as defined in section 7501 of this title, who know of information of abuse, neglect, or exploitation of a vulnerable adult or who have reason to suspect that any vulnerable adult has been abused, neglected, or exploited shall report in accordance with the provisions of section 6904 of this title within two business days.~~

(1) ~~all employees, contractors, and grantees of the Agency of Human Services who are involved in caregiving; If an individual listed in this subsection is a direct witness to evidence of abuse, neglect, or exploitation, the individual shall report or be party to a report that is made on behalf of multiple mandatory reporters.~~

(2) ~~a physician, osteopath, chiropractor, physician assistant, nurse, medical examiner, licensed nursing assistant, emergency medical services personnel, dentist, or psychologist; If an individual listed in this subsection knows of abuse, neglect, or exploitation of a vulnerable adult or has actual knowledge that any vulnerable adult has been abused, neglected, or exploited, the individual shall report unless the individual has reason to believe that the evidence of abuse, neglect, or exploitation has already been reported.~~

~~(3) a school teacher, school librarian, school administrator, school guidance counselor, school aide, school bus driver, or school employee or school contractor who works regularly with students; Except as provided in subdivision (4) of this subsection (a), an individual listed in this subsection (a) shall not refuse to make a report required by this section on the grounds that making the report would violate a privilege or disclose a confidential communication.~~

(4) A crisis worker acting pursuant to 12 V.S.A. § 1614 and the State Long-Term Care Ombudsman or a designee of the Office, as defined in section 7501 of this title, shall not be required to make a report under this subsection (a) if the report would be based upon information received in a communication that is:

(i) made to a crisis worker or State Long-Term Care Ombudsman or a designee of the Office acting in the individual's professional capacity; and

(ii) intended by the parties to be confidential at the time the communication is made.

~~(4) a mental health professional, social worker, person or organization that offers, provides, or arranges for personal care for vulnerable adults; caregiver employed by a vulnerable adult; employee of or contractor involved in caregiving for a community mental health center; law enforcement officer; or individual who works regularly with vulnerable adults and who is an employee of an adult day care center, area agency on aging, senior center, or meal program designed primarily to serve vulnerable adults;~~

~~(5) a hospital, nursing home, residential care home, home health agency, or any entity providing nursing or nursing-related services for remuneration; intermediate care facility for adults with developmental disabilities; therapeutic community residence, group home, developmental home, school or contractor involved in caregiving; or an operator or employee of any of these facilities or agencies.~~

(b) Any other concerned person not listed in subsection (a) of this section who knows of or has received a complaint of abuse, neglect, or exploitation of a vulnerable adult or who has reason to suspect that any vulnerable adult has been abused, neglected, or exploited may report or cause a report to be made in accordance with the provisions of section 6904 of this title.

(c) The identity of a person who makes a report under this section shall be kept confidential unless:

(1) the person making the report consents to disclosure;

(2) a judicial proceeding results from the report; or

(3) a court, after a hearing, finds probable cause to believe the report was not made in good faith and orders the Department to disclose the person's identity; or

(4) the reporter is listed in subdivision (a)(1) of this section, in which case the reporter's information may be shared with other investigative bodies as necessary to conduct the investigation.

§ 6904. NATURE AND CONTENT OF REPORT; TO WHOM MADE

~~A report shall be made orally or in writing to the Commissioner or the Commissioner's designee as soon as possible, but in no event later than 48 hours thereafter. The report may also be made to a law enforcement officer. If an oral report is made by telephone or otherwise, the Commissioner or designee shall request that it be followed within one week by a report in writing. Reports shall contain~~ To be considered a report to the Commissioner or designee, it shall contain the name and address of the reporter as well as the names and addresses of the vulnerable adult and persons responsible for ~~his or her~~ the vulnerable adult's care, if known; the age of the vulnerable adult; the nature of ~~his or her~~ the vulnerable adult's disability; the nature and extent of the vulnerable adult's abuse, neglect, or exploitation together with any evidence of previous abuse, neglect, or exploitation of the vulnerable adult; and any other information that the reporter believes might be helpful in establishing the cause of any injuries or reasons for the abuse, neglect, or exploitation as well as in protecting the vulnerable adult. If the reporter is in possession of documentation that establishes the alleged victim's conditions, needs, or services, that shall be included in the report. Any evidence of maltreatment shall also be cited in the report. If a report of abuse, neglect, or exploitation involves the acts or omissions of the Commissioner or employees of ~~that~~ the Department, then such reports shall be directed to the Secretary of ~~the~~ Human Services, who shall cause the report to be investigated by appropriate staff other than staff of the Department.

* * *

§ 6906. ASSESSMENT AND INVESTIGATION

(a) Report of maltreatment.

~~(1) The Commissioner shall cause an investigation to commence within 48 hours after receipt of a report made pursuant to section 6904 of this title~~ Upon receipt of a report of maltreatment, the Department shall determine whether the report constitutes an allegation of abuse, neglect, or exploitation as defined in section 6902 of this title. The Department shall respond to reports

of alleged abuse, neglect, or exploitation that occurred in Vermont and to out-of-State conduct when the vulnerable adult is a resident of Vermont.

(2) ~~The Commissioner shall keep the reporter and the alleged victim informed during all stages of the investigation, and shall:~~

~~(A) — Notify the reporter, the victim, and the victim’s legal representative, if any, in writing if Adult Protective Services or the Division of Licensing and Protection decides not to investigate the report. The notification shall be provided within five business days after the decision is made and shall inform the reporter that he or she may ask the Commissioner to review the decision.~~

~~(B) — Notify the reporter, the victim, and the victim’s legal representative, if any, in writing if Adult Protective Services or the Division of Licensing and Protection refers the report to another agency. The notification shall be provided within five business days after the referral is made.~~

~~(C) — Notify the reporter, the victim, and the victim’s legal representative, if any, in writing of the outcome of the investigation. The notification shall be provided within five business days after the decision is made and shall inform the reporter that he or she may ask the Commissioner to review the decision. The Department shall determine whether to conduct an assessment or an investigation, as provided for in this section, or whether to screen out the report. An assessment may be used to determine whether an investigation is necessary. The Department shall begin either an assessment or an investigation within one business day in all cases in which the alleged victim has experienced a life-threatening or severe injury; requires hospitalization as a result of maltreatment; was the alleged victim of sexual abuse; or is experiencing ongoing harm. The Department shall initiate an assessment or an investigation within two business days after the day of the receipt of all other accepted reports made pursuant to section 6904 of this title. The Department shall collect the following demographic information about the alleged victim and alleged perpetrator, if available, if an assessment or investigation is opened: gender, race, age, ethnicity, sexual orientation, gender identity, and disability status.~~

(3) The decision to conduct an assessment shall include consideration of the following factors:

(A) the severity of any alleged maltreatment and any injuries;

(B) the relationship between the alleged victim and alleged perpetrator;

(C) the known history of the report; and

(D) the detail and specificity of information provided in the report regarding the alleged victim's vulnerability and the alleged maltreatment.

(4) The Department shall investigate when an accepted report involves allegations indicating serious maltreatment or ongoing risk of harm to the alleged victim. The Department may investigate any report of maltreatment Adult Protective Services receives.

(5) The Department shall begin an immediate investigation if, at any time during an assessment, it appears that an investigation is appropriate.

(6) To the extent permitted by law, the Department may collaborate with law enforcement, health care and service providers, and other departments and agencies in Vermont and other jurisdictions to evaluate the risk to the vulnerable adult and may enter into reciprocal agreements with law enforcement, other departments and agencies, and other jurisdictions to further the purposes of this section. In no event shall the Department disclose information to other divisions, departments, or agencies unless such a disclosure is necessary to further the express purpose of this section.

~~(b) Assessment. The investigation shall include, except where inclusion would jeopardize the health, welfare, or safety of the vulnerable adult:~~

~~(1) a visit to the reported victim's place of residence or place of custody and to the location of the reported abuse, neglect, or exploitation;~~

~~(2) interviews with any available witnesses to the alleged abuse, neglect, or exploitation; An assessment, to the extent that is reasonable under the facts and circumstances provided in a report, shall include the following:~~

~~(3)(A) an interview with the reporter of the alleged abuse, neglect, or exploitation and the alleged victim, which shall focus on ensuring the immediate safety of the alleged victim and mitigating the future risk of harm to the alleged victim in the current environment;~~

~~(4) an interview with the reported victim, which interview may take place without the approval of the vulnerable adult's parents, guardian, or caregiver, but cannot take place over the objection of the reported victim; and~~

~~(5) an opportunity for the person who allegedly abused, neglected, or exploited to be interviewed.~~

(B) a determination as to whether the alleged victim meets the definition of a vulnerable adult and whether the allegations, if true, meet the statutory definition of abuse, neglect, or exploitation, or any combination thereof; and

(C) in collaboration with the alleged victim, the identification of resources and protective service needs that reduce the risk of future abuse, neglect, or exploitation and improve or restore the care and safety of the alleged victim.

(2) Services offered during or at the conclusion of an assessment can only be implemented through voluntary agreement or court action.

(3) If the assessment is closed without resulting in an investigation, there shall be no finding of abuse, neglect, or exploitation. However, the Department shall document the outcome of the assessment.

(4) The Department shall provide written notice to the victim, and the victim's representative who is not the subject of the assessment, of the outcome of the assessment.

~~(c) Investigation. Upon completion of the investigation, a written report describing all evidence obtained and recommending a finding of substantiated or unsubstantiated shall be submitted to the Commissioner or designee for final resolution. If the recommendation is for a finding of substantiated the person shall be given notice of the recommendation, and the evidence that forms the basis of the recommendation, and shall be notified of how a substantiated report might be used. The person shall be offered an opportunity to dispute the recommendation and may, within 15 days of notification, request an administrative hearing in front of the Commissioner or designee. Following the hearing, or if no hearing is requested within 15 days of notification, the Commissioner or designee shall make a finding of substantiated or unsubstantiated, and notify the person of the decision and of the right to appeal.~~

~~(d) Within 30 days of notification that a report has been substantiated, a person against whom a complaint has been lodged may apply to the Human Services Board for relief on the grounds that it is unsubstantiated. The Board shall hold a fair hearing under 3 V.S.A. § 3091. Unless the Commissioner agrees otherwise, the fair hearing shall be given priority by the Board and an expedited hearing shall be provided, with a decision issued promptly thereafter.~~

~~(e) If a report is found to be unsubstantiated, the records shall be retained as part of the confidential records of the Department of Disabilities, Aging, and Independent Living. If no court proceeding is brought pursuant to subdivision 6903(c)(3) of this title within six years of the date of the notice to the person against whom the complaint was lodged, the records relating to the unsubstantiated report shall be destroyed after notice to such person, unless he or she requests that the records not be destroyed.~~

~~(f) If an appeal is filed pursuant to subsection (d) of this section or to a court, the name of the individual shall not be added to the Registry until a substantiated finding of abuse, neglect, or exploitation becomes final.~~

(1) The Department shall:

(A) Notify the reporter in writing if Adult Protective Services decides not to investigate or to conduct an assessment of the report. The notification shall be provided within five business days after the decision is made and shall inform the reporter that the reporter may ask the Commissioner to review the decision.

(B) Notify the alleged victim, and the alleged victim's representative, if any, in writing of the outcome of the investigation. The notification shall be provided within five business days after the decision has been made and shall inform the alleged victim or the alleged victim's representative that the alleged victim or the alleged victim's representative may ask the Commissioner to review the decision.

(2) The investigation shall include, except where inclusion would jeopardize the health, welfare, or safety of the vulnerable adult:

(A) An interview with the alleged victim, which may take place without the approval of the alleged victim's parents, guardian, or caregiver, but cannot take place over the objection of the alleged victim.

(B) An opportunity for the person who allegedly abused, neglected, or exploited the alleged victim to be interviewed. If the person declines to be interviewed, either through given notice or failure to respond, the alleged perpetrator shall be notified that the alleged perpetrator's declination may be noted in the investigation and may be taken into account in any potential appeal process.

(3) Upon completion of the investigation, the investigative summary describing pertinent evidence obtained during the course of the investigation and recommending a substantiation or unsubstantiation shall be submitted to the Commissioner or designee. Prior to substantiation, the Department shall interview the alleged perpetrator unless the alleged perpetrator declines. The investigative summary shall include a recommendation of whether placement on the Registry is appropriate. If the recommendation is for substantiation, the alleged perpetrator shall be given written notice by certified mail of the recommendation and a summary of the evidence that forms the basis of the recommendation and shall be notified of any remedial options that may exist and how a substantiated report might be used. The alleged perpetrator may seek an administrative review of the Department's intention to place the

alleged perpetrator's name on the Registry by notifying the Department within 14 calendar days after the date listed on the Department's notice of the right to an administrative review. The Commissioner may grant an extension past the 14-day period for good cause, not to exceed 28 calendar days after the date listed on the Department's notice.

(4) The administrative review of the Department's intention to substantiate may be stayed if there is a related case pending in the Criminal or Family Division of the Superior Court that arose out of the same incident of abuse, neglect, or exploitation that resulted in the recommendation for substantiation. During the period the administrative review is stayed, if the Department's intent is to place the alleged perpetrator's name on the Registry, it shall add the alleged perpetrator's name to the Registry with a notation that the case is pending. Upon resolution of the Superior Court criminal or family case, the alleged perpetrator may exercise the alleged perpetrator's right to review under this section by notifying the Department in writing within 28 calendar days after the related court case, including any appeals, has been fully adjudicated. If the alleged perpetrator fails to notify the Department within 28 calendar days, the Department's decision shall become final, and no further review under this subsection is required.

(A) The Department shall hold an administrative review within 28 calendar days after receipt of the request for review. At least 14 calendar days prior to the administrative review, the Department shall provide to the alleged perpetrator requesting an administrative review the following: the redacted investigation file, which means only the portion of the investigation file relevant to an Adult Protective Services recommendation, redacted as necessary to minimize disclosure of any confidential information; notice of time and place of the administrative review; and administrative review procedures, including information that may be submitted and mechanisms for providing information.

(B) At the administrative review, the alleged perpetrator who requested the review shall be provided with the opportunity to present documentary evidence or other information that supports the alleged perpetrator's position and provides information to the reviewer in making the most accurate decision regarding the allegation. In determining the weight to be given any such evidence or information, the administrative reviewer shall consider whether the alleged perpetrator had an opportunity to present the evidence or information to the investigator during the investigation and, if so, the reasons for the failure to present the evidence or information at that time. The Department shall have the burden of proving that, based upon a preponderance of evidence, it concluded that a reasonable person would

believe that the vulnerable adult has been abused, neglected, or exploited by that alleged perpetrator. The administrative review may be held remotely by telephone or through electronic means by mutual agreement of the parties.

(C) The Department shall establish an administrative case review unit within the Department and may contract for the services of administrative reviewers. An administrative reviewer shall be a neutral and independent arbiter who has no prior involvement in the original investigation of the allegation.

(5) Within seven calendar days after the completed review, the administrative reviewer shall:

(A) reject the Department's recommendation of substantiation;

(B) accept the Department's recommendation of substantiation; or

(C) defer any recommendation and direct the Department to further investigate upon the recommendation of the administrative reviewer.

(6) If the administrative reviewer accepts the Department's recommendation of substantiation, a Registry record shall be made within two business days. If the administrative reviewer rejects the Department's recommendation of substantiation, no Registry record shall be made.

(7) Within seven calendar days of the decision to reject or accept the recommendation of substantiation or to defer the substantiation in accordance with subdivision (5) of this subsection, the administrative reviewer shall provide notice to the alleged perpetrator of the administrative reviewer's decision. If the administrative reviewer accepts the Department's recommendation of substantiation, the notice shall advise the alleged perpetrator of the right to appeal the administrative reviewer's decision to the Human Services Board.

(8)(A) If no administrative review is requested, the Department's recommendation in the case shall be final, and the alleged perpetrator shall have no further right of review under this section.

(B) The Commissioner may grant an exception and permit such an administrative review upon good cause shown. Good cause may include an acquittal or dismissal of a criminal charge arising from the incident of abuse, neglect, or exploitation.

(9) In exceptional circumstances, the Commissioner, in the Commissioner's sole and nondelegable discretion, may reconsider any decision made by an administrative reviewer. A Commissioner's decision that

imposes a penalty or creates a Registry record may be appealed to the Human Services Board.

(10) Within 30 calendar days after the date of the notice advising that a report has been substantiated, an alleged perpetrator against whom a complaint has been lodged may apply to the Human Services Board for relief on the grounds that it is unsubstantiated. The Human Services Board shall hold a fair hearing under 3 V.S.A. § 3091. Unless the Commissioner agrees otherwise, the hearing shall be given priority by the Human Services Board, and an expedited hearing shall be provided, not later than 30 calendar days after the date of the notice advising that a report has been substantiated, and a decision shall be issued within seven calendar days after the hearing.

(11) If a report is found to be unsubstantiated, the records shall be retained as part of the confidential records of the Department. If no court proceeding is brought pursuant to section 6903 of this title within six years following the date of the notice to the alleged perpetrator against whom the complaint was lodged, the records relating to the unsubstantiated report may be destroyed.

~~(g)~~(12) If the Human Services Board ~~or a court~~ reverses a substantiated finding, the Commissioner shall remove all information ~~in accordance with subsection (e) of this section~~ from the Registry.

~~(h)~~(13)(A) When a final determination has been made, the Commissioner shall inform the vulnerable adult or ~~his or her~~ the vulnerable adult's representative, the reporter, and, if the report is substantiated, the current employer of the individual, of the outcome of the investigation and any subsequent proceedings in writing.

(B) When a final determination of substantiation has been made, the Department shall also inform the perpetrator's current employer, if known, in writing of the outcome of the investigation and any subsequent proceedings.

§ 6907. REMEDIAL ACTION

~~(a) Coordinated treatment plan~~ Protective services. If the investigation produces evidence that the vulnerable adult has been abused, neglected, or exploited, ~~the Commissioner shall arrange for the provision of protective services in accordance with a written coordinated treatment plan and protective services are not in place, the Department shall pursue available protective services.~~

(b) Consent to services.

(1) Protective services shall be provided only with the consent of the vulnerable adult, ~~his or her;~~ the vulnerable adult's guardian, agent under power

of attorney, or agent under advance directive; or through appropriate court action. If the vulnerable adult does not consent, protective services shall not be provided, unless provision of protective services is court-ordered court ordered.

(2)(A) In the event that the vulnerable adult's guardian is the person responsible for the abuse, neglect, or exploitation, and the guardian does not consent to the investigation or receipt of protective services, the Commissioner may petition for removal of the guardian refuses consent to the investigation or the alleged victim's protective services, the investigator may seek review of the guardian's refusal by filing a motion with the Probate Division of the Superior Court pursuant 14 V.S.A. § 3062(c).

(B) In the event that the vulnerable adult's agent under power of attorney is the person responsible for the abuse, neglect, or exploitation, and the agent refuses to consent to the investigation or the alleged victim's protective services, the investigator may seek review of the agent's refusal by filing a petition in Superior Court pursuant to 14 V.S.A. § 3510(b).

(C) In the event that the vulnerable adult's agent under advance directive is the person responsible for the abuse, neglect, or exploitation, and the agent does not consent to the investigation or the receipt of protective services, the investigator may file a petition in Probate Court pursuant to 18 V.S.A. § 9718 to seek review under subdivision (b)(3) of that section as to whether the refusal is consistent with the authority granted to the agent in the advance directive.

(3) Failure to consent to protective services, either by the vulnerable adult or the vulnerable adult's guardian, agent under power of attorney, or agent under advance directive shall not automatically end an investigation of an alleged perpetrator.

* * *

§ 6909. RETALIATORY ACTION BY EMPLOYER PROHIBITED

No employer or supervisor may discharge; demote; transfer; reduce pay, benefits, or work privileges; prepare a negative work performance evaluation; or take any other action detrimental to any employee who files a good faith report in accordance with the provisions of this chapter, by reason of the report. Any person making a report under this chapter shall have a civil cause of action for appropriate compensatory and punitive damages against any person who causes detrimental changes in the employment status of the reporting party by reason of his or her making a report. Nothing in this section

grants immunity to a person reporting the person's own perpetration of maltreatment.

§ 6910. INTERFERENCE BY CAREGIVER

If consent to receive protective services has been obtained in accordance with section 6907 of this title and the Commissioner has reasonable cause to believe that the caregiver is interfering with the provision of those protective services, the ~~Commissioner~~ Department may petition the Superior Court for an order enjoining the caregiver from interfering with the provision of protective services. The petition shall present facts to show that the vulnerable adult is in need of protective services, that ~~he or she or his or her guardian~~ the vulnerable adult or the vulnerable adult's representative consents to the receipt of protective services, and that the caregiver has interfered with the provision of protective services. If the court, after hearing, finds that the vulnerable adult requires and consents to protective services, and has been prevented by ~~his or her~~ the vulnerable adult's caregiver from receiving protective services, the court may issue an order enjoining the caregiver from further interference. ~~The court may modify the terms of the coordinated treatment plan.~~

§ 6911. RECORDS OF ABUSE, NEGLECT, AND EXPLOITATION

(a) Access to records.

~~(1) Information obtained through reports and investigations, including the identity of the reporter, shall remain confidential and shall not be released absent a court order, except as follows: Subject to confidentiality or privilege protections, the Department's Adult Protective Services shall have access to any records or documents, including client-identifying information, financial records, and medical and psychological records, necessary to the performance of the Department's duties under this chapter. The duties include the investigation of abuse, neglect, or exploitation or the provision of protective services to a vulnerable adult. A person, agency, or institution that has a record or document that the Department needs to perform its duties under this chapter shall, without unnecessary delay, make the record or document available to the Department. Providing access to records relevant to an investigation by the Department or law enforcement under this provision shall not be deemed a violation of any confidential communication privilege. Access to any records that would violate attorney-client privilege shall not be provided without a court order. For the purposes of this subsection, "financial records" does not include records developed or maintained by the Department of Financial Regulation.~~

(2) The Department is exempt from the payment of a fee otherwise required or authorized by law to obtain a financial record from a person,

agency, or institution or a medical record, including a mental health record, from a hospital or health care provider if the request for a record is made in the course of an investigation by the Department.

(3) If the Department cannot obtain access to a record or document that is necessary to properly investigate or to perform another duty under this chapter, the Department may petition the Superior Court for access to the record or document.

(4) On good cause shown, the court shall order the person, agency, or institution in possession or control of a record or document to allow the Department to have access to that record or document under the terms and conditions prescribed by the court.

(5) A person, agency, or institution in possession or control of a requested record or document is entitled to notice and a hearing on a petition filed under this section.

(6) Access to a confidential record under this section does not constitute a waiver of confidentiality.

~~(7) A person shall not be held criminally or civilly liable for disclosing or providing information or records to the Department pursuant to this subsection.~~ A person who in good faith makes an alleged victim's information or a copy of the information available to an investigator in accordance with this section shall be immune from civil or criminal liability for disclosure of the information unless the person's actions constitute negligence, recklessness, or intentional misconduct. Nothing in this section shall be construed to provide civil or criminal immunity to a person suspected of having abused, neglected, or exploited a vulnerable adult.

(b) Confidentiality of reports and documents.

~~(1)(A)(i) The investigative report~~ Information obtained through reports to and assessments and investigations conducted by the Department, including the identity of the reporter, shall be confidential and shall not be released absent a court order, except the final investigative summary report shall be disclosed only to:

~~(I)(i)~~ the Commissioner or person designated to receive such records;

~~(II)(ii)~~ persons assigned by the Commissioner to investigate reports;

~~(III)(iii) the person reported to have abused, neglected, or exploited a vulnerable adult~~ alleged perpetrator;

~~(IV)~~(iv) the vulnerable adult or ~~his or her~~ the vulnerable adult's representative;

~~(V)~~(v) the Office of Professional Regulation when deemed appropriate by the Commissioner;

~~(VI)~~(vi) the Secretary of Education when deemed appropriate by the Commissioner;

~~(VII)~~(vii) the Commissioner for Children and Families or designee for purposes of review of expungement petitions filed pursuant to section 4916c of this title;

~~(VIII)~~(viii) the Commissioner of Financial Regulation when deemed appropriate by the Commissioner for an investigation related to financial exploitation;

~~(IX)~~(ix) a law enforcement agency; and

~~(X)~~(x) the State's Attorney, or the Office of the Attorney General, when the Department believes there may be grounds for criminal prosecution or civil enforcement action, or in the course of a criminal or a civil investigation.

~~(ii)~~(B) When disclosing information pursuant to this subdivision (1), reasonable efforts shall be made to limit the information to the minimum necessary to accomplish the intended purpose of the disclosure, and no other information, including the identity of the reporter, shall be released absent a court order.

~~(B)~~(2) Relevant information may be disclosed to the Secretary of Human Services, or the Secretary's designee, for the purpose of remediating or preventing abuse, neglect, or exploitation; to assist the Agency in its monitoring and oversight responsibilities; and in the course of a relief from abuse proceeding, guardianship proceeding, or any other court proceeding when the Commissioner deems it necessary to protect the victim, and the victim or ~~his or her~~ the victim's representative consents to the disclosure. When disclosing information pursuant to this subdivision, reasonable efforts shall be made to limit the information to the minimum necessary to accomplish the intended purpose of the disclosure, and no other information, including the identity of the reporter, shall be released absent a court order. Disclosures necessary to conduct Adult Protective Services investigations or to make referrals to law enforcement agencies, or to divisions or grantees of the Department, shall be permitted, but reasonable efforts shall be made to limit the information to the minimum necessary to accomplish the intended purpose of the disclosure.

(3) Notwithstanding subdivision (a)(1) of this section, financial information made available to an adult protective services investigator pursuant to this section may be used only in a judicial or administrative proceeding or investigation directly related to a report required or authorized under this chapter. Relevant information may be disclosed to the Secretary of Human Services, pursuant to subdivision (2) of this subsection.

~~(C) Relevant information may be disclosed to a Family Division of the Superior Court, upon the request of that court, in any proceeding in which:~~

~~(i) a parent of a child challenges a presumption of parentage under 15C V.S.A. § 402(b)(3); or~~

~~(ii) a parent of a child contests an allegation that he or she fostered or supported a bonded and dependent relationship between the child and a person seeking to be adjudicated a de facto parent under 15C V.S.A. § 501(a)(2).~~

~~(2) Notwithstanding subdivision (1)(A) of this subsection, financial information made available to an adult protective services investigator pursuant to section 6915 of this title may be used only in a judicial or administrative proceeding or investigation directly related to a report required or authorized under this chapter. Relevant information may be disclosed to the Secretary of Human Services pursuant to subdivision (1)(B) of this subsection, and may also be disclosed to the Commissioner of Financial Regulation when the investigation relates to financial exploitation of a vulnerable adult~~

~~(b)(c) The Commissioner Department shall maintain a registry of substantiated caregivers that shall contain the following information:~~

~~(1) the names of all the individuals found on the basis of a substantiated report to have abused, neglected, or exploited a vulnerable adult; the date of the finding; and the nature of the finding. In addition, the Commissioner shall require that, aside from a person's name, at least one other personal identifier is listed in the Registry to prevent the possibility of misidentification the date and nature of the finding;~~

~~(2) the names of individuals convicted of a crime pursuant to 13 V.S.A. § 1383; and~~

~~(3) in addition, aside from a caregiver's name, at least one other personal identifier to prevent the possibility of misidentification.~~

~~(e)(d) Disclosure of Registry information.~~

~~(1) The Commissioner or designee may disclose Registry information only to:~~

~~(1)~~(A) The State's Attorney or the Attorney General.

~~(2)~~(B) The public as required by the Nursing Home Reform Act of 1986 and regulations promulgated under the Act.

~~(3)~~(C) An employer if such information is used to determine whether to hire or retain a specific individual providing care, custody, treatment, transportation, or supervision of children or vulnerable adults. "Employer," Notwithstanding section 6902 of this chapter, "employer," as used in this section, means a person or organization who employs or contracts with one or more individuals to care for or provide transportation services to children or vulnerable adults, on either a paid or volunteer basis. The employer may submit a request concerning a current employee, volunteer, grantee, or contractor or an individual to whom the employer has given a conditional offer of a contract, volunteer position, or employment. ~~The request shall be accompanied by a release signed by the current or prospective employee, volunteer, grantee, or contractor.~~ If that individual has a record of a substantiated report, the Commissioner Department shall provide the Registry information to the employer.

~~(4)~~(D) An individual seeking to determine if the individual's own name is on the Registry.

(E) A person or organization serving vulnerable adults by assisting with employer functions; offering, providing, or arranging for home sharing; or providing personal care services, developmental services, or mental health services for vulnerable adults. The person or organization may submit a request concerning an individual who has applied to provide such services or an individual who is already so engaged. ~~The request shall be in writing and shall be accompanied by a release from the person applying for or already providing such services.~~ If the person has a record of a substantiated report, the Commissioner shall provide the Registry information.

~~(5)~~(F) The Commissioner for Children and Families or designee for purposes related to:

~~(A)~~(i) the licensing or registration of facilities and individuals regulated by the Department for Children and Families; and

~~(B)~~(ii) the Department's child protection obligations under chapters 49-59 of this title.

~~(6)~~(G) The Commissioner of Health or the Commissioner's designee for purposes related to oversight and monitoring of persons who are served by or compensated with funds provided by the Department of Health, including persons to whom a conditional offer of employment has been made.

~~(7)~~(H) Upon request or when relevant to other states' adult protective services offices.

~~(8)~~(I) The Board of Medical Practice for the purpose of evaluating an applicant, licensee, or holder of certification pursuant to 26 V.S.A. § 1353.

~~(9)~~(J) The Secretary of Education or the Secretary's designee, for purposes related to the licensing of professional educators pursuant to 16 V.S.A. chapter 5, subchapter 4 and chapter 51.

~~(10)~~(K) The Office of Professional Regulation for the purpose of evaluating an applicant, licensee, holder of a certification, or registrant for possible unprofessional conduct, where appropriate.

~~(11)~~(L) A Family Division of the Superior Court upon request of that court if it is involved in any proceeding in which:

~~(A)~~(i) a parent of a child challenges a presumption of parentage under 15C V.S.A. § 402(b)(3); or

~~(B)~~(ii) a parent of a child contests an allegation that ~~he or she~~ the parent fostered or supported a bonded and dependent relationship between the child and a person seeking to be adjudicated a de facto parent under 15C V.S.A. § 501(a)(2).

(2) The request for disclosure of Registry information pursuant to subdivisions (1)(C), (1)(E)–(G), and (1)(I)–(K) of this subsection shall be in writing and accompanied by a release from the person applying for or already providing services to children or vulnerable adults.

~~(d)~~(e) An employer providing transportation services to children or vulnerable adults may disclose Registry records obtained pursuant to subdivision ~~(e)(3)(d)(1)(C)~~ of this section to the Agency of Human Services or its designee for the sole purpose of auditing the records to ensure compliance with this chapter. An employer shall provide such records at the request of the Agency or its designee. Only Registry records regarding individuals who provide direct transportation services or otherwise have direct contact with children or vulnerable adults may be disclosed.

~~(e)~~(f) A person may, at any time, apply to the Human Services Board for relief if ~~he or she~~ the person has reasonable cause to believe that the contents of the Registry or investigative records are being misused.

~~(f)~~(g) A person may at any time apply to the Department for expungement of ~~his or her~~ the person's name from the Registry. ~~The petitioner~~ the person shall have the burden of showing why ~~his or her~~ the person's name should be expunged from the Registry. The Department shall consider the person's

completion of a restorative justice process reparation and rehabilitation in determining whether the person's name should be expunged from the Registry.

~~(g) Any person who violates this section shall be fined not more than \$500.00.~~

~~(h) Volunteers shall be considered employees for purposes of this section.~~

* * *

§ 6913. PENALTIES; ABUSE; NEGLECT; EXPLOITATION;

MANDATORY REPORTER'S FAILURE TO REPORT

(a) Whenever the ~~Commissioner~~ Department finds, after notice and hearing, that a person has committed sexual abuse as defined in subdivision 6902(1)(D) of this title, ~~sexual exploitation as defined in subdivision 6902(6)(D)~~, exploitation as defined in subdivision ~~6902(6)(A) or (B)~~ 6902(13) of this title in an amount in excess of \$500.00, abuse that causes grievous injury to or the death of a vulnerable adult, or neglect that causes grievous injury to or the death of a vulnerable adult, the ~~Commissioner~~ Department may impose an administrative penalty of not more than ~~\$10,000.00~~ \$25,000.00 for each violation. The ~~Commissioner~~ Department shall notify the Office of Professional Regulation, or any other professional licensing board applicable to the violator, of any decision made pursuant to this subsection.

(b) The Department shall investigate allegations that a mandated reporter has failed to make a required report when it appears that an investigation is appropriate. Whenever the ~~Commissioner~~ Department finds, after notice and hearing, that a mandatory reporter, as defined in ~~subdivisions 6903(a)(1), (2), (3), (4), and (5)~~ subsection 6903(a) of this title, has willfully violated the provisions of ~~subsection~~ subdivision ~~6903(a)(1)~~, the ~~Commissioner~~ Department may impose an administrative penalty not to exceed ~~\$500.00~~ \$1,000.00 per violation. For purposes of this subsection, every 24 hours that a report is not made beyond the period for reporting required by ~~subsection~~ section ~~6903(a)~~ shall constitute a new and separate violation, and a mandatory reporter shall be liable for an administrative penalty of not more than ~~\$500.00~~ \$1,000.00 for each 24-hour period, not to exceed a maximum penalty of ~~\$5,000.00~~ \$25,000.00 per reportable incident.

(c) Whenever the Department finds that a mandatory reporter willfully or knowingly withheld information, or provided false or inaccurate information, the Department may impose an administrative penalty not to exceed \$1,000.00 per violation.

(d) A person who is aggrieved by a decision under subsection (a) ~~or~~, (b), or (c) of this section may appeal that decision to the Superior Court, where either party may request trial by jury.

§ 6914. ACCESS TO CRIMINAL RECORDS

~~(a) The Commissioner may obtain from the Vermont Crime Information Center the record of convictions of any person to the extent that the Commissioner has determined by rule that such information is necessary to protect vulnerable adults.~~ The Commissioner may obtain from the Vermont Crime Information Center the record of convictions of any person to the extent that the Commissioner has determined that such information is necessary to protect vulnerable adults.

~~(b) An employer may ask the Commissioner to obtain from the Vermont Crime Information Center the record of convictions of a person who is a current employee, volunteer, or contractor, or a person to whom the employer has given a conditional offer of a contract, volunteer position, or employment. The request shall be in writing and shall be accompanied by a release by the current or prospective contractor or employee. If the person has a record of convictions, the Commissioner shall inform the employer of the date and type of conviction.~~

~~(c) A person or organization serving vulnerable adults by assisting with employer functions, offering, providing, or arranging for home sharing, personal care services, developmental services, or mental health services for vulnerable adults, may submit a request to the Commissioner concerning an individual who has applied to provide such services or an individual who is already so engaged. The request shall be in writing, and shall be accompanied by a release from the individual applying for or already providing such services. If the individual has a record of convictions, the Commissioner shall inform the person or organization submitting the request of the date and type of conviction.~~

~~(d) The Commissioners of Disabilities, Aging, and Independent Living, of Health, and of Mental Health or their designees may, for the protection of vulnerable adults or for purposes related to oversight and monitoring of persons who are served by or compensated with funds provided by the Departments of Disabilities, Aging, and Independent Living, of Health, and of Mental Health, ask the Vermont Crime Information Center for the record of convictions of a person who is a current employee, volunteer, or contractor, or a person to whom the employer has given a conditional offer of a contract, volunteer position, or employment. If the individual has a record of convictions, the Vermont Crime Information Center shall inform the~~

appropriate ~~Commissioner, or the Commissioner's designee,~~ department of the date and type of conviction.

~~(e)~~(c) Information released to an employer under this section shall not be released or disclosed by the employer to any person. Any person who violates this subsection shall be fined not more than \$500.00.

~~(f) Volunteers shall be considered employees for purposes of this section.~~

~~(g) [Repealed.]~~

§ 6915. ACCESS TO FINANCIAL INFORMATION

(a) As used in this chapter:

(1) "A person having custody or control of the financial information" means:

(A) a bank as defined in 8 V.S.A. § 11101;

(B) a credit union as defined in 8 V.S.A. § 30101;

(C) a broker-dealer or investment advisor, as those terms are defined in 9 V.S.A. § 5102; or

(D) a mutual fund as defined in 8 V.S.A. § 3461.

(2) "Capacity" means an individual's ability to make and communicate a decision regarding the issue that needs to be decided.

(3) "Financial information" means an original or copy of, or information derived from:

(A) a document that grants signature authority over an account held at a financial institution;

(B) a statement, ledger card, or other record of an account held at a financial institution that shows transactions in or with respect to that account;

(C) a check, clear draft, or money order that is drawn on a financial institution or issued and payable by or through a financial institution;

(D) any item, other than an institutional or periodic charge, that is made under an agreement between a financial institution and another person's account held at a financial institution;

(E) any information that relates to a loan account or an application for a loan;

(F) information pertaining to an insurance or endowment policy, annuity contract, contributory or noncontributory pension fund, mutual fund, or security, as defined in 9 V.S.A. § 5102; or

(G) evidence of a transaction conducted directly or by electronic or telephonic means, including surveillance video, access logs, IP addresses, and any other digital logs, documents, and metadata.

(4) “Financial institution” means any financial services provider licensed, registered, or otherwise authorized to do business in Vermont, including a bank, credit union, broker-dealer, investment advisor, mutual fund, or investment company.

(b)(1) A person having custody or control of the financial information of a vulnerable adult shall make the information or a copy of the information available to an Adult Protective Services investigator upon receipt of ~~a court order or receipt of the investigator’s written request~~ or, in the instances described in subsections (d) and (e) of this section, upon receipt of a court order.

~~(1)(2)~~ The request shall include a statement signed by the account holder, if ~~he or she~~ the account holder has capacity, or the account holder’s guardian with financial powers or agent under a power of attorney consenting to the release of the information to the investigator.

~~(2)(c)~~ If the vulnerable adult lacks capacity and does not have a guardian or agent, or if the vulnerable adult lacks capacity and ~~his or her~~ the vulnerable adult’s guardian or agent is the alleged perpetrator, the request shall include a statement signed by the investigator asserting that all of the following conditions exist:

~~(A)(1)~~ The account holder is an alleged victim of abuse, neglect, or financial exploitation.

~~(B)(2)~~ The alleged victim lacks the capacity to consent to the release of the financial information.

~~(C)(3)~~ Law enforcement is not involved in the investigation or has not requested a subpoena for the information.

~~(D)(4)~~ The alleged victim will suffer imminent harm if the investigation is delayed while the investigator obtains a court order authorizing the release of the information.

~~(E)(5)~~ Immediate enforcement activity that depends on the information would be materially and adversely affected by waiting until the alleged victim regains capacity.

~~(F)(6)~~ The Commissioner of ~~Disabilities, Aging, and Independent Living~~ has personally reviewed the request and confirmed that the conditions set forth in ~~subdivisions (A) through (E) of this subdivision (2)~~ this subsection

have been met and that disclosure of the information is necessary to protect the alleged victim from abuse, neglect, or financial exploitation.

~~(e)~~(d) If a guardian refuses to consent to the release of the alleged victim's financial information, the investigator may seek review of the guardian's refusal by filing a motion with the Probate Division of the Superior Court pursuant to 14 V.S.A. § 3062(c).

~~(d)~~(e) If an agent under a power of attorney refuses to consent to the release of the alleged victim's financial information, the investigator may file a petition in Superior Court pursuant to 14 V.S.A. § 3510(b) to compel the agent to consent to the release of the alleged victim's financial information.

~~(e)~~(f) The investigator shall include a copy of the written request in the alleged victim's case file.

~~(f)~~(g) The person having custody or control of the financial information shall not require the investigator to provide details of the investigation to support the request for production of the information.

~~(g)~~(h) The information requested and released shall be used only to investigate the allegation of abuse, neglect, or financial exploitation or for the purposes set forth in subdivision ~~6911(a)(1)(B)~~ 6911(b)(3) of this title and shall not be used against the alleged victim.

~~(h)~~(i) The person having custody or control of the financial information shall provide the information to the investigator as soon as possible but, absent extraordinary circumstances, ~~no~~ not later than 10 business days following receipt of the investigator's written request or receipt of a court order or subpoena requiring disclosure of the information.

~~(i)~~(j) A person who in good faith makes an alleged victim's financial information or a copy of the information available to an investigator in accordance with this section shall be immune from civil or criminal liability for disclosure of the information unless the person's actions constitute gross negligence, recklessness, or intentional misconduct. Nothing in this section shall be construed to provide civil or criminal immunity to a person suspected of having abused, neglected, or exploited a vulnerable adult.

~~(j)~~ The person having custody or control of the financial information of an alleged victim may charge the Department of Disabilities, Aging, and Independent Living no more than the actual cost of providing the information to the investigator and shall not refuse to provide the information until payment is received. A financial institution shall not charge the Department for the information if the financial institution would not charge if the request for the information had been made directly by the account holder.

* * *

§ 6917. WRITTEN COMMUNICATIONS

Any written communications from the Department, an administrative reviewer, or the Human Services Board to the alleged victim or to the alleged perpetrator shall use plain language.

§ 6918. RULEMAKING

The Commissioner shall adopt rules pursuant to 3 V.S.A. chapter 25 to implement this subchapter, including:

(1) conducting referrals on intakes, including:

(A) required referrals; and

(B) referrals on intake reports not accepted for assessment or investigation;

(2) conducting assessments, including:

(A) the components of an assessment;

(B) the determinations of an assessment; and

(C) timelines required for the assessment; and

(3) conducting investigations, including:

(A) the components of an investigation;

(B) the determinations of an investigation; and

(C) timelines required for the investigation.

Sec. 2. 33 V.S.A. chapter 69, subchapter 2 is amended to read:

Subchapter 2. Abuse Maltreatment Prevention for Vulnerable Adults

* * *

§ 6932. JURISDICTION AND VENUE

(a) The Family Division of the Superior Court shall have jurisdiction over proceedings under this subchapter.

(b) Emergency orders under section 6936 of this title may be issued by a judge of the Criminal, Civil, or Family Division of the Superior Court.

(c) Proceedings under this subchapter may be commenced in the county in which the ~~plaintiff~~ vulnerable adult resides. If the vulnerable adult has left the residence to avoid abuse, neglect, or exploitation, the ~~plaintiff~~ vulnerable adult

shall have the option to bring an action in the county of the previous residence or the county of the new residence.

§ 6933. REQUEST FOR RELIEF

(a) A vulnerable adult, Adult Protective Services staff, or an interested person on behalf of a vulnerable adult may seek relief from abuse, neglect, or exploitation by filing a petition requesting one or ~~both~~ more of the following orders:

(1) an order that the defendant refrain from abusing, neglecting, or exploiting the vulnerable adult;

(2) an order that the defendant immediately vacate the household;

(3) an order that the defendant shall not contact or communicate with the vulnerable adult either directly or through a third party;

(4) an order that the defendant shall not come within a fixed distance from the vulnerable adult;

(5) an order that the defendant shall not follow or stalk, as defined in 12 V.S.A. § 5131, the vulnerable adult;

(6) an order to deliver care plans, medicines, physicians' orders, and medical records to the vulnerable adult or the vulnerable adult's representative;

(7) an order to cooperate in the transfer of the vulnerable adult's care to ensure the vulnerable adult's safety and well-being;

(8) an order to immediately return any cash, checks, money, or property belonging to the vulnerable adult in the defendant's possession;

(9) an order to immediately return any personal documentation regarding the vulnerable adult, including identification documents, insurance information, financial records, and immigration documentation;

(10) an order that the defendant shall not access, dispose of, take, or transfer funds, accounts, or property from the vulnerable adult or any account in the name of the vulnerable adult;

(11) an order to cease any access, sharing, or use of identifying information, image, or likeness of the vulnerable adult;

(12) an order regarding possession, care, and control of any animal owned, possessed, leased, kept, or held as a pet by the vulnerable adult; and

(13) such other orders as deemed necessary to protect the vulnerable adult.

(b) No filing fee shall be required.

§ 6934. NOTICE

Except as provided in section 6936 of this title, the court shall grant relief only after notice to the defendant and a hearing. If the petition is made by an interested person, notice shall be provided to the vulnerable adult and the court shall determine whether the vulnerable adult is capable of expressing ~~his or her~~ the vulnerable adult's wishes with respect to the petition and, if so, whether the vulnerable adult wishes to pursue the petition. If the court determines that the vulnerable adult is capable of expressing ~~his or her~~ the vulnerable adult's opinion and does not wish to pursue the petition, the court shall dismiss the petition.

* * *

Sec. 3. 18 V.S.A. § 9718 is amended to read:

§ 9718. PETITION FOR REVIEW BY THE PROBATE DIVISION OF THE
SUPERIOR COURT

(a) A petition may be filed in the Probate Division of the Superior Court under this section by:

(1) a principal, guardian, agent, ombudsman, a mental health patient representative, or interested individual other than one identified in an advance directive, pursuant to subdivision 9702(a)(10) of this title, as not authorized to bring an action under this section;

(2) a social worker or health care provider employed by or directly associated with the health care provider, health care facility, or residential care facility providing care to the principal;

(3) the Defender General if the principal is in the custody of the Department of Corrections;

(4) a representative of the State-designated protection and advocacy system if the principal is in the custody of the Department of Mental Health; or

(5) an individual or entity identified in an advance directive, pursuant to subdivision 9702(a)(10) of this title, as authorized to bring an action under this section; or

(6) Adult Protective Services, for the purposes of reviewing the authority of the agent under 33 V.S.A. § 6907(b)(3) to refuse protective services under 33 V.S.A. § 6907(b)(2)(C).

* * *

Sec. 4. ADULT PROTECTIVE SERVICES; FINANCIAL PROTECTIONS

On or before November 1, 2023, the Department of Disabilities, Aging, and Independent Living, in collaboration with the Department of Financial Regulation and representatives of financial institutions as defined in 33 V.S.A. § 6915, shall submit a report to House Committee on Human Services and to the Senate Committee on Health and Welfare providing proposed legislative changes to protect vulnerable adults from financial abuse, neglect, and exploitation.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

(Committee Vote: 9-1-1)

H. 288

An act relating to liability for the sale of alcoholic beverages

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

* * * Liquor Liability * * *

Sec. 1. 7 V.S.A. § 501 is amended to read:

§ 501. UNLAWFUL SALE OF ALCOHOLIC BEVERAGES; CIVIL
ACTION FOR DAMAGES

(a) Action for damages. ~~A spouse, child, guardian, employer, or other person who is injured in person, property, or means of support by an intoxicated person, or in consequence of the intoxication of any person, shall have a right of action in his or her own name, jointly or severally, An injured person may bring an action in the person's own name pursuant to this subsection.~~

(1) Unlawful sale. An injured person shall have a right of action against any person or persons licensee who have caused in whole or in part the intoxication of the intoxicated person by selling or furnishing alcoholic beverages:

- ~~(1)(A)~~ to a minor as defined in section 2 of this title; or
- ~~(2)~~ to a person apparently under the influence of alcohol;
- ~~(3)(B)~~ to a person after legal serving hours; ~~or~~

~~(4) to a person who it would be reasonable to expect would be under the influence of alcohol as a result of the amount of alcoholic beverages served by the defendant to that person.~~

(2) Negligent service. An injured person may bring an action against any licensee who negligently furnishes alcoholic beverages to a person:

(A) apparently under the influence of alcohol; or

(B) who it would be reasonable to expect would be under the influence of alcohol as a result of the amount of alcoholic beverages served by the licensee to that person.

(3) Negligence; prudent person. A licensee's conduct is negligent under this subsection if the licensee knows, or if a reasonable and prudent person in similar circumstances would know, that the individual being served is intoxicated.

(4) Licensee's knowledge; individual consumption. A licensee is not chargeable with knowledge of an individual's off-premises consumption of alcoholic beverages unless the individual's appearance and behavior, or other facts known to the licensee, would put a reasonable and prudent person on notice of the individual's consumption of alcoholic beverages.

~~(b) Survival of action; joint action. Upon the death of either party, the action and right of action shall survive to or against the party's executor or administrator. The party injured or his or her the party's legal representatives may bring either a joint action against the ~~person intoxicated,~~ person and the ~~person or persons who furnished the alcoholic beverages,~~ and an owner who may be liable under subsection (c) of this section, licensee or a separate action against either ~~or any~~ of them.~~

~~(c) Landlord liability.~~

~~(1) If the alcoholic beverages were sold or furnished to the intoxicated person in a rented building, the owner may be joined as a defendant in the action, and judgment in the action may be rendered against the owner, if the owner of the building or in the case of a corporation, its agent, knew or had reason to know that alcoholic beverages were sold or furnished by the tenant:~~

~~(A) to minors as defined in section 2 of this title;~~

~~(B) to persons apparently under the influence of alcohol;~~

~~(C) to persons after legal serving hours; or~~

~~(D) to persons who it would be reasonable to expect would be under the influence of alcohol as a result of the amount of alcoholic beverages served to them by the tenant.~~

~~(2) It shall be an affirmative defense to an action against an owner that the owner took reasonable steps to prevent the sale of alcoholic beverages under the circumstances described in this subsection or to evict the tenant. [Repealed.]~~

* * *

(h) Definitions. As used in this section:

(1) “Apparently under the influence of alcohol” means a state of intoxication accompanied by a perceptible act or series of actions ~~which~~ that present signs of intoxication.

(2) “Injured person” means a spouse, child, guardian, employer, or other person, other than the intoxicated person, who is injured in person, property, or means of support by an intoxicated person or in consequence of the intoxication of any person.

(3) “Intoxicated person” means an intoxicated individual who caused injury to a person, a person’s property, or a person’s means of support.

(4) “Licensee” means the holder of a first-, third-, or fourth-class license under this title, and the license holder’s employees, who sells or furnishes alcohol to an intoxicated person.

(5) “Social host” means a person who is not the holder of a license or permit under this title and is not required to hold a license or permit under this title.

Sec. 2. 7 V.S.A. § 501 is amended to read:

§ 501. UNLAWFUL SALE OF ALCOHOLIC BEVERAGES; CIVIL
ACTION FOR DAMAGES

* * *

(i) Liability insurance required. The Department of Liquor and Lottery, in consultation with the Department of Financial Regulation, shall adopt rules governing minimum policy requirements, including coverage amounts, for liquor liability insurance. Prior to the issuance or renewal of a first-, third-, or fourth-class license, the Department of Liquor and Lottery shall require each licensee or applicant to carry liquor liability insurance that meets minimum coverage requirements adopted by the Department.

* * * Notice to Landlord of Licensee Violations * * *

Sec. 3. 7 V.S.A. § 104 is amended to read:

§ 104. DUTIES; AUTHORITY TO RESOLVE ALLEGED VIOLATIONS

The Board shall supervise and manage the sale of spirits and fortified wines within the State in accordance with the provisions of this title, and through the Commissioner of Liquor and Lottery shall:

(1)(A) Ensure that the laws relating to alcohol and alcoholic beverages are enforced, using for that purpose as much of the monies annually available to the Board of Liquor and Lottery as may be necessary.

* * *

(E) Ensure that the owner of a premises leased by a licensee is notified of licensee violations of alcoholic beverage laws.

* * *

* * * Effective Dates * * *

Sec. 4. EFFECTIVE DATES

(a) This section and Secs. 1 and 3 shall take effect on July 1, 2023.

(b) Sec. 2 shall take effect on July 1, 2024.

(Committee Vote: 11-0-0)

H. 291

An act relating to the creation of the Cybersecurity Advisory Council

Rep. Chase of Colchester, for the Committee on Government Operations and Military Affairs, recommends the bill be amended as follows:

First: In Sec. 1, 20 V.S.A. chapter 208, in section 4662, in subdivision (b)(11), by striking out “and”, in subdivision (12), by striking out “.” and inserting in lieu thereof “; and” and by adding a subdivision (13) to read as follows:

(13) the President of Vermont Information Technology Leaders or designee.

Second: In Sec. 1, 20 V.S.A. chapter 208, in section 4663, in subdivision (b)(2), by inserting “Care” after “Green Mountain”

Third: By striking out Sec. 3, effective date, in its entirety and inserting in lieu thereof a new Sec. 3 and a Sec. 4 to read as follows:

Sec. 3. REPEAL

20 V.S.A. chapter 208 (Cybersecurity) is repealed on June 30, 2026.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

(Committee Vote: 11-0-1)

Favorable

H. 110

An act relating to extending the sunset under 30 V.S.A. § 248a

Rep. Patt of Worcester, for the Committee on Environment and Energy, recommends the bill ought to pass.

(Committee Vote: 10-0-1)

CONSENT CALENDAR

Concurrent Resolutions for Adoption Under Joint Rules 16a - 16d

The following concurrent resolutions have been introduced for approval by the Senate and House and will be adopted automatically unless a Senator or Representative requests floor consideration in that member's chamber before today's adjournment. Requests for floor consideration in either chamber should be communicated to the Senate Secretary's Office or the House Clerk's Office, as applicable. For text of resolutions, see Addendum to House Calendar of March 16, 2023.

H.C.R. 48

House concurrent resolution commemorating the 25th anniversary of the Good Friday Agreement on the observance of St Patrick's Day 2023

H.C.R. 49

House concurrent resolution congratulating Westford Elementary School's robotics teams for their award-winning performances at the FIRST LEGO League State Championship

H.C.R. 50

House concurrent resolution congratulating the Governor's Institutes of Vermont on their 40th anniversary

H.C.R. 51

House concurrent resolution commemorating the 25th anniversary of the establishment of the Vermont Downtown Program and designating March 22,

2023 as Downtown Day at the State House

H.C.R. 52

House concurrent resolution designating March 22, 2023 as Vermont Tourism Day at the State House

H.C.R. 53

House concurrent resolution recognizing the week of May 14–20 as National Skilled Nursing Care Week and the week of September 10–16 as National Assisted Living Week in Vermont

H.C.R. 54

House concurrent resolution honoring Bruce Sklar, Harwood Union Middle and High School jazz teacher extraordinaire

H.C.R. 55

House concurrent resolution honoring Chris Rivers on his transformative career as Harwood Union Middle and High School Music Department Chair

H.C.R. 56

House concurrent resolution recognizing March 12–18 as AmeriCorps Week in Vermont

For Informational Purposes

CROSSOVER DATES

The Joint Rules Committee established the following crossover deadlines:

(1) All **Senate/House** bills must be reported out of the last committee of reference (including the Committees on Appropriations and Finance/Ways and Means, except as provided below in (2) and the exceptions listed below) on or before **Friday, March 17, 2023**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day – Committee bills must be voted out of Committee by **Friday, March 17, 2023**.

(2) All **Senate/House** bills referred pursuant to Senate Rule 31 or House Rule 35(a) to the Committees on Appropriations and Finance/Ways and Means must be reported out by the last of those committees on or before **Friday, March 24, 2023**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

Note: The Senate will not act on bills that do not meet these crossover deadlines, without the consent of the Senate Rules Committee.

Exceptions to the foregoing deadlines include the major money bills (the general Appropriations bill (“The Big Bill”), the Transportation Capital bill, the Capital Construction bill and the Fee/Revenue bills).

NOTICE OF JFO GRANTS AND POSITIONS

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

JFO #3138: One (1) limited-service position, Statewide Grants Administrator, to the Agency of Administration, Department of Finance and Management to cover increased grant activity due to the Covid-19 pandemic. The position is funded through Act 185 of 2022. Sec G.801 of the Act appropriates ARPA funds for administrative costs related to the pandemic. This position is funded through 12/31/2026. The grant packet can be found at:

<https://ljfo.vermont.gov/assets/grants-documents/ec01b0bea7/JFO-3138-packet.pdf>

[Received February 9, 2023]

JFO #3137: One (1) limited-service position to the Vermont Department of Health, Senior Health Asbestos and Lead Engineer, to perform senior professional level work to educate, advise on and enforce Vermont asbestos and lead control regulations. The position is funded through 9/30/2024 through an existing Environmental Protection Agency grant. The grant packet can be found at: <https://ljfo.vermont.gov/assets/grants-documents/a44b7c8cac/JFO-3137-packet-v2.pdf>

[Received 1/23/2023]

JFO #3136: \$5,000,000.00 to the Agency of Administration, Public Service Department, VT Community Broadband Board (VCBB) from the National Telecommunications and Information Administration, Broadband Equity, Access and Deployment Program to deliver broadband to unserved and underserved areas in Vermont. This is a 5-year grant and will fill in the technical gaps existing in the VCBB’s program of broadband deployment. The grant packet can be found at: <https://ljfo.vermont.gov/assets/grants-documents/3d7b96fcb1/JFO-3136-packet.pdf>

[Received 1/23/2023]