# Senate Calendar

TUESDAY, MARCH 21, 2023

**SENATE CONVENES AT: 9:30 A.M.**

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## ORDERS OF THE DAY

### ACTION CALENDAR

### NEW BUSINESS

### Third Reading

**S. 6.**

An act relating to custodial interrogation of juveniles.

**S. 65.**

An act relating to commercial insurance coverage of epinephrine auto-injectors.

**S. 93.**

An act relating to the sales tax exemption for advanced wood boilers.

**S. 104.**

An act relating to designating August 31 as Overdose Awareness Day.

**J.R.S. 19.**

Joint resolution relating to State lands transactions in Jamaica State Park and Coolidge State Forest.

### Committee Bill for Second Reading

**S. 99.**

An act relating to miscellaneous changes to laws related to vehicles.

**By the Committee on Transportation. (Senator Chittenden for the Committee.)**

**Reported favorably by Senator Chittenden for the Committee on Finance.**

(Committee vote: 6-0-1)

**Reported favorably by Senator Perchlik for the Committee on Appropriations.**

(Committee vote: 7-0-0)

### Amendment to S. 99 to be offered by Senators Chittenden, Ingalls, Kitchel, Mazza and Perchlik

Senators Chittenden, Ingalls, Kitchel, Mazza and Perchlik move to amend the bill as follows

First: In Sec. 21, 23 V.S.A. § 1221, by striking out subdivisions (a)(3) and (4) in their entireties

Second: In Sec. 21, 23 V.S.A. § 1221, in subsections (b) and (c), by striking out "State or town"

**Amendment to S. 99 to be offered by Senator White**

Senator White moves to amend the bill by striking out Sec. 21, 23 V.S.A. § 1221, in its entirety and inserting in lieu thereof a new Sec. 21 to read as follows:

Sec. 21. 23 V.S.A. § 1221 is amended to read:

§ 1221. CONDITION OF VEHICLE; EXCESSIVE NOISE

(a) Definitions. As used in this section:

(1) "Exhaust system" means a series of mechanical devices designed or used for the purpose of receiving exhaust gas from an internal combustion engine and expelling it into the atmosphere.

(2) "Muffler" means a device consisting of a series of chambers or baffle plates, or other mechanical device designed for the purpose of receiving exhaust gas from an internal combustion engine, and that is effective in reducing noise.

(b) Good mechanical condition. A motor vehicle, operated or driven on any highway, shall be in good mechanical condition and shall be properly equipped.

(c) Mufflers and exhaust systems; prevention of noise.

(1)(A) A motor vehicle, operated or driven on any highway, shall at all times be equipped with an adequate muffler and exhaust system in constant operation and properly maintained to prevent any noise over:

(i) the 83-decibel standard at 50 feet, for vehicles manufactured after January 1, 1979 and before January 1, 1988; and

(ii) the 80-decibel standard at 50 feet, for vehicles manufactured after January 1, 1988.

(B) No such muffler or exhaust system shall be equipped with a cut-out, bypass, or similar device that in any way limits the effectiveness of the muffler or exhaust system, or both, from receiving exhaust gas from an internal combustion engine and expelling it into the atmosphere or reducing noise, or both.

(2) Notwithstanding subdivision (1) of this subsection, every motorcycle manufactured after December 31, 1985, operated or driven on any highway, shall at all times be equipped with a muffler bearing the U.S. Environmental Protection Agency required labeling applicable to the motorcycle's model year stating that the exhaust system meets the 80-decibel standard at 50 feet, as set out in 40 C.F.R. Part 205, Subparts D and E.

(3) No person shall modify the muffler or exhaust system of a motor vehicle in a manner that will amplify or increase the noise emitted by the motor or exhaust system of such vehicle above that emitted by the muffler or exhaust system originally installed on the vehicle, and such original muffler and exhaust system shall comply with all the requirements of this section.

(d) Exemption. The prohibitions of subsection (c) of this section shall not apply when a motor vehicle is operated anywhere other than a highway.

**Second Reading**

**Favorable**

**S. 35.**

An act relating to the Town of Hartford's tax increment financing district.

**Reported favorably by Senator McCormack for the Committee on Finance.**

(Committee vote: 6-1-0)

**Favorable with Recommendation of Amendment**

**S. 36.**

An act relating to permitting an arrest without a warrant for assaults and threats against health care workers and disorderly conduct at health care facilities.

**Reported favorably with recommendation of amendment by Senator Sears for the Committee on Judiciary.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. Rule 3 of the Vermont Rules of Criminal Procedure is amended to read:

Rule 3. Arrest Without a Warrant; Citation to Appear

* * *

(c) Nonwitnessed Misdemeanor Offenses. If an officer has probable cause to believe a person has committed or is committing a misdemeanor outside the presence of the officer, the officer may issue a citation to appear before a judicial officer in lieu of arrest. The officer may arrest the person without a warrant if the officer has probable cause to believe:

* * *

(8) The person has committed a misdemeanor which involves an assault against a family member, or against a household member, as defined in 15 V.S.A. § 1101(2), or a child of such a family or household member.

* * *

(14) The person has violated 13 V.S.A. § 1023 (simple assault).

* * *

(18) The person has committed a misdemeanor that involves an assault against a health care worker in a health care facility as those terms are defined in 13 V.S.A. § 1028(d).

(19) The person has violated 13 V.S.A. § 1702 (criminal threatening) against a health care worker in a health care facility as those terms are defined in 13 V.S.A. § 1028(d).

(20) The person has committed a violation of 13 V.S.A. § 1026 (disorderly conduct) that interfered with the provision of medically necessary health care services in a health care facility as defined in 13 V.S.A. § 1028(d).

Sec. 2. 18 V.S.A. § 1883 is added to read:

§ 1883. DISCLOSURE OF PROTECTED HEALTH INFORMATION REQUIRED

When an authorized representative of a health care facility that operates as a covered entity requests that a law enforcement officer respond to and potentially arrest a patient for an alleged crime committed on the premises, the facility shall disclose to the law enforcement officer information that is sufficient to confirm whether the patient is medically cleared so that the patient may be removed from the facility and shall disclose any other information that will be necessary for purposes of safely taking custody of the patient.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 4-1-0)

**Reported favorably with recommendation of amendment by Senator Weeks for the Committee on Health and Welfare.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. Rule 3 of the Vermont Rules of Criminal Procedure is amended to read:

Rule 3. Arrest Without a Warrant; Citation to Appear

* * *

(c) Nonwitnessed Misdemeanor Offenses. If an officer has probable cause to believe a person has committed or is committing a misdemeanor outside the presence of the officer, the officer may issue a citation to appear before a judicial officer in lieu of arrest. The officer may arrest the person without a warrant if the officer has probable cause to believe:

* * *

(8) The person has committed a misdemeanor which involves an assault against a family member, or against a household member, as defined in 15 V.S.A. § 1101(2), or a child of such a family or household member.

* * *

(14) The person has violated 13 V.S.A. § 1023 (simple assault).

* * *

(18) The person has committed a misdemeanor that involves an assault against a health care worker in a health care facility as those terms are defined in 13 V.S.A. § 1028(d).

(19) The person has violated 13 V.S.A. § 1702 (criminal threatening) against a health care worker in a health care facility as those terms are defined in 13 V.S.A. § 1028(d).

(20) The person has committed a violation of 13 V.S.A. § 1026(a)(1) (disorderly conduct for engaging in fighting or in violent, tumultuous, or threatening behavior) that interfered with the provision of medically necessary health care services in a health care facility as defined in 13 V.S.A. § 1028(d).

Sec. 2. 13 V.S.A. § 1702 is added to read:

§ 1702. CRIMINAL THREATENING

(a) A person shall not by words or conduct knowingly:

(1) threaten another person or a group of particular persons; and

(2) as a result of the threat, place the other person in reasonable apprehension of death, serious bodily injury, or sexual assault to the other person, a person in the group of particular persons, or any other person.

(b) A person who violates subsection (a) of this section shall be imprisoned not more than one year or fined not more than $1,000.00, or both.

* * *

(f) A person who violates subsection (a) of this section with the intent to terrify, intimidate, or unlawfully influence the conduct of a candidate for public office, a public servant, an election official, or a public employee in any decision, opinion, recommendation, vote, or other exercise of discretion taken in capacity as a candidate for public office, a public servant, an election official, or a public employee, or with the intent to retaliate against a candidate for public office, a public servant, an election official, or a public employee for any previous action taken in capacity as a candidate for public office, a public servant, an election official, or a public employee, shall be imprisoned not more than two years or fined not more than $2,000.00, or both.

(g) A person who violates subsection (a) of this section with the intent to terrify or intimidate a health care worker because of the worker's previous action or inaction taken in the provision of health care services shall be imprisoned not more than two years or fined not more than $2,000.00, or both.

(h) As used in this section:

(1) "Serious bodily injury" has the same meaning as in section 1021 of this title.

(2) "Threat" and "threaten" do not include constitutionally protected activity.

(3) "Candidate" has the same meaning as in 17 V.S.A. § 2103.

(4) "Election official" has the same meaning as in 17 V.S.A. § 2455.

(5) "Public employee" means a classified employee within the Legislative, Executive, or Judicial Branch of the State and any of its political subdivisions and any employee within a county or local government and any of the county's or local government's political subdivisions.

(6) "Public servant" has the same meaning as in 17 V.S.A. § 2103.

(7) "Polling place" has the same meaning as described in 17 V.S.A. chapter 51, subchapter 4.

(8) "Sexual assault" has the same meaning as sexual assault as described in section 3252 of this title.

(9) "Health care services" means services for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease.

(10) "Health care worker" has the same meaning as in section 1028 of this title.

~~(h)~~(i) Any person charged under this section who is younger than the age identified in 33 V.S.A. § 5201(d) shall be subject to a juvenile proceeding.

Sec. 3. 18 V.S.A. § 1883 is added to read:

§ 1883. DISCLOSURE OF PROTECTED HEALTH INFORMATION REQUIRED

When an authorized representative of a health care facility that operates as a covered entity requests that a law enforcement officer respond to and potentially arrest a patient for an alleged crime committed on the premises, the facility shall disclose to the law enforcement officer information that is sufficient to confirm whether the patient is medically cleared so that the patient may be removed from the facility and shall disclose any other information that will be necessary for purposes of safely taking custody of the patient.

Sec. 4. REPORT ON DE-ESCALATION

On or before January 15, 2024, the Vermont Program for Quality in Health Care, in consultation with stakeholders, shall provide a report to the Senate Committee on Health and Welfare and the House Committee on Health Care regarding de-escalation of potentially violent situations in health care facilities. With a health equity impact informed lens, the report shall include best practices for de-escalation, the types of de-escalation practices currently in use, barriers to training, and recommendations for appropriate policy improvements.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

**S. 60.**

An act relating to local option taxes.

**Reported favorably with recommendation of amendment by Senator Brock for the Committee on Finance.**

The Committee recommends that the bill be amended by striking out Sec. 2 (confidentiality of tax records) in its entirety inserting in lieu thereof new Secs. 2 and 3 to read as follows:

Sec. 2. CHARTER ADOPTION APPROVAL

(a) The General Assembly approves the adoption of the charter of the Town of South Hero as set forth in this act.

(b) The General Assembly approves the local option tax proposed by the Town and authorizes the assessment of that tax as approved by the voters. On March 1, 2022, the voters of the Town of South Hero approved the adoption of a local option tax. The question on the ballot was: "Shall the Town of South Hero assess a one percent (1%) tax on meals and alcoholic beverages pursuant to Vermont Statute 24 V.S.A. § 138(b)? Such revenues will be expended for municipal recreation and park facilities and Town structures per 24 V.S.A. § 138(d)(1)."

Sec. 3. 24 App. V.S.A. chapter 148 is added to read:

CHAPTER 148. TOWN OF SOUTH HERO

§ 1. LOCAL OPTION TAX

Notwithstanding the requirements of 1 V.S.A. § 138(a), the Town of South Hero is authorized to adopt a local option tax pursuant to 24 V.S.A. § 138.

And by renumbering the remaining section to be numerically correct.

(Committee vote: 7-0-0)

**Joint Resolutions For Action**

**J.R.H. 3.**

Joint resolution authorizing the Green Mountain Boys State educational program to use the State House facilities on June 29, 2023.

**PENDING QUESTION:** Shall the Senate adopt the resolution in concurrence?

(For text of resolution, see Senate Journal of March 17, 2023, page 322.)

**NOTICE CALENDAR**

**Committee Bill for Second Reading**

**S. 135.**

An act relating to the establishment of VT Saves.

**By the Committee on Economic Development, Housing and General Affairs. (Senator Brock for the Committee.)**

**Second Reading**

**Favorable with Recommendation of Amendment**

**S. 17.**

An act relating to sheriff reforms.

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

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Unprofessional Conduct of Law Enforcement Officers Reviewable by the Vermont Criminal Justice Council * * *

Sec. 1. 20 V.S.A. § 2401 is amended to read:

§ 2401. DEFINITIONS

As used in this subchapter:

* * *

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

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

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

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

(D) biased enforcement;

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

(F) placing a person in a chokehold;

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

(H) gross negligence or willful misconduct in the performance of duties; and

(I) abuse of the powers granted through law enforcement officer certification pursuant to section 2358 of this title.

* * *

* * * Audits * * *

Sec. 2. 24 V.S.A. § 290 is amended to read:

§ 290. COUNTY SHERIFF'S DEPARTMENT

* * *

(b) Full-time State deputy sheriffs whose primary responsibility is transportation of prisoners and persons with a mental condition or psychiatric disability shall be paid by the State of Vermont. The positions and their funding shall be assigned to the Department of State's Attorneys and Sheriffs. The Executive Director shall have the authority to determine job duties for the position, assignment of positions to county, regular and temporary work locations, assistance to other State agencies and departments, timesheet systems, daily work logs, and to have final approval of personnel matters, including, but not limited to, approval for hiring, paygrade assignment, hiring rate, discipline, and termination. ~~The sheriffs shall have an Executive Committee of not more than five current sheriffs, elected for a two-year term by a vote of the sheriffs held not later than January 15, for a term starting February 1. The Executive Committee shall have a Chair, Vice-Chair, Secretary-Treasurer, and two members at large. The Executive Committee shall meet at least quarterly to provide input to the Department of State's Attorneys and sheriffs regarding budget, legislation, personnel and policies, and the assignment of positions, when vacancies arise, for efficient use of resources.~~

* * *

(d) Upon the election of a sheriff-elect who is not the incumbent sheriff, ~~or upon notice of the resignation of the sheriff,~~ an announcement that the incumbent sheriff will not seek re-election or an announcement that the incumbent sheriff intends to resign, whichever occurs earliest, all financial disbursements from the accounts of the department, including the transfer of real or personal property, or other assets, of the department, shall be co-signed by the sheriff and the assistant judges. A report of all financial disbursements or transfers made pursuant to this subsection shall be forwarded by the assistant judges to the Auditor of Accounts within 15 days ~~of completion of the out-going sheriff's duties~~ following the sheriff leaving office.

Sec. 3. 24 V.S.A. § 290b is amended to read:

§ 290b. AUDITS

* * *

(b) The Auditor of Accounts shall adopt and sheriffs shall comply with a uniform system of accounts, controls, and procedures for the sheriff's department, which accurately reflects the receipt and disbursement of all funds by the department, the sheriff, and all employees of the department. The uniform system shall include:

* * *

(8) procedures and controls ~~which~~ that identify revenues received from public entities through appropriations or grants from the federal, State, or local governments from revenues received through contracts with private entities; ~~and~~

(9) procedures to notify the Auditor of Accounts and the Department of State's Attorneys and Sheriffs of the establishment and activities of any nonpublic organization of which the sheriff or any employee of the sheriff is a director and that has a mission or purpose of supplementing the efforts of the sheriff's department; and

(10) other procedures and requirements as the Auditor of Accounts deems necessary.

(c) The Auditor of Accounts and ~~his or her~~ the Auditor's designee may at any time examine the records, accounts, books, papers, contracts, reports, and other materials of the county sheriff departments as they pertain to the financial transactions, obligations, assets, and receipts of that department. The Auditor ~~or his or her designee shall conduct an audit of the accounts for a sheriff's department whenever the incumbent sheriff leaves office, and the auditor~~ shall charge for ~~the~~ any associated costs ~~of the report pursuant to~~ in the same manner described in 32 V.S.A. § 168(b).

* * *

Sec. 4. 24 V.S.A. § 314 is added to read:

§ 314. CONFLICT OF INTEREST; APPEARANCE OF CONFLICT OF INTEREST

(a) As used in this section, "conflict of interest" means an interest of a sheriff or deputy sheriff that is in conflict with the proper discharge of the sheriff's or deputy sheriff's official duties due to a significant personal or financial interest of the sheriff or deputy sheriff, of a person within the

sheriff's or deputy sheriff's immediate family, of the sheriff's or deputy sheriff's business associate, or of an organization of which the sheriff or deputy sheriff is affiliated. "Conflict of interest" does not include any interest that is not greater than that of any other persons generally affected by the outcome of a matter.

(b) A sheriff or deputy sheriff shall avoid any conflict of interest or the appearance of a conflict of interest. Except as otherwise provided in subsections (c) of this section, when confronted with a conflict of interest or an appearance of a conflict of interest, a sheriff or deputy sheriff shall disclose the conflict of interest to the Sheriff's Executive Committee, recuse themselves from the matter, and not take further action on the matter.

(c) A conflict of interest may be approved by the majority vote of the Sheriff's Executive Committee only if the material facts of the conflict of interest are disclosed or known to the Sheriff's Executive Committee. If a conflict of interest is approved, the sheriff or deputy sheriff may then act on the matter at issue.

(d) A standard operating procedures manual or policy manual created by the Department of State's Attorneys and Sheriffs may impose additional requirements relating to conflicts of interest on sheriffs and deputy sheriffs.

(e) Nothing in this section shall require a sheriff or deputy sheriff to disclose confidential information or information that is otherwise privileged under law.

* * * Sheriff Contracts * * *

Sec. 5. 24 V.S.A. § 291a is amended to read:

§ 291a. CONTRACTS

* * *

(b) A contract made with a town, city, village, or county to provide law enforcement or related services shall contain provisions governing the following subjects as best suit the needs of the parties:

* * *

(4) the type, frequency, and information to be contained in reports submitted by the sheriff's department to the town, city, village, or county;

* * *

(c) ~~A contract under this section may contain provisions for compensation to the sheriff for administration of the contract and related services. No compensation may be paid to a sheriff for administration of the contract or~~

~~related services unless the contract sets forth in writing the rate or method of calculation for the compensation and a schedule of payment; provided that a sheriff's compensation for administration shall not exceed five percent of the contract. A sheriff's rate of compensation shall be at a rate equivalent to other employees of the department who provide similar services under the contract. Compensation to the sheriff shall be made in accordance with the schedule set forth in the contract but in no event may a sheriff be compensated for administration of the contract and related services unless the compensation is made in the same calendar year in which the revenue was received by the department under the contract.~~ A contract under this section may contain provisions for an administrative overhead fee at a rate not to exceed five percent of the contract. Funds derived from contract administrative overhead fees shall be kept in a separate account held by the sheriff's department and used by the sheriff's department only for the costs of necessary departmental expenses not covered by State or county funds, including the cost of vehicles, uniforms, equipment, training, and professional services. Funds derived from contract administrative overhead fees shall not be used for sheriff, sheriff deputy, or other departmental employee compensation, bonuses, salary supplements, retirement contributions, or employment benefits.

* * *

(f) An agreement or contract for sheriff's departments to provide law enforcement or security services to county and State courthouses shall be subject to a single, statewide contracted rate of pay for such services over all county and State courthouses. The rate of pay shall be $51.00 per hour beginning on July 1, 2023. The contract amount that was in effect for the immediately preceding year shall be increased by the unadjusted percentage change in the CPI figure from the last reporting date available next prior to the beginning month of the next fiscal year for which the adjustment is made. Should the percentage change be negative, the State reserves the right to adjust the yearly contract amount accordingly. As used in this subsection, "CPI" means the Consumer Price Index for all urban consumers, designated as "CPI-U," in the northeast region, as published by the U.S. Department of Labor, Bureau of Labor Statistics.

* * * Sheriff Duties * * *

Sec. 6. 24 V.S.A. § 293 is amended to read:

§ 293. DUTIES

(a) A sheriff so commissioned and sworn shall serve and execute lawful writs, warrants, and processes directed to ~~him or her~~ the sheriff, according to the precept thereof, and do all other things pertaining to the office of sheriff.

(b) A sheriff shall maintain a detailed record of the sheriff's work schedule, including work days, leave taken, and any remote work performed outside the sheriff's district for a period of more than three days.

(c) Each sheriff's department shall comply with the provisions of the standard operating procedures manuals and policy manuals created and maintained by the Department of State's Attorneys and Sheriffs.

(d) Sheriff's departments providing law enforcement services in the county in which an individual who has a relief from abuse order pursuant to 15 V.S.A. § 1103 resides shall have a duty to assist in the retrieval of personal belongings of the individual and that individual's dependents from the individual's residence. A sheriff's department shall not seek a fee from the individual being assisted in the retrieval of personal belongings from the residence or any representative of that individual.

Sec. 7. 24 V.S.A. § 293(e) is added to read:

(e) A sheriff shall provide a minimum of one deputy sheriff, certified as a law enforcement officer in accordance with 20 V.S.A. § 2358, for law enforcement and security services for each county and State courthouse within the sheriff's county of jurisdiction in accordance with section 291a of this title.

Sec. 8. 24 V.S.A. § 299 is amended to read:

§ 299. DUTIES AS PEACE OFFICER

A sheriff shall preserve the peace~~, and suppress, with force and strong hand, if necessary, unlawful disorder~~ using force only as permitted pursuant to 20 V.S.A. chapter 151. ~~He or she~~ A sheriff may apprehend, without warrant, ~~persons~~ individuals assembled in disturbance of the peace~~,~~ and bring them before ~~a~~ the Criminal Division of the Superior Court, which shall proceed with such ~~person~~ individuals as with ~~persons~~ individuals brought before it by process issued by ~~such~~ the court.

* * * Repeal of Penalty for Refusal to Assist a Sheriff * * *

Sec. 10. REPEAL OF PENALTY FOR REFUSAL TO ASSIST A SHERIFF

24 V.S.A. § 301 (penalty for refusal to assist) is repealed.

* * * Sheriff's Departments Oversight Task Force and Report * * *

Sec. 11. SHERIFF'S DEPARTMENTS OVERSIGHT TASK FORCE; REPORT

(a) Creation. There is created the Sheriff's Departments Oversight Task Force to examine issues in implementing reforms and accountability across Vermont Sheriff's Department.

(b) Membership. The Sheriff's Departments Oversight Task Force shall be composed of the following members:

(1) one member appointed by the Department of State's Attorneys and Sheriffs;

(2) one member appointed by the Department of Human Resources;

(3) one member appointed by the Attorney General's Office;

(4) one member appointed by the Vermont Sheriffs' Association;

(5) one member appointed by the State Auditor;

(6) one member appointed by the Vermont Criminal Justice Council;

(7) one member appointed by the Vermont Association of County Judges;

(8) one member of an organization focused on law enforcement reform, who shall be appointed by the Speaker of the House; and

(9) one member of a different organization focused on law enforcement reform, who shall be appointed by the Senate Committee on Committees.

(c) Powers and duties. The Sheriff's Departments Oversight Task Force shall consider issues relating to oversight of sheriffs' departments, including the following:

(1) creating and maintaining policies and best practices to be included in standard operating procedures manuals and policy manuals;

(2) increasing efficiency and equity in the delivery of public safety services by sheriff's departments;

(3) the compensation structure and levels of sheriffs, deputies, and departmental staff, including salaries, overtime, retirement, benefits, and bonuses;

(4) the duties of sheriffs, as related to both law enforcement and administration of sheriff's departments;

(5) oversight of sheriffs, as related to both conduct and administration of sheriff's departments;

(6) creating a sustainable funding model for sheriff's departments that is not based on contracts for services; and

(7) reorganizing the Department of State's Attorneys and Sheriffs to better provide oversight and support for state's attorneys and sheriffs.

(d) Assistance. The Sheriff's Departments Oversight Task Force shall have the administrative, technical, and legal assistance of the Department of State's Attorneys and Sheriffs.

(e) Report. On or before November 15, 2023, the Sheriff's Departments Oversight Task Force shall report to the House Committee on Government Operations and Military Affairs and the Senate Committee on Government Operations with its findings and any recommendations for legislative action.

(f) Meetings.

(1) The member of the Sheriff's Departments Oversight Task Force designated by the Department of State's Attorneys and Sheriffs shall call the first meeting of the Sheriff's Departments Oversight Task Force to occur on or before July 1, 2023.

(2) The Sheriff's Departments Oversight Task Force shall select a chair from among its members at the first meeting.

(3) A majority of the members of the Sheriff's Departments Oversight Task Force shall constitute a quorum.

(4) The Sheriff's Departments Oversight Task Force shall cease to exist on July 1, 2024.

(g) Compensation and reimbursement.

The members of the public Sheriff's Departments Oversight Task Force who are appointed from an organization focused on law enforcement reform shall be entitled to per diem compensation as permitted under 32 V.S.A. § 1010 for not more than five meetings, provided that those members are not paid for their services by the organization for which the member is representing on the Sheriff's Departments Oversight Task Force. These payments shall be made from monies appropriated to the Department of State's Attorneys and Sheriffs.

(h) Appropriation. The sum of $1,000.00 is appropriated to the Department of State's Attorneys and Sheriffs from the General Fund in fiscal year 2024 for per diem compensation for members of the Committee.

* * * Effective Dates * * *

Sec. 12. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 7 (adding 24 V.S.A. § 293(e)) shall take effect on July 1, 2024.

(Committee vote: 5-1-0)

**S. 25.**

An act relating to regulating cosmetic and menstrual products containing certain chemicals and chemical classes and textiles and athletic turf fields containing perfluoroalkyl and polyfluoroalkyl substances.

**Reported favorably with recommendation of amendment by Senator Williams for the Committee on Health and Welfare.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Chemicals in Cosmetic and Menstrual Products * * *

Sec. 1. 18 V.S.A. chapter 36 is added to read:

CHAPTER 36. CHEMICALS IN COSMETIC AND MENSTRUAL PRODUCTS

§ 1721. DEFINITIONS

As used in this chapter:

(1) "Bisphenols" means any member of a class of industrial chemicals that contain two hydroxyphenyl groups. Bisphenols are used primarily in the manufacture of polycarbonate plastic and epoxy resins.

(2) "Cosmetic product" means articles or a component of articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, promoting attractiveness, or improving or altering appearance, including those intended for use by professionals. "Cosmetic product" does not mean soap, dietary supplements, or food and drugs approved by the U.S. Food and Drug Administration.

(3) "Formaldehyde releasing agent" means a chemical that releases formaldehyde.

(4) "Intentionally added" means the addition of a chemical in a product that serves an intended function in the product component.

(5) "Manufacturer" means any person, firm, association, partnership, corporation, organization, joint venture, importer, or domestic distributor of a cosmetic or menstrual product. As used in this subdivision, "importer" means the owner of the product.

(6) "Menstrual product" means a product used to collect menstruation and vaginal discharge, including tampons, pads, sponges, menstruation underwear, disks, applicators, and menstrual cups, whether disposable or

reusable.

(7) "Ortho-phthalates" means any member of the class of organic chemicals that are esters of phthalic acid containing two carbon chains located in the ortho position.

(8) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" means a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

(9) "Professional" means a person granted a license pursuant to 26 V.S.A. chapter 6 to practice in the field of barbering, cosmetology, manicuring, or esthetics.

§ 1722. PROHIBITED CHEMICALS IN COSMETIC AND MENSTRUAL PRODUCTS

(a) A manufacturer, supplier, or distributor shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State any cosmetic or menstrual product to which the following chemicals or chemical classes have been intentionally added in any amount:

(1) Ortho-phthalates;

(2) PFAS;

(3) Formaldehyde (CAS 50-00-0) and formaldehyde releasing agents;

(4) Methylene glycol (CAS 463-57-0);

(5) Mercury and mercury compounds (CAS 7439-97-6);

(6) 1, 4-dioxane (CAS 123-91-1);

(7) Isopropylparaben (CAS 4191-73-5);

(8) Isobutylparaben (CAS 4247-02-3);

(9) Lead and lead compounds (CAS 7439-92-1);

(10) Asbestos;

(11) Aluminum salts;

(12) Triclosan (CAS 3380-34-5);

(13) m-phenylenediamine and its salts (CAS 108-42-5); and

(14) o-phenylenediamine and its salts (CAS 95-54-5).

(b) A cosmetic or menstrual product made through manufacturing processes intended to comply with this chapter and containing a technically unavoidable trace quantity of a chemical or chemical class listed in subsection

(a) of this section shall not be in violation of this chapter on account of the trace quantity where it is the result of:

(1) natural or synthetic ingredients;

(2) the manufacturing process;

(3) storage; or

(4) migration from packaging.

(c) The manufacturer of a cosmetic or menstrual product containing 1,4 dioxane, lead, lead compounds, or any combination of these chemicals may apply to the Department of Health for a one-year waiver from subsection (a) of this section. The Department shall only approve a waiver application in which the manufacturer submits evidence that the manufacturer has taken steps to reduce the presence of 1,4 dioxane, lead, lead compounds, or any combination of these chemicals in the cosmetic or menstrual product and is still unable to comply with subsection (a) of this section. The Department shall not approve more than two one-year waiver applications for a particular product.

§ 1723. PENALTIES

(a) A violation of this chapter shall be deemed a violation of the Consumer Protection Act, 9 V.S.A. chapter 63. The Attorney General has the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions, and private parties have the same rights and remedies as provided under 9 V.S.A. chapter 63, subchapter 1.

(b) Nothing in this section shall be construed to preclude or supplant any other statutory or common law remedies.

Sec. 2. COMMUNITY ENGAGEMENT PLAN

On or before December 1, 2024, the Department of Health shall develop, adopt, and submit a community engagement plan to the Senate Committee on Health and Welfare and to the House Committee on Human Services related to the enactment of 18 V.S.A. chapter 36. The community engagement plan shall:

(1) identify cosmetic products marketed to individuals who are Black, Indigenous, or Persons of Color that contain potentially harmful ingredients;

(2) direct outreach to provide culturally appropriate education concerning harmful ingredients used in cultural and other cosmetic products, prioritizing engagement with vulnerable populations;

(3) make recommendations for priority chemicals or products to be regulated; and

(4) include methods for outreach and communication with those who face barriers to participation, such as language.

* * * PFAS in Textiles * * *

Sec. 3. 18 V.S.A. chapter 33C is amended to read:

CHAPTER 33C. PFAS IN SKI WAX AND TEXTILES

§ 1691. DEFINITIONS

As used in this chapter:

(1) "Apparel" means any of the following:

(A) Clothing items intended for regular wear or formal occasions, including undergarments, shirts, pants, skirts, dresses, overalls, bodysuits, costumes, vests, dancewear, suits, saris, scarves, tops, leggings, school uniforms, leisurewear, athletic wear, sports uniforms, everyday swimwear, formal wear, onesies, bibs, diapers, footwear, and everyday uniforms for workwear. Clothing items intended for regular wear or formal occasions does not include clothing items for exclusive use by the U.S. Armed Forces, outdoor apparel for severe wet conditions, and personal protective equipment.

(B) Outdoor apparel.

(2) "Department" means the Department of Health.

~~(2)~~(3) "Intentionally added" means the addition of a chemical in a product that serves an intended function in the product component.

(4) "Outdoor apparel" means clothing items intended primarily for outdoor activities, including hiking, camping, skiing, climbing, bicycling, and fishing.

(5) "Outdoor apparel for severe wet conditions" means outdoor apparel that are extreme and extended use products designed for outdoor sports experts for applications that provide protection against extended exposure to extreme rain conditions or against extended immersion in water or wet conditions, such as from snow, in order to protect the health and safety of the user and that are not marketed for general consumer use. Examples of extreme and extended use products include outerwear for offshore fishing, offshore sailing, whitewater kayaking, and mountaineering.

~~(3)~~(6) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" has the same meaning as in section 1661 of this title.

(7) "Personal protective equipment" has the same meaning as in section 1661 of this title.

(8) "Regulated perfluoroalkyl and polyfluoroalkyl substances" or "regulated PFAS" means:

(A) PFAS that a manufacturer has intentionally added to a product and that have a functional or technical effect in the product, including PFAS components of intentionally added chemicals and PFAS that are intentional breakdown products of an added chemical that also have a functional or technical effect in the product; or

(B) the presence of PFAS in a product or product component at or above 100 parts per million, as measured in total organic fluorine.

~~(4)~~(9) "Ski wax" means a lubricant applied to the bottom of snow runners, including skis and snowboards, to improve their grip and glide properties.

(10) "Textile" means any item made in whole or part from a natural, manmade, or synthetic fiber, yarn, or fabric, and includes leather, cotton, silk, jute, hemp, wool, viscose, nylon, or polyester. "Textile" does not include single-use paper hygiene products, including toilet paper, paper towels, tissues, or single-use absorbent hygiene products.

(11) "Textile articles" means textile goods of a type customarily and ordinarily used in households and businesses, and includes apparel, accessories, handbags, backpacks, draperies, shower curtains, furnishings, upholstery, bedding, towels, napkins, and table cloths. "Textile articles" does not include:

(A) a vehicle, as defined in 1 U.S.C. § 4, or its component parts;

(B) a vessel, as defined in 1 U.S.C. § 3, or its component parts;

(C) an aircraft, as defined in 49 U.S.C. § 40102(a)(6), or its component parts;

(D) filtration media and filter products used in industrial applications, including chemical or pharmaceutical manufacturing and environmental control technologies; and

(E) textile articles used for laboratory analysis and testing.

§ 1692. SKI WAX

(a) A manufacturer, supplier, or distributor shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State ski wax or related tuning products to which PFAS have been intentionally added in any amount.

(b) This section shall not apply to the sale or resale of used products.

§ 1692a. TEXTILES

(a) A manufacturer, supplier, or distributor shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State a textile or textile article to which regulated PFAS have been intentionally added in any amount.

(b) This section shall not apply to the sale or resale of used products.

§ 1693. CERTIFICATE OF COMPLIANCE

The Attorney General may request a certificate of compliance from a manufacturer of ski wax, textiles, or textile articles. Within 30 days after receipt of the Attorney General's request for a certificate of compliance, the manufacturer shall:

(1) provide the Attorney General with a certificate attesting that the manufacturer's product or products comply with the requirements of this chapter; or

(2) notify persons who are selling a product of the manufacturer's in this State that the sale is prohibited because the product does not comply with this chapter and submit to the Attorney General a list of the names and addresses of those persons notified.

§ 1694. RULEMAKING

Pursuant to 3 V.S.A. chapter 25, the Commissioner shall adopt any rules necessary for the implementation, administration, and enforcement of this chapter.

§ 1695. PENALTIES

(a) A violation of this chapter shall be deemed a violation of the Consumer Protection Act, 9 V.S.A. chapter 63. The Attorney General has the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions, and private parties have the same rights and remedies as provided under 9 V.S.A. chapter 63, subchapter 1.

(b) Nothing in this section shall be construed to preclude or supplant any other statutory or common law remedies.

Sec. 3a. 18 V.S.A. § 1691(8) is amended to read:

(8) "Regulated perfluoroalkyl and polyfluoroalkyl substances" or "regulated PFAS" means:

(A) PFAS that a manufacturer has intentionally added to a product and that have a functional or technical effect in the product, including PFAS

components of intentionally added chemicals and PFAS that are intentional breakdown products of an added chemical that also have a functional or technical effect in the product; or

(B) the presence of PFAS in a product or product component at or above ~~100~~ 50 parts per million, as measured in total organic fluorine.

Sec. 3b. 18 V.S.A. § 1691 is amended to read:

§ 1691. DEFINITIONS

As used in this chapter:

(1) "Apparel" means any of the following:

(A) Clothing items intended for regular wear or formal occasions, including undergarments, shirts, pants, skirts, dresses, overalls, bodysuits, costumes, vests, dancewear, suits, saris, scarves, tops, leggings, school uniforms, leisurewear, athletic wear, sports uniforms, everyday swimwear, formal wear, onesies, bibs, diapers, footwear, and everyday uniforms for workwear. Clothing items intended for regular wear or formal occasions does not include clothing items for exclusive use by the U.S. Armed Forces~~, outdoor apparel for severe wet conditions,~~ and personal protective equipment.

(B) Outdoor apparel.

(C) Outdoor apparel for severe wet conditions.

* * *

* * * PFAS in Turf Fields * * *

Sec. 4. 18 V.S.A. chapter 33D is added to read:

CHAPTER 33D. PFAS IN ATHLETIC TURF FIELDS

§ 1696. DEFINITIONS

As used in this chapter:

(1) "Athletic turf field" means an artificial or synthetic recreation area used for competitive outdoor sports that is owned or operated by a public or private postsecondary education institution that operates in Vermont.

(2) "Department" means the Department of Health.

(3) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" has the same meaning as in section 1661 of this title.

§ 1697. ATHLETIC TURF FIELDS

A manufacturer, supplier, or distributor shall not manufacture, sell, offer for

sale, distribute for sale, or distribute for use in this State an athletic turf field containing PFAS. This section shall not apply to the sale of athletic turf fields that have already been approved by voters prior to July 1, 2023.

§ 1698. CERTIFICATE OF COMPLIANCE

The Attorney General may request a certificate of compliance from a manufacturer of an athletic turf field. Within 30 days after receipt of the Attorney General's request for a certificate of compliance, the manufacturer shall:

(1) provide the Attorney General with a certificate attesting that the manufacturer's product or products comply with the requirements of this chapter; or

(2) notify persons who are selling a product of the manufacturer's in this State that the sale is prohibited because the product does not comply with this chapter and submit to the Attorney General a list of the names and addresses of those persons notified.

§ 1699. RULEMAKING

Pursuant to 3 V.S.A. chapter 25, the Commissioner shall adopt any rules necessary for the implementation, administration, and enforcement of this chapter.

§ 1699a. PENALTIES

(a) A violation of this chapter shall be deemed a violation of the Consumer Protection Act, 9 V.S.A. chapter 63. The Attorney General has the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions, and private parties have the same rights and remedies as provided under 9 V.S.A. chapter 63, subchapter 1.

(b) Nothing in this section shall be construed to preclude or supplant any other statutory or common law remedies.

Sec. 5. REPORT; MANAGEMENT OF PFAS ACROSS PRODUCT CATEGORIES

On or before November 15, 2023, the Department of Environmental Conservation, in consultation with the Department of Health, shall submit a report to the House Committee on Human Services and the Senate Committee on Health and Welfare containing recommendations on how to more comprehensively manage perfluoroalkyl and polyfluoroalkyl substances and other toxic chemicals by chemical class across a range of product categories.

* * * Effective Dates * * *

Sec. 6. EFFECTIVE DATES

This act shall take effect on July 1, 2023, except that:

(1) Sec. 1 (chemicals in cosmetic and menstrual products) and Sec. 3 (PFAS in ski wax and textiles) shall take effect on January 1, 2025.

(2) Sec. 3a (18 V.S.A. § 1691(8)) shall take effect on July 1, 2027.

(3) Sec. 3b (definitions) shall take effect on July 1, 2028.

(Committee vote: 5-0-0)

**S. 27.**

An act relating to reducing the imposition of cash bail.

**Reported favorably with recommendation of amendment by Senator Vyhovsky for the Committee on Judiciary.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 7551 is amended to read:

§ 7551. IMPOSITION OF BAIL, SECURED APPEARANCE BONDS, AND APPEARANCE BONDS

(a) Bonds; generally. A bond given by a person charged with a criminal offense or by a witness in a criminal prosecution under section 6605 of this title, conditioned for the appearance of the person or witness before the court in cases where the offense is punishable by fine or imprisonment, and in appealed cases, shall be taken to the Criminal Division of the Superior Court where the prosecution is pending and shall remain binding upon parties until discharged by the court or until sentencing. The person or witness shall appear at all required court proceedings.

(b) Limitation on imposition of bail, secured appearance bonds, and appearance bonds.

(1) ~~Except as provided in subdivision (2) of this subsection, no~~ No bail, secured appearance bond, or appearance bond may be imposed~~:~~

~~(A)~~ at the initial appearance of a person charged with a misdemeanor ~~if the person was cited for the offense in accordance with Rule 3 of the Vermont Rules of Criminal Procedure; or~~

~~(B) at the initial appearance~~ offense or upon the temporary release pursuant to Rule 5(b) of the Vermont Rules of Criminal Procedure of a person

charged with ~~a violation of~~ a misdemeanor offense ~~that is eligible for expungement pursuant to subdivision 7601(4)(A) of this title.~~

~~(2) In the event~~, except where the court finds that imposing bail is necessary to mitigate the risk of flight from prosecution for ~~a person charged with a violation of a misdemeanor offense that is eligible for expungement pursuant to subdivision 7601(4)(A) of this title, the court may impose bail in a maximum amount of $200.00~~ any of the following offenses:

(A) domestic assault as defined in section 1042 of this title;

(B) stalking as defined in section 1062 of this title;

(C) violation of a protection order as defined in section 1030 of this title;

(D) recklessly endangering another person as defined in section 1025 of this title;

(E) misdemeanor cruelty to a child as defined in section 1304 of this title;

(F) misdemeanor abuse, neglect, or exploitation of a vulnerable adult as defined in chapter 28 of this title; or

(G) misdemeanor sexual exploitation of children in violation of chapter 64 of this title.

~~(3)~~(2) This subsection shall not be construed to restrict the court's ability to impose conditions on such persons to reasonably mitigate the risk of flight from prosecution or to reasonably protect the public in accordance with section 7554 of this title.

Sec. 2. PROPOSAL TO ELIMINATE CASH BAIL

(a)(1) The Vermont Sentencing Commission, in consultation with the entities designated in subdivision (2) of this subsection, shall identify the conditions that would be required to move toward the elimination of the use of cash bail for the purpose of mitigating risk of flight from prosecution and develop a proposal to eliminate cash bail in Vermont.

(2) The Commission shall solicit input from:

(A) the Vermont Network Against Domestic and Sexual Violence;

(B) the Community Justice Unit of the Office of the Attorney General;

(C) Vermont Legal Aid;

(D) the Vermont Office of Racial Equity;

(E) the Vermont chapter of the American Civil Liberties Union;

(F) the Vermont Freedom Fund; and

(G) national experts on bail reform.

(b) The Commission shall report its findings and recommendations to the General Assembly on or before December 1, 2023.

Sec. 3. JUDICIARY; NOTICES OF HEARINGS

(a) To reduce the instances of failure to appear by persons who are charged with a criminal offense, on or before July 1, 2025, the Judiciary shall establish and implement a system to electronically notify such persons of upcoming required court appearances.

(b) On or before December 1, 2023, the Judiciary shall report to the General Assembly any requests for legislation or monies necessary to fund the system identified in subsection (a) of this section.

(c) On or before December 1, 2026, the Judiciary shall report to the General Assembly on the efficacy of the notification system.

Sec. 4. EFFECTIVE DATES

(a) This section and Secs. 2 and 3 shall take effect on passage.

(b) Sec. 1 shall take effect on July 1, 2025.

(Committee vote: 4-1-0)

**S. 30.**

An act relating to creating a Sister State Program.

**Reported favorably with recommendation of amendment by Senator Harrison for the Committee on Economic Development, Housing and General Affairs.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 3 V.S.A. § 2488 is added to read:

§ 2488. VERMONT SISTER STATE PROGRAM

(a) Creation; administration. The Vermont Sister State Program is created within the Agency of Commerce and Community Development.

(b) Oversight.

(1) A Vermont Sister State Committee composed of the following members shall oversee the Program:

(A) the Secretary of Commerce and Community Development or designee;

(B) the Chair of the Board of Directors of Vermont Humanities or designee;

(C) two members appointed by the Senate Committee on Committees with experience in international relations;

(D) two members appointed by the Speaker of the House with experience in international education and cultural exchange; and

(E) two members appointed by the Governor with experience in international arts, recreation, or governance.

(2) The members appointed pursuant to subdivision (1)(C)–(E) of this subsection shall serve for terms of five years or until the member's earlier resignation or removal for cause by the Governor.

(3) If a member resigns or is removed, the appointing authority shall appoint a new member for the remainder of the member's term.

(4) The members of the Committee shall select a chair by a majority vote.

(c) Administration. Subject to the approval of the Vermont Sister State Committee:

(1) the Agency may contract for administration of part or all of the Program with a nonprofit organization that has expertise in international affairs;

(2) the Agency, or its contracted administrator, shall create an application form and process for evaluating Sister State relationships; and

(3) the Agency may adopt rules and policies for the Program.

(d) Program requirements.

(1) The Vermont Sister State Committee may approve not more than five Sister State relationships at one time with countries or provinces in varying regions of the world upon finding that a relationship meets the following goals:

(A) The relationship fosters understanding and collaboration between residents, governments, businesses, and community organizations in Vermont and residents, governments, businesses, and community organizations in the Sister State.

(B) The relationship creates opportunities for cultural exchanges and joint programs for educational, recreational, artistic, humanitarian, and economic purposes that benefit both Vermont and the Sister State.

(C) The relationship promotes peace, human rights, and environmental sustainability.

(D) The relationship involves a diverse range of individuals, sectors, organizations, and communities in Vermont and the Sister State.

(2) A Sister State agreement shall not initially exceed eight years and may be renewed for five-year increments upon approval of the Committee if it determines the relationship has met the goals of the Sister State Program.

(3) The Committee shall report to the relevant legislative committees and the Governor biannually on or before February 1 concerning the status of the Sister State Program, its programs, agreements, and progress meeting the Program goals.

(4) In the event of an emergency, such as a public health emergency; war or armed conflict; or serious human rights, environmental, or economic violations, the Governor, Lieutenant Governor, and Speaker may agree to immediately terminate a Sister State agreement or individual program.

(e) Compensation.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 23.

(2) Other members of the Committee shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010.

(3) Payments to members of the Committee authorized under this subsection shall be made from monies appropriated to the Agency of Commerce and Community Development or other specific appropriation made for that purpose.

Sec. 2. IMPLEMENTATION

The authorities authorized to make appointments to the Vermont Sister State Committee pursuant to 3 V.S.A. § 2488(b)(1)(C)–(E) shall appoint members to initial terms of three, four, and five years, respectively.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

(Committee vote: 5-0-0)

**S. 33.**

An act relating to miscellaneous judiciary procedures.

**Reported favorably with recommendation of amendment by Senator Hashim for the Committee on Judiciary.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 3 V.S.A. § 5014(f) is amended to read:

(f) Repeal. This section shall be repealed on June 30, 2027.

Sec. 2. 4 V.S.A. § 22 is amended to read:

§ 22. DESIGNATION AND SPECIAL ASSIGNMENT OF JUDICIAL OFFICERS AND RETIRED JUDICIAL OFFICERS

(a)(1) The Chief Justice may appoint and assign a retired Justice or judge with the Justice's or judge's consent or a Superior or Probate judge to a special assignment on the Supreme Court. The Chief Justice may appoint, and the Chief Superior Judge shall assign, an active or retired Justice or a retired judge, with the Justice's or judge's consent, to any special assignment in the Superior Court or the Judicial Bureau.

(2) The Chief Superior Judge may appoint and assign a judge to any special assignment in the Superior Court. ~~As used in~~ For purposes of this subdivision, a judge shall include a Superior judge, a Probate judge, a Family Division magistrate, ~~or~~ a judicial hearing officer, or a judicial master.

* * *

Sec. 3. 4 V.S.A. § 27 is amended to read:

§ 27. COURT TECHNOLOGY SPECIAL FUND

There is established the Court Technology Special Fund ~~which~~ that shall be managed in accordance with 32 V.S.A. chapter 7, subchapter 5. Administrative fees collected pursuant to 13 V.S.A. § 7252 and revenue collected pursuant to fees established pursuant to sections 1105 and 1109 of this title shall be deposited and credited to this Fund. The Fund shall be available to the Judicial Branch to pay for contractual and operating expenses and project-related staffing not covered by the General Fund related to the following:

(1) ~~The~~ the acquisition and maintenance of software and hardware needed for case management, electronic filing, an electronic document management system, and the expense of implementation, including training~~.~~;

(2) ~~The~~ the acquisition and maintenance of electronic audio and video court recording and conferencing equipment~~.~~; and

(3) ~~The~~ the acquisition, maintenance, and support of the Judiciary's information technology network, including training.

Sec. 4. 4 V.S.A. § 27b is amended to read:

§ 27b. ~~ELECTRONICALLY FILED VERIFIED DOCUMENTS~~ SELF-ATTESTED DECLARATION IN LIEU OF NOTARIZATION

(a) ~~A registered electronic filer in the Judiciary's electronic document filing system may file any~~ Any document that would otherwise require the approval or verification of a notary ~~by filing the document~~ may be filed with the following language inserted above the signature and date:

"I declare that the above statement is true and accurate to the best of my knowledge and belief. I understand that if the above statement is false, I will be subject to the penalty of perjury or to other sanctions in the discretion of the court."

(b) A document filed pursuant to subsection (a) of this section shall not require the approval or verification of a notary.

(c) This section shall not apply to an affidavit in support of a search warrant application, ~~or to~~ an application for a nontestimonial identification order, an oath required by 14 V.S.A. §108, or consents and relinquishments in adoption proceedings governed by Title 15A.

Sec. 5. 4 V.S.A. § 32 is amended to read:

§ 32. JURISDICTION; CRIMINAL DIVISION

* * *

(c) The Criminal Division shall have jurisdiction of the following civil actions:

* * *

(12) proceedings to enforce 9 V.S.A. chapter 74, relating to energy efficiency standards for appliances and equipment; and

(13) proceedings to enforce 30 V.S.A. § 53, relating to commercial building energy standards.

Sec. 6. 4 V.S.A. § 36(a) is amended to read:

(a) Composition of the court. Unless otherwise specified by law, when in session, a Superior Court shall consist of:

* * *

Sec. 7. 12 V.S.A. § 5 is amended to read:

§ 5. DISSEMINATION OF ELECTRONIC CASE RECORDS

(a) The Court shall not permit public access via the Internet to criminal, family, or probate case records. The Court may permit criminal justice agencies, as defined in 20 V.S.A. § 2056a, Internet access to criminal case records for criminal justice purposes, as defined in 20 V.S.A. § 2056a.

(b) This section shall not be construed to prohibit the Court from providing electronic access to:

(1) court schedules of the Superior Court, or opinions of the Criminal Division of the Superior Court;

(2) State agencies in accordance with data dissemination contracts entered into under ~~Rule 6 of the Vermont Rules of Electronic Access to Court Records~~ Rule 12 of the Vermont Rules for Public Access to Court Records; or

(3) decisions, recordings of oral arguments, briefs, and printed cases of the Supreme Court.

Sec. 8. 12 V.S.A. § 4853a is amended to read:

§ 4853a. PAYMENT OF RENT INTO COURT; EXPEDITED HEARING

* * *

(h) If the tenant fails to pay rent into court in the amount and on the dates ordered by the court, the landlord shall be entitled to judgment for immediate possession of the premises. The court shall forthwith issue a writ of possession directing the sheriff of the county in which the property or a portion thereof is located to serve the writ upon the defendant and, not earlier than ~~five business~~ seven days after the writ is served, or, in the case of an eviction brought pursuant to 10 V.S.A. chapter 153, 30 days after the writ is served, to put the plaintiff into possession.

Sec. 9. 12 V.S.A. § 5531 is amended to read:

§ 5531. RULES GOVERNING PROCEDURE

(a) The Supreme Court, pursuant to section 1 of this title, shall make rules under this chapter applicable to such Court providing for a simple, informal, and inexpensive procedure for the determination, according to the rules of substantive law, of actions of a civil nature of which they have jurisdiction,

other than actions for slander or libel and in which the plaintiff does not claim as debt or damage more than ~~$5,000.00~~ $10,000.00. Small claims proceedings shall be limited in accord with this chapter and the procedures made available under those rules. The procedure shall not be exclusive~~,~~ but shall be alternative to the formal procedure begun by the filing of a complaint.

(b) Parties may not request claims for relief other than money damages under this chapter. Nor may parties split a claim in excess of ~~$5,000.00~~ $10,000.00 into two or more claims under this chapter.

(c) In small claims actions where the plaintiff makes a claim for relief greater than $3,500.00, the defendant shall have the right to request a special assignment of a judicial officer. Upon making this request, a Superior judge or a member of the Vermont bar appointed pursuant to 4 V.S.A. § 22(b) shall be assigned to hear the action.

(d) Venue in small claims actions shall be governed by section 402 of this title.

Sec. 10. 12 V.S.A. § 5804 is amended to read:

§ 5804. OATH TO BE ADMINISTERED TO PETIT JURORS IN CRIMINAL CAUSES

You solemnly swear that, without respect to persons or favor of any ~~man~~ person, you will well and truly try and true deliverance make, between the State of Vermont and the ~~prisoner at the bar~~ defendant, whom you shall have in charge, according to the evidence given you in court and the laws of the State. So help you God.

Sec. 11. 13 V.S.A. § 3016(c) is amended to read:

(c) A person who commits an act punishable under ~~33 V.S.A. § 2581(a) or (b)~~ 33 V.S.A. § 141(a) or (b) may not be prosecuted under this section.

Sec. 12. 13 V.S.A. § 7403 is amended to read:

§ 7403. APPEAL BY THE STATE

(a) In a prosecution for a misdemeanor, questions of law decided against the State shall be allowed and placed upon the record before final judgment. The court may pass the same to the Supreme Court before final judgment. The Supreme Court shall hear and determine the questions and render final judgment thereon, or remand the cause for further trial or other proceedings, as justice and the State of the cause may require.

(b) In a prosecution for a felony, the State shall be allowed to appeal to the Supreme Court any decision, judgment, or order dismissing an indictment or

information as to one or more counts.

(c) In a prosecution for a felony, the State shall be allowed to appeal to the Supreme Court from a decision or order:

(1) granting a motion to suppress evidence;

(2) granting a motion to have confessions declared inadmissible; or

(3) granting or refusing to grant other relief where the effect is to impede seriously, although not to foreclose completely, continuation of the prosecution.

(d) In making this appeal, the attorney for the State must certify to the court that the appeal is not taken for purpose of delay and that:

(1) the evidence suppressed or declared inadmissible is substantial proof of a fact material in a proceeding; or

(2) the relief to be sought upon appeal is necessary to avoid seriously impeding such proceeding.

(e) The appeal in all cases shall be taken within seven business days after the decision, judgment, or order has been rendered. In cases where the defendant is detained for lack of bail, ~~he or she~~ the defendant shall be released pending the appeal upon such conditions as the court shall order unless bail is denied as provided in the Vermont Constitution or in other pending cases. Such appeals shall take precedence on the docket over all cases and shall be assigned for hearing or argument at the earliest practicable date and expedited in every way.

(f) For purposes of this section, "prosecution for a misdemeanor" and "prosecution for a felony" shall include youthful offender proceedings filed pursuant to 33 V.S.A. chapter 52A, and the State shall have the same right of appeal in those proceedings as it has in criminal proceedings under this section.

Sec. 13. 14 V.S.A. § 3098 is amended to read:

§ 3098. VULNERABLE NONCITIZEN CHILDREN

* * *

(i) Confidentiality. In any judicial proceedings in response to a request that the court make the findings necessary to support a petition for classification as a special immigrant juvenile, information regarding the child's immigration status, nationality, or place of birth that is not otherwise protected by State laws shall remain confidential. This information shall also be exempt from public inspection and copying under the Public Records Act and shall be kept

confidential, except that the information shall be available for inspection by the court, the child who is the subject of the proceeding, the parties, the attorneys for the parties, the child's counsel, and the child's guardian.

Sec. 14. 23 V.S.A. § 1213 is amended to read:

§ 1213. IGNITION INTERLOCK RESTRICTED DRIVER'S LICENSE OR CERTIFICATE; PENALTIES

* * *

(g) The holder of an ignition interlock RDL or certificate shall operate only motor vehicles equipped with an ignition interlock device, shall not attempt or take any action to tamper with or otherwise circumvent an ignition interlock device, and, after failing a random retest, shall pull over and shut off the vehicle's engine as soon as practicable. ~~A~~ Except as provided in subsection (k) of this section, a person who violates any provision of this section commits a criminal offense, shall be subject to the sanctions and procedures provided for in subsections 674(b)–(i) of this title, and, upon conviction, the applicable period prior to eligibility for reinstatement under section 1209a or 1216 of this title shall be extended by six months.

* * *

(k) A person shall not knowingly and voluntarily tamper with an ignition interlock device on behalf of another person or otherwise assist another person to circumvent an ignition interlock device. A person ~~adjudicated of a violation of~~ who violates this subsection shall be ~~subject to~~ assessed a civil penalty of ~~up to~~ not more than $500.00.

* * *

Sec. 15. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

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

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

* * *

(31) Violations of 23 V.S.A. § 1213(k) relating to tampering with an ignition interlock device on behalf of another person.

* * *

Sec. 16. 32 V.S.A. § 1591 is amended to read:

§ 1591. SHERIFFS AND OTHER OFFICERS

There shall be paid to sheriffs' departments and constables in civil causes and to sheriffs, deputy sheriffs, and constables for the transportation and care of prisoners, juveniles, and patients with a mental condition or psychiatric disability the following fees:

(1) Civil process:

(A) For serving each process, the fees shall be as follows:

(i) $10.00 for each reading or copy in which the officer is directed to make an arrest;

(ii) $75.00 upon presentation of each return of service for the service of papers relating to divorce, annulments, separations, or support complaints;

(iii) $75.00 upon presentation of each return of service for the service of papers relating to civil suits except as provided in ~~subdivisions (ii) and~~ subdivision (vii) of this subdivision (1)(A);

(iv) $75.00 upon presentation of each return of service for the service of a subpoena and shall be limited to that one fee for each return of service;

(v) for each arrest, $15.00;

(vi) for taking bail, $15.00;

(vii) on levy of execution or order of foreclosure: for each mile of actual travel in making a demand, sale, or adjournment, the rate allowed State employees under the terms of the prevailing contract between the State and the Vermont State Employees' Association, Inc.; for making demand, $15.00 for posting notices, $15.00 each, and the rate per mile allowed State employees under the terms of the prevailing contract between the State and the Vermont State Employees' Association, Inc. for each mile of necessary travel; for notice of continuance, $15.00;

* * *

Sec. 17. 33 V.S.A. § 5117 is amended to read:

§ 5117. RECORDS OF JUVENILE JUDICIAL PROCEEDINGS

(a) Except as otherwise provided, court and law enforcement reports and files concerning a person subject to the jurisdiction of the court shall be maintained separate from the records and files of other persons. Unless a

charge of delinquency is transferred for criminal prosecution under chapter 52 of this title or the court otherwise orders in the interests of the child, such records and files shall not be open to public inspection nor their contents disclosed to the public by any person. However, upon a finding that a child is a delinquent child by reason of commission of a delinquent act that would have been a felony if committed by an adult, the court, upon request of the victim, shall make the child's name available to the victim of the delinquent act. If the victim is incompetent or deceased, the child's name shall be released, upon request, to the victim's guardian or next of kin.

(b)(1) Notwithstanding the foregoing, inspection of such records and files by or dissemination of such records and files to the following is not prohibited:

* * *

(I) the Department for Children and Families; ~~and~~

(J) the Office of the Child, Youth, and Family Advocate for the purpose of carrying out the provisions in chapter 32 of this title;

(K) a service provider named in a disposition order adopted by the court, or retained by or contracted with a party to fulfill the objectives of the disposition order, including referrals for treatment and placement;

(L) a court diversion program or youth-appropriate community-based provider to whom the child is referred by the State's Attorney or the court, if the child accepts the referral; and

(M) other State agencies, treatment programs, service providers, or those providing direct support to the youth, for the purpose of providing supervision or treatment to the youth.

* * *

(d) Such records and files shall be available to:

(1) State's Attorneys and all other law enforcement officers in connection with record checks and other legal purposes; and

(2) the National Instant Criminal Background Check System in connection with a background check conducted on a person under 21 years of age pursuant to 18 U.S.C. § 922(t)(1)(C) and 34 U.S.C. § 40901(l).

* * *

Sec. 18. 33 V.S.A. § 5225 is amended to read:

§ 5225. PRELIMINARY HEARING; RISK ASSESSMENT

* * *

(b) Risk and needs screening.

(1) Prior to the preliminary hearing, the child shall be afforded an opportunity to undergo a risk and needs screening, which shall be conducted by the Department or by a community provider that has contracted with the Department to provide risk and need screenings for children alleged to have committed delinquent acts.

(2) If the child participates in such a screening, the Department or the community provider shall report the risk level result of the screening, the number and source of the collateral contacts made, and the recommendation for charging or other alternatives to the State's Attorney. The State's Attorney shall consider the results of the risk and needs screening in determining whether to file a charge. In lieu of filing a charge, the State's Attorney may refer a child directly to a youth-appropriate community-based provider that has been approved by the Department, which may include a community justice center or a balanced and restorative justice program. Referral to a community-based provider pursuant to this subsection shall not require the State's Attorney to file a charge. If the community-based provider does not accept the case or if the child fails to complete the program in a manner deemed satisfactory and timely by the provider, the child's case shall return to the State's Attorney for charging consideration.

(3) Information related to the present alleged offense directly or indirectly derived from the risk and needs screening or from other conversations with the Department or community-based provider shall not be used against the youth in the youth's case for any purpose, including impeachment or cross-examination, provided that the fact of the youth's participation in risk and needs screening may be used in subsequent proceedings.

(4) If a charge is brought in the Family Division, the risk level result shall be provided to the child's attorney.

(c) Referral to diversion. Based on the results of the risk and needs screening, if a child presents a low to moderate risk to reoffend, the State's Attorney shall refer the child directly to court diversion unless the State's Attorney states on the record why a referral to court diversion would not serve the ends of justice. If the court diversion program does not accept the case or if the child fails to complete the program in a manner deemed satisfactory and timely by the provider, the child's case shall return to the State's Attorney for charging consideration.

* * *

Sec. 19. 33 V.S.A. § 5284 is amended to read:

§ 5284. YOUTHFUL OFFENDER DETERMINATION AND DISPOSITION ORDER

* * *

(c)(1) If the court approves the motion for youthful offender treatment after an adjudication pursuant to subsection 5281(d) of this title, the court:

~~(1)~~(A) shall approve a disposition case plan and impose conditions of juvenile probation on the youth; and

~~(2)~~(B) may transfer legal custody of the youth to a parent, relative, person with a significant relationship with the youth, or Commissioner, provided that any transfer of custody shall expire on the youth's 18th birthday.

(2) Prior to the approval of a disposition case plan, the court may refer a child directly to a youth-appropriate community-based provider that has been approved by the department and which may include a community justice center or a balanced and restorative justice program. Referral to a community-based provider pursuant to this subdivision shall not require the court to place the child on probation. If the community-based provider does not accept the case or if the child fails to complete the program in a manner deemed satisfactory and timely by the provider, the child shall return to the court for further proceedings, including the imposition of the disposition order.

(d) The Department for Children and Families and the Department of Corrections shall be responsible for supervision of and providing services to the youth until ~~he or she~~ the youth reaches 22 years of age. Both Departments shall designate a case manager who together shall appoint a lead Department to have final decision-making authority over the case plan and the provision of services to the youth. The youth shall be eligible for appropriate community-based programming and services provided by both Departments.

Sec. 20. 13 V.S.A. chapter 76A is added to read:

CHAPTER 76A. DOMESTIC TERRORISM

§ 1703. DOMESTIC TERRORISM

(a) As used in this section:

(1) "Domestic terrorism" means engaging in or taking a substantial step to commit a violation of the criminal laws of this State with the intent to:

(A) cause death or serious bodily injury to multiple persons; or

(B) threaten any civilian population with mass destruction, mass

killings, or kidnapping.

(2) "Serious bodily injury" shall have the same meaning as in section 1021 of this title.

(3) "Substantial step" means conduct that is strongly corroborative of the actor's intent to complete the commission of the offense.

(b) A person who willfully engages in an act of domestic terrorism shall be imprisoned for not more than 20 years or fined not more than $50,000.00, or both.

(c) It shall be an affirmative defense to a charge under this section that the actor abandoned the actor's effort to commit the crime or otherwise prevented its commission under circumstances manifesting a complete and voluntary renunciation of the actor's criminal purpose.

Sec. 21. 13 V.S.A. § 1703 is amended to read:

~~§ 1703. DOMESTIC TERRORISM~~

~~(a) As used in this section:~~

~~(1) "Domestic terrorism" means engaging in or taking a substantial step to commit a violation of the criminal laws of this State with the intent to:~~

~~(A) cause death or serious bodily injury to multiple persons; or~~

~~(B) threaten any civilian population with mass destruction, mass killings, or kidnapping.~~

~~(2) "Serious bodily injury" shall have the same meaning as in section 1021 of this title.~~

~~(3) "Substantial step" means conduct that is strongly corroborative of the actor's intent to complete the commission of the offense.~~

~~(b) A person who willfully engages in an act of domestic terrorism shall be imprisoned for not more than 20 years or fined not more than $50,000.00, or both.~~

~~(c) It shall be an affirmative defense to a charge under this section that the actor abandoned his or her effort to commit the crime or otherwise prevented its commission under circumstances manifesting a complete and voluntary renunciation of his or her criminal purpose.~~ [Repealed.]

Sec. 22. 20 V.S.A. § 1940(b) is amended to read:

(b) If any of the circumstances in subsection (a) of this section occur, the court with jurisdiction or, as the case may be, the Governor, shall so notify the Department, and the person's DNA record in the State DNA database and

CODIS and the person's DNA sample in the State DNA data bank shall be removed and destroyed. The Laboratory shall purge the DNA record and all other identifiable information from the State DNA database and CODIS and destroy the DNA sample stored in the State DNA data bank. If the person has more than one entry in the State DNA database, CODIS, or the State DNA data bank, only the entry related to the dismissed case shall be deleted. The Department shall notify the person upon completing its responsibilities under this subsection, by ~~certified~~ mail addressed to the person's last known address.

Sec. 23. 23 V.S.A. § 1213 is amended to read:

§ 1213. IGNITION INTERLOCK RESTRICTED DRIVER'S LICENSE OR CERTIFICATE; PENALTIES

(a)(1) An individual whose license or privilege to operate is suspended or revoked under this subchapter may operate a motor vehicle, other than a commercial motor vehicle as defined in section 4103 of this title, if issued a valid ignition interlock RDL or ignition interlock certificate. Upon application, the Commissioner shall issue an ignition interlock RDL or ignition interlock certificate to an individual otherwise licensed or eligible to be licensed to operate a motor vehicle if:

(A) the individual submits a $125.00 application fee;

(B) the individual submits satisfactory proof of installation of an approved ignition interlock device in any motor vehicle to be operated and of financial responsibility as provided in section 801 of this title;

(C) at least one year has passed since the suspension or revocation was imposed if the offense involved death or serious bodily injury to an individual other than the operator; ~~and~~

(D) the applicable period set forth in this subsection has passed since the suspension or revocation was imposed if the offense involved refusal of an enforcement officer's reasonable request for an evidentiary test:

(i) 30 days for a first offense;

(ii) 90 days for a second offense; or

(iii) one year for a third or subsequent offense; and

(E) the individual is serving a suspension pursuant to section 2506 if the individual was charged with a violation of subdivision 1201(a) of this title and pled guilty to a reduced charge of negligent operation under section 1091 of this title, notwithstanding any points assessed against the individual's driving record for the negligent operation offense under section 2502 of this title.

* * *

Sec. 24. 2017 Acts and Resolves No. 142, Sec. 5, as amended by 2021 Acts and Resolves No. 65, Sec. 4, and further amended by 2021 Acts and Resolves No. 147, Sec. 33, is further amended to read:

Sec. 5. REPEAL

13 V.S.A. §§ 5451 (creation of Vermont Sentencing Commission) and 5452 (creation of Vermont Sentencing Commission) shall be repealed on July 1, ~~2023~~ 2025.

Sec. 25. SENTENCING COMMISSION REPORT

On or before December 15, 2023, the Vermont Sentencing Commission shall report to the Senate and House Committees on Judiciary on whether any modifications should be made to the definitions of stalking in 13 V.S.A. § 1061 or 15 V.S.A. § 5131.

Sec. 26. 10 V.S.A. § 8222 is added to read:

§ 8222. ACCRUAL OF ENVIRONMENTAL CONTAMINATION CLAIMS

(a) A common-law or statutory claim based on environmental contamination shall accrue so long as the contamination remains on or in an affected property or natural resource.

(b) As used in this section:

(1) "Environmental contamination" means any hazardous material or hazardous waste as defined in 10 V.S.A. § 6602, or other substance or material that has the potential to adversely affect human health or the environment (A) on or in an affected property, including in buildings or other structures, or (B) on or in a natural resource.

(2) "Natural resource" has the same meaning as in 10 V.S.A. § 6615d(a)(8).

(c) Nothing in this section shall shorten or otherwise limit any later accrual date that may apply under other source of law.

(d)(1) Notwithstanding 1 V.S.A. § 214 or any other provision of law, this section shall apply to:

(A) any action or proceeding commenced on or after the effective date of this act; and

(B) any action or proceeding that is pending on the effective date of this act.

(2) This section shall not revive claims subject to a final, nonappealable

judgment rendered prior to the effective date.

Sec. 27. 10 V.S.A. § 8015 is amended to read:

§ 8015. STATUTE OF LIMITATIONS

Notwithstanding any other provision of law, actions brought under this chapter or chapter 211 of this title shall be commenced within the later of:

(1) six years from the date the violation is or reasonably should have been discovered; ~~or~~

(2) six years from the date a continuing violation ceases; or

(3) six years from the date of accrual under section 8222 of this title.

Sec. 28. 13 V.S.A. § 5451 is amended to read:

§ 5451. CREATION OF COMMISSION

(a) The Vermont Sentencing Commission is established for the purpose of overseeing criminal sentencing practices in the State, reducing geographical disparities in sentencing, and making recommendations regarding criminal sentencing to the General Assembly.

(b) The Commission shall consist of the following members:

* * *

(4) the Chair of the Senate Committee on Judiciary or designee;

(5) the Chair of the House Committee on Judiciary or designee;

* * *

Sec. 29. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

**S. 39.**

An act relating to compensation and benefits for members of the Vermont General Assembly.

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

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Compensation for Legislative Professional Development * * *

Sec. 1. 2 V.S.A. § 23 is amended to read:

§ 23. STANDING COMMITTEES; AUTHORITY TO MEET; OUT-OF-STATE BUSINESS

* * *

(b) For attending to official duties out of the State, or for participating in professional development activities in or out of the State that are directly related to the member's service in the General Assembly, a member shall be entitled to the same per diem compensation as provided for attendance at sessions of the General Assembly. Reimbursement of necessary and actual expenses for official duties out of the State shall be made from the legislative appropriation to any member of the General Assembly or its staff, and reimbursement of necessary and actual expenses for participation in professional development activities shall be made from the legislative appropriation to members of the General Assembly. Such reimbursement and per diem compensation shall be in lieu of any other expenses payable by the State to that person during the period ~~he or she~~ the person is out of the State or participating in professional development activities and shall be contingent upon:

(1) prior approval of the out-of-state duties or professional development activities by the Speaker of the House in the case of a House member or employee or by the President Pro Tempore of the Senate in the case of a Senator or Senate employee; and

(2) certification of the expense voucher to the Commissioner of Finance and Management by either the Speaker of the House or President Pro Tempore of the Senate in the appropriate case or designee.

* * *

* * * Health Benefits * * *

Sec. 2. 3 V.S.A. § 631 is amended to read:

§ 631. GROUP INSURANCE FOR STATE EMPLOYEES; SALARY DEDUCTIONS FOR INSURANCE, SAVINGS PLANS, AND CREDIT UNIONS

(a)(1) The Secretary of Administration may contract on behalf of the State with any insurance company or nonprofit association doing business in this State to secure the benefits of franchise or group insurance. Beginning on July 1, 1978, the terms of coverage under the policy shall be determined under section 904 of this title, but it may include:

* * *

(2)(A)(i) As used in this section, the term "employees" includes any class or classes of elected or appointed officials, State's Attorneys, sheriffs, employees of State's Attorneys' offices whose compensation is administered through the State of Vermont payroll system, except contractual and temporary employees, and deputy sheriffs paid by the State of Vermont pursuant to 24 V.S.A. § 290(b). The term "employees" ~~shall~~ does not include ~~members of the General Assembly as such,~~ any person rendering service on a retainer or fee basis, members of boards or commissions, or persons ~~other than employees of the Vermont Historical Society, the Vermont Film Corporation, the Vermont State Employees' Credit Union, Vermont State Employees' Association, and the Vermont Council on the Arts,~~ whose compensation for service is not paid from the State Treasury, or any elected or appointed official ~~unless the~~ except as specifically provided pursuant to this subdivision (a)(2)(A)(i). The term "employees" includes employees of the Vermont Historical Society, the Vermont State Employees' Credit Union, the Vermont State Employees' Association, the Vermont Council on the Arts, and any elected or appointed official who is actively engaged in and devoting substantially full-time to the conduct of the business of ~~his or her~~ the official's public office. The term "employees" also includes members of the General Assembly as set forth in subdivision (iv) of this subdivision (a)(2)(A).

* * *

(iv) For purposes of group hospital-surgical-medical expense insurance, any employee assistance program offered to State employees, and any flexible spending account program offered to State employees for health care or dependent care expenses, or both, the term "employees" includes members of the General Assembly.

(B)(i) The premiums for extending insurance coverage to employees shall be paid in full by the Vermont Historical Society, ~~the Vermont Film Corporation,~~ the Vermont State Employees' Association, the Vermont State Employees' Credit Union, the Vermont Council on the Arts, or their respective retirees. Nothing herein creates a legal obligation on the part of the State of Vermont to pay any portion of the premiums required to extend insurance coverage to this group of employees.

(ii) Members of the General Assembly shall be required to pay the same portion of the premium for group hospital-surgical-medical expense insurance as is required of employees of the Executive Branch.

* * *

* * * Compensation and Expenses * * *

Sec. 3. 32 V.S.A. § 1050 is added to read:

§ 1050. COMPENSATION FOR MEMBERS OF THE GENERAL ASSEMBLY; LEGISLATIVE INTENT

It is the intent of the General Assembly that its members should receive compensation that is consistent with the amount of the average wage earned in this State.

Sec. 4. 32 V.S.A. § 1051 is amended to read:

§ 1051. SPEAKER OF THE HOUSE AND PRESIDENT PRO TEMPORE OF THE SENATE; COMPENSATION AND EXPENSE REIMBURSEMENT

~~(a)~~ The Speaker of the House and the President Pro Tempore of the Senate shall be entitled to receive annual compensation of ~~$10,080.00 for the 2005~~ $20,716.00 for the first year of the 2025 Biennial Session ~~and thereafter~~, to be paid in biweekly payments~~, provided that, beginning on January 1, 2007, the annual compensation shall be adjusted annually thereafter by the cost of living adjustment negotiated for State employees under the most recent collective bargaining agreement, except that, beginning on July 1, 2021~~. Beginning on January 1, 2026 and annually thereafter on January 1, the annual compensation shall be adjusted consistent with the compensation increases provided to other constitutional officers. In addition to the annual compensation, the Speaker and President Pro Tempore shall be entitled to receive:

(1) ~~$652.00 a week for the 2005~~ $1,340.00 a week for the first year of the 2025 Biennial Session and thereafter, to be paid in biweekly payments during the regular and adjourned sessions of the General Assembly, provided that, beginning on January 1, ~~2007, the weekly compensation shall be adjusted annually thereafter by the cost of living adjustment negotiated for State employees under the most recent collective bargaining agreement, except that, beginning on July 1, 2021~~ 2026 and annually thereafter on January 1, the weekly compensation shall be adjusted consistent with the compensation increases provided to other constitutional officers;

* * *

(3) an allowance for or reimbursement of expenses for mileage~~,~~; meals~~,~~; ~~and~~ lodging ~~expenses~~; and child, dependent, and elder care as provided to members of the General Assembly under subsection 1052(b) of this title during the biennial, adjourned, and special sessions of the General Assembly and in addition such other actual and necessary expenses incurred while engaged in duties imposed by law.

Sec. 5. 32 V.S.A. § 1052 is amended to read:

§ 1052. MEMBERS OF THE GENERAL ASSEMBLY; COMPENSATION AND EXPENSE REIMBURSEMENT

(a) Compensation.

(1) Session compensation. Each member of the General Assembly, other than the Speaker of the House and the President Pro Tempore of the Senate, is entitled to a weekly salary of ~~$589.00 for the 2005~~ $1,210.00 for the first year of the 2025 Biennial Session and thereafter, provided that, beginning on January 1, ~~2007, the weekly compensation shall be adjusted annually thereafter by the cost of living adjustment negotiated for State employees under the most recent collective bargaining agreement, except that, beginning on July 1, 2021~~ 2026 and annually thereafter on January 1, the weekly compensation shall be adjusted consistent with the compensation increases provided to other constitutional officers. The salary of members shall be paid in biweekly installments.

(2) Special session compensation. During a special session, a member is entitled to an amount equal to one-fifth of the annually adjusted weekly compensation set forth in subdivision (1) of this subsection, rounded up to the nearest dollar, for each day of a special session ~~on which the House of which he or she is a~~ that the House in which the member serves shall sit.

(3) Adjournment compensation.

(A) During adjournment of the General Assembly, a member is entitled to an amount equal to one-fifth of the annually adjusted weekly compensation set forth in subdivision (1) of this subsection (a), rounded up to the nearest dollar, for each week of the adjournment of the General Assembly.

(B) During adjournment of the General Assembly, a member who is serving on a special committee or joint committee shall, in addition to the weekly adjournment compensation set forth in subdivision (A) of this subdivision (3) and the per diem compensation set forth in 2 V.S.A. § 23, be entitled to compensation for time spent preparing for meetings of the special or joint committee at an hourly rate equal to 2.5 percent of the annually adjusted weekly compensation set forth in subdivision (1) of this subsection (a).

(b) Expenses. During any session of the General Assembly, each member is entitled to receive an allowance for or reimbursement of expenses as ~~follows:~~ set forth in this subsection.

(1) Mileage reimbursement. ~~Reimbursement~~ Each member shall receive reimbursement in an amount equal to the actual mileage traveled for each day of session in which the member travels between Montpelier and the member's

home or from Montpelier or from the member's home to another site on officially sanctioned legislative business. Reimbursement of actual mileage traveled under this subdivision shall be at the rate per mile determined by the federal Office of Government-wide Policy and published in the Federal Register for the year of the session.

(2) Meals ~~and lodging allowance~~. Each member shall receive either a meals allowance or reimbursement of actual meals expenses. Each member shall inform the Office of Legislative Operations of the member's choice of a meals allowance or meals expense reimbursement annually prior to the convening of each regular and adjourned session, and the member's choice shall remain in effect through the remainder of that session unless the member notifies the Office, in writing, that the member needs to change that choice due to a change in circumstances or for another compelling reason.

(A) Meals allowance. ~~An~~ A member who elects to receive a meals allowance ~~in~~ shall receive an amount equal to the daily amount for meals ~~and lodging~~ determined for Montpelier, Vermont, by the federal Office of Government-wide Policy and published in the Federal Register for the year of the session~~,~~ for each day the House in which the member serves shall sit.

(B) Meals reimbursement. A member who elects to receive reimbursement of expenses shall receive reimbursement equal to the actual amounts expended by the member for meals for each day that the House in which the member serves shall sit, as well as meals for the night preceding the first legislative day of each week during the legislative session. The amount of the daily reimbursement available pursuant to this subdivision shall not exceed the daily amount for meals determined for Montpelier, Vermont, by the federal Office of Government-wide Policy and published in the Federal Register for the year of the session. The member shall provide meal receipts or otherwise substantiate the amounts expended to the Office of Legislative Operations in the form and manner prescribed by the Director of Legislative Operations.

(3) Lodging. Each member shall receive either a lodging allowance or reimbursement of actual lodging expenses. Each member shall inform the Office of Legislative Operations of the member's choice of a lodging allowance or lodging expense reimbursement annually prior to the convening of each regular and adjourned session, and the member's choice shall remain in effect through the remainder of that session unless the member notifies the Office, in writing, that the member needs to change that choice due to a change in circumstances or for another compelling reason.

(A) Lodging allowance. A member who elects to receive a lodging allowance shall receive an amount equal to the daily amount for lodging

determined for Montpelier, Vermont, by the federal Office of Government-wide Policy and published in the Federal Register for the year of the session for each day the House in which the member serves shall sit.

(B) Lodging reimbursement. A member who elects to receive reimbursement of expenses shall receive reimbursement equal to the actual amounts expended by the member for lodging for each day that the House in which the member serves shall sit, as well as lodging for the night preceding the first legislative day of each week during the legislative session. The amount of the daily reimbursement available pursuant to this subdivision shall not exceed the daily amount for lodging determined for Montpelier, Vermont, by the federal Office of Government-wide Policy and published in the Federal Register for the year of the session. The member shall provide lodging receipts or otherwise substantiate the amounts expended to the Office of Legislative Operations in the form and manner prescribed by the Director of Legislative Operations.

(4) Child, dependent, and elder care reimbursement.

(A) Each member whose federal taxable household income is at or below $75,000.00 shall be eligible to receive reimbursement of up to $1,600.00 of the actual amounts expended by the member in each year of the biennial session for child care, dependent care, or elder care services in this State, or a combination, that is necessary to facilitate the member's service in the General Assembly.

(B) Expenses shall not be reimbursed under this subdivision (4) to the extent they are being reimbursed or subsidized by another source or if reimbursement or subsidies are reasonably available from another source.

(C) Each Legislative Branch employee whose federal taxable household income is at or below $75,000.00 shall also be eligible for reimbursement of up to $1,600.00 for actual amounts expended by the employee annually for child care, dependent care, or elder care expenses pursuant to this subdivision (4).

(D) As used in this subdivision (4):

(i) "Child care" and "dependent care" mean care provided to an individual who would be a qualifying individual for purposes of the federal child and dependent care tax credit.

(ii) "Elder care" means care provided to an adult 65 years of age or older in the home or in an adult day program.

(5) Parking. A member who attests that the member's physical limitations make it difficult or impractical for the member to walk from the

member's lodging to the State House may receive reimbursement for actual costs incurred for overnight parking for the night preceding each day that the House in which the member serves shall sit.

(6) Absences. If a member is absent for reasons other than sickness or legislative business for one or more entire days while the house in which the member sits is in session, the member shall notify the Office of Legislative Operations of that absence, and ~~expenses received shall not include the amount that the legislator specifies was not incurred~~ the member shall not be reimbursed for mileage, meals, or lodging expenses incurred during the period of that absence.

(c) ~~For attending a meeting of the Joint Fiscal Committee when a member is not receiving compensation as a member of the General Assembly, a member of the Joint Fiscal Committee shall be entitled to the same per diem compensation and reimbursement for necessary expenses as provided members of the General Assembly for attendance at sessions of the General Assembly. [Repealed.]~~ Members-elect; stipend. Each member-elect of the General Assembly who is not an incumbent shall receive a stipend in an amount equal to one-fifth of the annually adjusted weekly compensation set forth in subdivision (a)(1) of this section, rounded up to the nearest dollar, for each day of attendance at an orientation program for new legislators organized by the General Assembly and its staff.

(d) Death of a member. If a member of the General Assembly dies while the General Assembly is in session, the estate of the deceased member shall be entitled to receive compensation for the entire pay period in which the death occurred.

* * * Legislative Leave from Employment * * *

Sec. 6. 21 V.S.A. § 496 is amended to read:

§ 496. LEGISLATIVE LEAVE

(a) Any person who~~,~~ in order to serve as a member of the General Assembly~~,~~ must leave a ~~full-time~~ position in the employ of any employer~~,~~ shall be entitled to a temporary or partial leave of absence for the purpose of allowing such employee to perform any official duty in connection with ~~his or her~~ the person's elected office.

(b) An employee who intends to seek election to the General Assembly and to invoke, if elected, ~~his or her~~ the right to a leave of absence pursuant to subsection (a) of this section~~,~~ shall notify ~~his or her~~ the employee's employer of those intentions in writing within ~~10~~ 14 days after ~~filing the primary election nominating petition required by 17 V.S.A. § 2353 or of taking any~~

~~other action required by 17 V.S.A. chapter 49, to place his or her name on a primary or general election ballot~~ being elected. An employee who fails to give notice to ~~his or her~~ the employee's employer as required by this section shall be deemed to have waived ~~his or her~~ the right to a leave of absence under subsection (a) of this section.

* * *

* * * Legislative Service Working Group * * *

Sec. 7. LEGISLATIVE SERVICE WORKING GROUP

(a) Creation. There is created the Legislative Service Working Group to consider issues related to serving as a member of the Vermont General Assembly.

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

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

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

(c) Powers and duties. The Working Group shall consider and make recommendations on issues involving legislative compensation and benefits, staffing, administrative support, and the length of the legislative session, including:

(1) the current compensation and benefits offered to members of the General Assembly, including:

(A) whether current salaries and benefits are sufficient and, if not, how they should be increased;

(B) the impact of current salaries and benefits on recruiting and retaining members from diverse backgrounds and life experiences;

(C) whether members should be offered additional benefits, including reimbursement of child, dependent, and elder care expenses up to the amount of the federal maximum annual household contribution limit for a dependent care flexible spending account;

(D) whether members should have the option to receive a prorated salary throughout the calendar year instead of receiving their full salary amount during the months that the General Assembly is in session;

(E) whether supplemental compensation should be provided to members who hold leadership positions in addition to the Speaker of the House and Senate President Pro Tempore, including caucus leaders and committee chairs; and

(F) how the salaries, benefits, and compensation structure in the Vermont General Assembly compare to those of other state legislatures;

(2) whether changes to staffing are necessary, such as increasing the number of legislative staff in existing staff offices, expanding the types of legislative staff services available to members, adding caucus staff, and adding personal staff or providing members with an allowance to hire their own personal staff;

(3) how to increase the administrative support available to members to increase their effectiveness and ability to respond efficiently to the needs of their constituents; and

(4) whether changes should be made to the length or structure of the legislative session.

(d) Assistance. The Working Group shall have the administrative, technical, and legal assistance of the Office of Legislative Operations, the Office of Legislative Counsel, the Office of Human Resources, and the Joint Fiscal Office.

(e) Report. On or before January 15, 2024, the Working Group shall report its findings and recommendations, including any recommendations for legislative action, to the Speaker of the House, the Senate President Pro Tempore, and the House Committee on Government Operations and Military Affairs and the Senate Committee on Government Operations. Drafts of the Working Group's report shall be confidential unless publicly released.

(f) Meetings.

(1) The Office of Legislative Operations shall call the first meeting of the Working Group to occur on or before July 1, 2023.

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

(3) A majority of the membership of the Working Group shall constitute a quorum.

(4) The Working Group shall cease to exist on January 15, 2024.

(g) Compensation and reimbursement. For attendance at meetings during adjournment of the General Assembly, a legislative member of the Working

Group shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 23 for not more than eight meetings. These payments shall be made from monies appropriated to the General Assembly.

* * * Appropriation * * *

Sec. 8. APPROPRIATION

The sum of $875,000.00 is appropriated from the General Fund to the Legislature in fiscal year 2024 for the new and expanded benefits for legislators set forth in Secs. 2 (health benefits), 4 (expenses for Speaker and President Pro Tempore), and 5 (legislator expenses) of this act.

* * * Effective Dates * * *

Sec. 9. EFFECTIVE DATES

(a) Secs. 6 (legislative leave from employment) and 7 (Legislative Service Working Group) and this section shall take effect on passage.

(b) Sec. 8 (appropriation) shall take effect on July 1, 2023.

(c) Secs. 2 (health benefits), 4(a)(3) (expenses for Speaker and President Pro Tempore), and 5(b)–(d) (legislator expenses) shall take effect on January 1, 2024.

(d) Sec. 1 (compensation for legislative professional development) shall take effect on July 1, 2024.

(e) The remaining sections shall take effect on January 1, 2025.

(Committee vote: 6-0-0)

**S. 42.**

An act relating to divestment of State pension funds of investments in the fossil fuel industry.

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

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. PUBLIC PENSION FUNDS; FOSSIL FUELS; VERMONT PENSION INVESTMENT COMMISSION; PLAN AND REPORT

(a) Intent. It is the intent of the General Assembly that, on or before December 31, 2030, the Vermont Pension Investment Commission, consistent with sound fiduciary practice and subject to any exceptions, divest the holdings

of the Vermont State Employees' Retirement System, the Vermont Teachers' Retirement System, and the Vermont Municipal Employees' Retirement System from the fossil fuel industry. It is also the intent of the General Assembly that the Vermont Pension Investment Commission establish a long-term goal to divest from any private investments that contain assets in the fossil fuel industry on or before December 31, 2040, if the Commission determines that such divestment is consistent with sound fiduciary practice.

(b) Definitions. As used in this section:

(1) "Carbon footprint" means the extent to which holdings are invested in stocks, securities, or other obligations of any fossil fuel company or any subsidiary, affiliate, or parent of any fossil fuel company.

(2) "De minimis exposure" means the aggregate amount of all fossil fuel holdings in the portfolio amounting to less than two percent of the aggregate amount of all funds invested.

(c) Review. On or before December 15, 2023, the Vermont Pension Investment Commission, in consultation with the Office of the State Treasurer, shall complete a review of the carbon footprint of the holdings of the Vermont State Employees' Retirement System, the Vermont State Teachers' Retirement System, and the Vermont Municipal Employees' Retirement System.

(d) Plan.

(1) Divestment. Except as provided in subdivision (2) of this subsection, the Commission, in accordance with sound investment criteria and consistent with fiduciary obligations, shall develop a plan to divest any holdings identified in the review described in subsection (c) of this section on or before December 31, 2030. The Commission shall include in the plan consideration of the State's long-term goal of divestment from any investments that are exempt from the plan pursuant to subdivision (2) of this subsection on or before December 31, 2040.

(2) Exemptions. Until such time as the Commission deems divestment to be prudent and consistent with sound fiduciary practice, the following holdings are exempt from the plan:

(A) de minimis exposure of any funds held by the Commission to the stocks, securities, or other obligations of any fossil fuel company or any subsidiary, affiliate, or parent of any fossil fuel company; and

(B) private investments that contain fossil fuel company stocks, securities, or other obligations of any fossil fuel company or any subsidiary, affiliate, or parent of any fossil fuel company.

(3) Definitions and methodology. The Commission shall include in the plan described in this subsection:

(A) a definition for "fossil fuel company"; and

(B) a method for determining the metric of the portfolio's carbon footprint that allows for an exemption of private investments for the purpose of determining the de minimis exposure.

(e) Report.

(1) On or before February 15, 2024, the Commission shall submit a report on the review described in subsections (c) of this section to the House Committee on Government Operations and Military Affairs and the Senate Committee on Government Operations and to the Joint Pension Oversight Committee. The report shall include any recommendations for legislative action, if necessary, to implement the divestment plan.

(2)(A) On or before September 1, 2024, the Commission shall submit a report on the plan described in subsections (d) of this section to the House Committee on Government Operations and Military Affairs and the Senate Committee on Government Operations and to the Joint Pension Oversight Committee. The report shall include any recommendations for legislative action, if necessary, to implement the divestment plan.

(B) Pursuant to 2 V.S.A. § 23, with approval of the Speaker of the House and the President Pro Tempore, as appropriate, the House Committee on Government Operations and Military Affairs and the Senate Committee on Government Operations may each meet up to one time when the General Assembly is not in session to evaluate the report described in subdivision (A) of this subdivision (e)(2).

(3) Beginning on January 15, 2025, and annually thereafter until January 15, 2040, the Commission shall submit a report to the House Committee on Government Operations and Military Affairs, the Senate Committee on Government Operations, and the Joint Pension Oversight Committee on the progress of divestment described in this section. The report shall also include:

(A) an update on the composition and percentage of exposure of any investments exempt from the divestment plan pursuant to subdivision (c)(2) of this section; and

(B) a summary of the fee impacts and any instance of excessive charges or demands related to the rebalancing of the funds consistent with the implementation of this act.

(4) On or before January 15, 2041, the Commission shall make a final report to the House Committee on Government Operations and Military Affairs and the Senate Committee on Government Operations and the Joint Pension Oversight Committee regarding completion of divestment described in this section.

Sec. 2. DIVESTMENT PLAN; VERMONT PENSION INVESTMENT COMMISSION; APPROPRIATION

In FY 2024, the amount of:

(1) $100,000.00 in general funds is appropriated to the Vermont Pension Investment Commission to conduct the review and develop the plan described in Sec. 1 of this act.

(2) $127,000.00 is appropriated to the Vermont Pension Investment Commission to establish one staff position to support improvements and efficiencies in the administration of the Commission and to meet the review, planning, and reporting requirements of this act. The appropriation to the Commission shall be distributed from the following funding sources pursuant to the allocations set forth below:

(A) 40.86 percent from the Vermont State Retirement Fund, established in 3 V.S.A. § 473;

(B) 44.01 percent from the Vermont Teachers' Retirement Fund, established in 16 V.S.A. § 1944; and

(C) 15.13 percent from the Vermont Municipal Employees' Retirement Fund, established in 24 V.S.A. § 5064.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 6-0-0)

**S. 47.**

An act relating to the transport of individuals requiring psychiatric care.

**Reported favorably with recommendation of amendment by Senator Lyons for the Committee on Health and Welfare.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. § 7505 is amended to read:

§ 7505. WARRANT AND CERTIFICATE FOR EMERGENCY EXAMINATION

(a) In emergency circumstances where certification by a licensed physician is not available without serious and unreasonable delay, and when personal observation of the conduct of a person constitutes reasonable grounds to believe that the person is a person in need of treatment, and ~~he or she~~ the person presents an immediate risk of serious injury to ~~himself or herself~~ self or others if not restrained, a law enforcement officer or mental health professional may make an application, not accompanied by a physician's certificate, to any Superior judge for a warrant for an emergency examination.

(b) The law enforcement officer ~~or mental health professional~~ may take the person into temporary custody. The law enforcement officer, or a mental health professional if clinically appropriate, may transport the person to a hospital, police barracks, or another safe location in accordance with section 7511 of this title. The law enforcement officer or mental health professional shall apply to the court without delay for the warrant while the person is in temporary custody.

(c) If the judge is satisfied that a physician's certificate is not available without serious and unreasonable delay, and that probable cause exists to believe that the person is in need of an emergency examination, ~~he or she~~ the judge may order the person to submit to an evaluation by a licensed physician for that purpose.

(d) If necessary, the court may order the law enforcement officer ~~or mental health professional~~ to transport the person, in accordance with section 7511 of this title, to a hospital for an evaluation by a licensed physician to determine if the person should be certified for an emergency examination.

(e) A person transported pursuant to subsection (d) of this section shall be evaluated as soon as possible after arrival at the hospital. If after evaluation the licensed physician determines that the person is a person in need of treatment, ~~he or she~~ the licensed physician shall issue an initial certificate that sets forth the facts and circumstances constituting the need for an emergency examination and showing that the person is a person in need of treatment. Once the licensed physician has issued the initial certificate, the person shall be held for an emergency examination in accordance with section 7508 of this title. If the licensed physician does not certify that the person is a person in need of treatment, ~~he or she~~ the licensed physician shall immediately discharge the person and cause ~~him or her~~ the person to be returned to the place from which ~~he or she~~ the person was taken, or to such place as the person

reasonably directs.

Sec. 2. 18 V.S.A. § 7511 is amended to read:

§ 7511. TRANSPORTATION

(a) The Commissioner shall ensure that all reasonable and appropriate measures consistent with public safety are made to transport or escort a person subject to this chapter to and from any emergency department or inpatient setting~~, including escorts within a designated hospital or the Vermont State Hospital or its successor in interest or otherwise being transported~~ under the jurisdiction of the Commissioner in any manner ~~which~~ that:

(1) prevents physical and psychological trauma;

(2) respects the privacy of the individual; and

(3) represents the least restrictive means necessary for the safety of the patient.

(b) The Commissioner shall have the authority to designate the professionals or law enforcement officers who may authorize the method of transport of patients under the Commissioner's care and custody.

(c) When a professional or law enforcement officer designated pursuant to subsection (b) of this section decides an individual is in need of secure transport with mechanical restraints, the reasons for such determination shall be documented in writing.

(d) It is the policy of the State of Vermont that mechanical restraints are not routinely used on persons subject to this chapter unless circumstances dictate that such methods are necessary. A law enforcement vehicle shall have soft restraints available for use as a first option, and mechanical restraints shall not be used as a substitute for soft restraints if the soft restraints are otherwise deemed adequate for safety.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

(Committee vote: 5-0-0)

**S. 56.**

An act relating to child care and early childhood education.

**Reported favorably with recommendation of amendment by Senator Hardy for the Committee on Health and Welfare.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Legislative Intent * * *

Sec. 1. LEGISLATIVE INTENT

It is the intent of the General Assembly that investments in and policy changes to Vermont's child care system shall:

(1) increase access to and the quality of child care services throughout the State;

(2) provide financial stability to child care programs;

(3) stabilize Vermont's talented child care workforce;

(4) address the workforce needs of the State's employers;

(5) provide policy recommendations for expanding access and capacity in Vermont's prekindergarten system; and

(6) reorganize the Department for Children and Families to ensure greater oversight and focus on child care and early childhood education.

* * * Prekindergarten * * *

Sec. 1a. PREKINDERGARTEN EDUCATION STUDY COMMITTEE; REPORT

(a) Creation. There is created the Prekindergarten Education Study Committee to make recommendations on how to improve and expand accessible, affordable, and high-quality prekindergarten education.

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

(1) the Secretary of Education or designee, who shall serve as chair;

(2) the Secretary of Human Services or designee;

(3) the Executive Director of the Vermont Principals' Association or designee;

(4) the Executive Director of the Vermont Superintendents Association or designee;

(5) the Executive Director of the Vermont School Board Association or designee;

(6) the Executive Director of the Vermont National Education Association or designee;

(7) the Chair of the Vermont Council of Special Education Administrators or designee;

(8) the Executive Director of the Vermont Curriculum Leaders Association or designee;

(9) the Executive Director of Building Bright Futures or designee;

(10) a representative of a prequalified private provider as defined in 16 V.S.A. § 829, operating a licensed center-based child care and preschool program, appointed by the Speaker of the House;

(11) a representative of a prequalified private provider as defined in 16 V.S.A. § 829, operating a regulated family child care home, appointed by the Committee on Committees;

(12) the Head Start Collaboration Office Director or designee;

(13) the Executive Officer of Let's Grow Kids or designee; and

(14) a family representative with a prekindergarten-age child, appointed by the Building Bright Futures Council.

(c) Powers and duties. The Committee shall examine the delivery of prekindergarten education in Vermont and make recommendations for expanding equitable access for all children three and four years of age in a manner that achieves the best outcomes for children, whether through the current mixed-delivery system, the public school system, the private prekindergarten system, or a system that allows school districts to contract with private providers. The Committee shall also examine and make recommendations on the changes necessary to provide prekindergarten education to all children three and four years of age through the public school system, including a timeline and transition plan for such changes. In conducting its analysis, the Committee shall address the following topics and questions, which may yield distinct recommendations for children three and four years of age:

(1) Outcomes and quality.

(A) What are the benchmarks for "high quality" in prekindergarten education?

(B) How should best practices be implemented and measured across various prekindergarten education settings?

(2) Capacity and demand.

(A) How many children, by age, does the current mixed-delivery system have the capacity to serve? In studying this issue, the Committee shall consider the number of children on waitlists and the number of vacancies in programs.

(B) What are the workforce requirements to expand prekindergarten education? In studying this question, the Committee may consider:

(i) whether there is a gap between the total number of licensed teachers currently working and the number needed for expansion;

(ii) whether there is a gap between the total prekindergarten education workforce, including paraeducators, and the number needed for expansion; and

(iii) the educational and training costs associated with training and retaining the workforce necessary for expansion?

(C) If prekindergarten education in the public school system is provided solely to children four years of age, what is the impact on the capacity and workforce of private prekindergarten providers?

(3) Special education.

(A) How many children three and four years of age are currently on individual education programs receiving services in public and private settings?

(B) Are children three and four years of age on individual education plans receiving the full range of services that they are entitled to?

(C) Does the availability or cost of special education services vary between private and public prequalified providers?

(4) Public school expansion.

(A) What infrastructure changes are necessary to expand prekindergarten education?

(B) How would the current prekindergarten education mixed-delivery system transition to a program within the public school system?

(C) What capacity needs to be built for developmentally appropriate afterschool and out-of-school-time care?

(D) Are changes needed to existing health and safety standards for public schools to accommodate children three and four years of age?

(5) Funding and costs.

(A) What are fiscally strategic options to sustain and expand universal prekindergarten education?

(B) What is the financial and business impact on regulated private childcare providers if the prekindergarten system transitions to public schools?

(C) What, if any, changes need to be made to pupil weights for prekindergarten students?

(D) What, if any, changes need to be made to tuition rates for private prekindergarten programs?

(6) Oversight.

(A) What additional Agency of Education personnel or resources would be needed to oversee an expansion of the current prekindergarten education system under either a mixed-delivery model, a public school system model, or a system that allows school districts to contract with private providers?

(B) What additional Agency of Human Services personnel or resources would be needed to oversee an expansion of the current mixed-delivery model or a private prekindergarten system?

(d) Assistance. The Committee shall have the administrative, technical, fiscal, and legal assistance of the Agencies of Education and of Human Services. If the Agencies are unable to provide the Committee with adequate support to assist with its technical, fiscal, or legal needs, then the Agency of Education shall retain a contractor with the necessary expertise to assist the Committee.

(e) Report. On or before December 1, 2023, the Committee shall submit a written report to the House Committees on Education and on Human Services and the Senate Committees on Education and on Health and Welfare with its findings and recommendations based on the analysis conducted pursuant to subsection (c) of this section. The report shall include draft legislative language to support the Committee's recommendations.

(f) Meetings.

(1) The Secretary of Education or designee shall call the first meeting of the Committee to occur on or before July 15, 2023.

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

(3) The Committee shall cease to exist on February 1, 2024.

(g) Compensation and reimbursement. Members of the Committee who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than 10 meetings per year. These payments shall be made from monies appropriated to the Agency of Education.

(h) Appropriations.

(1) The sum of $5,000.00 is appropriated to the Agency of Education from the General Fund in fiscal year 2024 for per diem compensation and reimbursement of expenses for members of the Committee.

(2) The sum of $100,000.000 is appropriated to the Agency of Education from the General Fund in fiscal year 2024 for cost of retaining a contractor as provided under subsection (d) of this section.

(3) Any unused portion of these appropriations shall, as of July 1, 2024, revert to the General Fund.

Sec. 1b. 16 V.S.A. § 213 is amended to read:

§ 213. DEPUTY SECRETARIES

The Secretary shall employ ~~such number of deputy secretaries as he or she deems necessary~~ at least two deputy secretaries. One deputy secretary shall:

(1) solely manage the Division of Student Support Services, which shall govern special education, early education, and multitiered systems of support; and

(2) hold at least a master's level degree in early childhood education, special education, child development, or a related field.

Sec. 1c. AGENCY OF EDUCATION; DEPUTY SECRETARY AUTHORIZATION

The establishment of a second Deputy Secretary position within the Agency of Education pursuant to 16 V.S.A. § 213 is authorized beginning in fiscal year 2025.

* * * Child Care and Child Care Subsidies * * *

Sec. 2. 33 V.S.A. § 3512 is amended to read:

§ 3512. CHILD CARE FINANCIAL ASSISTANCE PROGRAM; ELIGIBILITY

(a)(1) The Child Care Financial Assistance Program is established to subsidize, to the extent that funds permit, the costs of child care for families that need child care services ~~in order to obtain employment, to retain employment, or to obtain training leading to employment~~. ~~Families seeking employment shall be entitled to participate in the Program for up to three months and the Commissioner may further extend that period.~~

(2) The subsidy authorized by this subsection shall be established by the Commissioner, by rule, and shall bear a reasonable relationship to income and

family size. Families shall be found eligible using an income eligibility scale based on the current federal poverty level and adjusted for the size of the family. Co-payments shall be assigned to the whole family and shall not increase if more than one eligible child is enrolled in child care. Families with an annual gross income of less than or equal to ~~150~~ 185 percent of the current federal poverty guidelines shall not have a family co-payment. Families with an annual gross income up to and including ~~350~~ 600 percent of current federal poverty guidelines, adjusted for family size, shall be eligible for a subsidy authorized by the subsection. The scale shall be structured so that it encourages employment. If the federal poverty guidelines decrease in a given year, the Division shall maintain the previous year's federal poverty guidelines for the purpose of determining eligibility and benefit amount under this subsection.

(3) Earnings deposited in a qualified child education savings account, such as the Vermont Higher Education Investment Plan, established in 16 V.S.A. § 2877, or any similar plan qualified under 26 U.S.C. § 529, shall be disregarded in determining the amount of a family's income for the purpose of determining continuing eligibility.

(4) ~~After September 30, 2021, a~~ A regulated center-based child care program or family child care home as defined by the Department in rule shall not receive funds pursuant to this subsection that are in excess of the usual and customary rate for services at the center-based child care program or family child care home.

(5) The Department shall ensure that applications for the Child Care Financial Assistance Program use a simple, plain-language format. Applications shall be available in both electronic and paper formats.

* * *

Sec. 3. PROVIDER RATE ADJUSTMENT; CHILD CARE FINANCIAL ASSISTANCE PROGRAM

On January 1, 2024, the Department for Children and Families shall provide a one-time adjustment to the child care provider reimbursement rates in the Child Care Financial Assistance Program for child care services provided to children from birth through four years of age, including children five years of age who are not yet enrolled for kindergarten. The adjusted reimbursement rate shall account for the age of the children served and be 38.5 percent higher than the fiscal year 2023 five-STAR reimbursement rate in the Vermont STARS system. All providers in the same child care setting category shall receive an identical reimbursement rate payment dependent upon whether the provider operates a regulated child care center and preschool program or

regulated family child care home.

Sec. 4. 33 V.S.A. § 3514 is amended to read:

§ 3514. PAYMENT TO PROVIDERS FOR SCHOOL AGE CHILDREN

(a) The Commissioner shall establish a payment schedule for purposes of reimbursing providers for full- or part-time child care services to children over four years of age, excluding children five years of age who are not yet enrolled for kindergarten, rendered to families who participate in the programs established under section 3512 or 3513 of this title. Payments established under this section shall reflect the following considerations: whether the provider operates a licensed child care facility or a registered family child care home, type of service provided, cost of providing the service, and the prevailing market rate for comparable service. Payments shall be based on enrollment ~~status or any other basis agreed to by the provider and the Division~~.

* * *

Sec. 4a. 33 V.S.A. § 3515 is added to read:

§ 3515. PAYMENT TO PROVIDERS FOR CHILDREN BIRTH THROUGH FOUR YEARS OF AGE; HIGH QUALITY INCENTIVE PROGRAM

(a) The Commissioner shall establish a payment schedule that accounts for the age of the children served for the purpose of reimbursing providers for full- or part-time child care services to children from birth through four years of age, including children five years of age who are not yet enrolled for kindergarten, rendered to families who participate in the programs established under section 3512 or 3513 of this title. All providers in the same child care setting category shall receive an identical reimbursement rate payment dependent upon whether the provider operates a regulated child care center and preschool program or regulated family child care home. The rate used to reimburse providers shall be increased over the previous year's rate annually on July 1 in alignment with the most recent annual average wage growth for NAICS code 611, Educational Services, not to fall below zero percent. Child care services to infants and toddlers shall receive an enhanced reimbursement rate set by the Commissioner. Payments shall be based on enrollment.

(b) The Commissioner may establish a separate payment schedule for child care providers who have received specialized training, approved by the Commissioner, relating to protective or family support services.

(c)(1) Annually, the Department shall provide a flat incentive payment to all providers earning five STARS in the Vermont STARS system from the High-Quality Early Care and Education Special Fund pursuant to section 3516

of this chapter.

(2) Upon notice from a provider that the provider has achieved an increased STAR level in the Vermont STARS system, the Department shall award the provider a flat incentive payment equivalent to that received by providers earning five STARS pursuant to subdivision (1) of this subsection. Incentive payments shall be funded through the High-Quality Early Care and Education Special Fund pursuant to section 3516 of this chapter. A provider may earn an incentive payment under this subdivision for each additional STAR level achieved in the STARS system.

Sec. 4b. 33 V.S.A. § 3516 is added to read:

§ 3516. HIGH-QUALITY EARLY CARE AND EDUCATION SPECIAL FUND

(a) There is created a High-Quality Early Care and Education Special Fund administered by the Department for Children and Families, which shall be a special fund established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5.

(b) The High-Quality Early Care and Education Special Fund shall consist of any appropriation from the General Fund and any gifts, devises, or grants received for the purpose of this section.

(c) The High-Quality Early Care and Education Special Fund shall be used for the implementation and ongoing provision of incentive payments to providers pursuant to subsection 3515(c) of this chapter.

Sec. 5. 33 V.S.A. § 3517 is added to read:

§ 3517. CHILD CARE WAITLIST AND APPLICATION FEES

A child care provider shall not charge an application or waitlist fee for child care services where the applying child qualifies for the Child Care Financial Assistance Program pursuant to section 3512 or 3513 of this title. A child care provider shall reimburse an individual who is charged an application or waitlist fee for child care services if it is later determined that the applying child qualified for the Child Care Financial Assistance Program at the time the fee or fees were paid.

Sec. 6. PROVIDER COMPENSATION AND TOTAL COST OF CARE; RECOMMENDATIONS

(a) On or before November 1, 2023, the Department for Children and Families, in consultation with the Department of Labor, the Agency of Education, Building Bright Futures, and the Vermont Association for the Education of Young Children, shall submit a report to the House Committee

on Human Services and to the Senate Committee on Health and Welfare addressing the following:

(1) whether and how to integrate a tiered professional pay scale for professionals who provide child care services as part of the Child Care Financial Assistance Program;

(2) the structure of tiered professional pay scales for professionals who provide child care services that have been implemented in other jurisdictions, including in New Mexico and the District of Columbia.

(3) the appropriate legal mechanism to implement any approved tiered professional pay scale for professionals who provide child care services, including consideration of statute, rule, departmental guidance, or some other appropriate mechanism.

(b) On or before November 1, 2024, the Department for Children and Families, in consultation with the Department of Labor, the Agency of Education, Building Bright Futures, and the Vermont Association for the Education of Young Children, shall submit to the House Committee on Human Services and to the Senate Committee on Health and Welfare:

(1) A tiered professional pay scale for professionals who provide child care services as defined in 33 V.S.A. § 3511 that is designed to provide professionals who provide child care services with compensation comparable to that received by early childhood educators in Vermont's public school system who serve children from prekindergarten through grade three. The tiered professional pay scale shall account for professionals' credentialing and professional child care experience and shall include the addition of an appropriate fringe benefit rate. In developing the tiered professional pay scale, the Department for Children and Families shall refer to the child care and early childhood education financing study required pursuant to 2021 Acts and Resolves No. 45, Sec. 14; and

(2) A formula to calculate the total cost of care to serve children in a regulated child care facility as defined in 33 V.S.A. § 3511.

Sec. 7. 33 V.S.A. chapter 35, subchapter 6 is added to read:

Subchapter 6. Child Care Assistance for Additional Populations

§ 3551. NONCITIZEN CHILD CARE ASSISTANCE PROGRAM; LEGISLATIVE INTENT

In establishing the Noncitizen Child Care Assistance Program to provide child care subsidies for children who are not eligible for the Child Care Financial Assistance Program because of their citizenship status, it is the intent

of the General Assembly that the benefits and eligibility criteria set forth in section 3552 of this chapter should align to the greatest extent practicable with the benefits and eligibility criteria in CCFAP as set forth in section 3512 of this chapter and corresponding rule.

§ 3552. NONCITIZEN CHILD CARE ASSISTANCE PROGRAM SUBSIDIES FOR CERTAIN VERMONT RESIDENTS

(a) For purposes of this section, the phrase "Vermont residents who have a citizenship status for which Child Care Financial Assistance Program (CCFAP) participation is not available" includes children of migrant workers who are employed in seasonal occupations in this State.

(b) The Department for Children and Families shall provide State-funded child care subsidies equivalent to those offered in the Child Care Financial Assistance Program (CCFAP) to Vermont residents who have a citizenship status for which CCFAP participation is not available and meet the service need and income eligibility standards established by the Department in rule.

(c)(1) The Department shall not inquire about or record the citizenship and immigration status of the applicant or any member of the applicant's family.

(2) All applications submitted and records created pursuant to this section shall be exempt from public inspection and copying under the Public Records Act and shall be kept confidential. Absent a request for information by a U.S. agency pursuant to federal law, the Department shall not disclose any personally identifiable information regarding applicants or enrollees to the U.S. government.

(d) The Department for Children and Families may adopt rules in accordance with 3 V.S.A. chapter 25 to carry out the purposes of this section.

Sec. 8. DEPARTMENT FOR CHILDREN AND FAMILIES; NONCITIZEN CHILD CARE ASSISTANCE PROGRAM SUBSIDIES; FISCAL YEAR 2025 ESTIMATE

The Department for Children and Families shall provide information on the estimated fiscal year 2025 costs of providing coverage to Vermont residents who have a citizenship status for which Child Care Financial Assistance Program participation is not available pursuant to 33 V.S.A. § 3552 beginning on July 1, 2024 as part of the Department's fiscal year 2025 budget presentation to the House Committees on Appropriations and on Human Services and the Senate Committees on Appropriations and on Health and Welfare.

* * * Special Accommodations Grant * * *

Sec. 9. REPORT; SPECIAL ACCOMMODATIONS GRANT

On or before January 15, 2024, the Department for Children and Families' Child Development Division shall submit a report to the House Committee on Human Services and to the Senate Committee on Health and Welfare providing a proposal to streamline the application process for special accommodation grants, including:

(1) the suitability of moving to a 12-month grant cycle and for which populations;

(2) improving support and training for providing inclusive care for children with special needs;

(3) determining how to better meet the early learning needs of children with disabilities within a child care setting; and

(4) any other proposals the Department deems essential to the goal of streamlining the application process for special accommodation grants.

* * * Child Care Workforce Retention Grants * * *

Sec. 10. FY 2024 APPROPRIATION; CHILD CARE WORKER RETENTION GRANT PROGRAM

In fiscal year 2024, the sum of $7,300,000.00 is appropriated from the General Fund to the Department for Children and Families for the early childhood staff and home-based provider retention grant program established in 2021 Acts and Resolves No. 74, Sec. G.300(a)(30), as added by 2022 Acts and Resolves No. 83, Sec. 68.

* * * Scholarship for Prospective Early Childhood Providers * * *

Sec. 11. 2021 Acts and Resolves No. 45, Sec. 8 is amended to read:

Sec. 8. REPEALS

(a) 33 V.S.A. § 3541(d) (reference to student loan repayment assistance program) is repealed on July 1, 2026.

(b) ~~33 V.S.A. § 3542 (scholarships for prospective early childhood providers) is repealed on July 1, 2026.~~ [Repealed.]

(c) 33 V.S.A. § 3543 (student loan repayment assistance program) is repealed on July 1, 2026.

Sec. 12. APPROPRIATION; SCHOLARSHIPS FOR CURRENT EARLY CHILDHOOD PROVIDERS

In fiscal year 2024, $500,000.00 is appropriated in addition to the base funding to the Department for Children and Families for the purpose of funding scholarships for current early childhood providers pursuant to 33 V.S.A. § 3541.

* * * Transitional Assistance * * *

Sec. 13. BUILDING BRIGHT FUTURES; TECHNICAL ASSISTANCE

(a) Building Bright Futures shall consult with and provide technical assistance to the Department for Children and Families for the purpose of implementing the provisions of this act, including reorganization of the Department for Children and Families, implementation of the changes to the Child Care Financial Assistance Program, and establishment the Noncitizen Child Care Assistance Program pursuant to 33 V.S.A. chapter 35. Specifically, Building Bright Futures shall assist the Department to:

(1) develop a concrete transition plan in relation to both the reorganization of the Department and changes to the Child Care Financial Assistance Program that ensures accountability using various metrics and addresses workforce and programmatic costs; and

(2) define and measure success in process and outcomes using a continuous quality improvement framework.

(b) Building Bright Futures shall monitor the transitions referenced in subsection (a) of this section and annually on January 15 between 2025–2028, submit a report to the House Committee on Human Services and the Senate Committee on Health and Welfare with its observations and recommendations.

* * * Property Tax Exemption; Property Used by a Child Care Provider * * *

Sec. 14. 32 V.S.A. § 3802(22) is added to read:

(22) Up to $10,000.00 of value of real and personal property:

(A) owned by a home-based child care provider as defined by 33 V.S.A. § 3511(3) and used to provide child care services as defined by 33 V.S.A. § 3511(4); or

(B) rented at not less than 25 percent below fair market value as determined by the prevailing area market prices for comparable space or property to a center-based child care provider as defined by 33 V.S.A. § 3511(3) and used to provide child care services as defined by 33 V.S.A. § 3511(4).

Sec. 15. 32 V.S.A. § 3800(q) is added to read:

(q) The statutory purpose of the exemption for property owned by or rented to a child care provider in subdivision 3802(22) of this title is to lower the cost of providing child care services in Vermont.

Sec. 16. 32 V.S.A. § 5401(7) is amended to read:

(7) "Homestead":

(A) "Homestead" means the principal dwelling and parcel of land surrounding the dwelling, owned and occupied by a resident individual as the individual's domicile or owned and fully leased on April 1, provided the property is not leased for more than 182 days out of the calendar year or, for purposes of the renter credit under subsection 6066(b) of this title, is rented and occupied by a resident individual as the individual's domicile.

* * *

(F) A homestead also includes any other improvement or structure on the homestead parcel that is not used for business purposes. A homestead does not include that portion of a principal dwelling used for business purposes if the portion used for business purposes includes more than 25 percent of the floor space of the building.

* * *

(H)(i) A homestead does not include any portion of a dwelling that is rented, and a dwelling is not a homestead for any portion of the year in which it is rented.

(ii) Notwithstanding subdivision (i) of this subdivision (7)(H), a homestead shall include a dwelling, or a portion of a dwelling, that otherwise qualifies as a homestead and that is rented at not less than 25 percent below fair market value as determined by the prevailing area market prices for comparable space or property to a center-based child care provider as defined by 33 V.S.A. § 3511(3) and is used to provide child care services as defined by 33 V.S.A. § 3511(4).

* * * Department for Children and Families Restructure and Creation of Department of Economic Empowerment * * *

Sec. 17. 3 V.S.A. § 212 is amended to read:

§ 212. DEPARTMENTS CREATED

The following administrative departments are hereby created, through the instrumentality of which the Governor, under the Constitution, shall exercise such functions as are by law assigned to each department respectively:

* * *

(24) The Department of Vermont Health Access.

(25) The Department of Economic Empowerment.

Sec. 18. 3 V.S.A. § 241 is amended to read:

§ 241. BACKGROUND INVESTIGATIONS

(a) "Federal tax information" or "FTI" means returns and return information as defined in 26 U.S.C. § 6103(b) that are received directly from the Internal Revenue Service or obtained through an IRS-authorized secondary source, that are in the Recipient's possession or control, and that are subject to the confidentiality protections and safeguarding requirements of the Internal Revenue Code and corresponding federal regulations and guidance.

(b) As used in this chapter, "Recipient" means the following authorities of the Executive Branch of State government that receive FTI:

(1) Agency of Human Services, including:

(A) Department for Children and Families;

(B) Department of Economic Empowerment;

(C) Department of Health;

~~(C)~~(D) Department of Mental Health; and

~~(D)~~(E) Department of Vermont Health Access.

(2) Department of Labor.

(3) Department of Motor Vehicles.

(4) Department of Taxes.

(5) Agency of Digital Services.

(6) Department of Buildings and General Services.

* * *

Sec. 19. 3 V.S.A. § 816 is amended to read:

§ 816. EXEMPTIONS

(a) Sections 809–813 of this title shall not apply to:

(1) Acts, decisions, findings, or determinations by the Human Services Board or the ~~Commissioner~~ Commissioners of Economic Empowerment or for Children and Families or a duly authorized agent, and to procedures or hearings before and by the Board or Commissioner or agent.

* * *

Sec. 20. 3 V.S.A. § 3002 is amended to read:

§ 3002. CREATION OF AGENCY

(a) An Agency of Human Services is created consisting of the following:

(1) The Department of Corrections.

(2) The Department for Children and Families.

(3) The Department of Health.

(4) The Department of Disabilities, Aging, and Independent Living.

(5) The Human Services Board.

(6) The Department of Vermont Health Access.

(7) The Department of Mental Health.

(8) The Department of Economic Empowerment.

* * *

Sec. 21. 3 V.S.A. § 3051 is amended to read:

§ 3051. COMMISSIONERS; DEPUTY COMMISSIONERS; APPOINTMENT; TERM

* * *

(c) For the Department for Children and Families, the Secretary, with the approval of the Governor, shall appoint deputy commissioners for the following divisions of the Department:

(1) ~~Economic Services;~~

~~(2)~~ Child Development; and

~~(3)~~(2) Family Services.

* * *

(e) For the Department of Economic Empowerment, the Secretary, with the approval of the Governor, shall appoint deputy commissioners for the following divisions of the Department:

(1) Disability Determination Services; and

(2) Economic Services Division.

(f) Deputy commissioners shall be exempt from the classified service. Their appointments shall be in writing and shall be filed in the Office of the

Secretary of State.

Sec. 22. 3 V.S.A. § 3084 is amended to read:

§ 3084. DEPARTMENT FOR CHILDREN AND FAMILIES

(a) The Department for Children and Families is created within the Agency of Human Services ~~as the successor to and the continuation of the Department of Social and Rehabilitation Services, the Department of Prevention, Assistance, Transition, and Health Access, excluding the Department of Vermont Health Access, the Office of Economic Opportunity, and the Office of Child Support. The Department shall also include a Division of Child Development Programs~~ to promote the healthy development of children and youth, oversee and support a system of high-quality child care programs in home- and community-based settings, and provide assistance and support to parents and families. It shall include the Divisions of Child Development and of Family.

(b) An investigations unit is created within the Department for Children and Families as the successor to and continuation of the investigation functions of the Social Services Division of the Department of Social and Rehabilitation Services under 33 V.S.A. chapter 49.

Sec. 23. 3 V.S.A. § 3091 is amended to read:

§ 3091. HEARINGS

(a) An applicant for or a recipient of assistance, benefits, or social services from the Department for Children and Families, of Economic Empowerment, of Vermont Health Access, of Disabilities, Aging, and Independent Living, or of Mental Health~~, or;~~ an applicant for a license from one of those departments~~,~~; or a licensee may file a request for a fair hearing with the Human Services Board. An opportunity for a fair hearing ~~will~~ shall be granted to any individual requesting a hearing because ~~his or her~~ the individual's claim for assistance, benefits, or services is denied~~,~~ or is not acted upon with reasonable promptness; or because the individual is aggrieved by any other Agency action affecting ~~his or her~~ the individual's receipt of assistance, benefits, or services, or license or license application; or because the individual is aggrieved by Agency policy as it affects ~~his or her~~ the individual's situation.

* * *

Sec. 24. 3 V.S.A. § 3094 is amended to read:

§ 3094. OFFICE OF CHILD SUPPORT

(a) The Office of Child Support is created within the Department ~~for Children and Families~~ of Economic Empowerment and shall be designated the

IV-D agency for purposes of Title IV-D of the federal Social Security Act.

(b) The Office shall be headed by a Director who shall be appointed by the Secretary of Human Services subject to section 3054 of this title.

Sec. 25. 3 V.S.A. § 3098 is added to read:

§ 3098. DEPARTMENT OF ECONOMIC EMPOWERMENT

The Department of Economic Empowerment is created within the Agency of Human Services to empower families and individuals through the provision of financial support, case management, and other assistance aimed at building skills and independence. It shall include the Office of Child Support, the Office of Economic Opportunity, the Disability Determination Services Division, and the Economic Services Division.

Sec. 26. 4 V.S.A. § 953 is amended to read:

§ 953. SOURCES OF NAMES

(a) The clerk, in order to ascertain names of persons eligible as jurors, may consult the latest census enumeration, the latest published city, town, or village telephone or other directory, the listers' records, the elections records, and any other general source of names.

(b) Notwithstanding any law to the contrary, the Court Administrator may obtain the names, addresses, and dates of birth of persons ~~which~~ that are contained in the records of the Department of Motor Vehicles, the Department of Labor, the Department of Taxes, the Department of Health, the Department of Economic Empowerment, and the Department for Children and Families. The Court Administrator may also obtain the names of voters from the Secretary of State. After the names have been obtained, the Court Administrator shall compile them and provide the names, addresses, and dates of birth to the clerk in a form that will not reveal the source of the names. The clerk shall include the names provided by the Court Administrator in the list of potential jurors.

* * *

Sec. 27. 8 V.S.A. § 10204 is amended to read:

§ 10204. EXCEPTIONS

This subchapter does not prohibit any of the activities listed in this section. This section shall not be construed to require any financial institution to make any disclosure not otherwise required by law. This section shall not be construed to require or encourage any financial institution to alter any procedures or practices not inconsistent with this subchapter. This section

shall not be construed to expand or create any authority in any person or entity other than a financial institution.

* * *

(4) Disclosure of information sought by the Department for Children and Families pursuant to its authority and obligations under 33 V.S.A. § 112.

* * *

(27) Disclosure of information sought by the Department of Economic Empowerment pursuant to its authority and obligations under 33 V.S.A. § 212.

Sec. 28. 9 V.S.A. § 2480h is amended to read:

§ 2480h. SECURITY FREEZE BY CREDIT REPORTING AGENCY; TIME IN EFFECT

* * *

(l) The provisions of this section, including the security freeze, do not apply to the use of a consumer report by the following:

* * *

(5) The Economic Services Division of the Department ~~for Children and Families~~ of Economic Empowerment or the Department of Vermont Health Access or its agents or assignee acting to investigate welfare or Medicaid fraud.

* * *

Sec. 29. 9 V.S.A. § 2483a is amended to read:

§ 2483a. SECURITY FREEZE FOR PROTECTED CONSUMER; TIME IN EFFECT

* * *

(l) The provisions of this section, including the protected consumer security freeze, do not apply to the use of a consumer report by the following:

* * *

(5) The Economic Services Division of the Department ~~for Children and Families~~ of Economic Empowerment or the Department of Vermont Health Access or its agents or assignees acting to investigate welfare or Medicaid fraud.

* * *

Sec. 30. 9 V.S.A. § 4472 is amended to read:

§ 4472. RIGHT TO TERMINATE RENTAL AGREEMENT

* * *

(b) Not less than 30 days before the date of termination, the protected tenant shall provide to the landlord:

(1) a written notice of termination; and

(2) documentation from one or more of the following sources supporting ~~his or her~~ the tenant's reasonable belief that it is necessary to vacate the dwelling unit:

(A) a court, law enforcement, or other government agency;

(B) an abuse, sexual assault, or stalking assistance program;

(C) a legal, clerical, medical, or other professional from whom the tenant, or the minor or dependent of the tenant, received counseling or other assistance concerning abuse, sexual assault, or stalking; or

(D) a self-certification of a protected tenant's status as a victim of abuse, sexual assault, or stalking, signed under penalty of perjury, on a standard form adopted for that purpose by:

(i) a federal or State government entity, including the federal Department of Housing and Urban Development, the Vermont Department of Economic Empowerment, or the Vermont Department for Children and Families; or

(ii) a nonprofit organization that provides support services to protected tenants.

* * *

Sec. 31. 10 App. V.S.A. § 16 is amended to read:

§ 16. SUSPENSION OF LICENSES: ENFORCEMENT OF CHILD SUPPORT ORDERS, 15 V.S.A. § 798

* * *

16.3 All notices of compliance with a child support order shall be upon a standard compliance form, as devised and approved by the court, the Vermont Agency of Human Services, Department of ~~Children and Families~~ Economic Empowerment, and this Department.

16.4 If the motion for the court order was brought by the Vermont Agency of Human Services, Department of ~~Children and Families~~ Economic

Empowerment, then notice of compliance shall only be accepted from the Vermont Agency of Human Services, Department of ~~Children and Families~~ Economic Empowerment or the court.

* * *

16.8 Department personnel shall direct all inquiries from persons seeking reinstatement to the court or the Vermont Agency of Human Services, Department of ~~Children and Families~~ Economic Empowerment, if the Vermont Agency of Human Services, Department of ~~Children and Families~~ Economic Empowerment was the entity ~~which~~ that brought the motion for suspension before this court.

Sec. 32. 12 V.S.A. § 3169 is amended to read:

§ 3169. HEARING ON MOTION; FINDINGS; ORDER

(a) At the hearing on the motion the court shall determine on the basis of the motion and any affidavit of the judgment creditor, the record in the civil action and any testimony offered by either party, and by the trustee whether the judgment debtor has neglected or refused to pay or make reasonable arrangements to pay the money judgment in question. If the court so finds, it shall also determine:

(1) the amount of the judgment unpaid;

(2) the amount of the judgment debtor's weekly disposable earnings;

(3) whether the judgment debtor has been a recipient of assistance from the Vermont ~~Department~~ Departments for Children and Families, of Economic Empowerment, or ~~the Department~~ of Vermont Health Access within the two months preceding the date of the hearing; and

* * *

Sec. 33. 12 V.S.A. § 3170 is amended to read:

§ 3170. EXEMPTIONS; ISSUANCE OF ORDER

(a) No order approving the issuance of trustee process against earnings shall be entered against a judgment debtor who was, within the two-month period preceding the hearing provided in section 3169 of this title, a recipient of assistance from the Vermont Department ~~for Children and Families~~ of Economic Empowerment or the Department of Vermont Health Access. The judgment debtor must establish this exemption at the time of hearing.

* * *

Sec. 34. 13 V.S.A. § 1028 is amended to read:

§ 1028. ASSAULT OF PROTECTED PROFESSIONAL; ASSAULT WITH BODILY FLUIDS

* * *

(d) As used in this section:

(1) "Protected professional" ~~shall mean~~ means a law enforcement officer; a firefighter; a health care worker; an employee, contractor, or grantee of the Department for Children and Families or Department of Economic Empowerment; or any emergency medical personnel as defined in 24 V.S.A. § 2651(6).

* * *

Sec. 35. 15 V.S.A. § 294 is amended to read:

§ 294. ~~MAN~~ UNRELATED ADULT IN THE HOUSE

(a) When the ~~mother~~ parent of minor children is residing within the same household as ~~a man~~ an adult unrelated to ~~her~~ the parent and not otherwise liable for the support of the ~~mother and her~~ parent and the parent's children, on the complaint of the ~~mother~~ parent or, if ~~she~~ the parent is receiving public assistance, the ~~Department~~ Departments of Economic Empowerment or for Children and Families, the Superior Court shall make such decree concerning the support of the ~~mother~~ parent and the care, custody, maintenance, and education of the children as in cases where the ~~husband~~ nonresidential parent refuses without just cause to support ~~his wife~~ the parent living with the children and the children. The decree shall by its terms continue in force for so long as the defendant resides within the household or until further order of the court.

(b) This section shall not apply to persons living in boarding houses.

Sec. 36. 15 V.S.A. § 606 is amended to read:

§ 606. ACTION TO RECOVER MAINTENANCE, CHILD SUPPORT, AND SUIT MONEY; SANCTION FOR NONCOMPLIANCE

(a) When a judgment or order for the payment of either temporary or permanent maintenance, child support, or suit money has been made by the Family Division of the Superior Court, and personal jurisdiction of the person liable for the payment of money under the judgment or order has been obtained, the party entitled by the terms of the judgment or order to payment thereunder, or the Office of Child Support in all cases in which the party or dependent children of the parties are the recipients of financial assistance from

the ~~Department~~ Departments of Economic Empowerment or for Children and Families, may file a motion in the Family Division of the Superior Court asking for a determination of the amount due. Upon notice to the other party and hearing thereon, the Family Division of the Superior Court shall render judgment for the amount due under the judgment or order; the court may order restitution to the ~~Department~~ Departments, order that payments be made to the Office of Child Support for distribution, or make such other orders or conditions as it deems proper. The judgment shall be as binding and as enforceable in all respects as though rendered in any other civil action. Notice shall be given in such manner as the Supreme Court shall by rule provide. An additional motion may be brought at any time for further unpaid balances. The Family Division of the Superior Court in which the cause was pending at the time the original judgment or order was made shall have jurisdiction of motions under the provisions of this section, irrespective of the amount in controversy or the residence of the parties. The motions may be brought and judgment obtained on judgments, decrees, and orders previously rendered and still in force.

* * *

Sec. 37. 15 V.S.A. § 658 is amended to read:

§ 658. SUPPORT

(a) In an action under this chapter or under chapter 21 of this title, the court shall order either or both parents owing a duty of support to a child to pay an amount for the support of the child in accordance with the support guidelines as set forth in this subchapter~~,~~ unless otherwise determined under section 659 of this title.

(b) A request for support may be made by either parent, a guardian, or the Department for Children and Families, Department of Economic Empowerment, or the Department of Vermont Health Access, if a party in interest. A court may also raise the issue of support on its own motion.

* * *

Sec. 38. 16 V.S.A. § 1592 is amended to read:

§ 1592. POWERS AND RESPONSIBILITIES OF BOARD OF TRUSTEES

With respect to the provision of postsecondary career technical education programs, in addition to those powers and responsibilities set forth in chapter 72 of this title, the Vermont State Colleges Board of Trustees shall:

* * *

(3) coordinate such programs with other employment and training programs such as those offered by the Department of Employment and Training, the Department of Labor, the Department ~~for Children and Families~~ of Economic Empowerment, the Agency of Commerce and Community Development, independent colleges, and the Vermont Student Assistance Corporation; and

(4) possess all other necessary and implied powers to carry out such responsibilities.

Sec. 39. 18 V.S.A. § 5227 is amended to read:

§ 5227. RIGHT TO DISPOSITION

* * *

(d)(1) If the disposition of the remains of a decedent is determined under subdivision (a)(10) of this section, the Office of the Chief Medical Examiner may contract with a funeral director or disposition facility to cremate the remains of the decedent.

(2)(A) If the cremation of the decedent is arranged and paid for under 33 V.S.A. § 2301, the Department ~~for Children and Families~~ of Economic Empowerment shall pay the cremation expenses to the funeral home, up to the maximum payment permitted by rule by the Department ~~for Children and Families~~ of Economic Empowerment.

(B) If the cremation of the decedent is not arranged and paid for under 33 V.S.A. § 2301, the Department of Health shall pay the cremation expenses to the funeral home, up to the maximum payment permitted by rule by the Department ~~for Children and Families~~ of Economic Empowerment.

* * *

Sec. 40. 18 V.S.A. § 8101 is amended to read:

§ 8101. LIABILITY

* * *

(e) In ~~his or her~~ the Commissioner's investigation, keeping of accounts, and collection of charges, the Commissioner shall have the support and cooperation of the Department ~~for Children and Families~~ of Economic Empowerment insofar as the records of that Department relate to the ability to pay.

* * *

Sec. 41. 28 V.S.A. § 755 is amended to read:

§ 755. DISPOSITION OF EARNINGS

An inmate participating in a work release program shall cause to be given to the Commissioner the inmate's total earnings less payroll deductions authorized by law, including income taxes. Upon receipt of the earnings the Commissioner, to the extent reasonable, may:

(1) Deduct an amount determined to be equivalent to the cost of providing for the living expenses of the inmate.

(2) Cause to be paid, as are needed, any of the following~~.~~:

(A) Any costs or fine imposed by the sentencing court.

(B) Any restitution included as part of the sentence of the inmate by the court.

(C) Any sum as is needed for the support of the dependents of the inmate, in which case the Commissioner shall notify the ~~Commissioner~~ Commissioners of Economic Empowerment and for Children and Families of the support payments.

* * *

Sec. 42. 30 V.S.A. § 218 is amended to read:

§ 218. JURISDICTION OVER CHARGES AND RATES

* * *

(c)(1) The Public Utility Commission shall take any action necessary to enable the State of Vermont and telecommunications companies offering service in Vermont to participate in the federal Lifeline program administered by the Federal Communications Commission (FCC) or its agent and also the Vermont Lifeline program described in subdivision (2) of this subsection.

* * *

(4) Notwithstanding any provisions of this subsection to the contrary, a subscriber who is enrolled in the Lifeline program and has obtained a final relief from abuse order in accordance with the provisions of 15 V.S.A. chapter 21 or 33 V.S.A. chapter 69 shall qualify for a Lifeline benefit credit for the amount of the incremental charges imposed by the local telecommunications company for treating the number of the subscriber as nonpublished and any charges required to change from a published to a nonpublished number. As used in this section, "nonpublished" means that the customer's telephone number is not listed in any published directories, is not listed on directory

assistance records of the company, and is not made available on request by a member of the general public, notwithstanding any claim of emergency a requesting party may present. The Department ~~for Children and Families~~ of Economic Empowerment shall develop an application form and certification process for obtaining this Lifeline benefit credit.

* * *

Sec. 43. 32 V.S.A. § 308b is amended to read:

§ 308b. HUMAN SERVICES CASELOAD RESERVE

(a) There is created within the General Fund ~~a~~ the Human Services Caseload Reserve. Expenditures from the Reserve shall be subject to an appropriation by the General Assembly or approval by the Emergency Board. Expenditures from the Reserve shall be limited to Agency of Human Services caseload-related needs primarily in the Departments for Children and Families, of Economic Empowerment, of Health, of Mental Health, of Disabilities, Aging, and Independent Living, of Vermont Health Access, and settlement costs associated with managing the Global Commitment waiver.

* * *

Sec. 44. 32 V.S.A. § 1003 is amended to read:

§ 1003. STATE OFFICERS

* * *

(b) The Governor may appoint each officer of the Executive Branch listed in this subsection at a starting salary ranging from the base salary stated for that position to a salary that does not exceed the maximum salary unless otherwise authorized by this subsection. The maximum salary for each appointive officer shall be 50 percent above the base salary. Annually, the Governor may grant to each of those officers an annual salary adjustment subject to the maximum salary. The annual salary adjustment granted to officers under this subsection shall not exceed the average rate of adjustment available to classified employees under the collective bargaining agreement then in effect. In addition to the annual salary adjustment specified in this subsection, the Governor may grant a special salary increase subject to the maximum salary, or a bonus, to any officer listed in this subsection whose job duties have significantly increased, or whose contributions to the State in the preceding year are deemed especially significant. Special salary increases or bonuses granted to any individual shall not exceed the average rate of adjustment available to classified employees under the collective bargaining agreement then in effect.

(1) Heads of the following Departments and Agencies:

| | | Base Salary as of January 5, 2020 | Base Salary as of July 4, 2021 |
|---|---|---|---|
| (A) | Administration | $121,634 | $126,378 |
| (B) | Agriculture, Food and Markets | 121,634 | 126,378 |
| (C) | Financial Regulation | 113,710 | 118,145 |
| (D) | Buildings and General Services | 113,710 | 118,145 |
| (E) | Children and Families | 113,710 | 118,145 |
| (F) | Commerce and Community Development | 121,634 | 126,378 |
| (G) | Corrections | 113,710 | 118,145 |
| (H) | Defender General | 113,710 | 118,145 |
| (I) | Disabilities, Aging, and Independent Living | 113,710 | 118,145 |
| (J) | Economic Development | 103,149 | 107,172 |
| (K) | Education | 121,634 | 126,378 |
| (L) | Environmental Conservation | 113,710 | 118,145 |
| (M) | Finance and Management | 113,710 | 118,145 |
| (N) | Fish and Wildlife | 103,149 | 107,172 |
| (O) | Forests, Parks and Recreation | 103,149 | 107,172 |
| (P) | Health | 113,710 | 118,145 |
| (Q) | Housing and Community Development | 103,149 | 107,172 |
| (R) | Human Resources | 113,710 | 118,145 |
| (S) | Human Services | 121,634 | 126,378 |
| (T) | Digital Services | 121,634 | 126,378 |
| (U) | Labor | 113,710 | 118,145 |
| (V) | Libraries | 103,149 | 107,172 |
| (W) | Liquor and Lottery | 103,149 | 107,172 |
| (X) | [Repealed.] | | |

| | | | |
|---|---|---|---|
| (Y) | Mental Health | 113,710 | 118,145 |
| (Z) | Military | 113,710 | 118,145 |
| (AA) | Motor Vehicles | 103,149 | 107,172 |
| (BB) | Natural Resources | 121,634 | 126,378 |
| (CC) | Natural Resources Board Chair | 103,149 | 107,172 |
| (DD) | Public Safety | 113,710 | 118,145 |
| (EE) | Public Service | 113,710 | 118,145 |
| (FF) | Taxes | 113,710 | 118,145 |
| (GG) | Tourism and Marketing | 103,149 | 107,172 |
| (HH) | Transportation | 121,634 | 126,378 |
| (II) | Vermont Health Access | 113,710 | 118,145 |
| (JJ) | Veterans' Home | 113,710 | 118,145 |
| (KK) | Economic Empowerment | 113,710 | 118,145 |

* * *

Sec. 45. 32 V.S.A. § 3102 is amended to read:

§ 3102. CONFIDENTIALITY OF TAX RECORDS

* * *

(f) Notwithstanding the provisions of this section, information obtained from the Commissioner for Children and Families under 33 V.S.A. § 112(c), from the Commissioner of Economic Empowerment under 33 V.S.A. § 212(c), from the Vermont Student Assistance Corporation under 16 V.S.A. § 2843, or from the Dental Health Program under 33 V.S.A. § 4507 shall be confidential, and it shall be unlawful for anyone to divulge such information except in accordance with a judicial order or as provided under another provision of law.

* * *

Sec. 46. 32 V.S.A. § 5932 is amended to read:

§ 5932. DEFINITIONS

As used in this chapter:

* * *

(2) "Debtor" means any individual owing a debt to a claimant agency or owing any support debt that may be collected by the ~~Department~~ Departments for Children and Families and of Economic Empowerment.

* * *

Sec. 47. 33 V.S.A. chapter 1 is amended to read:

CHAPTER 1. DEPARTMENT FOR CHILDREN AND FAMILIES

Subchapter 1. Policy, Organization, Powers, and Duties

§ 101. POLICY

It is the policy of the State of Vermont that:

(1) Its social and child welfare programs shall provide assistance, support, and benefits to persons of the State in proven need ~~thereof and eligible for such assistance and benefits~~ of and eligible for assistance, support, and benefits under the provisions of this title.

(2) It is the purpose of its social and child welfare laws to establish and support programs that contribute to the prevention of dependency and social maladjustment and contribute to the rehabilitation and protection of persons of the State.

(3) Assistance and benefits shall be administered promptly, with due regard for the welfare of children and youth and the preservation of family life, and without restriction of individual rights or discrimination on account of gender, sexual orientation, gender identity, race, religion, political affiliation, or place of residence within the State.

(4) Assistance and benefits shall be ~~so~~ administered ~~as~~ to maintain and encourage dignity, self-respect, and self-reliance. It is the legislative intent that assistance granted shall be adequate to maintain a reasonable standard of health and decency based on current cost of living indices. ~~Notwithstanding this subdivision, the Department will amend rules that establish new maximum Reach Up grant amounts only when the General Assembly has taken affirmative action to increase or decrease the Reach Up financial assistance appropriation.~~

(5) The programs of the Department for Children and Families shall be designed to strengthen family life for the care and protection of children; promote healthy child development and support a high-quality child care system throughout the State; to assist and encourage the use by any family of all available personal and reasonable community resources to this end; and to provide substitute care of children only when the family, with the use of available resources, is unable to provide the necessary care and protection to ensure the right of any child to sound health and to normal physical, mental, spiritual, and moral development.

(6) The child care system shall provide affordable, high-quality care in a manner that fosters child brain development, nurtures socio-emotional skills, and supports young families. The Department shall provide leadership and expertise to early educators and child care programs to ensure that children receive age-appropriate care tailored to their unique needs.

* * *

§ 104. FUNCTION AND POWERS OF DEPARTMENT

(a) The Department shall administer all laws specifically assigned to it for administration.

(b) In addition to other powers vested in it by law, the Department may do all of the following:

(1) ~~Provide for the administration of the following programs and services:~~

~~(A) aid to the aged, blind, and disabled;~~

~~(B) Reach Up financial assistance and support services;~~

~~(C) [Repealed.]~~

~~(D) federal Supplemental Nutrition Assistance Program benefits;~~

~~(E) General Assistance;~~

~~(F) medical assistance; and~~

~~(G) public assistance programs funded with State general funds or the Temporary Assistance to Needy Families (TANF) block grant.~~ [Repealed.]

(2) Cooperate with the appropriate federal agencies in receiving, to the extent available, federal funds in support of programs that the Department administers.

(3) Submit plans and reports, adopt rules, and in other respects comply with the provisions of the Social Security Act that pertain to programs administered by the Department.

(4) Receive and disburse funds that are assigned, donated, or bequeathed to it for charitable purposes or for the benefit of recipients of assistance, benefits, or social services. This subdivision shall not be construed to require the Department to accept funds or trusts when the Commissioner, with the approval of the Governor, considers it in the best interests of the State to refuse them.

(5) Receive in trust and expend, in accordance with the provisions of the trust, funds and property assigned, donated, devised, or bequeathed to it for

charitable purposes or for the benefit of recipients of assistance, benefits, or social services. Trust funds accepted by the Department shall be safely invested by the State Treasurer. Real property received in trust may, at the discretion of the Commissioner, be administered by the Department of Buildings and General Services of the Agency of Administration. This subdivision shall not be construed to require the Department to accept funds or trusts when the Commissioner, with the approval of the Governor, considers it in the best interests of the State to refuse them.

(6) Aid and assist in charitable work as in the judgment of the Commissioner will best promote the general welfare of the State.

(7) Visit all institutions, homes, places, and establishments soliciting public support and located in the State that are devoted to or used for the care of ~~needy persons~~ children.

(8) Visit all institutions, homes, places, and establishments providing room, board, or care to ~~persons~~ children receiving social services or benefits from the Department.

(9) Supervise and control children under its care and custody and provide for their care, maintenance, and education.

(c) The Department for Children and Families, in cooperation with the Department of Corrections, shall have the responsibility to administer a comprehensive program for youthful offenders and children who commit delinquent acts, including utilization of probation services; of a range of community-based and other treatment, training, and rehabilitation programs; and of secure detention and treatment programs when necessary in the interests of public safety, designed with the objective of preparing those children to live in their communities as productive and mature adults.

§ 105. COMMISSIONER; APPOINTMENT, TERM, DUTIES, AND POWERS

(a) The Commissioner may exercise the powers and perform duties required for effective administration of the Department~~,~~ and ~~he or she~~ shall determine the policies of the Department.

(b) In addition to other duties imposed by law, the Commissioner shall:

(1) administer the laws assigned to the Department;

(2) fix standards and adopt rules necessary to administer those laws and for the custody and preservation of records of the Department;

(3) appoint all necessary assistants, prescribe their duties, and adopt rules necessary to ensure that the assistants shall hold merit system status while

in the employ of the Department, unless otherwise specifically provided by law.

(c) The Commissioner ~~or the Governor, whenever the federal law so provides, may cooperate with the federal government in providing relief and work relief and community work and training programs in the State~~ shall hold at least a master's level degree in child development, early childhood education, or related field.

(d) The Commissioner, with the approval of the Attorney General, may enter into reciprocal agreements with social and child welfare agencies in other states in matters relating to social welfare, children, and families.

(e) The Commissioner shall ensure the provision of services to children and adolescents with a severe emotional disturbance in coordination with the Secretary of Education and the Commissioners of Mental Health and of Disabilities, Aging, and Independent Living in accordance with the provisions of chapter 43 of this title.

(f) Notwithstanding any other provision of law, the Commissioner may delegate to any appropriate employee of the Department any of the administrative duties and powers imposed on ~~him or her~~ the Commissioner by law, with the exception of the duties and powers enumerated in this section. The delegation of authority and responsibility shall not relieve the Commissioner of accountability for the proper administration of the Department.

(g) The Commissioner may publicly disclose findings or information about any case of child abuse or neglect that has resulted in the fatality or near fatality of a child, including information obtained under chapter 49 of this title, unless the State's Attorney or Attorney General who is investigating or prosecuting any matter related to the fatality requests the Commissioner to withhold disclosure, in which case the Commissioner shall not disclose any information until completion of any criminal proceedings related to the fatality or until the State's Attorney or Attorney General consents to disclosure, whichever occurs earlier.

* * *

§ 112a. FINANCIAL INSTITUTIONS TO FURNISH INFORMATION; ASSET VERIFICATION

(a)(1) A financial institution, when requested by Department, shall furnish to the Commissioner or the Commissioner's designee information in the possession of the financial institution about the assets of any applicant who is applying for or is receiving assistance or benefits from the Department or the

applicant's spouse. The Department shall issue instructions to the financial institution detailing the nature of the request and the information necessary to satisfy the request.

(2) A financial institution or employee of a financial institution shall not be subject to criminal or civil liability for actions taken in accordance with this subsection.

(b)(1) Each application for assistance or benefits submitted to the Department shall contain a form of authorization, executed by the applicant, granting authority for the Department and its authorized agents to obtain financial information about the applicant's assets from financial intuitions in order to verify the applicant's eligibility for the applicable program. The Department or its authorized agent shall obtain the applicant's authorization prior to requesting the applicant's financial information from any financial institution.

(2) The Department shall ensure the applicant receives notice written in plain language explaining the Department's electronic asset verification system.

(c) In the event that the financial information of an applicant's spouse is required to determine an applicant's eligibility for a program, the Department shall provide written notice regarding the asset verification process to the spouse and shall obtain the spouse's written authorization for the Department and its agents to obtain the spouse's financial information from financial institutions prior to requesting the spouse's financial information from any financial institution. The Department may determine an applicant to be ineligible if the applicant's spouse refuses to provide or revokes consent.

(d) As used in this section:

(1) "Bank" has the same meaning as in 8 V.S.A. § 11101.

(2) "Broker-dealer" has the same meaning as in 9 V.S.A. § 5102.

(3) "Credit union" has the same meaning as in 8 V.S.A. § 30101.

(4) "Financial institution" means any Vermont financial institution, state financial institution, and national financial institution, including a bank, credit union, broker-dealer, investment advisor, mutual fund, or investment company.

(5) "Investment advisor" has the same meaning as in 9 V.S.A. § 5102.

(6) "Mutual fund" has the same meaning as in 8 V.S.A. § 3461.

* * *

Subchapter 3. Provisions of General Applicability

§ 121. CANCELLATION OF ASSISTANCE OR BENEFITS

If at any time the Commissioner for Children and Families ~~or the Commissioner of Vermont Health Access~~ has reason to believe that assistance or benefits have been improperly obtained, ~~he or she~~ the Commissioner shall cause an investigation to be made and may suspend assistance or benefits pending the investigation. If, on investigation, the Commissioner for Children and Families ~~or the Commissioner of Vermont Health Access~~ is satisfied that the assistance or benefits were illegally obtained, ~~he or she~~ the Commissioner shall immediately cancel them. A person having illegally obtained assistance or benefits shall not be eligible for reinstatement until ~~his or her~~ the person's need has been reestablished.

§ 122. RECOVERY OF PAYMENTS

(a) The amount of assistance or benefits may be changed or cancelled at any time if the Commissioner for Children and Families ~~or the Commissioner of Vermont Health Access~~ finds that the recipient's circumstances have changed. Upon granting assistance or benefits, the Department for Children and Families ~~or the Department of Vermont Health Access~~ shall inform the recipient that changes in ~~his or her~~ the recipient's circumstances must be promptly reported to the Department.

(b) When on the death of a person receiving assistance it is found that the recipient possessed income or property in excess of that reported to the Department for Children and Families ~~or the Department of Vermont Health Access~~, up to double the total amount of assistance in excess of that to which the recipient was lawfully entitled may be recovered by the Commissioner for Children and Families ~~or the Commissioner of Vermont Health Access~~ as a preferred claim from the estate of the recipient. The Commissioner for Children and Families ~~or the Commissioner of Vermont Health Access~~ shall calculate the amount of the recovery by applying the legal interest rate to the amount of excess recovery paid, except that the recovery shall be capped at double the excess assistance paid.

(c) When the Commissioner for Children and Families ~~or the Commissioner of Vermont Health Access~~ finds that a recipient of benefits received assistance in excess of that to which the recipient was lawfully entitled, because the recipient possessed income or property in excess of Department standards, the Commissioner for Children and Families ~~or the Commissioner of Vermont Health Access~~ may take actions to recover the overpayment.

(d) In the event of recovery, an amount may be retained by the Commissioner for Children and Families ~~or the Commissioner of Vermont Health Access~~ in a special fund for use in offsetting program expenses and an amount equivalent to the pro rata share to which the United States of America is equitably entitled shall be paid promptly to the appropriate federal agency.

§ 123. ~~GUARDIAN OR LEGAL REPRESENTATIVE~~

~~(a) If the Commissioner finds that an applicant for or recipient of assistance is incapable of taking care of himself or herself or his or her business affairs, the Commissioner may direct the payment of the assistance to a guardian appointed by the Probate Division of the Superior Court.~~

~~(b) If the Commissioner finds that an applicant for or recipient of assistance is incapable of prudently attending to his or her business affairs, the Commissioner may direct the payment of the assistance to the legal representative of the person appointed by the Probate Division of the Superior Court.~~ [Repealed.]

* * *

Subchapter 5. Prohibited Practices; Penalties

§ 141. FRAUD

(a) A person who knowingly fails, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose a material fact used to determine whether that person is qualified to receive aid or benefits under a State or federally funded assistance program; or who knowingly fails to disclose a change in circumstances in order to obtain or continue to receive aid or benefits to which ~~he or she~~ the person is not entitled or in an amount larger than that to which ~~he or she~~ the person is entitled; or who knowingly aids and abets another person in the commission of any such act shall be punished as provided in section 143 of this title.

(b) ~~A person who knowingly uses, transfers, acquires, traffics, alters, forges, or possesses; or who knowingly attempts to use, transfer, acquire, traffic, alter, forge, or possess; or who knowingly aids and abets another person in the use, transfer, acquisition, traffic, alteration, forgery, or possession of a Supplemental Nutrition Assistance Program benefit card, authorization for the purchase of Supplemental Nutrition Assistance Program benefits, certificate of eligibility for medical services, or State health care program identification card in a manner not authorized by law shall be punished as provided in section 143 of this title.~~ [Repealed.]

(c) ~~A person who administers a State or federally funded assistance program who fraudulently misappropriates, attempts to misappropriate, or aids~~

~~and abets in the misappropriation of a Supplemental Nutrition Assistance Program benefit, authorization for Supplemental Nutrition Assistance Program benefits, a Supplemental Nutrition Assistance Program benefit identification card, certificate of eligibility for prescribed medicine, State health care program identification card, or assistance from any other State or federally funded program with which he or she has been entrusted or of which he or she has gained possession by virtue of his or her position; or who knowingly misappropriates, attempts to misappropriate, or aids or abets in the misappropriation of funds given in exchange for Supplemental Nutrition Assistance Program benefits shall be punished as provided in section 143 of this title.~~ [Repealed.]

(d) A person who knowingly files, attempts to file, or aids and abets in the filing of a claim for services to a recipient of benefits under a State or federally funded assistance program for services that were not rendered; or who knowingly files a false claim or a claim for unauthorized items or services under such a program; or who knowingly bills the recipient of benefits under such a program or ~~his or her~~ the person's family for an amount in excess of that provided for by law or regulation; or who knowingly fails to credit the State or its agent for payments received from Social Security, insurance, or other sources; or who in any way knowingly receives, attempts to receive, or aids and abets in the receipt of unauthorized payment as provided herein shall be punished as provided in section 143 of this title.

(e) A person providing service for which compensation is paid under a State or federally funded assistance program who requests, and receives, either actually or constructively, any payment or contribution through a payment, assessment, gift, devise, bequest, or other means, whether directly or indirectly, from either a recipient of assistance from the assistance program or from the family of the recipient shall notify the Commissioner for Children and Families ~~or the Commissioner of Vermont Health Access~~, on a form provided by ~~him or her~~ the Commissioner, of the amount of the payment or contribution and of such other information as specified by the Commissioner for Children and Families ~~or the Commissioner of Vermont Health Access~~ within 10 days after the receipt of the payment or contribution or, if the payment or contribution is to become effective at some time in the future, within 10 days ~~of~~ following the consummation of the agreement to make the payment or contribution. Failure to notify the Commissioner for Children and Families ~~or the Commissioner of Vermont Health Access~~ within the time prescribed is punishable as provided in section 143 of this title.

(f) Repayment of assistance or services wrongfully obtained shall not constitute a defense to or ground for dismissal of criminal charges brought

under this section.

§ 142. BRINGING ~~NEEDY~~ PERSON IN NEED INTO THE STATE

(a) Any person who knowingly brings or causes to be brought a ~~needy~~ person in need from out of the state into this State for the purpose of securing assistance for the ~~needy~~ person in need or making ~~him or her~~ the person in need a public charge~~,~~ shall be obligated to support the ~~needy~~ person in need at ~~his or her~~ the person's own expense for as long as the ~~needy~~ person in need or persons dependent on the ~~needy~~ person in need remain in the State.

(b) The Commissioner may bring a civil action on this statute to enforce support of the ~~needy~~ person in need and ~~his or her~~ the person's dependents. In the action, the court may make an order, which shall be subject to change by the court from time to time as the circumstances require, directing the defendant to pay a certain sum periodically to the Department for the benefit of the ~~needy~~ person in need and ~~his or her~~ the person's dependents residing in the State. The court may punish for violation of the order as for contempt.

§ 143. GENERAL PENALTY

(a) A person who knowingly violates a provision of this title for which no penalty is specifically provided shall:

(1) if the assistance or benefits obtained pursuant to a single fraudulent scheme or a course of conduct are in violation of subsection 141(a) ~~or (b)~~ of this title involving $1,000.00 or less, be fined not more than the amount of assistance or benefits wrongfully obtained or be imprisoned not more than one year, or both;

(2) if the assistance or benefits obtained pursuant to a single fraudulent scheme or course of conduct are in violation of subsection (a) ~~or (b)~~ of section 141 of this title and involve more than $1,000.00, be fined not more than an amount equal to the assistance or benefits wrongfully obtained or be imprisoned not more than three years, or both; or

(3) if the violation is under subsection ~~(c), (d),~~ 141(d) or (e) ~~of section 141~~ of this title, be fined up to $1,000.00 or up to an amount equal to twice the amount of assistance, benefits, or payments wrongfully obtained~~,~~ or be imprisoned for not more than 10 years, or both.

(b) If the person convicted is receiving assistance, benefits, or payments, the Commissioner for Children and Families or the Commissioner of Vermont Health Access may recoup the amount of assistance or benefits wrongfully obtained by reducing the assistance, benefits, or payments periodically paid to the recipient, as limited by federal law, until the amount is fully recovered.

(c) ~~If a provider of services is convicted of a violation of subsection 141(d) or (e) of this title, the Commissioner of Vermont Health Access shall, within 90 days of the conviction, suspend the provider from further participation in the medical assistance program administered under Title XIX of the Social Security Act for a period of four years. The suspension required by this subsection may be waived by the Secretary of Human Services only upon a finding that the recipients served by the convicted provider would suffer substantial hardship through a denial of medical services that could not reasonably be obtained through another provider.~~ [Repealed.]

§ 143a. CIVIL REMEDIES

(a) A person who violates subsection 141~~(c),~~ (d)~~,~~ or (e) of this title with actual knowledge may be subject to a civil suit by the Attorney General for:

(1) restitution of the amount of assistance, benefits, or payments wrongfully obtained;

(2) interest; and

(3) a civil penalty of up to three times the amount of the wrongfully obtained assistance, benefits, or payments; or $500.00 per false claim; or $500.00 for each false document submitted in support of a false claim, whichever is greatest.

(b) The remedies provided in this section shall be in addition to any other remedies provided by law.

(c) The right to a jury trial shall attach to actions under this section.

§ 143b. ~~EDUCATION AND INFORMATION~~

~~By January 1, 2005, the Department of Vermont Health Access shall issue rules establishing a procedure for health care providers enrolled in State and federally funded medical assistance programs to obtain advisory opinions regarding coverage and reimbursement under those programs. Each advisory opinion issued by the Department of Vermont Health Access shall be binding on that Department and the party or parties requesting the opinion only with regard to the specific questions posed in the opinion, the facts and information set forth in it, and the statutes and rules specifically noted in the opinion.~~ [Repealed.]

§ 144. STATUTORY CONSTRUCTION

(a) ~~Section 143 of this title shall not preclude prosecution under 13 V.S.A. § 1801, 1802, or 2002 when the alleged violation involves forging an economic assistance check or where duplicate economic assistance checks have been wrongfully negotiated during any one welfare period.~~ [Repealed.]

(b) Section 143 of this title shall not preclude prosecution under any other title or sections of this title when the alleged violation is under subsection 141~~(c) or~~ (d) of this title.

* * *

Sec. 48. 33 V.S.A. chapter 2 is added to read:

CHAPTER 2. DEPARTMENT OF ECONOMIC EMPOWERMENT

Subchapter 1. Policy, Organization, Powers, and Duties

§ 201. POLICY

It is the policy of the State of Vermont that:

(1) Its social and child welfare programs shall provide assistance and benefits to persons of the State in proven need thereof and eligible for such assistance and benefits under the provisions of this title.

(2) It is the purpose of its social and child welfare laws to establish and support programs that contribute to the prevention of dependency and social maladjustment and contribute to the rehabilitation and protection of persons of the State.

(3) Assistance and benefits shall be administered promptly, with due regard for the preservation of family life, and without restriction of individual rights or discrimination on account of gender, race, age, religion, ethnicity, sexual orientation, gender identity, political affiliation, disability status, primary language, or place of residence within the State.

(4) Assistance and benefits shall be so administered as to maintain and encourage dignity, self-respect, and self-reliance. It is the legislative intent that assistance granted shall be adequate to maintain a reasonable standard of health and decency based on current cost of living indices. Notwithstanding this subdivision, the Department shall amend rules that establish new maximum Reach Up grant amounts only when the General Assembly has taken affirmative action to increase or decrease the Reach Up financial assistance appropriation.

(5) The programs of the Department of Economic Empowerment shall be designed to strengthen family life for the care and protection of children and to assist and encourage the use by any family of all available personal and reasonable community resources to this end.

§ 202. DEFINITIONS AND CONSTRUCTION

(a) As used in this chapter:

(1) "Aid" means financial assistance.

(2) "Assistance," when not modified by an adjective, means general assistance or public assistance, or both.

(3) "Benefits" means aid or commodities furnished under chapter 17 of this title.

(4) "Commissioner" means the Commissioner of Economic Empowerment.

(5) "Department" means the Department of Economic Empowerment.

(6) "Federal department" or "federal agency" means a department or agency of the United States of America.

(7) "Guardian" means a legal guardian appointed by a Probate Division of the Superior Court or by a court in a divorce or other proceeding or action.

(8) "Public assistance" means aid provided by the Department under Title IV, XVI, or XIX of the Social Security Act.

(9) "Regulation" means a rule or regulation.

(10) "Social Security Act" means the federal Social Security Act and regulations promulgated under the Act, as amended at any time.

(b) The laws relating to the Department of Economic Empowerment and its programs shall be construed liberally to carry out the policies stated in this chapter.

§ 203. COMPOSITION OF DEPARTMENT

The Department of Economic Empowerment, created pursuant to 3 V.S.A. §§ 212 and 3098, shall consist of the Commissioner of Economic Empowerment and all divisions, councils, boards, committees, and offices within the Department.

§ 204. FUNCTION AND POWERS OF DEPARTMENT

(a) The Department shall administer all laws specifically assigned to it for administration.

(b) In addition to other powers vested in it by law, the Department may do all of the following:

(1) Provide for the administration of the following programs and services:

(A) aid to the aged, blind, and disabled;

(B) Reach Up financial assistance and support services;

(C) federal Supplemental Nutrition Assistance Program benefits;

(D) General Assistance;

(E) medical assistance; and

(F) public assistance programs funded with State general funds or the Temporary Assistance to Needy Families (TANF) block grant.

(2) Cooperate with the appropriate federal agencies in receiving, to the extent available, federal funds in support of programs that the Department administers.

(3) Submit plans and reports, adopt rules, and in other respects comply with the provisions of the Social Security Act that pertain to programs administered by the Department.

(4) Receive and disburse funds that are assigned, donated, or bequeathed to it for charitable purposes or for the benefit of recipients of assistance, benefits, or social services. This subdivision shall not be construed to require the Department to accept funds or trusts when the Commissioner, with the approval of the Governor, considers it in the best interests of the State to refuse them.

(5) Receive in trust and expend, in accordance with the provisions of the trust, funds, and property assigned, donated, devised, or bequeathed to it for charitable purposes or for the benefit of recipients of assistance, benefits, or social services. Trust funds accepted by the Department shall be safely invested by the State Treasurer. Real property received in trust may, at the discretion of the Commissioner, be administered by the Department of Buildings and General Services of the Agency of Administration. This subdivision shall not be construed to require the Department to accept funds or trusts when the Commissioner, with the approval of the Governor, considers it in the best interests of the State to refuse them.

(6) Aid and assist in charitable work as in the judgment of the Commissioner will best promote the general welfare of the State.

(7) Visit all institutions, homes, places, and establishments soliciting public support and located in the State that are devoted to or used for the care of persons in need.

(8) Visit all institutions, homes, places, and establishments providing room, board, or care to persons receiving social services or benefits from the Department.

§ 205. COMMISSIONER; APPOINTMENT, TERM, DUTIES, AND POWERS

(a) The Commissioner may exercise the powers and perform duties required for effective administration of the Department and shall determine the policies of the Department.

(b) In addition to other duties imposed by law, the Commissioner shall:

(1) administer the laws assigned to the Department;

(2) fix standards and adopt rules necessary to administer those laws and for the custody and preservation of records of the Department; and

(3) appoint all necessary assistants, prescribe their duties, and adopt rules necessary to ensure that the assistants shall hold merit system status while in the employ of the Department unless otherwise specifically provided by law.

(c) The Commissioner or the Governor, whenever the federal law so provides, may cooperate with the federal government in providing relief and work relief and community work and training programs in the State.

(d) Notwithstanding any other provision of law, the Commissioner may delegate to any appropriate employee of the Department any of the administrative duties and powers imposed on the Commissioner by law, with the exception of the duties and powers enumerated in this section. The delegation of authority and responsibility shall not relieve the Commissioner of accountability for the proper administration of the Department.

Subchapter 2. General Administrative Provisions

§ 211. RECORDS; RESTRICTIONS; PENALTIES

(a) The names of or information pertaining to applicants for or recipients of assistance or benefits, including information obtained under section 212 of this title, shall not be disclosed to anyone, except for the purposes directly connected with the administration of the Department or when required by law.

(b) A person shall not publish, use, disclose, or divulge any of those records for purposes not directly connected with the administration of programs of the Department or contrary to rules adopted by the Commissioner.

§ 212. BANKS AND AGENCIES TO FURNISH INFORMATION

(a) An officer of a financial institution, as described in 8 V.S.A. § 11101(32); a credit union; or an independent trust company in this State, when requested by the Commissioner, shall furnish the Commissioner information in the possession of the bank or company with reference to any person or the person's spouse who is applying for or is receiving assistance or

benefits from the Department.

(b) Any governmental official or agency in the State, when requested by the Commissioner, shall furnish to the Commissioner information in the official's or agency's possession with reference to aid given or money paid or to be paid to any person or person's spouse who is applying for or is receiving assistance or benefits from the Department.

(c) The Commissioner of Taxes, when requested by the Commissioner of Economic Empowerment, and unless otherwise prohibited by federal law, shall compare the information furnished by an applicant or recipient of assistance with the State income tax returns filed by such person and shall report the Commissioner of Taxes' findings to the Commissioner of Economic Empowerment. Each application for assistance shall contain a form of consent, executed by the applicant, granting permission to the Commissioner of Taxes to disclose such information to the Commissioner for Economic Empowerment.

§ 212a. FINANCIAL INSTITUTIONS TO FURNISH INFORMATION; ASSET VERIFICATION

(a)(1) A financial institution, when requested by Department, shall furnish to the Commissioner or the Commissioner's designee information in the possession of the financial institution about the assets of any applicant who is applying for or is receiving assistance or benefits from the Department or the applicant's spouse. The Department shall issue instructions to the financial institution detailing the nature of the request and the information necessary to satisfy the request.

(2) A financial institution or employee of a financial institution shall not be subject to criminal or civil liability for actions taken in accordance with this subsection.

(b)(1) Each application for assistance or benefits submitted to the Department shall contain a form of authorization, executed by the applicant, granting authority for the Department and its authorized agents to obtain financial information about the applicant's assets from financial intuitions in order to verify the applicant's eligibility for the applicable program. The Department or its authorized agent shall obtain the applicant's authorization prior to requesting the applicant's financial information from any financial institution.

(2) The Department shall ensure the applicant receives notice written in plain language explaining the Department's electronic asset verification system.

(c) In the event that the financial information of an applicant's spouse is required to determine an applicant's eligibility for a program, the Department shall provide written notice regarding the asset verification process to the spouse and shall obtain the spouse's written authorization for the Department and its agents to obtain the spouse's financial information from financial institutions prior to requesting the spouse's financial information from any financial institution. The Department may determine an applicant to be ineligible if the applicant's spouse refuses to provide or revokes consent.

(d) As used in this section:

(1) "Bank" has the same meaning as in 8 V.S.A. § 11101.

(2) "Broker-dealer" has the same meaning as in 9 V.S.A. § 5102.

(3) "Credit union" has the same meaning as in 8 V.S.A. § 30101.

(4) "Financial institution" means any Vermont financial institution, state financial institution, and national financial institution, including a bank, credit union, broker-dealer, investment advisor, mutual fund, or investment company.

(5) "Investment advisor" has the same meaning as in 9 V.S.A. § 5102.

(6) "Mutual fund" has the same meaning as in 8 V.S.A. § 3461.

§ 214. ALLOCATION OF PAYMENTS WHEN APPROPRIATION INSUFFICIENT

Should the funds available for assistance be insufficient to provide assistance to all those eligible, the amounts of assistance granted in any program or portion thereof shall be reduced equitably, in the discretion of the Commissioner of Economic Empowerment or the Commissioner of Vermont Health Access by rule.

Subchapter 3. Provisions of General Applicability

§ 221. CANCELLATION OF ASSISTANCE OR BENEFITS

If at any time the Commissioner of Economic Empowerment or the Commissioner of Vermont Health Access has reason to believe that assistance or benefits have been improperly obtained, the Commissioner shall cause an investigation to be made and may suspend assistance or benefits pending the investigation. If on investigation the Commissioner of Economic Empowerment or the Commissioner of Vermont Health Access is satisfied that the assistance or benefits were illegally obtained, the Commissioner shall immediately cancel them. A person having illegally obtained assistance or benefits shall not be eligible for reinstatement until the person's need has been reestablished.

§ 222. RECOVERY OF PAYMENTS

(a) The amount of assistance or benefits may be changed or cancelled at any time if the Commissioner of Economic Empowerment or the Commissioner of Vermont Health Access finds that the recipient's circumstances have changed. Upon granting assistance or benefits, the Department of Economic Empowerment or the Department of Vermont Health Access shall inform the recipient that changes in the recipient's circumstances must be promptly reported to the Department.

(b) When on the death of a person receiving assistance it is found that the recipient possessed income or property in excess of that reported to the Department of Economic Empowerment or the Department of Vermont Health Access, up to double the total amount of assistance in excess of that to which the recipient was lawfully entitled may be recovered by the Commissioner of Economic Empowerment or the Commissioner of Vermont Health Access as a preferred claim from the estate of the recipient. The Commissioner of Economic Empowerment or the Commissioner of Vermont Health Access shall calculate the amount of the recovery by applying the legal interest rate to the amount of excess recovery paid, except that the recovery shall be capped at double the excess assistance paid.

(c) When the Commissioner of Economic Empowerment or the Commissioner of Vermont Health Access finds that a recipient of benefits received assistance in excess of that to which the recipient was lawfully entitled because the recipient possessed income or property in excess of Department standards, the Commissioner of Economic Empowerment or the Commissioner of Vermont Health Access may take actions to recover the overpayment.

(d) In the event of recovery, an amount may be retained by the Commissioner of Economic Empowerment or the Commissioner of Vermont Health Access in a special fund for use in offsetting program expenses, and an amount equivalent to the pro rata share to which the United States of America is equitably entitled shall be paid promptly to the appropriate federal agency.

§ 224. INALIENABILITY OF ASSISTANCE PAYMENTS

All rights to and all monies or orders granted to persons as assistance shall be inalienable by assignment, transfer, attachment, trustee process, execution, or otherwise. In case of bankruptcy, the assistance shall not pass to or through a trustee or other person acting on behalf of creditors.

Subchapter 4. Prohibited Practices; Penalties

§ 241. FRAUD

(a) A person who knowingly fails, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose a material fact used to determine whether that person is qualified to receive aid or benefits under a State or federally funded assistance program; or who knowingly fails to disclose a change in circumstances in order to obtain or continue to receive aid or benefits to which the person is not entitled or in an amount larger than that to which the person is entitled; or who knowingly aids and abets another person in the commission of any such act shall be punished as provided in section 143 of this title.

(b) A person who knowingly uses, transfers, acquires, traffics, alters, forges, or possesses; or who knowingly attempts to use, transfer, acquire, traffic, alter, forge, or possess; or who knowingly aids and abets another person in the use, transfer, acquisition, traffic, alteration, forgery, or possession of a Supplemental Nutrition Assistance Program benefit card, authorization for the purchase of Supplemental Nutrition Assistance Program benefits, certificate of eligibility for medical services, or State health care program identification card in a manner not authorized by law shall be punished as provided in section 143 of this title.

(c) A person who administers a State or federally funded assistance program who fraudulently misappropriates, attempts to misappropriate, or aids and abets in the misappropriation of a Supplemental Nutrition Assistance Program benefit, authorization for Supplemental Nutrition Assistance Program benefits, a Supplemental Nutrition Assistance Program benefit identification card, certificate of eligibility for prescribed medicine, State health care program identification card, or assistance from any other State or federally funded program with which the person has been entrusted or of which the person has gained possession by virtue of the person's position; or who knowingly misappropriates, attempts to misappropriate, or aids or abets in the misappropriation of funds given in exchange for Supplemental Nutrition Assistance Program benefits shall be punished as provided in section 143 of this title.

(d) A person who knowingly files, attempts to file, or aids and abets in the filing of a claim for services to a recipient of benefits under a State or federally funded assistance program for services that were not rendered; or who knowingly files a false claim or a claim for unauthorized items or services under such a program; or who knowingly bills the recipient of benefits under such a program or the recipient's family for an amount in excess of that

provided for by law or regulation; or who knowingly fails to credit the State or its agent for payments received from Social Security, insurance, or other sources; or who in any way knowingly receives, attempts to receive, or aids and abets in the receipt of unauthorized payment as provided herein shall be punished as provided in section 143 of this title.

(e) A person providing service for which compensation is paid under a State or federally funded assistance program who requests, and receives, either actually or constructively, any payment or contribution through a payment, assessment, gift, devise, bequest, or other means, whether directly or indirectly, from either a recipient of assistance from the assistance program or from the family of the recipient shall notify the Commissioner of Economic Empowerment or the Commissioner of Vermont Health Access, on a form provided by the Commissioner, of the amount of the payment or contribution and of such other information as specified by the Commissioner of Economic Empowerment or the Commissioner of Vermont Health Access within 10 days after the receipt of the payment or contribution or, if the payment or contribution is to become effective at some time in the future, within 10 days after the consummation of the agreement to make the payment or contribution. Failure to notify the Commissioner of Economic Empowerment or the Commissioner of Vermont Health Access within the time prescribed is punishable as provided in section 143 of this title.

(f) Repayment of assistance or services wrongfully obtained shall not constitute a defense to or ground for dismissal of criminal charges brought under this section.

§ 242. BRINGING PERSON IN NEED INTO THE STATE

(a) Any person who knowingly brings or causes to be brought a person in need from out of the state into this State for the purpose of securing assistance for the person in need or making the person in need a public charge shall be obligated to support the person in need at the person's own expense for as long as the person in need or persons dependent on the person in need remain in the State.

(b) The Commissioner may bring a civil action on this statute to enforce support of the person in need and the person's dependents. In the action, the court may make an order, which shall be subject to change by the court from time to time as the circumstances require, directing the defendant to pay a certain sum periodically to the Department for the benefit of the person in need and the person's dependents residing in the State. The court may punish for violation of the order as for contempt.

§ 243. GENERAL PENALTY

(a) A person who knowingly violates a provision of this title for which no penalty is specifically provided shall:

(1) if the assistance or benefits obtained pursuant to a single fraudulent scheme or a course of conduct are in violation of subsection 241(a) or (b) of this title involving $1,000.00 or less, be fined not more than the amount of assistance or benefits wrongfully obtained or be imprisoned not more than one year, or both;

(2) if the assistance or benefits obtained pursuant to a single fraudulent scheme or course of conduct are in violation of subsection 241(a) or (b) of this title and involve more than $1,000.00, be fined not more than an amount equal to the assistance or benefits wrongfully obtained or be imprisoned not more than three years, or both; or

(3) if the violation is under subsection 241(c), (d), or (e) of this title, be fined up to $1,000.00 or up to an amount equal to twice the amount of assistance, benefits, or payments wrongfully obtained or be imprisoned for not more than 10 years, or both.

(b) If the person convicted is receiving assistance, benefits, or payments, the Commissioner of Economic Empowerment or the Commissioner of Vermont Health Access may recoup the amount of assistance or benefits wrongfully obtained by reducing the assistance, benefits, or payments periodically paid to the recipient, as limited by federal law, until the amount is fully recovered.

(c) If a provider of services is convicted of a violation of subsection 241(d) or (e) of this title, the Commissioner of Vermont Health Access shall, within 90 days following the conviction, suspend the provider from further participation in the medical assistance program administered under Title XIX of the Social Security Act for a period of four years. The suspension required by this subsection may be waived by the Secretary of Human Services only upon a finding that the recipients served by the convicted provider would suffer substantial hardship through a denial of medical services that could not reasonably be obtained through another provider.

§ 243a. CIVIL REMEDIES

(a) A person who violates subsection 241(c), (d), or (e) of this title with actual knowledge may be subject to a civil suit by the Attorney General for:

(1) restitution of the amount of assistance, benefits, or payments wrongfully obtained;

(2) interest; and

(3) a civil penalty of up to three times the amount of the wrongfully obtained assistance, benefits, or payments; $500.00 per false claim; or $500.00 for each false document submitted in support of a false claim, whichever is greatest.

(b) The remedies provided in this section shall be in addition to any other remedies provided by law.

(c) The right to a jury trial shall attach to actions under this section.

§ 243b. EDUCATION AND INFORMATION

The Department of Vermont Health Access shall issue rules establishing a procedure for health care providers enrolled in State and federally funded medical assistance programs to obtain advisory opinions regarding coverage and reimbursement under those programs. Each advisory opinion issued by the Department of Vermont Health Access shall be binding on that Department and the party or parties requesting the opinion only with regard to the specific questions posed in the opinion, the facts and information set forth in it, and the statutes and rules specifically noted in the opinion.

§ 244. STATUTORY CONSTRUCTION

(a) Section 243 of this title shall not preclude prosecution under 13 V.S.A. § 1801, 1802, or 2002 when the alleged violation involves forging an economic assistance check or where duplicate economic assistance checks have been wrongfully negotiated during any one welfare period.

(b) Section 243 of this title shall not preclude prosecution under any other title or sections of this title when the alleged violation is under subsection 241(c) or (d) of this title.

Sec. 49. 33 V.S.A. § 1001 is amended to read:

§ 1001. DEFINITIONS

As used in this chapter:

* * *

(8) "Commissioner" means the Commissioner ~~for Children and Families or his or her~~ of Economic Empowerment or designee.

(9) "Department" means the Department ~~for Children and Families~~ of Economic Empowerment.

* * *

Sec. 50. 33 V.S.A. § 1101 is amended to read:

§ 1101. DEFINITIONS

As used in this chapter:

* * *

(8) "Commissioner" means the Commissioner ~~for Children and Families or his or her~~ of Economic Empowerment or designee.

(9) "Department" means the Department ~~for Children and Families~~ of Economic Empowerment.

* * *

Sec. 51. 33 V.S.A. § 1107 is amended to read:

§ 1107. CASE MANAGEMENT; FAMILY DEVELOPMENT PLANS; COORDINATED SERVICES

* * *

(d) The Secretary of Education, with the assistance and support of the Commissioner ~~for Children and Families~~ of Economic Empowerment, the Commissioner of Disabilities, Aging, and Independent Living, and the Commissioner of Labor, shall develop and implement comparable and reciprocally recognized literacy assessment protocols that will be used for all clients seeking adult education and literacy services; related services of the Agency of Education; or the services of the Department of Disabilities, Aging, and Independent Living, the Department of Labor, or the Department ~~for Children and Families~~ of Economic Empowerment, when such services are being sought for the purpose of developing or strengthening competencies or skills related to the clients' current or future employment. Such protocols shall, to the extent practicable, utilize the same terminology and apply comparable criteria, consistent with individual program purposes and authorization, in determining when testing, other standardized measurement tools, or referrals to relevant professionals for evaluation or diagnosis are appropriate.

* * *

Sec. 52. 33 V.S.A. § 1201 is amended to read:

§ 1201. DEFINITIONS

As used in this chapter:

* * *

(4) "Commissioner" means the Commissioner ~~for Children and Families~~

~~or his or her~~ of Economic Empowerment or designee.

(5) "Department" means the Department ~~for Children and Families~~ of Economic Empowerment.

* * *

Sec. 53. 33 V.S.A. § 1301 is amended to read:

§ 1301. ELIGIBILITY REQUIREMENTS–; GENERAL

To be eligible for State aid to the aged, blind, or disabled, in addition to the requirements in sections 1301–1303 of this chapter governing eligibility for a specific program, an individual shall:

* * *

(4) Not have sufficient income or other resources to provide a reasonable subsistence compatible with decency and health, and not be receiving or able to secure support from persons legally responsible for the individual's support. In determining whether the income of an applicant for or a recipient of aid is sufficient, the Department ~~for Children and Families~~ of Economic Empowerment may disregard, within the limits of available funds, income used to further the purposes of rehabilitation and self-support.

Sec. 54. 33 V.S.A. § 1306 is amended to read:

§ 1306. APPLICATION AND INVESTIGATION

Applications for State aid to the aged, blind, or disabled may be made at any office of the Department ~~for Children and Families~~ of Economic Empowerment. Upon receipt of an application, the Commissioner ~~for Children and Families~~ of Economic Empowerment shall investigate and prescribe the amount of the grant to be given, if any. No individual shall receive more than one type of grant or aid under this chapter.

Sec. 55. 33 V.S.A. § 1307 is amended to read:

§ 1307. AMOUNT OF STATE AID

The amount of State aid to which an eligible individual is entitled shall be determined with due regard to the income, resources, and maintenance available to the individual and, when an eligible individual lives with the individual's ineligible spouse or ~~a needy~~ an essential person in need, or both, as defined by the Commissioner, with due regard to the needs of the ineligible spouse and with due regard to the needs, income, and resources of the ~~needy~~ essential person in need. To the extent funds are available, aid shall provide a reasonable subsistence compatible with decency and health. The Commissioner ~~for Children and Families~~ of Economic Empowerment may by

rule fix maximum amounts of aid and take measures to ensure that the expenditures for the programs shall not exceed the funds provided for them.

Sec. 56. 33 V.S.A. § 1308 is amended to read:

§ 1308. RULES

In fixing standards and adopting rules under this chapter, the Commissioner ~~for Children and Families~~ of Economic Empowerment shall be guided by the statutory standards set forth in this chapter, which standards shall not be deemed necessarily to incorporate by reference decisional or statutory law applicable to the aid to the aged, blind, and disabled program in effect prior to January 1, 1974.

Sec. 57. 33 V.S.A. § 1701 is amended to read:

§ 1701. SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM

* * *

(d) As used in this chapter, "Commissioner" means the Commissioner ~~for Children and Families~~ of Economic Empowerment and "Department" means the Department ~~for Children and Families~~ of Economic Empowerment.

Sec. 58. 33 V.S.A. § 1702 is amended to read:

§ 1702. PAYMENT ERROR RATE REPORT

On or before January 1 of the year following any federal fiscal year in which the State of Vermont receives a federal sanction for a payment error rate greater than the federal threshold in the Supplemental Nutrition Assistance Program (SNAP), the Department ~~for Children and Families~~ of Economic Empowerment shall report to the Senate Committee on Appropriations regarding:

(1) the number of households that received SNAP benefits and were discovered to have an overpayment or underpayment in the sanction year due to agency error, including the average amount of the overpayments and underpayments and the total amount of each; and

(2) the Department's specific plans for sanction reinvestment to improve its error rate for the next federal fiscal year and prevent sanction in the future.

Sec. 59. 33 V.S.A. § 1901b is amended to read:

§ 1901b. PHARMACY PROGRAM ENROLLMENT

(a) The Department of Vermont Health Access and the Department ~~for Children and Families~~ of Economic Empowerment shall monitor actual

caseloads, revenue, and expenditures; anticipated caseloads, revenue, and expenditures; and actual and anticipated savings from implementation of the preferred drug list, supplemental rebates, and other cost containment activities in each State pharmaceutical assistance program, including VPharm. When applicable, the Departments shall allocate supplemental rebate savings to each program proportionate to expenditures in each program.

* * *

Sec. 60. 33 V.S.A. § 2101 is amended to read:

§ 2101. DEFINITIONS

As used in this chapter:

(1) "Commissioner" means the Commissioner ~~for Children and Families~~ of Economic Empowerment.

* * *

Sec. 61. 33 V.S.A. § 2103 is amended to read:

§ 2103. ELIGIBILITY

(a) Consistent with available appropriations, the Department ~~for Children and Families~~ of Economic Empowerment shall furnish General Assistance under this chapter, except as provided in this section, to any otherwise eligible individual unable to provide the necessities of life for the individual and for those whom the individual is legally obligated to support. Except for those in catastrophic situations as defined in rules, no General Assistance shall be provided in the following situations:

(1) to any individual whose income from any source, including the Department ~~for Children and Families~~ of Economic Empowerment, during the 30 days immediately preceding the date on which assistance is sought is equal to the General Assistance eligibility standard; and

(2) to any able-bodied individual without minor dependents included in ~~his or her~~ the individual's application.

* * *

(e) As used in this section, "able-bodied individual" does not include a person subject to such conditions as are determined, by rule of the Commissioner ~~for Children and Families~~ of Economic Empowerment, to constitute barriers to employment.

(f) [Repealed.]

Sec. 62. 33 V.S.A. § 2114 is amended to read:

§ 2114. RENTAL OR MORTGAGE ARREARAGE PROGRAM

(a) The Department ~~for Children and Families~~ of Economic Empowerment shall provide up to three months of rental or mortgage arrearage assistance to eligible families. Assistance under this section is not an entitlement and shall be limited to the funds appropriated.

* * *

Sec. 63. 33 V.S.A. § 2115 is amended to read:

§ 2115. GENERAL ASSISTANCE PROGRAM REPORT

On or before September 1 of each year, the Commissioner ~~for Children and Families~~ of Economic Empowerment shall submit a written report to the Joint Fiscal Committee; the House Committees on Appropriations, on General~~,~~ and Housing~~, and Military Affairs~~, and on Human Services; and the Senate Committees on Appropriations and on Health and Welfare. The report shall contain the following:

* * *

Sec. 64. 33 V.S.A. § 2301 is amended to read:

§ 2301. BURIAL RESPONSIBILITY

* * *

(d) As used in this chapter:

(1) "Burial" means the final disposition of human remains, including interring or cremating a decedent and the ceremonies directly related to that cremation or interment at the gravesite.

(2) "Department" means the Department ~~for Children and Families~~ of Economic Empowerment.

(3) "Funeral" means the ceremonies prior to burial by interment, cremation, or other method.

Sec. 65. 33 V.S.A. § 2607 is amended to read:

§ 2607. PAYMENTS TO FUEL SUPPLIERS

* * *

(g)(1) The Public Utility Commission shall require natural gas suppliers subject to regulation under 30 V.S.A. § 203 to provide a discount program to customers with incomes ~~no~~ not greater than 200 percent of the federal poverty level or who meet the Department ~~for Children and Families'~~ of Economic

Empowerment's means test of eligibility for LIHEAP crisis fuel assistance. Eligibility for the discount shall be verified by the Department ~~for Children and Families~~ of Economic Empowerment.

* * *

Sec. 66. 33 V.S.A. § 3901 is amended to read:

§ 3901. DEFINITIONS

As used in this chapter:

(1) "Order of support" means any judgment or order for the support of dependent children issued by any court of the State of Vermont or another state or an order under an administrative proceeding of another state, including an order in a final decree of divorce.

(2) "Custodial parent" means any person with whom a dependent child actually resides, whether or not the parent is receiving public assistance benefits under chapter 11 of this title, or the Commissioner for Children and Families if the dependent child is under the care and control of ~~that~~ the Department for Children and Families.

(3) "Department" means the Vermont Department ~~for Children and Families~~ of Economic Empowerment.

* * *

Sec. 67. 33 V.S.A. § 3902 is amended to read:

§ 3902. ASSIGNMENT OF SUPPORT RIGHTS BY PUBLIC ASSISTANCE RECIPIENTS; PROCEEDINGS TO ESTABLISH SUPPORT OBLIGATION

(a) As a condition of eligibility for public assistance, each applicant or recipient shall assign to the Department any right to support from a responsible parent that has accrued at the time of the assignment and that the applicant may have in the applicant's own behalf or on behalf of any other family member for whom the applicant is applying or receiving assistance.

(b) An assignment in effect under this section shall be subject to the provisions of section 4106 of this title.

(c) Whenever a support obligation is in effect against a responsible parent for the benefit of a dependent child or a custodial parent, payments required under the support obligation shall be sent to the Office of Child Support upon notice to the responsible parent, without further order of the court. When an assignment is in effect pursuant to subsection (a) of this section, any amounts accrued under the support obligation as of the date of assignment, and any

amount accruing while the assignment is in effect, shall be owing to and payable to the Department ~~for Children and Families~~ without further order of the court.

* * *

(e) If a support order has been entered and the legal custodian and obligee relinquishes physical responsibility of the child to a caretaker without modifying the physical rights and responsibilities order, the Office of Child Support may change the payee of support upon the caretaker's receipt of Reach Up family assistance from the Department ~~for Children and Families~~. The obligor's obligation under the support order to pay child support and medical support continues but shall be payable to the Office of Child Support upon the caretaker's receipt of Reach Up family assistance and shall continue ~~so~~ for as long as the assignment is in effect. The Office of Child Support shall notify the obligor and obligee under the support order, by first-class mail at last known address, of the change of payee.

Sec. 68. 33 V.S.A. § 3903 is amended to read:

§ 3903. CHILD SUPPORT DEBT

(a) Except as otherwise provided in this section, any payment of Reach Up financial assistance made to or for the benefit of a dependent child creates a debt due and owing to the Department ~~for Children and Families~~ by any responsible parent in an amount equal to the amount of Reach Up financial assistance paid.

(b) Collection of child support debts shall be made as provided by this section and section 3902 of this title and by 15 V.S.A. chapter 11, subchapter 7. Regardless of the amount of Reach Up financial assistance paid, the court may limit the child support debt, taking into consideration the criteria of 15 V.S.A. § 659. The Department ~~for Children and Families~~ and the responsible parent may limit the child support debt by stipulation, which shall be enforceable on its terms unless it is modified.

Sec. 69. TRANSFER OF RULEMAKING AUTHORITY; TRANSFER OF RULES TO THE DEPARTMENT OF ECONOMIC EMPOWERMENT

(a) The statutory authority to adopt the following rules by the Department for Children and Families adopted under 3 V.S.A. chapter 25 is transferred from the Department for Children and Families to the Department of Economic Empowerment:

(1) Child Support Guidelines (CVR 13-161-001);

(2) OCS Administrative Review (CVR 13-161-002);

(3) Reach First Program (CVR 13-170-210);

(4) Reach Up (CVR 13-170-220);

(5) Reach Up Services (CVR 13-170-230);

(6) Postsecondary Education (CVR 13-170-240);

(7) Reach Ahead (CVR 13-170-250);

(8) General Assistance (CVR 130-170-260);

(9) Assistance to the Aged, Blind, or Disabled (CVR 130-170-270);

(10) Emergency Assistance (CVR 130-170-280);

(11) Fuel (CVR 130-170-290); and

(12) Refugee Cash Assistance (CVR 130-170-300).

(b) All rules listed in subsection (a) of this section adopted by the Department for Children and Families under 3 V.S.A. chapter 25 prior to July 1, 2024 shall be deemed the rules of the Department of Economic Empowerment and remain in effect until amended or repealed by the Department of Economic Empowerment pursuant to 3 V.S.A. chapter 25.

(c) The Department of Economic Empowerment shall provide notice of the transfer to the Secretary of State and the Legislative Committee on Administrative Rules in accordance with 3 V.S.A. § 848(d)(2).

* * * Parental Leave Benefit Program * * *

Sec. 70. 21 V.S.A. § 472 is amended to read:

§ 472. LEAVE

* * *

(b) During the leave, at the employee's option, the employee may use accrued sick leave ~~or~~, vacation leave, or any other accrued paid leave, not to exceed six weeks. In lieu of using sick leave, vacation leave, or other accrued paid leave, an employee may use parental leave benefits provided pursuant to 33 V.S.A. § 2001 not to exceed 12 weeks. Accrued paid leave and parental leave benefits provided pursuant to 33 V.S.A. § 2001 may be used sequentially but not concurrently. Utilization of accrued paid leave or parental leave benefits provided pursuant to 33 V.S.A. § 2001, or both, shall not extend the leave provided ~~herein~~ by this section.

* * *

Sec. 71. 33 V.S.A. chapter 20 is added to read:

CHAPTER 20. PARENTAL LEAVE BENEFIT PROGRAM

§ 2001. PARENTAL LEAVE BENEFIT PROGRAM

(a)(1) An eligible parent who is employed prior to the birth or adoption of a child and who intends to return to employment either with the same employer or a new employer after a parental leave may apply to the Department of Children and Families to receive a parental leave benefit for up to 12 weeks during which the eligible parent is caring for the child and unable to work. Only one eligible parent in a two-parent household shall apply for and receive the parental leave benefit established in this section. The benefits provided pursuant to this section shall be available for leaves that begin on or after January 1, 2024.

(2)(A) The weekly benefit provided to an eligible parent shall be $600.00 or the average weekly wage of the eligible parent during the six month period preceding the commencement of the leave, whichever is less.

(B) The benefit amount shall be calculated in increments of one full day, which shall be one-fifth of the eligible parent's weekly benefit amount.

(3) The benefit shall be paid by the Department to the eligible parent within 14 days after the Department approves the parent's application or within 14 days after the parental leave begins, whichever is last occurring, and subsequent payments shall be made biweekly.

(4) The parental leave for which the eligible parent may receive benefits shall be a single, continuous period ending within one year after the date on which the child was born or placed with the eligible parent for adoption.

(b)(1) The Department shall develop an application for the parental leave benefit using a simple, plain-language format, which shall be available in both electronic and paper formats.

(2) The Department shall develop and make available on the Department's website information and materials to educate the public regarding the availability of the parental leave benefit and the requirements to obtain the benefit.

(c)(1) To receive the parental leave benefit, an eligible parent shall submit:

(A) an application;

(B) a signed certification from the eligible parent's employer that the eligible parent is currently employed by the employer or was employed by the employer within 30 days prior to the beginning of the parental leave; and

(C) a statement of intent to return to employment or seek new employment following the parental leave.

(2) An eligible parent may submit an application with the signed certification and statement of intent to the Department in anticipation of a birth or the initial placement of a child for adoption or during the eligible parent's parental leave. The Department shall provide retroactive payments to an eligible parent provided the completed application, signed certification, and statement of intent are received not more than eight weeks after the leave began.

(d)(1) Benefits paid pursuant to this section may be used as wage replacement for a leave taken pursuant to 21 V.S.A. § 472 or the federal Family and Medical Leave Act, 29 U.S.C. §§ 2611–2654.

(2) The receipt of benefits paid pursuant to this section shall not extend the leave provided pursuant to 21 V.S.A. § 472 or the federal Family and Medical Leave Act.

(3) Nothing in this section shall be construed to alter the job protection and employment-related rights provided pursuant to 21 V.S.A. § 472 or the federal Family and Medical Leave Act or to provide job protection or employment-related rights that are in addition to the rights provided pursuant to those laws.

(e) As used in this section:

(1) "Eligible parent" means an individual whose annual gross family income is not more than 600 percent of the current federal poverty level and who is either:

(A) the parent of a child born within the preceding 12 months; or

(B) an individual with whom the initial placement of a child 10 years of age or younger for purposes of adoption has occurred within the preceding 12 months.

(2) "Parent" means an individual who:

(A) is a parent to a child, regardless of whether the relationship is a biological, adoptive, or step relationship; or

(B) has day-to-day responsibilities to care for and financially support a child.

(3) "Parental leave" means a leave of absence from employment by an eligible parent following:

(A) the birth of the eligible parent's child; or

(B) the initial placement of a child 10 years of age or younger with the eligible parent for purposes of adoption.

Sec. 72. 33 V.S.A. § 2002 is amended to read:

§ 2001. PARENTAL LEAVE BENEFIT PROGRAM

(a)(1) An eligible parent who is employed prior to the birth or adoption of a child and who intends to return to employment either with the same employer or a new employer after a parental leave may apply to the Department of ~~Children and Families~~ Economic Empowerment to receive a parental leave benefit for up to 12 weeks during which the eligible parent is caring for the child and unable to work. Only one eligible parent in a two-parent household shall apply for and receive the parental leave benefit established in this section. ~~The benefits provided pursuant to this section shall be available for leaves that begin on or after January 1, 2024.~~

* * *

* * * Appropriations * * *

Sec. 73. APPROPRIATIONS

(a) In fiscal year 2024, $90,000,000.00 is appropriated from the General Fund to the Department for Children and Families for the purpose of funding the Child Care Financial Assistance Program pursuant to Secs. 2–4b of this act and the parental leave benefit pursuant to Secs. 70–71 of this act.

(b) In fiscal year 2024, $150,000.00 is appropriated to Building Bright Futures for consultation and transition assistance services required pursuant to Secs. 6 and 13 of this act.

* * * Effective Dates * * *

Sec. 74. EFFECTIVE DATES

(a) Except as provided in subsection (b) of this section, this act shall take effect on July 1, 2023, with the Department for Children and Families making child care subsidies available to Vermont residents who have an immigration status for which Child Care Financial Assistance Program participation is not available pursuant to 33 V.S.A. § 3552 beginning on July 1, 2024, subject to fiscal year 2025 appropriations for this purpose.

(b)(1) Secs. 1b and 1c (relating to an additional Deputy Secretary within the Agency of Education) shall take effect on July 1, 2024.

(2) Sec. 2 (Child Care Financial Assistance Program; eligibility), Sec. 3 (provider rate adjustment; Child Care Financial Assistance Program); Sec. 4 (payment to providers for school age children); Sec. 4a (payment to providers

for children birth through four years of age; high quality incentive program), and Sec. 4b (High-Quality Early Care and Education Special Fund) shall take effect on January 1, 2024, except that the Commissioner for Children and Families shall adopt any rules necessary prior to that date in order to perform the Commissioner's duties under this act.

(3) Secs. 14–16 (property tax exemption; property used by child care providers) shall take effect on July 1, 2024.

(4) Secs. 17–69 (relating to the reorganization of the Department for Children and Families and creation of the Department of Economic Empowerment) shall take effect on July 1, 2024.

(5) Secs. 70–71 (relating to the parental leave benefit program) shall take effect on January 1, 2024.

(6) Sec. 72 (parent leave benefit program) shall take effect on July 1, 2024.

(Committee vote: 3-2-0)

**S. 73.**

An act relating to workers' compensation coverage for firefighters with cancer.

**Reported favorably with recommendation of amendment by Senator Clarkson for the Committee on Economic Development, Housing and General Affairs.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 21 V.S.A. § 601 is amended to read:

§ 601. DEFINITIONS

~~Unless the context otherwise requires, words and phrases used in this chapter shall be construed as follows~~ As used in this chapter:

* * *

(11) "Personal injury by accident arising out of and in the course of employment" includes an injury caused by the willful act of a third person directed against an employee because of that employment.

* * *

(E) In the case of a firefighter, as defined in 20 V.S.A. § 3151(3) and (4), who dies or has a disability from a cancer listed in subdivision (iii) of this subdivision (E), the firefighter shall be presumed to have had the cancer as a

result of exposure to conditions in the line of duty, unless it is shown by a preponderance of the evidence that the cancer was caused by nonservice-connected risk factors or nonservice-connected exposure, provided:

(i)(I) the firefighter completed an initial and any subsequent cancer screening evaluations as recommended by the American Cancer Society based on the age and sex of the firefighter prior to becoming a firefighter or ~~within two years of July 1, 2007~~ while serving as a firefighter, and the evaluation indicated no evidence of cancer;

(II) the firefighter was engaged in firefighting duties or other hazardous activities over a period of at least five years in Vermont prior to the diagnosis; and

(III) the firefighter is under 65 years of age.

(ii) The presumption shall not apply to any firefighter who has used tobacco products at any time within 10 years of the date of diagnosis.

(iii) The disabling cancer shall be limited to leukemia, lymphoma, or multiple myeloma, and cancers originating in the bladder, brain, breast, colon, gastrointestinal tract, kidney, liver, pancreas, reproductive system, skin, or ~~testicles~~ thyroid.

(F) A firefighter who is diagnosed with cancer within 10 years of the last active date of employment as a firefighter shall be eligible for benefits under this subdivision. The date of injury shall be the date of the last injurious exposure as a firefighter.

(G) It is recommended that fire departments:

(i) maintain incident report records for at least 10 years; and

(ii) offer or provide annual cancer screenings to all firefighters who are employed by or who volunteer for the department.

* * *

Sec. 2. ANNUAL CANCER SCREENINGS; PERSONAL PROTECTIVE EQUIPMENT UPGRADES; REPORT

(a) On or before January 15, 2024, the Director of the Division of Fire Safety shall submit a written report to the House Committees on Appropriations, on Commerce and Economic Development, and on Government Operations and Military Affairs and the Senate Committees on Appropriations; on Economic Development, Housing and General Affairs; and on Government Operations regarding the following topics:

(1) the projected cost for the State to fund annual or biennial cancer

screenings for all career and volunteer firefighters in Vermont;

(2) the projected cost for the State to fund cancer screenings for all enrollees in the Vermont Fire Academy Firefighter I certification program prior to the commencement of training;

(3) potential opportunities for the State to reduce the cost for fire departments to provide annual cancer screenings for their firefighters;

(4) the projected cost for the State to fund the replacement of personal protective equipment for all volunteer and career firefighters on a rolling basis so that all personal protective equipment is replaced within 10 years after being acquired; and

(5) potential opportunities for the State to reduce the cost to fire departments for the replacement of personal protective equipment.

(b) The report may include recommendations for legislative action to facilitate:

(1) the early identification of cancer in firefighters;

(2) the acquisition of personal protective equipment by fire departments; and

(3) the elimination of PFAS and other carcinogens in firefighting equipment.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

(Committee vote: 5-0-0)

**S. 80.**

An act relating to miscellaneous environmental conservation subjects.

**Reported favorably with recommendation of amendment by Senator Bray for the Committee on Natural Resources and Energy.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Dam Registration and Design Standards * * *

Sec. 1. 2018 Acts and Resolves No. 161, Sec. 2 is amended to read:

Sec. 2. DAM REGISTRATION PROGRAM REPORT

On or before January 1, ~~2023~~ 2025, the Department of Environmental Conservation shall submit a report to the House Committees on ~~Natural~~

~~Resources, Fish, and Wildlife~~ Environment and Energy and on Ways and Means and the Senate Committees on Natural Resources and Energy and on Finance. The report shall contain:

(1) an evaluation of the dam registration program under 10 V.S.A. chapter 43;

(2) a recommendation on whether to modify the fee structure of the dam registration program;

(3) a summary of the dams registered under the program, organized by amount of water impounded and hazard potential classification; and

(4) an evaluation of any other dam safety concerns related to dam registration.

Sec. 2. 2018 Acts and Resolves No. 161, Sec. 3 is amended to read:

Sec. 3. ADOPTION OF RULES

The Secretary of Natural Resources shall adopt the rules required under 10 V.S.A. § 1110 as follows:

(1) the rules required under 10 V.S.A. § 1110(1) (exemptions), § 1110(3) (emergency action plan), § 1110(4) (hazard potential classification), § 1110(5) (dam registration), and § 1110(6) (dam inspection) shall be adopted on or before July 1, 2020; and

(2) the rules required under 10 V.S.A. § 1110(2) (dam design standards) shall be adopted on or before July 1, ~~2022~~ 2024.

* * * Public Waters; Encroachment * * *

Sec. 3. 29 V.S.A. § 402(7) is amended to read:

(7) "Public waters" means navigable waters excepting those waters in private ponds and private preserves as set forth in 10 V.S.A. ~~chapter 119~~ § 1442.

* * * Salvage Yards * * *

Sec. 4. 24 V.S.A. § 2248(d) is amended to read:

(d) No person may deliver salvage vehicles to or operate a mobile salvage vehicle crusher at a salvage yard that does not hold a certificate of registration under this subchapter. A salvage yard holding a certificate of registration under this subchapter shall post a copy of its current certificate in a clearly visible location in the proximity of each entrance to the salvage yard. Notwithstanding any other provision of law to the contrary, a salvage yard that does not hold a certificate of registration under this subchapter may operate a

mobile salvage vehicle crusher with a liquids collection system, in accordance with the rules adopted under this subchapter for vehicle crushing, for the purpose of closing the salvage yard after first notifying the Secretary in writing of the intent to close the salvage yard.

* * * Water Quality Financing; State Revolving Loan Funds * * *

Sec. 5. 24 V.S.A. § 4753 is amended to read:

§ 4753. REVOLVING LOAN FUNDS; AUTHORITY TO SPEND; REPORT

(a) There is hereby established a series of special funds to be known as:

(1) The Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund, which shall be used, consistent with federal law, to provide loans for planning and construction of clean water projects, including acquisitions of project-related easements, land, options to purchase land, and temporary or permanent rights-of-way, and for implementing related management programs.

* * *

(10) The Vermont Wastewater and Potable Water Revolving Loan Fund, which shall be used to provide loans to individuals, in accordance with section 4763b of this title, for the design and construction of repairs to or replacement of wastewater systems and potable water supplies when the wastewater system or potable water supply is a failed system or supply as defined in 10 V.S.A. § 1972, or when a designer demonstrates that the wastewater system or potable water supply has a high probability of failing. The amount of up to $275,000.00 from the fees collected pursuant to 3 V.S.A. § 2822(j)(4) or from the Fund established in subdivision (1) of this subsection, or a combination of both, shall be deposited into this Fund at the beginning of each fiscal year to ensure a minimum balance of available funds of $275,000.00 exists for each fiscal year.

(b)(1) Each of such funds shall be established and held separate and apart from any other funds or monies of the State and shall be used and administered exclusively for the purpose of this chapter with the exception of transferring funds from the Vermont Drinking Water Planning Loan Fund and the Vermont Drinking Water Source Protection Fund to the Vermont Environmental Protection Agency (EPA) Drinking Water State Revolving Fund, and from the Vermont Pollution Control Revolving Fund to the Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund, when authorized by the Secretary.

(2) These funds shall be administered by the Bond Bank on behalf of the State, except that:

(A) the Vermont EPA Drinking Water State Revolving Fund and the Vermont Drinking Water Planning Loan Fund shall be administered by VEDA concerning loans to privately owned public water systems in accordance with subchapter 3 of this chapter;

(B) the Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund shall be administered by VEDA concerning loans to private entities for clean water projects in accordance with subchapter 4 of this chapter; and

(C) the Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund and the Vermont Wastewater and Potable Water Revolving Loan Fund may be administered by a community development financial institution, as that term is defined in 12 U.S.C. § 4702, that is contracted with by the State for the purpose of providing loans to individuals ~~for failed wastewater systems and potable water supplies~~ in accordance with section 4763b of this chapter.

* * *

Sec. 6. 24 V.S.A. chapter 120, subchapter 2 is amended to read:

Subchapter 2. ~~Municipal~~ Loans to Municipalities and Individuals

* * *

§ 4757. REVOLVING LOAN FUNDS; ADDITIONAL USES

In addition to providing a source of funds from which loans may be made to municipalities under this chapter, each fund created under section 4753 of this chapter may be used for one or more of the following purposes:

(1) To make loans, to refund bonds or notes of a municipality issued after March 7, 1985 for sewerage works, or after July 1, 1993 for water supply systems for the purpose of financing the construction of any capital improvements or management program described in section 4753 and certified under section 4756 of this title.

(2) To guarantee or insure, directly or indirectly, the payment of notes or bonds issued or to be issued by a municipality for the purpose of financing the construction of any capital improvement or management program described in section 4754 of this title and certified under section 4756.

(3) To guarantee or insure, directly or indirectly, funds established by municipalities for the purpose of financing construction of any capital improvement described in section 4754 of this title.

(4) To invest available fund balances, and to credit the net interest

income thereon to the particular fund providing investment funds.

(5) To pay the costs of the Bond Bank, VEDA, and the agency associated with the administration of each fund; provided, however, that no more than four percent of the aggregate of the highest fund balances in any fiscal year shall be used for such purposes, and that a separate account be established outside the Drinking Water State Revolving Fund for such purposes. As used in this subsection, costs shall include fiscal, clerical, administrative, and issuance expenditures directly attributable and allocated to the maintenance implementation and administration of the loan funds created under this chapter.

(6) To pay from the Vermont Environmental Protection (EPA) Pollution Control Revolving Fund or the Vermont Wastewater and Potable Water Revolving Loan Fund the costs of administration of loans awarded under ~~subdivision 4753(a)(10)~~ section 4763b of this title.

* * *

§ 4763b. LOANS TO INDIVIDUALS FOR FAILED WASTEWATER SYSTEMS AND FAILED POTABLE WATER SUPPLIES

(a) Notwithstanding any other provision of law to the contrary, when the wastewater system or potable water supply serving only single-family and multifamily residences either meets the definition of a failed supply or system in 10 V.S.A. § 1972 or is demonstrated by a designer to have a high probability of failing, the Secretary of Natural Resources may lend monies to an owner of one or more of the residences from the Vermont Wastewater and Potable Water Revolving Loan Fund established in section 4753 of this title. In such cases, the following conditions shall apply:

(1) a loan may only be made to an owner with a household income equal to or less than 200 percent of the State average median household income;

(2) a loan may only be made to an owner who resides in one of the residences served by the failed supply or system on a year-round basis;

(3) ~~a loan may only be made to an owner who has been denied financing for the repair, replacement, or construction due to involuntary disconnection by at least one other financing entity;~~ [Repealed.]

(4) when the failed supply or system also serves residences owned by persons other than the loan applicant, a loan may only be made for an equitable share of the cost to repair or replace the failed supply or system that is determined through agreement of all of the owners of residences served by the failed system or supply;

(5) no construction loan shall be made to an individual under this subsection, nor shall any part of any revolving loan made under this subsection be expended, until all of the following take place:

(A) the Secretary of Natural Resources determines that if a wastewater system and potable water supply permit is necessary for the design and construction of the project to be financed by the loan, the permit has been issued to the owner of the failed system or supply; and

(B) the individual applying for the loan certifies to the Secretary of Natural Resources that the proposed project has secured all State and federal permits, licenses, and approvals necessary to construct and operate the project to be financed by the loan;

(6) all funds from the repayment of loans made under this section shall be deposited into the Vermont Wastewater and Potable Water Revolving Loan Fund.

(b) Notwithstanding any other provision of law to the contrary, when the wastewater system serving only single-family and multifamily residences either meets the definition of a failed system in 10 V.S.A. § 1972 or is demonstrated by a designer to have a high probability of failing, the Secretary of Natural Resources may lend monies to an owner of one or more of the residences from the Vermont Wastewater and Potable Water Revolving Loan Fund and capitalized by money that has been transferred from the Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund pursuant to subdivision 4753(a)(10) of this title, provided that no State funds are used. In such cases, all of the following conditions shall apply:

(1) A loan may only be made to an owner with a household income equal to or less than 200 percent of the State average median household income.

(2) A loan may only be made to an owner who resides in one of the residences served by the failed system on a year-round basis.

(3) A loan may only be made to an owner who demonstrates sufficient means to pay the principal and interest on the loan.

(4) A loan may only be made for a project that is a clean water project the Secretary has designated as a priority for receipt of financial assistance.

(5) When the failed system also serves residences owned by persons other than the loan applicant, a loan may only be made for an equitable share of the cost to repair or replace the failed system that is determined through agreement of all of the owners of residences served by the failed system.

(6) No construction loan shall be made to an individual under this subsection, nor shall any part of any revolving loan made under this subsection be expended, until all of the following take place:

(A) the Secretary of Natural Resources determines that if a wastewater system and potable water supply permit is necessary for the design and construction of the project to be financed by the loan, the permit has been issued to the owner of the failed system; and

(B) the individual applying for the loan certifies to the Secretary of Natural Resources that the proposed project has secured all State and federal permits, licenses, and approvals necessary to construct and operate the project to be financed by the loan.

(7) Loans shall be awarded at or below market interest rates.

(8) All funds from the repayment of loans made under this subsection shall be deposited into the Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund.

(c) Loans awarded under this section:

(1) shall include a loan repayment schedule that commences not later than one year after completion of the funded project for which loan funds have been issued; and

(2) shall not be used for the operation and maintenance expenses, or laboratory fees for monitoring, of a wastewater system or potable water supply.

(d) The Secretary of Natural Resources shall establish standards, policies, and procedures as necessary for the implementation of this section. The Secretary may establish criteria to extend the payment period of a loan or to waive all or a portion of the loan amount.

* * *

Sec. 7. 2018 Acts and Resolves No. 185, Sec. 12 is amended to read:

Sec. 12. SUSPENSION OF PRIVATE LOANS FOR CLEAN WATER PROJECTS

~~(a) Neither the Vermont Economic Development Authority (VEDA) nor the Secretary of Natural Resources shall accept, review, or act on any applications for loans to private entities under 24 V.S.A. chapter 120, subchapter 4 submitted after June 30, 2023. However, VEDA and the Secretary shall continue to review and act on initial applications submitted on or before June 30, 2023, as well as any amendments to timely initial~~

~~applications.~~

~~(b)~~ It is the intent of the General Assembly that the private loans under 24 V.S.A. chapter 120, subchapter 4, the expansion of 24 V.S.A. chapter 120 to provide funding for natural resources projects, and the sponsorship program defined at 24 V.S.A. § 4752(18) shall all be reviewed during the 2023 legislative session.

* * * Clean Water Reporting * * *

Sec. 8. 10 V.S.A. § 1264(k) is amended to read:

(k) Report on treatment practices. ~~Report on treatment practices.~~ As part of the report required under section 1389a of this title, the Secretary annually shall report the following:

(1) whether the phosphorus load from new development permitted under this section by the Secretary in the Lake Champlain watershed in the previous ~~calendar~~ State fiscal year is achieving at least a 70 percent average phosphorus load reduction;

(2) the estimated total phosphorus load reduction from new development, redevelopment, and retrofit of impervious surface permitted under this section in the previous State fiscal year; and

(3) the number of projects and the percentage of projects as a whole that implemented Tier 1 stormwater treatment practices, Tier 2 stormwater treatment practices, or Tier 3 stormwater treatment practices in the previous State fiscal year.

Sec. 9. 10 V.S.A. § 1389a(b)(6) is amended to read:

(6) Beginning on January ~~2023~~ 2024, a summary of the administration of the grant programs established under sections 925–928 of this title, including whether these grant programs are adequately funding implementation of the Clean Water Initiative and whether the funding limits for the Water Quality Enhancement Grants under subdivision 1389(e)(1)(D) of this title should be amended to improve State implementation of the Clean Water Initiative.

Sec. 10. 2019 Acts and Resolves No. 76, Sec. 7 is amended to read:

Sec. 7. RECOMMENDATIONS ON NUTRIENT CREDIT TRADING

On or before July 1, ~~2022~~ 2024, the Secretary of Natural Resources, after consultation with the Clean Water Board, shall submit to the Senate Committees on Appropriations, on Natural Resources and Energy, and on

Finance and the House Committees on Appropriations, on ~~Natural Resources, Fish, and Wildlife~~ Environment and Energy, and on Ways and Means recommendations regarding implementation of a market-based mechanism that allows the purchase of water quality credits by permittees under 10 V.S.A. chapter 47, and other entities. The report shall include information on the cost to develop and manage any recommended trading program.

* * * ANR Enforcement Practices * * *

Sec. 11. 10 V.S.A. § 1527 is amended to read:

§ 1527. PENALTY

A person who violates a provision of this chapter shall be fined ~~not more than $1,000.00 for each violation~~ in accordance with chapter 201 of this title.

Sec. 12. 10 V.S.A. § 6697 is amended to read:

§ 6697. CIVIL PENALTIES; WARNING

(a) A person, store, or food service establishment that violates the requirements of this subchapter shall~~:~~

~~(1) receive a written warning for a first offense;~~

~~(2) be subject to a civil penalty of $25.00 for a second offense; and~~

~~(3) be subject to a civil penalty of $100.00 for a third or subsequent offense~~ be fined in accordance with chapter 201 of this title.

(b) For the purposes of enforcement under this subchapter, an offense shall be each day a person, store, or food service establishment is violating a requirement of this subchapter.

Sec. 13. 24 V.S.A. § 2282 is amended to read:

§ 2282. PENALTY

A person who violates this subchapter shall be fined by the legislative body not less than $5.00 nor more than $50.00 for each day of the violation. A person who violates the requirements of this subchapter shall be fined by the Agency of Natural Resources in accordance with 10 V.S.A. chapter 201.

* * * Solid Waste Certification * * *

Sec. 14. 10 V.S.A. § 6605f(a) is amended to read:

(a) Disqualifying criteria. Any nongovernmental entity or person applying for a certification under section 6605, 6605a, or 6606 of this title, for interim certification under section 6605b of this title~~, or for a waste transportation permit under section 6607a of this title,~~ shall be denied certification or other

authorization if the Secretary finds:

* * *

* * * DEC Procedural Requirements * * *

Sec. 15. 10 V.S.A. § 7716 is amended to read:

§ 7716. TYPE 5 PROCEDURES

(a) Purpose; scope.

(1) The purpose of this section is to establish the public notice and comment requirements that the Department must follow when issuing emergency permits and other permits listed in this section.

(2) The procedures under this section shall be known as Type 5 Procedures. This section shall govern each of the following:

* * *

(E) issuance of emergency sludge and septage disposal approvals under section 6605 of this title; ~~and~~

(F) shoreland registrations authorized under chapter 49A of this title; and

(G) issuance of authorization under the Construction General Permit or individual stormwater permits issued pursuant to chapter 47 of this title, for discharges of stormwater runoff related to emergency construction activities; emergency construction activities are those necessary to address imminent risk to life or a risk of damage to public or private property, including damage to lifeline infrastructure, as determined by the Secretary.

(b) Notice of final decision. The Secretary shall provide notice of the final decision through the environmental notice bulletin and shall post the decision to the bulletin.

Sec. 16. 29 V.S.A. § 405(d) is added to read:

(d) A permit issued pursuant to this section shall be effective on the date that is signed and issued to the applicant.

* * * Potable Water Supply * * *

Sec. 17. 10 V.S.A. § 1972(4) is amended to read:

(4)(A) "Failed supply" means a potable water supply:

(i) that has been found to exceed the standard set by the Secretary in rule for one or more of the following contaminants:

(I) total coliform;

(II) nitrates;

(III) nitrites;

(IV) arsenic; or

(V) uranium;

(ii) that the Secretary affirmatively determines as not potable, due to the presence of a contaminated site, a leaking underground storage tank, or other known sources of groundwater contamination or naturally occurring contaminants~~, and that information has been posted on the Agency of Natural Resources' website~~; or

(iii) the Secretary affirmatively determines to be failed due to the supply providing an insufficient quantity of water to maintain the usual and customary uses of a building or structure or campground~~, and that information has been posted on the Agency of Natural Resources' website~~.

(B) Notwithstanding the provisions of this subdivision, a potable water supply shall not be a failed supply if:

(i) these effects can be and are remedied solely by minor repairs, including the repair of a broken pipe leading from a building or structure to a well, the replacement of a broken pump, repair or replacement of a mechanical component, or deepening or hydrofracturing a well; or

(ii) these effects have lasted for only a brief period of time, the cause of the failure has been determined to be an unusual and nonrecurring event, and the supply has recovered from the state of failure. Supplies that have recurring, continuing, or seasonal failures shall be considered to be failed supplies.

(C) If a project is served by multiple potable water supplies, the failure of one supply will not require the issuance of a permit or permit amendment for any other supply that is not in a state of failure.

* * * Petroleum Cleanup Fund Assistance Program * * *

Sec. 18. 10 V.S.A. § 1941 is amended to read:

§ 1941. PETROLEUM CLEANUP FUND

* * *

(b) The Secretary may authorize disbursements from the Fund for the purpose of the cleanup and restoration of contaminated soil and groundwater caused by releases of petroleum, including aviation gasoline, from

underground storage tanks and aboveground storage tanks, including air emissions for remedial actions, and for compensation of third parties for injury and damage caused by a release. This Fund shall be used for no other governmental purposes, nor shall any portion of the Fund ever be available to borrow from by any branch of government; it being the intent of the General Assembly that this Fund and its increments shall remain intact and inviolate for the purposes set out in this chapter. Disbursements under this section may be made only for uninsured costs incurred after January 1, 1987 and for which a claim is made prior to July 1, 2029 and judged to be in conformance with prevailing industry rates. This includes:

(1) Costs incurred by taking corrective action as directed by the Secretary for any release of petroleum into the environment from:

(A) An underground storage tank defined as a category one tank used for commercial purposes, provided disbursements on any site shall not exceed $1,240,000.00 and shall be made from the Motor Fuel Account, as follows:

(i) after the first $10,000.00 of the cleanup costs have been borne by the owners or operators of double-wall tank systems ~~used for commercial purposes~~ or single-wall tank systems that were either taken out of service or abandoned prior to July 1, 1985; and

(ii) ~~after the first $15,000.00 of cleanup costs have been borne by the owners or operators of combination tank systems, whether lined or unlined, used for commercial purposes, unless the system is a lined combination tank system that has been granted a five-year extension under subsection 1927(f) of this title;~~

~~(iii)~~ after the first $25,000.00 of cleanup costs have been borne by the owners or operators of lined combination tank systems that have been granted a five-year extension to operate under subsection 1927(f) of this title~~;~~

~~(iv) after the first $25,000.00 of cleanup costs have been borne by the owners or operators of single-wall tank systems used for commercial purposes~~.

(B) An underground motor fuel tank used for farming or residential purposes either after the first $250.00 of the cleanup costs have been borne by the owners or operators of tanks with a capacity equal to or less than 1,100 gallons ~~and used for farming or residential purposes~~, or after the first $1,000.00 of the cleanup costs have been borne by the owners or operators of tanks with capacities over 1,100 gallons. Disbursements on any site shall not exceed ~~$990,000.00~~ $1,000,000.00 and shall be made from the Motor Fuel Account.

(C) An underground heating fuel tank used for on-premises heating after the first $10,000.00 of the cleanup costs have been borne by the owners or operators of tanks with capacities over 1,100 gallons used for commercial purposes, or after the first $250.00 of the cleanup costs have been borne by the owners or operators of tanks with capacities equal to or less than 1,100 gallons used for commercial purposes, or after the first $250.00 of the cleanup costs have been borne by the owners or operators of residential and farm tanks. Disbursements on any site shall not exceed ~~$990,000.00~~ $1,000,000.00 and shall be made from the Heating Fuel Account.

(D) An aboveground storage tank site after the first $1,000.00 of the cleanup costs have been borne by the owners or operators of tanks used for commercial purposes, or after the first $250.00 of the cleanup costs have been borne by the owners or operators of residential and farm tanks. Disbursements under this subdivision (b)(1)(D) on any individual site shall not exceed ~~$25,000.00~~ $50,000.00. These disbursements shall be made from the Motor Fuel Account or Heating Fuel Account, depending upon the use or contents of the tank.

(E) A bulk storage aboveground motor fuel or heating fuel storage tank site after the first $10,000.00 of the cleanup costs have been borne by the owners or operators of tanks used for commercial purposes. Disbursements under this subdivision (b)(1)(E) on any individual site shall not exceed ~~$990,000.00~~ $1,000,000.00. These disbursements shall be made from the Motor Fuel Account.

(F) If a site is contaminated by petroleum releases from both heating fuel and motor fuel tanks, or where the source of the petroleum contamination has not been ascertained, the Secretary shall have the discretion to disburse funds from either the Heating Fuel or Motor Fuel Account, or both.

(2) Costs incurred in compensating third parties for bodily injury and property damage, as approved by the Secretary in consultation with the Commissioner of Financial Regulation, caused by release of petroleum from an underground category one storage tank into the environment from a site, up to $1 million, but shall not include payment of any punitive damages.

(3) Costs incurred in taking immediate corrective action to contain or mitigate the effects of any release of petroleum into the environment from an underground storage tank or aboveground storage tank if, in the judgment of the Secretary, such action is necessary to protect the public health and the environment. The Secretary may seek reimbursement of the first $10,000.00 of the costs.

(4) The cost of corrective action up to $1 million for any release of

petroleum into the environment from an underground storage tank or tanks:

(A) whose owner, in the judgment of the Secretary, is incapable of carrying out the corrective action; ~~or~~

(B) whose owner or operator cannot be determined; or

(C) [Repealed.]

(D) whose owner, in the judgment of the Secretary, is financially incapable of carrying out the corrective action in a timely manner.

(5) [Repealed.]

(6) The costs of creating and operating a risk retention pool authorized by section 1939 of this title, which costs are in excess of a reasonable contribution by participants, as determined by the Secretary with the advice of the Commissioner of Financial Regulation. The authority for disbursements under this subdivision shall terminate on June 1, 1992.

(7) Administrative and field supervision costs incurred by the Secretary in carrying out the provisions of this subchapter. Annual disbursements shall not exceed 10 percent of annual receipts.

(8) ~~The cost of initiating spill control procedures, removal actions, and remedial actions to clean up spills of oil and other petroleum products where the responsible party is unknown, cannot be contacted, is unwilling to take action, or does not take timely action that the Secretary considers necessary.~~ [Repealed.]

(c) The Secretary may authorize disbursements from the Fund for costs of initiating spill control procedures, removal actions, and remedial actions to clean up spills of oil and other petroleum products where the responsible party is unknown, cannot be contacted, is unwilling to take action, or does not take timely action that the Secretary considers necessary. The Secretary may seek reimbursement of the costs, including any costs determined to be covered by insurance.

(d) The Secretary may use up to one-half the amount deposited to the Motor Fuel Account of the Fund from the licensing fees assessed under section 1942 of this title to capitalize the Underground Motor Fuel Storage Tank Loan Assistance Program established by section 1944 of this title and the cost of administering the Program. If the Secretary determines that a balance will remain after all qualifying loan applications have been satisfied, the unneeded balance may be used for cleanup. The Secretary may use the amount in the Heating Fuel Account of the Fund for purposes of funding measures related to heating oil and kerosene.

~~(d)~~(e) Disbursements from the Fund for cleanup costs incurred prior to passage shall be limited to uninsured costs.

~~(e)~~(f) The Secretary shall establish the Petroleum Cleanup Fund Advisory Committee that shall meet not less than annually to review receipts and disbursements from the Fund, to evaluate the effectiveness of the Fund in meeting its purposes and the reasonableness of the cost of cleanup and to recommend alterations and statutory amendments deemed appropriate. The Advisory Committee shall submit an annual report of its findings to the General Assembly on January 15 of each year. In its annual report, the Advisory Committee shall review the financial stability of the Fund, evaluate the implementation of assistance related to underground farm or residential heating fuel storage tanks and aboveground storage tanks, and the need for continuing assistance, and shall include recommendations for sustainable funding sources to finance the provision of that assistance. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection. The membership of the Committee shall include the following or their designated representative:

(1) the Secretary of Natural Resources, who shall be chair;

(2) the Commissioner of Environmental Conservation;

(3) the Commissioner of Financial Regulation;

(4) a licensed gasoline distributor;

(5) a retail gasoline dealer;

(6) a representative of a statewide refining-marketing petroleum association;

(7) one member of the House to be appointed by the Speaker of the House;

(8) one member of the Senate to be appointed by the Committee on Committees;

(9) a licensed heating fuel dealer;

(10) a representative of a statewide heating fuel dealers' association; and

(11) a licensed real estate broker.

~~(f)~~(g) The Secretary may seek reimbursement to the Fund of cleanup expenditures only when the owner of the tank is in significant violation of ~~his or her~~ the owner's permit or rules, or when a required fee has not been paid for the tank from which the release occurred or, to the extent covered, when there

is insurance coverage. When the Secretary has paid the first $10,000.00 of costs under subdivision (b)(4)(D) of this section, the Secretary may seek reimbursement of those costs.

~~(g)~~(h) The owner of a farm or residential heating fuel storage tank used for on-premises heating or an underground or aboveground heating fuel storage tank used for on-premises heating by a mobile home park resident, as defined in section 6201 of this title, who desires assistance to close, replace, or upgrade the tank or replace their heating fuel system with advanced woor heat or a heat pump may apply to the Secretary for such assistance. The financial assistance may be in the form of grants of up to~~: $2,000.00~~ $3,000.00 or the costs of closure, replacement, or upgrade, whichever is less, for an aboveground storage tank located inside a structure; up to ~~$3,000.00~~ $4,000.00 or the costs of closure, replacement, or upgrade, whichever is less, for an aboveground storage tank located outside a structure; ~~and~~ up to ~~$4,000.00~~ $5,000.00 or the costs of closure, replacement, or upgrade, whichever is less, for an underground storage tank; and up to $4,000.00 or the actual cost of replacing their heating system with advanced wood heat or a heat pump, whichever amount is less. As used in this subsection, "structure" means any assembly of materials that is intended for occupancy or use by a person and that has at least three walls and a roof. Grants shall be made only to the current property owners, except at mobile home parks where a grant may be awarded to a mobile home park resident. To be eligible to receive the grant, an environmental site assessment must be conducted by a qualified consultant during the tank closure, replacement, or upgrade if the tank is an underground heating fuel storage tank. In addition, if the closed tank is to be replaced with an underground heating fuel storage tank, the replacement tank and piping shall provide a level of environmental protection at least equivalent to that provided by a double wall tank and secondarily contained piping. Grants shall be awarded on a priority basis to projects that will avoid the greatest environmental or health risks. The Secretary shall also give priority to applicants who are replacing their underground heating fuel tanks with aboveground heating fuel storage tanks that will be installed in accordance with the Secretary's recommended standards. The Secretary shall also give priority to ~~lower income~~ lower-income applicants. To be eligible to receive the grant, the owner must provide the previous year's financial information and, if the replacement tank is an aboveground tank, must ensure that any work to replace or upgrade a tank shall be done in accordance with industry standards (National Fire Protection Association, or NFPA, Code 31), as it existed on July 1, 2004, until another date or edition is specified by rule of the Secretary. The Secretary shall authorize only up to ~~$400,000.00~~ $500,000.00 in assistance for underground and aboveground heating fuel tanks in any one

fiscal year from the Heating Fuel Account for this purpose. The application must be accompanied by the following information:

(1) proof of ownership, including information disclosing all owners of record of the property, except in the case where the applicant is a mobile home park resident;

(2) for farm or residential aboveground heating fuel storage tank owners, a copy of the federal income tax return for the previous year;

(3) identification of the contractor performing any heating fuel storage tank closure, replacement, ~~or~~ upgrade, or system replacement;

(4) an estimated cost of tank closure, replacement, ~~or~~ upgrade, or system replacement;

(5) the amount and type of assistance requested;

(6) a schedule for the work;

(7) description of surrounding area, including location of water supply wells, surface waters, and other sensitive receptors; and

(8) such other information and assurances as the Secretary may require.

* * * Effective Date * * *

Sec. 19. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

(Committee vote: 5-0-0)

**S. 89.**

An act relating to establishing a forensic facility.

**Reported favorably with recommendation of amendment by Senator Sears for the Committee on Judiciary.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Admission to Forensic Facility for Persons in Need of Treatment or Continued Treatment * * *

Sec. 1. 18 V.S.A. § 7101 is amended to read:

§ 7101. DEFINITIONS

As used in this part of this title, the following words, unless the context otherwise requires, shall have the following meanings:

***

(31)(A) "Forensic facility" means a residential facility, licensed as a therapeutic community residence as defined in 33 V.S.A. § 7102(11), for an individual initially committed pursuant to:

(i) 13 V.S.A. § 4822 who is in need of treatment or further treatment pursuant to chapter 181 of this title within a secure setting for an extended period of time; or

(ii) 13 V.S.A. § 4823 who is in need of custody, care, and habilitation pursuant to chapter 206 of this title, within a secure setting for an extended period of time.

(B) A forensic facility shall not be used for any purpose other than the purposes permitted by this part or chapter 206 of this title. As used in this subdivision, "secure" has the same meaning as in section 7620 of this title.

Sec. 2. 18 V.S.A. § 7612 is amended to read:

§ 7612. APPLICATION FOR INVOLUNTARY TREATMENT

(a) An interested party may, by filing a written application, commence proceedings for the involuntary treatment of an individual by judicial process.

(b) The application shall be filed in the Family Division of the Superior Court.

(c) If the application is filed under section 7508 or 7620 of this title, it shall be filed in the unit of the Family Division of the Superior Court in which the hospital is located. In all other cases, it shall be filed in the unit in which the proposed patient resides. In the case of a nonresident, it may be filed in any unit. The court may change the venue of the proceeding to the unit in which the proposed patient is located at the time of the trial.

(d) The application shall contain:

(1) The name and address of the applicant.

(2) A statement of the current and relevant facts upon which the allegation of mental illness and need for treatment is based. The application shall be signed by the applicant under penalty of perjury.

(e) The application shall be accompanied by:

(1) a certificate of a licensed physician, which shall be executed under penalty of perjury stating that ~~he or she~~ the licensed physician has examined the proposed patient within five days ~~of~~ from the date the petition is filed and is of the opinion that the proposed patient is a person in need of treatment,

including the current and relevant facts and circumstances upon which the physician's opinion is based; or

(2) a written statement by the applicant that the proposed patient refused to submit to an examination by a licensed physician.

(f) Before an examining physician completes the certificate of examination, ~~he or she~~ the examining physician shall consider available alternative forms of care and treatment that might be adequate to provide for the person's needs without requiring hospitalization. The examining physician shall document on the certificate the specific alternative forms of care and treatment that ~~he or she~~ the examining physician considered and why those alternatives were deemed inappropriate, including information on the availability of any appropriate alternatives.

(g) If the Commissioner seeks to have a person receive treatment in a forensic facility pursuant to an order of nonhospitalization, the application for an order authorizing treatment shall expressly state that such treatment is being sought. The application shall contain, in addition to the statements required by this section, a statement setting forth the reasons for the Commissioner's determination that clinically appropriate treatment for the person's condition can be provided safely only in a forensic facility.

Sec. 3. 18 V.S.A. § 7615 is amended to read:

§ 7615. HEARING ON APPLICATION FOR INVOLUNTARY TREATMENT

(a)(1) Upon receipt of the application, the court shall set a date for the hearing to be held within 10 days from the date of the receipt of the application or 20 days from the date of the receipt of the application if a psychiatric examination is ordered under section 7614 of this title unless the hearing is continued by the court pursuant to subsection (b) of this section.

(2)(A) The applicant or a person who is certified as a person in need of treatment pursuant to section 7508 of this title may file a motion to expedite the hearing. The motion shall be supported by an affidavit, and the court shall rule on the motion on the basis of the filings without holding a hearing. The court:

(i) shall grant the motion if it finds that the person demonstrates a significant risk of causing the person or others serious bodily injury as defined in 13 V.S.A. § 1021 even while hospitalized, and clinical interventions have failed to address the risk of harm to the person or others;

(ii) may grant the motion if it finds that the person has received involuntary medication pursuant to section 7624 of this title during the past

two years and, based upon the person's response to previous and ongoing treatment, there is good cause to believe that additional time will not result in the person establishing a therapeutic relationship with providers or regaining competence.

(B) If the court grants the motion for expedited hearing pursuant to this subdivision, the hearing shall be held within ten days from the date of the order for expedited hearing.

(3)(A) The applicant or a person for whom an order of nonhospitalization at a forensic facility is sought may file a motion to expedite the hearing. The motion shall be supported by an affidavit. The court:

(i) shall grant the motion if it finds that the person demonstrates a significant risk of causing the person or others serious bodily injury as defined in 13 V.S.A. § 1021 even while in custody, and clinical interventions have failed to address the risk of harm to the person or others;

(ii) may grant the motion if it finds that the person has received involuntary medication pursuant to section 7624 of this title during the past two years and, based upon the person's response to previous and ongoing treatment, there is good cause to believe that additional time will not result in the person establishing a therapeutic relationship with providers or regaining competence.

(B) If the court grants the motion for expedited hearing pursuant to this subdivision, the hearing shall be held within three days from the date of the order for expedited hearing. The court may grant an extension of not more than five days to allow for a psychiatric examination in accordance with section 7614 of this title.

(4) If a hearing on the application for involuntary treatment has not occurred within 60 days from the date of the court's receipt of the application, the Commissioner shall request that the court and both parties' attorneys provide the reasons for the delay. The Commissioner shall submit a report to the court, the Secretary of Human Services, and the patient's attorney that either explains why the delay was warranted or makes recommendations as to how delays of this type can be avoided in the future.

* * *

Sec. 4. 18 V.S.A. § 7618 is amended to read:

§ 7618. ORDER; NONHOSPITALIZATION

(a)(1) If the court finds that a treatment program other than hospitalization is adequate to meet the person's treatment needs, the court shall order the

person to receive whatever treatment other than hospitalization is appropriate for a period of 90 days.

(2) If the Commissioner determines that treatment at a forensic facility is appropriate, and the court finds that treatment at a forensic facility is the least restrictive setting adequate to meet the person's needs, the court shall order the person to receive treatment there for a period of 90 days. The court may at any time, on its own motion or on motion of an interested party, review the need for treatment at the forensic facility.

(b) If at any time during the specified period it comes to the attention of the court either that the patient is not complying with the order or that the alternative treatment has not been adequate to meet the patient's treatment needs, the court may, after proper hearing:

(1) ~~Consider~~ consider other alternatives, modify its original order, and direct the patient to undergo another program of alternative treatment for the remainder of the 90-day period; or

(2) ~~Enter~~ enter a new order directing that the patient be hospitalized for the remainder of the 90-day period.

Sec. 5. 18 V.S.A. § 7620 is amended to read:

§ 7620. APPLICATION FOR CONTINUED TREATMENT

(a) If, prior to the expiration of any order issued in accordance with section 7623 of this title, the Commissioner believes that the condition of the patient is such that the patient continues to require treatment, the Commissioner shall apply to the court for a determination that the patient is a patient in need of further treatment and for an order of continued treatment.

(b) An application for an order authorizing continuing treatment shall contain a statement setting forth the reasons for the Commissioner's determination that the patient is a patient in need of further treatment, a statement describing the treatment program provided to the patient, and the results of that course of treatment.

(c) Any order of treatment issued in accordance with section 7623 of this title shall remain in force pending the court's decision on the application.

(d) If the Commissioner seeks to have the patient receive the further treatment in a forensic facility or secure residential recovery facility, the application for an order authorizing continuing treatment shall expressly state that such treatment is being sought. The application shall contain, in addition to the statements required by subsection (b) of this section, a statement setting forth the reasons for the Commissioner's determination that clinically

appropriate treatment for the patient's condition can be provided safely only in a secure residential recovery facility or forensic facility, as appropriate.

(e) As used in this chapter:

(1) "Secure," when describing a residential facility, means that the residents can be physically prevented from leaving the facility by means of locking devices or other mechanical or physical mechanisms.

(2) "Secure residential recovery facility" means a residential facility, licensed as a therapeutic community residence as defined in 33 V.S.A. § 7102(11), for an individual who no longer requires acute inpatient care but who does remain in need of treatment within a secure setting for an extended period of time. A secure residential recovery facility shall not be used for any purpose other than the purposes permitted by this section.

Sec. 6. 18 V.S.A. § 7621 is amended to read:

§ 7621. HEARING ON APPLICATION FOR CONTINUED TREATMENT; ORDERS

* * *

(c) If the court finds that the patient is a patient in need of further treatment but does not require hospitalization, it shall order nonhospitalization for up to one year. If the treatment plan proposed by the Commissioner for a patient in need of further treatment includes admission to a secure residential recovery facility or a forensic facility, the court may at any time, on its own motion or on motion of an interested party, review the need for treatment at the secure residential recovery facility or forensic facility, as applicable.

* * *

Sec. 7. 18 V.S.A. § 7624 is amended to read:

§ 7624. APPLICATION FOR INVOLUNTARY MEDICATION

(a) The Commissioner may commence an action for the involuntary medication of a person who is refusing to accept psychiatric medication and meets any one of the following ~~six~~ conditions:

(1) has been placed in the Commissioner's care and custody pursuant to section 7619 of this title or subsection 7621(b) of this title;

(2) has previously received treatment under an order of hospitalization and is currently under an order of nonhospitalization, including a person on an order of nonhospitalization who resides in a secure residential recovery facility;

(3) has been committed to the custody of the Commissioner of Corrections as a convicted felon and is being held in a correctional facility ~~which~~ that is a designated facility pursuant to section 7628 of this title and for whom the Departments of Corrections and of Mental Health have determined jointly that involuntary medication would be appropriate pursuant to 28 V.S.A. § 907(4)(H);

(4) has an application for involuntary treatment pending for which the court has granted a motion to expedite pursuant to subdivision 7615(a)(2)(A)(i) of this title;

(5)(A) has an application for involuntary treatment pending;

(B) waives the right to a hearing on the application for involuntary treatment until a later date; and

(C) agrees to proceed with an involuntary medication hearing without a ruling on whether he or she is a person in need of treatment; ~~or~~

(6) has been placed under an order of nonhospitalization in a forensic facility or has an application for involuntary treatment at a forensic facility pending for which the court has granted a motion to expedite pursuant to subdivision 7615(a)(3)(A)(i) of this title, regardless of whether the person has previously been under an order of hospitalization; or

(7) has had an application for involuntary treatment pending pursuant to subdivision 7615(a)(1) of this title for more than 26 days without a hearing having occurred and the treating psychiatrist certifies, based on specific behaviors and facts set forth in the certification, that in ~~his or her~~ the psychiatrist's professional judgment there is good cause to believe that:

(A) additional time will not result in the person establishing a therapeutic relationship with providers or regaining competence; and

(B) serious deterioration of the person's mental condition is occurring.

(b)(1) Except as provided in subdivisions (2), (3), and (4) of this subsection, an application for involuntary medication shall be filed in the Family Division of the Superior Court in the county in which the person is receiving treatment.

(2) If the application for involuntary medication is filed pursuant to subdivision (a)(4) or (a)(6) of this section:

(A) the application shall be filed in the county in which the application for involuntary treatment is pending; and

(B) the court shall consolidate the application for involuntary treatment with the application for involuntary medication and rule on the application for involuntary treatment before ruling on the application for involuntary medication.

(3) If the application for involuntary medication is filed pursuant to subdivision (a)(5) or (a)~~(6)~~(7) of this section, the application shall be filed in the county in which the application for involuntary treatment is pending.

(4) Within 72 hours of the filing of an application for involuntary medication pursuant to subdivision (a)~~(6)~~(7) of this section, the court shall determine, based solely upon a review of the psychiatrist's certification and any other filings, whether the requirements of that subdivision have been established. If the court determines that the requirements of subdivision (a)~~(6)~~(7) of this section have been established, the court shall consolidate the application for involuntary treatment with the application for involuntary medication and hear both applications within ten days of the date that the application for involuntary medication is filed. The court shall rule on the application for involuntary treatment before ruling on the application for involuntary medication. Subsection 7615(b) of this title shall apply to applications consolidated pursuant to this subdivision.

* * *

Sec. 8. 18 V.S.A. § 7627 is amended to read:

§ 7627. COURT FINDINGS; ORDERS

* * *

(o) For a person who is receiving treatment pursuant to an order of nonhospitalization in a forensic facility, if the court finds that without an order for involuntary medication there is a substantial probability that the person would continue to refuse medication and as a result would pose a danger of harm to self or others, the court may the order administration of involuntary medications at a forensic facility for up to 90 days, unless the court finds that an order is necessary for a longer period of time. An order for involuntary medication pursuant to this subsection shall not be longer than the duration of the current order of nonhospitalization. If at any time the treating psychiatrist finds that a person subject to an order for involuntary medication has become competent pursuant to subsection 7625(c) of this title, the order shall no longer be in effect.

* * * Persons in Need of Custody, Care, and Habilitation or Continued Custody, Care, and Habilitation * * *

Sec. 9. 13 V.S.A. § 4823 is amended to read:

§ 4823. FINDINGS AND ORDER; PERSONS WITH AN INTELLECTUAL DISABILITY

(a) If the court finds that such person is a person in need of custody, care, and habilitation as defined in 18 V.S.A. § 8839, the court shall issue an order of commitment directed to the Commissioner of Disabilities, Aging, and Independent Living for placement in a designated program in the least restrictive environment consistent with the person's need for custody, care, and habilitation ~~of such person for an indefinite or limited period in a designated program~~ for an indefinite or limited period.

(b) ~~Such order of commitment shall have the same force and effect as an order issued under 18 V.S.A. § 8843 and persons committed under such an order shall have the same status, and the same rights, including the right to receive care and habilitation, to be examined and discharged, and to apply for and obtain judicial review of their cases, as persons ordered committed under 18 V.S.A. § 8843~~ Judicial review procedures for an order issued pursuant to subsection (a) of this section and for discharge from an order of commitment shall occur in accordance with 18 V.S.A. § 8845.

(c)(1) ~~Section 4822 of this title shall apply to persons proposed for discharge under this section; however, judicial proceedings shall be conducted in the Criminal Division of the Superior Court in which the person then resides, unless the person resides out of State in which case the proceedings shall be conducted in the original committing court~~ If the Commissioner seeks to have a person committed pursuant to this section placed in a forensic facility, the Commissioner shall provide a statement setting forth the reasons for the Commissioner's determination that clinically appropriate treatment and programming can be provided safely only in a forensic facility.

(2) As used in this subchapter, "forensic facility" has the same meaning as in section 7101 of this title.

Sec. 10. 18 V.S.A. § 8839 is amended to read:

§ 8839. DEFINITIONS

As used in this subchapter:

(1) ~~"Danger of harm to others" means the person has inflicted or attempted to inflict serious bodily injury to another or has committed an act that would constitute a sexual assault or lewd or lascivious conduct with a~~

~~child~~ "Commissioner" means the Commissioner of Disabilities, Aging, and Independent Living.

(2) "Designated program" means a program designated by the Commissioner as adequate to provide in an individual manner appropriate custody, care, and habilitation to persons with intellectual disabilities receiving services under this subchapter.

(3) "Person in need of custody, care, and habilitation" means a person:

(A) ~~a person~~ with an intellectual disability, which means significantly subaverage intellectual functioning existing concurrently with deficits in adaptive behavior that were manifest before 18 years of age;

(B) who ~~presents a danger of harm to others~~ has inflicted or attempted to inflict serious bodily injury to another or who has committed an act that would constitute a sexual assault or lewd and lascivious conduct with a child; and

(C) for whom appropriate custody, care, and habilitation can be provided by the Commissioner in a designated program.

(4) "Person in need of continued custody, care, and habilitation" means a person who was previously found to be a person in need of custody, care, and habilitation who poses a danger of harm to others and for whom the Commissioner has, in the Commissioner's discretion, consented to or approved the continuation of the designated program. A danger of harm to others shall be shown by establishing that, in the time since the last order of commitment was issued, the person:

(A) has inflicted or attempted to inflict physical or sexual harm to another;

(B) by the person's threats or actions, has placed another person in reasonable fear of physical or sexual harm; or

(C) has exhibited behavior demonstrating that, absent treatment or programming provided by the Commissioner, there is a reasonable likelihood that the person would inflict or attempt to inflict physical or sexual harm to another.

Sec. 11. 18 V.S.A. § 8840 is amended to read:

§ 8840. ~~JURISDICTION AND VENUE~~

~~Proceedings brought under this subchapter for commitment to the Commissioner for custody, care, and habilitation shall be commenced by petition in the Family Division of the Superior Court for the unit in which the~~

~~respondent resides.~~ [Repealed.]

Sec. 12. 18 V.S.A. § 8841 is amended to read:

§ 8841. ~~PETITION; PROCEDURES~~

~~The filing of the petition and procedures for initiating a hearing shall be as provided in sections 8822-8826 of this title.~~ [Repealed.]

Sec. 13. 18 V.S.A. § 8842 is amended to read:

§ 8842. ~~HEARING~~

~~Hearings under this subchapter for commitment shall be conducted in accordance with section 8827 of this title.~~ [Repealed.]

Sec. 14. 18 V.S.A. § 8843 is amended to read:

§ 8843. ~~FINDINGS AND ORDER~~

~~(a) In all cases, the court shall make specific findings of fact and state its conclusions of law.~~

~~(b) If the court finds that the respondent is not a person in need of custody, care, and habilitation, it shall dismiss the petition.~~

~~(c) If the court finds that the respondent is a person in need of custody, care, and habilitation, it shall order the respondent committed to the custody of the Commissioner for placement in a designated program in the least restrictive environment consistent with the respondent's need for custody, care, and habilitation for an indefinite or a limited period.~~ [Repealed.]

Sec. 15. 18 V.S.A. § 8844 is amended to read:

§ 8844. LEGAL COMPETENCE

No determination that a person is in need of custody, care, and habilitation or in need of continued custody, care, and habilitation and no order authorizing commitment shall lead to a presumption of legal incompetence.

Sec. 16. 18 V.S.A. § 8845 is amended to read:

§ 8845. JUDICIAL REVIEW

(a) A person committed under 13 V.S.A. § 4823 or this subchapter may be discharged from custody by a Superior judge after judicial review as provided ~~herein~~ in accordance with this subchapter or by administrative order of the Commissioner. At least 10 days prior to the effective date of any administrative order for discharge by the Commissioner, the Commissioner shall give notice of the discharge to the committing court and to the State's Attorney of the county where the prosecution occurred.

(b) ~~Procedures for judicial review of persons committed under this subchapter shall be as provided in section 8834 of this title, except that proceedings shall be brought in the Criminal Division of the Superior Court in the unit in which the person resides or, if the person resides out of state, in the unit which issued the original commitment order.~~

~~(c)~~ A person committed under 13 V.S.A. § 4823 or this subchapter shall be entitled to a judicial review of the person's need for commitment annually. The Family Division of the Superior Court shall have exclusive jurisdiction over all judicial review proceedings brought under this section. If no ~~such~~ judicial review is requested by the person within one year from the date of the last order of commitment, it shall be initiated by the Commissioner. However, such person may initiate a judicial review under this subsection after 90 days of initial commitment but before the end of the first year of the commitment, or if commitment has been continued under this subchapter, the person may petition for review after 90 days from the date of an order for continued commitment.

~~(d)~~(c) If the Commissioner seeks to place the person committed pursuant to this subchapter in a forensic facility, the petition shall expressly state that such placement is being sought. The petition shall set forth the reasons for the Commissioner's determination that clinically appropriate treatment and programming can be provided safely only in a forensic facility.

(d) The Vermont rules of evidence and procedure applicable in civil cases shall apply in all judicial review proceedings brough under this subchapter.

(e) The Commissioner or the Commissioner's designee shall attend the commitment hearing and be available to testify. All persons to whom notice is given may attend the commitment hearing and testify, except that the court may exclude those persons not necessary for the conduct of the hearing.

(f) If at the completion of the hearing and consideration of the record, the court finds by clear and convincing evidence that at the time of the hearing that the person is still in need of continued custody, care, and habilitation, commitment shall continue in a designated program in the least restrictive environment consistent with the person's need for custody, care, and habilitation for an indefinite or limited period. If the court finds at the time of the hearing that the person is no longer in need of continued custody, care, and habilitation, it shall discharge the person from the custody of the Commissioner. An order of discharge may be conditional or absolute and may have immediate or delayed effect.

(g) In determining whether a person is in need of continued custody, care, and habilitation, the court shall consider the degree to which the person has

engaged in or complied with the treatment and supervision provided by the Commissioner.

* * * Certificate of Need * * *

Sec. 17. 18 V.S.A. § 9435 is amended to read:

§ 9435. EXCLUSIONS

* * *

(g) Excluded from this subchapter is any forensic facility, as defined in 18 V.S.A. section 7101, that is supervised and operated by the Commissioner of Mental Health or the Commissioner of Disabilities, Aging, and Independent Living, or both.

* * * Rulemaking * * *

Sec. 18. RULEMAKING; ADMISSIONS CRITERIA FOR FORENSIC FACILITY

(a) On or before July 1, 2023, the Secretary of Human Services, in consultation with the Departments of Mental Health and of Disabilities, Aging, and Independent Living, shall file an initial proposed rule with the Secretary of State pursuant to 3 V.S.A. § 836(a)(2) specifying the criteria that the Departments shall use to determine admission to a forensic facility and the process used by the Commissioners to determine appropriate admissions. The admission criteria and process shall ensure that:

(1) an individual is served in the least restrictive setting necessary to meet the needs of the individual;

(2) an individual's treatment and programming needs dictate that the treatment or programming be provided at an intensive residential level in a forensic facility; and

(3) an individual only receives treatment or programming within a forensic facility if the individual has demonstrated a significant risk of dangerousness, such as:

(A) inflicting or attempting to inflict serious bodily injury on another, attempting suicide or serious self-injury, or committing an act that would constitute a sexual assault or lewd and lascivious conduct with a child, and there is reasonable probability that the conduct will be repeated if admission to a forensic facility is not ordered;

(B) threatening to inflict serious bodily injury to the individual or on others, and there is reasonable probability that the conduct will occur if admission to a forensic facility is not ordered;

(C) obtaining results on any applicable evidence-based violence risk-assessment tool showing that the individual's behavior is deemed a significant risk to others; or

(D) being charged with a felony offense involving an act of violence against another person for which bail may be withheld pursuant to 13 V.S.A. § 7553 or 7553a.

(b) The Departments shall not admit residents to a forensic facility until a permanent rule has been adopted pursuant to this section.

Sec. 19. RULEMAKING; CONFORMING AMENDMENTS

On or before July 1, 2023, the Commissioners of Mental Health and of Disabilities, Aging, and Independent Living, respectively, shall file initial proposed rule amendments with the Secretary of State pursuant to 3 V.S.A. § 826(a)(2) to account for the establishment of the forensic facility:

(1) Department of Disabilities, Aging, and Independent Living, Licensing and Operating Regulations for Therapeutic Community Residences (CVR 13-110-12) for the purpose of allowing the use of emergency involuntary procedures and the administration of involuntary medication at a forensic facility; and

(2) Department of Mental Health, Rules for the Administration of Nonemergency Involuntary Psychiatric Medications (CVR 13-150-11) for the purpose of allowing the administration of involuntary medication at a forensic facility.

* * * Effective Dates * * *

Sec. 20. EFFECTIVE DATES

This section and Secs. 18 (rulemaking; admissions criteria for forensic facility) and 19 (rulemaking; conforming amendments) shall take effect on passage. All remaining sections shall take effect on July 1, 2024.

(Committee vote: 5-0-0)

**S. 102.**

An act relating to expanding employment protections and collective bargaining rights.

**Reported favorably with recommendation of amendment by Senator Ram Hinsdale for the Committee on Economic Development, Housing and General Affairs.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 21 V.S.A. § 495o is added to read:

§ 495o. EMPLOYER COMMUNICATIONS RELATING TO RELIGIOUS OR POLITICAL MATTERS; EMPLOYEE RIGHTS

(a) An employer, or an employer's agent, shall not discharge, discipline, penalize, or otherwise discriminate against, or threaten to discharge, discipline, penalize, or otherwise discriminate against, an employee:

(1) because the employee declines:

(A) to attend or participate in an employer-sponsored meeting that has the primary purpose of communicating the employer's opinion about religious or political matters; or

(B) to view or participate in communications with or from the employer or the employer's agent that have the primary purpose of communicating the employer's opinion about religious or political matters; or

(2) as a means of requiring an employee to:

(A) attend an employer-sponsored meeting that has the primary purpose of communicating the employer's opinion about religious or political matters; or

(B) view or participate in communications with or from the employer or the employer's agent that have the primary purpose of communicating the employer's opinion about religious or political matters.

(b) Nothing in this section shall be construed to:

(1) limit an employee's right to bring a civil action for wrongful termination; or

(2) diminish or limit any rights provided to an employee pursuant to a collective bargaining agreement or employment contract.

(c) Nothing in this section shall be construed to prohibit an employer that is a religious or denominational institution or organization, or any organization operated for charitable or educational purposes, that is operated, supervised, or controlled by or in connection with a religious organization, from:

(1) communicating with its employees regarding the employer's opinion on religious matters;

(2) requiring its employees to attend a meeting regarding the employer's opinion on religious matters; or

(3) requiring its employees to view or participate in communications from the employer or the employer's agent regarding the employer's opinion on religious matters.

(d) Nothing in this section shall be construed to prohibit an employer that is a political organization, a political party, or an organization that engages, in substantial part, in political matters from:

(1) communicating with its employees regarding the employer's opinion on political matters;

(2) requiring its employees to attend a meeting regarding the employer's opinion on political matters; or

(3) requiring its employees to view or participate in communications from the employer or the employer's agent regarding the employer's opinion on political matters.

(e) Nothing in this section shall be construed to prohibit an employer or the employer's agent from:

(1) communicating information to an employee:

(A) that the employer is required to communicate pursuant to State or federal law; or

(B) that is necessary for the employee to perform the employee's job functions or duties;

(2) requiring an employee to attend a meeting to discuss issues related to the employer's business or operation when the discussion is necessary for the employee to perform the employee's job functions or duties; or

(3) offering meetings, forums, or other communications about religious or political matters for which attendance or participation is entirely voluntary.

(f)(1) The penalty and enforcement provisions of section 495b of this subchapter shall apply to this section.

(2) The provisions against retaliation in subdivision 495(a)(8) of this subchapter shall apply to this section.

(g) As used in this section:

(1) "Political matters" means matters relating to political affiliation, elections for political office, political parties, legislative proposals, proposals to change rules or regulations, and the decision to join or support any political party or political, civic, community, fraternal, or labor organization.

(2) "Religious matters" means matters relating to religious affiliation

and practice and the decision to join or support any religious or denominational organization or institution.

Sec. 2. 21 V.S.A. § 1502 is amended to read:

§ 1502. DEFINITIONS

As used in this chapter:

* * *

(6) "Employee" includes any employee, and is not limited to the employees of a particular employer unless this chapter explicitly states otherwise, and includes any individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice and who has not obtained any other regular and substantially equivalent employment, but does not include an individual~~;~~:

(A) ~~employed as an agricultural laborer;~~

~~(B)~~ employed by ~~his or her~~ the individual's parent or spouse;

~~(C) employed in the domestic service of any family or person at his or her home;~~

~~(D)~~(B) having the status of an independent contractor;

~~(E)~~(C) employed as a supervisor;

~~(F)~~(D) employed by an employer subject to the Railway Labor Act ~~as amended from time to time~~; or

~~(G)~~(E) employed by any other person who is not an employer as defined in subdivision (7) of this section.

* * *

Sec. 3. 3 V.S.A. § 941 is amended to read:

§ 941. UNIT DETERMINATION, CERTIFICATION, AND REPRESENTATION

* * *

(e)(1) Whenever, on the basis of a petition pursuant to subdivision (d)(1) of this section or a hearing pursuant to subdivision (d)(2) of this section, the Board finds substantial interest among employees in forming a bargaining unit or being represented for purposes of collective bargaining, a secret ballot election shall be conducted by the Board not more than 23 business days after the petition is filed with the Board except as otherwise provided pursuant to subdivision (4) of this subsection and subdivision (g)(4) of this section.

* * *

(g)(1) In determining the representation of State employees in a collective bargaining unit, the Board shall conduct a secret ballot of the employees within the time period set forth in subdivision (e)(1) of this section, unless the time to conduct the election is extended pursuant to subdivision (e)(4) of this section, and certify the results to the interested parties and to the State employer. The original ballot shall be so prepared as to permit a vote against representation by anyone named on the ballot. No representative will be certified with less than a majority of the votes cast by employees in the bargaining unit.

* * *

(4)(A) Notwithstanding any other provision of this subsection (g), if the Board determines that a petition to be represented for collective bargaining filed pursuant to subsection (c) of this section, which identifies a proposed exclusive representative of the employees in the bargaining unit, bears the signatures of at least 50 percent plus one of the employees in a bargaining unit deemed appropriate by the Board pursuant to this section, the Board shall certify the person or labor organization as the exclusive representative of the bargaining unit.

(B) Certification of a collective bargaining representative shall only be available pursuant to this subdivision (g)(4) when no other person or labor organization is currently certified or recognized as the exclusive representative of the employees in the bargaining unit.

(h) A representative chosen ~~by secret ballot~~ for the purposes of collective bargaining by a majority of the votes cast by secret ballot or certified pursuant to subdivision (g)(4) of this section shall be the exclusive representative of all the employees in ~~such~~ the bargaining unit for a minimum of one year. ~~Such~~ The representative shall be eligible for reelection or for recertification pursuant to subdivision (g)(4) of this section.

* * *

Sec. 4. 16 V.S.A. § 1992 is amended to read:

§ 1992. REFERENDUM PROCEDURE FOR REPRESENTATION

(a)(1) An organization purporting to represent a majority of all of the teachers or administrators employed by the school board may be recognized by the school board without the necessity of a referendum upon the submission of a petition bearing the valid signatures of a majority of the teachers or administrators employed by that school board. ~~Within 15 calendar days after receiving the petition, the school board shall notify the teachers or~~

~~administrators of the school district in writing of its intention to either require or waive a secret ballot referendum. If the school board gives notice of its intention to waive a referendum and recognize an organization, 10 percent of the teachers or administrators employed by the school board may submit a petition within 15 calendar days thereafter, objecting to the granting of recognition without a referendum, in which event a secret ballot referendum shall be held in the district for the purpose of choosing an exclusive representative as provided pursuant to the provisions of this section~~ The school board and the organization purporting to represent a majority of the teachers or administrators shall, within 10 business days after the petition is submitted, agree on an impartial third party to examine the petition and determine whether a majority of the teachers or administrators support the organization. If the parties fail to agree on an impartial third party within 10 business days, the Vermont Labor Relations Board shall examine the petition and determine whether a majority of the teachers or administrators support the organization. If the impartial party or the Board determines that a majority of the teachers or administrators support the organization, it shall certify the organization as the exclusive representative of the teachers or administrators.

* * *

(b) ~~Recognition granted to~~ Certification of a negotiating unit as exclusive representative shall be valid and not subject to challenge by referendum petition or otherwise for the remainder of the fiscal year in which ~~recognition is granted~~ the certification occurs and for an additional period of 12 months after final adoption of the budget for the succeeding fiscal year and shall continue thereafter until a new referendum is called for.

(c)(1)(A) A secret ballot referendum shall be held not more than 21 calendar days after 20 percent of the teachers or administrators employed by the school board present a petition requesting a referendum on the matter of representation, except during a period of prior ~~recognition~~ certification, as provided pursuant to subsection (b) of this section.

* * *

Sec. 5. 21 V.S.A. § 1581 is amended to read:

§ 1581. PETITIONS FOR ELECTION; FILING, INVESTIGATIONS, HEARINGS, DETERMINATIONS

* * *

(b)(1) The Board shall investigate the petition and if it has reasonable cause to believe that a question of representation exists shall provide for an

appropriate hearing before the Board itself, a Board member ~~thereof~~, or its agents appointed for that purpose upon due notice. Written notice of the hearing shall be mailed by certified mail to the parties named in the petition not less than seven days before the hearing.

(2) If the Board finds upon the record of the hearing that a question of representation exists, it shall conduct an election by secret ballot marked at the place of election and certify to the parties, in writing, the results ~~thereof~~ of the election.

(3)(A) If the Board finds upon the record of the hearing that a petition to be represented for collective bargaining filed pursuant to subdivision (a)(1)(A) of this section, which identifies a proposed bargaining representative, bears the signatures of at least 50 percent plus one of the employees in the bargaining unit, the Board shall certify the individual or labor organization identified as the bargaining representative.

(B) Certification of a representative shall only be available pursuant to this subdivision (B) when no other individual or labor organization is currently certified or recognized as the bargaining representative.

(c) In determining whether or not a question of representation exists, ~~it~~ the Board shall apply the same regulations and rules of decision regardless of the identity of the persons filing the petition or the kind of relief sought.

* * *

Sec. 6. 21 V.S.A. § 1584 is amended to read:

§ 1584. PETITIONS AND ELECTION TO RESCIND REPRESENTATIVE'S AUTHORITY

* * *

(b) No election ~~may~~ shall be conducted under this section in a bargaining unit or a subdivision within which in the preceding 12 months a valid election or certification of a representative pursuant to this subchapter has ~~been held~~ occurred.

Sec. 7. 21 V.S.A. § 1724 is amended to read:

§ 1724. CERTIFICATION PROCEDURE

* * *

(e)(1) ~~In~~ Except as otherwise provided pursuant to subsection (h) of this section, in determining the representation of municipal employees in a collective bargaining unit, the Board shall conduct an election by secret ballot of the employees and certify the results to the interested parties and to the

employer. The election shall be held not more than 23 business days after the petition is filed with the Board except as otherwise provided pursuant to subdivision (4) of this subsection.

* * *

(h)(1) Notwithstanding subsections (e)–(g) of this section, if following its investigation pursuant to subsection (b) of this section the Board determines that a petition to be represented for collective bargaining filed pursuant to subsection (a) of this section, which identifies a proposed bargaining agent, bears the signatures of at least 50 percent plus one of the employees in the bargaining unit, the Board shall certify the individual or labor organization identified as the bargaining agent.

(2) Certification of a bargaining agent shall only be available pursuant to this subsection when no other individual or labor organization is currently certified or recognized as the agent of the employees in the bargaining unit.

(i) No election ~~may~~ shall be conducted under this section in a bargaining unit or a subdivision within which in the preceding 12 months a valid election has been held.

Sec. 8. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

(Committee vote: 4-1-0)

**S. 103.**

An act relating to amending the prohibitions against discrimination.

**Reported favorably with recommendation of amendment by Senator Harrison for the Committee on Economic Development, Housing and General Affairs.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 21 V.S.A. § 495 is amended to read:

§ 495. UNLAWFUL EMPLOYMENT PRACTICE

(a) It shall be unlawful employment practice, except where a bona fide occupational qualification requires persons of a particular race, color, religion, national origin, sex, sexual orientation, gender identity, ancestry, place of birth, age, crime victim status, or physical or mental condition:

(1) For any employer, employment agency, or labor organization to harass or discriminate against any individual because of race, color, religion,

ancestry, national origin, sex, sexual orientation, gender identity, place of birth, crime victim status, or age or against a qualified individual with a disability~~;~~.

* * *

(3) For any employment agency to fail or refuse to classify properly or refer for employment or to otherwise harass or discriminate against any individual because of race, color, religion, ancestry, national origin, sex, sexual orientation, gender identity, place of birth, crime victim status, or age or against a qualified individual with a disability~~;~~.

(4) For any labor organization~~,~~ to limit, segregate, or qualify its membership with respect to any individual because of race, color, religion, ancestry, national origin, sex, sexual orientation, gender identity, place of birth, crime victim status, or age ~~to discriminate against any individual or against a qualified individual with a disability or to limit, segregate, or qualify its membership;~~ or against a qualified individual with a disability.

* * *

(7) For any employer, employment agency, labor organization, or person seeking employees to discriminate between employees on the basis of sex, race, or national origin or against a qualified individual with a disability by paying wages to employees of one sex, race, or national origin or an employee who is a qualified individual with a disability at a rate less than the rate paid to employees of the other sex or a different race or national origin or without the physical or mental condition of the qualified individual with a disability for equal work that requires equal skill, effort, and responsibility and is performed under similar working conditions. An employer who is paying wages in violation of this section shall not reduce the wage rate of any other employee in order to comply with this subsection.

(A) An employer may pay different wage rates under this subsection when the differential wages are made pursuant to:

* * *

(iv) A bona fide factor other than sex, race, national origin, or physical or mental condition. An employer asserting that differential wages are paid pursuant to this subdivision (7)(A)(iv) shall demonstrate that the factor does not perpetuate a ~~sex-based~~ differential in compensation~~,~~ based on sex, race, national origin, or physical or mental condition; is job-related with respect to the position in question~~,~~; and is based upon a legitimate business consideration.

* * *

(C) Nothing in this section shall be construed to diminish an employee's right to privacy regarding a disability or physical or mental condition under any other law, or pursuant to an applicable contract or collective bargaining agreement.

(8) ~~Retaliation prohibited.~~ An employer, employment agency, or labor organization shall not discharge or in any other manner discriminate against any employee because the employee:

* * *

(i) An agreement to settle a claim of a violation of subsection (a) of this section shall not prohibit, prevent, or otherwise restrict the employee from working for the employer or any parent company, subsidiary, division, or affiliate of the employer. Any provision of an agreement to settle a claim of a violation of subsection (a) of this section that violates this subsection shall be void and unenforceable with respect to the individual who made the claim.

(j) Except for claims alleging a violation of subdivision (a)(7) of this section, an employee shall not be required to demonstrate the existence of another employee or individual to whom the employee's treatment can be compared to establish a violation of this section.

(k) Notwithstanding any State or federal judicial precedent to the contrary:

(1) harassment and discrimination need not be severe or pervasive to constitute a violation of this section; and

(2) behavior that a reasonable employee with the same protected characteristic would consider to be a petty slight or trivial inconvenience shall not constitute unlawful harassment or discrimination pursuant to this section.

Sec. 2. 21 V.S.A. § 495d is amended to read:

§ 495d. DEFINITIONS

As used in this subchapter:

* * *

(13)(A) "Sexual harassment" is a form of sex discrimination and means unwelcome sexual advances, requests for sexual favors, and other verbal ~~or,~~ physical, written, auditory, or visual conduct of a sexual nature when:

~~(A)~~(i) submission to that conduct is made either explicitly or implicitly a term or condition of employment;

~~(B)~~(ii) submission to or rejection of such conduct by an individual is used as a component of the basis for employment decisions affecting that

individual; or

~~(C)~~(iii) the conduct has the purpose or effect of ~~substantially~~ interfering with an individual's work ~~performance~~ or creating an intimidating, hostile, or offensive work environment.

(B) Sexual harassment need not be severe or pervasive in order to be unlawful pursuant to this subchapter.

* * *

(16) "Harass" means to engage in unwelcome conduct based on an employee's race, color, religion, national origin, sex, sexual orientation, gender identity, ancestry, place of birth, age, crime victim status, or physical or mental condition that interferes with the employee's work or creates a work environment that is intimidating, hostile, or offensive. In determining whether conduct constitutes harassment:

(A) The determination shall be made on the basis of the record as a whole, according to the totality of the circumstances, and a single incident may constitute unlawful harassment.

(B) Incidents that may be harassment shall be considered in the aggregate with varying types of conduct and conduct based on multiple characteristics viewed in totality, rather than in isolation.

(C) Conduct may constitute harassment, regardless of whether:

(i) the complaining employee is the individual being harassed;

(ii) the complaining employee acquiesced or otherwise submitted to or participated in the conduct;

(iii) the conduct is also experienced by others outside the protected class involved in the conduct;

(iv) the complaining employee was able to continue carrying out the employee's job duties and responsibilities despite the conduct;

(v) the conduct resulted in a physical or psychological injury; or

(vi) the conduct occurred outside the workplace.

Sec. 3. 9 V.S.A. § 4501 is amended to read:

§ 4501. DEFINITIONS

As used in this chapter:

* * *

(12)(A) "Harass" means to engage in unwelcome conduct that detracts

from, undermines, or interferes with a person's:

(i) use of a place of public accommodation or any of the accommodations, advantages, facilities, or privileges of a place of public accommodation because of the person's race, creed, color, national origin, marital status, sex, sexual orientation, gender identity, or disability; or

(ii) terms, conditions, privileges, or protections in the sale or rental of a dwelling or other real estate, or in the provision of services or facilities in connection with a dwelling or other real estate, because of the person's race, sex, sexual orientation, gender identity, age, marital status, religious creed, color, national origin, or disability, or because the person intends to occupy a dwelling with one or more minor children, or because the person is a recipient of public assistance, or because the person is a victim of abuse, sexual assault, or stalking.

(B) Notwithstanding any judicial precedent to the contrary, harassing conduct need not be severe or pervasive to be unlawful pursuant to the provisions of this chapter. In determining whether conduct constitutes unlawful harassment:

(i) The determination shall be made on the basis of the record as a whole, according to the totality of the circumstances, and a single incident may constitute unlawful harassment.

(ii) Incidents that may be harassment shall be considered in the aggregate with varying types of conduct and conduct based on multiple characteristics viewed in totality, rather than in isolation.

(iii) Conduct may constitute unlawful harassment, regardless of whether:

(I) the complaining person is the person being harassed;

(II) the complaining person acquiesced or otherwise submitted to or participated in the conduct;

(III) the conduct is also experienced by others outside the protected class involved in the conduct;

(IV) despite the conduct, the complaining person was able to:

(aa) use the place of public accommodation or any of the accommodations, advantages, facilities, or privileges of the place of public accommodation; or

(bb) enjoy the benefit of applicable terms, conditions, privileges, or protections in the sale or rental of the dwelling or other real

estate, or to obtain services or facilities in connection with the dwelling or other real estate;

(V) the conduct resulted in a physical or psychological injury; or

(VI) the conduct occurred outside the place of public accommodation or the dwelling or other real estate.

(C) Behavior that a reasonable person with the same protected characteristic would consider to be a petty slight or trivial inconvenience shall not constitute unlawful harassment or discrimination pursuant to this chapter.

(D) The provisions of this subdivision (12) shall not apply to any action brought under this chapter pursuant to the provisions of 16 V.S.A. § 570f.

Sec. 4. 9 V.S.A. § 4503 is amended to read:

§ 4503. UNFAIR HOUSING PRACTICES

* * *

(d)~~(1) As used in this section, "harass" means to engage in unwelcome conduct that detracts from, undermines, or interferes with the person's terms, conditions, privileges, or protections in the sale or rental of a dwelling or other real estate, or in the provision of services or facilities in connection with a dwelling or other real estate, because of the person's race, sex, sexual orientation, gender identity, age, marital status, religious creed, color, national origin, or disability, or because the person intends to occupy a dwelling with one or more minor children, or because the person is a recipient of public assistance, or because the person is a victim of abuse, sexual assault, or stalking.~~

~~(2) Notwithstanding any judicial precedent to the contrary, harassing conduct need not be severe or pervasive to be unlawful pursuant to the provisions of this section. In determining whether conduct constitutes unlawful harassment:~~

~~(A) The determination shall be made on the basis of the record as a whole, according to the totality of the circumstances, and a single incident may constitute unlawful harassment.~~

~~(B) Incidents that may be harassment shall be considered in the aggregate with varying types of conduct and conduct based on multiple characteristics viewed in totality, rather than in isolation.~~

~~(C) Conduct may constitute unlawful harassment, regardless of~~

~~whether:~~

~~(i) the complaining person is the person being harassed;~~

~~(ii) the complaining person acquiesced or otherwise submitted to or participated in the conduct;~~

~~(iii) the conduct is also experienced by others outside the protected class involved in the conduct;~~

~~(iv) the complaining person was able to enjoy the benefit of applicable terms, conditions, privileges, or protections in the sale or rental of the dwelling or other real estate, or to obtain services or facilities in connection with the dwelling or other real estate, despite the conduct;~~

~~(v) the conduct resulted in a physical or psychological injury; or~~

~~(vi) the conduct occurred outside the dwelling or other real estate.~~

~~(3) behavior that a reasonable person with the same protected characteristic would consider to be a petty slight or trivial inconvenience shall not constitute unlawful harassment or discrimination pursuant to this section.~~ [Repealed.]

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

(Committee vote: 5-0-0)

**S. 112.**

An act relating to miscellaneous subjects related to the Public Utility Commission.

**Reported favorably with recommendation of amendment by Senator Bray for the Committee on Finance.**

The Committee recommends that the bill be amended in Sec. 1, 30 V.S.A. § 248, by striking out subsection (u) in its entirety.

(Committee vote: 7-0-0)

**CONFIRMATIONS**

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore,* for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and

with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Utility Commission shall be fully and separately acted upon.

John Hollar of Montpelier – Member of the Capitol Complex Commission – By Senator Wrenner for the Committee on Institutions (2/21/23)

Mark Nicholson of West Danville – Member of the Transportation Board – By Senator Ingalls for the Committee on Transportation (2/24/23)

Owen Foster of Jericho – Chair, Green Mountain Care Board – By Senator Lyons for the Committee on Health and Welfare (3/15/23)

June Tierney of Randolph Center – Commissioner, Department of Public Service – By Senator Cummings for the Committee on Finance (3/16/23)

Joe Flynn of South Hero – Secretary, Agency of Transportation – By Senator Mazza for the Committee on Transportation (3/22/23)

Wanda Minoli of Montpelier – Commissioner, Department of Motor Vehicles – By Senator Perchlik for the Committee on Transportation (3/22/23)

Jennifer Morrison of North Hero – Commissioner, Department of Public Safety – By Senator Chittenden for the Committee on Transportation (3/22/23)

## NOTICE OF JOINT ASSEMBLY

**March 28, 2023 - 1:00 P.M.** - House Chamber - Retention of a Chief Justice and four Associate Justices of the Supreme Court and eight Superior Court Judges.

## FOR INFORMATION ONLY

## 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)**