

Journal of the House

Wednesday, March 13, 2024

At three o'clock in the afternoon, the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Dave Robinson, Army veteran with the K-9 Unit, Brattleboro.

Message from the Senate No. 29

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

Madam Speaker:

I am directed to inform the House that:

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

S. 187. An act relating to student application of sunscreen.

S. 302. An act relating to public health outreach programs regarding dementia risk.

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

The Governor has informed the Senate that on the 4th day of March, he approved and signed a bill originating in the Senate of the following title:

S. 154. An act relating to the Vermont State Plane Coordinate System.

Bills Referred to Committee on Appropriations

House bills of the following titles, appearing on the Notice Calendar, carrying appropriations, under House Rule 35(a), were referred to the Committee on Appropriations:

H. 233

House bill, entitled

An act relating to pharmacy benefit management and Medicaid wholesale drug distribution

H. 614

House bill, entitled

An act relating to land improvement fraud and timber trespass

H. 868

House bill, entitled

An act relating to the fiscal year 2025 Transportation Program and miscellaneous changes to laws related to transportation

Joint Resolution Adopted in Concurrence**J.R.S. 48**

By Senator Baruth,

J.R.S. 48. Joint resolution relating to weekend adjournment on March 15, 2024.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, March 15, 2024, it be to meet again no later than Tuesday, March 19, 2024.

Was taken up, read, and adopted in concurrence.

House Resolution Adopted**H.R. 17**

House resolution, entitled

House resolution expressing genuine appreciation and strong support for the work of SerVermont

Offered by: Representative Noyes of Wolcott

Whereas, in 1990, Congress enacted the National and Community Service Act, Pub. L. No. 101-610, to “(1) renew the ethic of civic responsibility in the United States; [and] (2) ask citizens of the United States, regardless of age or income, to engage in full-time or part-time service to the Nation,” and

Whereas, the National Community and Service Trust Act of 1993, Pub. L. No. 103-82, amended the 1990 law to “build on the existing organizational service infrastructure of Federal, State, and local programs and agencies to expand full-time and part-time service opportunities for all citizens,” and

Whereas, Pub. L. No. 103-82 established the Corporation for National and Community Service and reconstituted the corresponding state commissions, and, on November 30, 1993, Governor Howard Dean issued Executive Order 09-98, establishing SerVermont (Vermont’s state commission), and

Whereas, in 2023, SerVermont was the recipient of \$6.3 million in federal funds, and, through the public-private partnership that the National Community and Service Trust Act formulated, an additional \$2.3 million in

corporate, foundation, and other public money was generated to support the volunteer initiatives under SerVermont’s jurisdiction, and

Whereas, in 2023, 2,307 persons volunteered at 389 service locations on projects overseen by SerVermont, including those at “schools, food banks, homeless shelters, health clinics, youth centers, veterans’ facilities, and other nonprofit and faith-based organizations,” and

Whereas, volunteer initiatives in response to the major July 2023 floods epitomize the broad community benefits derived from these initiatives, and

Whereas, the work of SerVermont is to be encouraged, as it significantly enhances individual lives, nonprofits, and public institutions, as well as the overall fabric of Vermont society, now therefore be it

Resolved by the House of Representatives:

That this legislative body expresses genuine appreciation and strong support for the work of SerVermont, and be it further

Resolved: That the Clerk of the House be directed to send a copy of this resolution to SerVermont.

Was read and adopted.

Ceremonial Reading

H.C.R. 152

House concurrent resolution recognizing March 13, 2024 as National K9 Veterans Day in Vermont

Offered by: Representatives Roberts of Halifax, Beck of St. Johnsbury, Dolan of Essex Junction, Graning of Jericho, Gregoire of Fairfield, Hango of Berkshire, Harrison of Chittenden, Labor of Morgan, LaBounty of Lyndon, Masland of Thetford, McCann of Montpelier, Morrissey of Bennington, Ode of Burlington, Patt of Worcester, Sammis of Castleton, Templeman of Brownington, and Troiano of Stannard

Offered by: Senators Collamore, Hardy, Harrison, Hashim, Norris, Sears, and Wrenner

Whereas, when Americans reflect on our nation’s military personnel, they typically think of the outstanding men and women serving in the U.S. Armed Forces, and

Whereas, although most of the members of the U.S. Armed Forces are indeed human beings, a select group of approximately 1,600 highly trained four-legged fighters of the canine species also serve the nation, performing

vital military roles, and continuing a tradition dating from at least the Civil War, and

Whereas, these four-legged soldiers graduate from the vigorous 120-day Military Working Dog Training Program of the San Antonio-based U.S. Air Force 341st Training Squadron, which has a mission “to provide trained military working dogs and handlers...for security efforts worldwide,” and

Whereas, most of these skilled K9 combatants are trained for the dual roles of patrol duty and sniffing for either drugs or explosives, and

Whereas, the usual career path for military dogs is to remain assigned exclusively to the U.S. Air Force, the U.S. Army, the U.S. Coast Guard, the U.S. Navy, or the U.S. Marines Corps for the duration of their careers, and

Whereas, a special bond develops between the human handler and their assigned military dog, and

Whereas, the duties the dogs are assigned are physically demanding, and their training regimen keeps them in top condition, but when injuries arise, the Lt. Col. Daniel E. Holland Military Working Dog Hospital in San Antonio provides expert and compassionate health care, and

Whereas, without military dogs, many aspects of the U.S. Armed Forces’ responsibilities could not be fully implemented, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly recognizes March 13, 2024 as National K9 Veterans Day in Vermont, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution the U.S. Air Force 341st Training Squadron in San Antonio, Texas.

Having been adopted in concurrence on Friday, February 16, 2024 in accord with Joint Rule 16b, was read.

Rep. Long of Newfane presiding.

Action on Bill Postponed

S. 18

Senate bill, entitled

An act relating to banning flavored tobacco products and e-liquids

Was taken up and, pending second reading of the bill, on motion of **Rep. Brumsted of Shelburne**, action on the bill was postponed until March 14, 2024.

Third Reading; Bill Passed**H. 766**

House bill, entitled

An act relating to prior authorization and step therapy requirements, health insurance claims, provider contracts, and collection of cost sharing amounts

Was taken up and read the third time.

Speaker presiding.

Pending the question, Shall the bill pass?, **Rep. Black of Essex** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill pass?, was decided in the affirmative. Yeas, 137. Nays, 0.

Those who voted in the affirmative are:

Andrews of Westford	Dolan of Waitsfield *	Minier of South Burlington
Andriano of Orwell	Donahue of Northfield	Morgan of Milton
Anthony of Barre City	Durfee of Shaftsbury	Morris of Springfield
Arrison of Weathersfield	Emmons of Springfield	Morrissey of Bennington
Arsenault of Williston	Farlice-Rubio of Barnet	Mrowicki of Putney
Austin of Colchester	Galfetti of Barre Town	Mulvaney-Stanak of
Bartholomew of Hartland	Garofano of Essex	Burlington
Beck of St. Johnsbury	Goldman of Rockingham	Notte of Rutland City
Berbeco of Winooski	Goslant of Northfield	Nugent of South Burlington
Birong of Vergennes	Graham of Williamstown	Ode of Burlington
Black of Essex	Graning of Jericho	Page of Newport City
Bluemle of Burlington	Gregoire of Fairfield	Pajala of Londonderry
Bongartz of Manchester	Hango of Berkshire	Parsons of Newbury
Bos-Lun of Westminster	Harrison of Chittenden	Patt of Worcester
Boyden of Cambridge	Headrick of Burlington	Peterson of Clarendon
Brady of Williston	Higley of Lowell	Pouech of Hinesburg
Branagan of Georgia *	Holcombe of Norwich	Priestley of Bradford
Brennan of Colchester	Hooper of Randolph	Quimby of Lyndon
Brown of Richmond	Hooper of Burlington	Rachelson of Burlington
Brownell of Pownal	Houghton of Essex Junction	Rice of Dorset
Brumsted of Shelburne	Howard of Rutland City	Roberts of Halifax
Burditt of West Rutland	Hyman of South Burlington	Sammis of Castleton
Burke of Brattleboro	James of Manchester	Satcowitz of Randolph
Burrows of West Windsor	Jerome of Brandon	Scheu of Middlebury
Buss of Woodstock	Kornheiser of Brattleboro	Shaw of Pittsford
Campbell of St. Johnsbury	Krasnow of South	Sheldon of Middlebury
Canfield of Fair Haven	Burlington	Sibilia of Dover
Carpenter of Hyde Park	Labor of Morgan	Sims of Craftsbury
Carroll of Bennington	LaBounty of Lyndon	Small of Winooski
Casey of Montpelier	Lalley of Shelburne	Smith of Derby
Chapin of East Montpelier	LaLonde of South	Squirrell of Underhill
Chase of Chester	Burlington	Stebbins of Burlington

Chase of Colchester	LaMont of Morristown	Stevens of Waterbury
Chesnut-Tangerman of Middletown Springs	Lanpher of Vergennes	Surprenant of Barnard
Cina of Burlington	Laroche of Franklin	Taylor of Milton
Clifford of Rutland City	Leavitt of Grand Isle	Taylor of Colchester
Coffey of Guilford	Lipsky of Stowe	Templeman of Brownington
Cole of Hartford	Long of Newfane	Toleno of Brattleboro
Conlon of Cornwall	Maguire of Rutland City	Toof of St. Albans Town
Corcoran of Bennington	Marcotte of Coventry	Torre of Moretown
Cordes of Lincoln	Masland of Thetford	Walker of Swanton
Demar of Enosburgh	Mattos of Milton	Waters Evans of Charlotte
Demrow of Corinth	McCann of Montpelier	White of Bethel
Dickinson of St. Albans Town	McCarthy of St. Albans City	Whitman of Bennington
Dodge of Essex	McFaun of Barre Town	Williams of Barre City
Dolan of Essex Junction	McGill of Bridport	Williams of Granby
	Mihaly of Calais	Wood of Waterbury

Those who voted in the negative are: none

Those members absent with leave of the House and not voting are:

Bartley of Fairfax	McCoy of Poultney	Oliver of Sheldon
Christie of Hartford	Nicoll of Ludlow	Pearl of Danville
Elder of Starksboro	Noyes of Wolcott	Stone of Burlington
Logan of Burlington	O'Brien of Tunbridge	Troiano of Stannard

Rep. Branagan of Georgia explained her vote as follows:

“Madam Speaker:

I vote yes on H.766 for the great value it has for Vermont’s caregivers. And I appreciate the help given to me by committee members yesterday in finding a solution for the slow payment of physicians providing medications in their office as a result of the recent computer hacking.”

Rep. Dolan of Waitsfield explained her vote as follows:

“Madam Speaker:

I stand in support of this bill. My own daughter, at age 16, was denied cancer treatment. We worked with her oncologist to fight that decision. This bill is long overdue. This bill will help other families who otherwise could face similar difficult and unconscionable decisions.”

Second Reading; Bill Amended; Third Reading Ordered

H. 534

Rep. Notte of Rutland City, for the Committee on Judiciary, to which had been referred House bill, entitled

An act relating to retail theft

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

Sec. 1. 13 V.S.A. § 2575 is amended to read:

§ 2575. OFFENSE OF RETAIL THEFT

A person commits the offense of retail theft when the person, with intent of depriving a merchant wrongfully of the lawful possession of merchandise, money, or credit:

(1) takes and carries away or causes to be taken and carried away or aids and abets the carrying away of, any merchandise from a retail mercantile establishment without paying the retail value of the merchandise; or

* * *

Sec. 2. 13 V.S.A. § 2577 is amended to read:

§ 2577. PENALTY

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

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

* * *

(d)(1) A person who commits more than one retail theft offense in violation of subdivision 2575(1) of this title in one or more locations within a 14-day period and within a single county shall be punished by a fine of not more than \$1,000.00 or imprisonment for not more than 10 years, or both, if the aggregate retail value of the merchandise taken away exceeds \$900.00.

(2) This subsection shall be repealed on July 1, 2027.

Sec. 3. INTENT

It is the intent of the General Assembly that the Department of Corrections reinstitute the Community Restitution Program and ensure that it is appropriately staffed and resourced so that it may be offered in all 14 counties as a sentencing alternative.

Sec. 4. 13 V.S.A. § 7030 is amended to read:

§ 7030. SENTENCING ALTERNATIVES

(a) In determining which of the following should be ordered, the court shall consider the nature and circumstances of the crime; the history and character of the defendant; the defendant's family circumstances and relationships; the impact of any sentence upon the defendant's minor children; the need for treatment; and the risk to self, others, and the community at large presented by the defendant:

(1) A deferred sentence pursuant to section 7041 of this title.

(2) Referral to a community reparative board pursuant to 28 V.S.A. chapter 12 in the case of an offender who has pled guilty to a nonviolent felony, a nonviolent misdemeanor, or a misdemeanor that does not involve the subject areas prohibited for referral to a community justice center under 24 V.S.A. § 1967. Referral to a community reparative board pursuant to this subdivision does not require the court to place the offender on probation. The offender shall return to court for further sentencing if the reparative board does not accept the case or if the offender fails to complete the reparative board program to the satisfaction of the board in a time deemed reasonable by the board.

(3) Community restitution pursuant to a policy adopted by the Commissioner of Corrections.

(4) Probation pursuant to 28 V.S.A. § 205.

~~(4)~~(5) Supervised community sentence pursuant to 28 V.S.A. § 352.

~~(5)~~(6) Sentence of imprisonment.

(b) When ordering a sentence of probation, the court may require participation in the Restorative Justice Program established by 28 V.S.A. chapter 12 as a condition of the sentence.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

The bill, having appeared on the Notice Calendar, was taken up and read the second time.

Pending the question, Shall the bill be amended as recommended by the Committee on Judiciary?, **Rep. Cina of Burlington** asked that the question be divided by first considering all sections of the committee report except for Sec. 2, and by thereafter considering Sec. 2 of the committee report. The Speaker ruled that the question was divisible in that manner.

Thereupon, the first division of amendment was agreed to. Thereafter, the second division of amendment was agreed to and third reading ordered.

Second Reading; Bill Amended; Third Reading Ordered

H. 645

Rep. Dolan of Essex Junction, for the Committee on Judiciary, to which had been referred House bill, entitled

An act relating to the expansion of approaches to restorative justice

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

Sec. 1. 3 V.S.A. chapter 7 is amended to read:

CHAPTER 7. ATTORNEY GENERAL

Subchapter 1. Election; Authority; Duties

§ 151. ELECTION AND TERM

* * *

Subchapter 2. Restorative Justice Approaches

§ 162a. DEFINITIONS

As used in this subchapter:

(1) “Child” has the same meaning as in 33 V.S.A. § 5102(2).

(2) “Pre-charge diversion” means a referral of an individual to a community-based restorative justice provider by a law enforcement officer or prosecutor after the referring officer or prosecutor has determined that probable cause exists that the individual has committed a criminal offense and before the individual is criminally charged with the offense or before a petition is filed in family court for the offense.

(3) “Youth” has the same meaning as in 33 V.S.A. § 5102(29).

§ 163. JUVENILE COURT DIVERSION PROJECT PROGRAM

(a) Purpose.

(1) The Attorney General shall develop and administer a juvenile court diversion ~~project program~~, for both pre-charge and post-charge referrals to youth-appropriate community-based restorative justice providers, for the purpose of assisting juveniles children or youth charged with delinquent acts. ~~In consultation with the diversion programs, the Attorney General shall adopt a policies and procedures manual in compliance with this section.~~

(2) The program shall be designed to provide a restorative option for children or youth alleged to have caused harm in violation of a criminal statute or who have been charged with violating a criminal statute and subject to a delinquency or youthful offender petition filed with the Family Division of the Superior Court, as well as for victims or those acting on a victim's behalf who have been allegedly harmed by the responsible party. The juvenile diversion program can accept referrals to the program as follows:

(A) Pre-charge by law enforcement or prosecutors pursuant to a policy adopted in accordance with subdivisions (c)(1)–(2) of this section.

(B) Post-charge by prosecutors for children or youth charged with a first or a second misdemeanor or a first nonviolent felony, or other offenses as the prosecutor deems appropriate, pursuant to subdivision (c)(3) of this section.

~~(b) The diversion program administered by the Attorney General shall support the operation of diversion programs in local communities through grants of financial assistance to, or by contracting for services with, municipalities, private groups, or other local organizations. The Attorney General may require local financial contributions as a condition of receipt of project funding. Administration; report.~~

(1) The Attorney General shall support the operation of diversion programs in each of the State's counties through grants of financial assistance to, or contracts for services with, a single municipality or organization to provide community-based restorative justice programs and services in each county. Upon approval of the Attorney General, the single municipality or organization receiving a grant pursuant to this section may issue subgrants to diversion providers or execute subcontracts for diversion services.

(2) The Attorney General may require local financial contributions as a condition of receipt of program funding.

(3) In consultation with community-based restorative justice providers, the Office of the Attorney General shall develop program outcomes following the designated State of Vermont performance accountability framework and, in consultation with the Department of State's Attorneys and Sheriffs, the Office of the Defender General, the Center for Crime Victim Services, the Judiciary, and the Division of Racial Justice Statistics of the Office of Racial Equity, report annually on or before December 1 to the General Assembly on services provided and outcome indicators. As components of the report required by this subsection, the Attorney General shall include data on the number of pre-charge and post-charge diversion program referrals in each county; race, gender, age, and other demographic variables, whenever possible; offenses

charged and crime types; successful completion rates; and possible causes of any geographical disparities.

(4) The Attorney General is authorized to accept grants and gifts for the purposes of this section, such acceptance being pursuant to 32 V.S.A. § 5.

(5) In consultation with community-based restorative justice providers, the Center for Crime Victims Services, the Department of State's Attorneys and Sheriffs' Victim Advocates, the Division for Racial Justice Statistics of the Office of Racial Equity, and the State Archivist, the Attorney General shall adopt a policies and procedures manual for community-based restorative justice providers to promote a uniform system across the State in compliance with this section. The manual shall include policies and procedures related to:

(A) informing victims of their rights and role in pre-charge and post-charge diversion, including that such information is available in writing upon request;

(B) the timely notification to victims of a referral to pre- and post-charge diversion;

(C) an invitation to victims to engage in the restorative process;

(D) how to share information with a victim concerning a restorative agreement's conditions related to the victim and any progress made on such conditions;

(E) best practices for collecting data from all parties that engage with the pre-charge and post-charge diversion programs; and

(F) confidentiality expectations for all parties who engage in the restorative process.

~~(c) All diversion projects receiving financial assistance from the Attorney General shall adhere to the following provisions: Juvenile diversion program policy and referral requirements.~~

~~(1) The diversion project shall only accept persons against whom charges have been filed and the court has found probable cause but are not yet adjudicated.~~

~~(2) Alleged offenders shall be informed of their right to the advice and assistance of private counsel or the public defender at all stages of the diversion process, including the initial decision to participate, and the decision to accept the diversion contract, so that the candidate may give his or her informed consent.~~

~~(3) The participant shall be informed that his or her selection of the diversion contract is voluntary.~~

~~(4) Each State's Attorney, in cooperation with the Attorney General and the diversion program, shall develop clear criteria for deciding what types of offenses and offenders will be eligible for diversion; however, the State's Attorney shall retain final discretion over the referral of each case for diversion. The provisions of 33 V.S.A. § 5225(e) and § 5280(e) shall apply.~~

~~(5) All information gathered in the course of the diversion process shall be held strictly confidential and shall not be released without the participant's prior consent (except that research and reports that do not require or establish the identity of individual participants are allowed).~~

~~(6) Information related to the present offense that is divulged during the diversion program shall not be used in the prosecutor's case. However, the fact of participation and success, or reasons for failure may become part of the prosecutor's records.~~

~~(7) The diversion project shall maintain sufficient records so that the reasons for success or failure of the program in particular cases and overall can be investigated by program staff.~~

~~(8) Diversion projects shall be set up to respect the rights of participants.~~

~~(9) Each participant shall pay a fee to the local juvenile court diversion project. The amount of the fee shall be determined by project officers based upon the financial capabilities of the participant. The fee shall not exceed \$150.00. The fee shall be a debt due from the participant, and payment of such shall be required for successful completion of the Program. Notwithstanding 32 V.S.A. § 502(a), fees collected under this subdivision shall be retained and used solely for the purpose of the Court Diversion Program.~~

Juvenile pre-charge diversion policy required. In order for a county's community-based restorative justice provider to be eligible to receive pre-charge diversion referrals pursuant to this section, the county's State's Attorney's office shall adopt a juvenile pre-charge diversion referral policy. To encourage fair and consistent juvenile pre-charge diversion referral policies and methods statewide, the Department of State's Attorneys and Sheriffs and the Community Justice Unit shall publicly post the policies adopted by each State's Attorney's office.

(2) Juvenile pre-charge diversion policy contents. A county's State's Attorney's juvenile pre-charge diversion program policy shall include the following:

(A) A list of offenses that presumptively qualify for juvenile pre-charge diversion.

(B) Any additional criteria to determine whether a child or youth is eligible to participate in juvenile pre-charge diversion.

(C) The appropriate documentation to accompany a referral to juvenile pre-charge diversion, including the name and contact information of the child or youth and the child or youth's parent or legal guardian; the name and contact information of the victim or victims; and a factual statement or affidavit of probable cause of the alleged incident.

(D) A procedure for returning a case to the law enforcement agency or the prosecutor, including when:

(i) the prosecutor withdraws any juvenile pre-charge referral from the juvenile pre-charge diversion program;

(ii) the community-based restorative justice provider determines that the matter is not appropriate for juvenile pre-charge programming; and

(iii) when a child or youth does not successfully complete juvenile pre-charge diversion programming.

(E) A statement reiterating that the State's Attorney retains final discretion over the cases that are eligible for diversion and may deviate from the adopted policy in accordance with such discretion.

(3) Juvenile post-charge diversion requirements. Each State's Attorney, in cooperation with the Office of the Attorney General and the juvenile post-charge diversion program, shall develop clear criteria for deciding what types of offenses and offenders will be eligible for diversion; however, the State's Attorney shall retain final discretion over the referral of each case for diversion. All juvenile post-charge diversion programs receiving financial assistance from the Attorney General shall adhere to the following:

(A) The juvenile post-charge diversion program for children or youth shall only accept individuals against whom a petition has been filed and the court has found probable cause, but are not adjudicated.

(B) A prosecutor may refer a child or youth to diversion either before or after a preliminary hearing and shall notify in writing to the diversion program and the court of the prosecutor's referral to diversion.

(C) If a child or youth is charged with a qualifying crime as defined in 13 V.S.A. § 7601(4)(A) and the crime is a misdemeanor, the prosecutor shall provide the child or youth with the opportunity to participate in the court diversion program unless the prosecutor states on the record at the preliminary hearing or a subsequent hearing why a referral to the post-charge program would not serve the ends of justice. Factors considered in the ends-of-justice

determination include the child's or youth's delinquency record, the views of the alleged victim or victims, and the need for probationary supervision.

(D) Notwithstanding this subsection (c), the diversion program may accept cases pursuant to 33 V.S.A. §§ 5225(c) and 5280(e).

(d) The Attorney General is authorized to accept grants and gifts for the purposes of this section, such acceptance being pursuant to 32 V.S.A. § 5. Confidentiality.

(1) The matter shall become confidential when notice of a pre-charge referral is provided to the juvenile diversion program, or when notice of a post-charge referral is provided to the court.

(2) All information related to any offense gathered in the course of the juvenile diversion process shall be held strictly confidential and shall not be released without the participant's prior consent.

(3) Information related to any offense that a person divulges in preparation for, during, or as a follow-up to the provision of the juvenile diversion programming shall not be used against the person in any criminal, civil, family, juvenile, or administrative investigation, prosecution, or case for any purpose, including impeachment or cross-examination. However, the fact of participation and success, or reasons for failure, may become part of the prosecutor's records. This subsection shall not be construed to prohibit the limited disclosure or use of information to specific persons in the following circumstances:

(A) Where there is a threat or statement of a plan that a person may reasonably believe is likely to result in death or bodily injury to themselves or others or damage to the property of another person.

(B) When disclosure is necessary to report bodily harm any party causes another during restorative justice programming.

(C) Where there is a reasonable suspicion of abuse or neglect of a child or vulnerable adult and a report is made pursuant to the provisions of 33 V.S.A. § 4914 or 33 V.S.A. § 6903 or to comply with any law.

(D) Where a court or administrative tribunal determines that the materials were submitted by a participant in the program for the purpose of avoiding discovery of the material in a court or administrative proceeding. If a participant wishes to avail themselves of this provision, the participant may disclose this information in camera to a judicial officer for the purposes of seeking such a ruling.

(4)(A) Notwithstanding subdivision (2) of this subsection (d), if law enforcement or the prosecutor refers a case to diversion, upon the victim's

request, the juvenile diversion program shall provide information relating to the conditions of the diversion contract regarding the victim, progress made on such conditions, and information that assists with obtaining the victim's compensation.

(B) Victim information that is not part of the public record shall not be released without the victim's prior consent.

(C) Nothing in this section shall be construed to prohibit a victim's exercise of rights as otherwise provided by law.

(e) Rights and responsibilities.

~~(1) Within 30 days after the two-year anniversary of a successful completion of juvenile diversion, the court shall provide notice to all parties of record of the court's intention to order the expungement of all court files and records, law enforcement records other than entries in the juvenile court diversion program's centralized filing system, fingerprints, and photographs applicable to the proceeding. However, the court shall not order expungement if the participant does not satisfy each of subdivisions (A) (D) of this subdivision. The court shall give the State's Attorney an opportunity for a hearing to contest the expungement of the records. The court shall expunge the records if it finds:~~

~~(A) two years have elapsed since the successful completion of juvenile diversion by the participant;~~

~~(B) the participant has not been convicted of a subsequent felony or misdemeanor during the two-year period, and no proceedings are pending seeking such conviction;~~

~~(C) rehabilitation of the participant has been attained to the satisfaction of the court; and~~

~~(D) the participant does not owe restitution related to the case. Juvenile court diversion programs shall be set up to respect the rights of participants.~~

~~(2) The court may expunge any records that were sealed pursuant to this subsection prior to July 1, 2018 unless the State's Attorney's office that prosecuted the case objects. Thirty days prior to expunging a record pursuant to this subdivision, the court shall provide written notice of its intent to expunge the record to the State's Attorney's office that prosecuted the case.~~

(A) Diversion candidates shall be informed of their right to the advice, assistance, and access to private counsel or the public defender at all stages of the diversion process, including the initial decision to participate and the decision to accept the juvenile diversion contract, so that the candidate may give informed consent.

(B) For the pre-charge diversion program, notwithstanding the financial need determination pursuant to 13 V.S.A. § 5236, the diversion program shall inform the candidate that a public defender is available for consultation at public expense upon the request of the candidate.

~~(3)(A) The court shall keep a special index of cases that have been expunged pursuant to this section together with the expungement order. The index shall list only the name of the person convicted of the offense, his or her date of birth, the docket number, and the criminal offense that was the subject of the expungement.~~

~~(B) The special index and related documents specified in subdivision (A) of this subdivision (3) shall be confidential and shall be physically and electronically segregated in a manner that ensures confidentiality and that limits access to authorized persons.~~

~~(C) Inspection of the expungement order and the certificate may be permitted only upon petition by the person who is the subject of the case. The Chief Superior Judge may permit special access to the index and the documents for research purposes pursuant to the rules for public access to court records.~~

~~(D) The Court Administrator shall establish policies for implementing this subsection (e). Any victims shall be notified of the victim's rights and role in the pre-charge diversion process, including notification of a candidate's referral to the pre-charge diversion program by the pre-charge diversion program.~~

~~(f) Except as otherwise provided in this section, upon the entry of an order expunging files and records under this section, the proceedings in the matter shall be considered never to have occurred, all index references thereto shall be deleted, and the participant, the court, and law enforcement officers and departments shall reply to any request for information that no record exists with respect to such participant inquiry in any matter. Copies of the order shall be sent to each agency or official named therein. Records; deletion and expungement.~~

(1) Pre-charge diversion records deletion.

(A) Not later than 10 days after the successful completion of the pre-charge diversion program, the juvenile diversion program shall notify the victim, law enforcement agency, and the State's Attorney's office of the participant's successful completion. Payment of restitution is required for successful completion.

(B) Two years after the diversion program notifies the State's Attorney's office of the participant's successful completion, the Attorney General shall provide a certified notice that all records held by the diversion program shall be deleted.

(C) Two years after the diversion program notifies the law enforcement agency and the State's Attorney's office of the participant's successful completion, the Attorney General shall provide a certified notice that all public records held by the law enforcement agency and the State's Attorney's office shall be deleted. Public records do not include the Valcour database or other similar nonpublic law enforcement databases.

(2) Pre-charge diversion case index.

(A) The Community Justice Unit shall keep a special index of pre-charge diversion cases that have been deleted pursuant to this section together with the notice of deletion provided by the Attorney General. The index shall list only the name of the diversion participant, the individual's date of birth, a case number, date of case closure, location of programming, and the offense that was the subject of the deletion.

(B) The special index and related documents specified in subdivision (A) of this subdivision (2) shall be confidential and shall be physically and electronically segregated in a manner that ensures confidentiality and that limits access to authorized persons.

(C) Inspection of the certified notice may be permitted only upon request by the person who is the subject of the case. The Attorney General may permit special access to the index and the documents for research purposes pursuant to subdivision (g)(2) of this section.

(D) The Community Justice Unit shall establish policies for implementing subsections (1)–(4) of this subsection (f).

(3) Effect of Deletion. Except as otherwise provided in this section, upon the certified notice to delete files and records under this section, the matter shall be considered never to have occurred; all index references thereto shall be deleted; and the participant, the Community Justice Unit, law enforcement officers and departments, prosecutors, the referring entity, and the diversion program shall reply to any request for information that no record exists with respect to such participant inquiry in any matter. Copies of the certified notice shall be sent to each agency, entity, or official named therein.

(4) Deletion Applicability. The process of automatically deleting records as provided in this section shall only apply to those persons who completed pre-charge diversion on or after July 1, 2025. Any person who completed pre-charge diversion prior to July 1, 2025 must apply to the court to

have the person's records deleted. Deletion shall occur if the requirements of subdivisions (1)–(3) of this subsection (f) are met.

(5) Post-charge diversion records expungement. Within 30 days after the two-year anniversary of a successful completion of juvenile post-charge diversion, the court shall provide notice to all parties of record of the court's intention to order the expungement of all court files and records, law enforcement records, fingerprints, and photographs other than entries in the court diversion program's centralized filing system applicable to the proceeding. However, the court shall not order expungement if the participant does not satisfy each of subdivisions (A)–(C) of this subdivision. The court shall give the State's Attorney an opportunity for a hearing to contest the expungement of the records. The court shall expunge the records if it finds:

(A) two years have elapsed since the successful completion of the juvenile post-charge diversion program by the participant;

(B) the participant has not been convicted of a subsequent felony or misdemeanor during the two-year period, and no proceedings are pending seeking such conviction; and

(C) the participant does not owe restitution related to the case.

(6) Expungement of sealed records. The court may expunge any records that were sealed pursuant to this subsection prior to July 1, 2018 unless the State's Attorney's office that prosecuted the case objects. Thirty days prior to expunging a record pursuant to this subdivision, the court shall provide written notice of its intent to expunge the record to the State's Attorney's office that prosecuted the case.

(7) Post-charge diversion case index.

(A) The court and the Office of the Attorney General shall keep a special index of post-charge diversion cases that have been expunged pursuant to this section together with the expungement order. The index shall list only the name of the person convicted of the offense, the person's date of birth, the docket number, date of case closure, the court of jurisdiction, and the offense that was the subject of the expungement.

(B) The special index and related documents specified in subdivision (A) of this subdivision (7) shall be confidential and shall be physically and electronically segregated in a manner that ensures confidentiality and that limits access to authorized persons.

(C) Inspection of the expungement order and the certificate may be permitted only upon petition by the person who is the subject of the case. The Chief Superior Judge may permit special access to the index and the

documents for research purposes pursuant to the rules for public access to court records.

(D) The Court Administrator shall establish policies for implementing subdivisions (5)–(9) of this subsection (f).

(8) Effect of Expungement. Except as otherwise provided in this section, upon the entry of an order expunging files and records under this section, the proceedings in the matter shall be considered never to have occurred; all index references thereto shall be deleted; and the participant, the court, law enforcement officers and departments, prosecutors, the referring entity, and the diversion program shall reply to any request for information that no record exists with respect to such participant inquiry in any matter. Copies of the order shall be sent to each agency, entity, or official named therein.

(9) Expungement Applicability. The process of automatically expunging records as provided in this section shall only apply to those persons who completed diversion on or after July 1, 2002. Any person who completed diversion prior to July 1, 2002 must apply to the court to have the person's records expunged. Expungement shall occur if the requirements of subdivisions (5)–(8) of this subsection (f) are met.

~~(g) The process of automatically expunging records as provided in this section shall only apply to those persons who completed diversion on or after July 1, 2002. Any person who completed diversion prior to July 1, 2002 must apply to the court to have his or her records expunged. Expungement shall occur if the requirements of subsection (e) of this section are met.~~

~~(h) Subject to the approval of the Attorney General, the Vermont Association of Court Diversion Programs may develop and administer programs to assist persons under this section charged with delinquent, criminal, and civil offenses~~

~~(i) Notwithstanding subdivision (e)(1) of this section, the diversion program may accept cases from the Youth Substance Awareness Safety Program pursuant to 7 V.S.A. § 656 or 18 V.S.A. § 4230b. The confidentiality provisions of this section shall become effective when a notice of violation is issued under 7 V.S.A. § 656(b) or 18 V.S.A. § 4230b(b) and shall remain in effect unless the person fails to register with or complete the Youth Substance Awareness Safety Program.~~

~~(j) Notwithstanding subdivision (e)(1) of this section, the diversion program may accept cases pursuant to 33 V.S.A. §§ 5225–5280. Public records act exemption.~~

(1) Except as otherwise provided by this section, any records or information produced or acquired pursuant to this section shall be exempt from public inspection or copying under Vermont's Public Records Act.

(2) Notwithstanding subdivision (1) of this subsection, a law enforcement agency, State's Attorney's office, court, or community-based restorative justice provider may disclose information to colleges, universities, public agencies of the State, and nonprofit research organizations that a community-based restorative justice provider has agreements with for use in connection with research projects of a public service nature, but no person associated with those institutions or agencies shall disclose that information in any manner that would reveal the identity of an individual who provided the information to the community-based restorative justice provider.

§ 164. ADULT COURT DIVERSION PROGRAM

(a) Purpose.

(1) The Attorney General shall develop and administer an adult court diversion program, for both pre-charge and post-charge referrals, in all counties. In consultation with diversion programs, the Attorney General shall adopt a policies and procedures manual in compliance with this section.

(2) The program shall be designed to provide a restorative option for persons alleged to have caused harm in violation of a criminal statute or who have been charged with violating a criminal statute as well as for victims or those acting on a victim's behalf who have been allegedly harmed by the responsible party. The diversion program can accept referrals to the program as follows:

(A) Pre-charge by law enforcement or prosecutors pursuant to a policy adopted in accordance with subdivisions (c)(1)–(2) of this section.

(B) Post-charge by prosecutors for persons charged with a first or a second misdemeanor or a first nonviolent felony, or other offenses as the prosecutor deems appropriate, pursuant to subdivision (c)(3) of this section.

(C) Post-charge by prosecutors of persons who have been charged with an offense and who have substance abuse or mental health treatment needs regardless of the person's prior criminal history record, except a person charged with a felony offense that is a crime listed in 13 V.S.A. § 5301(7) shall not be eligible under this section. Persons who have attained 18 years of age who are subject to a petition in the Family Division pursuant to 33 V.S.A. chapter 52 or 52A shall also be eligible under this section. Programming for these persons is intended to support access to appropriate treatment or other resources with the aim of improving the person's health and reducing future adverse involvement in the justice system.

~~(b) The program shall be designed for two purposes: Administration; report.~~

~~(1) To assist adults who have been charged with a first or a second misdemeanor or a first nonviolent felony. The Attorney General shall support the operation of diversion programs in each of the State's counties through grants of financial assistance to, or contracts for services with, a single municipality or organization to provide community-based restorative justice programs and services in each county. Upon approval of the Attorney General, the single municipality or organization receiving a grant pursuant to this section may issue subgrants to diversion providers or execute subcontracts for diversion services.~~

~~(2) To assist persons who have been charged with an offense and who have substance abuse or mental health treatment needs regardless of the person's prior criminal history record, except a person charged with a felony offense that is a crime listed in 13 V.S.A. § 5301(7) shall not be eligible under this section. Persons who have attained 18 years of age who are subject to a petition in the Family Division pursuant to 33 V.S.A. chapters 52 or 52A shall also be eligible under this section. Programming for these persons is intended to support access to appropriate treatment or other resources with the aim of improving the person's health and reducing future adverse involvement in the justice system. The Attorney General may require local financial contributions as a condition of receipt of program funding.~~

~~(3) In consultation with community-based restorative justice providers, the Office of the Attorney General shall develop program outcomes following the designated State of Vermont performance accountability framework and, in consultation with the Department of State's Attorneys and Sheriffs, the Office of the Defender General, the Center for Crime Victim Services, the Judiciary, and the Division of Racial Justice Statistics of the Office of Racial Equity, report annually on or before December 1 to the General Assembly on services provided and outcome indicators. As components of the report required by this subsection, the Attorney General shall include data on the number of pre-charge and post-charge diversion program referrals in each county; race, gender, age, and other demographic variables, whenever possible; offenses charged and crime types; successful completion rates; and possible causes of any geographical disparities.~~

~~(4) The Attorney General is authorized to accept grants and gifts for the purposes of this section, such acceptance being pursuant to 32 V.S.A. § 5.~~

~~(5) In consultation with community-based restorative justice providers, the Center for Crime Victims Services, the Department of State's Attorneys and Sheriffs' Victim Advocates, the Division for Racial Justice Statistics of the~~

Office of Racial Equity, and the State Archivist, the Attorney General shall adopt a policies and procedures manual for community-based restorative justice providers to promote a uniform system across the State in compliance with this section. The manual shall include the following policies and procedures related to:

(A) informing victims of their rights and role in pre-charge and post-charge diversion, including that such information is available in writing upon request;

(B) the timely notification victims of a referral to pre-charge and post-charge diversion;

(C) an invitation to victims to engage in the restorative process;

(D) how to share information with a victim concerning a restorative agreement's conditions related to the victim and any progress made on such conditions;

(E) best practices for collecting data from all parties that engage with the pre-charge and post-charge diversion programs; and

(F) confidentiality expectations for all parties who engage in the restorative process.

~~(c) The program shall support the operation of diversion programs in local communities through grants of financial assistance to, or contracts for services with, municipalities, private groups, or other local organizations. The Attorney General may require local financial contributions as a condition of receipt of program funding. Adult diversion program policy and referral requirements.~~

(1) Adult pre-charge diversion policy required. In order for a county's community-based restorative justice provider to be eligible to receive referrals pursuant to this section, the State's Attorney's office shall adopt an adult pre-charge diversion referral policy. To encourage fair and consistent pre-charge and post-charge diversion referral policies and methods statewide, the Department of State's Attorneys and Sheriffs and the Community Justice Unit shall publicly post the policies adopted by each State's Attorney's office.

(2) Adult pre-charge diversion policy contents. A county's State's Attorney's pre-charge diversion program policy shall include the following:

(A) a list of offenses that presumptively qualify for pre-charge diversion;

(B) additional criteria to determine whether a responsible party is eligible to participate in pre-charge diversion;

(C) appropriate documentation to accompany a referral to pre-charge diversion, including the name and contact information of the responsible party, the name and contact information of the victim or victims, and a factual statement or affidavit of probable cause of the alleged offense;

(D) a procedure for returning a case to the law enforcement agency or the prosecutor, including when:

(i) the prosecutor withdraws a pre-charge referral from the diversion program;

(ii) the community-based restorative justice provider determines that the matter is not appropriate for pre-charge programming; and

(iii) a person does not successfully complete pre-charge diversion programming; and

(E) a statement reiterating that the State's Attorney retains final discretion over the cases that are eligible for diversion and may deviate from the adopted policy in accordance with such discretion.

(3) Adult post-charge diversion requirements. Each State's Attorney, in cooperation with the Office of the Attorney General and the adult post-charge diversion program, shall develop clear criteria for deciding what types of offenses and offenders will be eligible for diversion; however, the State's Attorney shall retain final discretion over the referral of each case for diversion. All adult post-charge diversion programs receiving financial assistance from the Attorney General shall adhere to the following:

(A) The post-charge diversion program for adults shall only accept person against whom charges have been filed and the court has found probable cause, but are not adjudicated.

(B) A prosecutor may refer a person to diversion either before or after arraignment and shall notify in writing the diversion program and the court of the prosecutor's of the referral to diversion.

(C) If a person is charged with a qualifying crime as defined in 13 V.S.A. § 7601(4)(A) and the crime is a misdemeanor, the prosecutor shall provide the person with the opportunity to participate in the court diversion program unless the prosecutor states on the record at arraignment or a subsequent hearing why a referral to the post-charge program would not serve the ends of justice. Factors considered in the ends-of-justice determination include the person's criminal record, the views of any victims, or the need for probationary supervision.

(D) Notwithstanding this subsection (c), the diversion program may accept cases pursuant to 33 V.S.A. §§ 5225 and 5280.

~~(d) The Office of the Attorney General shall develop program outcomes following the designated State of Vermont performance accountability framework and, in consultation with the Department of State's Attorneys and Sheriffs, the Office of the Defender General, the Center for Crime Victim Services, and the Judiciary, report annually on or before December 1 to the General Assembly on services provided and outcome indicators. As a component of the report required by this subsection, the Attorney General shall include data on diversion program referrals in each county and possible causes of any geographical disparities. Confidentiality.~~

(1) The matter shall become confidential when notice of a pre-charge referral is provided to the diversion program, or when notice of a post-charge referral is provided to the court. However, persons who are subject to conditions of release imposed pursuant to 13 V.S.A. § 7554 and who are referred to diversion pursuant to subdivision (a)(2)(C) of this section, the matter shall become confidential upon the successful completion of diversion.

(2) All information gathered in the course of the adult diversion process shall be held strictly confidential and shall not be released without the participant's prior consent.

(3) Information related to any offense that a person divulges in preparation for, during, or as a follow-up to the provision of the adult diversion programming shall not be used against the person in any criminal, civil, family, juvenile, or administrative investigation, prosecution, or case for any purpose, including impeachment or cross-examination. However, the fact of participation and success, or reasons for failure, may become part of the prosecutor's records. This subsection shall not be construed to prohibit the limited disclosure or use of information to specific persons in the following circumstances:

(A) Where there is a threat or statement of a plan that a person may reasonably believe is likely to result in death or bodily injury to themselves or others or damage to the property of another person.

(B) When disclosure is necessary to report bodily harm any party causes another during restorative justice programming.

(C) Where there is a reasonable suspicion of abuse or neglect of a child or vulnerable adult and a report is made pursuant to the provisions of 33 V.S.A. § 4914 or 33 V.S.A. § 6903 or to comply with any law.

(D) Where a court or administrative tribunal determines that the materials were submitted by a participant in the program for the purpose of avoiding discovery of the material in a court or administrative proceeding. If a participant wishes to avail themselves of this provision, the participant may

disclose this information in camera to a judicial officer for the purposes of seeking such a ruling.

(4)(A) Notwithstanding subdivision (2) of this subsection (d), if law enforcement or the prosecutor refers a case to diversion, upon the victim's request, the adult diversion program shall provide information relating to the conditions of the diversion contract regarding the victim, progress made on such conditions, and information that assists with obtaining the victim's compensation.

(B) Victim information that is not part of the public record shall not be released without the victim's prior consent.

(C) Nothing in this section shall be construed to prohibit a victim's exercise of rights as otherwise provided by law.

(e) All adult court diversion programs receiving financial assistance from the Attorney General shall adhere to the following provisions: Rights and responsibilities.

(1) The diversion program shall accept only persons against whom charges have been filed and the court has found probable cause, but are not yet adjudicated. The prosecuting attorney may refer a person to diversion either before or after arraignment and shall notify in writing the diversion program and the court of his or her intention to refer the person to diversion. The matter shall become confidential when notice is provided to the court, except that for persons who are subject to conditions of release imposed pursuant to 13 V.S.A. § 7554 and who are referred to diversion pursuant to subdivision (b)(2) of this section, the matter shall become confidential upon the successful completion of diversion. If a person is charged with a qualifying crime as defined in 13 V.S.A. § 7601(4)(A) and the crime is a misdemeanor, the prosecutor shall provide the person with the opportunity to participate in the court diversion program unless the prosecutor states on the record at arraignment or a subsequent hearing why a referral to the program would not serve the ends of justice. If the prosecuting attorney prosecutor refers a case to diversion, the prosecuting attorney prosecutor may release information to the victim upon a showing of legitimate need and subject to an appropriate protective agreement defining the purpose for which the information is being released and in all other respects maintaining the confidentiality of the information; otherwise, files held by the court, the prosecuting attorney prosecutor, and the law enforcement agency related to the charges shall be confidential and shall remain confidential unless:

(A) the diversion program declines to accept the case;

(B) the person declines to participate in diversion;

~~(C) the diversion program accepts the case, but the person does not successfully complete diversion; or~~

~~(D) the prosecuting attorney prosecutor recalls the referral to diversion. Adult court diversion programs shall be set up to respect the rights of participants.~~

~~(2) Alleged offenders shall be informed of their right to the advice and assistance of private counsel or the public defender at all stages of the diversion process, including the initial decision to participate, and the decision to accept the adult diversion contract, so that the candidate may give informed consent.~~

~~(A) Diversion candidates shall be informed of their right to the advice, assistance, and access to private counsel or the public defender at all stages of the diversion process, including the initial decision to participate and the decision to accept the diversion contract, so that the candidate may give informed consent.~~

~~(B) For the pre-charge diversion program, notwithstanding the financial need determination pursuant to 13 V.S.A. § 5236, the diversion program shall inform the candidate that a public defender is available for consultation at public expense upon the request of the diversion candidate.~~

~~(3) The participant shall be informed that his or her selection of the adult diversion contract is voluntary. The candidate shall be informed that participation in the diversion program is voluntary.~~

~~(4) Each State's Attorney, in cooperation with the Office of the Attorney General and the adult court diversion program, shall develop clear criteria for deciding what types of offenses and offenders will be eligible for diversion; however, the State's Attorney shall retain final discretion over the referral of each case for diversion.~~

~~(5) All information gathered in the course of the adult diversion process shall be held strictly confidential and shall not be released without the participant's prior consent (except that research and reports that do not establish the identity of individual participants are allowed).~~

~~(A) The pre-charge and post-charge diversion programs may charge fees to its participants, which shall be paid to the local adult court diversion program. If a fee is charged, it shall be determined by program officers or employees based upon the financial capabilities of the participant. The fee shall not exceed \$300.00. Any fee charged shall be a debt due from the participant.~~

(B) Notwithstanding 32 V.S.A. § 502(a), fees collected pursuant to this subdivision (4) shall be retained and used solely for the purpose of the adult court diversion program.

~~(6)(5) Information related to the present offense that is divulged during the adult diversion program shall not be used against the person in the person's criminal or juvenile case for any purpose, including impeachment or cross-examination. However, the fact of participation and success, or reasons for failure, may become part of the prosecutor's records. Any victims shall be notified of the victim's rights and role in the pre-charge diversion process, including notification of a candidate's referral to the pre-charge diversion program by the pre-charge diversion program.~~

~~(7)(A) Irrespective of whether a record was expunged, the adult court diversion program shall maintain sufficient records so that the reasons for success or failure of the program in particular cases and overall can be investigated by program staff. These records shall include a centralized statewide filing system that will include the following information about individuals who have successfully completed an adult court diversion program:~~

- ~~(i) name and date of birth;~~
- ~~(ii) offense charged and date of offense;~~
- ~~(iii) place of residence;~~
- ~~(iv) county where diversion process took place; and~~
- ~~(v) date of completion of diversion process.~~

~~(B) These records shall not be available to anyone other than the participant and his or her attorney, State's Attorneys, the Attorney General, and directors of adult court diversion programs.~~

~~(C) Notwithstanding subdivision (B) of this subdivision (e)(7), the Attorney General shall, upon request, provide to a participant or his or her attorney sufficient documentation to show that the participant successfully completed diversion.~~

~~(8) Adult court diversion programs shall be set up to respect the rights of participants.~~

~~(9) Each participant shall pay a fee to the local adult court diversion program. The amount of the fee shall be determined by program officers or employees based upon the financial capabilities of the participant. The fee shall not exceed \$300.00. The fee shall be a debt due from the participant, and payment of such shall be required for successful completion of the program.~~

~~Notwithstanding 32 V.S.A. § 502(a), fees collected under this subdivision shall be retained and used solely for the purpose of the court diversion program.~~

~~(f) The Attorney General is authorized to accept grants and gifts for the purposes of this section, such acceptance being pursuant to 32 V.S.A. § 5. Records; deletion and expungement.~~

(1) Pre-charge diversion records deletion.

(A) Not later than 10 days after the successful completion of the pre-charge diversion program, the juvenile diversion program shall notify the victim, law enforcement agency, and the State's Attorney's office of the participant's successful completion. Payment of restitution is required for successful completion.

(B) Two years after the diversion program notifies the State's Attorney's office of the participant's successful completion, the Attorney General shall provide a certified notice that all records held by the diversion program shall be deleted.

(C) Two years after the diversion program notifies the law enforcement agency and the State's Attorney's office of the participant's successful completion, the Attorney General shall provide a certified notice that all public records held by the law enforcement agency and the State's Attorney's office shall be deleted. Public records do not include the Valcour database or other similar nonpublic law enforcement databases.

(2) Pre-charge diversion case index.

(A) The Community Justice Unit shall keep a special index of pre-charge diversion cases that have been deleted pursuant to this section together with the notice of deletion provided by the Attorney General. The index shall list only the name of the diversion participant, the individual's date of birth, a case number, date of case closure, location of programming, and the offense that was the subject of the deletion.

(B) The special index and related documents specified in subdivision (A) of this subdivision (2) shall be confidential and shall be physically and electronically segregated in a manner that ensures confidentiality and that limits access to authorized persons.

(C) Inspection of the certified notice may be permitted only upon request by the person who is the subject of the case. The Attorney General may permit special access to the index and the documents for research purposes pursuant to subdivision (g)(2) of this section.

(D) The Community Justice Unit shall establish policies for implementing subsections (1)–(4) of this subsection (f).

(3) Effect of Deletion. Except as otherwise provided in this section, upon the certified notice to delete files and records under this section, the matter shall be considered never to have occurred; all index references thereto shall be deleted; and the participant, the Community Justice Unit, law enforcement officers and departments, prosecutors, the referring entity, and the diversion program shall reply to any request for information that no record exists with respect to such participant inquiry in any matter. Copies of the certified notice shall be sent to each agency, entity, or official named therein.

(4) Deletion Applicability. The process of automatically deleting records as provided in this section shall only apply to those persons who completed pre-charge diversion on or after July 1, 2025. Any person who completed pre-charge diversion prior to July 1, 2025 must apply to the court to have the person's records deleted. Deletion shall occur if the requirements of subdivisions (1)–(3) of this subsection (f) are met.

(5) Post-charge diversion records expungement. Within 30 days after the two-year anniversary of a successful completion of adult post-charge diversion, the court shall provide notice to all parties of record of the court's intention to order the expungement of all court files and records, law enforcement records, fingerprints, and photographs other than entries in the adult court diversion program's centralized filing system applicable to the proceeding. However, the court shall not order expungement if the participant does not satisfy each of subdivisions (A)–(C) of this subdivision. The court shall give the State's Attorney an opportunity for a hearing to contest the expungement of the records. The court shall expunge the records if it finds:

(A) two years have elapsed since the successful completion of the adult post-charge diversion program by the participant;

(B) the participant has not been convicted of a subsequent felony or misdemeanor during the two-year period, and no proceedings are pending seeking such conviction; and

(C) the participant does not owe restitution related to the case.

(6) Expungement of sealed records. The court may expunge any records that were sealed pursuant to this subsection prior to July 1, 2018 unless the State's Attorney's office that prosecuted the case objects. Thirty days prior to expunging a record pursuant to this subdivision, the court shall provide written notice of its intent to expunge the record to the State's Attorney's office that prosecuted the case.

(7) Post-charge diversion case index.

(A) The court and the Office of the Attorney General shall keep a special index of post-charge diversion cases that have been expunged pursuant

to this section together with the expungement order. The index shall list only the name of the person convicted of the offense, the person's date of birth, the docket number, date of case closure, location of programming, and the criminal offense that was the subject of the expungement.

(B) The special index and related documents specified in subdivision (A) of this subdivision (7) shall be confidential and shall be physically and electronically segregated in a manner that ensures confidentiality and that limits access to authorized persons.

(C) Inspection of the expungement order and the certificate may be permitted only upon petition by the person who is the subject of the case. The Chief Superior Judge may permit special access to the index and the documents for research purposes pursuant to the rules for public access to court records.

(D) The Court Administrator shall establish policies for implementing subdivisions (5)–(9) of this subsection (f).

(8) Effect of Expungement. Except as otherwise provided in this section, upon the entry of an order expunging files and records under this section, the proceedings in the matter shall be considered never to have occurred; all index references thereto shall be deleted; and the participant, the court, law enforcement officers and departments, prosecutors, the referring entity, and the diversion program shall reply to any request for information that no record exists with respect to such participant inquiry in any matter. Copies of the order shall be sent to each agency, entity, or official named therein.

(9) Expungement Applicability. The process of automatically expunging records as provided in this section shall only apply to those persons who completed diversion on or after July 1, 2002. Any person who completed diversion prior to July 1, 2002 must apply to the court to have the person's records expunged. Expungement shall occur if the requirements of this subsection (f) are met.

(g) Public records act exemption.

~~(1) Within 30 days after the two-year anniversary of a successful completion of adult diversion, the court shall provide notice to all parties of record of the court's intention to order the expungement of all court files and records, law enforcement records other than entries in the adult court diversion program's centralized filing system, fingerprints, and photographs applicable to the proceeding. However, the court shall not order expungement if the participant does not satisfy each of subdivisions (A)–(D) of this subdivision. The court shall give the State's Attorney an opportunity for a hearing to~~

contest the expungement of the records. The court shall expunge the records if it finds:

~~(A) two years have elapsed since the successful completion of the adult diversion program by the participant;~~

~~(B) the participant has not been convicted of a subsequent felony or misdemeanor during the two-year period, and no proceedings are pending seeking such conviction;~~

~~(C) rehabilitation of the participant has been attained to the satisfaction of the court; and~~

~~(D) the participant does not owe restitution related to the case. Except as otherwise provided in this section, any records or information produced or acquired pursuant to this section shall be exempt from public inspection or copying under Vermont's Public Records Act and shall be kept confidential.~~

~~(2) The court may expunge any records that were sealed pursuant to this subsection prior to July 1, 2018 unless the State's Attorney's office that prosecuted the case objects. Thirty days prior to expunging a record pursuant to this subdivision, the court shall provide written notice of its intent to expunge the record to the State's Attorney's office that prosecuted the case. Notwithstanding subdivision (1) of this subsection, a law enforcement agency, State's Attorney's office, court, or community-based restorative justice provider may disclose information to colleges, universities, public agencies of the State, and nonprofit research organizations that a community-based restorative justice provider has agreements with for use in connection with research projects of a public service nature, but no person associated with those institutions or agencies shall disclose that information in any manner that would reveal the identity of an individual who provided the information to the community-based restorative justice provider.~~

~~(3)(A) The court shall keep a special index of cases that have been expunged pursuant to this section together with the expungement order. The index shall list only the name of the person convicted of the offense, his or her date of birth, the docket number, and the criminal offense that was the subject of the expungement.~~

~~(B) The special index and related documents specified in subdivision (A) of this subdivision (3) shall be confidential and shall be physically and electronically segregated in a manner that ensures confidentiality and that limits access to authorized persons.~~

~~(C) Inspection of the expungement order and the certificate may be permitted only upon petition by the person who is the subject of the case. The Chief Superior Judge may permit special access to the index and the documents for research purposes pursuant to the rules for public access to court records.~~

~~(D) The Court Administrator shall establish policies for implementing this subsection (g).~~

~~(h) Except as otherwise provided in this section, upon the entry of an order expunging files and records under this section, the proceedings in the matter shall be considered never to have occurred, all index references thereto shall be deleted, and the participant, the court, and law enforcement officers and departments shall reply to any request for information that no record exists with respect to such participant inquiry in any matter. Copies of the order shall be sent to each agency or official named therein.~~

~~(i) [Repealed.]~~

~~(j) The process of automatically expunging records as provided in this section shall only apply to those persons who completed diversion on or after July 1, 2002. Any person who completed diversion prior to July 1, 2002 must apply to the court to have his or her records expunged. Expungement shall occur if the requirements of subsection (g) of this section are met.~~

~~(k) The Attorney General, in consultation with the Vermont Association of Court Diversion Programs, may develop and administer programs to assist persons under this section charged with delinquent, criminal, and civil offenses.~~

~~(l) Notwithstanding subdivision (e)(1) of this section, the diversion program may accept cases from the Youth Substance Awareness Safety Program pursuant to 7 V.S.A. § 656 or 18 V.S.A. § 4230b. The confidentiality provisions of this section shall become effective when a notice of violation is issued under 7 V.S.A. § 656(b) or 18 V.S.A. § 4230b(b) and shall remain in effect unless the person fails to register with or complete the Youth Substance Awareness Safety Program.~~

~~(m) Notwithstanding subdivision (e)(1) of this section, the diversion program may accept cases pursuant to 33 V.S.A. §§ 5225 and 5280.~~

* * *

§ ~~165~~ 161. PUBLIC CONTRACT ADVOCATE

* * *

Sec. 2. 7 V.S.A. § 656 is amended to read:

§ 656. PERSON 16 YEARS OF AGE OR OLDER AND UNDER 21 YEARS OF AGE MISREPRESENTING AGE, PROCURING, POSSESSING, OR CONSUMING ALCOHOLIC BEVERAGES; CIVIL VIOLATION

* * *

(b) Issuance of notice of violation. A law enforcement officer shall issue a person who violates this section a notice of violation, in a form approved by the Court Administrator. The notice of violation shall require the person to provide ~~his or her~~ the person's name and address and shall explain procedures under this section, including that:

(1) the person shall contact the Diversion Program in the county where the offense occurred within 15 days;

(2) failure to contact the Diversion Program within 15 days will result in the case being referred to the Judicial Bureau, where the person, if found liable for the violation, will be subject to a civil penalty and a suspension of the person's operator's license and may face substantially increased insurance rates;

(3) no money should be submitted to pay any penalty until after adjudication; and

(4) the person shall notify the Diversion Program if the person's address changes.

* * *

(d) Registration in Youth Substance Abuse Safety Program. Within 15 days after receiving a notice of violation, the person shall contact the Diversion Program in the county where the offense occurred and register for the Youth Substance Abuse Safety Program. If the person fails to do so, the Diversion Program shall file the summons and complaint with the Judicial Bureau for adjudication under 4 V.S.A. chapter 29. The Diversion Program shall provide a copy of the summons and complaint to the law enforcement officer who issued the notice of violation and shall provide two copies to the person charged with the violation.

(e) Notice to report to Diversion. Upon receipt from a law enforcement officer of a summons and complaint completed under this section, the Diversion Program shall send the person a notice to report to the Diversion Program. The notice to report shall provide that:

(1) The person is required to complete all conditions related to the offense imposed by the Diversion Program, including substance abuse screening and, if deemed appropriate following the screening, substance abuse assessment or substance abuse counseling, or both.

(2) If the person does not satisfactorily complete the substance abuse screening, any required substance abuse assessment or substance abuse counseling, or any other condition related to the offense imposed by the Diversion Program, the case will be referred to the Judicial Bureau, where the person, if found liable for the violation, shall be assessed a civil penalty, the person's driver's license will be suspended, and the person's automobile insurance rates may increase substantially.

(3) If the person satisfactorily completes the substance abuse screening, any required substance abuse assessment or substance abuse counseling, and any other condition related to the offense imposed by the Diversion Program, no penalty shall be imposed and the person's operator's license shall not be suspended.

(f) Diversion Program requirements.

(1) Upon being contacted by a person who has been issued a notice of violation, the Diversion Program shall register the person in the Youth Substance Abuse Safety Program. Pursuant to the Youth Substance Abuse Safety Program, the Diversion Program shall impose conditions on the person. The conditions imposed shall include only conditions related to the offense and in every case shall include a condition requiring satisfactory completion of substance abuse screening using an evidence-based tool and, if deemed appropriate following the screening, substance abuse assessment and substance abuse education or substance abuse counseling, or both. If the screener recommends substance abuse counseling, the person shall choose a State-certified or State-licensed substance abuse counselor or substance abuse treatment provider to provide the services.

(2) Substance abuse screening required under this subsection shall be completed within 60 days after the Diversion Program receives a summons and complaint. The person shall complete all conditions at ~~his or her~~ the person's own expense.

(3) When a person has satisfactorily completed substance abuse screening, any required substance abuse education or substance abuse counseling, and any other condition related to the offense that the Diversion Program has imposed, the Diversion Program shall:

(A) ~~void~~ Void the summons and complaint with no penalty due; ~~and~~.

(B) ~~send~~ Send copies of the voided summons and complaint to the Judicial Bureau and to the law enforcement officer who completed them. Before sending copies of the voided summons and complaint to the Judicial Bureau under this subdivision, the Diversion Program shall redact all language containing the person's name, address, Social Security number, and any other information that identifies the person.

(4) If a person does not satisfactorily complete substance abuse screening, any required substance abuse education or substance abuse counseling, or any other condition related to the offense imposed by the Diversion Program ~~or if the person fails to pay the Diversion Program any required program fees~~, the Diversion Program shall file the summons and complaint with the Judicial Bureau for adjudication under 4 V.S.A. chapter 29. The Diversion Program shall provide a copy of the summons and complaint to the law enforcement officer who issued the notice of violation and shall provide two copies to the person charged with the violation.

(5) A person aggrieved by a decision of the Diversion Program or alcohol counselor may seek review of that decision pursuant to Rule 75 of the Vermont Rules of Civil Procedure.

(6) Notwithstanding 3 V.S.A. §§ 163(a)(2)(C) and 164(a)(2)(C), the adult or juvenile diversion programs shall accept cases from the Youth Substance Awareness Safety Program pursuant to this section. The confidentiality provisions of 3 V.S.A. § 163 or 164 shall become effective when a notice of violation is issued pursuant to subsection (b) of this section and shall remain in effect unless the person fails to register with or complete the Youth Substance Awareness Safety Program.

* * *

Sec. 3. 18 V.S.A. § 4230b is amended to read:

§ 4230b. CANNABIS POSSESSION BY A PERSON 16 YEARS OF AGE
OR OLDER AND UNDER 21 YEARS OF AGE; CIVIL
VIOLATION

* * *

(b) Issuance of notice of violation. A law enforcement officer shall issue a person who violates this section with a notice of violation, in a form approved by the Court Administrator. The notice of violation shall require the person to provide ~~his or her~~ the person's name and address and shall explain procedures under this section, including that:

(1) the person shall contact the Diversion Program in the county where the offense occurred within 15 days;

(2) failure to contact the Diversion Program within 15 days will result in the case being referred to the Judicial Bureau, where the person, if found liable for the violation, will be subject to a civil penalty and a suspension of the person's operator's license and may face substantially increased insurance rates;

(3) no money should be submitted to pay any penalty until after adjudication; and

(4) the person shall notify the Diversion Program if the person's address changes.

* * *

(d) Registration in Youth Substance Awareness Safety Program. Within 15 days after receiving a notice of violation, the person shall contact the Diversion Program in the county where the offense occurred and register for the Youth Substance Awareness Safety Program. If the person fails to do so, the Diversion Program shall file the summons and complaint with the Judicial Bureau for adjudication under 4 V.S.A. chapter 29. The Diversion Program shall provide a copy of the summons and complaint to the law enforcement officer who issued the notice of violation and shall provide two copies to the person charged with the violation.

(e) Notice to report to Diversion. Upon receipt from a law enforcement officer of a summons and complaint completed under this section, the Diversion Program shall send the person a notice to report to the Diversion Program. The notice to report shall provide that:

(1) The person is required to complete all conditions related to the offense imposed by the Diversion Program, including substance abuse screening and, if deemed appropriate following the screening, substance abuse assessment or substance abuse counseling, or both.

(2) If the person does not satisfactorily complete the substance abuse screening, any required substance abuse assessment or substance abuse counseling, or any other condition related to the offense imposed by the Diversion Program, the case will be referred to the Judicial Bureau, where the person, if found liable for the violation, shall be assessed a civil penalty, the person's driver's license will be suspended, and the person's automobile insurance rates may increase substantially.

(3) If the person satisfactorily completes the substance abuse screening, any required substance abuse assessment or substance abuse counseling, and

any other condition related to the offense imposed by the Diversion Program, no penalty shall be imposed and the person's operator's license shall not be suspended.

(f) Diversion Program requirements.

(1) Upon being contacted by a person who has been issued a notice of violation, the Diversion Program shall register the person in the Youth Substance Awareness Safety Program. Pursuant to the Youth Substance Awareness Safety Program, the Diversion Program shall impose conditions on the person. The conditions imposed shall include only conditions related to the offense and in every case shall include a condition requiring satisfactory completion of substance abuse screening using an evidence-based tool and, if deemed appropriate following the screening, substance abuse assessment and substance abuse education or substance abuse counseling, or both. If the screener recommends substance abuse counseling, the person shall choose a State-certified or State-licensed substance abuse counselor or substance abuse treatment provider to provide the services.

(2) Substance abuse screening required under this subsection shall be completed within 60 days after the Diversion Program receives a summons and complaint. The person shall complete all conditions at ~~his or her~~ the person's own expense.

(3) When a person has satisfactorily completed substance abuse screening, any required substance abuse education or substance abuse counseling, and any other condition related to the offense that the Diversion Program has imposed, the Diversion Program shall:

(A) Void the summons and complaint with no penalty due.

(B) Send copies of the voided summons and complaint to the Judicial Bureau and to the law enforcement officer who completed them. Before sending copies of the voided summons and complaint to the Judicial Bureau under this subdivision, the Diversion Program shall redact all language containing the person's name, address, Social Security number, and any other information that identifies the person.

(4) If a person does not satisfactorily complete substance abuse screening, any required substance abuse education or substance abuse counseling, or any other condition related to the offense imposed by the Diversion Program or if the person fails to pay the Diversion Program any required Program fees, the Diversion Program shall file the summons and complaint with the Judicial Bureau for adjudication under 4 V.S.A. chapter 29. The Diversion Program shall provide a copy of the summons and complaint to

the law enforcement officer who issued the notice of violation and shall provide two copies to the person charged with the violation.

(5) A person aggrieved by a decision of the Diversion Program or alcohol counselor may seek review of that decision pursuant to Rule 75 of the Vermont Rules of Civil Procedure.

(6) Notwithstanding 3 V.S.A. §§ 163(a)(2)(C) and 164(a)(2)(C), the adult or juvenile diversion programs shall accept cases from the Youth Substance Awareness Safety Program pursuant to this section, 18 V.S.A. § 4230f(e)(1), or 18 V.S.A. § 4230f(e)(2). The confidentiality provisions of 3 V.S.A. § 163 or 164 shall become effective when a notice of violation is issued pursuant to subsection (b) of this section, 18 V.S.A. § 4230f(e)(1), or 18 V.S.A. § 4230f(e)(2) and shall remain in effect unless the person fails to register with or complete the Youth Substance Awareness Safety Program.

* * *

Sec. 4. RESTORATIVE JUSTICE; POST-ADJUDICATION REPARATIVE PROGRAM WORKING GROUP; REPORT

(a) Creation. There is created the Post-Adjudication Reparative Program Working Group to create a Post-Adjudication Reparative Program (the "Program") that promotes uniform access to the appropriate community-based service providers for individuals sentenced to reparative boards and probation pursuant to 13 V.S.A. § 7030(a)(2) and (a)(3). The Working Group shall also study establishing a stable and reliable funding structure to support the operation of the appropriate community-based service providers.

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

(1) the Commissioner of Corrections or designee;

(2) the Chief Judge of the Vermont Superior Court or designee; and

(3) five representatives selected from different geographic regions of the State to represent the State's community-based restorative justice providers currently receiving reparative board funding from the Department of Corrections appointed by the providers.

(c) Powers and duties. The Working Group shall study the following issues:

(1) defining the Program and its scope;

(2) determining the offenses that presumptively qualify for referral to the Program;

(3) establishing any eligibility requirements for individuals sentenced to a reparative board or probation to be referred to the Program;

(4) designing uniform operational procedures for Program referrals from the courts, intake, data collection, participant success standards, and case closures;

(5) assessing the necessary capacity and resources of the Judiciary, the Department of Corrections, and the community-based restorative justice providers to operate the Program;

(6) exploring an approach to achieve greater stability and reliability for the community-based restorative justice providers, including the Designated Agency model; and

(7) consulting with the Office of the Attorney General, the Department of State's Attorneys and Sheriffs, the Office of the Defender General, the Center for Crime Victim Services, and other stakeholders as necessary, on considerations to incorporate into the Program.

(d) Assistance. The Working Group shall have the administrative, technical, and legal assistance of the Department of Corrections.

(e) Report and updates.

(1) On or before January 15, 2025, the Working Group shall provide an update to the Senate Committee on Judiciary and House Committees on Corrections and Institutions and on Judiciary concerning any progress.

(2) On or before July 15, 2025, the Working Group shall provide an update to the Joint Legislatures Justice Oversight Committee concerning any progress.

(3) On or before November 15, 2025, the Working Group shall submit a written report in the form of proposed legislation to the Joint Legislative Justice Oversight Committee, the Senate Committee on Judiciary, and the House Committees on Corrections and Institutions and on Judiciary.

(f) Meetings.

(1) The Chief Judge of the Vermont Superior Court or designee shall call the first meeting of the Working Group to occur on or before August 1, 2024.

(2) The Working Group shall meet not more than six times per year.

(3) The Chief Judge of the Vermont Superior Court or designee shall serve as the Chair of the Working Group.

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

(5) The Working Group shall cease to exist on January 15, 2026.

(g) Compensation and reimbursement. Members of the Working Group who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than six meetings per year.

Sec. 5. DEPARTMENT OF STATE'S ATTORNEYS AND SHERIFFS;

POSITION; APPROPRIATION

(a) On July 1, 2024, a new, permanent, exempt Director of Policy position is created in the Department of State's Attorneys and Sheriffs. In addition to any other duties deemed appropriate by the Department, the Director of Policy shall supervise the development, oversight, and compliance work related to the Department's internal, external, and State-mandated policies.

(b) The position of Director of Policy established in subsection (a) of this section shall be subject to a General Fund appropriation in FY 2025.

Sec. 6. OFFICE OF THE ATTORNEY GENERAL; DIVERSION

PROGRAM POSITION; APPROPRIATION

(a) On July 1, 2024, a new, permanent, classified Diversion Program Coordinator position is created in the Office of the Attorney General. In addition to any other duties deemed appropriate by the Attorney General, the Diversion Program Coordinator shall assist in the administration of the diversion programs governed by the Office of the Attorney General.

(b) The position of Diversion Program Coordinator established in subsection (a) of this section shall be subject to a General Fund appropriation in FY 2025.

Sec. 7. COMMUNITY JUSTICE UNIT; DIVERSION PROGRAM

ADMINISTRATION PLAN; REPORT

In counties where there is more than one pre-charge and post-charge diversion provider, the Community Justice Unit of the Office of the Attorney General shall collaborate with each county's juvenile and adult pre-charge and post-charge providers and each county's State's Attorney or designee to develop a plan to streamline the administration and provision of juvenile and adult pre-charge and post-charge diversion programs on or before July 1, 2027. The Community Justice Unit shall report on such plan in the 2027 annual report required pursuant to 3 V.S.A. §§ 163(b)(2) and 164(b)(2).

Sec. 8. OFFICE OF THE ATTORNEY GENERAL; PRE-CHARGE
DIVERSION PROVIDERS; GRANTS

Notwithstanding 3 V.S.A. §§ 163(b)(1) and 164(b)(1), in counties where there is more than one pre-charge or post-charge diversion provider, the Attorney General shall offer to grant or contract directly with all pre-charge providers in that county or provide for subgranting or subcontracting by the current post-charge provider in that county.

Sec. 9. OFFICE OF THE ATTORNEY GENERAL; COMMUNITY
REFERRALS; FUNDING ALTERNATIVES; REPORT

(a) On or before December 1, 2024, the Office of the Attorney General, in consultation with community-based restorative justice providers, the Department of Public Safety, the Vermont Association of Chiefs of Police, the Office of Racial Equity, and other stakeholders as needed, shall submit a written report outlining funding alternatives for community referrals to the Senate and House Committees on Judiciary. The report shall include funding alternatives considering:

- (1) state and local funding options;
- (2) entities through which funding could be provided; and
- (3) oversight requirements.

(b) As used in this section, “community referrals” mean referrals to community-based restorative justice providers that do not involve criminal offenses for which probable cause has been established.

Sec. 10. REDESIGNATION

24 V.S.A. §§ 1961–1969 are redesignated at 28 V.S.A. §§ 915–923.

Sec. 11. REPEALS

Sec. 8 of this act is repealed on July 1, 2029.

Sec. 12. EFFECTIVE DATES

This act shall take effect on July 1, 2024 except that Sec. 1 (juvenile and adult pre-charge and post-charge diversion) and Sec. 8 (Attorney General pre-charge diversion grants) shall take effect on July 1, 2025.

Rep. Andrews of Westford, for the Committee on Ways and Means, recommended the bill ought to pass when amended as recommended by the Committee on Judiciary.

Rep. Squirrell of Underhill, for the Committee on Appropriations, recommended that the report of the Committee on Judiciary be amended as follows:

First: By striking out Sec. 5, Department of State's Attorneys and Sheriffs; position; appropriation, in its entirety and inserting in lieu thereof a new Sec. 5 to read as follows:

Sec. 5. DEPARTMENT OF STATE'S ATTORNEYS AND SHERIFFS;
POSITION; APPROPRIATION

To the extent funds are available, a new, permanent, exempt Director of Policy position is created in fiscal year 2025 within the Department of State's Attorneys and Sheriffs. In addition to any other duties deemed appropriate by the Department, the Director of Policy shall supervise the development, oversight, and compliance work related to the Department's internal, external, and State-mandated policies.

Second: By striking out Sec. 6, Office of the Attorney General; diversion program position; appropriation, in its entirety and inserting in lieu thereof a new Sec. 6 to read as follows:

Sec. 6. OFFICE OF THE ATTORNEY GENERAL; POSITION;
APPROPRIATION

To the extent funds are available, a new, permanent, classified Diversion Program Coordinator position is created in fiscal year 2025 within the Office of the Attorney General. In addition to any other duties deemed appropriate by the Attorney General, the Diversion Program Coordinator shall assist in the administration of the diversion programs governed by the Office of the Attorney General.

The bill, having appeared on the Notice Calendar, was taken up, read the second time, and the report of the Committee on Judiciary was amended as recommended by the Committee on Appropriations. Thereafter, the bill was amended as recommended by the Committee on Judiciary, as amended.

Pending the question, Shall the bill be read a third time?, **Rep. Dolan of Essex Junction** moved to amend the bill as follows:

First: In Sec. 1, 3 V.S.A. chapter 7, in subdivision 163(b)(1), preceding "Attorney General shall support" by striking out "The" and inserting in lieu thereof "Beginning on July 1, 2025, the"

Second: In Sec. 1, 3 V.S.A. chapter 7, in subsection 163(e), by adding a new subdivision (2)(C) to read as follows:

“(C) The candidate shall be informed that participation in the diversion program is voluntary.”

Third: In Sec. 1, 3 V.S.A. chapter 7, in subdivision 163(f)(1)(B), by striking out “Two years after the diversion program notifies” and inserting in lieu thereof “Within 30 days after the two-year anniversary notifying”

Fourth: In Sec. 1, 3 V.S.A. chapter 7, in subdivision 163(f)(1)(C), by striking out “Two years after the diversion program notifies” and inserting in lieu thereof “Within 30 days after the two-year anniversary notifying”

Fifth: In Sec. 1, 3 V.S.A. chapter 7, in subdivision 163(f)(4), following “on or after July 1, 2025.” by striking out “Any person who completed pre-charge diversion prior to July 1, 2025 must apply to the court to have the person’s records deleted. Deletion shall occur if the requirements of subdivisions (1)–(3) of this subsection (f) are met.”

Sixth: In Sec. 1, 3 V.S.A. chapter 7, in subdivision 164(b)(1), preceding “Attorney General shall support” by striking out “The” and inserting in lieu thereof “Beginning on July 1, 2025, the”

Seventh: In Sec. 1, 3 V.S.A. chapter 7, in subdivision 164(f)(1)(B), by striking out “Two years after the diversion program notifies” and inserting in lieu thereof “Within 30 days after the two-year anniversary notifying”

Eighth: In Sec. 1, 3 V.S.A. chapter 7, in subdivision 164(f)(1)(C), by striking out “Two years after the diversion program notifies” and inserting in lieu thereof “Within 30 days after the two-year anniversary notifying”

Ninth: In Sec. 1, 3 V.S.A. chapter 7, in subdivision 164(f)(4), following “on or after July 1, 2025.” by striking out “Any person who completed pre-charge diversion prior to July 1, 2025 must apply to the court to have the person’s records deleted. Deletion shall occur if the requirements of subdivisions (1)–(3) of this subsection (f) are met.”

Which was agreed to. Thereupon, third reading was ordered.

Message from the Governor

A message was received from His Excellency, the Governor, by Ms. Brittney L. Wilson, Secretary of Civil and Military Affairs, as follows:

Madam Speaker:

I am directed by the Governor to inform the House of Representatives that on the 13th day of March 2024, he signed bills originating in the House of the following titles:

H. 516 An act relating to approval of amendments to the charter of the City of Essex Junction

H. 839 An act related to fiscal year 2024 budget adjustments

Adjournment

At five o'clock and fifty minutes in the afternoon, on motion of **Rep. Toof of St. Albans Town**, the House adjourned until tomorrow at three o'clock in the afternoon.