

1 required Program fees, the Diversion Program shall file the summons and
2 complaint with the Judicial Bureau for adjudication under 4 V.S.A. chapter 29.
3 The Diversion Program shall provide a copy of the summons and complaint to
4 the law enforcement officer who issued the notice of violation and shall
5 provide two copies to the person charged with the violation.

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

9 (6) Notwithstanding 3 V.S.A. §§ 163(a)(2)(C) and 164(a)(2)(C), the
10 adult or juvenile diversion programs shall accept cases from the Youth
11 Substance Awareness Safety Program pursuant to this section, 18 V.S.A.
12 § 4230f(e)(1), or 18 V.S.A. § 4230f(e)(2). The confidentiality provisions of 3
13 V.S.A. § 163 or 164 shall become effective when a notice of violation is issued
14 pursuant to subsection (b) of this section, 18 V.S.A. § 4230f(e)(1), or 18
15 V.S.A. § 4230f(e)(2), and shall remain in effect unless the person fails to
16 register with or complete the Youth Substance Awareness Safety Program.

17 * * *

18 Sec. 4. 28 V.S.A. § 101 is amended to read:

19 § 101. POWERS OF THE DEPARTMENT

20 The Department is charged with the following powers:

21 * * *

1 (10) to charter, establish, and fund through grants, contracts, and
2 agreements such municipal entities or nonprofit organizations as may be
3 required for providing crime prevention and restorative justice programs for
4 offenders, victims of crime, and the public.

5 Sec. 5. 28 V.S.A. chapter 12 is amended to read:

6 CHAPTER 12. ~~COMMUNITY REPARATIVE BOARDS~~ POST-
7 ADJUDICATION RESTORATIVE JUSTICE APPROACHES

8 § 910. ~~RESTORATIVE JUSTICE PROGRAM~~

9 ~~This chapter establishes a program of restorative justice for use with~~
10 ~~offenders required to participate in such a program as a condition of a sentence~~
11 ~~of probation or as ordered for civil contempt of a child support order under 15~~
12 ~~V.S.A. § 603. The Program shall be carried out by community reparative~~
13 ~~boards under the supervision of the Commissioner, as provided by this chapter.~~

14 [Repealed.]

15 § 910a. ~~REPARATIVE BOARDS; FUNCTIONS~~

16 ~~(a) The Commissioner shall establish reparative boards and appoint to them~~
17 ~~members of the community with the advice and recommendation of nonprofit~~
18 ~~organizations or municipal entities in the localities concerned. The~~
19 ~~Commissioner shall appoint each board member to a term of one to three~~
20 ~~years, may reappoint a member to consecutive terms, and may remove a~~
21 ~~member for good cause.~~

1 ~~(b) Each board shall elect its chair from its membership. A chair may serve~~
2 ~~for no more than one year uninterrupted. All meetings of a board shall comply~~
3 ~~with open meeting law requirements of 1 V.S.A. chapter 5, subchapter 2,~~
4 ~~consistent with probationer confidentiality requirements of this title, and as~~
5 ~~may be imposed by the court.~~

6 ~~(c) Each board shall adopt bylaws approved by the Commissioner. Such~~
7 ~~bylaws may authorize each board to establish panels to conduct reparative~~
8 ~~board activities.~~

9 ~~(d) Each board shall conduct its meetings in a manner that promotes safe~~
10 ~~interactions among an offender, victim or victims, and community members,~~
11 ~~and shall:~~

12 ~~(1) In collaboration with the Department, municipalities, the courts, and~~
13 ~~other entities of the criminal justice system, implement the Restorative Justice~~
14 ~~Program of seeking to obtain offender accountability, repair harm and~~
15 ~~compensate a victim or victims and the community, increase an offender's~~
16 ~~awareness of the effect of his or her behavior on a victim or victims and the~~
17 ~~community, and identify ways to help an offender comply with the law.~~

18 ~~(2) Educate the public about, and promote community support for, the~~
19 ~~Restorative Justice Program.~~

20 ~~(e) Each board shall have access to the central file of any offender required~~
21 ~~to participate with that board in the Restorative Justice Program.~~

1 ~~(f) When engaged in board activities, a board member shall be considered a~~
2 ~~volunteer with regard to any grievance or other matter governed by 3 V.S.A.~~
3 ~~§ 1101. [Repealed.]~~

4 § 911. ~~GRANT PROGRAM FOR COMMUNITY-BASED HALF-WAY~~
5 ~~HOUSES AND PROGRAMS~~

6 ~~(a) A grant program for community-based alternatives to incarceration is~~
7 ~~established to assist:~~

8 ~~(1) private nonprofit community organizations establish half-way houses~~
9 ~~and programs to help adult ex-offenders and offenders on probation, parole, or~~
10 ~~furlough reintegrate into the community; and~~

11 ~~(2) existing half-way houses and programs for adult ex-offenders and~~
12 ~~offenders on probation, parole, or furlough.~~

13 ~~(b) The Alternatives to Incarceration Board established under section 912~~
14 ~~of this title shall establish procedures and guidelines by which it shall solicit~~
15 ~~and review proposals for grants, award grants, and monitor and evaluate the~~
16 ~~progress of projects funded under this chapter.~~

17 ~~(c) Private, nonprofit organizations which create residential half-way~~
18 ~~houses for former prisoners or offenders on community release status shall~~
19 ~~receive priority funding under this chapter.~~

20 ~~(d) [Repealed.] [Repealed.]~~

21 § 913. POST-ADJUDICATION REPARATIVE PROGRAM

1 (a) Purpose. This chapter leverages programs and services employing
2 restorative justice approaches as a reparative condition of individuals who are
3 referred to a community reparative board pursuant to 13 V.S.A. § 7030(a)(2) or
4 sentenced to probation pursuant to 13 V.S.A. § 7030(a)(3). The programs and
5 services used for such individuals shall be designed to provide a restorative
6 option for those who have been convicted of violating a criminal statute, as
7 well as for victims or those acting on a victim’s behalf who have been harmed
8 by the responsible party.

9 (b) Administration.

10 (1) The Court Administrator of the Judiciary shall develop an adult post-
11 adjudication reparative program in all counties throughout the State that is
12 administered by the Commissioner of Corrections.

13 (2) The post-adjudication reparative program shall be carried out by
14 community-based restorative justice provider grantees under the administration
15 of the Commissioner, as provided by this chapter.

16 (3) In consultation with the Commissioner, the Court Administrator
17 shall adopt a policies and procedures manual to be used by judges, the
18 Department of Corrections, and community-based restorative justice providers
19 to promote a uniform system across the State in compliance with this chapter.

20

1 (4) Nothing in this chapter shall be construed to limit the funding or
2 referrals to community-based restorative justice providers for programs or
3 services not contemplated by this chapter.

4 (c) Operational support.

5 (1) The Commissioner shall support the operation of the post-
6 adjudication reparative program through grants of financial assistance to, or
7 contracts for services with, community-based restorative justice providers.
8 The Commissioner may require local financial contributions as a condition of
9 receipt of program funding.

10 (2) All programs or services that receive financial assistance from the
11 Department for the post-adjudication reparative program shall adhere to the
12 requirements pursuant to section 914 of this title.

13 (3) The Commissioner is authorized to accept grants and gifts for the
14 purposes of this chapter, such acceptance being pursuant to 32 V.S.A. § 5.

15 (d) Report. The Commissioner shall develop post-adjudication reparative
16 program outcomes following the designated State of Vermont performance
17 accountability framework and, in consultation with the Judiciary, report
18 annually on or before December 1 to the General Assembly on services
19 provided and outcome indicators. As components of the report required by this
20 subsection, the Commissioner shall include data on the number of program
21 referrals in each county, demographic information, convictions and crime

1 types, successful completion rates, evidence of desistence, and possible causes
2 of any geographical disparities.

3 § 914. MEMORANDUM OF UNDERSTANDING; GUIDANCE AND
4 PROTOCOLS

5 (a) Memorandum of understanding required. The post-adjudication
6 reparative program shall receive individuals who are referred to a community
7 reparative board pursuant to 13 V.S.A. § 7030(a)(2) or sentenced to probation
8 pursuant to 13 V.S.A. § 7030(a)(3) as determined by a current and executed
9 memorandum of understanding between the Department of Corrections and the
10 Vermont Judiciary. The memorandum of understanding shall include the
11 guidance and protocols set forth in subsection (b) of this section. The
12 Department and the Judiciary shall publicly post the current and executed
13 memorandum of understanding.

14 (b) Guidance and protocols. On or before July 1, 2025, the Department of
15 Corrections, in consultation with the Community Justice Unit of the Office of
16 the Attorney General, the Department for Children and Families, the
17 Department of State's Attorneys and Sheriffs, the Office of the Defender
18 General, the Center for Crime Victim Services, and the Vermont Judiciary
19 shall create guidance for memoranda of understanding. Memoranda of
20 understanding shall include protocols that:

1 (1) outline the roles and participation of the courts, the Department, and
2 community-based restorative justice providers in the post-adjudication
3 reparative program.

4 (2) create an evidence-based screening process by which a court or the
5 Department uses to assess referral eligibility for responsible parties who are
6 referred to a community reparative board pursuant to 13 V.S.A. § 7030(a)(2) or
7 sentenced to probation pursuant to 13 V.S.A. § 7030(a)(3);

8 (3) establish the criteria and procedure by which a community-based
9 restorative justice provider may determine that an individual is ineligible for
10 the post-adjudication reparative program;

11 (4) set timeframes to complete the restorative process for responsible
12 parties;

13 (5) contemplate the procedure for cases in which the individual fails to
14 complete the restorative process;

15 (6) require initial and annual training for judges, Department staff, and
16 the staff and volunteers of community-based restorative justice providers on
17 the dynamics and principles of restorative justice inherent to the post-
18 adjudication reparative program;

19 (7) establish written confidentiality standards that ensure constitutional
20 protections and the privacy of responsible parties and victims participating in
21 the restorative process;

1 (8) create universal data collection standards developed by the
2 Department of Corrections; and

3 (9) implement written annual evaluation processes and quality
4 improvement plans that engage involved parties on the individual, community,
5 and State levels.

6 (c) Public records act exception; confidentiality.

7 (1) Any records or information produced or acquired in the course of the
8 post-adjudication reparative program shall be exempt from public inspection or
9 copying under Vermont’s Public Records Act and shall be kept confidential.
10 However, any records or information may be released upon the participant’s
11 prior consent.

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

1 (3) Notwithstanding subdivision (1), if a case is referred to the program,
2 the court may release information to the victim upon a showing of legitimate
3 need and subject to an appropriate protective agreement defining the purpose
4 for which the information is being released and in all other respects
5 maintaining the confidentiality of the information; otherwise, files held by a
6 court, a prosecutor, a law enforcement agency, and a community-based
7 restorative justice provider related to the matter shall be confidential and shall
8 remain confidential unless:

9 (A) the reparative program declines to accept the referral;

10 (B) the reparative program accepts the referral, but the person does
11 not successfully complete the program; or

12 (C) the court recalls the referral from the reparative program.

13 Sec. 6. DEPARTMENT OF CORRECTIONS; POST-ADJUDICATION

14 REPARATIVE PROGRAM CREATION

15 (a) Intent. It is the intent of the General Assembly that Department of
16 Corrections and the Judiciary create a post-adjudication reparative program
17 that promotes desistence and decreases recidivism of responsible parties and
18 seeks restorative justice for both responsible parties and victims alike. The
19 program shall be memorialized in a memorandum of understanding.

20 (b) Memorandum of understanding development. On or before January 1,
21 2025, the Department of Corrections and the Judiciary, in consultation with the

1 Community Justice Unit of the Office of the Attorney General, the Department
2 of State’s Attorneys and Sheriffs, the Office of the Defender General, and the
3 Center for Crime Victim Services, shall establish a cohesive post-adjudication
4 reparative program memorialized in a memorandum of understanding for the
5 Department of Corrections and the Judiciary to adopt and follow.

6 (c) Policy contents. The post-adjudication reparative program policy
7 created pursuant to this section shall detail the guidelines and protocols listed
8 in 28 V.S.A. § 914(b).

9 (d) Legislative review. On or before January 1, 2025, the Department of
10 Corrections and the Judiciary shall submit the memorandum of understanding
11 created pursuant to this section to the Senate Committee on Judiciary and the
12 House Committees on Corrections and Institutions and on Judiciary for review.

13 Sec. 7. DEPARTMENT OF STATE’S ATTORNEYS AND SHERIFFS;

14 POSITION; APPROPRIATION

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

20 (b) The position of Director of Policy established in subsection (a) of this
21 section shall be subject to a General Fund appropriation in FY 2024.

1 Sec. 8. COMMUNITY JUSTICE UNIT; DIVERSION PROGRAM

2 ADMINISTRATION PLAN; REPORT

3 In counties where there is more than one pre-charge and post-charge
4 diversion provider, the Community Justice Unit of the Office of the Attorney
5 General shall collaborate with each county’s juvenile and adult pre-charge and
6 post-charge providers and each county’s State’s Attorney or designee to
7 develop a plan to streamline the administration and provision of juvenile and
8 adult pre-charge and post-charge diversion programs on or before July 1, 2026.

9 The Community Justice Unit shall report on such plan in the 2026 annual
10 report required pursuant to 3 V.S.A. §§ 163(b)(2) and 164(b)(2).

11 Sec. 10. REDESIGNATION

12 24 V.S.A. §§ 1961–1969 are redesignated at 28 V.S.A. §§ 915–923.

13 Sec. 9. REPEALS

14 (a) 3 V.S.A. § 163(b)(1)(A) is repealed on July 1, 2029.

15 (b) 3 V.S.A. § 164(b)(1)(A) is repealed on July 1, 2029.

16 Sec. 11. EFFECTIVE DATES

17 This act shall take effect on July 1, 2024 except that Sec. 1 (juvenile and
18 adult pre-charge and post-charge diversion) and Sec. 5 (post-adjudication
19 reparative program) shall take effect on July 1, 2025.

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(Committee vote: _____)

Representative _____

FOR THE COMMITTEE