

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred House Bill No. 41  
3 entitled “An act relating to referral of domestic and sexual violence cases to  
4 community justice centers” respectfully reports that it has considered the same  
5 and recommends that the bill be amended by striking out all after the enacting  
6 clause and inserting in lieu thereof the following:

7 \* \* \* Authority to Refer Domestic and Sexual Violence Cases to Community  
8 Justice Centers in Accordance with Attorney General Protocols\* \* \*

9 Sec. 1. 24 V.S.A. § 1966 is amended to read:

10 § 1966. COMMUNITY JUSTICE CENTERS’ RELATIONSHIP WITH  
11 STATE GOVERNMENT ENTITIES

12 (a) Support from the Agency of Human Services. The Agency of Human  
13 Services shall provide to the community justice centers the information,  
14 analysis, and technical support that the community justice centers, in  
15 collaboration with the Agency of Human Services, determine are necessary to  
16 further their policy of restorative justice.

17 (b) Support from the Office of the Attorney General. The Community  
18 Justice Division of the Office of the Attorney General shall provide to the  
19 community justice centers support for domestic violence and sexual violence  
20 case referrals in accordance with section 1968 of this title.

21

1           ~~(b)~~(c) Funding from the Agency of Human Services. The Agency of  
2 Human Services may provide funding and authorize community justice centers  
3 to participate in the implementation of State programs related to juvenile and  
4 criminal offenses.

5           ~~(e)~~(d) Access to information. Community justice center employees and  
6 volunteers participating in State-funded programs shall have access to  
7 information, analysis, and technical support as necessary to carry out their  
8 duties within the program in accordance with State and federal confidentiality  
9 statutes and policies. Victim information that is not part of the public record  
10 shall not be released without the victim’s consent.

11           ~~(d)~~(e) Liability.

12           (1) For the purposes of defining liability, community justice center  
13 volunteers participating in programs funded by the Agency of Human Services  
14 pursuant to subsection ~~(b)~~ (c) of this section shall be considered volunteers of  
15 that agency.

16           (2) In all other cases, the State and the municipality shall each be liable  
17 for the acts and omissions of employees operating within the scope of their  
18 employment.

19           Sec. 2. 24 V.S.A. § 1967 is amended to read:

20           § 1967. CASES PROHIBITED

1 ~~No~~ **Except as provided in section 1968 of this title, no** case involving  
2 domestic violence, sexual violence, sexual assault, or stalking shall be referred  
3 to a community justice center **except in** ~~only for the purpose of~~ Department of  
4 Corrections offender reentry programs pursuant to protocols protecting  
5 victims, **or as provided for in section 1968 of this title.** The community  
6 justice centers shall work with the Department of Corrections and the Center  
7 for Crime Victim Services or its designee to develop victim safety protocols  
8 for community justice centers that take into consideration victim needs such as  
9 safety, confidentiality, and privacy.

10 Sec. 3. 24 V.S.A. § 1968 is added to read:

11 § 1968. REFERRALS FOR DOMESTIC VIOLENCE AND SEXUAL  
12 VIOLENCE CASES; ATTORNEY GENERAL PROTOCOLS

13 (a) Notwithstanding section 1967 of this title, community justice centers  
14 may accept referrals for domestic violence and sexual violence cases **where:**

15 **(1)** provided the community justice center has a current and executed  
16 memorandum of understanding with a local member organization of the  
17 Vermont Network Against Domestic and Sexual Violence (Vermont Network).  
18 Such memorandums of understanding shall include protocols set forth in  
19 subsection (c) of this section:

20 **(2) referral is made by a court or other means:**

**Commented [LDT1]:** *The first sentence on page 3 is grammatically confusing and one could argue it creates a greater exception than it intended. Suggested change: "No case involving domestic violence, sexual violence, sexual assault, or stalking shall be referred to a community justice center except in Department of Corrections offender reentry program pursuant to protocols protective victims or in accordance with section 1968 of this title."*

1           **(A) a sentence imposed in the Criminal Division pursuant to 13**  
2           **V.S.A. § 7030 or ;**

3           **(B) a disposition ordered in the Family Division pursuant to 33**  
4           **V.S.A. § 5232(b)(1) or 33 V.S.A. § 5284; or**

5           **(C) upon agreement of the plaintiff and defendant, and as part of**  
6           **an extended temporary or final order of protection issued pursuant to 15**  
7           **V.S.A. ch. 21 or 12 V.S.A. ch. 178, where the court makes findings that the**  
8           **plaintiff has had an opportunity to consult with a victim advocate or has**  
9           **the assistance of counsel prior to entering into such agreement; or**

10           **(D) direct referral by the Department for Children and Families or**  
11           **a law enforcement agency, where a prosecutor has either declined the**  
12           **filing of criminal charges and has determined in writing that the interests**  
13           **of justice are served by such referral and certifies that the victim has been**  
14           **consulted in the making of such referral.**

15           (b) If the restorative justice approach set forth in the memorandum of  
16           understanding includes **court**, law enforcement or prosecutor referrals, a  
17           prosecutor with jurisdiction shall be party to the memorandum of  
18           understanding.

19           (c) On or before January 1, 2024, the Community Justice Division of the  
20           Office of the Attorney General (Community Justice Division), in consultation

1 with the Vermont Network, shall create guidance for memorandums of  
2 understanding. Memorandums of understanding shall include protocols that:

3 (1) establish a defined approach based on evidence or an established,  
4 promising program;

5 (2) prioritize victim safety;

6 (3) include voluntary referral and participation by parties;

7 (4) require initial and annual training for relevant community justice  
8 center staff, facilitators, and volunteers on the dynamics involving domestic  
9 violence and sexual violence, trauma-informed approaches, and restorative  
10 justice principles;

11 (5) establish roles and participation of the community justice center, the  
12 local domestic and sexual violence organization, and other community partners  
13 as needed;

14 (6) establish written confidentiality standards that ensure constitutional  
15 protections and the privacy of participants;

16 (7) establish data collection standards; and

17 (8) establish written annual evaluation and quality improvement plans  
18 and processes that engage community and system stakeholders.

19 (d) The Community Justice Division shall review each memorandum of  
20 understanding to ensure compliance with the protocols set forth in subsection

21 (c) of this section and guidance created by the Community Justice Division and

**Commented [LDT2]:** *Include others, such as CCVS, State's Attorneys, LEAs, DCF etc.*

1 the Vermont Network Against Domestic and Sexual Violence. The  
2 Community Justice Division (insert “shall”) may (delete “may”) engage other  
3 stakeholders who are relevant to the defined approach under consideration in  
4 the review process.

Commented [LDT3]: Maybe change "may" to "shall"

5 (e) Once a memorandum of understanding has been verified for compliance  
6 by the Community Justice Division and has been executed by the parties,  
7 community justice centers may accept referrals involving domestic violence or  
8 sexual violence.

9 (f) Except for research and reports that do not establish the identity of  
10 individual participants, all information shared or gathered during the provision  
11 of programming pursuant to this section shall be held strictly confidential and  
12 shall not be released without the participant’s prior consent.

Commented [LDT4]: Concerns about new Sec. 3, bottom of page 5 and its impact in practice, in particular, Subsections (f) and (g). An offender could make new admissions. Hypothetically, someone could come to the CJC on domestic violence and during the course of the CJC process, an offender could admit to new attempted murder. That information should not be prohibited from disclosure nor should it be barred from being used against a person (see Model Uniform Mediation Act).

13 (g) Information related to any offense behavior that a person divulges  
14 during the provision of programming pursuant to this section shall not be used  
15 against the person in the person’s criminal or juvenile case for any purpose,  
16 including impeachment or cross-examination, except where such information  
17 constitutes:

Commented [LDT5]: Sections (f) and (g) are problematic. For reference, the Uniform Mediation Act notes that person who intentionally uses a mediation to plan or attempt to commit a crime, or to conceal an ongoing crime, cannot assert the privilege. Also, there is no assertable privilege against disclosure of a communication that contains a threat to inflict bodily injury, that is sought or offered to prove or disprove abuse, neglect, abandonment, or exploitation.

18 (1) a threat or statement of a plan to inflict bodily injury or commit a  
19 crime of violence;

20 (2) information concerning a plan, attempt to commit, or commission of  
21 a crime, or concealment of an ongoing crime or ongoing criminal activity;

- 1
- 2 **(3) abuse, neglect, abandonment, or exploitation in a proceeding in**
- 3 **which a child or adult protective services agency is a party; or**
- 4 **(4) where after a hearing in camera, a court concludes that by clear and**
- 5 **convincing evidence that there is a need for the information that**
- 6 **substantially outweighs the interest in protecting confidentiality, and the**
- 7 **information is sought or offered in:**
- 8 **(A) a criminal proceeding in Criminal Division of the Superior Court;**
- 9 **(B) a child protection proceeding under 33 V.S.A. chapter 49 or 55; or**
- 10 **(C) a protection proceeding involving a vulnerable adult under 33**
- 11 **V.S.A. chapter 69.**

12 Sec. 4. REPORT; COMMUNITY JUSTICE DIVISION OF THE OFFICE OF

13 THE ATTORNEY GENERAL

14 (a) On or before December 1, 2026, the Community Justice Division, in

15 collaboration with the Vermont Network, and the participating community

16 justice centers shall submit an interim report to the House and Senate

17 Committees on Judiciary regarding the establishment of memorandums of

18 understanding pursuant to 24 V.S.A. § 1968, the status of implementation of

19 programming, and the available resources and capacity for such programming.

20 (b) On or before July 1, 2028, the Community Justice Division, in

21 collaboration with the Vermont Network, and the participating community

1 justice centers shall submit a final report to the House and Senate Committees  
2 on Judiciary regarding the establishment of memorandums of understanding  
3 pursuant to 24 V.S.A. § 1968, the status of implementation of programming,  
4 available data on effectiveness of programming, and the available resources  
5 and capacity for such programming.

6 \* \* \* Sunset of Secs. 1 - 4 \* \* \*

7 Sec. 5. 24 V.S.A. § 1966 is amended to read:

8 § 1966. COMMUNITY JUSTICE CENTERS' RELATIONSHIP WITH  
9 STATE GOVERNMENT ENTITIES

10 (a) Support from the Agency of Human Services. The Agency of Human  
11 Services shall provide to the community justice centers the information,  
12 analysis, and technical support that the community justice centers, in  
13 collaboration with the Agency of Human Services, determine are necessary to  
14 further their policy of restorative justice.

15 ~~(b) Support from the Office of the Attorney General. The Community~~  
16 ~~Justice Division of the Office of the Attorney General shall provide to the~~  
17 ~~community justice centers support for domestic violence and sexual violence~~  
18 ~~ease referrals in accordance with section 1968 of this title. [Repealed]~~

19 (c) Funding from the Agency of Human Services. The Agency of Human  
20 Services may provide funding and authorize community justice centers to



1 participate in the implementation of State programs related to juvenile and  
2 criminal offenses.

3 (d) Access to information. Community justice center employees and  
4 volunteers participating in State-funded programs shall have access to  
5 information, analysis, and technical support as necessary to carry out their  
6 duties within the program in accordance with State and federal confidentiality  
7 statutes and policies. Victim information that is not part of the public record  
8 shall not be released without the victim’s consent.

9 (e) Liability.

10 (1) For the purposes of defining liability, community justice center  
11 volunteers participating in programs funded by the Agency of Human Services  
12 pursuant to subsection (c) of this section shall be considered volunteers of that  
13 agency.

14 (2) In all other cases, the State and the municipality shall each be liable  
15 for the acts and omissions of employees operating within the scope of their  
16 employment.

17 Sec. 6. 24 V.S.A. § 1967 is amended to read:

18 § 1967. CASES PROHIBITED

19 ~~Except as provided in section 1968 of this title, a~~ No case involving  
20 domestic violence, sexual violence, sexual assault, or stalking shall be referred  
21 to a community justice center ~~only for the purpose of~~ except in Department of

1 Corrections offender reentry programs pursuant to protocols protecting  
2 victims. The community justice centers shall work with the Department of  
3 Corrections and the Center for Crime Victim Services or its designee to  
4 develop victim safety protocols for community justice centers that take into  
5 consideration victim needs such as safety, confidentiality, and privacy.

6 Sec. 7. REPEAL

7 24 V.S.A. § 1968 (referrals for domestic violence and sexual violence  
8 cases; Attorney General protocols) is repealed.

9 \* \* \* Effective Dates \* \* \*

10 Sec. 8. EFFECTIVE DATES

11 (a) This section and Secs. 1–4 shall take effect on passage.

12 (b) Secs. 5 - 7 shall take effect on July 1, 2029.

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18 (Committee vote: \_\_\_\_\_)

19 \_\_\_\_\_

20 Representative \_\_\_\_\_

21 FOR THE COMMITTEE