

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred Senate Bill No. 33  
3 entitled “An act relating to miscellaneous judiciary procedures” respectfully  
4 reports that it has considered the same and recommends that the House propose  
5 to the Senate that the bill be amended by striking out all after the enacting  
6 clause and inserting in lieu thereof the following:

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

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 This section shall be repealed on June 30, 2027.

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

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

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

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

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

§ 27. COURT TECHNOLOGY SPECIAL FUND

There is established the Court Technology Special Fund ~~which~~ that shall be managed in accordance with 32 V.S.A. chapter 7, subchapter 5.

Administrative fees collected pursuant to 13 V.S.A. § 7252 and revenue collected pursuant to fees established pursuant to sections 1105 and 1109 of this title shall be deposited and credited to this Fund. The Fund shall be available to the Judicial Branch to pay for contractual and operating expenses and project-related staffing not covered by the General Fund related to the following:

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

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

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

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

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

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

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

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

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

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

16 § 32. JURISDICTION; CRIMINAL DIVISION

17 \* \* \*

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

20 \* \* \*

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

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

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

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

8 \* \* \*

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

10 § 5. DISSEMINATION OF ELECTRONIC CASE RECORDS

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

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

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

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

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

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

4 § 4853a. PAYMENT OF RENT INTO COURT; EXPEDITED HEARING

5 \* \* \*

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

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

15 § 5531. RULES GOVERNING PROCEDURE

16 (a) The Supreme Court, pursuant to section 1 of this title, shall make rules  
17 under this chapter applicable to such Court providing for a simple, informal,  
18 and inexpensive procedure for the determination, according to the rules of  
19 substantive law, of actions of a civil nature of which they have jurisdiction,  
20 other than actions for slander or libel and in which the plaintiff does not claim  
21 as debt or damage more than ~~\$5,000.00~~ \$10,000.00. Small claims proceedings

1 shall be limited in accord with this chapter and the procedures made available  
2 under those rules. The procedure shall not be exclusive, but shall be  
3 alternative to the formal procedure begun by the filing of a complaint.

4 (b) Parties may not request claims for relief other than money damages  
5 under this chapter. Nor may parties split a claim in excess of ~~\$5,000.00~~  
6 \$10,000.00 into two or more claims under this chapter.

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

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

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

15 § 5804. OATH TO BE ADMINISTERED TO PETIT JURORS IN

16 CRIMINAL CAUSES

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

1 of the State. So help you God, or under the penalty of perjury pursuant to the  
2 laws of the State of Vermont.

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

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

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

7 § 7403. APPEAL BY THE STATE

8 (a) In a prosecution for a misdemeanor, questions of law decided against  
9 the State shall be allowed and placed upon the record before final judgment.

10 The court may pass the same to the Supreme Court before final judgment. The  
11 Supreme Court shall hear and determine the questions and render final  
12 judgment thereon, or remand the cause for further trial or other proceedings, as  
13 justice and the State of the cause may require.

14 (b) In a prosecution for a felony, the State shall be allowed to appeal to the  
15 Supreme Court any decision, judgment, or order dismissing an indictment or  
16 information as to one or more counts.

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

19 (1) granting a motion to suppress evidence;

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

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

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

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

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

10          (e) The appeal in all cases shall be taken within seven business days after  
11 the decision, judgment, or order has been rendered. In cases where the  
12 defendant is detained for lack of bail, ~~he or she~~ the defendant shall be released  
13 pending the appeal upon such conditions as the court shall order unless bail is  
14 denied as provided in the Vermont Constitution or in other pending cases.

15 Such appeals shall take precedence on the docket over all cases and shall be  
16 assigned for hearing or argument at the earliest practicable date and expedited  
17 in every way.

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



1 of this section, a person who violates any provision of this section commits a  
2 criminal offense, shall be subject to the sanctions and procedures provided for  
3 in subsections 674(b)–(i) of this title, and, upon conviction, the applicable  
4 period prior to eligibility for reinstatement under section 1209a or 1216 of this  
5 title shall be extended by six months.

6 \* \* \*

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

12 \* \* \*

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

14 § 1102. JUDICIAL BUREAU; JURISDICTION

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

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

18 \* \* \*

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

21 \* \* \*

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

2 § 1591. SHERIFFS AND OTHER OFFICERS

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

7 (1) Civil process:

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

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

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

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

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

20 (v) for each arrest, \$15.00;

21 (vi) for taking bail, \$15.00;



1 victim is incompetent or deceased, the child’s name shall be released, upon  
2 request, to the victim’s guardian or next of kin.

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

5 \* \* \*

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

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

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

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

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

18 \* \* \*

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

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



1 center or a balanced and restorative justice program. Referral to a community-  
2 based provider pursuant to this subsection shall not require the State’s Attorney  
3 to file a charge. If the community-based provider does not accept the case or if  
4 the child fails to complete the program in a manner deemed satisfactory and  
5 timely by the provider, the child’s case shall return to the State’s Attorney for  
6 charging consideration.

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

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

16 (c) Referral to diversion. Based on the results of the risk and needs  
17 screening, if a child presents a low to moderate risk to reoffend, the State’s  
18 Attorney shall refer the child directly to court diversion unless the State’s  
19 Attorney states on the record why a referral to court diversion would not serve  
20 the ends of justice. If the court diversion program does not accept the case or  
21 if the child fails to complete the program in a manner deemed satisfactory and

1 timely by the provider, the child’s case shall return to the State’s Attorney for  
2 charging consideration.

3 \* \* \*

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

5 § 5284. YOUTHFUL OFFENDER DETERMINATION AND DISPOSITION  
6 ORDER

7 \* \* \*

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

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

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

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

1 and timely by the provider, the child shall return to the court for further  
2 proceedings, including the imposition of the disposition order.

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

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

11 CHAPTER 76A. DOMESTIC TERRORISM

12 § 1703. DOMESTIC TERRORISM

13 (a) As used in this section:

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

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

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

19 (2) “Serious bodily injury” shall have the same meaning as in section  
20 1021 of this title.

1           (3) “Substantial step” means conduct that is strongly corroborative of  
2           the actor’s intent to complete the commission of the offense.

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

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

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

11          ~~§ 1703. DOMESTIC TERRORISM~~

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

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

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

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

18                 ~~(2) “Serious bodily injury” shall have the same meaning as in section~~  
19                 ~~1021 of this title.~~

20                 ~~(3) “Substantial step” means conduct that is strongly corroborative of the~~  
21                 ~~actor’s intent to complete the commission of the offense.~~

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

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

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

9       (b) If any of the circumstances in subsection (a) of this section occur, the  
10       court with jurisdiction or, as the case may be, the Governor, shall so notify the  
11       Department, and the person's DNA record in the State DNA database and  
12       CODIS and the person's DNA sample in the State DNA data bank shall be  
13       removed and destroyed. The Laboratory shall purge the DNA record and all  
14       other identifiable information from the State DNA database and CODIS and  
15       destroy the DNA sample stored in the State DNA data bank. If the person has  
16       more than one entry in the State DNA database, CODIS, or the State DNA data  
17       bank, only the entry related to the dismissed case shall be deleted. The  
18       Department shall notify the person upon completing its responsibilities under  
19       this subsection, by ~~certified~~ mail addressed to the person's last known address.

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

2 § 1213. IGNITION INTERLOCK RESTRICTED DRIVER'S LICENSE OR  
3 CERTIFICATE; PENALTIES

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

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

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

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

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

21 (i) 30 days for a first offense;



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

2 § 8222. ACCRUAL OF ENVIRONMENTAL CONTAMINATION CLAIMS

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

6 (b) As used in this section:

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

12 (2) “Natural resource” has the same meaning as in 10 V.S.A.  
13 § 6615d(a)(8).

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

16 (d)(1) Except as otherwise provided in this subsection, and notwithstanding  
17 1 V.S.A. §§ 213, 214, or any other provision of law, this section shall apply to:

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

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



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

2 \* \* \*

3 Sec. 29. 13 V.S.A. § 3259 is amended to read:

4 § 3259. SEXUAL EXPLOITATION OF A PERSON WHO IS BEING

5 INVESTIGATED, DETAINED, ARRESTED, OR IS IN THE

6 CUSTODY OF A LAW ENFORCEMENT OFFICER

7 (a) No law enforcement officer shall engage in a ~~sexual act~~ sexual conduct  
8 as defined in section 2821 of this title with a person whom the officer is  
9 detaining, arresting, or otherwise holding in custody or who the officer knows  
10 is being detained, arrested, or otherwise held in custody by another law  
11 enforcement officer. For purposes of this section “detaining” and “detained”  
12 include a traffic stop or questioning pursuant to an investigation of a crime.

13 (b)(1) No law enforcement officer shall engage in sexual conduct as  
14 defined in section 2821 of this title with a person whom the officer:

15 (A) is investigating pursuant to an open investigation;

16 (B) knows is being investigated by another law enforcement officer  
17 pursuant to an open investigation; or

18 (C) knows is a victim or confidential informant in any open  
19 investigation.

20 (2) This subsection shall not apply if the law enforcement officer was  
21 engaged in a consensual sexual relationship with the person prior to the

1 officer's knowledge that the person was a suspect, victim, or confidential  
2 informant in an open investigation.

3 (c) A person who violates subsection (a) or (b) of this section shall be  
4 imprisoned for not more than five years or fined not more than \$10,000.00, or  
5 both.

6 Sec. 30. 7 V.S.A. § 1005(a)(1) is amended to read:

7 (a)(1) A person under 21 years of age shall not possess, purchase, or  
8 attempt to purchase tobacco products, tobacco substitutes, or tobacco  
9 paraphernalia unless:

10 (A) the person is an employee of a holder of a tobacco license and is  
11 in possession of tobacco products, tobacco substitutes, or tobacco  
12 paraphernalia to effect a sale in the course of employment; or

13 (B) the person is in possession of tobacco products or tobacco  
14 paraphernalia in connection with Indigenous cultural tobacco practices.

15 Sec. 31. 23 V.S.A. § 1202 is amended to read:

16 § 1202. CONSENT TO TAKING OF TESTS TO DETERMINE BLOOD  
17 ALCOHOL CONTENT OR PRESENCE OF OTHER DRUG

18 (a)(1) Implied consent. Every person who operates, attempts to operate, or  
19 is in actual physical control of any vehicle on a highway in this State is deemed  
20 to have given consent to an evidentiary test of that person's breath for the  
21 purpose of determining the person's alcohol concentration or the presence of

1 other drug in the blood. The test shall be administered at the direction of a law  
2 enforcement officer.

3 (2) Blood test. If breath testing equipment is not reasonably available or  
4 if the officer has reason to believe that the person is unable to give a sufficient  
5 sample of breath for testing or if the law enforcement officer has reasonable  
6 grounds to believe that the person is under the influence of a drug other than  
7 alcohol, or under the combined influence of alcohol and a drug, the person is  
8 deemed to have given consent to the taking of an evidentiary sample of blood.  
9 If in the officer's opinion the person is incapable of decision or unconscious or  
10 dead, it is deemed that the person's consent is given and a sample of blood  
11 shall be taken. A blood test sought pursuant to this subdivision (2) shall be  
12 obtained pursuant to subsection (f) of this section.

13 \* \* \*

14 Sec. 34. EFFECTIVE DATE

15 This act shall take effect on passage.

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1 (Committee vote: \_\_\_\_\_)

2

\_\_\_\_\_

3

Representative \_\_\_\_\_

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FOR THE COMMITTEE