

Senate proposal of amendment

H. 937

An act relating to miscellaneous judiciary procedures.

The Senate proposes to the House to amend the bill as follows:

First: In Sec. 2, 7 V.S.A. § 656, after the second ellipses, by inserting the following:

(d) Issuance of notice of suspension.

(1) On behalf of the Commissioner of Motor Vehicles, a law enforcement officer issuing a notice of violation in accordance with subsection (c) of this section for a violation of subdivision (b)(1)(E) of this section shall also serve a notice of suspension of the person's operator's license and privilege to operate a motor vehicle in a form prescribed by the Court Administrator. The form shall include the following:

(A) the effective date of the suspension;

(B) the suspension's duration;

(C) an explanation of the consequences of the suspension;

(D) the option to operate a motor vehicle with an ignition interlock restricted driver's license or certificate in accordance with 23 V.S.A. § 1213;

(E) the projected date of reinstatement upon successful completion of the suspension; and

(F) the ability to review the imposition of the suspension pursuant to Rule 75 of the Vermont Rules of Civil Procedure.

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Second: By striking out Sec. 3, 7 V.S.A. § 1005, in its entirety and inserting in lieu thereof a new Sec. 3 to read as follows:

Sec. 3. [Deleted.]

Third: In Sec. 5, 12 V.S.A. § 506, in subdivision (b)(3)(C), by striking out "affirmation" and inserting in lieu thereof "affirmative"

Fourth: By adding nine new sections to be Secs. 40a-40i to read as follows:

Sec. 40a. 28 V.S.A. § 102 is amended to read:

§ 102. COMMISSIONER OF CORRECTIONS; APPOINTMENT;
POWERS; RESPONSIBILITIES

* * *

(c) The Commissioner is charged with the following responsibilities:

* * *

(24) To provide and sustain trauma-informed family support services and programming pursuant to section 128 of this title.

(25) To provide notification and other services to victims. Notwithstanding any other provision of law requiring the Department to provide notification or other services to victims, a victim may decline any notification or other service provided by the Department.

Sec. 40b. 13 V.S.A. § 2029 is amended to read:

§ 2029. HOME IMPROVEMENT AND LAND IMPROVEMENT FRAUD

* * *

(b) A person commits the offense of home improvement or land improvement fraud when the person knowingly enters into a contract ~~or~~₂ agreement, or change order, written or oral, for \$1,000.00 or more, with an owner for home improvement or land improvement, or into several contracts ~~or~~₂ agreements, or change orders for \$2,500.00 or more in the aggregate, with more than one owner for home improvement or land improvement, and the person knowingly:

~~(1)(A) fails to perform the contract or agreement, in whole or in part; and~~

~~(B) when the owner requests performance, payment, or a refund of payment made, the person fails to either:~~

~~(i) refund the payment;~~

~~(ii) make and comply with a definite plan for completion of the work that is agreed to by the owner; or~~

~~(iii) make the payment promises performance that the person does not intend to perform or knows will not be performed, in whole or in part;~~

(2) misrepresents a material fact relating to the terms of the contract ~~or~~₂ agreement, or change order or to the condition of any portion of the property involved;

(3) uses or employs any unfair or deceptive act or practice in order to induce, encourage, or solicit such person to enter into any contract ~~or~~₂ agreement, or change order or to modify the terms of the original contract ~~or~~₂ agreement, or change order; or

(4) when there is a declared state of emergency, charges for goods or services related to the emergency a price that exceeds two times the average

price for the goods or services and the increase is not attributable to the additional costs incurred in connection with providing those goods or services.

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Sec. 40c. 12 V.S.A. § 5606 is amended to read:

§ 5606. INDEMNIFICATION OF EMPLOYEES

(a) In any action defended by the Attorney General or the Attorney General's designee in which a judgment is rendered against an employee of the State for acts or omissions within the scope of his or her employment, or a settlement requires payment by such a person, and the right of action is based upon 42 U.S.C. § 1983 or a similar State statute, or under a similar federal statute where State law is incapable of establishing employee immunity, the State shall indemnify the employee for the amount of the employee's liability.

(b) The maximum liability of the State under this section shall be \$500,000.00 to any one person and the maximum aggregate liability shall be \$2,000,000.00 to all persons arising out of each occurrence.

* * *

Sec. 40d. 2023 Acts and Resolves No. 47, Sec. 44 is amended to read:

Sec. 44. TENANT REPRESENTATION PILOT PROGRAM

(a) Creation; purpose. Vermont Legal Aid shall create and administer a two-year Tenant Representation Pilot Program:

(1) to provide full representation to eligible and consenting tenants in ~~Lamoille and Windsor counties~~ Vermont who have been served with a summons and complaint for eviction; and

(2) to determine the impact of representation on the issuance of writs of possession and homelessness prevention.

(b) Tenant eligibility. Vermont Legal Aid may enter a notice of appearance on behalf of a residential tenant ~~in Lamoille or Windsor County~~ who is served with a summons and complaint in an ejectment action, consents to the representation, and meets the following criteria:

(1) household income equals or is less than 120 percent of State area median income;

(2) the cost of rent equals or exceeds 30 percent of household income;
or

(3) household expenses exceed income.

(c) Scope of representation.

(1) Full representation through the Program is limited to eviction.

(2) The pursuit of counterclaims shall be at the discretion of appointed counsel.

(d) Conflicts of interest.

(1) Vermont Legal Aid may subcontract to Legal Services Vermont if it is unable to provide tenant representation due to a conflict of interest as defined by the Vermont Rules of Professional Conduct.

(2) If Legal Services Vermont also has a conflict of interest, Vermont Legal Aid may subcontract to one or more private counsels who are members in good standing of the Vermont Bar.

(e) Report. Vermont Legal Aid shall provide interim reports on the progress of the Program on or before ~~November 15, 2023~~ November 30, 2025, and ~~November 15, 2024~~ November 30, 2026, and a final report on or before ~~July 30, 2025~~ July 31, 2027, which shall describe:

(1) the number of tenants represented;

(2) case outcomes, including:

(A) the number of cases fully or partially resolved through access to the Rent Arrears Assistance Fund;

(B) the number of cases fully or partially resolved through the Vermont Landlord's Association mediation program; and

(C) the number of cases fully or partially resolved through access to another resource identified through the Rental Housing Stabilization Services Program; and

(3) recommendations for policy changes and for pilot expansion.

(f) Implementation. The duty to implement this section is contingent upon an appropriation in fiscal year ~~2024~~ 2025 from the General Fund to the Agency of Human Services for a subgrant to Vermont Legal Aid to provide representation in eligible eviction cases ~~in the two pilot counties of Lamoille and Windsor~~ beginning on ~~July 1, 2023~~ November 1, 2024.

Sec. 40e. 2024 Acts and Resolves No. 181, Sec. 95. is amended to read:

Sec. 95. APPROPRIATION; TENANT REPRESENTATION PILOT PROGRAM

The sum of \$1,025,000.00 is appropriated from the General Fund to the Agency of Human Services in fiscal year 2025 for a grant to Vermont Legal Aid for the Tenant Representation Pilot Program established by 2023 Acts and Resolves No. 47, Sec. 44. These funds shall carry forward each fiscal year until fully expended or reverted by an act of the General Assembly.

Sec. 40f. 9 V.S.A. § 4555 is amended to read:

§ 4555. INFORMATION; DISCLOSURE AND CONFIDENTIALITY

(a)(1) Except as provided in this subsection, the Human Rights Commission's complaint files and investigative files shall be confidential.

(2) The Commission shall make the investigative file available to the charging party, the respondent, their attorneys, and any State or federal law enforcement agency seeking to enforce ~~anti-discrimination~~ antidiscrimination statutes, upon reasonable request, except that the Commission may refuse to disclose:

(A) the identities of nonparty witnesses to the investigation if good cause is shown to protect the witness's confidentiality; or

(B) records or information the release of which may be prohibited under State or federal law absent court order.

(3) For any complaint initiated pursuant to subsection 4554(b) of this title, any resulting investigative report shall not be confidential after the Commission has issued a final determination and after the parties have been notified of the Commission's determination, except that the Commission shall not proactively disclose any report and shall not disclose:

(A) the identities of nonparty witnesses to the investigation if good cause is shown to protect the witness's confidentiality;

(B) information the release of which may be prohibited under State or federal law absent court order; and

(C) the identity of the parties and any information that would identify the parties if the Commission finds that there are no reasonable grounds to believe that discrimination occurred.

(4) A party or entity denied information or records under subdivision (2)(A) or (B) of this subsection may seek the information or records by subpoena. The Commission and any affected person may contest the subpoena in court.

~~(4)~~(5) Any records or information described in subdivision (2)(A) or (B) of this subsection made available to a party or entity pursuant to a confidentiality agreement or court order requiring confidentiality shall be kept confidential in accordance with the agreement or order, unless disclosure is otherwise authorized by law or court order.

(b) Nothing said or done as part of conciliation efforts under this chapter may be made a matter of public record or used as evidence in a subsequent civil action without written consent of the parties. Final settlement agreements shall be public documents and the parties shall be so informed.

(c) If the Commission determines that there are reasonable grounds to believe that discrimination has occurred, that determination and the names of the parties may be made public after the parties have been notified of the Commission's determination. If the Commission finds that there are no reasonable grounds to find discrimination, the identity of the parties and any information that would identify the parties shall remain confidential. The Commission shall inform the parties about the provisions of this subsection. In all cases, even if the records are confidential, the facts may be used for educational purposes if sufficiently altered so that no person involved in a case can be identified.

Sec. 40g. APPLICATION TO PENDING INVESTIGATIONS

Sec. 40f of this act shall apply to any pending investigations by the Human Rights Commission.

Sec. 40h. 15 V.S.A. § 1103 is amended to read:

§ 1103. REQUESTS FOR RELIEF

(a) Any family or household member may seek relief from abuse by another family or household member on behalf of themselves or their children by filing a complaint under this chapter. A minor 16 years of age or older, or a minor of any age who is in a dating relationship as defined in subdivision 1101(3) of this chapter, may file a complaint under this chapter seeking relief on the minor's own behalf. The plaintiff shall submit an affidavit in support of the order.

(b) Except as provided in section 1104 of this title, the court shall grant relief only after notice to the defendant and a hearing. The plaintiff shall have the burden of proving abuse by a preponderance of the evidence.

(c)(1) The court shall make such orders as it deems necessary to protect the plaintiff or the children, or both, if the court finds that the defendant has abused the plaintiff, and:

(A) there is a danger of further abuse; or

(B) the defendant is currently ~~incarcerated~~ under the supervision of the Department of Corrections and has been convicted of one of the following: murder, attempted murder, kidnapping, domestic assault, aggravated domestic assault, sexual assault, aggravated sexual assault, stalking, aggravated stalking, lewd or lascivious conduct with a child, use of a child in a sexual performance, or consenting to a sexual performance.

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Sec. 40i. 13 V.S.A. § 7551 is amended to read:

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

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

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

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

(B) at the initial appearance or upon the temporary release pursuant to Rule 5(b) of the Vermont Rules of Criminal Procedure of a person charged with a violation of a misdemeanor offense that is eligible for ~~expungement~~ sealing pursuant to subdivision 7601(4)(A) of this title.

(2) In the event the court finds that imposing bail is necessary to mitigate the risk of flight from prosecution for a person charged with a violation of a misdemeanor offense that is eligible for ~~expungement~~ sealing pursuant to subdivision 7601(4)(A) of this title, the court may impose bail in a maximum amount of \$200.00. The \$200.00 limit shall not apply to an offense allegedly committed by a defendant who has been released on personal recognizance or conditions of release pending trial for another offense.

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