

Senate Calendar

WEDNESDAY, MARCH 19, 2025

SENATE CONVENES AT: 11:00 A.M.

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ACTION CALENDAR

UNFINISHED BUSINESS OF TUESDAY, MARCH 18, 2025

Second Reading

Favorable with Recommendation of Amendment

S. 59.

An act relating to amendments to Vermont's Open Meeting Law.

Reported favorably with recommendation of amendment by Senator Hart for the Committee on Government Operations.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 1 V.S.A. § 310 is amended to read:

§ 310. DEFINITIONS

As used in this subchapter:

* * *

(9) “Undue hardship” means an action ~~required to achieve compliance would require~~ requiring significant difficulty or expense to the unit of government to which a public body belongs, considered in light of factors including the overall size of the entity, ~~sufficient~~ the availability of necessary personnel and staffing availability staff, the entity's ~~budget~~ available resources, and the costs associated with compliance.

Sec. 2. 1 V.S.A. § 312 is amended to read:

§ 312. RIGHT TO ATTEND MEETINGS OF PUBLIC AGENCIES

(a)(1) All meetings of a public body are declared to be open to the public at all times, except as provided in section 313 of this title. No resolution, rule, regulation, appointment, or formal action shall be considered binding except as taken or made at such open meeting, except as provided under subdivision 313(a)(2) of this title. A meeting of a public body is subject to the public accommodation requirements of 9 V.S.A. chapter 139. A public body shall electronically record all public hearings held to provide a forum for public comment on a proposed rule, pursuant to 3 V.S.A. § 840. The public shall have access to copies of such electronic recordings as described in section 316 of this title.

* * *

(3)(A) ~~State nonadvisory public bodies; hybrid meeting requirement; exception for advisory bodies.~~ Any public body of the State, except advisory bodies, shall:

(A)(i) hold all regular and special meetings in a hybrid fashion, which shall include both a designated physical meeting location and a designated electronic meeting platform;

(B)(ii) electronically record all meetings; and

(C)(iii) for a minimum of 30 days following the approval and posting of the official minutes for a meeting, retain the audiovisual recording and post the recording in a designated electronic location.

(B) Exception; site inspections and field visits. This subdivision (3) shall not apply to gatherings of a public body for purposes of a site inspection or field visit.

* * *

(5) ~~State nonadvisory public bodies; State and local advisory bodies; designating electronic platforms. State nonadvisory A public bodies body meeting in a hybrid fashion pursuant to subdivision (3) of this subsection and State and local advisory bodies meeting without a physical meeting location or advisory body meeting pursuant to subdivision (4) of this subsection shall designate and use an electronic platform that allows the direct access, attendance, and participation of the public, including access by telephone. The public body shall post information that enables the public to directly access the designated electronic platform and include this information in the published agenda or public notice for the meeting.~~

(6) Local ~~nonadvisory~~ public bodies; meeting recordings.

(A) A public body of a municipality or political subdivision, except advisory bodies, shall record, in audio or video form, any meeting of the public body and post a copy of the recording in a designated electronic location for a minimum of 30 days following the approval and posting of the official minutes for a meeting.

(B) A municipality is exempt from subdivision (A) of this subdivision (6) if compliance would impose an undue hardship on the municipality.

(C) A municipality shall have the burden of proving that compliance under this section would impose an undue hardship on the municipality.

* * *

(d)(1) At least 48 hours prior to a regular meeting, and at least 24 hours prior to a special meeting, a meeting agenda shall be:

* * *

(3) A meeting agenda shall contain sufficient details concerning the specific matters to be discussed by the public body. For any meeting that may include an executive session, the meeting agenda shall state that the meeting includes a “proposed executive session.”

(4)(A) Any addition to or deletion from the agenda shall be made as the first act of business at the meeting.

* * *

Sec. 3. 1 V.S.A. § 313 is amended to read:

§ 313. EXECUTIVE SESSIONS

(a) No public body may hold or conclude an executive session from which the public is excluded, except by the affirmative vote of two-thirds of its members present in the case of any public body of State government or of a majority of its members present in the case of any public body of a municipality or other political subdivision. A motion to go into executive session shall indicate the nature of the business of the executive session, and no other matter may be considered in the executive session. ~~Such~~ The vote to enter executive session shall be taken in the course of an open meeting and the result of the vote recorded in the minutes. No formal or binding action shall be taken in executive session except for actions relating to the securing of real estate options under subdivision (2) of this subsection. Minutes of an executive session need not be taken, but if they are, the minutes shall, notwithstanding subsection 312(b) of this title, be exempt from public copying and inspection under the Public Records Act. A public body may not hold an executive session except to consider one or more of the following:

* * *

(10) security or emergency response measures, the disclosure of which could jeopardize public safety; or

(11) information relating to the interest rates for publicly financed loans.

* * *

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

NEW BUSINESS

Third Reading

S. 45.

An act relating to protection from nuisance suits for agricultural activities.

S. 66.

An act relating to motor vehicle noise, exhaust modifications, and engine compression brakes.

S. 87.

An act relating to extradition procedures.

Committee Resolution for Second Reading

S.R. 10.

Senate resolution relating to the disapproval of Executive Order 01-25.

By the Committee on Government Operations. (Senator Vyhovsky for the Committee.)

Second Reading

Favorable with Recommendation of Amendment

S. 23.

An act relating to the use of synthetic media in elections.

Reported favorably with recommendation of amendment by Senator Collamore for the Committee on Government Operations.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 17 V.S.A. chapter 35, subchapter 4 is added to read:

Subchapter 4. Use of Synthetic Media in Elections

§ 2031. DEFINITIONS

As used in this subchapter:

(1) “Deceptive and fraudulent synthetic media” means synthetic media that creates a representation of an individual or individuals with the intent to

injure the reputation of a candidate, to influence the outcome of an election, or to otherwise deceive a voter, in a manner that:

(A) appears to a reasonable person to be an authentic recording of an individual saying or doing something that did not occur; or

(B) provides a reasonable person with a fundamentally different understanding or impression of the appearance, speech, conduct, or environment that a reasonable person would have from an unaltered and original version of the image, audio recording, or video recording.

(2) “Synthetic media” means an image, an audio recording, or a video recording of an individual’s appearance, speech, conduct, or environment that has been created or intentionally manipulated with the use of digital technology, including artificial intelligence, in a manner that creates a realistic but false representation of the candidate.

§ 2032. DISCLOSURE OF A DECEPTIVE AND FRAUDULENT SYNTHETIC MEDIA

(a) Disclosure. A person shall not, within 90 days before an election at which a candidate for elective office will appear on the ballot, publish, communicate, or otherwise distribute a synthetic media message that the person knows or should have known is a deceptive and fraudulent synthetic media of a candidate on the ballot, unless the person includes a disclosure in the synthetic media stating: “This media has been created or intentionally manipulated by digital technology or artificial intelligence.”

(1) For deceptive and fraudulent synthetic media consisting of images and video recordings, the text of the disclosure shall appear in a size that is easily readable by the average viewer and not smaller than the largest font size of other text appearing in the visual media. If the image or video recording does not include any other text, the disclosure shall appear in a size that is easily readable by the average viewer. For video recordings, the disclosure shall appear for the full duration of the video recording.

(2) For deceptive and fraudulent synthetic media consisting of audio recordings only, the disclosure shall be read in a clearly spoken manner and in a pitch and pace that can be easily heard by the average listener, at the beginning of the audio recording, at the end of the audio recording, and, if the audio is greater than two minutes in length, interspersed within the audio recording at intervals of not greater than two minutes each.

(b) Exceptions. Subsection (a) of this section shall not apply to:

(1) a radio or television broadcasting station, including a cable or satellite television operator, programmer, or producer, or to a website, streaming platform, or mobile application, that:

(A) broadcasts deceptive and fraudulent synthetic media as part of a bona fide newscast, news interview, news documentary, or on-the-spot coverage of bona fide news events, so long as the broadcast clearly acknowledges through content or a disclosure, in a manner that can be easily heard or read by the average listener or viewer, that there are questions about the authenticity of the deceptive and fraudulent synthetic media;

(B) is paid to broadcast deceptive and fraudulent synthetic media; or

(C) is required by federal law to broadcast advertisements from legally qualified candidates;

(2) a website or a regularly published newspaper, magazine, or other periodical of general circulation, including an internet or electronic publication, that routinely carries news and commentary of general interest, and that publishes deceptive and fraudulent synthetic media, if the publication clearly states that the deceptive and fraudulent synthetic media does not accurately represent the speech or conduct of the represented individual;

(3) a person that produces deceptive and fraudulent synthetic media constituting satire or parody;

(4) a provider of a telecommunications service or information service, as those terms are defined in the Communications Act of 1934, 47 U.S.C. § 153, for content provided by another person; or

(5) a provider of an interactive computer service, as defined in 47 U.S.C. § 230, for content provided by another person.

§ 2033. PENALTIES

(a) A person that knowingly and intentionally violates a provision of this subchapter shall be fined not more than \$1,000.00, unless:

(1) the person commits the violation with the intent to cause violence or bodily harm, in which case the fine shall be not more than \$5,000.00;

(2) the person commits the violation within five years after one or more prior convictions under this section, in which case the fine shall be not more than \$10,000.00; or

(3) the person commits the violation with the intent to cause violence or bodily harm and the person commits the violation within five years after one

or more prior convictions under this section, in which case the fine shall be not more than \$15,000.00.

(b) A candidate whose appearance, speech, conduct, or environment is misrepresented through the use of deceptive and fraudulent synthetic media in violation of section 2032 of this title may seek injunctive or other equitable relief prohibiting the publication, communication, or other distribution of such deceptive and fraudulent synthetic media.

Sec. 2. 17 V.S.A. chapter 35, subchapter 5 is added to read:

Subchapter 5. Enforcement and Additional Remedies

§ 2041. INJUNCTIONS

In addition to the other penalties provided in this chapter, a State's Attorney or the Attorney General may institute any appropriate action, injunction, or other proceeding to prevent, restrain, correct, or abate any violation of this chapter.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

S. 27.

An act relating to medical debt relief and excluding medical debt from credit reports.

Reported favorably with recommendation of amendment by Senator Cummings for the Committee on Health and Welfare.

The Committee recommends that the bill be amended by striking out Sec. 3, 9 V.S.A. § 2466d, in its entirety and inserting in lieu thereof a new Sec. 3 to read as follows:

Sec. 3. 9 V.S.A. § 2466d is added to read:

§ 2466d. REPORTING OF MEDICAL DEBT INFORMATION
PROHIBITED

(a) A credit reporting agency shall not report or maintain in the file on a consumer information relating to a medical debt.

(b) As used in this section:

(1) "Health care services" means services for the diagnosis, prevention, treatment, cure, or relief of a physical, dental, behavioral, or mental health

condition or substance use disorder, including counseling, procedures, products, devices, and medications.

(2) “Medical debt” means debt arising from health care services, including dental services, or from health care goods, including products, devices, durable medical equipment, and prescription drugs. “Medical debt” does not include debt arising from services provided by a veterinarian; debt charged to a credit card unless the credit card is issued under an open-end or closed-end credit plan offered solely for the payment of health care services; debt charged to a home equity or general-purpose line of credit; or secured debt.

(Committee vote: 5-0-0)

Reported favorably by Senator Lyons for the Committee on Appropriations.

The Committee recommends that the bill ought to pass when amended as recommended by the Committee on Health and Welfare.

(Committee Vote: 7-0-0)

S. 51.

An act relating to the Vermont unpaid caregiver tax credit.

Reported favorably with recommendation of amendment by Senator Hardy for the Committee on Finance.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds:

(1) According to the U.S. Department of Labor, women in the United States 55 years of age and older provide 26.6 million hours of unpaid care to family and friends daily.

(2) According to the AARP:

(A) More than 75 percent of family caregivers 50 years of age and older who retired early because of family caregiving responsibilities would have remained in the workforce longer if they had access to financial or nonfinancial supports.

(B) If family caregivers aged 50 years of age and older have access to support in the workplace, U.S. Gross Domestic Product could grow by an additional \$1.7 trillion (5.5 percent) in 2030.

(3) According to a 2023 report by the Urban Institute, entitled “Lifetime Employment-Related Costs to Women of Providing Family Care,” the employment-related costs for mothers of providing unpaid care to minor children and parents, parents-in-law, and spouses (including unmarried partners) with care needs average \$295,000.00 over a lifetime.

(4) Using a national survey and six focus groups, the Commonwealth Fund identified financial compensation for the time spent caregiving as a top policy priority for family caregivers.

Sec. 2. 32 V.S.A. § 5813 is amended to read:

§ 5813. STATUTORY PURPOSES

* * *

(aa) The statutory purpose of the unpaid caregiver tax credit in section 5830g of this title is to provide financial support to Vermonters who spend significant time providing uncompensated care for a family member.

Sec. 3. 32 V.S.A. § 5830g is added to read:

§ 5830g. VERMONT UNPAID CAREGIVER TAX CREDIT

(a) A resident individual or part-year resident individual who provides uncompensated care shall be entitled to a refundable credit against the tax imposed by section 5822 of this title for the taxable year. The maximum allowable credit per taxable year shall be \$1,000.00 for providing 12 months of uncompensated care. The credit shall be based on the number of months the individual caregiver spent providing at least 20 hours per week of uncompensated care for an individual who:

(1) is related to the caregiver by blood, civil marriage, or adoption;

(2) needs assistance with activities of daily living, home health care, or assistance remaining safe at home;

(3) has a medically diagnosed disability or health condition; and

(4) does not reside at a residential care home, an assisted living residence, or nursing home as defined by 33 V.S.A. § 7102, or any other similar adult care home that is licensed or required to be licensed pursuant to 33 V.S.A. chapter 71.

(b) Notwithstanding subsection (a) of this section, the amount of the credit under this section shall be reduced by \$20.00 for each \$1,000.00, or fraction thereof, by which the individual’s adjusted gross income exceeds \$125,000.00, irrespective of the individual’s filing status. For purposes of this subsection, spouses filing jointly shall be considered an individual.

(c) An individual claiming the credit under this section shall attest that they met all requirements under this section for the number of months claimed.

(d) Upon the Commissioner's request, an individual claiming a credit under this section shall provide supporting documentation or other information relating to the individual's qualification for the credit, including a form prepared by the Commissioner, to be executed by a licensed medical professional, attesting that the licensed medical professional provides primary or specialized medical care for the individual receiving uncompensated care and that the individual has a medical diagnosis requiring assistance with activities of daily living for at least 20 hours per week. The individual claiming the credit shall have the medical professional execute the form prior to claiming the credit, shall retain the executed form for a period of at least three years, and shall provide the form to the Commissioner on request.

Sec. 4. EFFECTIVE DATE

Notwithstanding 1 V.S.A. § 214, this act shall take effect retroactively on January 1, 2025 and apply to taxable years beginning on and after January 1, 2025.

(Committee vote: 6-0-1)

S. 60.

An act relating to establishing the Farm Security Special Fund to provide grants for farm losses due to weather conditions.

Reported favorably with recommendation of amendment by Senator Major for the Committee on Agriculture.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds that:

(1) In 2023 and 2024, Vermont experienced extreme flooding and other climate-fueled disasters that devastated farms and other working lands businesses across the State.

(2) Many existing State and federal programs that are designed to support farms are difficult to access, are administratively burdensome, and currently do not meet the needs of Vermont farmers in a holistic way.

(3) In particular, because federal crop insurance programs are not designed to serve the needs of smaller scale or more diversified farming operations, many Vermont farmers are not covered by crop insurance.

(4) The State should establish a permanent funding support program to:

(A) maintain the viability of farms in Vermont in order to ensure food security, climate resilience, rural economic vitality, and environmental health;

(B) continuously invest in farms in a way that makes them more resilient to current and future challenges; and

(C) provide a source of relief funds permanently available to farmers impacted by climate emergencies and extreme weather.

Sec. 2. 6 V.S.A. chapter 207 is amended to read:

CHAPTER 207. PROMOTION AND, MARKETING, AND SUPPORT OF
VERMONT FARMS, FOODS, AND PRODUCTS

* * *

Subchapter 4. Farm Security Special Fund

§ 4631. DEFINITIONS

As used in this subchapter:

(1) “Eligible weather condition” means any of the following weather conditions that are found to be closely correlated with agricultural income losses:

(A) high winds;

(B) excessive moisture, intense precipitation, or flooding;

(C) extreme heat;

(D) abnormal freeze conditions;

(E) widespread fire event;

(F) hail;

(G) drought; or

(H) any other severe weather or growing conditions impacting agricultural income, as determined by the Review Board.

(2) “Farm” means a parcel or parcels of land owned, leased, or managed by a person and devoted primarily to farming and that is subject to regulation under the Required Agricultural Practices.

(3) “Farm Security Special Fund Review Board” or “Review Board” means the Board established under section 4634 of this title.

(4) “Farming” has the same meaning as in section 2.16 of the Required Agricultural Practices.

§ 4632. FARM SECURITY SPECIAL FUND

(a) There is established the Farm Security Special Fund to be administered by the Secretary of Agriculture, Food and Markets and that shall be managed in accordance with 32 V.S.A. chapter 7, subchapter 5. The Fund shall consist of:

(1) funds appropriated by the General Assembly;

(2) funds from public and private sources that the Secretary accepts for the Fund; and

(3) funds from federal government aid for State support of farmers suffering income loss due to weather conditions.

(b) The Secretary of Agriculture, Food and Markets shall ensure language accessibility of the Fund through procurement and provision of interpretation and translation services.

(c) All balances in the Fund at the end of any fiscal year shall be carried forward and remain part of the Fund.

§ 4633. FARM SECURITY SPECIAL FUND; GRANTS

(a) The Secretary, after consultation with the Review Board, shall award grants from the Farm Security Special Fund to farms that have incurred financial losses or expenses due to an eligible weather condition.

(1) Grants from the fund shall be in an amount that reimburses a farm for up to 50 percent of uninsured or otherwise uncovered losses due to eligible weather conditions, up to a maximum award of \$150,000.00 total per year per qualified applicant farm.

(2) The Secretary shall establish criteria for the amount of an award based on the annual net income of the farm in relation to the median net income of all farms in Vermont.

(3) The Secretary may verify the occurrence of an eligible weather condition claimed under this section through a site visit or through use of available data from the National Oceanic and Atmospheric Administration, from other federal or State certified weather data sources, or from other public or private weather or satellite data or models.

(4) Losses reimbursable by a grant under this section include:

(A) wages or compensation;

(B) replacement of lost income from destroyed crops or impacted livestock;

(C) debt payments or other ongoing expenses;

(D) costs of replanting;

(E) livestock feed replacement costs;

(F) infrastructure or equipment repair and replacement;

(G) repair of farm roads and roads necessary to access farms; or

(H) other losses as determined by the Secretary after consultation with the Review Board.

(b) The Secretary shall develop a streamlined application for awards under this section that shall include:

(1) a brief description of the damage that occurred;

(2) attestation of an eligible weather condition or event;

(3) an estimate of losses; and

(4) a year-end report of farm income and expenses from Schedule F of U.S. Internal Revenue Form 1040.

(c) An application for an award under this section may be made at any time, and the Fund may only close the application process upon award of all appropriated funds for the relevant fiscal year.

(d) Applications for an award under this section shall be processed in the order received, but an application shall not be ready for evaluation until the Secretary determines that the application is administratively complete and includes all documentation required by the Secretary.

(e) All administratively complete applications shall be evaluated by the Review Board. Within 15 days following receipt of an administratively complete application, the Review Board by majority vote shall recommend to the Secretary whether to issue a grant to the applicant. If the Review Board recommends an award under this section, the Secretary shall issue the award within 15 days following the date of the Review Board's recommendation.

§ 4634. FARM SECURITY SPECIAL FUND REVIEW BOARD

(a) Creation. There is created the Farm Security Special Fund Review Board, which for administrative purposes shall be attached to the Agency of Agriculture, Food and Markets.

(b) Organization of Board. The Board shall be composed of:

(1) the Secretary of Agriculture, Food and Markets or designee, who shall serve as chair;

(2) the State Chief Recovery Officer or designee;

(3) representatives of three agricultural organizations who can demonstrate expertise in dealing with all sizes and types of farms in Vermont, whether through granting funds, offering technical assistance or advocacy and have a proven track record of working with farmers, appointed by the Secretary of Agriculture, Food and Markets; and

(4) two farmers who have received relief funding, appointed by the Secretary of Agriculture, Food and Markets.

(c) Member terms. The members designated in subdivision (b)(3) of this section shall be appointed to initial terms of two years. Thereafter, each appointed member shall serve a term of three years or until the member's earlier resignation or removal. The members designated in subdivision (b)(4) of this section shall be appointed to initial terms of one year. Thereafter, each appointed member shall serve a term of three years or until the member's earlier resignation or removal. A vacancy shall be filled by the appointing authority for the remainder of the unexpired term. An appointed member shall not serve more than three consecutive three-year terms.

(d) Powers.

(1) The Review Board shall review applications for assistance under this section, assess the accuracy and validity of the applications, and recommend to the Secretary applicants who should receive assistance under this section.

(2) The Board annually shall report to the House Committee on Agriculture, Food Resiliency, and Forestry and the Senate Committee on Agriculture the total documented Vermont farm financial losses from eligible weather conditions averaged over the previous three calendar years.

(3) In order to ensure that the Fund is meeting the needs of Vermont's agricultural community, the Review Board annually shall review the application process, eligibility criteria, distribution, and accessibility of the Fund. The Review Board annually shall recommend to the House Committee on Agriculture, Food Resiliency, and Forestry and the Senate Committee on Agriculture ways to improve the effectiveness of the Fund.

(e) Officers; committees. The Board may elect officers, establish one or more committees or subcommittees, and adopt such procedural rules as it shall determine necessary and appropriate to perform its work.

(f) Quorum; meetings; voting. A majority of the sitting members shall constitute a quorum, and action taken by the Board may be authorized by a majority of the members present and voting at any regular or special meeting at which a quorum is present. The Board may meet as an advisory body under 1 V.S.A. chapter 5, subchapter 2.

(g) Compensation. Private sector members shall be entitled to per diem compensation authorized under 32 V.S.A. § 1010(b) for each day spent in the performance of their duties, and each member shall be reimbursed from the Fund for the member's actual and necessary expenses incurred in carrying out the member's duties.

Sec. 3. APPROPRIATION

In addition to other funds appropriated to the Agency of Agriculture, Food and Markets in fiscal year 2026, the sum of \$7,500,000.00 is appropriated to the Agency from the General Fund in fiscal year 2026 for the purpose of implementing the Farm Security Special Fund established under 6 V.S.A. chapter 207, subchapter 4.

Sec. 4. EFFECTIVE DATE

(Committee vote: 5-0-0)

Reported favorably with recommendation of amendment by Senator Norris for the Committee on Appropriations.

The Committee recommends that the bill be amended as recommended by the Committee on Agriculture, with the following amendments thereto:

First: In Sec. 2, 6 V.S.A. chapter 207, in subchapter 4, in section 4632, in subdivision (a)(1), by striking out the word “appropriated” where it appears and inserting in lieu thereof “transferred”

Second: By striking out Secs. 3, appropriation, and 4, effective date, in their entireties and inserting in lieu thereof a new Sec. 3 to read as follows:

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2025.

(Committee vote: 7-0-0)

S. 71.

An act relating to consumer data privacy and online surveillance.

Reported favorably with recommendation of amendment by Senator Plunkett for the Committee on Institutions.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 9 V.S.A. chapter 61A is added to read:

CHAPTER 61A. VERMONT DATA PRIVACY ACT

§ 2415. DEFINITIONS

As used in this chapter:

(1) “Abortion” means terminating a pregnancy for any purpose other than producing a live birth.

(2)(A) “Affiliate” means a legal entity that shares common branding with another legal entity or controls, is controlled by, or is under common control with another legal entity.

(B) As used in subdivision (A) of this subdivision (2), “control” or “controlled” means:

(i) ownership of, or the power to vote, more than 50 percent of the outstanding shares of any class of voting security of a company;

(ii) control in any manner over the election of a majority of the directors or of individuals exercising similar functions; or

(iii) the power to exercise controlling influence over the management of a company.

(3) “Authenticate” means to use reasonable means to determine that a request to exercise any of the rights afforded under subdivisions 2418(a)(1)–(4) of this title is being made by, or on behalf of, the consumer who is entitled to exercise the consumer rights with respect to the personal data at issue.

(4)(A) “Biometric data” means personal data generated by automatic measurements of an individual’s unique biological patterns or characteristics that are used to identify a specific individual.

(B) “Biometric data” does not include:

(i) a digital or physical photograph;

(ii) an audio or video recording; or

(iii) any data generated from a digital or physical photograph, or an audio or video recording, unless such data is generated to identify a specific individual.

(5) “Business associate” has the same meaning as in HIPAA.

(6) “Child” has the same meaning as in COPPA.

(7)(A) “Consent” means a clear affirmative act signifying a consumer’s freely given, specific, informed, and unambiguous agreement to allow the processing of personal data relating to the consumer.

(B) “Consent” may include a written statement, including by electronic means, or any other unambiguous affirmative action.

(C) “Consent” does not include:

(i) acceptance of a general or broad terms of use or similar document that contains descriptions of personal data processing along with other, unrelated information;

(ii) hovering over, muting, pausing, or closing a given piece of content; or

(iii) agreement obtained through the use of dark patterns.

(8)(A) “Consumer” means an individual who is a resident of the State.

(B) “Consumer” does not include an individual acting in a commercial or employment context or as an employee, owner, director, officer, or contractor of a company, partnership, sole proprietorship, nonprofit, or government agency whose communications or transactions with the controller occur solely within the context of that individual’s role with the company, partnership, sole proprietorship, nonprofit, or government agency.

(9) “Consumer health data” means any personal data that a controller uses to identify a consumer’s physical or mental health condition or diagnosis, including gender-affirming health data and reproductive or sexual health data.

(10) “Consumer health data controller” means any controller that, alone or jointly with others, determines the purpose and means of processing consumer health data.

(11) “Controller” means a person who, alone or jointly with others, determines the purpose and means of processing personal data.

(12) “COPPA” means the Children’s Online Privacy Protection Act of 1998, 15 U.S.C. § 6501–6506, and any regulations, rules, guidance, and exemptions adopted pursuant to the act, as the act and regulations, rules, guidance, and exemptions may be amended.

(13) “Covered entity” has the same meaning as in HIPAA.

(14) “Dark pattern” means a user interface designed or manipulated with the substantial effect of subverting or impairing user autonomy, decision-making, or choice and includes any practice the Federal Trade Commission refers to as a “dark pattern.”

(15) “Decisions that produce legal or similarly significant effects concerning the consumer” means decisions made by the controller that result in the provision or denial by the controller of financial or lending services, housing, insurance, education enrollment or opportunity, criminal justice, employment opportunities, health care services, or access to essential goods or services.

(16) “De-identified data” means data that does not identify and cannot reasonably be used to infer information about, or otherwise be linked to, an identified or identifiable individual, or a device linked to the individual, if the controller that possesses the data:

(A) takes reasonable measures to ensure that the data cannot be associated with an individual;

(B) publicly commits to process the data only in a de-identified fashion and not attempt to re-identify the data; and

(C) contractually obligates any recipients of the data to satisfy the criteria set forth in subdivisions (A) and (B) of this subdivision (16).

(17) “Gender-affirming health care services” has the same meaning as in 1 V.S.A. § 150.

(18) “Gender-affirming health data” means any personal data concerning a past, present, or future effort made by a consumer to seek, or a consumer’s receipt of, gender-affirming health care services.

(19) “Geofence” means any technology that uses global positioning coordinates, cell tower connectivity, cellular data, radio frequency identification, wireless fidelity technology data, or any other form of location detection, or any combination of such coordinates, connectivity, data, identification, or other form of location detection, to establish a virtual boundary.

(20) “HIPAA” means the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, as may be amended.

(21) “Identified or identifiable individual” means an individual who can be readily identified, directly or indirectly.

(22) “Institution of higher education” means any individual who, or school, board, association, limited liability company or corporation that, is licensed or accredited to offer one or more programs of higher learning leading to one or more degrees.

(23) “Mental health facility” means any health care facility in which at least 70 percent of the health care services provided in the facility are mental health services.

(24) “Nonprofit organization” means any organization that is qualified for tax exempt status under I.R.C. § 501(c)(3), 501(c)(4), 501(c)(6), or 501(c)(12), or any corresponding internal revenue code of the United States, as may be amended.

(25) “Person” means an individual, association, company, limited liability company, corporation, partnership, sole proprietorship, trust, or other legal entity.

(26)(A) “Personal data” means any information that is linked or reasonably linkable to an identified or identifiable individual.

(B) “Personal data” does not include de-identified data or publicly available information.

(27)(A) “Precise geolocation data” means information derived from technology, including global positioning system level latitude and longitude coordinates or other mechanisms, that directly identifies the specific location of an individual with precision and accuracy within a radius of 1,750 feet.

(B) “Precise geolocation data” does not include:

(i) the content of communications;

(ii) data generated by or connected to an advanced utility metering infrastructure system; or

(iii) data generated by equipment used by a utility company.

(28) “Process” or “processing” means any operation or set of operations performed, whether by manual or automated means, on personal data or on sets of personal data, such as the collection, use, storage, disclosure, analysis, deletion, or modification of personal data.

(29) “Processor” means a person who processes personal data on behalf of a controller.

(30) “Profiling” means any form of automated processing performed on personal data to evaluate, analyze, or predict personal aspects related to an identified or identifiable individual’s economic situation, health, personal preferences, interests, reliability, behavior, location, or movements.

(31) “Protected health information” has the same meaning as in HIPAA.

(32) “Pseudonymous data” means personal data that cannot be attributed to a specific individual without the use of additional information, provided the additional information is kept separately and is subject to appropriate technical and organizational measures to ensure that the personal data is not attributed to an identified or identifiable individual.

(33) “Publicly available information” means information that:

(A) is lawfully made available through federal, state, or local government records or widely distributed media; or

(B) a controller has a reasonable basis to believe that the consumer has lawfully made available to the general public.

(34) “Reproductive or sexual health care” means any health care-related services or products rendered or provided concerning a consumer’s reproductive system or sexual well-being, including any such service or product rendered or provided concerning:

(A) an individual health condition, status, disease, diagnosis, diagnostic test or treatment;

(B) a social, psychological, behavioral, or medical intervention;

(C) a surgery or procedure, including an abortion;

(D) a use or purchase of a medication, including a medication used or purchased for the purposes of an abortion, a bodily function, vital sign, or symptom;

(E) a measurement of a bodily function, vital sign, or symptom; or

(F) an abortion, including medical or nonmedical services, products, diagnostics, counseling, or follow-up services for an abortion.

(35) “Reproductive or sexual health data” means any personal data concerning an effort made by a consumer to seek, or a consumer’s receipt of, reproductive or sexual health care.

(36) “Reproductive or sexual health facility” means any health care facility in which at least 70 percent of the health care-related services or products rendered or provided in the facility are reproductive or sexual health care.

(37)(A) “Sale of personal data” means the exchange of a consumer’s personal data by the controller to a third party for monetary or other valuable consideration.

(B) “Sale of personal data” does not include:

(i) the disclosure of personal data to a processor that processes the personal data on behalf of the controller;

(ii) the disclosure of personal data to a third party for purposes of providing a product or service requested by the consumer;

(iii) the disclosure or transfer of personal data to an affiliate of the controller;

(iv) the disclosure of personal data where the consumer directs the controller to disclose the personal data or intentionally uses the controller to interact with a third party;

(v) the disclosure of personal data that the consumer:

(I) intentionally made available to the general public via a channel of mass media; and

(II) did not restrict to a specific audience; or

(vi) the disclosure or transfer of personal data to a third party as an asset that is part of a merger, acquisition, bankruptcy or other transaction, or a proposed merger, acquisition, bankruptcy, or other transaction, in which the third party assumes control of all or part of the controller's assets.

(38) “Sensitive data” means personal data that includes:

(A) data revealing racial or ethnic origin, religious beliefs, mental or physical health condition or diagnosis, sex life, sexual orientation, or citizenship or immigration status;

(B) consumer health data;

(C) the processing of genetic or biometric data for the purpose of uniquely identifying an individual;

(D) personal data collected from a known child;

(E) data concerning an individual's status as a victim of crime; and

(F) an individual's precise geolocation data.

(39)(A) “Targeted advertising” means displaying advertisements to a consumer where the advertisement is selected based on personal data obtained or inferred from that consumer's activities over time and across nonaffiliated websites or online applications to predict the consumer's preferences or interests.

(B) “Targeted advertising” does not include:

(i) an advertisement based on activities within the controller’s own commonly branded website or online application;

(ii) an advertisement based on the context of a consumer’s current search query, visit to a website, or use of an online application;

(iii) an advertisement directed to a consumer in response to the consumer’s request for information or feedback; or

(iv) processing personal data solely to measure or report advertising frequency, performance, or reach.

(40) “Third party” means a person, public authority, agency, or body, other than the consumer, controller, or processor or an affiliate of the processor or the controller.

(41) “Trade secret” has the same meaning as in section 4601 of this title.

§ 2416. APPLICABILITY

(a) Except as provided in subsection (b) of this section, this chapter applies to a person that conducts business in this State or a person that produces products or services that are targeted to residents of this State and that during the preceding calendar year:

(1) controlled or processed the personal data of not fewer than 100,000 consumers, excluding personal data controlled or processed solely for the purpose of completing a payment transaction; or

(2) controlled or processed the personal data of not fewer than 25,000 consumers and derived more than 25 percent of the person’s gross revenue from the sale of personal data.

(b) Section 2426 of this title and the provisions of this chapter concerning consumer health data and consumer health data controllers apply to a person that conducts business in this State or a person that produces products or services that are targeted to residents of this State.

§ 2417. EXEMPTIONS

(a) Except as provided in subsection (c) of this section, this chapter shall not apply to any:

(1) body, authority, board, bureau, commission, district or agency of this State or of any political subdivision of this State;

(2) person who has entered into a contract with an entity described in subdivision (1) of this subsection to process consumer health data on behalf of the entity;

(3) nonprofit organization;

(4) institution of higher education;

(5) national securities association that is registered under 15 U.S.C. 78o-3 of the Securities Exchange Act of 1934, as may be amended;

(6) financial institution or data subject to Title V of the Gramm-Leach-Bliley Act, Pub. L. No. 106-102, and regulations adopted to implement that act;

(7) covered entity or business associate, as defined in 45 C.F.R. § 160.103;

(8) tribal nation government organization; or

(9) air carrier, as:

(A) defined in 49 U.S.C. § 40102, as may be amended; and

(B) regulated under the Federal Aviation Act of 1958, 49 U.S.C. § 40101 et seq. and the Airline Deregulation Act of 1978, 49 U.S.C. § 41713, as may be amended.

(b) The following information, data, and activities are exempt from this chapter:

(1) protected health information under HIPAA;

(2) patient identifying information that is collected and processed in accordance with 42 C.F.R. Part 2 (confidentiality of substance use disorder patient records);

(3) identifiable private information:

(A) for purposes of the Federal Policy for the Protection of Human Subjects, codified as 45 C.F.R. Part 46 (HHS protection of human subjects) and in various other federal regulations; and

(B) that is otherwise information collected as part of human subjects research pursuant to the good clinical practice guidelines issued by the International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use;

(4) information that identifies a consumer in connection with the protection of human subjects under 21 C.F.R. Parts 6, 50, and 56, or personal data used or shared in research, as defined in 45 C.F.R. § 164.501, that is conducted in accordance with the standards set forth in this subdivision and in subdivision (3) of this subsection, or other research conducted in accordance with applicable law;

(5) information or documents created for the purposes of the Healthcare Quality Improvement Act of 1986, 42 U.S.C. §§ 11101–11152, and regulations adopted to implement that act;

(6) patient safety work product that is created for purposes of improving patient safety under 42 C.F.R. Part 3 (patient safety organizations and patient safety work product);

(7) information derived from any of the health care-related information listed in this subsection that is de-identified in accordance with the requirements for de-identification pursuant to HIPAA;

(8) information originating from and intermingled to be indistinguishable with, or information treated in the same manner as, information exempt under this subsection that is maintained by a covered entity or business associate, program, or qualified service organization, as specified in 42 U.S.C. § 290dd-2, as may be amended;

(9) information used for public health activities and purposes as authorized by HIPAA, community health activities, and population health activities;

(10) the collection, maintenance, disclosure, sale, communication, or use of any personal information bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living by a consumer reporting agency, furnisher, or user that provides information for use in a consumer report, and by a user of a consumer report, but only to the extent that such activity is regulated by and authorized under the Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq., as may be amended;

(11) personal data collected, processed, sold, or disclosed under and in compliance with:

(A) the Driver's Privacy Protection Act of 1994, 18 U.S.C. § 2721–2725; and

(B) the Farm Credit Act, Pub. L. No. 92-181, as may be amended;

(12) personal data regulated by the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, as may be amended;

(13) data processed or maintained:

(A) in the course of an individual applying to, employed by, or acting as an agent or independent contractor of a controller, processor, consumer health data controller, or third party, to the extent that the data is collected and used within the context of that role;

(B) as the emergency contact information of a consumer pursuant to this chapter, used for emergency contact purposes, or

(C) that is necessary to retain to administer benefits for another individual relating to the individual who is the subject of the information pursuant to subdivision (1) of this subsection (b) and used for the purposes of administering such benefits; and

(14) personal data collected, processed, sold, or disclosed in relation to price, route, or service, as such terms are used in the Federal Aviation Act of 1958, 49 U.S.C. § 40101 et seq., as may be amended, and the Airline Deregulation Act of 1978, 49 U.S.C. § 41713, as may be amended.

(c) Controllers, processors, and consumer health data controllers that comply with the verifiable parental consent requirements of COPPA shall be deemed compliant with any obligation to obtain parental consent pursuant to this chapter.

§ 2418. CONSUMER RIGHTS; COMPLIANCE BY CONTROLLERS;
APPEALS

(a) A consumer shall have the right to:

(1) confirm whether or not a controller is processing the consumer's personal data and access the personal data, unless the confirmation or access would require the controller to reveal a trade secret;

(2) correct inaccuracies in the consumer's personal data, taking into account the nature of the personal data and the purposes of the processing of the consumer's personal data;

(3) delete personal data provided by, or obtained about, the consumer;

(4) obtain a copy of the consumer's personal data processed by the controller, in a portable and, to the extent technically feasible, readily usable format that allows the consumer to transmit the data to another controller without hindrance, where the processing is carried out by automated means, provided the controller shall not be required to reveal any trade secret; and

(5) opt out of the processing of the personal data for purposes of:

(A) targeted advertising;

(B) the sale of personal data, except as provided in subsection 2420(b) of this title; or

(C) profiling in furtherance of solely automated decisions that produce legal or similarly significant effects concerning the consumer.

(b)(1) A consumer may exercise rights under this section by a secure and reliable means established by the controller and described to the consumer in the controller's privacy notice.

(2) A consumer may designate an authorized agent in accordance with section 2419 of this title to exercise the rights of the consumer to opt out of the processing of the consumer's personal data for purposes of subdivision (a)(5) of this section on behalf of the consumer.

(3) In the case of processing personal data of a known child, the parent or legal guardian may exercise the consumer rights on the child's behalf.

(4) In the case of processing personal data concerning a consumer subject to a guardianship, conservatorship, or other protective arrangement, the guardian or the conservator of the consumer may exercise the rights on the consumer's behalf.

(c) Except as otherwise provided in this chapter, a controller shall comply with a request by a consumer to exercise the consumer rights authorized pursuant to this chapter as follows:

(1)(A) A controller shall respond to the consumer without undue delay, but not later than 45 days after receipt of the request.

(B) The controller may extend the response period by 45 additional days when reasonably necessary, considering the complexity and number of the consumer's requests, provided the controller informs the consumer of the extension within the initial 45-day response period and of the reason for the extension.

(2) If a controller declines to take action regarding the consumer's request, the controller shall inform the consumer without undue delay, but not later than 45 days after receipt of the request, of the justification for declining to take action and instructions for how to appeal the decision.

(3)(A) Information provided in response to a consumer request shall be provided by a controller, free of charge, once per consumer during any 12-month period.

(B) If requests from a consumer are manifestly unfounded, excessive, or repetitive, the controller may charge the consumer a reasonable fee to cover the administrative costs of complying with the request or decline to act on the request.

(C) The controller bears the burden of demonstrating the manifestly unfounded, excessive, or repetitive nature of the request.

(4)(A) If a controller is unable to authenticate a request to exercise any of the rights afforded under subdivisions (a)(1)–(4) of this section using commercially reasonable efforts, the controller shall not be required to comply with a request to initiate an action pursuant to this section and shall provide notice to the consumer that the controller is unable to authenticate the request to exercise the right or rights until the consumer provides additional information reasonably necessary to authenticate the consumer and the consumer’s request to exercise the right or rights.

(B) A controller shall not be required to authenticate an opt-out request, but a controller may deny an opt-out request if the controller has a good faith, reasonable, and documented belief that the request is fraudulent.

(C) If a controller denies an opt-out request because the controller believes the request is fraudulent, the controller shall send a notice to the person who made the request disclosing that the controller believes the request is fraudulent, why the controller believes the request is fraudulent, and that the controller shall not comply with the request.

(5) A controller that has obtained personal data about a consumer from a source other than the consumer shall be deemed in compliance with a consumer’s request to delete the data pursuant to subdivision (a)(3) of this section by:

(A) retaining a record of the deletion request and the minimum data necessary for the purpose of ensuring the consumer’s personal data remains deleted from the controller’s records and not using the retained data for any other purpose pursuant to the provisions of this chapter; or

(B) opting the consumer out of the processing of the personal data for any purpose except for those exempted pursuant to the provisions of this chapter.

(d)(1) A controller shall establish a process for a consumer to appeal the controller’s refusal to take action on a request within a reasonable period of time after the consumer’s receipt of the decision.

(2) The appeal process shall be conspicuously available and similar to the process for submitting requests to initiate action pursuant to this section.

(3) Not later than 60 days after receipt of an appeal, a controller shall inform the consumer in writing of any action taken or not taken in response to the appeal, including a written explanation of the reasons for the decisions.

(4) If the appeal is denied, the controller shall also provide the consumer with an online mechanism, if available, or other method through which the consumer may contact the Attorney General to submit a complaint.

§ 2419. AUTHORIZED AGENTS AND CONSUMER OPT-OUT

(a) A consumer may designate another person to serve as the consumer's authorized agent, and act on the consumer's behalf, to opt out of the processing of the consumer's personal data for one or more of the purposes specified in subdivision 2418(a)(5) of this title.

(b) The consumer may designate an authorized agent by way of, among other things, a technology, including an internet link or a browser setting, browser extension, or global device setting, indicating the consumer's intent to opt out of the processing.

(c) A controller shall comply with an opt-out request received from an authorized agent if the controller is able to verify, with commercially reasonable effort, the identity of the consumer and the authorized agent's authority to act on the consumer's behalf.

§ 2420. CONTROLLERS' DUTIES; SALE OF PERSONAL DATA TO THIRD PARTIES; NOTICE AND DISCLOSURE TO CONSUMERS; CONSUMER OPT-OUT

(a) A controller:

(1) shall limit the collection of personal data to what is adequate, relevant, and reasonably necessary in relation to the purposes for which the data is processed, as disclosed to the consumer;

(2) except as otherwise provided in this chapter, shall not process personal data for purposes that are neither reasonably necessary to, nor compatible with, the disclosed purposes for which the personal data is processed, as disclosed to the consumer, unless the controller obtains the consumer's consent;

(3) shall establish, implement, and maintain reasonable administrative, technical, and physical data security practices to protect the confidentiality, integrity, and accessibility of personal data appropriate to the volume and nature of the personal data at issue;

(4) shall not process sensitive data concerning a consumer without obtaining the consumer's consent or, in the case of the processing of sensitive data concerning a known child, without processing the data in accordance with COPPA;

(5) shall not process personal data in violation of the laws of this State and federal laws that prohibit unlawful discrimination against consumers;

(6) shall provide an effective mechanism for a consumer to revoke the consumer's consent under this section that is at least as easy as the mechanism

by which the consumer provided the consumer's consent and, upon revocation of the consent, cease to process the data as soon as practicable, but not later than 15 days after the receipt of the request;

(7) shall not process the personal data of a consumer for purposes of targeted advertising, or sell the consumer's personal data without the consumer's consent, under circumstances where a controller has actual knowledge, and willfully disregards, that the consumer is at least 13 years of age but younger than 16 years of age; and

(8) shall not discriminate against a consumer for exercising any of the consumer rights contained in this chapter, including denying goods or services, charging different prices or rates for goods or services, or providing a different level of quality of goods or services to the consumer.

(b) Subsection (a) of this section shall not be construed to require a controller to provide a product or service that requires the personal data of a consumer that the controller does not collect or maintain, or prohibit a controller from offering a different price, rate, level, quality, or selection of goods or services to a consumer, including offering goods or services for no fee if the offering is in connection with a consumer's voluntary participation in a bona fide loyalty, rewards, premium features, discounts, or club card program.

(c) A controller shall provide consumers with a reasonably accessible, clear, and meaningful privacy notice that includes:

(1) the categories of personal data processed by the controller;

(2) the purpose for processing personal data;

(3) how consumers may exercise their consumer rights, including how a consumer may appeal a controller's decision with regard to the consumer's request;

(4) the categories of personal data that the controller shares with third parties, if any;

(5) the categories of third parties, if any, with which the controller shares personal data; and

(6) an active email address or other online mechanism that the consumer may use to contact the controller.

(d) If a controller sells personal data to third parties or processes personal data for targeted advertising, the controller shall clearly and conspicuously disclose the processing, as well as the manner in which a consumer may exercise the right to opt out of the processing.

(e)(1) A controller shall establish, and shall describe in a privacy notice, one or more secure and reliable means for consumers to submit a request to exercise their consumer rights pursuant to this chapter.

(2) The means shall take into account the ways in which consumers normally interact with the controller, the need for secure and reliable communication of the requests, and the ability of the controller to verify the identity of the consumer making the request.

(3) A controller shall not require a consumer to create a new account in order to exercise consumer rights but may require a consumer to use an existing account.

(4)(A) The means shall include:

(i) providing a clear and conspicuous link on the controller's website to an web page that enables a consumer, or an agent of the consumer, to opt out of the targeted advertising or sale of the consumer's personal data; and

(ii) not later than January 1, 2026, allowing a consumer to opt out of any processing of the consumer's personal data for the purposes of targeted advertising, or any sale of the personal data, through an opt-out preference signal sent to the controller with the consumer's consent indicating the consumer's intent to opt out of any the processing or sale, by a platform, technology, or other mechanism that shall:

(I) not unfairly disadvantage another controller;

(II) not make use of a default setting, but rather require the consumer to make an affirmative, freely given, and unambiguous choice to opt out of any processing of the consumer's personal data pursuant to this chapter;

(III) be consumer-friendly and easy to use by the average consumer;

(IV) be as consistent as possible with any other similar platform, technology, or mechanism required by any federal or State law or regulation; and

(V) enable the controller to accurately determine whether the consumer is a resident of this State and whether the consumer has made a legitimate request to opt out of any sale of the consumer's personal data or targeted advertising.

(B) If a consumer's decision to opt out of any processing of the consumer's personal data for the purposes of targeted advertising, or any sale of the personal data, through an opt-out preference signal sent in accordance

with the provisions of subdivision (A) of this subdivision (e)(4) conflicts with the consumer's existing controller-specific privacy setting or voluntary participation in a controller's bona fide loyalty, rewards, premium features, discounts, or club card program, the controller shall comply with the consumer's opt-out preference signal but may notify the consumer of the conflict and provide to the consumer the choice to confirm the controller-specific privacy setting or participation in the program.

(5) If a controller responds to consumer opt-out requests received pursuant to subdivision (4)(A) of this subsection by informing the consumer of a charge for the use of any product or service, the controller shall present the terms of any financial incentive offered pursuant to subsection (b) of this section for the retention, use, sale, or sharing of the consumer's personal data.

§ 2421. PROCESSORS' DUTIES; CONTRACTS BETWEEN CONTROLLERS AND PROCESSORS

(a) A processor shall adhere to the instructions of a controller and shall assist the controller in meeting the controller's obligations under this chapter, including:

(1) taking into account the nature of processing and the information available to the processor, by appropriate technical and organizational measures, to the extent reasonably practicable, to fulfill the controller's obligation to respond to consumer rights requests;

(2) taking into account the nature of processing and the information available to the processor, by assisting the controller in meeting the controller's obligations in relation to the security of processing the personal data and in relation to the notification of a data broker security breach or security breach, as defined in section 2430 of this title, of the system of the processor, in order to meet the controller's obligations; and

(3) providing necessary information to enable the controller to conduct and document data protection assessments.

(b)(1) A contract between a controller and a processor shall govern the processor's data processing procedures with respect to processing performed on behalf of the controller.

(2) The contract shall be binding and clearly set forth instructions for processing data, the nature and purpose of processing, the type of data subject to processing, the duration of processing, and the rights and obligations of both parties.

(3) The contract shall require that the processor:

(A) ensure that each person processing personal data is subject to a duty of confidentiality with respect to the data;

(B) at the controller's direction, delete or return all personal data to the controller as requested at the end of the provision of services, unless retention of the personal data is required by law;

(C) upon the reasonable request of the controller, make available to the controller all information in its possession necessary to demonstrate the processor's compliance with the obligations in this chapter;

(D) after providing the controller an opportunity to object, engage any subcontractor pursuant to a written contract that requires the subcontractor to meet the obligations of the processor with respect to the personal data; and

(E) make available to the controller upon the reasonable request of the controller, all information in the processor's possession necessary to demonstrate the processor's compliance with this chapter.

(4) A processor shall provide a report of an assessment to the controller upon request.

(c) This section shall not be construed to relieve a controller or processor from the liabilities imposed on the controller or processor by virtue of the controller's or processor's role in the processing relationship, as described in this chapter.

(d)(1) Determining whether a person is acting as a controller or processor with respect to a specific processing of data is a fact-based determination that depends upon the context in which personal data is to be processed.

(2) A person who is not limited in the person's processing of personal data pursuant to a controller's instructions, or who fails to adhere to the instructions, is a controller and not a processor with respect to a specific processing of data.

(3) A processor that continues to adhere to a controller's instructions with respect to a specific processing of personal data remains a processor.

(4) If a processor begins, alone or jointly with others, determining the purposes and means of the processing of personal data, the processor is a controller with respect to the processing and may be subject to an enforcement action under section 2425 of this title.

§ 2422. CONTROLLERS' DATA PROTECTION ASSESSMENTS;
DISCLOSURE TO ATTORNEY GENERAL

(a) A controller shall conduct and document a data protection assessment for each of the controller's processing activities that presents a heightened risk of harm to a consumer, which for the purposes of this section includes:

(1) the processing of personal data for the purposes of targeted advertising;

(2) the sale of personal data;

(3) the processing of personal data for the purposes of profiling, where the profiling presents a reasonably foreseeable risk of:

(A) unfair or deceptive treatment of, or unlawful disparate impact on, consumers;

(B) financial, physical, or reputational injury to consumers;

(C) a physical or other intrusion upon the solitude or seclusion, or the private affairs or concerns, of consumers, where the intrusion would be offensive to a reasonable person; or

(D) other substantial injury to consumers; and

(4) the processing of sensitive data.

(b)(1) Data protection assessments conducted pursuant to subsection (a) of this section shall identify and weigh the benefits that may flow, directly and indirectly, from the processing to the controller, the consumer, other stakeholders, and the public against the potential risks to the rights of the consumer associated with the processing, as mitigated by safeguards that can be employed by the controller to reduce the risks.

(2) The controller shall factor into any data protection assessment the use of de-identified data and the reasonable expectations of consumers, as well as the context of the processing and the relationship between the controller and the consumer whose personal data will be processed.

(c)(1) The Attorney General may require that a controller disclose any data protection assessment that is relevant to an investigation conducted by the Attorney General, and the controller shall make the data protection assessment available to the Attorney General.

(2) The Attorney General may evaluate the data protection assessment for compliance with the responsibilities set forth in this chapter.

(3) Data protection assessments shall be confidential and shall be exempt from disclosure and copying under the Public Records Act.

(4) To the extent any information contained in a data protection assessment disclosed to the Attorney General includes information subject to attorney-client privilege or work product protection, the disclosure shall not constitute a waiver of the privilege or protection.

(d) A single data protection assessment may address a comparable set of processing operations that include similar activities.

(e) If a controller conducts a data protection assessment for the purpose of complying with another applicable law or regulation, the data protection assessment shall be deemed to satisfy the requirements established in this section if the data protection assessment is reasonably similar in scope and effect to the data protection assessment that would otherwise be conducted pursuant to this section.

(f) Data protection assessment requirements shall apply to processing activities created or generated after July 1, 2025 and are not retroactive.

§ 2423. DE-IDENTIFIED AND PSEUDONYMOUS DATA;
CONTROLLERS' DUTIES; EXCEPTIONS; APPLICABILITY OF
CONSUMERS' RIGHTS; DISCLOSURE AND OVERSIGHT

(a) A controller in possession of de-identified data shall:

(1) take reasonable measures to ensure that the data cannot be associated with an individual;

(2) publicly commit to maintaining and using de-identified data without attempting to re-identify the data; and

(3) contractually obligate any recipients of the de-identified data to comply with the provisions of this chapter.

(b) This chapter shall not be construed to:

(1) require a controller or processor to re-identify de-identified data or pseudonymous data; or

(2) maintain data in identifiable form, or collect, obtain, retain, or access any data or technology, in order to be capable of associating an authenticated consumer request with personal data.

(c) This chapter shall not be construed to require a controller or processor to comply with an authenticated consumer rights request if the controller:

(1) is not reasonably capable of associating the request with the personal data or it would be unreasonably burdensome for the controller to associate the request with the personal data;

(2) does not use the personal data to recognize or respond to the specific consumer who is the subject of the personal data, or associate the personal data with other personal data about the same specific consumer; and

(3) does not sell the personal data to any third party or otherwise voluntarily disclose the personal data to any third party other than a processor, except as otherwise permitted in this section.

(d) The rights afforded under subdivisions 2418(a)(1)–(4) of this title shall not apply to pseudonymous data in cases where the controller is able to demonstrate that any information necessary to identify the consumer is kept separately and is subject to effective technical and organizational controls that prevent the controller from accessing the information.

(e) A controller that discloses pseudonymous data or de-identified data shall exercise reasonable oversight to monitor compliance with any contractual commitments to which the pseudonymous data or de-identified data is subject and shall take appropriate steps to address any breaches of those contractual commitments.

§ 2424. CONSTRUCTION OF CONTROLLERS' AND PROCESSORS' DUTIES

(a) This chapter shall not be construed to restrict a controller's, processor's, or consumer health data controller's ability to:

(1) comply with federal, state, or municipal laws, ordinances, or regulations;

(2) comply with a civil, criminal, or regulatory inquiry, investigation, subpoena, or summons by federal, state, municipal, or other governmental authorities;

(3) cooperate with law enforcement agencies concerning conduct or activity that the controller, processor, or consumer health data controller reasonably and in good faith believes may violate federal, state, or municipal laws, ordinances, or regulations;

(4) investigate, establish, exercise, prepare for, or defend legal claims;

(5) provide a product or service specifically requested by a consumer;

(6) perform under a contract to which a consumer is a party, including fulfilling the terms of a written warranty;

(7) take steps at the request of a consumer prior to entering into a contract;

(8) take immediate steps to protect an interest that is essential for the life or physical safety of the consumer or another individual, and where the processing cannot be manifestly based on another legal basis;

(9) prevent, detect, protect against, or respond to security incidents, identity theft, fraud, harassment, malicious, or deceptive activities or any illegal activity; preserve the integrity or security of systems; or investigate, report, or prosecute those responsible for the action;

(10) engage in public or peer-reviewed scientific or statistical research in the public interest that adheres to all other applicable ethics and privacy laws and is approved, monitored, and governed by an institutional review board that determines, or similar independent oversight entities that determine:

(A) whether the deletion of the information is likely to provide substantial benefits that do not exclusively accrue to the controller;

(B) the expected benefits of the research outweigh the privacy risks;
and

(C) whether the controller or consumer health data controller has implemented reasonable safeguards to mitigate privacy risks associated with research, including any risks associated with re-identification;

(11) assist another controller, processor, consumer health data controller, or third party with any of the obligations under this chapter; or

(12) process personal data for reasons of public interest in the area of public health, community health, or population health, but solely to the extent that the processing is:

(A) subject to suitable and specific measures to safeguard the rights of the consumer whose personal data is being processed; and

(B) under the responsibility of a professional subject to confidentiality obligations under federal, state, or local law.

(b) The obligations imposed on controllers, processors, or consumer health data controllers under this chapter shall not restrict a controller's, processor's, or consumer health data controller's ability to collect, use, or retain data for internal use to:

(1) conduct internal research to develop, improve, or repair products, services, or technology;

(2) effectuate a product recall;

(3) identify and repair technical errors that impair existing or intended functionality; or

(4) perform internal operations that are reasonably aligned with the expectations of the consumer or reasonably anticipated based on the consumer's existing relationship with the controller or consumer health data controller, or are otherwise compatible with processing data in furtherance of the provision of a product or service specifically requested by a consumer or the performance of a contract to which the consumer is a party.

(c)(1) The obligations imposed on controllers, processors, or consumer health data controllers under this chapter shall not apply where compliance by the controller, processor, or consumer health data controller with this chapter would violate an evidentiary privilege under the laws of this State.

(2) This chapter shall not be construed to prevent a controller, processor, or consumer health data controller from providing personal data concerning a consumer to a person covered by an evidentiary privilege under the laws of the State as part of a privileged communication.

(d)(1) A controller, processor, or consumer health data controller that discloses personal data to a processor or third-party controller pursuant to this chapter shall not be deemed to have violated this chapter if the processor or third-party controller that receives and processes the personal data violates this chapter, provided, at the time the disclosing controller, processor, or consumer health data controller disclosed the personal data, the disclosing controller, processor, or consumer health data controller did not have actual knowledge that the receiving processor or third-party controller would violate this chapter.

(2) A third-party controller or processor receiving personal data from a controller, processor, or consumer health data controller in compliance with this chapter is not in violation of this chapter for the transgressions of the controller, processor, or consumer health data controller from which the third-party controller or processor receives the personal data.

(e) This chapter shall not be construed to:

(1) impose any obligation on a controller or processor that adversely affects the rights or freedoms of any person, including the rights of any person:

(A) to freedom of speech or freedom of the press guaranteed in the First Amendment to the United States Constitution; or

(B) under 12 V.S.A. § 1615;

(2) apply to any person's processing of personal data in the course of the person's purely personal or household activities; or

(3) require an independent school as defined in 16 V.S.A. § 11(a)(8) or a private institution of higher education, as defined in 20 U.S.C. § 1001 et seq., to delete personal data or opt out of processing of personal data that would unreasonably interfere with the provision of education services by or the ordinary operation of the school or institution.

(f)(1) Personal data processed by a controller or consumer health data controller pursuant to this section may be processed to the extent that the processing is:

(A) reasonably necessary and proportionate to the purposes listed in this section; and

(B) adequate, relevant, and limited to what is necessary in relation to the specific purposes listed in this section.

(2)(A) Personal data collected, used, or retained pursuant to subsection (b) of this section shall, where applicable, take into account the nature and purpose or purposes of the collection, use, or retention.

(B) The data shall be subject to reasonable administrative, technical, and physical measures to protect the confidentiality, integrity, and accessibility of the personal data and to reduce reasonably foreseeable risks of harm to consumers relating to the collection, use, or retention of personal data.

(g) If a controller or consumer health data controller processes personal data pursuant to an exemption in this section, the controller or consumer health data controller bears the burden of demonstrating that the processing qualifies for the exemption and complies with the requirements in subsection (f) of this section.

(h) Processing personal data for the purposes expressly identified in this section shall not solely make a legal entity a controller or consumer health data controller with respect to the processing.

§ 2425. ENFORCEMENT BY ATTORNEY GENERAL; NOTICE OF VIOLATION; CURE PERIOD; REPORT; PENALTY

(a) The Attorney General shall have exclusive authority to enforce violations of this chapter.

(b)(1) During the period beginning on July 1, 2025 and ending on December 31, 2026, the Attorney General shall, prior to initiating any action for a violation of any provision of this chapter, issue a notice of violation to the controller or consumer health data controller if the Attorney General determines that a cure is possible.

(2) If the controller or consumer health data controller fails to cure the violation within 60 days after receipt of the notice of violation, the Attorney General may bring an action pursuant to this section.

(3) Annually, on or before February 1, the Attorney General shall submit a report to the General Assembly disclosing:

(A) the number of notices of violation the Attorney General has issued;

(B) the nature of each violation;

(C) the number of violations that were cured during the available cure period; and

(D) any other matter the Attorney General deems relevant for the purposes of the report.

(c) Beginning on January 1, 2027, the Attorney General may, in determining whether to grant a controller or processor the opportunity to cure an alleged violation described in subsection (b) of this section, consider:

(1) the number of violations;

(2) the size and complexity of the controller or processor;

(3) the nature and extent of the controller's or processor's processing activities;

(4) the substantial likelihood of injury to the public;

(5) the safety of persons or property;

(6) whether the alleged violation was likely caused by human or technical error; and

(7) the sensitivity of the data.

(d) This chapter shall not be construed as providing the basis for, or be subject to, a private right of action for violations of this chapter or any other law.

(e) Subjection to the exception in subsection (f) of this section, a violation of the requirements of this chapter shall constitute an unfair and deceptive act in commerce in violation of section 2453 of this title and shall be enforced solely by the Attorney General, provided that a consumer private right of action under subsection 2461(b) of this title shall not apply to the violation.

(f) The Attorney General shall provide guidance to controllers and processors for compliance with the terms of the Vermont Data Privacy Act. Any processor or controller that, in the opinion of the Attorney General,

materially complies with the guidance provided by the Attorney General shall not constitute an unfair and deceptive act in commerce.

§ 2426. CONSUMER HEALTH DATA PRIVACY

(a) Except as provided in subsections (b) and (c) of this section and subsections 2417(b) and (c) of this title, no person shall:

(1) provide any employee or contractor with access to consumer health data unless the employee or contractor is subject to a contractual or statutory duty of confidentiality;

(2) provide any processor with access to consumer health data unless the person and processor comply with section 2421 of this title;

(3) use a geofence to establish a virtual boundary that is within 1,750 feet of any health care facility, including any mental health facility or reproductive or sexual health facility, for the purpose of identifying, tracking, collecting data from, or sending any notification to a consumer regarding the consumer's consumer health data; or

(4) sell, or offer to sell, consumer health data without first obtaining the consumer's consent.

(b) Notwithstanding section 2416 of this title, subsection (a) of this section, and the provisions of sections 2415–2425 of this title, inclusive, concerning consumer health data and consumer health data controllers, apply to persons that conduct business in this state and persons that produce products or services that are targeted to residents of this state.

(c) Subsection (a) of this section shall not apply to any:

(1) body, authority, board, bureau, commission, district or agency of this State or of any political subdivision of this State;

(2) person who has entered into a contract with an entity described in subdivision (1) of this subsection to process consumer health data on behalf of the entity;

(3) institution of higher education;

(4) national securities association that is registered under 15 U.S.C. 78o-3 of the Securities Exchange Act of 1934, as may be amended;

(5) financial institution or data subject to Title V of the Gramm-Leach-Bliley Act, Pub. L. No. 106-102, and regulations adopted to implement that act;

(6) covered entity or business associate, as defined in 45 C.F.R. § 160.103;

(7) tribal nation government organization; or

(8) air carrier, as:

(A) defined in 49 U.S.C. § 40102, as may be amended; and

(B) regulated under the Federal Aviation Act of 1958, 49 U.S.C. § 40101 et seq. and the Airline Deregulation Act of 1978, 49 U.S.C. § 41713, as may be amended.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2026.

(Committee vote: 5-0-0)

S. 109.

An act relating to miscellaneous judiciary procedures.

Reported favorably with recommendation of amendment by Senator Mattos for the Committee on Judiciary.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 3 V.S.A. § 164 is amended to read:

§ 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, available in all counties.

(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 person referred to the program. The diversion program can accept referrals to the program as follows:

* * *

(c) Adult diversion program policy and referral requirements.

* * *

(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 persons 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.

* * *

Sec. 2. 4 V.S.A. § 71 is amended to read:

§ 71. APPOINTMENT AND TERM OF SUPERIOR JUDGES

(a) ~~There shall be 34 Superior judges, whose term of office shall,~~ The number of Superior Judges shall be as determined by the General Assembly. The term of office of a Superior Judge shall, except in the case of an appointment to fill a vacancy or unexpired term, begin on April 1 in the year of their appointment or retention and continue for six years.

* * *

Sec. 3. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

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

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

* * *

(4) Violations of 7 V.S.A. § 1005, relating to possession and procurement of tobacco products by a person under 21 years of age.

* * *

Sec. 4. 4 V.S.A. § 1106 is amended to read:

§ 1106. HEARING

* * *

(d) ~~A~~ Unless otherwise provided by law, a law enforcement officer may void or amend a complaint issued by that officer by so marking the complaint and returning it to the Bureau, regardless of whether the amended complaint is a lesser included violation. At the hearing, a law enforcement officer may, unless otherwise provided by law, void or amend a complaint issued by that officer in the discretion of that officer.

* * *

Sec. 5. 7 V.S.A. § 1005(c) is amended to read:

(c) A person under 21 years of age who misrepresents ~~his or her~~ the person's age by presenting false identification to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia shall be ~~fined~~ subject to a civil penalty of not more than \$50.00 or provide up to 10 hours of community service, or both.

Sec. 6. 12 V.S.A. § 5 is amended to read:

§ 5. DISSEMINATION OF ELECTRONIC CASE RECORDS

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

(b) Notwithstanding subsection (a) of this section, the Court shall provide licensed Vermont attorneys in good standing with access via the internet, through the Judiciary's Public Portal website or otherwise, to nonconfidential criminal, family, and probate case records.

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

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

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

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

Sec. 7. 12 V.S.A. § 4937 is amended to read:

§ 4937. ATTORNEY'S FEES

When a mortgage contains an agreement on the part of the mortgagor to pay the mortgagee, in the event of foreclosure, the attorney's fees incident thereto, and claim is made therefor in the complaint, ~~upon hearing~~, the court in which the complaint is brought shall allow such fee as in its judgment is just.

Sec. 8. 13 V.S.A. § 4013 is amended to read:

§ 4013. ZIP GUNS; ~~SWITCHBLADE KNIVES~~

A person who possesses, sells, or offers for sale a weapon commonly known as a "zip" gun, ~~or a weapon commonly known as a switchblade knife, the blade of which is three inches or more in length~~, shall be imprisoned not more than 90 days or fined not more than \$100.00, or both.

Sec. 9. EXPUNGEMENT OF CRIMINAL HISTORY RECORDS

The court shall order the expungement of criminal history records of convictions of 13 V.S.A. § 4013 for possessing, selling, or offering for sale a switchblade knife that occurred prior to July 1, 2025. The process and effect for expungement of these records shall be as provided for in 13 V.S.A. § 7606 and shall be completed by the court and all entities subject to the order not later than July 1, 2026.

Sec. 10. 13 V.S.A. § 5351(7) is amended to read:

(7) "Victim" means:

(A) a person who sustains injury or death as a direct result of the commission or attempted commission of a crime;

(B) an intervenor who is physically injured or killed in an attempt to assist the person described in subdivision (A) of this subdivision (7) or the police;

(C) a surviving immediate family member of a homicide victim, including a spouse, domestic partner, parent, sibling, child, grandparent, or other survivor who may suffer severe emotional harm as a result of the victim's death as determined on a case-by-case basis in the discretion of the Board; or

(D) a resident of this State who is injured or killed as the result of a crime committed outside the United States.

Sec. 11. 13 V.S.A. § 7282 is amended to read:

§ 7282. SURCHARGE

* * *

~~(c) SIU surcharge.~~ In addition to any penalty or fine imposed by the court for a criminal offense committed after July 1, 2009, the clerk of the court shall levy an additional surcharge of \$100.00 to be deposited in the General Fund, in support of the Specialized Investigative Unit Grants Board created in 24 V.S.A. § 1940(c), and used to pay for the costs of Specialized Investigative Units.

Sec. 12. 12 V.S.A. § 5135(b) is amended to read:

(b) A defendant who attends a hearing held under section 5133 or 5134 of this title at which a temporary or final order under this chapter is issued and who receives notice from the court on the record that the order has been issued shall be deemed to have been served. A defendant notified by the court on the record shall be required to adhere immediately to the provisions of the order. ~~However, even when the court has previously notified the defendant of the order, the court shall transmit the order for additional service by a law enforcement agency.~~ The clerk shall mail a copy of the order to the defendant at the defendant's last known address.

Sec. 13. 14 V.S.A. § 2 is amended to read:

§ 2. DEPOSIT OF WILL FOR SAFEKEEPING; DELIVERY; FINAL DISPOSITION

(a) A will may be deposited for safekeeping in the Probate Division of the Superior Court for the district in which the testator resides on payment to the court of the applicable fee required by ~~32 V.S.A. § 1434(a)(17)~~ 32 V.S.A. § 1434(a)(18). The register shall give to the testator a receipt, shall safely keep each will so deposited, and shall keep an index of the wills so deposited.

* * *

Sec. 14. 14 V.S.A. § 3068 is amended to read:

§ 3068. HEARING

* * *

(e)(1) If upon completion of the hearing and consideration of the record the court finds that the respondent is not a person in need of guardianship, it shall dismiss the petition and seal the records of the proceeding.

(2) If a motion to withdraw the petition is made before the final hearing, the court shall dismiss the petition and seal the records of the proceeding.

(f) If upon completion of the hearing and consideration of the record the court finds that the petitioner has proved by clear and convincing evidence that the respondent is a person in need of guardianship or will be a person in need

of guardianship on attaining 18 years of age, it shall enter judgment specifying the powers of the guardian pursuant to sections 3069 and 3070 of this title and the duties of the guardian pursuant to section 3071 of this title.

(g) Any party to the proceeding before the court may appeal the court's decision in the manner provided in section 3080 of this title.

Sec. 15. 14 V.S.A. § 4051 is amended to read:

§ 4051. STATUTORY FORM POWER OF ATTORNEY

A document substantially in the following form may be used to create a statutory form power of attorney that has the meaning and effect prescribed by this chapter.

VERMONT STATUTORY FORM POWER OF ATTORNEY IMPORTANT
INFORMATION

* * *

GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

My agent MAY NOT do any of the following specific acts for me UNLESS I have INITIALED the specific authority listed below:

(CAUTION: Granting any of the following will give your agent the authority to take actions that could significantly reduce your property or change how your property is distributed at your death. INITIAL ONLY the specific authority you WANT to give your agent.)

() An agent who is not an ancestor, spouse, or descendant may exercise authority under this power of attorney to create in the agent or in an individual to whom the agent owes a legal obligation of support an interest in my property whether by gift, rights of survivorship, beneficiary designation, disclaimer, or otherwise

() Create, amend, revoke, or terminate an inter vivos, family, living, irrevocable, or revocable trust

() Consent to the modification or termination of a noncharitable irrevocable trust under 14A V.S.A. § 411

() Make a gift, subject to the limitations of 14 V.S.A. § 4047 (gifts) and any special instructions in this power of attorney

~~() Consent to the modification or termination of a noncharitable irrevocable trust under 14A V.S.A. § 411~~

() Create, amend, or change rights of survivorship

() Create, amend, or change a beneficiary designation

- () Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan
- () Exercise fiduciary powers that the principal has authority to delegate
- () Authorize another person to exercise the authority granted under this power of attorney
- () Disclaim or refuse an interest in property, including a power of appointment
- () Exercise authority with respect to elective share under 14 V.S.A. § 319
- () Exercise waiver rights under 14 V.S.A. § 323
- () Exercise authority over the content and catalogue of electronic communications and digital assets under 14 V.S.A. chapter 125 (Vermont Revised Uniform Fiduciary Access to Digital Assets Act)
- () Exercise authority with respect to intellectual property, including, without limitation, copyrights, contracts for payment of royalties, and trademarks
- () Convey, or revoke or revise a grantee designation, by enhanced life estate deed pursuant to 27 V.S.A. chapter 6 or under common law.

* * *

Sec. 16. 14A V.S.A. § 1316 is amended to read:

§ 1316. OFFICE OF TRUST DIRECTOR

Unless the terms of a trust provide otherwise, the rules applicable to a trustee apply to a trust director regarding the following matters:

- (1) acceptance under section 701 of this title;
- (2) giving of bond to secure performance under section 702 of this title;
- (3) reasonable compensation under section 708 of this title;
- (4) resignation under section 705 of this title;
- (5) removal under section 706 of this title; and
- (6) vacancy and appointment of successor under section 704 of this title.

Sec. 17. 33 V.S.A. § 5204(b)(2)(A) is amended to read:

(2)(A)(i) The Family Division of the Superior Court shall hold a hearing under subsection (c) of this section to determine whether jurisdiction should be transferred to the Criminal Division under subsection (a) of this section if the delinquent act set forth in the petition is:

- (I) [Repealed.]

(II) human trafficking or aggravated human trafficking in violation of 13 V.S.A. § 2652 or 2653;

(III) defacing a firearm's serial number in violation of ~~13 V.S.A. § 4024~~ 13 V.S.A. § 4026; or

(IV) straw purchasing of firearm in violation of 13 V.S.A. § 4025; and

(ii) the child had attained 16 years of age but not 19 years of age at the time the act was alleged to have occurred.

Sec. 18. 33 V.S.A. § 5225 is amended to read:

§ 5225. PRELIMINARY HEARING; RISK ASSESSMENT

(a) Preliminary hearing. A preliminary hearing shall be held at the time and date specified on the citation or as otherwise ordered by the court. If a child is taken into custody prior to the preliminary hearing, the preliminary hearing shall be at the time of the temporary care hearing. Counsel for the child shall be assigned prior to the preliminary hearing.

(b) Risk and needs screening.

(1) Prior to the preliminary hearing, the child shall be afforded an opportunity to undergo a risk and needs screening, which shall be conducted by the Department or by a community provider that has contracted with the Department to provide risk and need screenings for children alleged to have committed delinquent acts.

(2) If the child participates in such a screening, the Department or the community provider shall report the risk level result of the screening, the number and source of the collateral contacts made, and the recommendation for charging or other alternatives to the State's Attorney. The State's Attorney shall consider the results of the risk and needs screening in determining whether to file a charge. In lieu of filing a charge, the State's Attorney may refer a child directly to a youth-appropriate community-based provider that has been approved by the Department, which may include pre-charge diversion pursuant to 3 V.S.A. § 163, a community justice center, or a balanced and restorative justice program. Referral to a community-based provider pursuant to this subsection shall not require the State's Attorney to file a charge. If the community-based provider does not accept the case or if the child fails to complete the program in a manner deemed satisfactory and timely by the provider, the child's case shall return to the State's Attorney for charging consideration.

* * *

Sec. 19. 27 V.S.A. § 348 is amended to read:

§ 348. INSTRUMENTS CONCERNING REAL PROPERTY VALIDATED

(a) When an instrument of writing shall have been on record in the office of the clerk in the proper town for a period of 15 years, and there is a defect in the instrument because it omitted to state any consideration or was not sealed, witnessed, acknowledged, validly acknowledged, or because a license to sell was not issued or is defective, the instrument shall, from and after the expiration of 15 years from the filing thereof for record, be valid. Nothing in this section shall be construed to affect any rights acquired by grantees, assignees, or encumbrancers under the instruments described in the preceding sentence, nor shall this section apply to conveyances or other instruments of writing, the validity of which is brought in question in any suit now pending in any courts of the State.

* * *

(d) A release, discharge, or assignment of mortgage interest executed by a commercial lender with respect to a one- to four-family residential real property, including a residential unit in a condominium or in a common interest community as defined in Title 27A, that recites authority to act on behalf of the record holder of the mortgage under a power of attorney but where the power of attorney is not of record shall have the same effect as if executed by the record holder of the mortgage unless, within three years after the instrument is recorded, an action challenging the release, discharge, or assignment is commenced and a copy of the complaint is recorded in the land records of the town where the release, discharge, or assignment is recorded. This subsection shall not apply to releases, discharges, or assignments obtained by fraud or forgery.

(e) A power of attorney made for the purpose of conveying, leasing, mortgaging, or affecting any interest in real property that has been acknowledged and signed in the presence of at least one witness shall be valid, notwithstanding its failure to comply with 14 V.S.A. § 3503 or the requirements of the Emergency Administrative Rules for Remote Notarial Acts adopted by the Vermont Secretary of State, unless within three years after recording, an action challenging its validity is commenced and a copy of the complaint is recorded in the land records of the town where the power of attorney is recorded. This subsection shall not apply to a power of attorney obtained by fraud or forgery.

(f) Notwithstanding section 305 of this title, a deed, mortgage, lease, or other instrument executed for the purpose of conveying or encumbering real property executed by a person purporting to act as the agent or attorney-in-fact

for the party named in the deed, mortgage, lease, or other instrument that has been recorded for at least 15 years in the land records where the real property is located shall be valid even if no power of attorney authorizing and empowering an agent or attorney-in-fact appears of record, unless, within 15 years after recording, an action challenging the validity of the deed, mortgage, lease, or other instrument is commenced and a copy of the complaint is recorded in the land records of the town where the property is located.

Sec. 20. 32 V.S.A. § 1003 is amended to read:

§ 1003. STATE OFFICERS

* * *

(c) The officers of the Judicial Branch named in this subsection shall be entitled to annual salaries as follows:

	Annual Salary as of July 14, 2024	Annual Salary as of July 13, 2025
(1) Chief Justice of Supreme Court	\$214,024	\$225,581
(2) Each Associate Justice	\$204,264	\$215,294
(3) Administrative Chief Superior Judge	\$204,264	\$215,294
(4) Each Superior Judge	\$194,185	\$204,671
(5) [Repealed.]		
(6) Each Magistrate	\$146,413	\$154,319
(7) Each Judicial Bureau hearing officer	\$146,413	\$154,319

* * *

Sec. 21. 2023 Acts and Resolves No. 27, Sec. 5 (forensic facility report) is amended to read:

Sec. 5. [Deleted.]

Sec. 22. 2023 Acts and Resolves No. 40, Sec. 4 is amended to read:

Sec. 4. REPEALS

* * *

(c) 28 V.S.A. § 126 (Coordinated Justice Reform Advisory Council) is repealed on ~~July 1, 2028~~ July 1, 2025.

Sec. 23. REPEAL

2019 Acts and Resolves No. 6, Secs. 99 and 100 (amendments to 18 V.S.A. §§ 4810(d)–(j) and 4811 that prohibited public inebriates from being incarcerated in a Department of Corrections’ facility) are repealed.

Sec 24. 2019 Acts and Resolves No. 6, Sec. 105 is amended to read:

Sec. 105. EFFECTIVE DATES

* * *

~~(c) Secs. 99 and 100 (amending 18 V.S.A. §§ 4910 and 4811) shall take effect on July 1, 2025. [Deleted.]~~

* * *

Sec. 25. FIREARM SURRENDER ORDER COMPLIANCE WORKING GROUP; REPORT

(a) The Office of the Attorney General shall convene a Firearm Surrender Order Compliance Working Group to develop a uniform process to ensure compliance with court orders to surrender firearms. The Working Group shall study what statutory or policy changes are needed to create a uniform process to monitor compliance, support entities charged with storing surrendered firearms, and identify a stable and reliable funding source for any additional resources needed to monitor compliance.

(b) The Working Group shall include any stakeholders deemed necessary by the Attorney General, and shall include:

(1) the Commissioner of Public Safety or designee;

(2) a member of the Vermont State Police, appointed by the Commissioner of Public Safety;

(3) the Commissioner of Corrections or designee;

(4) the Chief Superior Court Judge or designee;

(5) two family law practitioners, appointed by the Vermont Bar Association;

(6) the Defender General or designee;

(7) one State’s Attorney or designee, appointed by the Department of State’s Attorneys and Sheriffs;

(8) a member, appointed by the Vermont Network Against Domestic and Sexual Violence;

(9) a member, appointed by the Vermont Council on Domestic Violence;

(10) a member, appointed by the Vermont Center for Crime Victim Services;

(11) a member who is a federal firearms licensee, appointed by the State Police representative overseeing the current firearms storage program for the Department of Public Safety;

(12) a member, appointed by the Vermont Office of the Bureau of Alcohol Tobacco and Firearms;

(13) a member, appointed by the Vermont Medical Society;

(14) the Commissioner of Mental Health or designee;

(15) a sheriff, appointed by the Department of State's Attorneys and Sheriffs; and

(16) a police chief, appointed by the Vermont Association of Chiefs of Police.

(c) Report. On or before November 15, 2025, the Working Group shall report its recommendations to the House and Senate Committees on Judiciary and to the Joint Legislative Justice Oversight Committee. The report shall include:

(1) a workable statewide compliance model that is adaptable to both the Family and Criminal Divisions of the Superior Courts and that ensures accountability of respondents and defendants while addressing safety needs of the plaintiffs and victims; and

(2) recommendations for any legislative changes necessary to support the model.

Sec. 26. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 1 shall take effect on July 2, 2025.

(Committee vote: 5-0-0)

NOTICE CALENDAR

Committee Bill for Second Reading

Favorable

S. 117.

An act relating to rulemaking on safety and health standards and technical corrections on employment practices and unemployment compensation.

By the Committee on Economic Development, Housing and General Affairs. (Senator Chittenden for the Committee.)

Reported favorably by Senator Brennan for the Committee on Appropriations.

(Committee vote: 6-0-1)

S. 122.

An act relating to economic and workforce development.

By the Committee on Economic Development, Housing and General Affairs. (Senator Clarkson for the Committee.)

Reported favorably by Senator Brock for the Committee on Finance.

(Committee vote: 7-0-0)

S. 123.

An act relating to miscellaneous changes to laws related to motor vehicles.

By the Committee on Transportation. (Senator Westman for the Committee.)

Reported favorably by Senator Chittenden for the Committee on Finance.

(Committee vote: 4-2-1)

Second Reading

Favorable with Recommendation of Amendment

S. 12.

An act relating to sealing criminal history records.

Reported favorably with recommendation of amendment by Senator Hashim for the Committee on Judiciary.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. chapter 230 is amended to read:

CHAPTER 230. EXPUNGEMENT AND SEALING OF CRIMINAL HISTORY RECORDS

§ 7601. DEFINITIONS

As used in this chapter:

- (1) "Court" means the Criminal Division of the Superior Court.

(2) “Criminal history record” means all information documenting an individual’s contact with the criminal justice system, including data regarding identification, arrest or citation, arraignment, judicial disposition, custody, and supervision.

~~(3) “Predicate offense” means a criminal offense that can be used to enhance a sentence levied for a later conviction and includes operating a vehicle under the influence of alcohol or other substance in violation of 23 V.S.A. § 1201, domestic assault in violation of section 1042 of this title, and stalking in violation of section 1062 of this title. “Predicate offense” shall not include misdemeanor possession of cannabis, a disorderly conduct offense under section 1026 of this title, or possession of a controlled substance in violation of 18 V.S.A. § 4230(a), 4231(a), 4232(a), 4233(a), 4234(a), 4234a(a), 4234b(a), 4235(b), or 4235a(a). “Criminal justice purposes” means the investigation, apprehension, detention, adjudication, or correction of persons suspected, charged, or convicted of criminal offenses. “Criminal justice purposes” also includes criminal identification activities; the collection, storage, and dissemination of criminal history records; and screening for criminal justice employment.~~

(4) “Qualifying crime” means:

~~(A) a misdemeanor offense that is not:~~

~~(i) a listed crime as defined in subdivision 5301(7) of this title;~~

~~(ii) an offense involving sexual exploitation of children in violation of chapter 64 of this title;~~

~~(iii) an offense involving violation of a protection order in violation of section 1030 of this title;~~

~~(iv) prostitution as defined in section 2632 of this title, or prohibited conduct under section 2601a of this title; or~~

~~(v) a predicate offense;~~

~~(B) a violation of subsection 3701(a) of this title related to criminal mischief;~~

~~(C) a violation of section 2501 of this title related to grand larceny;~~

~~(D) a violation of section 1201 of this title related to burglary, excluding any burglary into an occupied dwelling, as defined in subdivision 1201(b)(2) of this title;~~

~~(E) a violation of 18 V.S.A. § 4223 related to fraud or deceit;~~

~~(F) a violation of section 1802 of this title related to uttering a forged or counterfeited instrument;~~

~~(G) a violation of 18 V.S.A. § 4230(a) related to possession and cultivation of cannabis;~~

~~(H) a violation of 18 V.S.A. § 4231(a) related to possession of cocaine;~~

~~(I) a violation of 18 V.S.A. § 4232(a) related to possession of LSD;~~

~~(J) a violation of 18 V.S.A. § 4233(a) related to possession of heroin;~~

~~(K) a violation of 18 V.S.A. § 4234(a) related to possession of depressant, stimulant, and narcotic drugs;~~

~~(L) a violation of 18 V.S.A. § 4234a(a) related to possession of methamphetamine;~~

~~(M) a violation of 18 V.S.A. § 4234b(a) related to possession of ephedrine and pseudoephedrine;~~

~~(N) a violation of 18 V.S.A. § 4235(b) related to possession of hallucinogenic drugs;~~

~~(O) a violation of 18 V.S.A. § 4235a(a) related to possession of ecstasy; or~~

~~(P) any offense for which a person has been granted an unconditional pardon from the Governor.~~

(A) all misdemeanor offenses except:

(i) a listed crime as defined in subdivision 5301(7) of this title;

(ii) a violation of chapter 64 of this title relating to sexual exploitation of children;

(iii) a violation of section 1030 of this title relating to a violation of an abuse prevention order, an order against stalking or sexual assault, or a protective order concerning contact with a child;

(iv) a violation of chapter 28 of this title related to abuse, neglect, and exploitation of a vulnerable adult;

(v) a violation of subsection 2605(b) or (c) of this title related to voyeurism;

(vi) a violation of subdivisions 352(1)–(10) of this title related to cruelty to animals;

(vii) a violation of section 5409 of this title related to failure to comply with sex offender registry requirements;

(viii) a violation of section 1455 of this title related to hate motivated crimes;

(ix) a violation of subsection 1304(a) of this title related to cruelty to a child;

(x) a violation of section 1305 of this title related to cruelty by person having custody of another;

(xi) a violation of section 1306 of this title related to mistreatment of persons with impaired cognitive function;

(xii) a violation of section 3151 of this title related to female genital mutilation;

(xiii) a violation of subsection 3258(b) of this title related to sexual exploitation of a minor;

(xiv) a violation of subdivision 4058(b)(1) of this title related to violation of an extreme risk protection order;

(xv) an offense committed in a motor vehicle as defined in 23 V.S.A. § 4 by a person who is the holder of a commercial driver's license or commercial driver's permit pursuant to 23 V.S.A. chapter 39; and

(xvi) any offense that would require registration as a sex offender pursuant to chapter 167, subchapter 3 of this title; and

(B) the following felonies:

(i) a violation of section 1201 of this title related to burglary, excluding any burglary into an occupied dwelling, unless the person was 25 years of age or younger at the time of the offense and did not carry a dangerous or deadly weapon during the commission of the offense;

(ii) designated felony property offenses as defined in subdivision (5) of this section;

(iii) offenses relating to possessing, cultivating, selling, dispensing, or transporting regulated drugs, including violations of 18 V.S.A. § 4230(a) and (b), 4231(a) and (b), 4232(a) and (b), 4233(a) and (b), 4233a(a), 4234(a) and (b), 4234a(a) and (b), 4234b(a) and (b), 4235(b) and (c), or 4235a(a) and (b); and

(iv) any offense for which a person has been granted an unconditional pardon from the Governor.

- (5) “Designated felony property offense” means:
- (A) section 1801 of this title related to forgery and counterfeiting;
 - (B) section 1802 of this title related to uttering a forged or counterfeited instrument;
 - (C) section 1804 of this title related to counterfeiting paper money;
 - (D) section 1816 of this title related to possession or use of credit card skimming devices;
 - (E) section 2001 of this title related to false personation;
 - (F) section 2002 of this title related to false pretenses or tokens;
 - (G) section 2029 of this title related to home improvement fraud;
 - (H) section 2030 of this title related to identity theft;
 - (I) section 2501 of this title related to grand larceny;
 - (J) section 2531 of this title related to embezzlement;
 - (K) section 2532 of this title related to embezzlement by officers or servants of an incorporated bank;
 - (L) section 2533 of this title related to embezzlement by a receiver or trustee;
 - (M) section 2561 of this title related to receiving stolen property;
 - (N) section 2575 of this title related to retail theft;
 - (O) section 2582 of this title related to theft of services;
 - (P) section 2591 of this title related to theft of rented property;
 - (Q) section 2592 of this title related to failure to return a rented or leased motor vehicle;
 - (R) section 3016 of this title related to false claims;
 - (S) section 3701 of this title related to unlawful mischief;
 - (T) section 3705 of this title related to unlawful trespass;
 - (U) section 3733 of this title related to mills, dams, or bridges;
 - (V) section 3761 of this title related to unauthorized removal of human remains;
 - (W) section 3766 of this title related to grave markers and ornaments;

~~(X) chapter 87 of this title related to computer crimes; and~~

~~(Y) 18 V.S.A. § 4223 related to fraud or deceit in obtaining a regulated drug.~~

§ 7602. EXPUNGEMENT AND SEALING OF RECORD,
POSTCONVICTION; PROCEDURE

~~(a)(1) A person may file a petition with the court requesting expungement or sealing of the criminal history record related to the conviction if:~~

~~(A) the person was convicted of a qualifying crime or qualifying crimes arising out of the same incident or occurrence;~~

~~(B) the person was convicted of an offense for which the underlying conduct is no longer prohibited by law or designated as a criminal offense;~~

~~(C) pursuant to the conditions set forth in subsection (g) of this section, the person was convicted of a violation of 23 V.S.A. § 1201(a) or § 1091 related to operating under the influence of alcohol or other substance, excluding a violation of those sections resulting in serious bodily injury or death to any person other than the operator, or related to operating a school bus with a blood alcohol concentration of 0.02 or more or operating a commercial vehicle with a blood alcohol concentration of 0.04 or more; or~~

~~(D) pursuant to the conditions set forth in subsection (h) of this section, the person was convicted under 1201(c)(3)(A) of a violation of subdivision 1201(a) of this title related to burglary when the person was 25 years of age or younger, and the person did not carry a dangerous or deadly weapon during commission of the offense.~~

~~(2) The State's Attorney or Attorney General shall be the respondent in the matter.~~

~~(3) The court shall grant the petition without hearing if the petitioner and the respondent stipulate to the granting of the petition. The respondent shall file the stipulation with the court, and the court shall issue the petitioner an order of expungement and provide notice of the order in accordance with this section.~~

~~(4) This section shall not apply to an individual licensed as a commercial driver pursuant to 23 V.S.A. chapter 39 seeking to seal or expunge a record of a conviction for a felony offense committed in a motor vehicle as defined in 23 V.S.A. § 4.~~

~~(b)(1) The court shall grant the petition and order that the criminal history record be expunged pursuant to section 7606 of this title if the following conditions are met:~~

~~(A) At least five years have elapsed since the date on which the person successfully completed the terms and conditions of the sentence for the conviction, or if the person has successfully completed the terms and conditions of an indeterminate term of probation that commenced at least five years previously.~~

~~(B) The person has not been convicted of a crime arising out of a new incident or occurrence since the person was convicted for the qualifying crime.~~

~~(C) Any restitution and surcharges ordered by the court have been paid in full, provided that payment of surcharges shall not be required if the surcharges have been waived by the court pursuant to section 7282 of this title.~~

~~(D) The court finds that expungement of the criminal history record serves the interests of justice.~~

~~(2) The court shall grant the petition and order that all or part of the criminal history record be sealed pursuant to section 7607 of this title if the conditions of subdivisions (1)(A), (B), and (C) of this subsection are met and the court finds that:~~

~~(A) sealing the criminal history record better serves the interests of justice than expungement; and~~

~~(B) the person committed the qualifying crime after reaching 19 years of age.~~

~~(c)(1) The court shall grant the petition and order that the criminal history record be expunged pursuant to section 7606 of this title if the following conditions are met:~~

~~(A) At least 10 years have elapsed since the date on which the person successfully completed the terms and conditions of the sentence for the conviction.~~

~~(B) The person has not been convicted of a felony arising out of a new incident or occurrence in the last seven years.~~

~~(C) The person has not been convicted of a misdemeanor during the past five years.~~

~~(D) Any restitution and surcharges ordered by the court for any crime of which the person has been convicted has been paid in full, provided that payment of surcharges shall not be required if the surcharges have been waived by the court pursuant to section 7282 of this title.~~

~~(E) After considering the particular nature of any subsequent offense, the court finds that expungement of the criminal history record for the qualifying crime serves the interests of justice.~~

~~(2) The court shall grant the petition and order that all or part of the criminal history record be sealed pursuant to section 7607 of this title if the conditions of subdivisions (1)(A), (B), (C), and (D) of this subsection are met and the court finds that:~~

~~(A) sealing the criminal history record better serves the interests of justice than expungement; and~~

~~(B) the person committed the qualifying crime after reaching 19 years of age.~~

~~(d) For petitions filed pursuant to subdivision (a)(1)(B) of this section, unless the court finds that expungement would not be in the interests of justice, the court shall grant the petition and order that the criminal history record be expunged in accordance with section 7606 of this title if the following conditions are met:~~

~~(1) The petitioner has completed any sentence or supervision for the offense.~~

~~(2) Any restitution and surcharges ordered by the court have been paid in full, provided that payment of surcharges shall not be required if the surcharges have been waived by the court pursuant to section 7282 of this title.~~

~~(e) For petitions filed pursuant to subdivision (a)(1)(B) of this section for a conviction for possession of a regulated drug under 18 V.S.A. chapter 84, subchapter 1 in an amount that is no longer prohibited by law or for which criminal sanctions have been removed:~~

~~(1) The petitioner shall bear the burden of establishing that his or her conviction was based on possessing an amount of regulated drug that is no longer prohibited by law or for which criminal sanctions have been removed.~~

~~(2) There shall be a rebuttable presumption that the amount of the regulated drug specified in the affidavit of probable cause associated with the petitioner's conviction was the amount possessed by the petitioner.~~

~~(f) Prior to granting an expungement or sealing under this section for petitions filed pursuant to subdivision 7601(4)(D) of this title, the court shall make a finding that the conduct underlying the conviction under section 1201 of this title did not constitute a burglary into an occupied dwelling, as defined in subdivision 1201(b)(2) of this title. The petitioner shall bear the burden of establishing this fact.~~

~~(g) For petitions filed pursuant to subdivision (a)(1)(C) of this section, only petitions to seal may be considered or granted by the court. This subsection shall not apply to an individual licensed as a commercial driver pursuant to 23 V.S.A. chapter 39. Unless the court finds that sealing would not be in the interests of justice, the court shall grant the petition and order that the criminal history record be sealed in accordance with section 7607 of this title if the following conditions are met:~~

~~(1) At least 10 years have elapsed since the date on which the person successfully completed the terms and conditions of the sentence for the conviction, or if the person has successfully completed the terms and conditions of an indeterminate term of probation that commenced at least 10 years previously.~~

~~(2) At the time of the filing of the petition:~~

~~(A) the person has only one conviction of a violation of 23 V.S.A. § 1201, which shall be construed in accordance with 23 V.S.A. § 1211; and~~

~~(B) the person has not been convicted of a crime arising out of a new incident or occurrence since the person was convicted of a violation of 23 V.S.A. § 1201(a).~~

~~(3) Any restitution ordered by the court has been paid in full.~~

~~(4) The court finds that sealing of the criminal history record serves the interests of justice.~~

~~(h) For petitions filed pursuant to subdivision (a)(1)(D) of this section, unless the court finds that expungement or sealing would not be in the interests of justice, the court shall grant the petition and order that the criminal history record be expunged or sealed in accordance with section 7606 or 7607 of this title if the following conditions are met:~~

~~(1) At least 15 years have elapsed since the date on which the person successfully completed the terms and conditions of the sentence for the conviction, or the person has successfully completed the terms and conditions of an indeterminate term of probation that commenced at least 15 years previously.~~

~~(2) The person has not been convicted of a crime arising out of a new incident or occurrence since the person was convicted of a violation of subdivision 1201(e)(3)(A) of this title.~~

~~(3) Any restitution ordered by the court has been paid in full.~~

~~(4) The court finds that expungement or sealing of the criminal history record serves the interests of justice.~~

(a) Petition.

(1) A person may file a petition with the court requesting expungement of a criminal history record related to a conviction if the person was convicted of an offense for which the underlying conduct is no longer prohibited by law or designated as a criminal offense.

(2) A person may file a petition with the court requesting sealing of a criminal history record related to a conviction if the person was convicted of a qualifying crime or qualifying crimes arising out of the same incident or occurrence.

(3) Whichever office prosecuted the offense resulting in the conviction, the State's Attorney or Attorney General, shall be the respondent in the matter unless the prosecuting office authorizes the other to act as the respondent.

(4) The court shall grant the petition without hearing if the petitioner and the respondent stipulate to the granting of the petition. The respondent shall file the stipulation with the court, and the court shall issue the petitioner an order of sealing and provide notice of the order in accordance with this section.

(5) This section shall not apply to an individual who is the holder of a commercial driver's license or commercial driver's permit pursuant to 23 V.S.A. chapter 39 seeking to seal a record of a conviction for a misdemeanor or felony offense committed in a motor vehicle as defined in 23 V.S.A. § 4.

(b) Offenses that are no longer prohibited by law. For petitions filed pursuant to subdivision (a)(1) of this section, the court shall grant the petition and order that the criminal history record be expunged if the following conditions are met:

(1) The petitioner has completed any sentence or supervision for the offense.

(2) Any restitution and surcharges ordered by the court have been paid in full, provided that payment of surcharges shall not be required if the surcharges have been waived by the court pursuant to section 7282 of this title.

(c) Qualifying misdemeanors. For petitions filed to seal a qualifying misdemeanor pursuant to subdivision (a)(2) of this section, the court shall grant the petition and order that the criminal history record be sealed if the following conditions are met:

(1) At least three years have elapsed since the date on which the person completed the terms and conditions of the sentence.

(2) Any restitution and surcharges ordered by the court for any crime of which the person has been convicted has been paid in full, provided that payment of surcharges shall not be required if the surcharges have been waived by the court pursuant to section 7282 of this title.

(3) The respondent has failed to show that sealing would be contrary to the interests of justice.

(d) Qualifying felony offenses. For petitions filed to seal a qualifying felony pursuant to subdivision (a)(2) of this section, the court shall grant the petition and order that the criminal history record be sealed if the following conditions are met:

(1) At least seven years have elapsed since the date on which the person completed the terms and conditions of the sentence.

(2) Any restitution and surcharges ordered by the court for any crime of which the person has been convicted has been paid in full, provided that payment of surcharges shall not be required if the surcharges have been waived by the court pursuant to section 7282 of this title.

(3) The respondent has failed to show that sealing would be contrary to the interests of justice.

(e) Qualifying DUI misdemeanor. For petitions filed to seal a qualifying DUI misdemeanor pursuant to subdivision (a)(2) of this section, the court shall grant the petition and order that the criminal history record be sealed if the following conditions are met:

(1) At least 10 years have elapsed since the date on which the person completed the terms and conditions of the sentence.

(2) Any restitution and surcharges ordered by the court for any crime of which the person has been convicted has been paid in full, provided that payment of surcharges shall not be required if the surcharges have been waived by the court pursuant to section 7282 of this title.

(3) The person is not the holder of a commercial driver's license or commercial driver's permit pursuant to 23 V.S.A. chapter 39.

(4) The respondent has failed to show that sealing would be contrary to the interests of justice.

(f) Fish and Wildlife Offenses. Sealing a criminal history record related to a fish and wildlife offense shall not void any fish and wildlife license suspension or revocation imposed pursuant to the accumulation of points related to the sealed offense. Points accumulated by a person shall remain on

the person's license and, if applicable, completion of the remedial course shall be required, as set forth in 10 V.S.A. § 4502.

§ 7603. ~~EXPUNGEMENT AND SEALING OF RECORD, NO
CONVICTION; PROCEDURE~~

(a) Unless either party objects in the interests of justice, the court shall issue an order sealing the criminal history record related to the citation or arrest of a person:

(1) within 60 days after the final disposition of the case if:

(A) the court does not make a determination of probable cause at the time of arraignment; ~~or~~

(B) the charge is dismissed before trial with or without prejudice; or

(C) the defendant is acquitted of the charges; or

(2) at any time if the prosecuting attorney and the defendant stipulate that the court may grant the petition to seal the record.

(b) If a party objects to sealing ~~or expunging~~ a record pursuant to this section, the court shall schedule a hearing to determine if sealing ~~or expunging~~ the record serves the interests of justice. The defendant and the prosecuting attorney shall be the only parties in the matter.

(c), (d) [Repealed.]

(e) ~~Unless either party objects in the interests of justice, the court shall issue an order expunging a criminal history record related to the citation or arrest of a person:~~

~~(1) within 60 days after the final disposition of the case if:~~

~~(A) the defendant is acquitted of the charges; or~~

~~(B) the charge is dismissed with prejudice;~~

~~(2) at any time if the prosecuting attorney and the defendant stipulate that the court may grant the petition to expunge the record. [Repealed.]~~

(f) ~~Unless either party objects in the interests of justice, the court shall issue an order to expunge a record sealed pursuant to subsection (a) or (g) of this section eight years after the date on which the record was sealed. [Repealed.]~~

(g) A person may file a petition with the court requesting sealing ~~or expungement~~ of a criminal history record related to the citation or arrest of the person at any time. The court shall grant the petition and issue an order sealing ~~or expunging~~ the record if it finds that sealing ~~or expunging~~ the record

serves the interests of justice; or if the parties stipulate to sealing or expungement of the record.

~~(h) The court may expunge any records that were sealed pursuant to this section 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 subsection, the court shall provide to the State's Attorney's office that prosecuted the case written notice of its intent to expunge the record. [Repealed.]~~

§ 7604. NEW CHARGE

~~If a person is charged with a criminal offense after he or she has filed a petition for expungement pursuant to this chapter has a criminal charge pending at the time the petition for sealing or expungement is before the court, the court shall not act on the petition until disposition of the new charge.~~

§ 7605. DENIAL OF PETITION

~~If a petition for expungement or sealing is denied by the court pursuant to this chapter, no further petition shall be brought for at least two years, unless a shorter duration is authorized by the court.~~

§ 7606. EFFECT OF EXPUNGEMENT

(a) Order and notice. Upon finding that the requirements for expungement have been met, the court shall issue an order that shall include provisions that its effect is to annul the record of the arrest, conviction, and sentence and that such person shall be treated in all respects as if the person had never been arrested, convicted, or sentenced for the offense. The court shall provide notice of the expungement to the respondent, Vermont Crime Information Center (VCIC), the arresting agency, the Restitution Unit of the Vermont Center for Crime Victim Services, and any other entity that may have a record related to the order to expunge. The VCIC shall provide notice of the expungement to the Federal Bureau of Investigation's National Crime Information Center.

(b) Effect.

(1) Upon entry of an expungement order, the order shall be legally effective immediately and the person whose record is expunged shall be treated in all respects as if ~~he or she~~ the person had never been arrested, convicted, or sentenced for the offense.

(2) In any application for employment, license, or civil right or privilege or in an appearance as a witness in any proceeding or hearing, a person may be

required to answer questions about a previous criminal history record only with respect to arrests or convictions that have not been expunged.

(3) The response to an inquiry from any person regarding an expunged record shall be that “NO CRIMINAL RECORD EXISTS.”

(4) Nothing in this section shall affect any right of the person whose record has been expunged to rely on it as a bar to any subsequent proceedings for the same offense.

(c) Process.

(1) The court shall remove the expunged offense from any accessible database that it maintains.

(2) Until all charges on a docket are expunged, the case file shall remain publicly accessible.

(3) When all charges on a docket have been expunged, the case file shall be destroyed pursuant to policies established by the Court Administrator.

(d) Special index.

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

(2) The special index and related documents specified in subdivision (1) of this subsection shall be confidential and shall be physically and electronically segregated in a manner that ensures confidentiality and that limits access to authorized persons.

(3) Inspection of the expungement order 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.

(4) ~~[Repealed].~~ [Repealed.]

(5) The Court Administrator shall establish policies for implementing this subsection.

§ 7607. EFFECT OF SEALING

(a) Order and notice. Upon entry of an order to seal, ~~the order shall be legally effective immediately and the person whose record is sealed shall be treated in all respects as if the person had never been arrested, convicted, or~~

~~sentenced for the offense and that its effect is to annul the record of arrest, conviction, and sentence. The court shall provide notice of the sealing to the respondent, Vermont Crime Information Center (VCIC), the arresting agency, the Restitution Unit of the Vermont Center for Crime Victim Services, and any other entity that may have a record related to the order to seal~~ send a copy of any order sealing a criminal history record to all of the parties and attorneys representing the parties, including to the prosecuting agency that prosecuted the offense, the Vermont Crime Information Center (VCIC), the arresting agency, and any other entity that may have a record subject to the sealing order. VCIC shall provide notice of the sealing order to the Federal Bureau of Investigation's National Crime Information Center. The VCIC shall provide notice of the sealing to the Federal Bureau of Investigation's National Crime Information Center.

(b) Effect.

(1) Except as provided in ~~subdivision~~ subsection (c) of this section, upon entry of a sealing order, the order shall be legally effective immediately and the person whose record is sealed shall be treated in all respects as if ~~he or she~~ the person had never been arrested, convicted, or sentenced for the offense.

(2) In any application for employment, license, or civil right or privilege or in an appearance as a witness in any proceeding or hearing, a person may be required to answer questions about a previous criminal history record only with respect to arrests or convictions that have not been sealed.

(3) The response to an inquiry from any member of the public regarding a sealed record shall be that "NO CRIMINAL RECORD EXISTS."

(4) Nothing in this section shall affect any right of the person whose record has been sealed to rely on it as a bar to any subsequent proceeding for the same offense.

(c) Exceptions. A party seeking to use a sealed criminal history record in a court proceeding shall, prior to any use of the record in open court or in a public filing, notify the court of the party's intent to do so. The court shall thereafter determine whether the record may be used prior its disclosure in the proceeding. This shall not apply to the use of a sealed record pursuant to subdivision (2), (3), (4), or (7) of this subsection. Use of a sealed document pursuant to an exception shall not change the effect of sealing under subsection (b) of this section. Notwithstanding any other provision of law or a sealing order:

(1) An entity or person that possesses a sealed record may continue to use it for any litigation or claim arising out of the same incident or occurrence or involving the same defendant.

(2)(A) A criminal justice agency as defined in 20 V.S.A. § 2056a and the Attorney General may use the criminal history record sealed in accordance with section 7602 or 7603 of this title without limitation for criminal justice purposes as defined in 20 V.S.A. § 2056a apply to access a sealed criminal history record by filing a petition, supported by a written affidavit, with the court. The court shall grant access to the record upon a finding that reasonable suspicion exists that a sealed record contains information that will aid in criminal justice purposes. The court may grant the petition ex parte or upon hearing at the court's discretion.

(B) A defense attorney may apply to access a sealed criminal history record by filing a petition, supported by a written affidavit, with the court. The court may grant access to the sealed record upon a finding that the sealed record may be of assistance to the attorney in representing the defendant. The court may grant the petition ex parte or upon hearing at the court's discretion.

(3) A law enforcement officer as defined in 20 V.S.A. § 2351a may access a sealed record under exigent circumstances. As used in this subdivision (3), "exigent circumstances" means a compelling need to act swiftly to prevent imminent danger to life or serious damage to property, to prevent the imminent destruction of evidence, or to prevent a suspect from fleeing. For an alleged violation of this subdivision (3), a complaint may be filed with the Vermont Criminal Justice Council. A violation of this subdivision (3) shall be subject to the penalty provided in section 7611 of this title.

(4) A sealed record of a prior violation of 23 V.S.A. § 1201(a) shall be admissible as a predicate offense for the purpose of imposing an enhanced penalty for a subsequent violation of that section, in accordance with the provisions of 23 V.S.A. § 1210.

(5) A person or a court in possession of an order issued by a court regarding a matter that was subsequently sealed may file or cite to that decision in any subsequent proceeding. The party or court filing or citing to that decision shall ensure that information regarding the identity of the defendant in the sealed record is redacted.

(6) The Vermont Crime Information Center and Criminal Justice Information Services Division of the Federal Bureau of Investigation shall have access to sealed criminal history records without limitation for the

purpose of responding to queries to the National Instant Criminal Background Check System regarding firearms transfers and attempted transfers.

(7) The State's Attorney and Attorney General shall disclose information contained in a sealed criminal history record when required to meet discovery obligations.

(8) The person whose criminal history records have been sealed pursuant to this chapter and the person's attorney may access and use the sealed records in perpetuity.

(9) A law enforcement agency may inspect and receive copies of the sealed criminal history records of any applicant who applies to the agency to be a law enforcement officer or a current employee for the purpose of internal investigation.

(10) Persons or entities conducting research shall have access to a sealed criminal history record to carry out research pursuant to 20 V.S.A. § 2056b in perpetuity and shall not be subject to the 10-year limitation.

(11) Information and materials gathered by the Department for Children and Families during a joint investigation with law enforcement, including law enforcement affidavits and related references to such information and materials, are not case records as defined in section 7601(2) of this title, and are considered Department records that shall be maintained and may be utilized as statutorily prescribed by 33 V.S.A. chapter 49 and produced in response to a court order.

(12) Information and materials gathered by Adult Protective Services during a joint investigation with law enforcement, including law enforcement affidavits and other investigative materials, are not case records as defined in subdivision 7601(2) of this title, and are considered records of the Department of Disabilities, Aging, and Independent Living, which shall be maintained and may be utilized as authorized by 33 V.S.A. chapter 69 and produced in response to a court order.

(d) Process.

(1) The court shall bar viewing of the sealed offense in any accessible database that it maintains.

(2) Until all charges on a docket have been sealed, the case file shall remain publicly accessible.

(3) When all charges on a docket have been sealed, the case file shall become exempt from public access.

(4) When a sealing order is issued by the court, any person or entity, except the court, that possesses criminal history records shall:

(A) bar viewing of the sealed offense in any accessible database that it maintains or remove information pertaining to the sealed records from any publicly accessible database that the person or entity maintains; and

(B) clearly label the criminal history record as “SEALED” to ensure compliance with this section.

(e) Special index.

(1) The court shall keep a special index of cases that have been sealed together with the sealing order. The index shall list only the name of the person convicted of the offense, ~~his or her~~ the person’s date of birth, the docket number, and the criminal offense that was the subject of the sealing.

(2) The special index and related documents specified in subdivision (1) of this subsection shall be confidential and shall be physically and electronically segregated in a manner that ensures confidentiality and that limits access to authorized persons.

(3) Except as provided in subsection (c) of this section, inspection of the sealing order 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.

~~(4) The Court Administrator shall establish policies for implementing this subsection.~~

(f) Victims Compensation Program. Upon request, the ~~Victim’s~~ Victims Compensation Program shall be provided with a copy, redacted of all information identifying the offender, of the affidavit for the sole purpose of verifying the expenses in a victim’s compensation application submitted pursuant to section 5353 of this title.

(g) Restitution. The sealing of a criminal record shall not affect the authority of the Restitution Unit to enforce a restitution order in the same manner as a civil judgment pursuant to subdivision 5362(c)(2) of this title.

§ 7608. VICTIMS

(a) At the time a petition is filed pursuant to this chapter, the respondent shall give notice of the petition to any victim of the offense who is known to the respondent. The victim shall have the right to offer the respondent a statement prior to any stipulation or to offer the court a statement. The disposition of the petition shall not be unnecessarily delayed pending receipt of

a victim's statement. The respondent's inability to locate a victim after a reasonable effort has been made shall not be a bar to granting a petition.

(b) As used in this section, "reasonable effort" means attempting to contact the victim by first-class mail at the victim's last known address ~~and~~, by telephone at the victim's last known phone number, and by email at the victim's last known email address.

§ 7609. ~~EXPUNGEMENT OF~~ SEALING CRIMINAL HISTORY RECORDS OF AN INDIVIDUAL A PERSON 18-21 YEARS OF AGE

~~(a)(1) Procedure Petition. Except as provided in subsection (b) of this section, the record of the criminal proceedings for an individual who was 18-21 years of age at the time the individual committed a qualifying crime shall be expunged within 30 days after the date on which the individual successfully completed the terms and conditions of the sentence for the conviction of the qualifying crime, absent a finding of good cause by the court. The court shall issue an order to expunge all records and files related to the arrest, citation, investigation, charge, adjudication of guilt, criminal proceedings, and probation related to the sentence. A copy of the order shall be sent to each agency, department, or official named in the order. Thereafter, the court, law enforcement officers, agencies, and departments shall reply to any request for information that no record exists with respect to such individual. Notwithstanding this subsection, the record shall not be expunged until restitution and surcharges have been paid in full, provided that payment of surcharges shall not be required if the surcharges have been waived by the court pursuant to section 7282 of this title~~ Notwithstanding any other provision of law, a person who was 18-21 years of age at the time the person committed a qualifying crime may file a petition with the court requesting sealing of the criminal history record related to the qualifying crime after 30 days have elapsed since the person completed the terms and conditions for the sentence for the qualifying crime. The court shall grant the petition and order that the criminal history record be sealed if the following conditions are met:

(A) Any restitution and surcharges ordered by the court for any crime of which the person has been convicted has been paid in full, provided that payment of surcharges shall not be required if the surcharges have been waived by the court pursuant to section 7282 of this title.

(B) The respondent has failed to show that sealing would be contrary to the interest of justice.

(2) Effect. Order, notice, and effect of sealing shall comply with the provisions of subsections 7607(a) and (b) of this title.

(b) Exceptions.

(1) A criminal history record that includes both qualifying and nonqualifying offenses shall not be eligible for ~~expungement~~ sealing pursuant to this section.

~~(2) The Vermont Crime Information Center shall retain a special index of sentences for sex offenses that require registration pursuant to chapter 167, subchapter 3 of this title. This index shall only list the name and date of birth of the subject of the expunged files and records, the offense for which the subject was convicted, and the docket number of the proceeding that was the subject of the expungement. The special index shall be confidential and shall be accessed only by the Director of the Vermont Crime Information Center and an individual designated for the purpose of providing information to the Department of Corrections in the preparation of a presentence investigation in accordance with 28 V.S.A. §§ 204 and 204a. [Repealed.]~~

~~(c) Petitions. An individual who was 18–21 years of age at the time the individual committed a qualifying crime may file a petition with the court requesting expungement of the criminal history record related to the qualifying crime after 30 days have elapsed since the individual completed the terms and conditions for the sentence for the qualifying crime. The court shall grant the petition and issue an order sealing or expunging the record if it finds that sealing or expunging the record serves the interests of justice. [Repealed.]~~

§ 7610. CRIMINAL HISTORY RECORD SEALING SPECIAL FUND

There is established the Criminal History Record Sealing Special Fund, which shall be managed in accordance with 32 V.S.A. chapter 7, subchapter 5. Fees collected pursuant to 32 V.S.A. § 1431(e) for the filing of a petition to seal a criminal history record of a violation of 23 V.S.A. § 1201(a) shall be deposited into and credited to this Fund. This Fund shall be available to the

Office of the Court Administrator, the Department of State's Attorneys and Sheriffs, the Department of Motor Vehicles, and the Vermont Crime Information Center to offset the administrative costs of sealing such records. Balances in the Fund at the end of the fiscal year shall be carried forward and remain in the Fund.

§ 7611. UNAUTHORIZED DISCLOSURE

A State or municipal employee or contractor or any agent of the court, including an attorney and an employee or contractor of the attorney, or a law enforcement officer as defined in 20 V.S.A. § 2351a who knowingly accesses or discloses sealed criminal history record information without authorization

shall be assessed a civil penalty of not more than \$1,000.00. Each unauthorized disclosure shall constitute a separate civil violation.

Sec. 2. 24 V.S.A. § 2296b is added to read:

§ 2296b. EXPUNGEMENT OF MUNICIPAL VIOLATION RECORDS

(a) Expungement. Two years following the satisfaction of a judgment resulting from an adjudication of a municipal violation, the Judicial Bureau shall make an entry of “expunged” and notify the municipality of such action, provided the person has not been adjudicated for any subsequent municipal violations during that time. The data transfer to the municipality shall include the name, date of birth, ticket number, and offense. Violations of offenses adopted pursuant to chapter 117 of this title shall not be eligible for expungement under this section.

(b) Effect of expungement.

(1) Upon entry of an expungement order, the order shall be legally effective immediately and the individual whose record is expunged shall be treated in all respects as if the individual had never been adjudicated of the violation.

(2) Upon an entry of expunged, the case will be accessible only by the Clerk of the Court for the Judicial Bureau or the Clerk’s designee. Adjudications that have been expunged shall not appear in the results of any Judicial Bureau database search by name, date of birth, or any other data identifying the defendant. Except as provided in subsection (c) of this section, any documents or other records related to an expunged adjudication that are maintained outside the Judicial Bureau’s case management system shall be destroyed.

(3) Upon receiving an inquiry from any person regarding an expunged record, the Judicial Bureau and the municipality shall respond that “NO RECORD EXISTS.”

(c) Exception for research entities. Research entities that maintain adjudication records for purposes of collecting, analyzing, and disseminating criminal justice data shall not be subject to the expungement requirements established in this section. Research entities shall abide by the policies established by the Court Administrator and shall not disclose any identifying information from the records they maintain.

(d) Policies for implementation. The Court Administrator shall establish policies for implementing this section.

(e) Application. This section shall apply to municipal violations that occur on and after July 1, 2025.

Sec. 3. 23 V.S.A. § 2303 is amended to read:

§ 2303. EXPUNGEMENT OF VIOLATION RECORDS

* * *

(e) Application. This section shall apply to motor vehicle violations that occur on and after July 1, 2021.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2025.

(Committee vote: 4-1-0)

Reported favorably by Senator Mattos for the Committee on Finance.

The Committee recommends that the bill ought to pass when amended as recommended by the Committee on Judiciary.

(Committee Vote: 7-0-0)

S. 18.

An act relating to licensure of freestanding birth centers.

Reported favorably with recommendation of amendment by Senator Gulick for the Committee on Health and Welfare.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. chapter 53 is added to read:

CHAPTER 53. BIRTH CENTER LICENSING

§ 2351. DEFINITIONS

As used in this chapter:

(1) "Birth center" means a facility the primary purposes of which are to provide midwifery care, low-risk deliveries, and newborn care immediately after delivery, for a stay of generally less than 24 hours. The term does not include a facility that is a hospital, is part of a hospital, or is owned by a hospital; a facility that is an ambulatory surgical center; or the residence of the individual giving birth. A birth center may be located on the grounds of a hospital.

(2) "Certified nurse midwife" means a professional licensed in accordance with 26 V.S.A. chapter 28, subchapter 2.

(3) “Change of ownership” means a change in the majority or controlling interest in an established birth center to another person.

(4) “Corrective action plan” means a written strategy for correcting an issue of partial compliance, deficiency, or violation of this chapter or rules adopted pursuant to this chapter.

(5) “Licensed maternity care provider” means a licensed provider whose professional scope of practice, as established under Vermont law, includes preconception, prenatal, labor, birth, and postpartum care and early care of a newborn and who may be the primary attendant during the perinatal period.

(6) “Licensed midwife” means a professional licensed in accordance with 26 V.S.A. chapter 85.

(7) “Licensed provider” means an individual licensed or certified in Vermont to provide specific health care-related services within a scope of practice defined by licensing statutes and rules, and may include certified nurse midwives, licensed midwives, advanced practice registered nurses, physician assistants, naturopathic physicians with a childbirth endorsement in accordance with 26 V.S.A. §§ 4122(b) and 4125(b), doctors of nursing practice, and physicians.

§ 2352. LICENSE; PROHIBITIONS

(a) No person shall establish, maintain, or operate a birth center in this State without first obtaining a license for the birth center in accordance with this chapter.

(b) A birth center may be independently owned and operated by a licensed maternity care provider.

(c) No person shall represent itself as a “birth center” or use the term “birth center” in its title or in its advertising, publications, or other form of communication unless the person has been licensed as a birth center in accordance with the provisions of this chapter.

(d) A license is not transferable or assignable and shall be issued only for the premises and persons named in the application.

§ 2353. APPLICATION; FEE

(a) An application for licensure of a birth center shall be made to the Department of Health in the manner specified by the Department and shall include all information required by the Department.

(b)(1) Each application for an initial license, renewal of a license, or a change of ownership shall be accompanied by a fee of \$250.00.

(2) Fees collected under this section shall be credited to the Hospital Licensing Fees Special Fund and shall be available to the Department of Health to offset the costs of licensing birth centers.

§ 2354. LICENSE REQUIREMENTS

Upon receipt of an application for a license and the licensing fee, the Department of Health shall issue a license if it determines, after an inspection conducted by the Department or its designee, that the applicant is able to operate a birth center in accordance with rules adopted by the Department.

§ 2355. REVOCATION OF LICENSE; HEARING

The Department of Health, after notice and opportunity for hearing to the applicant or licensee, is authorized to condition, deny, suspend, or revoke a license in any case in which it finds that there has been a substantial failure to comply with the requirements established under this chapter. Such notice shall be served by registered mail or by personal service, shall set forth the reasons for the proposed action, and shall set a date not less than 60 days from the date of the mailing or service on which the applicant or licensee shall be given opportunity for a hearing. After the hearing, or upon default of the applicant or licensee, the Department shall file its findings of fact and conclusions of law. A copy of the findings and decision shall be sent by registered mail or served personally upon the applicant or licensee. The procedure governing hearings authorized by this section shall be set forth in the rules adopted pursuant to section 2359 of this chapter and shall not be subject to the contested case provisions of 3 V.S.A. chapter 25, subchapter 2.

§ 2356. APPEAL

Any applicant or licensee, or the State acting through the Attorney General, aggrieved by the decision of the Department of Health after a hearing may appeal the decision in accordance with section 128 of this title. Pursuant to section 129 of this title, an appeal pursuant to this section shall not stay the effectiveness of an order entered in accordance with section 2355 of this chapter, but any party is permitted to seek a stay order in the Superior Court in which the appeal is being heard.

§ 2357. INSPECTIONS

(a) The Department of Health or its designee shall make or cause to be made such inspections and investigations as the Department or its designee deems necessary.

(b) A birth center, including its building and grounds and, in accordance with applicable law, its records, shall be subject to inspection by the Department and its designee at all times.

(c) If a birth center is found to be out of compliance with any requirement of this chapter or rules adopted pursuant to this chapter, the Department may condition, deny, suspend, revoke, or refuse to renew the birth center's license or may ask the birth center to develop and implement a corrective action plan.

(d) If the Department finds a violation as the result of an inspection or investigation, the Department shall post a report on the Department's website summarizing the violation and any corrective action required.

§ 2358. RECORDS

(a) Information received by the Department of Health through filed reports, inspections, or as otherwise authorized by law shall:

(1) not be disclosed publicly in a manner that identifies or may lead to the identification of one or more individuals or birth centers;

(2) be exempt from public inspection and copying under the Public Records Act; and

(3) be kept confidential except as it relates to a proceeding regarding licensure of a birth center.

(b) The provisions of subsection (a) of this section shall not apply to the summary reports of violations required to be posted on the Department's website pursuant to section 2357 of this chapter.

§ 2359. RULES

The Department of Health shall adopt rules in accordance with 3 V.S.A. chapter 25 as needed to carry out the purposes of this chapter. The rules shall be based on the national birth center standards published by the American Association of Birth Centers and shall, at a minimum, include provisions regarding:

(1) requirements for operating a birth center, including requirements for safety, sanitation, and health;

(2) obtaining, storing, and dispensing pharmaceuticals consistent with State and federal laws;

(3) requirements for notice to the Department of Health when there is a change in ownership of a birth center and any additional licensing requirements related to a change in ownership;

(4) the scope of services that may be provided at a birth center, including risk factors that preclude a patient from receiving labor and delivery services at a birth center;

(5) appropriate staffing for a birth center, including the types of licensed providers who may practice at a birth center;

(6) birth center complaint processes;

(7) birth center facility, equipment, and supply requirements, including requirements for the maintenance of safety, sanitation, and health;

(8) record retention and confidentiality;

(9) quality assurance and improvement;

(10) processes for the development, submission, approval, and implementation of corrective action plans; and

(11) a requirement for written practice guidelines and policies that include procedures for transferring a patient to a hospital if circumstances warrant.

§ 2360. NO EFFECT ON SCOPE OF SERVICES

(a) Nothing in this chapter or in rules adopted pursuant to this chapter shall be construed to expand or limit the scope of the services that a licensed midwife, certified nurse midwife, or other provider may offer at a birth center or perform in a space that is shared with or adjacent to a birth center.

(b) A birth center may serve as a location for additional services offered in shared or adjacent spaces, including outpatient gynecologic care, primary care, and education and support services, provided that any licensed provider providing services in those spaces shall only provide those services that are within the licensed provider's authorized scope of practice.

Sec. 2. 8 V.S.A. § 4099d is amended to read:

§ 4099d. MIDWIFERY COVERAGE; HOME BIRTHS

(a) A health insurance plan or health benefit plan providing maternity benefits shall also provide coverage;

(1) for services rendered by a midwife licensed pursuant to 26 V.S.A. chapter 85 or an advanced practice registered nurse licensed pursuant to 26 V.S.A. chapter 28 who is certified as a nurse midwife for services within the licensed midwife's or certified nurse midwife's scope of practice and provided in a hospital, birth center, or other health care facility or at home; and

(2) for prenatal, maternity, postpartum, and newborn services provided at a birth center licensed pursuant to 18 V.S.A. chapter 53, including birth center facility fees.

* * *

Sec. 3. 18 V.S.A. § 9435(a) is amended to read:

(a) Excluded from this subchapter are offices of physicians, dentists, or other practitioners of the healing arts, meaning the physical places that are occupied by such providers on a regular basis in which such providers perform the range of diagnostic and treatment services usually performed by such providers on an outpatient basis unless they are subject to review under subdivision 9434(a)(4) of this title. The exclusion provisions of this subsection shall also apply to birth centers licensed pursuant to chapter 53 of this title.

Sec. 4. AGENCY OF HUMAN SERVICES; MEDICAID; REQUEST FOR FEDERAL APPROVAL

The Agency of Human Services shall seek approval from the Centers for Medicare and Medicaid Services to allow Vermont Medicaid to cover prenatal, maternity, postpartum, and newborn services provided at a licensed birth center and to allow Vermont Medicaid to reimburse separately for birth center services, including birth center facility fees, and for professional services.

Sec. 5. EFFECTIVE DATES

(a) Sec. 1 (birth center licensing) shall take effect on January 1, 2027 or the effective date of the birth center rules adopted by the Department of Health, whichever comes first.

(b) Sec. 2 (8 V.S.A. § 4099d) shall take effect on January 1, 2027.

(c) Sec. 3 (18 V.S.A. § 9435a) shall take effect on July 1, 2025.

(d) Sec. 4 (Agency of Human Services; Medicaid; request for federal approval) shall take effect on passage and the Agency of Human Services shall submit its request for approval of Medicaid coverage of birth center services to the Centers for Medicare and Medicaid Services on or before July 1, 2025, and the Medicaid coverage shall begin on the later of the date of approval or the effective date of the birth center rules adopted by the Department of Health.

(e) This section shall take effect on passage.

(Committee vote: 5-0-0)

Reported favorably by Senator Gulick for the Committee on Finance.

The Committee recommends that the bill ought to pass when amended as recommended by the Committee on Health and Welfare.

(Committee Vote: 7-0-0)

S. 53.

An act relating to certification of community-based perinatal doulas and Medicaid coverage for doula services.

Reported favorably by Senator Collamore for the Committee on Government Operations.

(Committee vote: 5-0-0)

Reported favorably with recommendation of amendment by Senator Gulick for the Committee on Health and Welfare.

The Committee recommends that the bill be amended as follows:

First: By adding a new section to be Sec. 8 to read as follows:

Sec. 8. OFFICE OF PROFESSIONAL REGULATION; APPROPRIATION

The sum of \$25,000.00 is appropriated from the General Fund to the Office of Professional Regulation in fiscal year 2026 to establish the certification program for community-based perinatal doulas as set forth in this act.

Second: By renumbering the existing Sec. 8, effective dates, to be Sec. 9 and, in that renumbered section, in subsection (a), preceding “shall take effect on January 1, 2026,” by inserting “and 8 (Office of Professional Regulation; appropriation)”

(Committee vote: 5-0-0)

Reported favorably by Senator Gulick for the Committee on Finance.

The Committee recommends that the bill ought to pass when amended as recommended by the Committee on Health and Welfare.

(Committee vote: 7-0-0)

S. 56.

An act relating to creating an Office of New Americans.

Reported favorably with recommendation of amendment by Senator Vyhovsky for the Committee on Government Operations.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. OFFICE OF NEW AMERICANS STUDY COMMITTEE; REPORT

(a) Creation. There is created the Office of New Americans Study Committee to make recommendations for creating an independent Office of New Americans.

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

(1) the Director of the Vermont Refugee Office, who shall be Chair;

(2) one member, appointed by the Commissioner of Labor;

(3) one member, appointed by the Executive Director of the Office of Racial Equity; and

(4) five members, appointed by the Governor, one who must be a New American with lived experience, who shall include:

(A) one member, nominated by the Association of Africans Living in Vermont;

(B) one member, nominated by the U.S. Committee for Refugees and Immigrants;

(C) one member, nominated by the Vermont Afghan Alliance;

(D) one member, nominated by the Brattleboro Development Credit Corporation; and

(E) one member, nominated by Migrant Justice.

(c) Powers and duties. The Committee shall study and submit a written report to the House Committees on Commerce and Economic Development and on Government Operations and Military Affairs and the Senate Committees on Economic Development, Housing and General Affairs and on Government Operations concerning recommendations for creating an independent Office of New Americans, including:

(1) a summary of the current demographic, economic, and public health data regarding New Americans in the State and information regarding the government services being utilized and underutilized by New Americans;

(2) a summary or survey of varying and successful approaches to providing government services to New Americans in other states, with particular focus on the topics of the role of education and training institutions, professional licensing, housing, and support for employers and municipalities;

(3) in consultation with community-based organizations composed of or serving New Americans, the Vermont Asylum Assistance Project, State agencies and departments that provide services to New Americans, the Secretary of State's Office, municipal government leaders, educational institutions, and business leaders, information on:

(A) the existing State and local-level barriers for New Americans for gainfully participating in the State’s workforce, economy, and business communities;

(B) additional governmental services needed by New Americans but not yet offered by the State; and

(C) the transfer or consolidation of existing governmental services for New Americans that would be more efficiently provided by a new Office of New Americans;

(4) the proposed structure, duties, funding, and labor needs of an Office of New Americans; and

(5) a definition of the term “New Americans” for the purposes of an Office of New Americans.

(d) The Committee may create subcommittees, with duties and leadership to be assigned by the Chair.

(e) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Agency of Human Services.

(f) Date of Report. On or before September 1, 2026, the Committee shall submit the written report required by subsection (c) of this section.

(g) Meetings.

(1) The Chair shall call the first meeting of the Committee to occur on or before September 1, 2025.

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

(3) The Committee shall cease to exist on the earlier of September 1, 2026 or the date that the Committee submits its written report.

(h) Compensation and reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Committee serving in the member’s capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 23 for not more than 10 meetings. These payments shall be made from monies appropriated to the General Assembly.

(2) Other members of the Committee shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than 10 meetings. These payments shall be made from monies appropriated to the Agency of Human Services.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

Reported favorably by Senator Westman for the Committee on Appropriations.

The Committee recommends that the bill ought to pass when amended as recommended by the Committee on Government Operations.

(Committee Vote: 7-0-0)

S. 63.

An act relating to modifying the regulatory duties of the Green Mountain Care Board.

Reported favorably with recommendation of amendment by Senator Douglass for the Committee on Health and Welfare.

The Committee recommends that the bill be amended by striking out Sec. 7, 18 V.S.A. § 9456, in its entirety and inserting in lieu thereof a new Sec. 7 to read as follows:

Sec. 7. 18 V.S.A. § 9456 is amended to read:

§ 9456. BUDGET REVIEW

* * *

(d)(1)(A) Annually, the Board shall establish a budget for each general hospital, as defined in section 1902 of this title, on or before September 15, followed by a written decision by on or before October 1.

(B) Annually, the Board shall establish a budget for each psychiatric hospital, as defined in section 1902 of this title but excluding those conducted, maintained, or operated by the State of Vermont, on or before December 15, followed by a written decision on or before December 31.

(C) Each hospital shall operate within the budget established under this section.

* * *

(Committee vote: 5-0-0)

Reported favorably by Senator Gulick for the Committee on Finance.

The Committee recommends that the bill ought to pass when amended as recommended by the Committee on Health and Welfare.

(Committee Vote: 7-0-0)

Proposed Amendment to the Vermont Constitution

Pursuant to Rule 83 of the Senate Rules, notice is hereby given that proposed amendments to the Constitution, set forth below, will be read the third time and acted upon, on the seventh legislative day commencing March 11, 2025. At that time, the following question shall be presented: "Shall the Senate concur in the proposal and request the concurrence of the House?"

PROPOSAL 3

(Sixth day on Notice Calendar pursuant to Rule 83)

Subject: Declaration of Rights; right to collectively bargain

PENDING ACTION: Third reading of the proposal (second biennium)

PROPOSAL 3

Sec. 1. PURPOSE

This proposal would amend the Constitution of the State of Vermont to provide that the citizens of the State have a right to collectively bargain.

Sec. 2. Article 23 of Chapter I of the Vermont Constitution is added to read:

Article 23. [Right to collectively bargain]

That employees have a right to organize or join a labor organization for the purpose of collectively bargaining with their employer through an exclusive representative of their choosing for the purpose of negotiating wages, hours, and working conditions and to protect their economic welfare and safety in the workplace. Therefore, no law shall be adopted that interferes with, negates, or diminishes the right of employees to collectively bargain with respect to wages, hours, and other terms and conditions of employment and workplace safety, or that prohibits the application or execution of an agreement between an employer and a labor organization representing the employer's employees that requires membership in the labor organization as a condition of employment.

Sec. 3. EFFECTIVE DATE

The amendment set forth in this proposal shall become a part of the Constitution of the State of Vermont on the first Tuesday after the first

Monday of November 2026 when ratified and adopted by the people of this State in accordance with the provisions of 17 V.S.A. chapter 32.

CONFIRMATIONS

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Utility Commission, underlined below, shall be fully and separately acted upon.

Andrew Collier of Westford - Commissioner of the Department of Motor Vehicles - By Senator Brennan for the Committee on Transportation (February 19, 2025)

Anson Tebbetts of Cabot - Secretary of Agriculture - By Senator Collamore for the Committee on Agriculture (March 13, 2025)

William Shouldice, IV of Stowe - Commissioner of the Department of Tax - By Senator Cummings for the Committee on Finance (March 19, 2025)

David Snedeker of St. Johnsbury - Member of the State Infrastructure Bank Board - By Senator Beck for the Committee on Finance (March 19, 2025)

Ted Foster of Vergennes - Member of the Vermont Economic Development Authority - By Senator Hardy for the Committee on Finance - (March 19, 2025)

Adam Greshin of Warren - Commissioner of Finance - By Senator Clarkson for the Committee on Government Operations (March 20, 2025)

NOTICE OF JOINT ASSEMBLY

March 20, 2025 - 10:30 A.M. - House Chamber - Retention of seven Superior Court Judges and one Magistrate

FOR INFORMATION ONLY

CROSSOVER DATES

The Joint Rules Committee established the following crossover deadlines:

(1) All **Senate/House** bills must be reported out of the last committee of reference (including the Committees on Appropriations and Finance/Ways and Means, except as provided below in (2) and the exceptions listed below) on or

before **Friday, March 14, 2025**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day – Committee bills must be voted out of Committee by **Friday, March 14, 2025**.

(2) All **Senate/House** bills referred pursuant to Senate Rule 31 or House Rule 35(a) to the Committees on Appropriations and Finance/Ways and Means must be reported out by the last of those committees on or before **Friday, March 21, 2025**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

Note: The Senate will not act on bills that do not meet these crossover deadlines, without the consent of the Senate Rules Committee.

Exceptions to the foregoing deadlines include the major money bills (the General Appropriations bill (“The Big Bill”), the Transportation Capital bill, the Capital Construction bill and the Fee/Revenue bills)

CONSTITUTIONAL AMENDMENT

The 2025-2026 Biennium is the Third Reading of a proposal of amendment. They were read the second time during the 2023-2024 Biennium.

The proposal is on the Notice Calendar for six (6) days and will be up for action for Third Reading on the seventh day.

Each proposal is acted upon separately. Senate Rule 83.

At Third Reading:

1. The vote on any constitutional proposal is by roll call. Senate Rule 83.
2. The questions is: “Shall the Senate concur in Proposal 3, and request the concurrence of the House? Senate Rule 83.
3. For this question to pass, 16 members of the Senate must vote in the affirmative. The Vermont Constitution requires an affirmative vote of a majority of the members of the Senate. Vermont Constitution §72.

There are no amendments at Third Reading of a constitutional amendment.