

Introduced by

Referred to Committee on

Date:

Subject: Governor's Omnibus Public safety proposals including repeal of "Raise the Age" for 19 year old young adult offenders, reforming Youthful Offender proceedings to ensure accountability for young adult criminal offenders who choose the benefits of the Family Court rather than face prosecution in Criminal Court; reform current law regarding bail revocation to make it a meaningful tool for prosecutors and courts to use when offenders fail to appear for proceedings, commit new crimes while out on bail and otherwise violate conditions of release and other court orders; institute a system of universal sealing (rather than expungement) of criminal records; limit authority of the courts to suspend criminal sentences for repeat violent offenses; limits on suspended sentences; prelease waivers of extradition; and repeal sunset for placement of drunk and disorderly inebriates in DOC facilities.

*** Juvenile and Youthful Offender Proceedings ***

Sec. 1. 33 V.S.A. § 5204(a) is amended to read:

§ 5204. Transfer from Family Division of the Superior Court

(a) After a petition has been filed alleging delinquency, upon motion of the State's Attorney and after hearing, the Family Division of the Superior Court may transfer jurisdiction of the proceeding to the Criminal Division of the Superior Court if the child had attained 16 years of age but not 19 years of age at the time the act was alleged to have occurred and the delinquent act set forth in the petition is a felony not specified in subdivisions (1)-(11) of this subsection or if the child had attained 12 years of age but not 14 years of age at the time the act was alleged to have occurred, and if the delinquent act set forth in the petition was any of the following:

- (1) arson causing death as defined in 13 V.S.A. § 501 or an attempt to commit that offense;
- (2) assault and robbery with a dangerous weapon as defined in 13 V.S.A. § 608(b) or an attempt to commit that offense;
- (3) assault and robbery causing bodily injury as defined in 13 V.S.A. § 608(c) or an attempt to commit that offense;
- (4) aggravated assault as defined in 13 V.S.A. § 1024 or an attempt to commit that offense;

- (5) murder as defined in 13 V.S.A. § 2301 and aggravated murder as defined in 13 V.S.A. § 2311 or an attempt to commit either of those offenses;
- (6) manslaughter as defined in 13 V.S.A. § 2304 or an attempt to commit that offense;
- (7) kidnapping as defined in 13 V.S.A. § 2405 or an attempt to commit that offense;
- (8) unlawful restraint as defined in 13 V.S.A. § 2406 or 2407 or an attempt to commit that offense;
- (9) maiming as defined in 13 V.S.A. § 2701 or an attempt to commit that offense;
- (10) sexual assault as defined in 13 V.S.A. § 3252(a)(1) or (a)(2) or an attempt to commit that offense; or
- (11) aggravated sexual assault as defined in 13 V.S.A. § 3253 and aggravated sexual assault of a child as defined in 13 V.S.A. § 3253a or an attempt to commit either of those offenses;
- (12) repealed;
- [\(13\) stalking as defined in 13 V.S.A. § 1062 and aggravated stalking as defined in 13 V.S.A. § 1063\(a\)\(3\);](#)
- [\(14\) domestic assault as defined in 13 V.S.A. § 1042, first degree aggravated domestic assault as defined in 13 V.S.A. § 1043, and second degree aggravated domestic assault as defined in 13 V.S.A. § 1044;](#)
- [\(15\) trafficking a regulated drug as defined in 18 V.S.A. §§ 4230\(c\), 4231\(c\), 4233\(c\), or 4234a\(c\);](#)
- [\(16\) selling or dispensing a regulated drug with death resulting as defined in 18 V.S.A. § 4250;](#)
- [\(17\) using a firearm while selling or dispensing a drug as defined in 18 V.S.A. § 4253;](#)
- [\(18\) carrying a dangerous or deadly weapon while committing a felony as defined in 13 V.S.A. § 4005;](#)
- [\(19\) lewd or lascivious conduct as defined in 13 V.S.A. § 2601 or lewd or lascivious conduct with a child as defined in 13 V.S.A. § 2602;](#)
- [\(20\) eluding a police officer with serious bodily injury or death resulting as defined in 23 V.S.A. § 1133\(b\);](#)
- [\(21\) willful and malicious injuries caused by explosives as defined in 13 V.S.A. § 1601, injuries caused by destructive devices as defined in 13 V.S.A. § 1605 or injuries caused by explosives as defined in 13 V.S.A. § 1608;](#)
- [\(22\) human trafficking in violation of 13 V.S.A. § 2652 or aggravated human trafficking in violation of 13 V.S.A. § 2653;](#)
- [\(23\) grand larceny as defined in 13 V.S.A. § 2501 or larceny from the person as defined in 13 V.S.A. § 2503;](#)
- [\(24\) operating vehicle under the influence of alcohol or other substance with either death or serious bodily injury resulting as defined in 23 V.S.A. § 1210\(f\) and \(g\);](#)
- [\(25\) careless or negligent operation resulting in serious bodily injury or death as defined in 23 V.S.A. § 1091\(b\);](#)
- [\(26\) leaving the scene of an accident with serious bodily injury or death as defined in 23 V.S.A. § 1128\(b\) or \(c\);](#)
- [\(27\) a hate-motivated crime as defined in 13 V.S.A. § 1455;](#)
- [\(28\) conspiracy as defined in 13 V.S.A. § 1404;](#)
- [\(29\) an attempt to commit any of the preceding offenses as defined in 13 V.S.A. § 9;](#)
- [\(30\) a violation of an abuse prevention order as defined in 13 V.S.A. § 1030 or violation of an order against stalking or sexual assault as defined in 12 V.S.A. § 5138; or](#)

(31) a violation of a condition of release as defined 13 V.S.A. § 7559 for any of the offenses specified in subdivisions (1)-(29) of this subsection.

Sec. 2. 33 V.S.A. § 5280 is amended to read:

§ 5280. Commencement of youthful offender proceedings in the Family Division

(a) A youthful offender proceeding under this chapter shall be commenced by:

(1) the filing of a youthful offender petition by a State's Attorney in the Criminal Division of Superior Court; or

~~(2) transfer to the Family Court of a proceeding from the Criminal Division of the Superior Court as provided in section 5281 of this title~~ the filing of a motion in the Criminal Division of the Superior Court requesting that a defendant under 22 years of age in a criminal proceeding who has attained 14 years of age but not 22 years of age at the time of the offense is alleged to have been committed be treated as a youthful offender. The motion may be filed by the State's Attorney, the defendant, or the court on its own motion.

(b) A State's Attorney may commence a proceeding in the Family Division of the Superior Court concerning a child who is alleged to have committed an offense after attaining 14 years of age but not 22 years of age that could otherwise be filed in the Criminal Division. Except as provided in subdivision 5283(c)(2) of this title, upon the commencement of a youthful offender proceeding, future proceedings shall be sealed until youthful offender status is denied or revoked.

(c)(1) Upon the filing of a motion under this section and the entering of a conditional plea of guilty by the youth, the Criminal Division shall enter an order deferring the sentence and hold a hearing on the motion. If the youth declines to enter a conditional plea, youthful offender status shall be denied.

(2) As used in this subsection, "conditional plea of guilty" means a plea of guilty that is conditioned on the granting of youthful offender status that may be withdrawn in the event that youthful offender status is denied.

~~(e)-(d)~~ If a State's Attorney files a petition under subdivision (a)(1) of this section, ~~the~~ the case shall proceed as provided under subsection 5281(b) of this title.

~~(d)~~(c)(1) ~~Within 15 days after the~~ Upon commencement of a youthful offender proceeding pursuant to subsection (a) of this section, the court shall notify the youth that the youth is required to complete 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 needs screenings. The notice shall inform the youth that youthful offender status may be denied if the youth fails to participate in the risk and needs screening.

(2) The risk and needs screening shall be completed prior to the youthful offender status hearing held pursuant to section 5283 of this title. Unless the court extends the period for the risk and needs screening for good cause shown, the ~~Family Division~~ court shall reject the case for youthful offender treatment if the youth does not complete the risk and needs screening within 15 days after the offer for the risk and needs screening.

(3) 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.

(4) Information related to the present alleged offense directly or indirectly derived from the risk and needs screening or other conversation with the Department or community-based provider shall not be used against the youth in the youth's criminal or juvenile case for any purpose, including impeachment or cross-examination. However, the fact of participation in risk and needs screening may be used in subsequent proceedings.

~~(e)(f)~~ The State's Attorney may ~~shall~~ refer a youth directly to court diversion. ~~a youth alleged to have committed any offense other than those specified in subsection 5204(a) of this title who presents a low to moderate risk to reoffend based on the results of the risk and needs screening, unless the State's Attorney states on the record at the hearing held pursuant to section 5283 of this title why a referral would not serve the ends of justice.~~ If the court diversion program does not accept the case or if the youth fails to complete the program in a manner deemed satisfactory and timely by the provider, the youth's case shall return to the State's Attorney for charging consideration.

Sec. 3. 33 V.S.A. § 5281 is amended to read:

§ 5281. Motion Commencement of Youthful Offender Proceedings in Criminal Division of Superior Court

~~(a) A motion may be filed in the Criminal Division of the Superior Court requesting that a defendant under 22 years of age in a criminal proceeding who had attained 12 years of age but not 22 years of age at the time the offense is alleged to have been committed be treated as a youthful offender. The motion may be filed by the State's Attorney, the defendant, or the court on its own motion.~~

Unless the State's Attorney refers the youth directly to court diversion pursuant to subsection 5280(e) of this title, upon the filing of a motion ~~under this section~~ or the filing of a youthful offender petition pursuant to section 5280 of this title, the ~~Family Division court~~ shall hold a hearing pursuant to section 5283 of this title. ~~Pursuant to Section 5110 of this title, The hearing shall be confidential as provided in section 5284 of this title. Copies of all records relating to the case shall be forwarded to the Family Division.~~ Conditions of release and any Department of Corrections supervision or custody shall remain in effect until:

~~(1) the Family Division accepts the case for treatment as a youthful offender and orders conditions of juvenile probation pursuant to section 5284 of this title;~~

~~(2) any conditions of release or bail are modified, amended, or vacated pursuant to 13 V.S.A. chapter 229; or~~

~~(3) (2) the case is otherwise concluded.~~

~~(e)(b)(1) If the Family Division court rejects the case for youthful offender treatment pursuant to section 5284 of this title, the case shall be transferred to the Criminal Division. The conditions of release imposed by the Criminal Division shall remain in effect, any previously sealed proceedings shall be unsealed and the case shall proceed as though the motion for youthful offender treatment or youthful offender petition had not been filed.~~

(2) Subject to Rule 11 of the Vermont Rules of Criminal Procedure and Rule 410 of the Vermont Rules of Evidence, the ~~court's Family Division's~~ denial of the motion for youthful offender treatment and any information related to the youthful offender proceeding shall be inadmissible against the youth for any purpose in the subsequent Criminal Division proceeding.

~~(c) (d) If the Family Division accepts the case for youthful offender treatment, the case shall proceed to a confidential merits hearing or admission pursuant to sections 5227-5229 of this title. The youth shall not be permitted to withdraw the youth's plea of guilty after youthful offender~~

status is approved except to correct manifest injustice pursuant to Rule 32(d) of the Vermont Rules of Criminal Procedure.

Sec. 4. 33 V.S.A. § 5282 is amended to read:

§ 5282. (a) ~~Within 30 days after the youth has completed the risk and needs screening pursuant to section 5280 of this title, unless the court extends the period for good cause shown or the State's Attorney refers the youth directly to court diversion pursuant to subsection 5280(e) of this title, the Department for Children and Families shall file a report with the Family Division of the Superior Court.~~

(b) A report filed pursuant to this section shall include the following elements:

(1) a recommendation as to whether diversion is appropriate for the youth because the youth is a low to moderate risk to reoffend;

(2) a recommendation as to whether youthful offender status is appropriate for the youth; and

(3) a description of the services that may be available for the youth.

(c) A report filed pursuant to this section is privileged and shall not be disclosed to any person other than:

(1) the Department;

(2) the court;

(3) the State's Attorney;

(4) the youth, the youth's attorney, and the youth's guardian ad litem;

(5) the youth's parent, guardian, or custodian if the youth is under 18 years of age, unless the court finds that disclosure would be contrary to the best interests of the child;

(6) the Department of Corrections; or

(7) any other person when the court determines that the best interests of the youth would make such a disclosure desirable or helpful.

[Repealed].

Sec.5. 33 V.S.A. § 5383 is amended to read:

§ 5283. Disposition Hearing in Family Division

(a) Timeline. Unless the State's Attorney refers the youth directly to court diversion pursuant to subsection 5280(e) of this title, a youthful offender ~~consideration-disposition~~ hearing shall be held not later than ~~60 days after the transfer of the case from the Criminal Division or filing of a youthful offender petition in the Family Division.~~ 45 days after the filing of a motion or the filing of a youthful offender petition under Section 5280 of this title.

(b) Notice. Notice of the hearing shall be provided to the State's Attorney; the youth; the youth's parent, guardian, or custodian; the victim; the Department; and the Department of Corrections.

The court shall not exclude any victim from the proceeding or any portion of it unless, after hearing from the parties and the victim, and for good cause clearly and specifically stated on the record, the court orders otherwise. As used in this subsection, "victim" means a person who is the victim of a crime for which a youth is charged; a parent, guardian, or legal representative of the victim; or a victim's advocate.

(c) Hearing procedure.

(1) If the motion is contested, all parties shall have the right to present evidence and examine witnesses. Hearsay may be admitted and may be relied on to the extent of its probative value. If

reports are admitted, the parties shall be afforded an opportunity to examine those persons making the reports, but sources of confidential information need not be disclosed.

(2) For individuals who had attained 18 years of age but not 22 years of age at the time the act is alleged to have been committed, hearings under subsection 5284(a) of this title shall be open to the public. All other youthful offender proceedings shall be confidential.

(d) Burden of proof. The burden of proof shall be on the moving party to prove by a preponderance of the evidence that a youth should be granted youthful offender status. If the court makes the motion, the burden shall be on the youth.

(e) Further hearing. On its own motion or the motion of a party, the court may schedule a further hearing to obtain reports or other information necessary for the appropriate disposition of the case.

Sec. 6. 33 V.S.A. § 5284 is amended to read:

§ 5284. Youthful Offender Determination and Disposition Order

(a)(1) In a hearing on a motion or petition for youthful offender status, the court shall first consider whether public safety will be protected by treating the youth as a youthful offender. If the court finds that public safety will not be protected by treating the youth as a youthful offender, the court shall deny the motion ~~and transfer the case to the Criminal Division of the Superior Court pursuant to subsection 5281(d) of this title.~~ the conditions of release imposed by the Criminal Division shall remain in effect, and the case shall proceed as though the motion for youthful offender treatment or youthful offender petition had not been filed. If the court finds that public safety will be protected by treating the youth as a youthful offender, the court shall proceed to make a determination under subsection (b) of this section.

(2) When determining whether public safety will be protected by treating the youth as a youthful offender, the court shall consider, on the basis of the evidence admitted:

- (A) the nature and circumstances of the charge and whether violence was involved;
- (B) the youth's mental health treatment history and needs;
- (C) the youth's substance abuse history and needs;
- (D) the youth's residential housing status;
- (E) the youth's employment and educational situation;
- (F) whether the youth has complied with conditions of release;
- (G) the youth's criminal record and whether the youth has engaged in subsequent criminal or delinquent behavior since the original charge;
- (H) whether supervising the youth on youthful offender probation is appropriate considering the nature of the charged offense and the age and specialized needs of the youth;
- (I) whether the youth has connections to the community; and
- (J) the youth's history of violence and history of illegal or violent conduct involving firearms or other deadly weapons.

(b)(1) The court shall deny the motion if the court finds that:

- (A) public safety will not be protected by treating the youth as a youthful offender;
- (B) the youth is not amenable to treatment or rehabilitation as a youthful offender; or
- ~~(B)~~(C) there are insufficient services in the juvenile court system and the Department for Children and Families and the Department of Corrections to meet the youth's treatment and rehabilitation needs.

(2) The court shall grant the motion if the court finds that:

- (A) public safety will be protected by treating the youth as a youthful offender;

~~(B)~~ the youth is amenable to treatment or rehabilitation as a youthful offender; and
~~(B)~~~~(C)~~ there are sufficient services in the juvenile court system and the Department for Children and Families and the Department of Corrections to meet the youth's treatment and rehabilitation needs.

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

~~(A)~~ shall place the youth on conditions of probation pursuant to 28 V.S.A. chapter 5, provided that the requirements of this subdivision may be satisfied by entering the single condition of probation required under subdivision (3) of this subsection or such additional conditions imposed by the court;

~~(B)~~ shall approve a disposition case plan and impose conditions of juvenile probation on the youth; and

~~(B)~~~~(C)~~ shall include as a condition of probation adherence to the disposition plan approved by the court; and

~~(D)~~ may transfer legal custody of the youth to a parent, relative, person with a significant relationship with the youth, or Commissioner of the Department for Children and Families, provided that any transfer of custody shall expire on the youth's 18th birthday.

(2) Prior to the approval of a disposition case plan, the court may refer a child directly to a youth-appropriate community-based provider that has been approved by the department and which may include a community justice center or a balanced and restorative justice program. Referral to a community-based provider pursuant to this subdivision shall not require the court to place the child on probation. 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 shall return to the court for further proceedings, including the imposition of the disposition order.

(d) The Department for Children and Families and the Department of Corrections shall be responsible for supervision of and providing services to the youth until ~~the youth reaches 22 years of age~~ the earlier of:

~~(A)~~ the youth successfully completing treatment and supervision; or

~~(B)~~ the youthful offender designation being revoked pursuant to section 5285 of this title.

(3) Both the Department for Children and Families and the Department of Corrections shall designate a case manager who together shall appoint a lead Department to have final decision-making authority over the case plan and the provision of services to the youth. The youth shall be eligible for appropriate community-based programming and services provided by both Departments the Agency of Human Services.

Sec. 7. 33 V.S.A. § 5285 is amended to read:

§ 5285. Modification or revocation of disposition

(a) If it appears that the youth has violated the terms of juvenile probation ordered by the court pursuant to subdivision 5284(c)(1) of this title, a motion for modification or revocation of youthful offender status may be filed in the Criminal Division of the Superior Court. The court shall set the motion for hearing ~~as soon as practicable~~ within 30 days. The hearing may be joined with a hearing on a violation of conditions of probation under section 5265 of this title.

Consistent with the procedures of 28 V.S.A. 301, a supervising juvenile or adult probation officer may detain in an adult facility a youthful offender who has attained 18 years of age for violating conditions of probation. A youthful offender who has not achieved 18 years of age may be detained in a facility for juveniles pursuant to section 5266 of this title. A youthful offender

who is detained prior to 18 years of age who subsequently achieves 18 years of age may be transferred to an adult facility.

(b) A hearing under this section shall be held in accordance with section 5268 of this title.

(c) If the court finds after the hearing that the youth has violated the terms of ~~his or her~~ the youth's probation, the court may:

(1) maintain the youth's status as a youthful offender, with modified conditions of juvenile probation if the court deems it appropriate;

(2) revoke the youth's status as a youthful offender ~~and transfer the case with a record of the petition, affidavit, adjudication, disposition, and revocation to the Criminal Division for sentencing;~~ or

(3) transfer supervision of the youth to the Department of Corrections with all of the powers and authority of the Department and the Commissioner under Title 28, including graduated sanctions and electronic monitoring.

(d) If a youth's status as a youthful offender is revoked ~~and the case is transferred to the Criminal Division pursuant to subdivision (c)(2) of this section, the court shall enter a conviction of guilty based on the admission to or finding of merits hold a sentencing hearing, and impose sentence. Unless it serves the interest of justice, the case shall not be transferred back to the Family Division pursuant to section 5203 of this title.~~ When determining an appropriate sentence, the court may take into consideration the youth's degree of progress toward or regression from rehabilitation while on youthful offender status. The Criminal Division shall have access to all Family Division records of the proceeding.

Sec. 8. 33 V.S.A. § 5286 is amended to read:

§ 5286. Review prior to 18 years of age

(d) If the court finds that it is in the best interests of the youth and consistent with community safety to continue the case past 18 years of age, it shall make an order continuing the court's jurisdiction up to 22 years of age. The Department for Children and Families and the Department of Corrections shall jointly develop a case plan for the youth and coordinate services and share information to ensure compliance with and completion of the juvenile youthful offender disposition.

Sec. 9. 33 V.S.A. § 5287 is amended to read:

§ 5287. Termination or continuance of probation

(a) A motion or stipulation may be filed at any time in the ~~Family Criminal Division~~ requesting that the court terminate the youth's status as a youthful offender and discharge ~~him or her~~ the youth from probation. The motion may be filed by the State's Attorney, the youth, the Department, or the court on its own motion.

(b) In determining whether a youth has successfully completed the terms of probation, the court shall consider:

(1) the degree to which the youth fulfilled the terms of the case plan and the probation order;

(2) the youth's performance during treatment;

(3) reports of treatment personnel; and

(4) any other relevant facts associated with the youth's behavior.

(c) If the court finds that the youth has successfully completed the terms of the probation order, it shall terminate youthful offender status, discharge the youth from probation, and file a written order dismissing the Family Division case. ~~The Family Division shall provide notice of the dismissal to the Criminal Division, which shall dismiss the criminal case.~~

(d) Upon discharge and dismissal under subsection (c) of this section, all records relating to the case in the Criminal Division shall be ~~expunged, and all records relating to the case in the Family Court shall be sealed.~~ Notwithstanding any other provision of law or a sealing order, entities may access and use sealed records in the following circumstances, and the sealed record shall remain otherwise confidential:

(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 .

(2) 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.

(3) 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.

(4) 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.

(5) The Vermont Crime Information Center and Criminal Justice Information Services Division of the Federal Bureau of Investigations 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.

(6) The State's Attorney and Attorney General may disclose information contained in a sealed criminal history record when required to meet their otherwise legally required discovery obligations.

(7) 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.

(8) 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.

(9) 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.

(10) Upon adopting rules outlining a process for handling sealed records and maintaining confidentiality and the standards for determining when information contained in a sealed record may be used for the purpose of licensing decisions, the Vermont Criminal Justice Council may inspect and receive copies of sealed criminal history records. Sealed records shall remain confidential and not be available for inspection and copying unless and until the Council relies on such records in a public licensing decision.

(11) Upon adopting rules outlining a process for handling sealed records and maintaining confidentiality and the standards for determining when information contained in a sealed record may be used for the purpose of licensing decisions, the Vermont Office of Professional

Regulation may inspect and receive copies of sealed criminal history records. Sealed records shall remain confidential and not be available for inspection and copying unless and until the Office relies on such records in a public licensing decision.

(12) Upon adopting rules outlining a process for handling sealed records and maintaining confidentiality and the standards for determining when information contained in a sealed record may be used for the purpose of licensing decisions, the Vermont Board of Medical Practice may inspect and receive copies of sealed criminal history records. Sealed records shall remain confidential and not be available for inspection and copying unless and until the Board relies on such records in a public licensing decision.

(e) If the court denies the motion to discharge the youth from probation, the court may extend or amend the probation order as it deems necessary.

(f) Upon the termination of the period of probation, the youth shall be discharged from probation.

***** Repeal Raise the Age for 19 Year Old Young Adults *****

Sec. 10. 2024 Acts and Resolves No. 125, Secs. 7-11 are amended to read:

Sec. 7. 33 V.S.A. § 5201(d) is amended to read:

<< VT ST T. 33 § 5201 >>

(d) Any proceeding concerning a child who is alleged to have committed any offense other than those specified in subsection 5204(a) of this title or subdivision (e)(2) or (3) of this section before attaining 20 years of age shall originate in the Family Division of the Superior Court, provided that jurisdiction may be transferred in accordance with this chapter.

Sec. 8. 33 V.S.A. § 5203 is amended to read:

<< VT ST T. 33 § 5203 >>

§ 5203. Transfer from other courts

(a) If it appears to a Criminal Division of the Superior Court that the defendant was under 20 years of age at the time the offense charged was alleged to have been committed and the offense charged is an offense not specified in subsection 5204(a) or subdivision 5201(e)(2) or (3) of this title, that court shall forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the minor shall then be considered to be subject to this chapter as a child charged with a delinquent act.

* * *

(e) If it appears to the State's Attorney that the defendant was under 20 years of age at the time the felony offense charged was alleged to have been committed and the felony charged is not an offense specified in subsection 5204(a) or subdivision 5201(e)(2) or (3) of this title, the State's Attorney shall file charges in the Family Division of the Superior Court, pursuant to section 5201

of this title. The Family Division may transfer the proceeding to the Criminal Division pursuant to section 5204 of this title.

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Sec. 9. 33 V.S.A. § 5204 is amended to read:

<< VT ST T. 33 § 5204 >>

§ 5204. Transfer from family division of the superior court

(a) After a petition has been filed alleging delinquency, upon motion of the State's Attorney and after hearing, the Family Division of the Superior Court may transfer jurisdiction of the proceeding to the Criminal Division of the Superior Court if the child had attained 16 years of age but not 20 years of age at the time the act was alleged to have occurred and the delinquent act set forth in the petition is a felony not specified in subdivisions (1) (11) of this subsection or if the child had attained 12 years of age but not 14 years of age at the time the act was alleged to have occurred, and if the delinquent act set forth in the petition was any of the following:

* * *

Sec. 10. 33 V.S.A. § 5103(c) is amended to read:

<< VT ST T. 33 § 5103 >>

(c)(1) Except as otherwise provided by this title and by subdivision (2) of this subsection, jurisdiction over a child shall not be extended beyond the child's 18th birthday.

(2)(A) Jurisdiction over a child with a delinquency may be extended until six months beyond the child's:

- (i) 19th birthday if the child was 16 or 17 years of age when ~~the child committed the offense;~~
- (ii) 20th birthday if the child was 18 years of age when ~~the child committed the offense; or~~
- (iii) 21st birthday if the child was 19 years of age when the child committed the offense.

* * *

Sec. 11. 33 V.S.A. § 5206 is amended to read:

<< VT ST T. 33 § 5206 >>

§ 5206. Citation of 16- to ~~19-year-olds~~

(a)(1) If a child was over 16 years of age and under 20 years of age at the time the offense was alleged to have been committed and the offense is not specified in subsection (b) of this section, law enforcement shall cite the child to the Family Division of the Superior Court.

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Sec. 11. 2024 Acts and Resolves No. 125, Sec. 21(b) is amended to read:

Sees. 7-11 shall take effect on April 1, 2025. [Deleted]

*** Bail Revocation***

Sec. 12. Intent

It is the intent of the Legislature to define conduct which constitutes a “disruption of the prosecution” for purposes of revoking bail for repeated failures to appear for court, violations of conditions of release and other violations of court orders and to do so in a manner that represents a compelling state interest consistent with *State v. Sauve*, 159 Vt. 566 (1993), *State v. Gates*, 2016 VT 36, and related cases. It is the intent of the Legislature that the definition selected herein constitutes a compelling state interest.

Sec. 13. 13 V.S.A. §§ 7575 and 7576 are amended to read:

Revocation of the right to bail

13 V.S.A. § 7575

(a) The right to bail may be revoked entirely if the judicial officer finds that the accused has:

- (1) intimidated or harassed a victim, potential witness, juror, or judicial officer in violation of a condition of release; or
- (2) repeatedly violated conditions of release in a manner that ~~impedes~~ disrupts the prosecution of the accused; or
- (3) violated a condition or conditions of release that constitute a threat to the integrity of the judicial system; or
- (4) without just cause, failed to appear at a specified time and place ordered by a judicial officer; or
- (5) in violation of a condition of release, been charged with a felony or a crime against a person or an offense similar to the underlying charge, for which, after hearing, probable cause is found.

(b) A motion to revoke bail under this section may be filed by the State's Attorney or the court on its own motion.

(c) Upon a finding made in accordance with subsection (a), an order may be granted revoking the bail previously set for of the accused and the court, by proper order, shall declare the bond forfeited and order the person's immediate arrest without warrant if the person is within this State.

(d) The court may schedule a hearing to review its decision to revoke bail upon motion by any party, upon the court's own motion, or upon an interval of time set by the court.

(e) The trial of the person shall be commenced not more than 60 days after bail is revoked.

(f) If the trial is not commenced within 60 days and the delay is not attributable to the defense, the court shall immediately schedule a bail hearing and shall set bail for the person.

13 V.S.A. § 7576
§ 7576. Definitions

As used in this chapter:

(10) "Disrupting the prosecution of the accused" includes, in addition to any other meaning recognized by law, committing a criminal offense or violating a condition of release by a defendant who has been released pending trial for another offense and which demonstrates that there is no condition or combination of conditions of release that will assure that the person will not flee from prosecution or pose a danger to the safety of any other person or the community, or the person is unlikely to abide by any condition or combination of conditions of release.

*** Sealing of Criminal Records***

Sec. 14. 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) Repealed.
- (4) "Qualifying crime" means:

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- ~~Deleted: "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). ... [1]~~
- ~~Deleted: (A) a misdemeanor offense that is not:~~
- ~~Deleted: (i) a listed crime as defined in subdivision 5301(7) of this title;~~
- ~~Deleted: (ii) an offense involving sexual exploitation of children in violation of chapter 64 of this title;~~
- ~~Deleted: (iii) an offense involving violation of a protection order in violation of section 1030 of this title;~~
- ~~Deleted: (iv) prostitution as defined in section 2632 of this title, or prohibited conduct under section 2601a of this ... [2]~~
- ~~Deleted: (v) a predicate offense;~~
- ~~Deleted: (B) a violation of subsection 3701(a) of this title related to criminal mischief;~~
- ~~Deleted: (C) a violation of section 2501 of this title related to grand larceny;~~
- ~~Deleted: (D) a violation of section 1201 of this title related to burglary, excluding any burglary into an occupied ... [3]~~
- ~~Deleted: (E) a violation of 18 V.S.A. § 4223 related to fraud or deceit;~~
- ~~Deleted: (F) a violation of section 1802 of this title related to uttering a forged or counterfeited instrument;~~
- ~~Deleted: (G) a violation of 18 V.S.A. § 4230(a) related to possession and cultivation of cannabis;~~
- ~~Deleted: (H) a violation of 18 V.S.A. § 4231(a) related to possession of cocaine;~~
- ~~Deleted: (I) a violation of 18 V.S.A. § 4232(a) related to possession of LSD;~~
- ~~Deleted: (J) a violation of 18 V.S.A. § 4233(a) related to possession of heroin;~~
- ~~Deleted: (K) a violation of 18 V.S.A. § 4234(a) related to possession of depressant, stimulant, and narcotic drugs;~~
- ~~Deleted: (L) a violation of 18 V.S.A. § 4234a(a) related to possession of methamphetamine;~~
- ~~Deleted: (M) a violation of 18 V.S.A. § 4234b(a) related to possession of ephedrine and pseudoephedrine;~~
- ~~Deleted: (N) a violation of 18 V.S.A. § 4235(b) related to possession of hallucinogenic drugs;~~
- ~~Deleted: (O) a violation of 18 V.S.A. § 4235a(a) related to possession of ecstasy; or~~
- ~~Deleted: (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) related to cruelty to a child;
(x) a violation of section 1305 related to cruelty by person having custody of another;
(xi) a violation of section 1306 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 3252(b) 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; and
(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.

(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) a felony violation of 9 V.S.A. § 4043 related to fraudulent use of a credit card;
(B) section 1801 of this title related to forgery and counterfeiting;
(C) section 1802 of this title related to uttering a forged or counterfeited instrument;
(D) section 1804 of this title related to counterfeiting paper money;
(E) section 1816 of this title related to possession or use of credit card skimming devices;
(F) section 2001 of this title related to false personation;
(G) section 2002 of this title related to false pretenses or tokens;
(H) section 2029 of this title related to home improvement fraud;
(I) section 2030 of this title related to identity theft;
(J) section 2501 of this title related to grand larceny;
(K) section 2531 of this title related to embezzlement;

(L) section 2532 of this title related to embezzlement by officers or servants of an incorporated bank;
(M) section 2533 of this title related to embezzlement by a receiver or trustee;
(N) section 2561 of this title related to receiving stolen property;
(O) section 2575 of this title related to retail theft;
(P) section 2582 of this title related to theft of services;
(Q) section 2591 of this title related to theft of rented property;
(R) section 2592 of this title related to failure to return a rented or leased motor vehicle;
(S) section 3016 of this title related to false claims;
(T) section 3701 of this title related to unlawful mischief;
(U) section 3705 of this title related to unlawful trespass;
(V) section 3733 of this title related to mills, dams, or bridges;
(W) section 3761 of this title related to unauthorized removal of human remains;
(X) section 3766 of this title related to grave markers and ornaments;
(Y) chapter 87 of this title related to computer crimes; and
(Z) 18 V.S.A. § 4223 related to fraud or deceit in obtaining a regulated drug.

§ 7602. SEALING OF RECORD, POSTCONVICTION; PROCEDURE

.....	Deleted: EXPUNGEMENT AND
.....	Deleted: (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:
.....	Deleted: (A) the person was convicted of a qualifying crime or qualifying crimes arising out of the same incident or occurrence;
.....	Deleted: (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;
.....	Deleted: (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
.....	Deleted: (D) pursuant to the conditions set forth in this section, the person was convicted under 1201(e)(3)(A) of a violation of subdivision 1201(a) of this title relate(... [4]
.....	Deleted: (2) The State's Attorney or Attorney General (... [5]
.....	Deleted: (3) The court shall grant the petition without (... [6]
.....	Deleted: (4) This section shall not apply to an individu(... [7]
.....	Deleted: (b)(1) The court shall grant the petition and o(... [8]
.....	Deleted: (A) At least five years have elapsed since the(... [9]
.....	Deleted: (B) The person has not been convicted of a (... [10]
.....	Deleted: (C) Any restitution and surcharges ordered b(... [11]
.....	Deleted: (D) The court finds that expungement of the (... [12]
.....	Deleted: (2) The court shall grant the petition and ord(... [13]
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.....	Deleted: (B) the person committed the qualifying cri(... [15]
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.....	Deleted: (A) At least 10 years have elapsed since the (... [17]
.....	Deleted: (B) The person has not been convicted of a (... [18]
.....	Deleted: (C) The person has not been convicted of a (... [19]
.....	Deleted: (D) Any restitution and surcharges ordered b(... [20]
.....	Deleted: (E) After considering the particular nature o(... [21]
.....	Deleted: (2) The court shall grant the petition and ord(... [22]
.....	Deleted: (A) sealing the criminal history record bette(... [23]
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.....	Deleted: (2) Any restitution and surcharges ordered b(... [27]
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(a) Petition.

(1) A person may file a petition with the court requesting sealing of a criminal history record related to a conviction under the following circumstances:

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

(B) The person was convicted of a qualifying crime or qualifying crimes arising out of the same incident or occurrence.

(2) 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.

(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 sealing and provide notice of the order in accordance with this section.

(4) 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)(A) 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) 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)(1)(B) 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.

~~**Deleted:** (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.~~

~~**Deleted:** (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.~~

~~**Deleted:** (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.~~

~~**Deleted:** (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:~~

~~**Deleted:** (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.~~

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

~~**Deleted:** (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~~

~~**Deleted:** (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);~~

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

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

~~**Deleted:** (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 the (... [29]~~

~~**Deleted:** (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 p (... [30]~~

~~**Deleted:** (2) The person has not been convicted of a crime arising out of a new incident or occurrence since the (... [31]~~

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

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

(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) there is no ongoing prosecution arising out of a new incident or occurrence at the time of the filing.

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

(d) Qualifying felony offenses. For petitions filed to seal a qualifying felony pursuant to subdivision (a)(1)(B) 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) there is no ongoing prosecution arising out of a new incident or occurrence at the time of the filing.

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

(e) Qualifying DUI misdemeanor. For petitions filed to seal a qualifying DUI misdemeanor pursuant to subdivision (a)(1)(B) 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) there is no ongoing prosecution arising out of a new incident or occurrence at the time of the filing.

(4) 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.

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

(f) 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 title 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;

(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.

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

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(c), (d) [Repealed.]
(e)

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

[Repealed.]

Deleted: (A) the defendant is acquitted of the charges; or
Deleted: (B) the charge is dismissed with prejudice;

(f) [Repealed.]

(g) A person may file a petition with the court requesting sealing 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 the record if it finds that sealing the record serves the interests of justice, or if the parties stipulate to sealing of the record.

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

(h) [Repealed.]

Deleted: 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.

§ 7604. NEW CHARGE

If a person has a criminal charge pending at the time the petition for expungement is before the court, the court shall not act on the petition until disposition of the new charge. [Repealed]

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§ 7605. DENIAL OF PETITION

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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.

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§ 7606. EFFECT OF EXPUNGEMENT

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(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.

Deleted: 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.

(b) Effect.

Deleted: is charged with a criminal offense after he or she has filed a petition for expungement pursuant to this chapter

(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 the person had never been arrested, convicted, or sentenced for the offense.

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(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, ~~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].

(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 court shall 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.

(b) Effect.

(1) Except as provided in 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 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, entities may access and use sealed records in the following circumstances, and the sealed record shall remain otherwise confidential:

(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.

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Deleted: [Repealed].

Deleted: 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

Deleted: 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

Deleted: The VCIC shall provide notice of the sealing to the Federal Bureau of Investigation's National Crime Information Center.

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(2) 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.

(3) 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.

(4) 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.

(5) The Vermont Crime Information Center and Criminal Justice Information Services Division of the Federal Bureau of Investigations 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.

(6) The State's Attorney and Attorney General may disclose information contained in a sealed criminal history record when required to meet their otherwise legally required discovery obligations.

(7) 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.

(8) 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.

(9) 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.

(10) Upon adopting rules outlining a process for handling sealed records and maintaining confidentiality and the standards for determining when information contained in a sealed record may be used for the purpose of licensing decisions, the Vermont Criminal Justice Council may inspect and receive copies of sealed criminal history records. Sealed records shall remain confidential and not be available for inspection and copying unless and until the Council relies on such records in a public licensing decision.

(11) Upon adopting rules outlining a process for handling sealed records and maintaining confidentiality and the standards for determining when information contained in a sealed record may be used for the purpose of licensing decisions, the Vermont Office of Professional Regulation may inspect and receive copies of sealed criminal history records. Sealed records shall remain confidential and not be available for inspection and copying unless and until the Office relies on such records in a public licensing decision.

(12) Upon adopting rules outlining a process for handling sealed records and maintaining confidentiality and the standards for determining when information contained in a sealed record may be used for the purpose of licensing decisions, the Vermont Board of Medical Practice may inspect and receive copies of sealed criminal history records. Sealed records shall remain confidential and not be available for inspection and copying unless and until the Board relies on such records in a public licensing decision.

(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, the person's date of birth, the docket number, and the criminal offense that was the subject of the sealing.

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(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.

(f) Victims Compensation Program. Upon request, the 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.

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

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(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, by telephone at the victim's last known phone number, and by e-mail at the victim's last known e-mail address.

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

(a) Procedure. 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-sealed 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 seal 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 ~~sealed 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.

(b) Exceptions.

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

(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 ~~sealing 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.

§ 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, 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. 15. [13 V.S.A. § 7041](#) is amended to read:

§ 7041. DEFERRED SENTENCE

(a) Upon an adjudication of guilt and after the filing of a presentence investigation report, the court may defer sentencing and place the respondent on probation upon such terms and conditions as it may require if a written agreement concerning the deferring of sentence is entered into between the State's Attorney and the respondent and filed with the clerk of the court.

(b) Notwithstanding subsection (a) of this section, the court may defer sentencing and place the respondent on probation without a written agreement between the State's Attorney and the respondent if the following conditions are met:

(1) [Repealed.]

(2) the crime for which the respondent is being sentenced is not a listed crime as defined in subdivision 5301(7) of this title;

(3) the court orders a presentence investigation in accordance with the procedures set forth in V.R.C.P. Rule 32, unless the State's Attorney agrees to waive the presentence investigation;

(4) the court permits the victim to submit a written or oral statement concerning the consideration of deferment of sentence;

(5) the court reviews the presentence investigation and the victim's impact statement with the parties; and

(6) the court determines that deferring sentence is in the interests of justice.

(c) Notwithstanding subsections (a) and (b) of this section, the court may not defer a sentence for a violation of section 3253a (aggravated sexual assault of a child), section 2602 (lewd and lascivious conduct with a child unless the victim and the defendant were within five years of age and the act was consensual), 3252(c) (sexual assault of a child under 16 unless the victim and the defendant were within five years of age and the act was consensual), 3252(d) or (e) (sexual assault of a child), 3253(a)(8) (aggravated sexual assault), ~~or 3253a~~ (aggravated sexual assault of a child) of this title, **or any [crime of violence against a person] for which the sentence is a subsequent sentence for a [crime of violence against a person].**

(d) Entry of deferment of sentence shall constitute an appealable judgment for purposes of appeal in accordance with 12 V.S.A. § 2383 and V.R.A.P. Rule 3. Except as otherwise provided, entry of deferment of sentence shall constitute imposition of sentence solely for the purpose of sentence review in accordance with section 7042 of this title. The court may impose sentence at any time if the respondent violates the conditions of the deferred sentence during the period of deferment.

(e) Upon violation of the terms of probation or of the deferred sentence agreement, the court shall impose sentence. Upon fulfillment of the terms of probation and of the deferred sentence agreement, the court shall strike the adjudication of guilt and discharge the respondent. Except as provided in subsection (h) of this section, the record of the criminal proceedings shall be sealed upon the discharge of the respondent from probation, absent a finding of good cause by the court. The court shall issue an order to seal all records and files related to the arrest, citation, investigation, charge, adjudication of guilt, criminal proceedings, and probation related to the deferred sentence. Copies of the order shall be sent to each agency, department, or official named therein. Thereafter, the court, law enforcement officers, agencies, and departments shall reply to any request for information that no record exists with respect to such person upon inquiry in the matter. Notwithstanding this subsection, the record shall not be sealed until restitution has been paid in full.

(f) A deferred sentence imposed under subsection (a) or (b) of this section may include a restitution order issued pursuant to section 7043 of this title. Nonpayment of restitution shall not constitute grounds for imposition of the underlying sentence.

(g) [Repealed.]

(h) The Vermont Crime Information Center shall retain a special index of deferred sentences for sex offenses that require registration pursuant to subchapter 3 of chapter 167 of this title. This index shall only list the name and date of birth of the subject of the sealed files and records, the

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offense for which the subject was convicted, and the docket number of the proceeding that was the subject of the sealing. The special index shall be confidential and may be accessed only by the director of the Vermont Crime Information Center and a designated clerical staff person 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.

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Sec. 16. 24 V.S.A. § 2002 is added to read:

§ 2002. 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, 2024.

Sec. 17. 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.

*** Reduced and Suspended Sentences***

Sec 18. 13 VSA 5411d(g) is hereby amended to read:

(g)(1) A noncompliant high-risk sex offender who knowingly fails to comply with any of the Registry requirements under this section shall be imprisoned for not less than five years and a maximum term of life and, in addition, may be fined not more than \$50,000.00. ~~A sentence may be suspended in whole or in part, or furlough,~~ The person may be eligible for parole or release on conditional reentry or furlough, provided the person is subject to intensive supervision by the Department of Corrections.

Sec 19. 13 V.S.A. § 7042 is hereby amended to read:

(a) Any court imposing a sentence under the authority of this title, within 90 days of the imposition of that sentence, or within 90 days after entry of any order or judgment of the Supreme Court upholding a judgment of conviction, may upon its own initiative or motion of the defendant, reduce the sentence.

(b) A State's Attorney or the Attorney General, within seven business days of the imposition of a sentence, may file with the sentencing judge a motion to increase, reduce, or otherwise modify the sentence. This motion shall set forth reasons why the sentence should be altered. After hearing, the court may confirm, increase, reduce, or otherwise modify the sentence.

(c) After a motion is filed under subsection (b) of this section, a defendant's time for filing an appeal under 12 V.S.A. § 2383 shall commence to run upon entry of a final order under subsection (b).

(d) Notwithstanding other provision of law, in no event may a court reduce the sentence on a judgment of conviction for a listed crime if the defendant has a prior conviction for one or more listed crimes.

Sec 20. 13 V.S.A. § 7031 is hereby amended to read:

7031. Form of sentences; maximum and minimum terms

(a) When a respondent is sentenced to any term of imprisonment, other than for life, the court imposing the sentence shall not fix the term of imprisonment, unless the term is definitely fixed by statute, but shall establish a maximum and may establish a minimum term for which the respondent may be held in imprisonment. The maximum term shall not be more than the longest term fixed by law for the offense of which the respondent is convicted, and the minimum term shall be not less than the shortest term fixed by law for the offense. If the court suspends a portion of the sentence, the unsuspended portion of the sentence shall be the minimum term of sentence solely for the purpose of any reductions of term for good behavior as set forth in [28 V.S.A. § 811](#). A sentence shall not be considered fixed as long as the maximum and minimum terms are not identical.

(b) The sentence of imprisonment of any person convicted of an offense shall commence to run from the date on which the person is received at the correctional facility for service of the sentence. The court shall give the person credit toward service of his or her sentence for any days spent in custody as follows:

(1) The period of credit for concurrent and consecutive sentences shall include all days served from the date of arraignment or the date of the earliest detention for the offense, whichever occurs first, and end on the date of the sentencing. Only a single credit shall be awarded in cases of consecutive sentences, and no credit for one period of time shall be applied to a later period.

(2) In sentencing a violation of probation, the court shall give the person credit for any days spent in custody from the time the violation is filed or the person is detained on the violation, whichever occurs first, until the violation is sentenced. In a case in which probation is revoked and the person is ordered to serve the underlying sentence, the person shall receive credit for all time previously served in connection with the offense.

(3) A defendant who has received pre-adjudication treatment in a residential setting for a substance use disorder after the charge has been filed shall earn a reduction of one day in the offender's minimum and maximum sentence for each day that the offender receives the inpatient treatment.

(c) If any such person is committed to a jail or other place of detention to await transportation to the place at which his or her sentence is to be served, his or her sentence shall commence to run from the date on which he or she is received at the jail or the place of detention.

(d) A person who receives a zero minimum sentence for a conviction of a nonviolent misdemeanor or nonviolent felony as defined in [28 V.S.A. § 301](#) shall report to probation and parole as directed by the court and begin to serve the sentence in the community immediately, unless the person is serving a prior sentence at the time.

(e) Notwithstanding other provision of law, the sentence of a person convicted of a listed crime who was previously convicted of an escape or previously convicted one or more times of a felony listed crime, including at least one conviction within the last 20 years, may not be suspended or deferred or served as a supervised sentence. The court shall not impose a sentence that does not include a term of imprisonment unless the court makes written findings on the record that there are compelling reasons why such a sentence will serve the interests of justice and public safety.

(f) Notwithstanding any other provision of law, a sentencing court may not suspend all or any portion of a sentence for an individual who has previously been found to have violated the individual's probation, has been unsatisfactorily discharged from probation, or has had their furlough revoked unless the court makes findings on the record that there are compelling reasons why such a sentence will serve the interests of justice and protect the public.

Waivers of Extradition

Sec. 21. 13 V.S.A. § 5043 is hereby amended to read:

13 V.S.A. § 5043 Hearing, commitment, discharge

(a) If an arrest is made in this State by an officer of another state in accordance with the provisions of section 5042 of this title, he or she shall without unnecessary delay take the person arrested before a Superior judge of the unit in which the arrest was made, who shall conduct a hearing for the purpose of determining the lawfulness of the arrest.

- (b) If the judge determines that the arrest was lawful, the judge he or she shall commit the person arrested to await for no more than 120 days a reasonable time the issuance of an extradition warrant by the Governor of this State or admit such person to bail pending the issuance of such warrant. The judge shall consider the issuance of a judicial warrant for the arrest of the person who has fled justice to Vermont from another state when determining the risk of flight from prosecution.
- (c) The If the judge determines that the arrest was unlawful, he or she shall discharge the person arrested.

Sec. 22. 13 V.S.A. § 4955 is amended to read:

13 V.S.A. § 4955. Commitment to await extradition; bail

If upon examination it appears that the person held is the person charged with having committed the crime alleged and that the person probably committed the crime, and, except in cases arising under section 4946 of this title, that the person has fled from justice, the judge or magistrate shall commit the person to jail by a warrant, reciting the accusation, for such a time, not exceeding 120 ~~30~~ days, to be specified in the warrant as will enable the arrest of the accused to be made under a warrant of the Governor on a requisition of the executive authority of the state having jurisdiction of the offense, unless the accused give bail as provided in section 4956 of this title, or until the person shall be legally discharged. On request of the state, the hearing may be continued for up to three working days, only for the purpose of determining whether the person probably committed the crime. Findings under this section may be based upon hearsay evidence or upon copies of affidavits, whether certified or not, made outside this State. It shall be sufficient for a finding that a person probably committed the crime that there is a current grand jury indictment from another state.

Sec. 23. 13 V.S.A. § 4967 is amended to read:

13 V.S.A. § 4967. Written waiver of extradition proceedings

(a) Any person arrested in this State charged with having committed any crime in another state or alleged to have escaped from confinement, or broken the terms of his or her bail, probation, or parole may waive the issuance and service of the warrant provided for in sections 4947 and 4948 of this title and all other procedure incidental to extradition proceedings, by executing or subscribing in the presence of a judge of any court of record within this State a writing that states that he or she consents to return to the demanding state; provided however, before such waiver shall be executed or subscribed by such person it shall be the duty of such judge to inform such person of his or her rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in section 4950 of this title.

(b) If and when such consent has been duly executed, it shall forthwith be forwarded to the office of the Governor of this State and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent; provided however, that nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights or duties of the officers of the demanding state or of this State.

(c) Notwithstanding any other provision of law, a law enforcement agency in this State holding a person who is alleged to have broken the terms of his probation, parole, bail or any other release in the demanding state shall immediately deliver that person to the duly authorized agent of the demanding state without the requirement of a Governor's warrant if all of the following apply:

(1) The person has signed a prior waiver of extradition as a term of his current probation, parole, bail or other release in the demanding state.

(2) The law enforcement agency holding the person has received an authenticated copy of the prior waiver of extradition signed by the person and photographs or fingerprints or other evidence properly identifying the person as the person who signed the waiver.

(3) Except as the State's Attorney shall otherwise determine in the interest of justice, all open criminal charges in this State have been disposed of through trial and sentencing.

Recidivism

Sec. 24. Findings.

The State's definition of "recidivism" (28 V.S.A. § 4) is only based upon offenders who are sentenced to more than one year of incarceration and who, after release, return to prison within three years but only for a conviction for a new offense or a violation of supervision and the new incarceration sentence or time served on the violation is at least 90 days.

The vast majority of misdemeanor crimes have a maximum sentence lengths of 6 months or less. Very few misdemeanor sentences are served in a DOC facility. Under the current definition, a person could commit 10 instances of retail theft within a calendar year, be convicted of each one separately, and be sentenced to probation sentences or 1-2 day sentences on each offense -none of which would fall under the definition of "recidivism."

Sec. 25. Intent.

It is the intent of the Legislature to more accurately reflect re-convictions, re-incarcerations, violations of probation and revocations. In addition metrics should reflect successes (desistance) and violent crime recidivism.

Sec. 26. 28 V.S.A. § 4 is amended to read:

[START WITH DRAFT PRODUCED FOR STATES ATTORNEYS AND SHERIFFS]

Public Inebriation

Section 27. 2019 Acts and Resolves No. 6, Sections 99 and 100 are amended to read:

Sec. 99. 18 V.S.A. § 4810 is amended to read:

<< VT ST T. 18 § 4810 >>

§ 4810. Treatment and services

* * *

(d) A person judged by a law enforcement officer to be incapacitated and who has not been charged with a crime may be lodged in protective custody in a secure facility not operated by the Department of Corrections for up to 24 hours or until judged by the person in charge of the facility to be no longer incapacitated, if and only if:

(1) the person refuses to be transported to an appropriate facility for treatment or, if once there, refuses treatment or leaves the facility before he or she is considered by the responsible staff of that facility to be no longer incapacitated; or

(2) no approved substance abuse treatment program with detoxification capabilities and no staff physician or other medical professional at the nearest licensed general hospital can be found who will accept the person for treatment.

(e) No person shall be lodged in a secure facility under subsection (d) of this section without first being evaluated and found to be indeed incapacitated by a substance abuse crisis team, a designated substance abuse counselor, a clinical staff person of an approved substance abuse treatment program with detoxification capabilities, or a professional medical staff person at a licensed general hospital emergency room.

(f) A secure facility not operated by the Department of Corrections shall not refuse to admit an incapacitated person in protective custody whose admission is requested by a law enforcement officer, in compliance with the conditions of this section.

(g) Notwithstanding subsection (d) of this section, a person under 18 years of age who is judged by a law enforcement officer to be incapacitated and who has not been charged with a crime shall not be held at a lockup or community correctional center. If needed treatment is not readily available, the person shall be released to his or her parent or guardian. If the person has no parent or guardian in the area, arrangements shall be made to house him or her according to the provisions of 33 V.S.A. chapter 53. The official in charge of an adult jail or lockup shall notify the Director of the Office of Drug and Alcohol Abuse Programs of any person under 18 years of age brought to an adult jail or lockup pursuant to this chapter.

(h) If an incapacitated person in protective custody is lodged in a secure facility, his or her family or next of kin shall be notified as promptly as possible. If the person is an adult and requests that there be no notification, his or her request shall be respected.

(i) A taking into protective custody under this section is not an arrest.

(j) Law enforcement officers, persons responsible for supervision in a secure facility, members of a substance abuse crisis team, and designated substance abuse counselors who act under the authority of this section are acting in the course of their official duty and are not criminally or civilly liable therefor, unless for gross negligence or willful or wanton injury. [Deleted]

Sec. 100. 18 V.S.A. § 4811 is added to read:

<< VT ST T. 18 § 4811 >>

§ 4811. Incarceration for intoxication prohibited

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~~A person who has not been charged with a crime shall not be incarcerated in a secure facility operated by the Department of Corrections on account of the person's intoxication.~~ [Deleted]

Section 28. 2019 Acts and Resolves No. 6, Section 105(c) is amended to read:

Sec. 105. EFFECTIVE DATES

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

* * * Effective Dates * * *

Sec. 29. EFFECTIVE DATES.

Sections 1-11 shall take effect on March 31, 2024.

Sections 12-28 shall be effective on passage.

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