

1 TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred Senate Bill No. 109
3 entitled “An act relating to miscellaneous judiciary procedures” respectfully
4 reports that it has considered the same and recommends that the bill be
5 amended by striking out all after the enacting clause and inserting in lieu
6 thereof the following:

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

8 § 164. ADULT COURT DIVERSION PROGRAM

9 (a) Purpose.

10 (1) The Attorney General shall develop and administer an adult court
11 diversion program, for both pre-charge and post-charge referrals, available in
12 all counties.

13 (2) The program shall be designed to provide a restorative option for
14 persons alleged to have caused harm in violation of a criminal statute or who
15 have been charged with violating a criminal statute as well as for victims or
16 those acting on a victim’s behalf who have been allegedly harmed by the
17 ~~responsible party~~ person referred to the program. The diversion program can
18 accept referrals to the program as follows:

19 * * *

20 (c) Adult diversion program policy and referral requirements.

21 * * *

1 (3) Adult post-charge diversion requirements. Each State’s Attorney,
2 in cooperation with the Office of the Attorney General and the adult post-
3 charge diversion program, shall develop clear criteria for deciding what types
4 of offenses and offenders will be eligible for diversion; however, the State’s
5 Attorney shall retain final discretion over the referral of each case for
6 diversion. All adult post-charge diversion programs receiving financial
7 assistance from the Attorney General shall adhere to the following:

8 (A) The post-charge diversion program for adults shall only accept
9 persons against whom charges have been filed and the court has found
10 probable cause, but are not adjudicated.

11 (B) A prosecutor may refer a person to diversion either before or
12 after arraignment and shall notify in writing the diversion program and the
13 court of the prosecutor’s ~~of the~~ referral to diversion.

14 * * *

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

16 § 71. APPOINTMENT AND TERM OF SUPERIOR JUDGES

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

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

§ 1102. JUDICIAL BUREAU; JURISDICTION

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

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

* * *

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

* * *

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

§ 1106. HEARING

* * *

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

* * *

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

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

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

8 § 5. DISSEMINATION OF ELECTRONIC CASE RECORDS

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

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

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

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

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

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

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

7 § 4937. ATTORNEY’S FEES

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

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

13 § 4013. ZIP GUNS; SWITCHBLADE KNIVES

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

18 Sec. 9. EXPUNGEMENT OF CRIMINAL HISTORY RECORDS

19 The court shall order the expungement of criminal history records of
20 convictions of 13 V.S.A. § 4013 that occurred prior to July 1, 2025. The
21 process and effect for expungement of these records shall be as provided for in

1 13 V.S.A. § 7606 and shall be completed by the court and all entities subject to
2 the order not later than July 1, 2026.

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

4 (7) “Victim” means:

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

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

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

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

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

18 § 7282. SURCHARGE

19 * * *

20 (c) ~~SHU surcharge~~. In addition to any penalty or fine imposed by the court
21 for a criminal offense committed after July 1, 2009, the clerk of the court shall

1 levy an additional surcharge of \$100.00 to be deposited in the General Fund, in
2 support of the Specialized Investigative Unit Grants Board created in 24
3 V.S.A. § 1940(c), and used to pay for the costs of Specialized Investigative
4 Units.

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

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

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

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

18 (a) A will may be deposited for safekeeping in the Probate Division of the
19 Superior Court for the district in which the testator resides on payment to the
20 court of the applicable fee required by ~~32 V.S.A. § 1434(a)(17)~~ 32 V.S.A.

1 § 1434(a)(18). The register shall give to the testator a receipt, shall safely keep
2 each will so deposited, and shall keep an index of the wills so deposited.

3 * * *

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

5 § 3068. HEARING

6 * * *

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

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

12 (f) If upon completion of the hearing and consideration of the record the
13 court finds that the petitioner has proved by clear and convincing evidence that
14 the respondent is a person in need of guardianship or will be a person in need
15 of guardianship on attaining 18 years of age, it shall enter judgment specifying
16 the powers of the guardian pursuant to sections 3069 and 3070 of this title and
17 the duties of the guardian pursuant to section 3071 of this title.

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

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

2 § 4051. STATUTORY FORM POWER OF ATTORNEY

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

6 VERMONT STATUTORY FORM POWER OF ATTORNEY IMPORTANT
7 INFORMATION

8 * * *

9 GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

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

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

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

- 1 () Create, amend, revoke, or terminate an inter vivos, family, living,
2 irrevocable, or revocable trust
- 3 () Consent to the modification or termination of a noncharitable irrevocable
4 trust under 14A V.S.A. § 411
- 5 () Make a gift, subject to the limitations of 14 V.S.A. § 4047 (gifts) and any
6 special instructions in this power of attorney
- 7 ~~() Consent to the modification or termination of a noncharitable irrevocable~~
8 ~~trust under 14A V.S.A. § 411~~
- 9 () Create, amend, or change rights of survivorship
- 10 () Create, amend, or change a beneficiary designation
- 11 () Waive the principal’s right to be a beneficiary of a joint and survivor
12 annuity, including a survivor benefit under a retirement plan
- 13 () Exercise fiduciary powers that the principal has authority to delegate
- 14 () Authorize another person to exercise the authority granted under this power
15 of attorney
- 16 () Disclaim or refuse an interest in property, including a power of appointment
- 17 () Exercise authority with respect to elective share under 14 V.S.A. § 319
- 18 () Exercise waiver rights under 14 V.S.A. § 323
- 19 () Exercise authority over the content and catalogue of electronic
20 communications and digital assets under 14 V.S.A. chapter 125 (Vermont
21 Revised Uniform Fiduciary Access to Digital Assets Act)

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

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

5 (IV) straw purchasing of firearm in violation of 13 V.S.A.
6 § 4025; and

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

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

10 § 5225. PRELIMINARY HEARING; RISK ASSESSMENT

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

16 (b) Risk and needs screening.

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

1 witnessed, acknowledged, validly acknowledged, or because a license to sell
2 was not issued or is defective, the instrument shall, from and after the
3 expiration of 15 years from the filing thereof for record, be valid. Nothing in
4 this section shall be construed to affect any rights acquired by grantees,
5 assignees, or encumbrancers under the instruments described in the preceding
6 sentence, nor shall this section apply to conveyances or other instruments of
7 writing, the validity of which is brought in question in any suit now pending in
8 any courts of the State.

9 * * *

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

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

11 (f) Notwithstanding section 305 of this title, a deed, mortgage, lease, or
12 other instrument executed for the purpose of conveying or encumbering real
13 property executed by a person purporting to act as the agent or attorney-in-fact
14 for the party named in the deed, mortgage, lease, or other instrument, that has
15 been recorded for at least 15 years in the land records where the real property
16 is located shall be valid even if no power of attorney authorizing and
17 empowering an agent or attorney-in-fact appears of record, unless, within 15
18 years after recording, an action challenging the validity of the deed, mortgage,
19 lease, or other instrument is commenced and a copy of the complaint is
20 recorded in the land records of the town where the property is located.

21

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

2 § 1003. STATE OFFICERS

3 * * *

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

	Annual	Annual
	Salary	Salary
	as of	as of
	July 14,	July 13,
	2024	2025
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1 Sec. 21. 2023 Acts and Resolves No. 27, Sec. 5 (forensic facility report) is
2 amended to read:

3 Sec. 5. [Deleted.]

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

5 Sec. 4. REPEALS

6 * * *

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

9 Sec. 23. REPEAL

10 2019 Acts and Resolves No. 6, Secs. 99 and 100 (amendments to 18 V.S.A.
11 §§ 4810(d)–(j) and 4811 that prohibited public inebriates from being
12 incarcerated in a Department of Corrections’ facility) are repealed.

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

14 Sec. 105. EFFECTIVE DATES

15 * * *

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

18 * * *

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1 Sec. 25. FIREARM SURRENDER ORDER COMPLIANCE WORKING

2 GROUP; REPORT

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

10 (b) The Working Group shall include stakeholders necessary by the
11 Attorney General, including:

12 (1) the Commissioner of Public Safety or designee;

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

15 (3) the Commissioner of Corrections or designee;

16 (4) the Chief Superior Court Judge or designee;

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

19 (6) the Defender General or designee;

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

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

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

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

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

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

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

13 (14) the Commissioner of Mental Health or designee;

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

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

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

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

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

7 Sec. 26. EFFECTIVE DATES

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

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15 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE